A DELICATE BALANCE

Can police best help a democracy flourish by intervening or by artfully holding back?

“People across America were disgusted by what they saw here. Millions have been inspired by you because, the next night, you didn’t go away. You have altered the national discussion.”

*By Julius (Jay) Wachtel.* Firebrand documentarian Michael Moore was referring to a series of incidents in Oakland that began with the arrest of ninety-seven “Occupy” activists who refused to leave an illegal encampment early last Tuesday. That evening a group of four-hundred demonstrators marched on the site intending to take it back. Thus far there had been no injuries of consequence, but as tempers flared what many feared would happen did. A few hotheads hurled paint and rocks at a skirmish line of officers who blocked the way. Police responded with batons and tear gas. A canister struck an Iraqi vet in the head and sent him to the hospital in critical condition.

City officials expressed remorse and visited with the injured man’s family the next day (he suffered a skull fracture but his condition has improved.) Once the plaza was cleaned protesters were allowed to return but cautioned not to camp overnight. They not only ignored the warning but kicked things up a notch, calling for a citywide general strike to take place Tuesday, November 1.

There is precedent. Sixty-five years ago the famous Oakland labor strike of 1946 shut the city down for two days. Unlike what Occupy intends, the event began with a spontaneous walkout by retail workers. When city officials sent in police to protect strikebreakers and make sure that supplies got through organized labor called a general strike, and soon the streets of Oakland were flooded with tens of thousands of angry members of the working class.

A major strike carries risks to public safety and could further damage Oakland’s fragile economy. Even so, labor and community leaders have lent their qualified support. Union members seem particularly enthused. One who told reporters that the financial crisis badly hurt his family put it quite plainly: “It looks like we’re on course to be the next 1946.”

Soon after the 1946 strike municipal elections transformed the composition of Oakland’s city council from labor-hostile to labor-friendly. But in recent decades the jobs that brought scores into the middle class have disappeared, reducing the influence of unions and possibly causing Oakland officials to think of Occupiers as extremists. Whether their tone-deafness will return once Michael Moore and his entourage have left is impossible to predict. In any event, the reoccupation seems temporarily secure. Mayor Jean Quan, who heartily endorsed the initial police response, seems thoroughly chastened. Acting police chief Howard Jordan confirmed that cops wouldn’t be going back in; officer presence, he emphasized, would be “very, very minimal.” Given what his depleted department may face if the strike actually takes place (80 officers were laid off last year) it could hardly be otherwise.

Oakland has become the poster child of what can happen when city leaders forget that in a democracy the elite must occasionally pay attention to the rabble. That’s apparently a lesson that even hyper-liberal
places such as San Francisco must periodically relearn. Just across the bay, its own entourage of Occupiers were happily encamped when rumors spread of an impending raid. That night a gaggle of union bosses and politicians showed up and cops kept their distance. Volunteers clean the grounds, porta-potties are in place, and by all appearances the campers will be there for a good while longer.

Prompted perhaps by the Oakland debacle some “occupied” cities have adopted a warily permissive approach. In Los Angeles, where the mayor seems most concerned that the month-long campout will ruin the expansive lawn that graces city hall, police insist there is no timetable. “We’re still working as best we can and trying to be cooperative [with Occupy],” said a commander, who also mentioned that whatever happens the department will do its best to avoid using tear gas. Meanwhile in Occupy’s birthplace, New York City, protesters face a far more daunting challenge than the cops: the weather. Perhaps they can adopt the ways of their counterparts in other chilly climates. Occupy Boston has a greenhouse-like affair in the works, while Occupy Maine set up a heated outdoor room and has asked for permission to stack bales of hay as a windbreak.

In “First, Do No Harm” we displayed a photo of a transient snoozing in front of offices closed for a holiday. Readers were asked what a passing cop should do. After setting out a couple of real-life examples with very bad endings the answer seemed all but obvious: sometimes doing nothing is best.

If only all situations were as simple! Yet the principle of avoiding needless intrusion is the same. Other than in a few situations, such as domestic abuse, police have full discretion in deciding whether, when and how to act. Circumstances can easily make mechanistic responses impractical, unwise or unjust. In “Who Deserves a Break?” we examined the example of a student who is caught with a switchblade in his pockets. We argued that the implicit threat to public safety tilts the scales in favor of making an arrest, and that’s so whether the youth attends a Christian college (as in the example) or not.

