



LEQ

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HUMAN TRAFFICKING: THE HIDDEN PANDEMIC

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BORDER JUSTICE
NEW CHIEFS
BAKER TO VEGAS

FROM THE DISTRICT ATTORNEY

Bonnie M. Dumanis



John Smith could never have imagined the nightmare that was about to take over his life on November 9, 2004. He had recently taken the mother of his three young sons to court for refusing to allow him visitation rights. During the proceedings, the judge sided with Smith and ordered that Smith take custody of the children until the case was sorted out. This ruling led to an international drama which continues to unfold. Within hours of the ruling, the mother gathered her three young boys and boarded a plane to the Philippines.

Although our office has issued an arrest warrant for the mother, she and the boys remain untouchable for one major reason: the Philippines does not recognize The Hague convention. Our arrest warrant is meaningless in that country. Even the far-reaching powers of the FBI have been shut down. Agents have located the mother and the children, but until the Philippine government intervenes, agents can not act.

San Diego is fortunate, though, in one regard. Our closest neighbor, Mexico, does abide by The Hague. And when a child is kidnapped and taken across the border, the chances of his/her return are very good.

This past June, our office, along with the Mexican government, presented the Sixth Bi-National Conference on Child Abduction in Ensenada, Mexico. The conference was attended by more than 250 people from the United States and Mexico, including judges, attorneys, and other government officials. It takes this type of cross-border cooperation to successfully solve these emotional cases.

When one child is abducted and taken into another country, it is our duty as public servants to do everything in our power to bring this child back home. Our office will be hosting the next Bi-National Conference in San Diego in the spring/summer of 2007.

A handwritten signature in black ink that reads "Bonnie M. Dumanis". The signature is written in a cursive, flowing style.



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Jesse Rodriguez
Assistant District Attorney



Officer Involved Shootings: An Updated Protocol

The Office of the District Attorney has conducted reviews of all Officer Involved Shootings (OIS) in the line of duty by San Diego County peace officers since the mid-1970s. Reviews were assigned to the Special Operations Division beginning in 1985. On May 2, 2006, a revised Protocol for Investigation and Review of Officer Involved Shootings and Other Uses of Force Resulting in Death was signed by District Attorney Bonnie M. Dumanis, the Sheriff, the warden at Donovan and the chiefs of all the local law enforcement agencies in San Diego County, including the Border Division of the CHP.

The purpose of the District Attorney's review is often misunderstood. The purpose is not to review departmental policies and procedures, tactical consideration or potential civil liability. Those subjects are best left to the law enforcement agencies themselves. The purpose is to provide

a situation was available. Those are matters for public discussion but rarely involve the decision on criminal charging. The result in nearly all cases has been to find the actions of the police officer and deputies involved in shootings in the line of duty were justified under the law.

The process determines the legality of the shooting, not the wisdom of the officer or whether a better way of dealing with the situation was available. Those are matters for public discussion but rarely involve the decision on criminal charging.

an independent review of all shootings and other use of deadly force, fatal and non-fatal, to assure the public that peace officers in San Diego County are performing their duties in a legally justified manner.

The process determines the legality of the shooting, not the wisdom of the officer or whether a better way of dealing with the

According to the protocol, the District Attorney's involvement in a shooting incident begins shortly after its occurrence. In the case of all fatal or non-fatal shootings, the District Attorney's Office is notified immediately. A District Attorney Investigator from Special Operations responds to the scene of all officer involved shootings. This OIS investigator has

had many years of experience in homicide investigations prior to joining this office. The homicide team provides a briefing and walk-through to the DAI on the scene.

The protocol also requires a thorough briefing in a fatal shooting. The assigned Deputy District Attorney and the DAI meet with the homicide team within three days after the shooting. This provides an early opportunity to exchange views and for the District Attorney to obtain an early assessment of the events. Nevertheless, the jurisdictional agency's investigation is wholly their own.

The homicide investigators present their completed investigation to the District Attorney's Office typically within a few months of the incident. The assigned DAI and DDA review the materials and may request additional investigation or perform some independent investigation where appropriate. Upon completion of the District Attorney's review, a letter summarizing the facts and statements of the deputy or officer and other witnesses is written and delivered to the chief or Sheriff.

The high level of cooperation between all law enforcement agencies and the District Attorney adds to the continued success of this review process. More importantly, independent review of line-of-duty shootings by the District Attorney increases public confidence in the use of deadly force by police officers.

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China: The Next Frontier For American Jurisprudence

By Giacomo Bucci

As I approached Beijing's International Airport, I peered out the window of my seatmate. This was my first trip to China. In fact, it was my first trip to Asia. As I searched out the window for the landmark that defines the great country, the Great Wall, I was excited to find out what was in store for me in this country that will host the 2008 Olympics.

There is no doubt that China is a player in the international arena of trade and manufacturing. They are, however, a Communist regime. And with that reality comes some issues regarding human rights and individual freedoms. I was curious to find out how the consumer society of China can exist within the constraints of such a government.

I had been invited to China by Herb Bowman, a friend and prior colleague in the district attorneys office until 2000. Herb has embarked on an incredible odyssey since leaving the San Diego District Attorneys office. What began

as a one-year leave of absence to establish a Criminal Trial Advocacy Group in Warsaw, Poland, has turned into worldwide travel filled with teaching and learning.

As I deplaned, I was struck at how similar the immigration authority was to ours in the United States. Also there were no large flags or photos of leaders hung on the walls of the airport. Immigration and customs was orderly and efficient. I stepped through the sliding glass double doors and was met with the usual crowd of excited family and driver services with the name of their party on the placard.

Herb met me at the airport and I am grateful for that. China is home to 12 million people and although English is a popular language, it clearly isn't one that everyone speaks. I was grateful for the proficiency Herb has developed in Mandarin, which is the national dialect, as he managed the maze of humanity and got us into a car and on the expressway.

Herb lives in the suburbs, an area referred to as the Silicon Valley of Beijing. In 1988, this area was primarily agrarian. The entire area is covered by shopping centers and high rise apartment complexes. As far as the eye can see there are large cranes that dot the skyline. The city pulses with continuous growth. Cars of every make, including the Hummer, are everywhere.



Homes in the suburbs with the name Vancouver Hills and others are advertised on billboards along the expressway. Sport celebrities, the most popular being Yao Ming, center for the Houston Rockets of the NBA, hawk products from vitamins to Bluetooth technology from the sides of buildings and buses. But for all this growth there is a price.

The environmental impact from this relentless growth has led to horrendous traffic along with noise and air pollution. Beijing's air quality is one of the worst in the world. With the 2008 Olympics at their doorstep, one wonders what the Chinese government will do to ensure a clean and comfortable environment for the athletes and tourists from around the world.

After a two-hour drive, I arrive at the Friendship Hotel, which will be my home for the next couple of days. It was constructed in 1954 for Russian scientists and consultants working in China. It boasts extensive gardens in the midst of a concrete jungle. It also

has a TGI Friday's restaurant on the premises. The location is chosen for its proximity to the University and to Herb's house.

I spent the next couple of days visiting the sights of Beijing, The Forbidden City, Tiananmen Square, The Great Wall at Badaling and the Ming Tombs. I also visited the campus where the program was based. It strikes me how similar our university students are to those I see on the Renmin campus.

Their attire, MP3 players and youthful exuberance erases any stereotype of the drab grey communist country one might harbor from the past. At the conclusion of my whirl wind tour of Beijing I board a plane to Dalian, China where the program will be held.

Dalian

Described as the Hong Kong of the north, I'm anxious to see what is in store for me in Dalian. The flight, though delayed a couple of hours, is comfortable and short, about one hour from Beijing. Dalian is a port city and is the main commercial port for the industrialized northeastern China. It is in the Liaoning Province. Dalian Maritime University was established in 1909 and has an MBA and Law School program. The population of Dalian is six million.

Our group consisted of Professor Herbert D. Bowman, Indiana University School of Law, Professor Ding Xiangshun, Renmin University School of Law, Beijing China, Professor Delaine R. Swenson, Catholic University School of Law, Lublin Poland, Graduate student Li Bin, Renmin University School of Law, interpreters Li Changshuan and Zhu Weiyi, graduate of Columbia University School of Law, and me.

Dalian was everything Beijing was not. I would describe

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Bonnie M. Dumanis
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editor-in-chief

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publication design

**Jesse Rodriguez, Michael Connelly, Wendy Patrick Mazzarella,
Robert C. Phillips, Greg Thompson**
columnists

**Giacomo Bucci, Allison Campbell, Rick Castro, Bob Christano,
David M. Eisenberg, Kristin Heinrich, M. Margaret Neil, John Serrano**
contributing writers

the climate as similar to the Pacific Northwest. The city hugs the coast and its population loves the ocean and outdoor activities. An avid runner all my life, I laced up my shoes at 6:00 a.m. each morning I was there and breathed the fresh morning air as I ran along the river to the coast. The university is growing. The law students are like students throughout the world, anxious to meet new people and to learn new ideas.

The program focuses on the revisions made in 1996 to the criminal procedure law of the Peoples Republic of China. The handbook that was written by Herb Bowman, and used in the three-day course, is meant to assist Chinese judges, prosecutors and defense lawyers bridge the gap between the statement of the new law and its implementation.

The hope is that the program will assist parties involved in the criminal proceedings to look toward using a model more in line with that of the international law tribunals like The Hague, one that incorporates many of the adversarial elements found in our system. The program in Dalian was the tenth of its kind delivered in China. The previous nine were sprinkled throughout the country's top law schools including the Prosecutors College in Beijing.

I lectured on the adversarial process, answering general questions on the American system. I also gave demonstrations involving the direct examination of a witness, opening statement and closing argument. Finally, on the third day, we conducted two trial proceedings with the instructors presiding as judges and two teams

of defense and prosecution comprised of 20 students chosen from the 150 in attendance.

At the conclusion of the program I was amazed at how quick and effective the law students were in using what they learned for the trial competition. Each of the groups prepared well and used the information given to them to prepare their opening, ask the relevant questions of witnesses and then give their closing arguments.

Future Lawyers

One thing for certain is that as advocates, each side was prepared to leave no issue untouched in their closing. These were no shrinking violets when it came to oral advocacy. So how will the criminal courts of China handle future cases? Well, if just one seed was planted among the 150 budding lawyers I think there might be remarkable similarities to our present criminal proceedings in the very near future.

In the meantime my hat goes off to Professor Bowman and others like him who are willing to share their knowledge with others throughout the world and forego the comforts and safety of our own shores.

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Giacomo Bucci is a San Diego Deputy District Attorney assigned to the Gangs Division at the North County Branch.



The events of September 11, 2001 had a powerful impact on the lives of Americans and transformed the way we view national security for the foreseeable future. Subsequently, this also prompted a major shift in the roles and responsibilities of the line-level law enforcement officer throughout the United States.

The reality is on September 12, 2001, line-level officers were required to wear a second hat and take on myriad new tasks. The line-level officer now represents the first line of defense in fighting the shadow war on terrorism.

Based on their job description and their daily inter-

action with the communities they serve, line-level officers are ideally positioned to identify and contact individuals associated with terrorist activities. Additionally, the sheer numbers of line-level officers improve their odds over other federal and state agencies.

to a terrorist organization and conspiracy to contribute services to al Qaeda and the Taliban. A Skamania County, WA sheriff's deputy played a principal role in this case when he located some of the cell members training with firearms on private land. The information was forwarded to the FBI.

Operation Smokescreen: A North Carolina cell smuggled millions of dollars worth of cigarettes to Michigan and sent illegal proceeds to help finance Hezbollah's military operations. This case was initiated when an Iredale County sheriff's deputy passed on a tip to the ATF after seeing



Counterterrorism And The Line-Level Officer: Our First Line Of Defense

By Bob Christiano



We can compare approximately 12,400 FBI agents in the world to the more than 700,000 local officers. Additionally, line-level officers are working 24 hours a day and seven days a week. During these times they are stopping cars and talking to citizens, whether they are suspects, victims or witnesses.

Over the past few years line-level officers have played significant roles in the prevention or disruption of international and domestic terrorist plots. The following examples represent some of these efforts:

The Portland Seven Cell: Seven cell members were indicted for providing material support and resources

several subjects with out-of-state tags making large cigarette purchases at a local outlet store, before driving out of state.

The Millennium Bomber: Terrorist operative Ahmed Ressay planned to leave a bomb at Los Angeles International Airport. An alert Custom's inspector keyed on his suspicious behavior and located over 100 pounds of explosives, four rudimentary timing devices and two jars of liquid explosives.

Virginia Jihad Case: During a traffic stop on September 22, 2001, Alexandria, Virginia police pulled over Randall Royer. In his trunk, they discovered an AK-47, 219 rounds of ammunition and a collapsible stock. This information proved to be valuable in the development of a case against Royer and a number of other men in the Virginia area. On June 27, 2003, the federal government issued a 41-count

Photos by
Nick Ut
Rick Bowmer
Rich Pedroncelli
Chuck Burton

indictment against 11 men and charged them with conspiracy to train for and participate in a violent jihad overseas.

JIS/Folsom Prison Cell: In August of 2005 in Torrance, California, four subjects were charged with plotting to attack U.S. military recruiting facilities and synagogues in the Los Angeles area. This case originated when Torrance police officers arrested two of the suspects for a series of gas station robberies. Subsequently they discovered evidence indicating this prison-based terror cell was planning a terrorist attack. The officers passed

lie in the following areas:

Understanding The New Threat

The paramount issue for line-level officers is to understand they are now dealing with a new type of criminal. Traditionally, law enforcement officers have been trained to deal with typical criminals who partake in usual criminal activities. The terrorist

1. Joel Cohen, right, with the Department of Homeland Security stands next to a giant monitor displaying Ahmed Ressam, the millennium bomber.

2. Lebanese native Ali Khalid Steitiye- who is charged with being a felon in possession of a firearm.

3. October Martinique Lewis, 26, the lone woman among the group of Portland-area Muslims who tried to ally themselves with the Taliban



that information on to their local Joint Terrorism Task Force and together they exposed the entire cell and prevented the attack.

FBI Director Robert Mueller recognized the role of the line officer in this case by stating, "Without the initial information from the Torrance Police Department, and the work of the Los Angeles Sheriff's and Police departments, we might not have made the connection between the terrorists' criminal activities and their plans for attack."

Presently, the activities of terrorist and extremist groups and the resulting acts of international and domestic terrorism represent significant issues impacting our law enforcement communities. In light of the new threats facing law enforcement, there are some pragmatic approaches line-level officers can utilize to address and potentially counter the threat.

The main focus for law enforcement training should

operative presents an entirely new type of criminal offender.

This ideology-driven criminal thinks, behaves, operates, trains and responds completely different than a typical criminal. It is imperative for line-level officers to fully comprehend what drives this terrorist mentality, since we cannot effectively counter what we don't understand.

Collecting Information

The second transformation in the way the police do business lies in the area of intelligence. According to the

was sentenced to three years in prison.

4. A guard tower and cellblock, California State Prison, Sacramento, near Folsom. Counterterrorism officials are investigating the possibility that an alleged terrorist plot was organized by members of a militant Islamic state prison gang.

5. U.S. Marshals escort Mohamad Youssef Hammoud, top center, into the Federal Courthouse (Virginia Jihad Case) in Charlotte, N.C. Hammoud is charged with providing material support to Hezbollah, labeled a terrorist group by the U.S. State Department.

Department of Defense, the intelligence cycle consists of the “steps by which information is converted into intelligence and made available to users.” This cycle is utilized by some government agencies to manage terrorism-related information.

Although the verbiage associated with this process varies slightly among agencies, the main components are fundamentally consistent. The process involves Planning and Direction, Collection, Processing, Analysis & Production and Dissemination.

Line-level officers play the most significant role within this intelligence cycle, as they represent the primary collectors of the raw data. It is quite apparent police cannot process, analyze and disseminate something they don’t have. Hence, the collection of the raw data initiates the process. Line-level officers are perfectly situated to collect and report this important information.

This raw information will later be analyzed by federal or state agencies and could prove to be instrumental in potentially preventing or at least disrupting a planned terrorist operation. In some instances, the finished intelligence product must be disseminated back to the line-level officers to ensure the continuation of the intelligence cycle (The “next” collection process is driven by the intelligence which was previously analyzed and disseminated).

Identifying Pre-Incident Indicators / Early Warning Signs

Typically law enforcement training has focused on traditional means of crime fighting and solving problems. While some aspects of this approach still apply to counterterrorism, line-level officers must be trained in recognizing pre-incident indicators (PIIs) or early warning signs specific to terrorism. These indicators are the items and/or actions potentially linked to terrorist pre-operational activities. Many of these indicators may be non-criminal predicates, but when viewed collectively can represent significant information.

It becomes equally important to pass on the vital information to the appropriate investigating unit. The information must be entered into the appropriate databases where it can be processed, analyzed and finally disseminated. Each piece of information retrieved by line-level officers can be viewed as one piece to potentially complete an intelligence “jigsaw puzzle.” It is important for officers to remember the information they gather can represent a significant puzzle piece, even if they believe the information may be inconsequential or immaterial at the time it’s collected.

The list of the terrorism pre-indicators is voluminous and best covered through a comprehensive training block of instruction. Additionally, the list of PIIs requires constant updating as the tactics and methods of operation utilized by the terrorists continue to evolve.

Identifying Active And Passive Support Groups / Individuals

It is vital for the investigating agency to identify and track the main and the peripheral terrorist / extremists within their jurisdiction. These subjects could be involved in any facet of terrorism ranging from the active cadre to passive support. These are typically the subjects who participate in recruiting, fund raising, spreading propaganda, logistical planning and potentially carrying out the attacks.



Portland (Ore.) Police Chief Mark Kroeker, at podium, along with other members of a Joint Terrorism Task Force, speaks to reporters about the arrest of four people on terrorism related charges. Authorities arrested four people on charges they conspired to wage war on the United States and provide support to al-Qaeda, law officials said.



FBI Director Robert Mueller discusses President Bush's decision to create a national security service within the FBI, during a press conference at the Justice Department in Washington, June 29, 2005.

Developing And Enhancing Community And Private Sector Partnerships

These partnerships have traditionally played a fundamental role in all facets of policing and problem solving. Enhanced community trust and cooperation can greatly assist an agency in both identifying and addressing terrorism-related issues. Most of these systems are already in place through years of practicing community policing and neighborhood policing principles.

Additionally, we can enhance overall community awareness by providing general Homeland Security training for our community members. By working hand-in-hand with the community and providing this general awareness training, our citizens represent force multipliers, hence drastically increasing the volume of eyes and ears on our streets. Private sector partnerships are also extremely valuable for all law enforcement agencies for the same reasons.

Developing And Enhancing Law Enforcement Partnerships

An agency is only as strong as its partnerships with allied agencies. We have learned from the events of September 11 the importance of information sharing, networking and communication. Local agencies must communicate and work effectively with state and federal agencies. We are all working toward the same goal of protecting our homeland and in unity there is strength.

Vulnerability Assessment and Target Hardening

Line-level officers must know their potential targets

in order to adequately protect them. Additionally, upon an elevated threat level the vital targets must be effectively hardened through enhanced security measures. Establishing partnerships and communicating with private entities will greatly support our overall ability to protect our vital infrastructure.

The threats posed by international and domestic terrorism are real. The threat posed by law enforcements' complacency in light of these threats is also a reality and must be countered. When we become complacent as a law enforcement community, by extension our country becomes vulnerable.

It is imperative to remember that terrorist planning and events do not take place in a vacuum. Conversely, these pre-operational activities could be occurring within our jurisdictions. Additionally, terrorism does not recognize jurisdictional or geographical boundaries and the terrorists performing their operations reside, gather intelligence and train within our communities and our streets.

We must also remember that anti-terrorism training is essential, but should also be deemed as a perishable skill. Training updates are crucial as the methods of operations and tactics continue to evolve both internationally and domestically. All law enforcement agencies should seek out quality training in this subject area.

All line-level officers should remain vigilant and diligent as we are living in volatile times. Be aggressive, take control and pay careful attention to detail. Don't take things for face value and always investigate further. Develop and share information and stay a step ahead of the enemy through quality intelligence collection and development.

In large part the safety and security of our country depends on you and the manner you handle your new roles and responsibilities while serving as our first line of defense. The price for freedom is constant vigilance.



Sgt. Bob Christano of the S. D. Police Department is a California POST Master Instructor with more than 20 years of law enforcement experience in New York and California and has extensive knowledge and expertise relating to international and domestic terrorism and domestic extremist groups.

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Photos by Greg Wahl-Stephens
J. Scott Applewhite



After Laurita

When prosecutor Garland Peed stood before a jury in September of 2005 to ask them to convict Manuel Bracamontes for his crimes, Bracamontes' victim had been dead for more than 14 years. Laura Arroyo was just 9 years old in 1991 when she answered a knock on the door at her apartment in San Ysidro and disappeared.

Snatched from her home, the third grader was taken to a deserted industrial park, sexually assaulted and killed with repeated blows from a small pickaxe to the body and face. When her mom and dad and two brothers next saw their Laurita, she was lying in a small coffin dressed in her white First Communion dress, her face still showing signs of the attack she suffered in her last moments of life.

From the start, detectives from the Chula Vista Police Department knew the cost of this crime. It could be measured in the daily loss suffered by this family, by Laura's young classmates and even by her school teacher who testified at trial to the hard truth: a light had gone out.

This was a cost known from the beginning and the effort and perseverance of the investigators showed it. The case was not shelved or ignored. The evidence was examined by no fewer than five forensic laboratories, including the Medical Examiner. None yielded evidence pointing to a culprit.

So much work had been done that when the case was examined anew by Deputy DA Peed and DAI Robert Marquez, both of the District Attorney's Cold Case Homicide

Division, along with Detective Bob Conrad of CVPD, one of their first tasks was to identify what physical evidence had been examined, by what labs and at what time. Their chart alone took up pages. Was anything overlooked?

In 2003 The Breakthrough Came

Forensic scientists from both the San Diego Police Department and Sheriff's Department found substantial biological evidence on Laura's clothing, on her body, in her hands, and even in her mouth. When compared against the DNA profile of long-time suspect Bracamontes, the evidence was a match, a probability of 1 in 2.7 trillion.

The evidence was there all along. The technology to detect it was not.

The jury convicted Bracamontes and later recommended that he be sentenced to death. That his day of reckoning came at all, a decade and half after his crime, is testament to the perseverance of the professional players – investigators, prosecutors, criminalists – and the power of DNA science as a tool of justice, a testament to these times.

It's important to capture this moment as a piece of history because history is changing course again with

serious consequence for front line law enforcement.

For a moment, imagine yourself hovering above a criminal justice timeline. It's 1988. There's a stir as DNA technology begins to find its way (via England) into California courtrooms. By the early '90s, it is not unusual for prosecutors to prove the identity of defendants in murder and sexual assault cases with DNA evidence.

Significantly, in those not-so-long-ago early days, the evidence was not used to solve crimes. These cases were solved by other means. DNA was simply – and powerfully – the evidentiary coup de grace at trial.

Continue To Follow The Timeline

Technology changes and so does the skill of the young forensic scientists putting it to work. There are exonerations of some already convicted, few to be sure, but these reversals profoundly raised the public profile of the science. And, at this same time DNA becomes an investigative tool – a way to exculpate a suspect or to inculpate him. He either was or was not the one who left the biological evidence at the crime scene. The DNA will tell.

All the while something else is at work.

In many cases there are, of course, no suspects. There's a crime scene, there's biological evidence that could yield a DNA profile, but no suspect. Those profiles are

submitted to CODIS, the DNA database maintained at state and federal levels. The profiles search out a match – either to other cases or to a known person among the Known Suspect database.

The results have the impact of fate's intervention. Some heretofore unknown suspect is singled out as the culprit based upon evidence he left at a crime scene weeks or years – and sometimes decades – earlier.

That sets the stage for a development akin to the presence of the monolith in *Space Odyssey*: 2001. For those who've seen the sci-fi classic, you'll recall that at moments in history this strange, rectangular object appears, emitting its own ear-piercing wah-wah-wah field of energy, and representing an inexplicable thrust forward in human advancement: the development of tools by humans, the conquest of space.

It's metaphor on overdrive.

When voters passed Proposition 69, the DNA Initiative, in November 2004, the monolith dropped into California. We are now being thrust forward in criminal justice in a way few could have anticipated. The new law created an all-felon DNA database in California, moving us from a situation in which only select felons were included in the database. The numbers are staggering.

From 1988 to 2004, California captured 277,000 profiles in the Known Suspect database. In the one year following, California captured 270,000: what had taken 16 years to accomplish under the old system was done in 12 months following the DNA Initiative, making ours the third largest database of its kind in the world. You can almost hear the monolith's wah-wah-wah.

The significance of this change is both obvious and not so obvious. Obviously, the larger the DNA pool the more likely there will be a match, meaning that more cases will be solved – more murders, more sexual assaults. What is less obvious is the impact the new law has on street crime and property crimes, on peace officer training and on the continuing viability of cases into the future.

Take Them In Order

With the implementation of the Initiative, evidence collected at the scene of burglaries and robberies, auto thefts and assaults, becomes all the more critical. The cigarette butt at the robbery, the blood at the point of entry of a burglary, the beer

What had taken 16 years to accomplish under the old system was done in 12 months following the DNA Initiative, making ours the third largest database of its kind in the world.

bottle in the stolen car – all of these have the potential of yielding a DNA profile, developed by local criminalists and submitted to CODIS to search for the DNA's source.

And who's going to collect the evidence? The answer is that frontline patrol officers and field deputies, the first responders to these crimes, will collect this evidence in much the same way it is expected that they dust for fingerprints today. That means

new training in the collection of biological evidence. Both at the San Diego Police Department Laboratory and the Sheriff's Regional Lab, we are taking the steps now to push out the training.

And what about the future of these cases – the burglars, the robberies, auto thefts, assaults? Because CODIS will continue to search long after a detective is compelled to shelve a case as unsolved or unsolvable, we're now seeing matches years after the evidence was entered into the system.

This means that to stop the statute of limitations from running on these crimes we need to obtain John Doe warrants. The DNA profile is substituted for the offender's name in the complaint that accompanies a warrant of arrest. The District Attorney, working with our local forensic laboratories, has taken steps to make that happen.

So a new picture emerges on our timeline.

It's not as dramatic and heart-wrenching as the courtroom scene in the trial of Laurita's killer. Few scenes are. Instead, what we see is an everyday scene of professional frontline law enforcement officers, trained and skilled, confidently going about the routine of gathering evidence. A scene of laboratory professionals diligently developing DNA profiles, of detectives using the results to solve crimes and of prosecutors proving them in court.

It's a scene of old fashioned justice, of old fashioned public protection, delivered in an exciting new way.

LEJ

Thompson is the San Diego County Sheriff's Director of Forensic Services and directs the Sheriff's Regional Crime Laboratory.

The borderline between Mexico and the United States is a geopolitical fiction showing the demarcation between two nations. The reality for those living in communities by the border is that we live in a bi-national region with a unique blended economy and culture.

One of the many challenges with living in the border region, especially in the past few years, has been the rapid rise in serious crime, largely tied to the growth and aggressiveness of narcotics cartels. International borders are particularly susceptible to other forms of crime and disorder by their very nature. Some criminal activity exists uniquely at the border. Other activity is greatly enhanced there.

Addressing crime and disorder in border communities requires understanding the unique aspects of border life and, in this case, the close interplay between two very different national cultures.

A critical aspect of border life is the role of local police agencies in reducing crime and disorder and providing for



JUSTICE ALONG

a secure community. Central is the idea that policing in communities like ours requires special skills and understanding as we serve the many foreign nationals who visit, do business, shop, and live in San Diego County.

Local police working across borders can make a significant contribution to our understanding of border public safety issues and can actually play a critical role in improving the bilateral security relationship.

In San Diego County, all of the federal law enforcement agencies (FBI, ICE, USBP, DEA, U.S. Marshals) have a considerable presence. They bring with them outstanding investigative resources and very talented personnel. But the responsibility for the day-to-day security of persons in their homes and on the street rests with the local police agencies, prosecutors and the courts.

They manage behavior on the roadways, respond to emergencies, investigate the majority of property crimes and crimes against persons. They have the greatest contact with local residents and help determine resident's perceptions of safety and security. Local crime and security problems and the response to them by local police set the tone for the entire bi-national region.

In fact, local policing problems on one side of the



border can have a significant impact on conditions on the other side.

Cops And Social Scientists

Social scientists adept at working in adventurous field settings bring special skills to border public safety studies. Anthropologists' particular contribution to social science is ethnographic study, a form of organized participant observation that permits outsiders to understand and even explain the way cultural groups operate.

This special way of observing often generates deep understanding of why people behave the way they do as well as how. The questions abound:

1. What is the status of cross border local law enforcement collaboration?
2. What processes or structural conditions improve or interfere with collaboration?
3. Given the huge differences between systems, can the law enforcement and criminal justice systems

differences can make cooperating very difficult. As an example, and with the ever-present risk of over-generalizing – in comparison, Mexicans rely heavily on relationships, Americans on rules. To the extent this is true, it has tremendous implications for how the two nations enforce the law and how members of each society view law enforcement personnel.

Also, concepts like “police corruption” or “officer vetting” may have completely different meanings and operational significance to the two sides. Understanding these differences where they exist is critical to forging an effective working public safety relationship and in best serving the residents of the border region.

The United States and Mexico are writing a new chapter on bilateral relations absent clear policy from central government. Life along the border goes on, indeed, is ever developing, despite the limited direction and support from both capitals. The border region is a culturally rich area where two very different cultures meet, mix and

THE BORDER

By David M. Eisenberg

on each side of the border be described in such a way as to be meaningful and useful to the other side?