Here we see it differently. To be sure some anarchists and assorted ne’er do-wells have infiltrated the ranks of the protesters. Yet by all accounts most Occupiers seem sincere, peaceful and committed to reforming an economy that badly needs repair. Their choice to take the message to the streets follows in a tradition that Americans have held dear since the days of the original “Tea Party.” By making reasonable accommodations – suspending no-camping rules, furnishing portable toilets, and so on – enlightened officials aren’t threatening the Constitution: they’re defending it. They’re also defusing needless friction with a public that cops very much need on their side, in good times and bad.

Sometimes the best solutions come from afar. In London, which hosts its own Occupy-like movement, officials at St. Paul’s Cathedral are turning to the courts to evict hundreds of activists camped outside. A proposal by the deputy mayor in charge of policing would use high-pressure sprinklers to shoo protesters away. But some citizens can’t understand why all the fuss. A middle-aged Londoner who came to mass thought that the economy was a perfect cause for the Church. “I would like to see the tents and the church stay together. This is what the church should be preaching, anyway, and nobody is doing any harm here. I am happy to be able to see both things.”

And to that all we can add is “Amen.”
In an era of highly lethal firearms, keeping patrol informed is job #1

By Julius (Jay) Wachtel. On October 8, 2016 Palm Springs police officers Lesley Zerebny and Jose “Gil” Vega were shot and killed as they stood outside a residence to which they had been called over a “simple family disturbance.” (Another officer who responded to the scene was wounded but is doing well.) Only moments earlier the father of John Felix, a 26-year old ex-con, had frantically begged a neighbor for help. “My son is in the house, and he’s crazy. He has a gun. He’s ready to shoot all the police.” Tragically, the officers learned that Felix was armed only after they arrived. When they called on him to come out he opened fire with an AR-15 .223 caliber semi-automatic rifle, shooting multiple rounds through the home’s front door.

Officers Zerebny and Vega were wearing soft body armor. Given the weapon used, we can assume that it was ineffective. Due to their extreme velocity, .223 caliber (5.56 mm) and similar rifle ammunition readily penetrate the soft body armor that street cops typically wear. Specialized ceramic or hard metal inserts can stop these rounds, but vests so equipped are too heavy and uncomfortable to wear on patrol. (Felix reportedly used “armor-piercing” ammunition whose composition and construction is intended to pierce armor plates. But ordinary .223 rifle ammunition readily defeats soft body armor.)

And the bad news doesn’t stop there. Once high-velocity projectiles strike flesh they cause devastating wounds, creating temporary cavities that can be more than ten times the projectile’s diameter, affecting large areas of tissue and damaging or destroying nearby organs. (Gunshot Wounds, DiMaio, p. 152)

Felix’s weapon, the Colt AR-15, is specifically banned under California law. Enacted in 1989 after a deranged man used an AK-type rifle to kill five children and wound dozens more in a Stockton schoolyard, the State’s “assault weapon” ban prohibits the possession of certain enumerated weapons including the AR-15. More generally, the law bans any semi-automatic, centerfire rifle that has one or more of certain external features such as a handgrip, requires that ammunition magazines for semi-auto rifles be removable only with a tool, and limits magazine capacity of semi-auto pistols and rifles to ten rounds. (A similar but weaker Federal law was passed in 1994. For more about that statute, which expired in 2004, click here.)
Eager to safeguard their best-selling, most profitable products, gun manufacturers adjusted to the original bans and to every tweak thereafter, promptly renaming weapons on the “bad-gun” list, stripping rifles of external baubles such as handgrips and flash suppressors, and limiting magazine capacity to ten rounds. When California tried to impair quick reloading by requiring that magazines only be removable with a tool, savvy entrepreneurs quickly devised a simple add-on that uses a bullet tip to drop empties (hence, the infamous “bullet button.”) In time the state countered with an amendment, to be effective next year, that rifles be so configured that reload necessitates a partial “disassembly.” As one might expect, an easy workaround is already being marketed. Bottom line: citizens can select from a veritable cornucopia of “Federal” and “California legal” weapons that comply with every restriction that’s been imposed but are in most important aspects functionally identical to the bad old “assault rifles” they replaced. (For a taste simply Google “semi auto rifles California legal.” Here is one example.)

All through this decades-long struggle, the elephant in the room – ballistics – has been studiously ignored. Despite the carnage – in 2015 nearly as many deaths were caused by guns (33,736) as by motor vehicles (33,804) – America’s gun makers continue enthusiastically marketing firearms whose projectiles defeat protective garments worn by police and inflict potentially life-threatening wounds nearly anywhere they strike. While some States have addressed peripheral issues such as magazine capacity, Government experts are well aware of the lethality of .223 and similar projectiles, but the imperatives of politics and commerce apparently demand that lawmakers look the other way.

We’ve had a lot to say about such things before (see, for example, “A Ban in Name Only” and “Cops Need More Than Body Armor.”) Here, our focus is on mitigating the risk. According to the FBI, between 2006-2015 nineteen officers were killed by bullets that penetrated body armor. (The toll of those injured but not killed is unknown.) All these deaths but one were caused by rifle ammunition. Assumedly, most of these cops, like most of those who battled the perpetrators of the recent San Bernardino massacre, weren’t “militarized”: they were ordinary patrol officers, using ordinary police cars, wearing conventional, soft body armor. (That’s probably true everywhere. FBI statistics indicate that only seven of the 41 officers killed in 2015 were specialists engaged in a designated “tactical situation.”)

Had the citizen who called Palm Springs PD (reportedly, the shooter’s mother) alerted dispatch about Felix’s threat to kill officers, and that he was armed with a rifle, the information would have certainly been passed on, and officers Zeregny and Vega would have undoubtedly chosen a different approach. But as their distraught chief later
pointed out, the call came out as a “simple” family disturbance. Alas, if there’s a takeaway from this tragedy, it’s that little is “simple” anymore. The civilian firearms market has become so militarized that, regardless of how minor a situation might seem, it’s become imperative to probe every caller about possible threats, and particularly the presence of a weapon.

Naturally, what’s important can’t always be gleaned over the phone. What else can be done?

- Some States and localities have gun purchase and/or registration databases that can be queried by name and address. While this wouldn’t have helped in Palm Springs (the killer’s weapon was supposedly stolen) it might have prevented the infamous Santa Barbara massacre of April 2014.
- Information about prior calls and outcomes is of course important. That’s why it’s imperative to collect everything that’s potentially useful, index it by name and address, and make it instantly available to patrol.
- Individuals with violent histories and those on probation and parole can be flagged. Entries should include an account of their past offending and whether violence was involved. (The Palm Springs suspect, a notorious gang member, had done prison time for a shooting. His brother is currently incarcerated.)
- Members of the public can be solicited for information about mentally disturbed family members.

One might think that in a time of Internet-connected cell phones and mobile data terminals cops no longer need rely on dispatch to warn them of possible risks. That couldn’t be farther from the truth. Officers caught up in the hurly-burly of taking calls need knowledgeable, inquisitive souls with ready access to a wide range of information to help keep them safe, or as safe as possible. In this brave new world of ballistic threats, a robust, patrol-oriented information platform isn’t a luxury: it’s a pressing need.
A STITCH IN TIME

*Could early intervention save officer and citizen lives?*

*By Julius (Jay) Wachtel.* Consider a well-known, chronic offender who habitually gathered with other like-minded souls to sell contraband. Then take into account the reprobate’s criminal record, which included three open criminal cases and about thirty arrests in as many years for offenses including assault, resisting arrest, grand larceny and, most recently, selling contraband cigarettes.

We’re referring, of course, to Eric Garner. During the first six months of 2014 his favorite place for selling loosies was the site of 98 arrests, 100 summonses and hundreds of complaints from citizens, merchants and the landlord of the apartment building where he and his buds gathered to peddle their wares. Two of those arrests were of Garner himself. When, in July, the cops moved in for a third time he tried to fight them off. At six-feet three and 350 pounds, the 43-year old scoundrel suffered from obesity, asthma and circulatory problems, so when an overexcited cop applied a chokehold the outcome seemed all too predictable.