4. What crime, disorder and public safety issues trouble the border region? Do both Mexicans and Americans view them similarly? Could a joint crime-control strategy be developed?
5. What contributions can each side make to the safety and security of the other?

Of necessity, the discussion of border community public safety raises a whole host of culturally tied assumptions, feelings and even misunderstandings and resentments. Yet, the unquestionable fact is that residents of both nations must figure out a way to live with each other in the huge border region we so intimately share.

This need to cooperate and work effectively together is repeated many times daily from the department store make-up counter where a salesperson is assisting a foreign national in making a purchase to the law enforcement personnel from both sides of the border working together to get a suspect into custody.

Yet historical, cultural, institutional and political

create new combinations of human behavior.

It is at the local level, in communities like Chula Vista and Rosarito that Americans and Mexicans are defining the future of the two nations, coming to grips with the need to accommodate each other despite the national disagreements on immigration and national security. The design of this accommodation should not be left up to chance, but rather should make use of the special skills social scientists bring to understanding the possibilities for creating new modes of community.

Social scientists have a unique opportunity to harness their special skills to the analysis of border crime and security issues and to develop actual policy recommendations for local governments and institutions on both sides of the border. Analysis in one community like Chula Vista is eminently replicable and would have value to communities across the 2,000-mile border.

Cops And Cultural Competence

Whenever we discuss sensitive issues it is important to clarify the point of view of those participating in the exchange. Police officers working in the bi-national region, in particular, develop a unique perspective that comes

from interacting so frequently with residents from both countries.

Traditionally, on the U.S. side of the border, when we use the term “bicultural” what is conjured up is a Latin American who now resides in the United States, speaks English and comfortably moves between both cultures. One of the consequences of living in the border region for Americans is that we too are becoming bicultural, learning Spanish, spending time in Mexico, and comfortably moving between both cultures.

This immersion dynamic operates on both sides of the border, on Mexicans and Americans alike, and serves to dilute our perspective as a pure outsider. In the case of police officers, we actually still make “house calls.” The average patrol officer or deputy will walk into about 1,000 different households during the year.

This gives the police a very intimate understanding of the cultural dynamics operating among residents of the community in a way that other professionals never experience. And in San Diego County, it forms the basis for a cadre of public safety personnel well equipped to serve a bi-national community.

The City of Chula Vista is in the southwestern corner of San Diego County just a few miles from the international border with Mexico. The city occupies about 50 square miles, roughly the landmass of Boston. It is the 7th fastest growing city in the United States, adding about 10,000 new residents annually. It has about 225,000 residents, of which 52% are of Hispanic descent.

A considerable proportion of residents are Mexican nationals living in Chula Vista and working in Mexico. Some are former residents of Baja fleeing from insecurity problems on their side of the border. Many other Mexicans routinely come to the city to shop, go to the movies, visit family, and attend schools and other institutions.

At any one time, about 25 percent of the persons shopping at the Chula Vista Mall are Mexicans. About 25 percent of Chula Vista Police officers were either born in Mexico or are of Latin American descent. Chula Vista Police officers spend a tremendous amount of their working time in contact with Mexican nationals, new immigrants, and Spanish-only speakers.

Every day is an “immersion experience.” This familiarity with Mexican culture is a critically important basic building block in the further development of our bilateral public safety relationship.

Mexico and the United States have had a difficult

history together. Both countries are struggling with a bilateral policy agenda that includes immigration and narcotics trafficking, issues related directly to border community public safety, and even national security. The potential to cause offense in a candid assessment of the relationship is high.

A critique of the challenges Mexico is facing as it reforms its criminal justice apparatus may be taken as a sign of disrespect. Those of us working in this area must be sympathetic but realistic. Treating each other with respect is an absolute requirement.

Media reports, law enforcement press releases, and information from closed cases, paint an excellent picture of the crime, disorder and security challenges at the border.

The Border Region Defined

Not only a geographic notion, the border region has a unique blended cultural character. Residents of each side routinely cross the border for recreation, dinner, and to attend cultural events. Family members reside on both sides of the border so that holidays are marked by tremendous cross-border flows.

We have easy access to each other’s newspapers, radio stations and television programming. When an event of shared import occurs in Chula Vista, reporters from Mexican news services respond and report for their readers and viewers. San Diego news outlets cover events in Baja Norte.

The border region has a bilingual linguistic character. In addition to the penetration of both languages by the other in the vernacular of daily use, e.g. “Vamos a lunchar,” (A horrible corruption of the proper Spanish for “Let’s go eat lunch.”) many border region residents are bilingual to varying degrees.

While California recently stopped funding traditional bilingual education, the former Superintendent of San Diego Public Schools seriously proposed the teaching of Spanish to all of its students, along with the required teaching of English. Bilingual skills have value in the marketplace. Police departments in San Diego County routinely offer Spanish language classes to their officers and provide bilingual compensation.

The border region has an important economic characteristic. Residents on both sides are economically highly interdependent. The San Diego/Tijuana border crossing is the most active border crossing between any two nations in the world. Approximately 340,000 persons,

MEX

136,000 cars, and 6,200 trucks cross the border in both directions at the three ports of entry every day.

The San Diego Association of Governments (SANDAG) estimates that Mexicans crossing the border to shop spend about \$3.2 billion annually. About \$1 billion is spent in Chula Vista. Because of the high demand, Chula Vista has 16 “box stores” like Walmart, Target and K-Mart.

Mexican shoppers are more likely to buy in quantity, buy with cash, and make few returns. At the Chula Vista Mall, the 25% of Mexican shoppers generate 40% of the revenue. Mexicans buy so much merchandise at the Mall that for 2005:

- Sears had the #5 sales volume among all Sears stores in the world
- Sees Candies was # 8 in sales volume among Sees stores nationwide
- Macy’s was the # 2 store nationally, #1 for the first quarter of 2005

Similar economic activity occurs on the Mexican side by Americans crossing to shop, dine and vacation. In addition to shopping, many residents cross the border each day to work.

The border region and the communities within it share a complex pastiche of cultural, linguistic and economic activity, much of which is highly interdependent. Residents of the region recognize the international demarcation line, but think of it as a bureaucratic detail not the centerpiece of the bi-national relationship.

The sense is that border flows will continue, will increase, and that ties between the two nations and the bi-national region itself will continue to grow. The issue for securing the region is not stopping and starting flow but facilitating and controlling it. Part of the development of good controls is the further development of the bilateral public safety arrangements between local policing authorities.

Border Crimes

The term “border crime” refers to crimes that are either border specific or are enhanced by the border. For example, the trafficking of contraband across borders can be directly related to the material being legal or uncontrolled in one state and illegal or highly controlled in the adjacent state. Freon might be legal in Mexico but highly controlled in the U.S. The variance creates the market at the border.

The same dynamic occurs for some drugs or



medicines. Auto theft is a problem in every community. But auto theft rates actually increase as one moves closer to the border. The border between the United States and Mexico is the longest contiguous border between any first and third world nations in the world. The economic disparity between the two nations is one of the variables explaining the level and type of crime that occur in the border region.

Auto Theft

From a local standpoint, one of the most common and troubling crimes for residents is auto theft. Residents of the City of Chula Vista lose about eight cars each day. The majority of vehicles are not recovered. A significant



proportion of them are older cars without theft coverage. The low-income family that loses such a vehicle absorbs a loss in the thousands since they typically need it for work and have to replace it.

In 2003, with a grant from the U.S. Department of Justice, investigators at the CVPD intensively studied auto theft occurring in the City. They learned that auto theft rates increased and recovery rates decreased with proximity to the border:

1. In 2001, there were 1,714 auto thefts and 1,656 vehicle burglaries in Chula Vista representing 44% of all Part I crimes occurring within the City.
2. Chula Vista has a higher auto theft rate than L.A., New York, Chicago, San Diego, San Antonio, and Fort Worth. Similar Metropolitan Statistical Areas have vehicle theft rates of about 500 vehicles per 100,000 people. The Chula Vista rate is 984 vehicles stolen per 100,000 people, almost double.
3. Several other border communities have exceedingly high theft rates, e.g. Nogales 1,035 and Calexico 1,128.
4. The northern most city in San Diego County (Oceanside, 60 miles north of the border) has a vehicle theft rate of 4.17/1000 vehicles registered. San Ysidro (adjacent to the border) has a rate of 15.89/1000.
5. The recovery rate nationally for motor vehicle thefts is around 14 percent. Chula Vista's rate is 3 percent.
6. Monetary loss in 2001 was \$12.9 million, more than three times the loss from all robberies, burglaries and larcenies combined.

The Chula Vista analysis showed that high rates of auto theft are likely to be border related. Since few are recovered in any form, it is believed that most cars are taken south into Mexico. From anywhere in Chula Vista, a car thief can drive across the border within 10 minutes. No technology is in use to capture stolen autos heading south, although license plate readers at the points of entry can be used to confirm the thefts.

Vehicles are stolen for resale. Migrants going in both directions steal vehicles for basic transportation or use as "load" vehicles, either to transport narcotics or migrants. In the recent past, Mexican law enforcement has been implicated in vehicle thefts on the U.S. side.

Mexico has its own problems with auto theft. Residents

of Baja Norte may have their vehicle stolen in Mexico only for it to be sold and registered in the U.S. Local law enforcement personnel participate in a joint committee on auto theft but with limited success. Lack of U.S. access to a Mexican national vehicle database, combined with security limitations on sharing the data, make it difficult for buyers to know if a vehicle they purchased was stolen. The same limitations hamper recovery in both directions across the border.

Community And Institutional Penetration

Unlike their federal counterparts, local police move in and out of households responding to calls for service every hour of every day. Because of the relative safety in the United States, high-ranking members of Mexican law enforcement, Mexican appointed and elected officials and members of organized crime rent or purchase homes and install their families. Patrol officers interact with them and their families and have a sense of who they are.

Crime problems from across the border occasionally follow these persons. Police in San Diego County find bodies that have been tortured and dumped, casualties of the drug wars. Families residing in Chula Vista have members kidnapped and murdered on the Mexican side, while those on the U.S. side have received threats. Recently a Chula Vista police officer, foiling such a kidnapping attempt, was shot at repeatedly by escaping suspects.

Mexican organized crime has untold resources to support its enterprises. Not only is the San Diego/Tijuana border crossing busy with resident and commercial traffic, it is also a major crossing point for contraband. Two freeways run north from the busy San Ysidro and Otay points of entry – I-5 and I-805. Both freeways traverse Chula Vista from north to south. As a result, much illegal “product” and the people associated with it move through the city.

Chula Vista is a convenient stopping off point for repackaging drug loads, for storing loads in stash houses for trans-shipment north, and for homes for mid- and high-level drug traffickers. These trafficking groups need logistical and supply support – vehicles, houses, “mules” to cross loads. Border communities on both sides are, therefore, resource points for organized crime.

Penetration of communities in the U.S. also include penetration of law enforcement. A uniformed Border Patrol agent on duty at the Calexico station was caught recently with 750 pounds of marijuana in a U.S.

government vehicle and sentenced to five years in prison. The U.S. Attorney prosecuting the case said in open court that federal investigators are looking at much deeper corruption at the station.

Drunken And Disorderly Behavior

Not all behavior that negatively impacts the quality of life is illegal. San Diego one of the nations super ports and is the home to many naval vessels, the Marines, and special warfare groups. It is a tradition to go on leave and cruise south to the bars in Tijuana. It also is a tradition to return and drive drunk on U.S. streets. In similar fashion, Spring Break is a rite of passage for many underage U.S. students. Often they choose a Mexican venue to celebrate because the federal drinking age is 18.

Conclusion

The border between the United States and Mexico is much more than a simple demarcation, it is the confluence of powerful social forces that define a rapidly developing region. The many communities that make up the border region – the bi-national region, combine some of the best and worst characteristics of each country.

The security picture of the bi-national region is complex and is significantly defined by the efforts of local law enforcement agencies on both sides.

Both nations and the residents of the bi-national region would benefit from an organized study of the bilateral law enforcement relationship, especially one that addressed the complex cultural issues that define it.

Police working with social scientists can play a key role in defining and improving the bilateral relationship and the public safety arrangements in the bi-national region. A partnership between local law enforcement and universities with social science resources could form the base for assessing and further developing this critical area.



Sgt. David Eisenberg is a Patrol swing shift supervisor at the Chula Vista Police Department. He holds a M.S.S. and Ph.D. in Social Work and Social Research from Bryn Mawr College and teaches the Cultural Diversity block at the regional police academy.

LEQ

By Wendy Patrick Mazzarella



The 9th Circuit Weighs In On Peace Officers Falsely Accused The Continued Debate Of The Constitutionality Of PC 148.6

Working as a peace officer is a job that is often thankless, dangerous, and sometimes deadly as demonstrated by the killing of several San Diego County peace officers over the past several years. Most officers would agree that protecting society is hard enough without having to worry about additional stressors like false accusations of misconduct.

Even when a falsely accused officer is exonerated, however, the reports and consequent investigation often spark a rash of negative publicity that can be extremely disruptive to the careers, personal lives, and morale of our police force.

In a prior column (“Two Major Victories for Peace Officers Falsely Accused: The Constitutionality of PC 148.6 and CC 47.5” (LEQ, Winter 2003-2004)), I discussed two

California court decisions. In one of them, *People v. Stainstreet*, (2002), the California Supreme Court reversed the Court of Appeal in declaring the constitutionality of California Penal Code section 148.6, which criminalizes filing knowingly false misconduct allegations against peace officers.

Since that time, the 9th Circuit has chimed in on PC 148.6 as well, reaching the opposite result. In the recent case of *Chaker v. Crogan*, the 9th Circuit court held that PC 148.6 constituted impermissible viewpoint discrimination in violation of the First Amendment because it only criminalized knowingly false speech against a peace officer, but not knowingly false speech in support of a peace officer.

California Penal Code Section 148.

Penal Code Section 148.6(a)(1) states that “[e]very person who files any allegation of misconduct against any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, knowing the allegation to be false, is guilty of a misdemeanor.”

Subsection (2) provides that the complainant read and sign a statement in boldface type describing the citizen complaint procedure and advising that it is a misdemeanor to file a knowingly false complaint against an officer.

This section has been interpreted to apply only to allegations of misconduct that occur within the scope of the officer’s duties.

Chaker v. Crogan

Defendant Chaker was originally arrested by El Cajon police officers for theft of services from a mechanic. He later claimed that one of the officers involved injured him during the arrest, and he filed a claim for damages with the City of El Cajon, alleging that the officer “hit him in the ribs, twisted his wrist, and failed to secure [him] in the police vehicle with a seat belt so that [he] struck his head during sudden stops.”

Chaker also wrote a letter signed under penalty of perjury making the same allegations to the police department’s Internal Affairs Division and added a claim that he was also strip-searched by the same officer. The San Diego District Attorney’s Office subsequently charged Chaker with violating PC 148.6(a), filing a

knowingly false allegation of peace officer misconduct.

At the trial, the officers denied using excessive force against Chaker. A witness described the arrest as “routine,” and Chaker’s letter to the Internal Affairs Division was authenticated. Chaker was convicted. He appealed and then filed three state habeas petitions. The third one raised a First Amendment challenge to PC 148.6.