Our second story, also from the Big Apple, reached its equally lethal conclusion last month. On October 18 officers were called to the apartment of Deborah Danner, a 66-year old schizophrenic. Over the years police had repeatedly responded to complaints from other tenants about Danner’s behavior. Although Danner was estranged from her family and lived alone, her sister would usually show up and accompany everyone to the E.R.

This time things turned out differently. Danner, naked and agitated, flashed a pair of scissors at the sergeant who entered her bedroom. Although he convinced her to put the scissors down, she then rushed him swinging a baseball bat. He drew his gun and fired twice, killing her. His tactics were quickly criticized by the police chief and, most significantly, by Mayor de Blasio, who wondered why a Taser wasn’t used. Hizzoner later lamented that Danner’s sister had also been there:

She said she’d seen it done the right way and expected it to be done that way this time as well. You can only imagine the pain she feels having had to stand there and hear the shots fired and the recognition coming over her that she had lost her sister.

You’ve guessed it – our third account is also from New York. But this time a cop died.
Manuel Rosales was a violent, deeply troubled youth. His father would later complain that despite the boy’s behavior police and school authorities – he dropped out when he was seventeen – repeatedly let him slide by. By the time that Rosales turned thirty-five the self-professed gang member had been arrested seventeen times and served two prison terms for theft. His violent outbursts led his wife to leave him last year and secure a protective order, which Rosales evidently ignored.

On November 3, while out on bail for a July assault on his estranged spouse, Rosales broke into her Bronx apartment and took her and three others hostage. He was armed with a reportedly stolen .45 caliber pistol. Rosales left several hours later. Responding officers spotted his vehicle and gave chase. Rosales crashed his Jeep, and as his pursuers stepped from their vehicles he unexpectedly opened fire, killing Sgt. Paul Tuozzolo and seriously wounding Sgt. Emmanuel Kwo. Rosales was shot and killed.

Rosales had preciously declared his intention to commit suicide by cop. He posted “this nightmare is coming to an end…goodbye” on Facebook one day before his rampage.

When confrontations turn lethal, tactics often draw blame. Except for the chokehold, Eric Garner would still be alive. Maybe, as Mayor de Blasio suggested, Deborah Danner could have been Tased. Yet a New York grand jury refused to indict the officer who allegedly choked Garner (he testified that he struggled to avoid being thrown through a plate glass window.) A full-page ad in the New York Times, placed by the NYPD Sergeants Benevolent Association (November 25, p. A-5) suggested that had Danner’s bat struck the cop one might be asking why he didn’t use his pistol.

Really, one can quibble about tactics until the cows come home. But here our focus is on prevention. And one thing is certain: while the motivations and mental states of Garner, Danner and Rosales were different, each had been a prodigious consumer of police services. And the consequences weren’t always what one might expect:

- As the Big Apple roiled in the aftermath of Garner’s death, an exasperated NYPD supervisor pointed to his kid-gloves treatment in the past: “We chased him; we arrested him. But once you’ve chased a guy, what’s a warning going to do?”

- Official reluctance to commit Deborah Danner for mental health treatment left her grieving cousin, himself a retired cop, deeply frustrated: “They [police] have been here numerous, numerous times over the years. Debbie was sick since she was in college. They have to do a better job of handling mental illness.”
• Even Rosales, a twice-convicted felon, kept getting breaks. After his arrest earlier this year for assaulting his ex-spouse (and ignoring a protective order, to boot) he was released on a measly $1,000 bond, far below the $25,000 recommended by prosecutors.

A stiff sentence early on might have helped extinguish a pattern of behavior that repeatedly brought Garner into conflict with police. Danner, who had clearly presented a threat to herself and others for over a decade, could have been forcibly hospitalized years earlier. Harsh, perhaps, but far preferable to getting shot. Had the judge acceded to the D.A.’s request for a stiff bond, Rosales would have likely remained locked up, and both he and Sgt. Tuozzolo would still be alive.

Acting decisively when it matters can make a difference. No, we’re not suggesting a return to “broken windows” policing, which has a well-earned reputation for needlessly provoking conflict. Neither is our approach a version of “predictive policing,” which uses crime data to identify “hot spots” where offending is likely to occur. Instead, our focus is on individuals, specifically those whose documented behavior indicates they are at great risk of harming themselves or others.