The *Chaker* court first noted the difference between PC 148.6 and PC 148.5, which criminalizes making a false police report. The court cited *Stainstreet*, supra, in noting that in PC 148.6, the Legislature uniquely criminalizes false accusations only against police officers, and that “[i]t is not a crime to knowingly make such an accusation against a

firefighter, a paramedic, a teacher, an elected official, or anyone else.”

Chaker argued that because of this special treatment given to peace officers, PC 148.6 constituted impermissible viewpoint discrimination. The court’s analysis of the First Amendment issue focused only

when the speech restricted is speech critical of the government.” The court also stated that “[t]he imbalance generated by section 148.6 – i.e., only individuals critical of peace officers are subject to liability and not those who are supportive – therefore turns the First Amendment on its head.”

viewpoint based speech. It merely criminalizes the filing of a knowingly false complaint which then mandates an internal investigation.

This law arose after the Rodney King incident because so many false complaints were filed tying up the police agencies time and money in unwarranted investigations. Rand explains that it is not illegal to make a negative comment about a police officer. Anyone can write a newspaper article, or stand in front of the courthouse with a megaphone and complain.

It is only when they lodge a complaint with the police department, knowing the complaint is untrue, that the action is now illegal. Regarding the analysis, Rand explains that is because there is no social utility in protecting a known falsehood, as it has no value. And, making the police conduct a needless investigation only hurts us all.

It takes time away from tracking down real cases of misconduct, and it drains police resources in taking time away from their doing legitimate work. She concludes her position by recognizing that this law was enacted to protect all of us and it does not inhibit protected speech.

Although *Chaker* is not binding on California courts, its rationale may present a new hurdle for law enforcement. But the battle continues. Deputy Attorney General Gary Schons is handling the petition for certiorari on *Chaker*. Please stay tuned. **LEQ**

Wendy Patrick Mazzarella is a Deputy District Attorney currently assigned to the Family Protection Division of the San Diego District Attorney’s Office.

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on PC 148.6’s application in the investigation of a complaint, because the section only applies to filing a formal complaint of peace officer misconduct with the employing agency.

The court acknowledged the wasteful resources that are expended investigating false claims against peace officers, but also noted that because most cases involve a credibility contest between a citizen and a peace officer, “a peace officer or witness who lies during an investigation is equally to blame for wasting public resources by interfering with the expeditious resolution of an investigation.”

The *Chaker* court found the statute to be under-inclusive, and worse, “[s]uspicion that viewpoint discrimination is afoot is at its zenith

The court found that although PC 148.6 regulates a category of speech that is unprotected, by singling out one category within that general category, it discriminates based on viewpoint. “Because section PC 148.6 targets only knowingly false speech critical of peace officer conduct during the course of a complaint investigation, we conclude that the statute impermissibly regulates speech on the basis of a speaker’s viewpoint.”

San Diego Deputy District Attorney Kelly Rand, who argued this case in front of the Ninth Circuit in December 2004, believes the Ninth Circuit got it wrong, and the unanimous decision of the California Supreme Court in the *Stainstreet* case was correct in finding the statute constitutional. She explains that PC 148.6 does not prohibit content/

By Michael Connelly



Gangs Division

The District Attorney's Office Gangs Division has been in existence since June 1982. The first DDAs assigned were Keith Burt, Carlos Armour and now Assistant U.S. Attorney Bruce Smith. They obtained a grant and SDPD Gang Detective Alfonso "Sal" Salvatierra and DAI Leonard Jones were assigned to work with them. The division has grown to 24 attorneys and 18 investigators.

The Gangs Division is a vertical unit that investigates and prosecutes gang-related cases, primarily crimes of violence such as murder, drive-by shootings and serious assaults. The specially trained prosecutors and investigators respond as necessary with police to crime scenes and prosecute the cases after they are filed.

A special unit of the Gangs Division handles gang injunctions/civil abatements. The unit files civil lawsuits aimed at gangs and their members to stop gang activity in a specific geographic area. This unit also monitors gangsters placed under injunctions in an effort to minimize future gang activity. Recent injunctions have occurred in Skyline, National City, Vista, Oceanside, Escondido, Linda Vista, San Marcos and South Bay communities.

Due to the ever increasing criminal activity committed by an increasing number of gang members, the unit has reached a saturation point and now is only able to prosecute the most violent crimes of murder, attempt murder, and serious assaults. Other gang defendants committing lesser crimes are prosecuted by the Superior Court Division and the branch offices.

The Gangs Division's main

prosecution core is in the Hall of Justice with teams in Vista, El Cajon and South Bay branch offices. The nature of gang cases has led the division to strive for a one-to-one ratio of prosecutors and investigators. One of the El Cajon DDAs and DAIs is assigned to the newly formed East County Gang Task Force. There is an additional DAI assigned to the FBI Violent Crimes Gang Task Force (VCGTF) which is located downtown at an off-site location.

The VCGTF is comprised of detectives and agents from the FBI, SDPD, SDSO, ICE and Probation. They have been in existence since 1993. They are responsible for more covert methods of identifying criminal enterprises and dismantling them through the use of cooperating individuals, electronic surveillance and good old-fashioned police work.

Several gangs have been targeted in the past including Lincoln Park, Skyline, Sherman Heights and Logan. The Task Force recently concluded a two-and-a-half-year investigation targeting the Mexican Mafia in San Diego County. This investigation resulted in the prosecution of three documented EME members including the "shot caller" in the county and 20 documented associates.

The task force also targeted the Lincoln Park street gang and arrested 23 members for various crimes. A federally funded Project Safe Neighborhood grant allowed the task force the latitude to employ law enforcement resources in the Sherman Heights community. This investigation resulted in the arrest of 41 subjects, including members of the Logan and Sherman street gangs, for various crimes including weapons and narcotics.

Another Gangs Division DAI is assigned to a team on the Narcotics Task Force (NTF). NTF investigates complex narcotic trafficking cases with some gang nexus requiring hundreds of hours of investigation involving electronic surveillance. The team recently seized more than \$1.5 million and hundreds of pounds of cocaine.

The division facilitates monthly gang meetings for all law enforcement agencies in the Hall Of Justice, Vista, El Cajon and South Bay jurisdictions. The networking that occurs at these meetings has been instrumental in creating strike forces in the county that participate in monthly gang sweeps in various jurisdictions throughout the county.

These strike forces concentrate manpower in areas that ultimately lead to numerous arrests, field interviews and the gang members realizing they will be contacted by law enforcement unless they stop congregating and conducting their criminal activity.

The Gangs Division members are

subject matter experts with regard to witness protection and witness relocation issues and the California Witness Protection Program (CWPP). They have almost 40 witnesses and their families relocated in several states. It wouldn't be uncommon for someone to have a family living next to them one night and they have been completely moved and never heard from again by the next morning.

The DA's Office provides hundreds of thousands of dollars each year for the gang unit and other divisions to relocate witnesses whose testimony is critical to the prosecution of violent crime cases. The California Witness Protection Program provides reimbursement for allowable claims

occurring during qualified relocations.

The DA's Witness Protection Team is comprised of approximately 40 investigators. This is a voluntary collateral assignment available to all investigators who have assessed their availability based on their divisional workload and have obtained approval from their supervisor. The commander assigned to division is the coordinator of the two teams.

There is a team leader on each team as well as three squad leaders. The teams alternate availability on a weekly basis and are available for witness protection, witness relocation assistance, surveillance operations, search or arrest warrant operations, investigative support or any other

mission requested by the office.

The Gangs Division is always looking for motivated and dedicated investigators who would like to work in a unit where you can experience a myriad of complex case issues and rely on your investigative prowess to help bring the case to a successful conclusion. It's a division where you will never be bored and will be constantly challenged. The experience gained in this division will enhance your investigative expertise and will make you a more valuable asset to the office.

LEQ

Editor's Note: This is the final Chief's Corner by Michael Connelly, who is retiring from the District Attorney's Office as the Chief of the Bureau of Investigation. See article below welcoming the new chief.

DA Names First Woman Chief Investigator

Former San Diego County Assistant Sheriff Paula Robinson was selected earlier this year by DA Bonnie Dumanis to succeed Michael Connelly as the new Chief of the Bureau of Investigation. Robinson, who is the first woman to hold this position, oversees 122 investigators and 47 public assistance fraud investigators.

As Chief of the Bureau of Investigation, Robinson supervises planning, directing, and evaluating the activities of the Bureau of Investigation.

"We are getting a highly qualified candidate to lead a dedicated group of law enforcement professionals," DA Dumanis said. "Paula Robinson is an outstanding and welcomed addition to our management team."

Robinson has served the community through various positions for 30 years. Most recently, she was the Assistant San Diego County Sheriff. Robinson joined the San Diego Police Department in 1977, and became a San Diego County Deputy Marshal in 1979, where she

earned the rank of Captain. She became a member of the Sheriff's Department during the merge with the Marshal's Department in 2000. Robinson served as the Chief of Police for Del Mar, Solana Beach, and Encinitas (in 2002-2003). She was the first woman to serve as the Northern Commander of Law Enforcement Services

(2003-2004) and one of the first women appointed Assistant Sheriff (of Court Services since 2004).

Robinson is excited to be a part of the team at the DA's office, especially because of the office's forward thinking approach to serving the community.

"I like that this office is progressive and its outreach to the community," said Robinson. "We try to look ahead to prevent crime."

Robinson also values the opportunity to work under Dumanis, whom she has respected for many years.

"I met Bonnie when she was a judge, and I was impressed by her innovative approach to law enforcement," said Robinson. "How fortunate am I to work for two great leaders? She's humble and brilliant, and touches everybody. Bonnie genuinely values and cares for the people she meets."

LEQ



Baker to Vegas Challenge Cup Relay

By John Serrano

For the last 21 years the Los Angeles Police Department in conjunction with the Los Angeles Police Revolver and Athletic Club has hosted the annual Baker to Vegas Challenge Cup Relay race. This 120 mile relay is one of the largest law enforcement athletic events in the world.

The race was founded by LAPD Officer Chuck Foote and Larry Moore in 1985. The race back then was composed of 19 law enforcement teams. The race begins in Baker, CA on a two lane road in the middle of the Mojave Desert and finishes in Las Vegas. The course is considered one of the most difficult, grueling and challenging to even the most experienced athlete.

Often the difficult terrain is complicated by unpredictable weather. Runners must be prepared to combat intense heat, frigid temperatures, to include snow, and the unforgiving desert winds.

The race has attracted more than 220 law enforcement teams from the United States and around the world. Teams



have traveled from as far away as Great Britain, Germany, Australia, and Canada. Each team is comprised of 20 runners and two alternates. However, there have been occasions when teams have competed with no alternates, which places a significant amount of pressure on each athlete to finish.

Each leg of the 120-mile race can vary from 3.9 miles to 8.2 miles. The terrain of each leg can be flat, rolling hills, downhill, or extreme uphill.

Each year San Diego County is represented by local, county, state, and federal teams. In fact, some of the teams from San Diego have placed in the top ten. In 2005, the SDDA team placed 10th in the Invitational division and finished the entire 120-mile relay in 16:42. In 2003, 2004, and 2005 SDPD open team won the entire event and has done exceptionally well for the last three years by winning the Challenge Cup in a time of 13:18.

The Baker to Vegas relay is exciting and challenging. The team work, sportsmanship and camaraderie built into this event are by far the most notable of any endurance race. In addition, the amount of training that each runner





endures is not only critical, but necessary to be competitive and finish this race. Each runner must be prepared mentally and physically to conquer this course.

This race finishes in the early morning hours of the following day. Volunteers and runners follow vehicles, struggling to stay awake while carefully guiding each runner to the next finish chute for the hand off of the baton. Not only does this race wear on you physically, but the sleep

deprivation and high altitude can be equally draining.

The finish line is quite a sight as you begin to witness teams emerging from the cold and darkness. Many teams finish in record time while others finish at a comfortable competitive pace. As you witness the finish of each team you can see the dedication and camaraderie each team has invested. The race event concludes at the Las Vegas Hilton with one of the largest awards ceremonies of any endurance event.

Teams are present with their team captains, chiefs of police, District Attorneys, and other public safety leaders. Teams are awarded with the classic "Challenge Cup" mug and the overall winner is awarded the "Challenge Cup" silver and gold authentic western style belt buckle, which can be worn proudly as a distinguished team winner.

On April 1, 2006, the 22nd Annual Baker to Vegas Challenge Cup Relay once again embarked on Baker, CA and runners raced through the Mojave Desert, through the mountains of Pahrump, and finished in Las Vegas. **LEQ**



San Diego District Attorney Investigator John A. Serrano, assigned to the Gangs Division, is a 17-year law enforcement veteran who has participated in the Baker to Vegas Challenge Cup Relay for 16 years.

Here are the results from San Diego Law Enforcement teams for 2006. Each team is ranked in their individual categories.

SDPD - 1st place Invitational (Civilian and sworn members of the CJ system) 13:31:46

SD Probation - 4th place in 1000 Division (Agency with less than 1000 sworn personnel) 15:22:07

DEA SD - 9th place in the Station Division (Geographic stations or offices within selected agencies) 16:05:05

SDPD - 8th in the 800 Division (Age of runners must total 800 years or more) 16:06:15

CVPD - 7th in the 300 Division (Agency with 300 or less sworn) 16:11:38

SDDA - 5th in the Invitational Mixed (Civilian and sworn members) 16:32:35

Carlsbad PD - 11th Invitational Mixed 17:06:54

SD Harbor PD - 7th in the 150 Division (Agency with 150 or less) 17:10:47

FBI SD - 7th in the Mixed Division (minimum of 5 female runners) 17:11:22

SDPD - 13th Mixed Division 18:03:03

IRS SD - 18th Mixed Division 18:08:10

SDPD - 5th Women Division 18:43:05

SDSO - 14th Mixed Division 18:59:39

EL Cajon PD - 11th in 150 Division 19:06:25

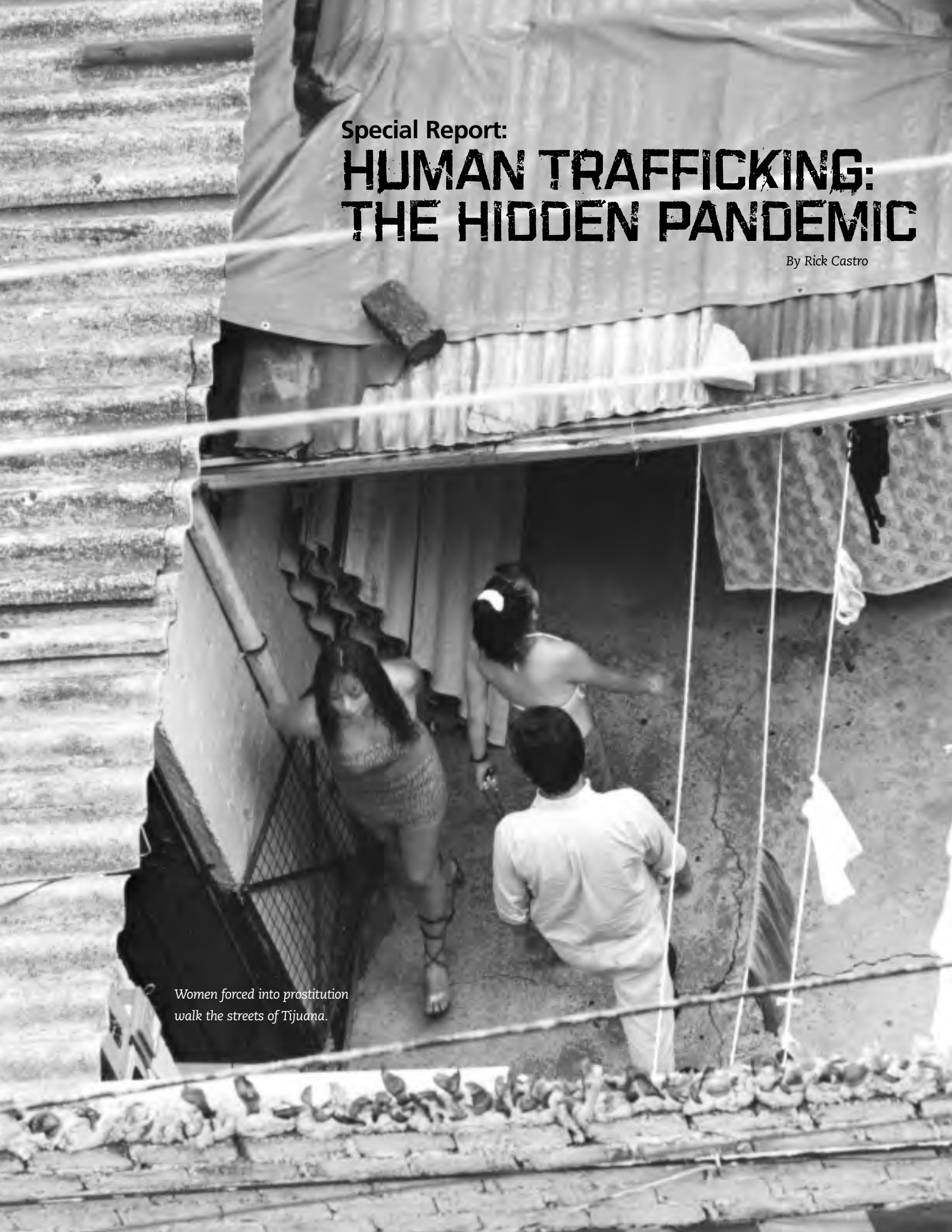
National City PD - 35th Invitational Division 19:14:31

ICE SD - 16th Open Division (any gender any age) 19:19:23

Special Report:

HUMAN TRAFFICKING: THE HIDDEN PANDEMIC

By Rick Castro



*Women forced into prostitution
walk the streets of Tijuana.*

The San Diego Sheriff's Department recognizes that human trafficking is one of the most devastating and least recognized forms of child abuse. Social services agencies, health care providers, local law enforcement and federal agencies must be trained and educated in identifying the crime of human trafficking and the dynamics related to its victims. These relationships must be established before a case of human trafficking is uncovered in an agency's jurisdiction.

Human trafficking is a much larger problem in the United States than has been recognized by the public or public officials. Most easily defined as modern-day slavery, human trafficking has gone largely unrecognized and underreported. Recent studies, as well as increased media coverage of human trafficking incidents, however, are beginning to expose the magnitude of trafficking in the United States.

For example, a national study from the University of Pennsylvania's School of Social Work estimates that between 200,000 and 300,000 children in the United States are at high-risk of involvement in commercial sexual exploitation each year. In addition, the intelligence community reports that approximately 50,000 people are trafficked into the United States each year and forced to work in prostitution, sweatshops, domestic service, and migrant farm labor.

In response to this growing problem, the U.S. Department of Justice created the National Worker Exploitation Task Force (WETF) in 1998 to prevent worker exploitation and human trafficking throughout the country, and to investigate and prosecute cases when such violations occur. Following the creation of the Task Force, the Attorney General designated 15 regional task forces to address the unique and transient nature of worker exploitation investigations and the value of examining exploitative labor practices at the local, regional and national levels.

The Task Force includes various agencies and offices within the U.S. Department of Justice, including the FBI, the Bureau of Immigration and Customs Enforcement (formerly known as I.N.S.) the United States Attorney's Office, the Civil Rights Division, the Office of Victims of Crime, and the Violence against Women Office.

The Task Force also works in coordination with the U.S. Department of Labor, U.S. Department of State, U.S. Health and Human Services Agency, the U.S. Department

of Agriculture, and the Equal Employment Opportunity Commission.

Scope Of The Problem

Worldwide:

1. United Nations estimates 700,000-2,000,000 individuals are trafficked annually
2. According to the U.S. Department of Health & Human Services, "...After drug dealing, human trafficking is tied with the illegal arms industry as the second largest criminal industry in the world today, and it is the fastest growing..."
3. Approximately 27 million people held in slavery worldwide

United States:

1. U.S. Department of Justice estimates 14,500-17,500 individuals are trafficked annually into the U.S.
2. 750,000 women were trafficked into the United States in last decade
3. 200,000-300,000 U.S. children are at high risk of involvement in commercial and sexual exploitation
4. Many agencies report that for the children they serve, the average age of entry into prostitution is 12 years old.
5. One in five girls under age 21 state someone has tried to exploit them sexually
6. Millions of children are sexually solicited over the internet, receiving pornographic images, harassment and offers of various gifts
7. Human trafficking yields profits exceeding \$12 billion per year

Why Does Human Trafficking Exist?

Internationally poverty has increased in the last 15 years. People are treated as dispensable commodities – they are not seen as long-term investments, but rather as low-cost and easily replaceable. Unlike drugs, people can be resold, either for a profit or to offset their initial cost. Unlike in years past, they are typically recruited, not by force, but by the promise of a better life in another country.

In an increasingly worldwide economy where industrialized nations typically outsource low-skill jobs, there is a high demand for cheap labor. Until recently, criminal penalties in many countries were less severe for human trafficking than for arms or drug trafficking.

Many agencies report that for the children they serve, the average age of entry into prostitution is 12 years old.



Reasons For Trafficking

People are trafficked for work in prostitution and/or the sex industry. Common jobs include exotic dancing, stripping or personal sexual exploitation. They are also sold into servile marriages as mail order brides. The need for cheap labor means jobs in sweatshops, factories, landscape, domestic servitude, restaurants, construction, carnivals, hotel housekeeping, or agriculture.

Laws Regarding Human Trafficking

The Trafficking Victim's Protection Act of 2000 was the first federal law to address the problem of human trafficking. The California Trafficking Protection Act is the state human trafficking law. It was enacted January 1, 2006, and closely mirrors the federal statute. Prior to its enactment, most human trafficking investigations were conducted by federal law enforcement agencies. More information regarding these laws is included later in this article.

Local Efforts To Combat Human Trafficking

In 1996, the San Diego County Sheriff's Department began working closely with federal agencies, other local law enforcement agencies, and social service providers in order to identify prostitution/trafficking victims. In 2000, the San Diego County Sheriff's Department started receiving information that young girls were being forced into prostitution in San Diego's North County.

In addition to traditional law enforcement, the Sheriff's Department also collaborated with the (now defunct) EYE

Family Counseling Center, the Mexican Consulate, and Planned Parenthood to address this issue. The purpose of the collaboration was to conduct an assessment of necessary services and thus to establish systems and protocols to be used when a victim of trafficking was identified.

Due to the level of commitment by all members, an Emergency Response Team was created. The team

consisted of a group of professionals from San Diego Youth and Community Services and San Diego State University qualified to respond to human trafficking calls and assist law enforcement by providing traditional social services. These services included crisis intervention, referrals to emergency medical services, housing and placement services and interpreting.

This new collaboration was tested shortly thereafter when the Sheriff's Department received a radio call regarding a domestic violence incident that resulted in the identification of a young Hispanic female who was being forced into prostitution. Due to the victim's age, she was taken into protective custody and transported to the County Children's Center.

The initial interview was conducted by the Sheriff's Department and the EYE Family Counseling Center. After the interview, the Sheriff's Department and the EYE both realized they had identified a victim of human trafficking. This case, known as Reina's Story from a feature article in the *San Diego Reader*, ended with the victim being rescued and reunited with her child.

One of the biggest obstacles encountered in Reina's case was a lack of secure and appropriate shelters to place an undocumented female juvenile victim of severe human trafficking. Through creative networking, the Sheriff's Department and the service provider located temporary housing at various shelters throughout northern San Diego County, as well as other assistance.

Without the help of service providers, the Sheriff's Department would not have been able to get immediate medical attention, food, clothing, and eventually legal and cash assistance for the victim, possibly jeopardizing the criminal case. During this investigation, a team of community service providers played a major role in assuring that the needs of the victim were met. Over 23 non-profit organizations came together to meet the unique

needs of one teenage girl.

During 2003, the San Diego Sheriff's Department received a large number of leads regarding prostitution activity and/or potential trafficking. Many of the leads came by way of anonymous mail, telephone calls, and service providers in North County. The majority of the leads were followed up by the Sheriff's Department and federal agencies using various surveillance techniques.

During one such surveillance, NBC Channel 4 News out of Los Angeles captured several young girls walking in a field led by their pimp/trafficker. The youngest girl on the video appeared to be approximately 12-13 years of

age. This video, one of the first to show human trafficking victims engaging in prostitution, was shown nationwide to help illustrate the problem. The case was compromised due to the presence of another enforcement agency that was in the area on an unrelated matter. Unfortunately, the victims in this case were never located, rescued or identified.

On another occasion, the Sheriff's Department assisted federal agencies on a raid at the apartment complex of a known trafficker. During the raid, a young female was taken out of the residence. As a result of law enforcement's working relationship with the Bilateral Safety Corridor Coalition (BSCC), a specialized team of social

service providers, known as the Trafficking Response Team, immediately responded and provided the victim with emergency services and referrals to housing, medical, food, and legal services.

These cases demonstrate our belief that law enforcement agencies are unable to provide for all the needs of human trafficking victims. A collaborative effort between law enforcement and non-governmental organizations is essential to the successful prosecution of traffickers.

Two of the largest providers of services to human trafficking victims in the county are the BSCC and Crisis



Ukrainian women were trafficked across this trail near Cottonwood Canyon on the U.S. side of border.

“After drug dealing, human trafficking is tied with the illegal arms industry as the second largest criminal industry in the world today, and it is the fastest growing.”



House Incorporated. BSCC is an alliance of over 60 government and non-government agencies in Mexico and the U.S., convened in San Diego to combat human trafficking. These organizations provide services including legal, housing placement, food, crisis counseling, intervention and referrals to emergency medical and mental health services, cash assistance, employment training, spiritual and peer support, interpreters, and clinical services.

Several key issues need to be addressed when rescuing victims of human trafficking, including the victims' need for: housing (short and long term), medical attention, clothing, food, transportation, cash assistance, counseling, peer support, dental care, education, legal services, job services, and interpreters.

Other issues include children and family members in and out of the United States, victim's age, and level of cooperation. When these concerns are addressed and the victim's immediate needs are met, the level of cooperation and trust between victim and assisting agencies increases dramatically, resulting in greater likelihood that a victim will be rescued and thus able to assist with the criminal prosecution.

Identification Of Victims

Some of the obstacles in identifying victims of severe forms of human trafficking in a community include embarrassment, undocumented status, lack of peer or family support, language barriers, misidentification, cultural barriers, lack of trust, lack of known resources, fear

of retaliation, fear of law enforcement and immigration authorities, and fear of deportation.

Victim service providers, local and federal law enforcement agencies, including U.S. Attorney's Office, U.S. Immigration and Customs Enforcement (ICE), and FBI, must overcome a variety of obstacles in order to identify victims of human trafficking. Service providers are more likely to encounter human trafficking victims

than local or federal law enforcement agencies. Many victims seek out service providers to obtain medical, dental, counseling, food, and shelter. Unfortunately, there are only a few service providers that know how to identify trafficked persons or what questions to ask.

For example, when a 14-year old girl seeks medical attention for Sexually Transmitted Diseases, this is a major “red flag” indicator for potential victim of a severe form of trafficking. It is uncommon for very young females to seek medical attention for STDs, especially when accompanied by an adult who is reluctant to give out information on how the young girl may have contacted the disease. This is true for similar scenarios with young girls being accompanied to seek an abortion procedure.

If the adult who brought in the young girl refuses to leave the child alone with the service provider, this is another red flag indicator for potential trafficking. In most cases, the pimp or trafficker will not leave a young child alone with a service provider. This behavior is out of fear that the child may say or do something implicating the adult in illegal activity, or the girl may try to escape with the help of the provider.

Another situation that comes up regularly is when a victim confides in a service provider that he/she is being forced into prostitution or another form of commercial exploitation, but requests that the provider not tell anyone, especially law enforcement, about his/her situation. This fear and mistrust in law enforcement is often implanted in the minds of the victim by the pimp or trafficker.

The pimp or trafficker often convinces the victim that if law enforcement finds them, that they will abuse, arrest, incarcerate, and later deport them if they are undocumented. The victims believe the traffickers because, in many of the victim’s home countries, traffickers work in collusion with law enforcement or are corrupt in other ways.

Because of this fear and reluctance on the part of the

victims to seek help on their own, service providers need to become more well-informed regarding the identification of human trafficking victims. In addition, if more service providers were aware of all the services (i.e. shelter, food, clothing, counseling, legal services, medical attention, and peer support) available for victims of trafficking, it is more likely that the provider could convince the victim to trust law enforcement and assure the victims that their basic needs will be met.

This is yet another reason for a close working relationship between law enforcement, other government agencies and non-governmental service providers, a partnership that must be in place before a victim is found in order to be effective.

Law Enforcement Partnerships

Despite ongoing efforts to educate the public, most people are unaware of the scope of the human trafficking problem. Moreover, they are equally unaware of the many different local and federal agencies involved in combating this crime. With the

passing of the California Trafficking Protection Act, the responsibility for investigation and prosecution of human traffickers will rest on local agencies, but the interagency cooperation will continue.

When the Sheriff’s Department receives intelligence or pertinent information on a human trafficking investigation, that information is relayed immediately to the FBI and ICE. The Sheriff’s Department then meets with the FBI and ICE to discuss case information and formulate strategy. If specific questions or legal concerns surface regarding an investigation, the San Diego County District Attorney’s Office and the U.S. Attorney’s Office are available to assist.

In October 2004, the Sheriff’s Department submitted an application to the U.S. Dept. of Justice to form a Multidisciplinary Anti-Trafficking Task Force. In February 2005, the Sheriff’s Department was notified that they had been awarded grant funding by the U.S. Department of



“The Reeds,” makeshift spaces where Mexican women meet with their clients for prostitution.

Justice, Bureau of Justice Assistance for the amount of \$448,134 over a three year period.