In an era where the tendency has been to ease punishments, acting pre-emptively may be a hard sell for budgetary reasons alone. Making good decisions may also require information that’s not readily available. Officers don’t consistently acquire – and police records systems don’t consistently store and catalog for ready retrieval – the quantity and quality of information necessary for making reasonably accurate predictions of violent behavior.

Assume that officers and record systems are brought up to the task. What then?

• First, there must be a process for filtering out persons who most need special attention from an admittedly noisy background. This would at a minimum include a substantial history of contacts and, most importantly, input from field officers, who are in the best position to decide whether (and to what extent) the admittedly subjective threshold of dangerousness has been breached.

• Secondly, there should be a non-nuclear option. “Crisis intervention teams” comprised of officers and medical specialists are widely used to respond to active incidents. Conceptually similar teams could be used proactively to visit and counsel individuals whose behavioral pattern, if left unchecked, might lead to tragedy.
Finally, there must be a process for selecting individuals whose behavior resists less coercive means, including pre-identifying available options. Mentally ill persons such as Deborah Danner could be flagged for formal commitment, while offenders such as Eric Garner might be “scheduled” for an arrest instead of a citation or warning.

To be sure, deciding just who merits special attention, and of what kind, invokes substantial liberty concerns. Of course, so does shooting someone, or being shot.
A VERY DUBIOUS ACHIEVEMENT

Camden PD fights crime and violence. And its own officers.

By Julius (Jay) Wachtel. Being first is normally an honor. But when the FBI reported that Camden, New Jersey, pop. 76,182, had 1,777 violent crimes and 54 murders in 2008, yielding a sky-high violence rate of 2332.6 per 100,000 and a dismal murder rate of 7.1 per 10,000, it was hardly bestowing praise. Just like in 2004 and 2005 (and nearly 2007, when it was number two) Camden was once again the most dangerous city in the U.S.

While the UCR warns against simply ranking communities – after all, there are demographic variables such as age, educational attainment and income to consider – there’s no escaping the implications. Aggregating all Part I crimes except arson, Camden’s 2008 crime score was twenty-four percent higher than runner-up St. Louis, a stunning fifty-eight percent more than fifth-placed Flint, and a ridiculous two-hundred-and-four percent higher than twenty-ninth placed Newark, itself no slouch in the violence sweepstakes. Current-year figures are mixed. As of last month homicides and shootings were both down (although still ahead of 2006) but aggravated assault has increased, driving overall violence up five percent over 2008.

No matter how one slices and dices, the troubled community’s crime stat’s are grim. Reproduced from an earlier posting about Newark, these crime charts (Camden was included as a worst-case scenario) portray what many
consider the indisputably criminogenic effects of de-industrialization. Adding insult to injury – the troubled community’s poverty rate has for years hovered at one-third – its unemployment rate reached a stunning 17 percent in May 2009.

It’s no surprise that in 2002, in what was billed as the “biggest municipal takeover in American history,” New Jersey brought Camden under State control. Taking over in exchange for injecting a $175 million stimulus, it appointed a “Chief Operating Officer” with authority to approve all decisions of the Mayor and City Council. One year later New Jersey’s attorney general appointed a “Police Director” to oversee the struggling police department.

What’s been the result? A recent headline by the Philadelphia Inquirer says it all: “Camden Rebirth: A promise still unfulfilled.” Despite years of intervention the local economy remains stagnant. Empty, boarded-up storefronts litter vast sections of the city. During rainstorms raw sewage overflows into basements, driving hapless residents from their homes. And while crime and violence remain unacceptably high, police strength, which Trenton promised to keep at then-existing levels, has plunged from fifteen to thirty-four percent depending on how one’s counting. Equipment shortages and malfunctions are also rampant, with police cars in such disrepair that twenty recently flunked State inspection.