As a result of the grant, in April 2005, the San Diego Sheriff's Department developed the county's first Human Trafficking Task Force. Deputy Rick Castro was selected to be the liaison coordinator for the San Diego Region Anti-Trafficking Task Force.

The Anti Human Trafficking Task Force is designed to empower law enforcement and service providers to identify and interdict trafficking in its various forms. It is a resource available to all regional agencies when they have potential cases of human trafficking.

This multi-disciplinary, multi-jurisdictional task force strives to increase the identification of trafficking victims through proactive law enforcement investigation, increase successful prosecution of traffickers, and ensure victim safety and access to needed services.

Member Agencies in the Task Force are:

- Carlsbad Police Department
- Chula Vista Police Department
- Coronado Police Department
- El Cajon Police Department
- Escondido Police Department
- La Mesa Police Department
- National City Police Department
- Oceanside Police Department
- San Diego County District Attorney's Office
- San Diego Fire Department
- San Diego County Probation Department
- San Diego County Sheriff's Department
- San Diego Police Department
- San Diego Unified Port District Harbor Police
- California Department of Justice
- California Highway Patrol
- United States Border Patrol
- United States Customs Service
- Federal Bureau of Investigation
- Internal Revenue Service
- U.S. Marshal's Office
- U.S. Attorney's Office
- Immigration and Customs Enforcement
- Naval Criminal Investigative Service
- Bilateral Safety Corridor Coalition
- Heartland Human Relations
- Crisis House Inc.
- San Diego Youth and Community Services

Goals Of The Task Force

1. Development of training for law enforcement personnel and service providers to identify victims of trafficking.
2. Increase the identification of victims of trafficking and the conviction of their traffickers.
3. Development of a P.O.S.T. Certified curriculum in Human Trafficking.
4. Establishment of a coordinated legal resource group to educate investigators.
5. Development of a training video for law enforcement on Human Trafficking. Task force members along with actors from all over the county produced the first 21 minute human trafficking training video in the United States. The video was designed to educate law enforcement agencies across the country on how to look for the indicators of human trafficking and its various forms. The video is available to all agencies via Deputy Rick Castro at (858) 974-2300 or rick.castro@sdsheriff.org.
6. Coordination of information and resource sharing between law enforcement, other governmental agencies and non-governmental agencies.

Where To Find Victims

Some people have a difficult time comprehending that human trafficking, a form of modern day slavery, exists in the 21st century. Victims of human trafficking are generally believed to be undocumented individuals from outside the United States. But here in the U.S. and more specifically San Diego County, we have only scratched the surface of a giant iceberg.

The task force has spent the better part of the first year of its existence training law enforcement, service providers, government officials, faith-based organization, social groups, and the public in the areas where they may encounter victims of trafficking. The following is a list of possible locations:

1. Migrant or immigrant communities (including migrant agricultural camps)
2. Areas or zones known for prostitution
3. Law enforcement dispatched calls for service related to domestic violence, sexual assaults, family disputes, and loitering
4. Routine traffic stops
5. Health care providers, ER, and social services (counseling)

6. Airports and hotels
7. Large agricultural fields
8. Resort communities (Ensenada, Cancun, Acapulco)
9. Strip clubs
10. Massage parlors
11. Casinos
12. Internet
13. Industrial/manufacturing complexes, “sweatshops”

Methods Of Conditioning

1. Starvation
2. Confinement
3. Beatings
4. Torture
5. Rape and gang rapes
6. Threats of violence to victims and victim’s family members
7. Forced drug usage

Factors Contributing To Sexual Exploitation

1. Idea of making “Fast Cash”
2. Poverty
3. Having to leave the family or being thrown out of their home
4. Having food, clothing and shelter withheld unless traded for sexual favors
5. Prior victims of sexual abuse
6. Children with unresolved conflicts of sexual identity
7. Children with drug addiction or drug experimentation, promiscuity, and/or prior sexual, physical, or emotional abuse
8. Children who have grown up in a family that in one way or another is linked to the sex trade
9. Children feeling disconnected from their family or society
10. Low self-esteem
11. Exploiters using force, coercion, manipulation, or deception on children
12. Exploiters promising children a “better life”
13. Children being put in a situation where they feel they can’t say “no”

Due to its covert and transitory nature, victims are often discovered in situations that are not immediately recognizable as human trafficking.

Identifying A Trafficking Victim: Indicators

1. Scars from beatings or weapons
2. Wounds or bruises on backside of body
3. Fractured / poorly set bones
4. Signs of torture (cigarette burns)
5. Burns or scars indicating ownership
6. Living on same premises where employed
7. Barbed wire around perimeter of property
8. Large number of occupants in living space
9. Evidence of restricted or controlled movement / communication
10. Current debt issues
11. Bars on windows
12. Guard dogs
13. “Company Store” limiting employees purchases to a store owned by the employer with inflated prices for goods
14. “Trick book” containing names of customers of prostitutes
15. Large amounts of cash and condoms
16. High number of men loitering in and around an establishment
17. Victim not in possession of their legal or travel documents, instead an employer has possession of them for “safe keeping”
18. Numerous mattresses on the floor inside a bedroom
19. Bedroom partitioned by sheets hung from wall to wall for privacy
29. Security cameras at a residence or business
30. Excessive amount of alcohol (i.e. beer) in refrigerator
31. Evidence of inability to move or leave job
32. Victim avoids eye contact
33. Hyper vigilant or paranoid behavior

Methods Of Recruitment And Trafficking

1. Kidnapping
2. Deception/Fraud
3. Newspaper ads promising career opportunities in foreign countries
4. Recruitment by other victims
5. Falsified travel documents to obtain work
6. Visa overstays
7. Parents, family, boyfriends, husbands selling children/wives/relatives for money or other valuables

Challenges in Identifying Victims

Establishing a victim's true identity may be one of the most challenging obstacles for law enforcement when it comes to human trafficking. Due to its covert and transitory nature, victims are often discovered in situations that are not immediately recognizable as human trafficking.

Law enforcement should place close attention when responding to radio calls of domestic violence, family disturbances, sexual assaults, suspicious persons, runaway juveniles, and loitering calls because victims can be found silent in the background. Traffic stops can also be another venue to encounter victims of trafficking.

The following are a few challenges encountered by individuals attempting to identify victims of trafficking:

1. Misidentification of victims (i.e. illegal immigrant, runaway, or a prostitute)
2. Cultural & language barriers
3. Well hidden in ethnic community
4. Psychological control
5. Loss of sense of time & space (due to forced enclosure & trauma)
6. Lack of trust
7. Undocumented/fear of deportation
8. Fear of retribution
10. Lack of knowledge of rights/laws

Important Note

In the planning of a raid, the team members assigned to conduct the interview should not be part of the entry team. The tactics used in a dynamic entry will create a

dramatic image in the minds of the victims: establishing a rapport with the victim will be much harder for the interviewer if they are associated with the traumatic entry/raid.

In other words, it will be difficult for the victim to relate to the interviewer who was just pointing a gun at her face, as a sensitive caring individual whom she can trust. If manpower is an issue and the individuals doing the interview must be involved in the entry, their faces should be covered and when they approach the possible victims they should conduct themselves as if they were not part of the entry team.

In addition, by working closely with service providers it may be possible to house the victims in a safe environment other than a detention facility. This is important for various reasons. It is important because time and time again traffickers portray law enforcement as perpetrators themselves: telling victims that they will be arrested, beaten, raped and then, deported. This is a true fear for clients who come from countries with rampant corruption and where this may well be the case.

However, placing victims in safe housing and in the care of service providers will go a long way toward gaining the trust and eventual cooperation of a victim. As a result, the victim may begin to think, "...everything the trafficker has told me is a lie..." and thus, may find the courage to assist in the prosecution against their trafficker. On the other hand, placing a victim in a detention facility will only serve to reinforce the notion, implanted by the trafficker, that law enforcement is corrupt.



Why Is San Diego Likely To Be A Hub Of Human Trafficking?

International land borders are the primary point of entry used by traffickers. This automatically qualifies San Diego as a distribution site for imported contraband of all types. The lightly patrolled border areas in East County have promised successful entry into the United States for many years. Human

Traffickers use known narcotic smuggling routes to move their victims. They also utilize vehicles on our streets and highways to transport them, making it very possible that law enforcement officers may come upon them in the form of a traffic stop.

Four Common Myths Regarding Human Trafficking

Myth 1: Trafficking victims must be foreign nationals or illegal aliens.

Reality: Victims can be either U.S. nationals or foreign nationals. Both are equally protected under the U.S. law. Many victims in the United States are U.S. nationals, particularly in child sex trafficking cases.

Myth 2: Trafficking requires transportation across state or national borders.

Reality: The federal statutes do not require transportation, although transportation may be involved. Unlike the Mann Act, no interstate transportation is required.

Myth 3: If victims can consent to prostitution before the coercion or are paid then it is not trafficking in persons.

Reality: Consent to prostitution prior to acts of force, fraud, or coercion, or if the victim is a minor, is not relevant, nor is payment. If coercion is present or if the victim is a minor then consent is no longer meaningful.

Myth 4: I can conclude this isn't trafficking without interviewing the victim.

Reality: Victims are often trained to say they were not forced or coerced. Careful interviewing is required to identify a victim, with competent translation if English is a second language. Sometimes interviewing must occur over the course of several rounds before enough trust is built with the law enforcement.

Key Questions To Ask When Interviewing Victims

Patience is of the utmost importance. You cannot undue in one day what the trafficker has conditioned in their victim for months or years. The following are sample questions that may help the interviewer determine if they have a victim of trafficking:

1. What type of work do you do?
2. Are you being paid?

3. Can you leave your job if you want to?
4. Can you come and go as you please?
5. Have you or your family been threatened?
6. What are your working and living conditions like?
7. Where do you sleep and eat?
8. Do you have to ask permission to eat/sleep/go to the bathroom?
9. Are there locks on the doors/windows so you cannot get out?
10. Has your identification or documentation been taken from you?
11. Were you promised a specific job?
12. Who is your employer?
13. Are you paying back a debt?
14. Have you been physically harmed?
15. Do you buy your own food and clothing?
16. Did you sign an employment contract? If so, what did it say?
17. When was the last time you spoke to your family and friends?
18. Does your family know where you are?
19. Have you been threatened with deportation?
20. Are you isolated from the community?

Who Are The Perpetrators?

1. Friends and family
2. Organized crime
3. Local gangs
4. Smugglers
5. Pimps
6. Madams
7. Husband
8. Boyfriend
9. Anyone

Conditions Trafficked Persons May Suffer

Mental Health

1. Post traumatic stress disorder (PTSD)
2. Rape Trauma Syndrome
3. Depression
4. Suicidal tendencies
5. Captivity trauma
6. Anxiety
7. Panic attacks
8. Learned helplessness
9. Stockholm Syndrome

Physical Health

1. Physical trauma
2. TB, Sexually Transmitted Diseases, HIV or AIDS
3. Pregnancy
4. Gynecological trauma from forced abortions
5. Drug dependency

Who Is Most At Risk?

1. Orphans/refugees
2. Street children/runaways/homeless
3. Poor
4. Victims of prior sexual abuse
5. Those with little to no education
6. Widows/abandoned wives & children
7. Trafficking does NOT discriminate

The Role Of Law Enforcement In Combating And Investigating Human Trafficking

1. Identify victims and suspects associated with human trafficking
2. Be aware that many calls for service related to domestic violence or family disturbances involve victims of exploitation
3. Acquire medical attention and other immediate and basic needs (food, clothing, shelter, counseling, etc.) for victim
4. Conduct undercover operations targeting the pimps, recruiters, and the sexual exploiters who buy children for sexual purposes
5. When appropriate, arrest all suspects associated with human trafficking
6. Document all incidents and individuals related to human trafficking
7. Share information with other local and federal agencies
8. Work with local health care providers, child service organizations, other community organizations, and government agencies in identifying pimps, recruiters, sexual exploiters and children that are being exploited
9. Disseminate information about human trafficking in your community
10. Work with the media to inform the community about operations involving human trafficking, if applicable

To Obtain More Information On Human Trafficking, Visit These Websites:

NGOs

Bilateral Safety Corridor Coalition
www.bsccoalition.org

The Freedom Network
www.freedomnetworkusa.org

GlobalRights.org
www.globalrights.org

Stop Trafficking of People: An Introductory Resource, U.S. Conference of Catholic Bishops
www.usccb.org/mrs

National Immigration project of the National Lawyers Guild
www.nationalimmigrationproject.org

The Protection Project – Johns Hopkins University
www.protectionproject.org

International Organization for Migration
www.iom.int/en/what/counter_human_trafficking.shtml

United Nations Office on Drugs and Crime
www.unodc.org/unodc/en/trafficking_human_beings.html

The following are a sample of links to organizations dealing with the issue of human trafficking:

UN Organizations

United Nations High Commissioner for Refugees (UNHCR)
www.unhcr.ch

UNHCR is the United Nations organization mandated to lead and coordinate international action for the worldwide protection of refugees and the resolution of refugee problems.

International Child Development Centre (UNICEF)
www.unicef.org

Part of the United Nations system, UNICEF's mandate and mission is to advocate for children's rights and to help meet the needs of children worldwide.

United Nations Development Fund for Women (UNIFEM)
www.unifem.org

UNIFEM promotes women's empowerment and gender equality. It works to ensure the participation of women in all levels of development planning and practice and acts as a catalyst within the UN system, supporting efforts that link the needs and concerns of women to all critical issues on the national, regional and global agendas.

International Labor Organization (ILO)
www.ilo.org

World Health Organization (WHO)
www.who.int/home-page

United Nations Human Settlements Programme (UNHABITAT)
www.unhabitat.org

Non-UN Organizations

Polaris Project
www.polarisproject.org

European Council on Refugees and Exiles
www.ecre.org/research/smuggle.shtml

An overview of proposals addressing migrant smuggling and trafficking in persons by the European Council on Refugees and Exiles.

Foundation against Trafficking in Women (STV)
www.bayswan.org/FoundTraf.html

Coalition to Abolish Slavery and Trafficking (CAST)
www.trafficked-women.org

Coalition against Trafficking in Women
www.uri.edu/artsci/wms/hughes/pubvio.htm

Global Alliance against Traffic in Women (GAATW)
www.inet.co.th/org/gaatw

End Child Prostitution and Trafficking / Child Wise
www.ecpat.org

International Criminal Police Organization (Interpol)
www.interpol.com

European Law Enforcement Organization (Europol)
www.europol.eu.int

International Organization for Migration (IOM)
www.iom.int

The International Organization for Migration (IOM) is committed to the principle that humane and orderly migration benefits migrants and society.

The Protection Project
www.protectionproject.org

The Protection Project is a legal human rights research institute based at the School of Advanced International Studies of the Johns Hopkins University in Washington, DC. The Project documents and disseminates information about the scope of the trafficking problem, with a focus on national and international laws, legal cases and the implications of trafficking in other areas of U.S. and international foreign policy.