That’s not to say that the State hasn’t tried. In 2008 a leap in the homicide rate led to the sixth command change in as many years. Luis Vega, a tough-minded ex-NYPD cop became the new police director while veteran Camden officer John Thomson was installed as the new chief. Tactics were thoroughly revamped. Compstat is being used to track crime patterns and assess effectiveness. Police regularly swoop down on hot spots, ticketing and arresting petty violators in an attempt to remedy quality-of-life problems that were supposedly ignored in the past. To insure that cops are doing as they’re told Jose Cordero, the attorney general’s gang czar, shows up each week to monitor progress.

Alas, there’s been considerable blowback from the rank-and-file. With only 290 officers on active status, as compared to 440 when the State took over, the weight of the new style has fallen heavily on the shoulders of ordinary cops. Their complaints...
range across a broad spectrum, from missing lunch breaks and being denied vacation
time, to being pressed to arrest and stop citizens without adequate cause, to being told
how and where to patrol while camera-toting internal affairs detectives run around
making sure they comply.

Something had to give, and it did. Like each of his predecessors, Police Director
Vega lasted only one year, resigning in August for “family reasons”. If Camden’s
Mayor has her way, he won’t be replaced:

I dare anyone to show me any police department in the country that has been studied as often as the Camden Police Department, has had as many leadership changes and . . . [such a] confusing and fractured command structure.

Is Camden’s aggressive approach the appropriate response? Hot-spot strategies are nothing new, but the city’s “mobilization drill” version seems more like the work of an occupying force than a civilian police:

...out of nowhere, 16 police cruisers, lights flashing, pull into the neighborhood. Car doors slam, officers fall into formation. There’s a 30-second briefing before officers are off to look for speeding motorcycles, teenagers smoking pot, and men wanted on warrants. In less than two hours on a summer evening, 38 pedestrians are questioned, 14 traffic tickets are issued, and one arrest is made...

Citizens aren’t the only targets. The union leader calls Compstat meetings “nightmares.” A recent example featured Mr. Cordero, the AG’s man, browbeating a veteran captain because one of his teams made only a single arrest in four days. (A newsman who was present didn’t report whether Mr. Cordero asked about the nature of the case.)

Any city that thinks it can cite and arrest its way out of a perfect storm of poverty and joblessness is badly mistaken. Same goes for any department that tries to bully cops or turn them into robots. It’s no secret that many of the forty officers who left the department last year did so because they were disgruntled. What’s more, those still hanging around don’t seem much happier. That’s a bad sign. In the real world – and that presumably includes Camden – most police work is done outside the presence of supervisors and internal affairs. It’s well known that micromanagement and heavy-handed supervision can destroy morale and stifle innovation. They can also break the bond between staff and line, yielding platoons of independent contractors who could care less what the chief thinks.
As the Mayor suggests, Camden PD really is an excellent case study. It’s for that reason that its troubles became the topic for a midterm essay at Cal State Fullerton. Here is what a student who happens to be a working street cop had to say:

The problem associated with the officers’ resistance [to being told what to do] stems from the type of individual that is hired for law enforcement. An assertive, decision-making type of person would not want to be told when to exercise that assertiveness and how to make one’s decisions.

Camden PD badly needs to find a balance that will allow it to implement effective strategies while allowing officers the discretion and flexibility they need, and the job satisfaction they seek. Perhaps its managers could begin by looking past Compstat and asking those most familiar with field conditions – their own officers – to help devise sensible and sustainable responses to crime and violence.

If they’d like, we could send a couple students to help them get started.
AN EPIDEMIC OF BUSTED TAIL LIGHTS

LAPD struggles over claims of racial profiling

By Julius (Jay) Wachtel. Here's a puzzler for our loyal readers. Click here to read LAPD’s policy on “biased policing”. Then read it again. Now imagine you’re an LAPD officer patrolling an area where shootings involving ethnic gangs have occurred. You spot an older, beat-up car slowly circling the block. It’s occupied by sloppily-attired young male members of that ethnic group. Children and pedestrians are present. Do you: (a) go grab a donut, (b) wait until shots are fired, or (c) pull the car over?

If you answered (c) you may wind up with a lot of explaining to do. Or not. It really depends on which paragraph of section 345 is controlling. The first, which paraphrases Terry v. Ohio, appears to leave race open as one of the factors that can be used when deciding to detain someone for investigation:

Police-initiated stops or detentions, and activities following stops or detentions, shall be unbiased and based on legitimate, articulable facts, consistent with the standards of reasonable suspicion or probable cause as required by federal and state law.”