Antislavery International
www.antislavery.org

iabolish – Anti-Slavery Portal
www.iabolish.com

Free the Slaves
www.freetheslaves.net

Legal Database
www.legislationline.org

International Human Rights Law Group
www.hrlawgroup.org/initiatives/trafficking_persons

Human Rights Watch
www.hrw.org/women

Trafficking Victims Protection Act Of 2000

1. Created to combat trafficking in persons, to ensure just and effective punishment of traffickers, and to protect their victims
2. Defines severe forms of human trafficking in persons as sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age
3. Strengthens previous sentencing guidelines
4. TVPA is a victim-centered law that grants victims certain rights
5. Grants to state coalitions
6. Programs to increase public awareness
7. Provides victim benefits /assistance
8. Increases penalties, 20-30 years for slavery, Life with death, kidnapping, or sexual abuse to victim

Protection Act Of 2003

1. Illegal to solicit sex with a minor abroad
2. Illegal to engage in illicit sex abroad
3. Illegal to travel with the intent
4. Coercion can be mental or physical
5. Entitlement to seek civil remedies
6. Seeks to curb demand

Trafficking Victims Protection Reauthorization Act Of 2005

1. Requires U.S. embassies to seek local prosecution or extradition of American citizens who commit sex crimes overseas
2. Expanding the ability to prosecute traffickers for money laundering
3. Directing the FBI to investigate acts of trafficking
4. Authorizes the Department of Health and Human Services to make grants to expand services to victims of domestic trafficking
5. Requires the Department of Health and Human Services to carry out a pilot program for residential treatment facilities for minor victims
6. Enhances state and local efforts to combat trafficking through a grants program to encourage the investigation and prosecution of domestic trafficking cases

Smuggling vs. Human Trafficking

It is critical to understand the key difference between smuggling and trafficking. The general public has used

these terms interchangeably without fully realizing there is a dramatic difference between them. In many instances, individuals picked up for crossing the border by an immigration official may become victims of trafficking but have not yet reached their destination. In addition, these smugglers may have ties with the traffickers inside the U.S. Utilizing a careful screening process, some of these future victims of trafficking can be identified. The following contains a basic understanding of the differences:

Smuggling

1. Relationship ends at destination once fees are paid
2. Transaction is made for the smuggling service
3. Person is free to leave upon payment
4. An offense against the integrity of the U.S. Border
5. Can become trafficking
6. Suspects may be family or friends

Trafficking

1. Relationship does not end at the border
2. Debts are incurred
3. Person is not free to leave
4. An offense against a person
5. Minors need no coercion
6. Using violence or the threat of violence

Conclusion

Law enforcement officials within the San Diego region recognize the importance of collaboration in combating human trafficking. As a result, the Anti-Trafficking Task Force includes nearly every local, state and federal agency in the county.

Since no one agency has all the resources needed by a victim of trafficking, it is critical that the task force be a collaboration of as many organizations as possible. This is the only way to ensure that a victim of trafficking receives all the resources they need. Only by working closely together can we secure the convictions needed to incarcerate these predators who exploit their victims and rob them of their hopes and dreams. **LEQ**



San Diego County Deputy Sheriff Rick Castro has been with the department for 15 years and is assigned to the Community Oriented Policing and Problem Solving Unit. It was during this time that he began to investigate commercial and sexual exploitation of children and adults in North County (San Diego).

SDPD's Dave Cohen Retires

After serving for 18 years as the primary spokesperson for the San Diego Police Department, Media Services Manager Dave Cohen retired this summer. Although he is ready to play some golf and travel the world, he said he will truly miss his job. "I've developed a lot of friendships over the 18 years and that's what I'll miss the most," he said. "It is really a team and a family effort."



Prior to being hired with the SDPD, Cohen worked as a reporter for Channel 8 in San Diego. In 1987, he found out that the SDPD was looking to expand and add a public information officer to the media unit so he applied for the position. After signing on, he served as the liaison between the police department and the media and eventually was appointed to supervise the entire Media Services Division. He absolutely loved the excitement and challenge of his position. "There wasn't a better job for me out there," he said.

To satisfy his post-retirement wanderlust, Cohen has already planned a trip to Mexico and Europe. In late July, he took a cruise down the Mexican Riviera and took a barge trip down a canal in the French countryside in August. Overall, he just hopes to travel, write and spend time with his family. Still, Cohen realizes that he will forever stay connected to everyone at the SDPD.

"I'm going to be still living in San Diego and I won't be seeing them on a daily basis but I know I'll go to retirement parties and see them," he said. "For me, it's time to go, and it's time for someone new to come in."

Two Heroes Receive Purple Heart Medals

Back in 1976 and 1998 Oceanside Police officers Charles "Chuck" Potter and Dennis Thornton respectively, weren't thinking about getting any medals or awards as they fought off attacks by cold-blooded killers, who were bent on killing a cop. Officers Potter and Thornton are

two heroes who survived. However, neither officer had been recognized for their injuries and sacrifices at the time of their vicious attacks.

Officer Matt Lyons, with the help and support of his union, the Oceanside Police Officers Association (OPOA), submitted awards proposal to the National Association of Chiefs of Police and American Police Hall of Fame located in Titus, Florida. Both proposals were quickly returned with overwhelming approval to present that organizations third highest award, the Legion of Honor, Law Enforcement Purple Heart Medal to both Officers Potter and Thornton.

On June 13, 2006 a small group of retired Oceanside police officers, the OPOA leadership, the current Chief of Police Frank McCoy and Mayor Jim Wood gathered to present the awards to Potter and Dennis.

Medal Of Valor Nominations

The Department of Justice, Office of the Attorney General is accepting nominations for its new Public Safety Officer Medal of Valor, the highest national award that can be bestowed on America's public safety officers. The Medal is awarded by the President of the United States each year to honor officers who have exhibited extraordinary valor, above and beyond the call of duty.

Up to five awards will be presented each year. To be considered for next year's award, the officer must be nominated for events that occurred between June 1, 2006 and May 31, 2007. Nominations must be made by the chief executive officer's employing department and must be received by the Department of Justice by July 31, 2007.

Log onto www.ojp.usdoj.gov/medalofvalor for more information and to get on online application form. The application deadline for 2005-2006 has passed.

Correction

The winter 2004-2005 edition of LEQ inadvertently omitted the names of three authors of the Real Estate Fraud article. Deputy DAs Carol Buck, Robert Madruga and Jim Waters collaborated with DDA Fiona Khalil. LEQ regrets the error.

LEQ

Robert C. Phillips



Constitutionally Protected Expressive Activity On Private Property: Who You Gonna Call?

The situation is not at all uncommon: An individual business owner, security official for a large shopping mall, or store manager representing a major retail chain store such as Costco, Walmart or Target, complains to law enforcement that demonstrators, signature collectors, pamphlet distributors, or some other politically or socially motivated group of individuals, has set up a table on their property near an entrance to their store.

Such persons, while on the mall or the store's "private property," and commonly in violation of some local rules established to control such activity, are generally attempting to communicate to store patrons some political, social or otherwise controversial viewpoint.

The mall or store representative calls for law enforcement's assistance in evicting the demonstrators, demanding that the responding police officer tell them to leave or, in the alternative, arrest them for trespassing. Should the officer balk at doing so, the complainant can be expected to wave around a ream of important looking documents purporting to be case law saying that what the demonstrators are doing is illegal.

The store representative might also insist that he or she is going to make a citizen's arrest and, pursuant to Penal Code 142, the officer is

required by law to accept the arrestee even if the officer does not agree with the wisdom of doing so.

What Should The Police Officer Do?

The answer is actually quite simple: Except when necessary to preserve the peace, and with other limited exceptions, the officer should do nothing.

Getting involved in such disputes, either by making an arrest or accepting the target of a citizen's arrest is likely to be little more than an exercise in futility. What is not likely to happen is that the trespassing demonstrator will ever get charged criminally in a court of law. This is because what the demonstrators are doing is generally not in violation of any of California's criminal trespass statutes.

Even if it is, the demonstrators might have a constitutional right to be on the complainant's property espousing their political or social beliefs. For an officer to attempt to interject a criminal prosecution into the mix is more likely to result in civil liability for both the officer and his or her police department than get the "trespasser" into the criminal justice system.

It cannot be disputed that every person in this country has a constitutional right to the private ownership and use of property

without undue interference from other persons or the government. This is no less true for the owners of a business or a shopping mall. By the same token, we all have a First Amendment right to exercise free speech and to petition the government for redress of grievances.

When called to the scene of a dispute between a shopping mall or business owner and a demonstrator, signature collector, or pamphlet distributor, the police officer finds himself in the middle of these two constitutionally protected groups, each doing no more than attempting to exercise their sometimes conflicting rights. This, for the officer, is a lose-lose situation.

The United States Supreme Court has considered this



type of situation and has attempted to find a fair balance between one's property rights and another's free speech rights. As a result, it has been held that a private property owner, including commercial enterprises such as large department stores and shopping malls, may, under most circumstances, prohibit others from using their property for purposes of exercising their First Amendment free speech and petitioning rights, at least so long as there are other effective

alternative channels of communication.

Such "alternative channels" would include the availability of public sidewalks, parks and streets adjacent to the store or shopping complex from which the demonstrators can make their viewpoints known.

However, the California Supreme Court has evaluated the problem differently. The California Constitution contains its own version

of the right to free speech and to petition the government for redress of grievances.

Interpreting these local provisions, it has been ruled that at least in California, the free speech and petitioning rights are to be given a broader application than as provided for under the similar U.S. constitutional First Amendment protections, tipping the scale, in most cases, in favor of the demonstrator.

In so ruling, and while affirming a shopping center's right to establish reasonable "time, place and manner" restrictions on the activities of demonstrators, signature collectors, pamphlet distributors, and other individuals



or organizations, the Court has held that large department stores and shopping centers cannot prevent others from having access to their private property for the purpose of exercising free speech and petitioning rights.

The Court's reasoning on this issue is based upon the concession that such businesses have, in effect, replaced the traditional town center where people used to meet to discuss

the issues of the day. Today, shopping malls and large businesses, by opening their private property to public access, have established a modern-day public forum for the communication of ideas and varied viewpoints.

This is true even if the demonstrator's message involves issues that are unpopular, controversial, or which to some – as in the case of some anti-abortion demonstrations where large, intentionally shocking photographs of aborted fetuses are used – are personally offensive.

The United States Supreme Court, recognizing that the individual states may interpret their own constitutions as they choose so long as not to diminish a person's rights as guaranteed by the U.S. Constitution's Bill of Rights, has given California its blessing on this concept.

Exceptions to this California rule have been found, however, when the location of the proposed activity is

what can best be described as something other than the functional equivalent of a public forum. Whether or not a particular business or other location qualifies as an exception depends upon a careful evaluation of a number of factors.

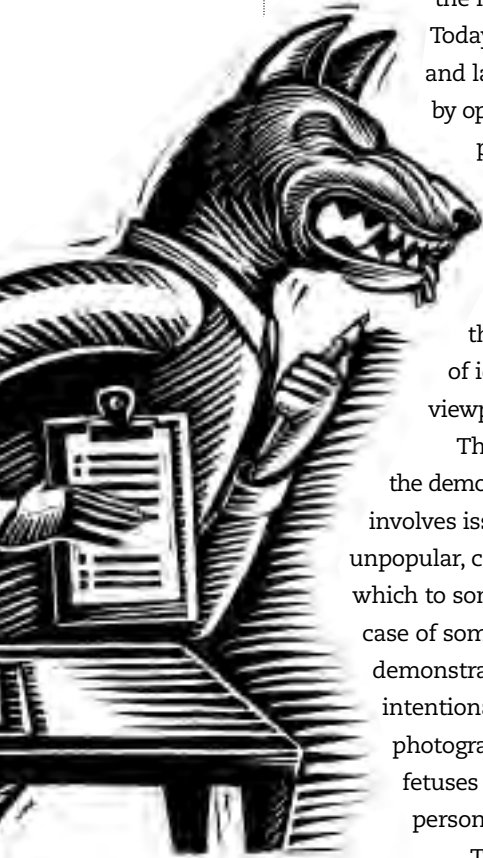
The nature of the facility is certainly one such factor. But more importantly, the Court must weigh the competing interests of the public and the property owner, i.e. because the store owner has a right to enjoy "freedom from disruption of normal business operations and freedom from interference with customer convenience," whether or not, and to what degree, the demonstrator's activities interfere with the store's activities are an issue.

Where an exception is found, the business or shopping complex has the legal right to prohibit constitutional expressive activity on its property altogether. Such exceptions are slowly but surely being established by case law. So far, the courts have told us that the following businesses or activities fall within this list of exceptions:

- A stand-alone retail outlet which has its own parking area not shared with other businesses is not required to allow demonstrators to set up a table in front of its store. This would likely also include the large, box-style membership stores such as a Costco, at least when not part of a shopping center complex.
- A single stand-alone supermarket's decision to permit the placement of a few news racks on its property, in front of its store, did not create a public forum requiring it to allow other newspapers to place their racks there as well.
- A grocery store that, even though

sharing a parking lot with several other businesses, does not "encourage people to congregate in or to otherwise remain at the center for longer time periods" than necessary to complete their shopping, and which "does business as a convenience store with a goal of getting customers in and out of the store very quickly," is not the equivalent of a public forum, or even a "quasi-public forum."

- A high school campus may not be entered by demonstrators without the permission of the school's principal. In such a case, Penal Code sections 627.2 and 627.7 may be enforced. But if the demonstrators set up their activities on the sidewalk in front of the school, so long as the sidewalk or streets are not being blocked, the Constitution protects their right to do what they are doing no matter how offensive or shocking their message might be to some people.
- A secured apartment complex, as "a place where the public is generally excluded, where an individual can escape the public forum by retreating into his or her apartment and closing the door," is not required to allow leafleting to its tenants.
- An auditorium located within a public university's laboratory complex used for large technical group meetings "clearly does not qualify it as a traditional public forum, nor even as a 'semi-public forum.'"
- A medical clinic, where persons are picketing or distributing leaflets on privately owned property, such as a 40-space parking lot of a small clinic that provides family planning services, including abortions, is not a public forum. In such a case, at



least where the property is posted as being for the exclusive use of patients and staff, and after the demonstrators refuse to leave when requested to do so, the protesters may be arrested for trespassing, per P.C. 602(o).

- The advertising within a transit bus, not being the equivalent of a public forum, may be restricted as to its content.

It can get even more complicated in that there may be exceptions to the exceptions. For instance: Where the property owner itself is the subject of a public dispute or controversy – as for instance a labor dispute – its property may as a practical matter be the only available forum to effectively express views on the controversy and it may be required to give its opponents access to its property. In a labor dispute, therefore, it would likely be held that it is improper for a police officer to attempt to assist the business owner in evicting the demonstrators.

Also, for those instances when the expressive activity is legally taking place on private property, trying to determine what “time, place and manner” rules the store should be allowed to enforce is going to be problematic. Whether or not a store’s rules are appropriate requires a court’s evaluation of the rules themselves, taking into account all the surrounding circumstances.