But the very next paragraph appears to limit the use of race to situations where cops are looking for a specific individual:

Department personnel may not use race...in conducting stops or detentions, except when engaging in the investigation of appropriate suspect-specific activity to identify a particular person or group. Department personnel seeking one or more specific persons who have been identified or described in part by their race...may rely in part on race...only in combination with other appropriate identifying factors...and may not give race...undue weight.

Section 345’s prohibition against using race as an anticipatory factor has spurred spirited debate within LAPD. While everyone agrees that race should never be the sole factor, many cops don’t think that it should always be out of bounds. In a notable recent conversation (it was, believe it or not, inadvertently taped) an officer told his superior that he couldn’t do his job without racially profiling. Somehow the recording made its way to the Justice Department, which is still monitoring the LAPD in connection with the Rampart scandal. As one might expect, DOJ promptly fired off a letter of warning.

Chief Charlie Beck, who’s struggling to get the Feds off his back, quickly denied that the officer’s comments reflect what most cops really think. Still, the faux-pas reignited a long-simmering dispute between LAPD and the Los Angeles Police Commission, whose president, John Mack, a well-known civil rights activist, has bitterly accused the department of ignoring citizen complaints of racial profiling.

Each quarter the LAPD Inspector General examines disciplinary actions taken against officers during that period. Last year, as part of an agreement that relaxed DOJ oversight, LAPD IG investigators started reviewing the adequacy of inquiries conducted by LAPD into alleged instances of biased policing (LAPD’s preferred term for racial profiling.)
The 2009 second quarter report summarized biased policing complaints for the prior five quarters. Out of 266 citizen complaints of racial profiling, zero were sustained. This was by far the greatest such disparity for any category of misconduct. IG employees examined a random sample of twenty internal investigations of biased policing. Six were found lacking in sufficient detail to make any conclusions. Incidentally, twelve of the police-citizen encounters involved traffic offenses. Ten were for no tail lights, cracked windshields, tinted front windows, no front license plate and jaywalking. An eleventh was for speeding, a twelfth for riding a dirt bike on a sidewalk.

The most recent report, covering the fourth quarter of 2009, revealed 99 citizen allegations of biased policing; again, zero were sustained. The IG reviewed a sample of eleven investigations; it criticized two as inadequate. Four officer-citizen encounters had complete information. Each was precipitated by a traffic violation: one for running a red light, one for no brake lights (the driver later insisted only his supplemental third light was out), one for not wearing a seat belt, and one for tinted front windows.

Earlier this year DOJ criticized the IG’s investigation review process as superficial. Biased policing claims will henceforward be investigated by a special team, using new protocols. Their first product is due out soon.

Cops have so many ostensible reasons for making a stop that divining their underlying motive, if any, is probably a non-starter. That was conceded by no less an authority than the Supreme Court. Here is an extract from its ruling in Whren v. U.S.:

> The temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment’s prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.

It’s widely accepted in law enforcement (and apparently, by the courts) that using all available laws isn’t cheating – it’s simply good police work. That can make it well-nigh impossible to determine whether racial bias was a factor in making a stop. John Mack may not like it, but the commanding officer of Internal Affairs was probably just being candid when he told the police commission that sustaining an allegation of biased policing literally requires that an officer confess to wrongdoing.

What can be done? Target individuals, not ethnic groups. Selecting low-income, minority areas for intensive policing, even if they’re crime “hot spots,” can damage relationships with precisely those whom the police are trying to help. Aggressive stop-and-frisk campaigns such as NYPD’s can lead impressionable young cops to adopt distorted views of persons of color, and lead persons of color to adopt distorted views of the police. Our nation’s inner cities are already tinderboxes – there really is no reason to keep tossing in matches.

Target individuals, not ethnic groups. Repeat at every roll-call. And be careful out there!
CATCH AND RELEASE (PART II)

An “evidence-based” pre-trial release program lands Milwaukee in a pickle

By Julius (Jay) Wachtel. Ever since NIJ adopted the “evidence-based” mantra it’s been de rigueur for governments at all levels to demand solutions that are founded in science and empirically verifiable. But in criminal justice, where it’s often hard to say what factors to consider in the first place, let alone how to measure their effects, thoughtlessly crunching data is risky.