For instance, it has been held that if a store is allowed to exercise discretion without reference to some objective standards, “the regulation runs the risk of governing speech on the basis of its content” making discriminatory practices possible. Such a rule will not likely be upheld by a court if challenged.

Even assuming the above issues could be resolved in the field, and if it were to be determined that the property owner had a legal right to either exclude the protesters or put restrictions on their activities, the question then becomes: Now what? What do we charge them with?

The answer to this question is not as simple as one might expect. To the contrary, with certain exceptions, it will be found that California’s trespass statutes are woefully inadequate in these situations.

Penal Code 647c, which prohibits the obstruction of a street, sidewalk or other place open to the public, requires more than merely being an annoyance. There must be shown to be an interference with vehicular or pedestrian traffic that is done “willfully and maliciously.” This requires more than just being stopped by, or having to walk around, the demonstrator. The offender must be found to have actually and significantly blocked an entrance, exit, passageway, sidewalk or street.

A trespass under either Penal Code sections 602(k) or 602.1 similarly fail to properly address the constitutional expressive activity situation. Both sections require proof of a specific intent to injure property or property rights, or to interfere with the business or occupation carried on by the owner. No such specific intent is present when the demonstrator is doing no more than trying to collect signatures or express an idea or opinion, even though the business’s patrons are inconvenienced in the process.

Unless there is a complete blocking of an entrance to a store, or it can be proved that the demonstrator has the specific intent to interfere

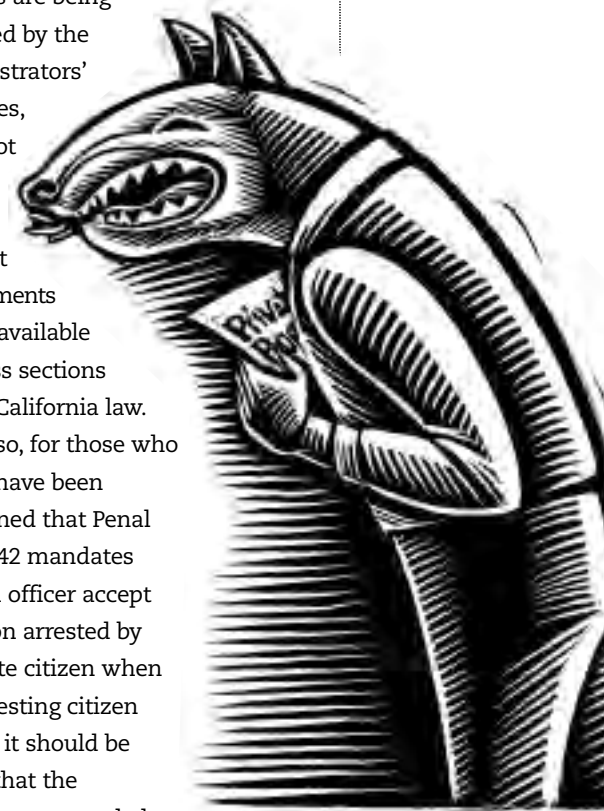
with, or somehow damage the store’s business itself, there is just no chargeable trespass section that covers the situation when someone sets up a table in a shopping mall or near the entrance to a Wal-Mart, Costco or Target store, attempting to get the attention of patrons as they come and go.

An unsupported claim that by merely being there and soliciting patrons somehow interferes with a business, or even that specific patrons are being annoyed by the demonstrators’ activities, does not

support the elements of any available trespass sections under California law.

Also, for those who might have been concerned that Penal Code 142 mandates that an officer accept a person arrested by a private citizen when the arresting citizen insists, it should be noted that the Legislature amended section 142 a few years back, specifically making its mandatory provisions inapplicable to the citizen’s arrest situation.

Exceptions to the problem of not being able to find an applicable trespass section include the situation where demonstrators have gone onto a school campus – grades kindergarten through high school – without the permission of the school



administrators. In such a case, Penal Code sections 627.2 and 627.7, failing to register with the school's principal, may be charged.

Also, where property is posted as being private property not open to the general public, and a demonstrator ignores a request by the property owner, or a law enforcement officer at the request of the owner, to leave, then a trespass per Penal Code section 602(o) may be charged.

In the vast majority of situations, however, a police officer is left without any tools with which to enforce an order to pack up one's card table and leaflets, and leave. But even in the rare instance where a specific trespass section might apply, using the power of arrest to resolve the issue is perhaps not the wisest of ways to handle the situation.

Given the complexity of the issues as discussed above – i.e., whether or not the site, under the circumstances, is the equivalent of a “public forum,” and if it is, whether the store's time, place and manner restrictions are reasonable – the whole issue is one perhaps best left for a civil court to resolve.

The myriad of factors that must be considered, weighed, and resolved, are all issues best determined after an evidentiary hearing in the controlled atmosphere of a civil court where all parties have been heard, and at which the court can properly determine the rights and duties of everyone involved.

These are not issues an individual police officer can properly determine, or should be expected to determine, while standing between two emotionally charged individuals, each trying his hardest to impose his viewpoint over that of his opponent, at the scene of the complaint.

Every situation is a little different, either in the type of location the person is “trespassing” upon, the degree of interference alleged by the business owner, or the nature of the expressive activity (e.g., signature collecting, leaflet distribution, oral protests, picketing, etc.) involved.

A civil court is properly equipped to balance the equities and establish the ground rules that are appropriate



to the specific situation. A police officer at the scene is not. A law enforcement officer, therefore, should not even attempt to get involved in resolving these issues.

Should it be determined that no arrests are to be made, and where it is the business or shopping mall owner who is complaining, that person should be told to consult his or her own private legal counsel and seek a civil restraining order or injunctive relief.

In the case of a complaining signature collector or demonstrator,

perhaps arguing to the officer that a store's rules, or time, place and manner restrictions, are unreasonable, they should similarly be advised to seek a preliminary injunction restraining the store owners from attempting to prevent their proposed activities on the store's property.

In either case, the parties first need to get their issues before a civil court. After an evidentiary hearing, the judge can then properly balance the rights and interests of the parties involved and issue an order with specific guidelines as to who can do what, when, where and how.

When appropriate, the court can also impose reasonable time, place and manner restrictions on the parties. When the rules as to the particular circumstance in issue are clearly set out in writing by the court, a police officer may then – and only then – enforce these rules as a misdemeanor violation of a court order, pursuant to Penal Code 166(a)(4).

The bottom line is this: There is a reason why nearly all the case law on this topic is from civil cases. It is a civil issue that first needs to be evaluated by a civil court before any criminal action is taken.

Police officers called to the scene of an incident involving the exercise of constitutionally protected expressive activity rights would be well-advised to avoid trying to use the criminal law to resolve what experience has told us is better handled in a civil court of law. **LEQ**

Former police officer Robert C. Phillips is a Deputy District Attorney in San Diego County and is the liaison to the San Diego County Sheriff's Office and the Carlsbad, El Cajon, Escondido, La Mesa and Oceanside police departments.

COMMENDATION OF THE QUARTER

By M. Margaret Neil

Richard “Buck” Henry San Diego District Attorney Investigator

Three days after Adrian Camacho shot and killed Oceanside Police Officer Tony Zeppetella, San Diego District Attorney Investigator Richard “Buck” Henry was assigned to the case. Henry, a 28-year veteran of the Los Angeles Police Department who has been with the DA since 1999, has had plenty of experience with cop killers. Thirteen of his LAPD years were as a homicide detective, where he worked on several police officer murders and multiple police officer attempted murders.

Officer Zeppetella’s murder was “probably the most vicious officer-related fatality I’ve ever dealt with,” he said.

During the course of the investigation, Henry worked with members of the Oceanside Police Department homicide team, OPD evidence techs and photographers, the San Diego Sheriff’s Department Crime Lab, the Medical Examiner’s Office, and the District Attorney’s Office.

“Buck Henry spent hundreds and hundreds of hours on this case,” said David Rubin, the deputy district attorney who created a team approach to the preparation and prosecution of the case against Camacho. “He was instrumental in assembling the computer rendering which told the narrative of how the shooting unfolded. It was very powerful for the jury.”

“We wanted them to see what this guy did,” Henry said, so his team put together a state-of-the-art PowerPoint slide show depicting the actual shooting. The slides were all to scale, with figures representing Zeppetella and Camacho, dressed as they had been that day. The team paid strict attention to detail, even to the type and make of the vehicles involved.

Each scene was built on trajectory analysis, blood pattern and the positions of the officer and suspect as described by the witnesses. Evidence photographs were then inserted into the animation depicting the supporting evidence such as wounds, bullet impacts in vehicles and bullet holes in the officer’s and suspect’s clothing.

“We were able to demonstrate to the court that this

was an accurate depiction of what happened out there,” Henry said.

To reenact the crime, the team brought one witness at a time out to the scene over a two-day period, where they repositioned the cars and had OPD officers pose as the officer and the suspect. The witnesses positioned the actors based on the way they remembered seeing the crime.

The team used three photographers to document the reenactment. One photographer shot the actors from the witness’ angle, one from a 360-degree perspective and one in a “cherry-picker” from an elevated position.

A green line on the slides indicated the trajectory analysis of shots fired from the officer’s Glock and a red line represented the suspect’s Ruger. Blood pattern on the vehicles supported the officer’s positions during the crime.

“All the evidence you need to testify is built right into the animation,” Henry said. “When you have that much detail that is so specific to the incident, it gives it a lot of credibility. The jury came back in six hours – guilty.”

Camacho was convicted of first-degree murder and sentenced to death, and Henry thought that the sentence, although just, would unfortunately not be swift.

Buck Henry’s service to the public began when he enlisted in the Marine Corps directly out of high school and completed one tour in Vietnam. He was encouraged by a family friend to apply at the LAPD upon his return. He was “grateful” to be the 2006 recipient of the DA’s “Peace Officer of the Year Award” sponsored by the San Diego Police Officer’s Association.

For his vital contribution to the successful prosecution of a vicious cop killer, San Diego District Attorney Investigator Buck Henry is awarded the LEQ Commendation of the Quarter.

LEQ



By Allison Campbell and Kristin Heinrich

New Chiefs Around The County

Chief John Browning San Diego State University Police Department

After serving 29 years as a police officer in the city of Gardena in Los Angeles County, John Browning was eventually promoted to Captain of Operations and Support Services Division. On December 19, 2005, Chief Browning was extremely pleased to settle down in the San Diego area and take command as Chief of the San Diego State University Police Department.

“It took just one time coming down to San Diego, viewing the campus and meeting the people, to know that this is where I wanted to be,” he said.

Chief Browning was always intrigued by the idea of a career in law enforcement and says he “got the calling early in life.” Chief Browning now has command over 34 officers and approximately 60 civilian employees. He oversees a budget of just under \$5 million and is responsible for maintaining the safety of approximately 40,000 individuals – 36,000 full time students and 4,000 staff and faculty.

“I am here as a caretaker,” he said. “I want to ensure there are many people here capable of protecting our community.”

As Chief, Browning not only leads the SDSU Police Department, but also seeks to develop and maintain

a vision for the organization. Along with ensuring community safety, Browning aims to develop strategies, policies, and services that effectively serve the community's needs.

Chief Browning would also like to see increased recruitment and retention policies within the organization itself, which would help to continue attracting dedicated and responsible people to the organization. Chief Browning feels that entering law enforcement was the best thing he ever did.

“Our future is in these classrooms and on these grounds everyday. We need to protect that,” Browning said.

Chief Browning strives to provide a safe environment so the university may proceed in educating its students. “It is an awesome responsibility,” he said.

Chief Browning is married with two daughters, one who is earning her Masters at SDSU and the other who is a junior in high school.



Chief Frank McCoy Oceanside Police Department

As a child, Frank McCoy was mesmerized by the stories his police officer father would tell and these stories inspired him to become a police officer. Chief McCoy followed his childhood dream by serving 22 years as a law enforcement officer.

As a graduate of the FBI National Academy, the LAPD West Point Leadership Academy and the Supervisory Leadership Institute, Chief McCoy was sworn in as Chief of the Oceanside Police Department on January 2, 2006.

Chief McCoy took command over the Oceanside Police

Department, comprised of 304 sworn officers and non-sworn personnel, and an annual budget of approximately \$41 million. As Chief, McCoy's primary responsibilities are



to plan, direct and manage the activities of the Oceanside Police Department, including crime prevention and community service. Further, Chief McCoy provides administrative and technical assistance to the City Manager and City Council.

Becoming Police Chief was a goal McCoy had set for himself early in his career.

"I have worked for many chiefs and found that the most successful were honest, trustworthy, and ethical. These characteristics are part of who I am," he said.

Chief McCoy believes that by combining those characteristics with his skills and abilities, he has succeeded in his career.

As Chief, McCoy would like to see his department continue improving its efforts in community policing, seeing that staffing levels meet the growing needs of the community, mentoring personnel to fill upcoming supervisory and management positions, and continuing its efforts in reducing crime.

Chief McCoy's personal goals include providing the best service possible to the community, ensuring a positive work environment for all police department employees and providing support and leadership to the department as a whole.

Chief McCoy is a true believer in outstanding customer service. "In the business community, Nordstrom is known as one of the leading customer service providers. I would like our department to provide a Nordstrom's level of service in the police environment," he said.

Chief McCoy is married and has five children. Following in their father's footsteps, two of Chief McCoy's children are in law enforcement as a police officer and a dispatcher. Of Chief McCoy's other three children, two are in college and the youngest, an 11-year-old, dreams of playing baseball for the Seattle Mariners. In his spare time, Chief McCoy enjoys playing golf and helping coach his youngest son's baseball team.

Chief Jim Maher Escondido Police Department

On July 12, 2006, Jim Maher became the new chief of the Escondido Police Department after receiving his badge in an official ceremony. Maher said he is looking forward to what he can do for Escondido and the department.

"I am excited because this position will allow me to have a greater positive impact on the community as well as the department," he said. "During the time I am here, I am going to give it everything I have and hopefully I will leave a positive mark when I go."

Chief Maher said he first decided to pursue a career in law enforcement while in high school. After spending time in the military, Maher applied with the Escondido Police Department and joined the force on June 30, 1980. He has remained with that same department until today.

The Escondido Police Department has 170 sworn officers, 260 full-time employees and approximately 100 part-time employees and volunteers. When he became chief, Maher assumed responsibility for a budget of \$36 million in a city of 142,000 people.

His main objectives right now include working on a building project for the police department and fire

administration and upgrading the computer dispatch system. Before he makes any major moves, however, he would like to spend some time getting acclimated to his new position.

"I am going to take some time to observe and get a feel for where I think we can be more efficient," he said.

Ultimately, Chief Maher said that the goal of his department is to deliver quality-efficient and professional services to his community. He loves the Escondido community and has been excited about the role he can now play in improving the quality of life for everyone living in the area. "I am so fortunate because...Escondido has really been a great place to work, a great city and a great community," he said.



LEQ



In the streets of Tijuana, potential johns surround a human trafficking victim who was forced into prostitution.

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County of San Diego
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