For an example look no further than Milwaukee’s brand-new pretrial release program. Developed by Justice 2000, a small Milwaukee nonprofit founded in 2001 to promote the “safe release and community integration of criminal offenders,” it applies a set of measures to estimate the likelihood that a defendant might fail to appear or reoffend. Staff members collect information about the nature of the offense, criminal record, previous failures to appear, drug and alcohol use, mental impairment, community bonds and family ties from official records and personal interviews. Results are computed and furnished to a court commissioner who makes the final decision about bail and release.

Justice 2000’s director says that its protocol is based on a study of two years’ worth of release data, and that everything is done impartially. “We’re neutral, just supplying information and applying the tool.”

It’s not the first time that Justice 2000 has provided pretrial services. In 2003 it took over the city’s “Municipal Court Alternatives Program,” which offers persons cited for minor transgressions community service, drug treatment and counseling as alternatives to jail and fines. In 2004 the main outcome metric, fewer jail days, was 13,288, saving the city $531,520 in housing costs.

Justice 2000’s new program is different. Just how different was apparent a few days ago when authorities announced that Derrick Byrd was returned to custody after a commissioner acting on Justice 2000’s recommendation released him on his own recognizance. What was the original charge? Robbery-murder.

Yes, that’s right: Milwaukee O.R.’d an accused murderer. Stunned prosecutors (they had asked for a $150,000 cash bond) rushed to a judge, who looked things over and set bail at $50,000. By then Byrd was gone, but he surrendered after checking in with Justice 2000 staff. His bail is now $30,000, which he still can’t pay. Incidentally, there’s no doubt that he was involved in the crime, the murder last October of the owner of a recycling business. According to a sketchy account, Byrd admitted that he participated in planning the heist but says that someone else pulled the trigger. Byrd reportedly has no prior criminal record and his lawyer says that he is willing to cooperate and point the finger at the real shooter.

Justice 2000’s program has been in effect only since mid-January. Amazingly, Byrd isn’t the only accused killer whom its staff has recommended for kid-gloves treatment. On January 24 police arrested Chasity Lewis, 18, for reckless homicide. An admitted marijuana dealer, she told police that three boys tried to take drugs without paying and that one punched her. Doing what comes natural, she pulled a .22 pistol that she carried for protection and shot her assailant, a 16-year old boy, point-blank in the chest. Based on her lack of a prior record, school attendance and “steady home life,” Justice 2000 recommended...
But for blowback from the Byrd case, she would have gotten it. (Instead, a commissioner set bail at $20,000. Lewis remains in custody.)

All pre-trial release schemes are subject to two types of error. “Type 1” errors of overestimation (also referred to as false positives) lead to the detention of persons who would not have fled or committed another crime. “Type 2” errors of failure to include (also referred to as false negatives) cause the release of those who will likely flee or recidivate. According to Milwaukee County Sheriff David A. Clarke, Justice 2000’s protocol seems purposely biased in favor of the accused. “There’s a use for pretrial screening, but obviously this tool needs to be recalibrated,” said Clarke, who suggested that “evidence-based decision making” and promises of saving money are sweeteners offered by those with a secret liberal agenda.

Politics aside, it may be that when it comes to murder, trying to strike the usual cost-benefit, Type 1/Type 2 balance doesn’t work. When Justice 2000 played in the sandbox of municipal court the consequences of being wrong (i.e., Type 2 errors) were minimal. In general criminal court, though, releases carry far weightier implications. Predicting recidivism is a frustratingly inexact science. As we pointed out in “Reform and Blowback,” when a dangerous someone is let go and maims or kills, there’s no trying to explain why they were released.

Bottom line: releasing shooters on their own recognizance is a huge step into the unknown. It’s a new, quantum world, with hazy parameters and unpredictable consequences.

Well, maybe not all that unpredictable. In “Risky Business” we discussed the dangers of chasing after defendants who go on the lam. Warrant service is an extremely dangerous business that all-too frequently leads to shootouts and dead cops. Of course, officers serving warrants are at least forewarned. Imagine what can happen when patrol officers inadvertently come across a dangerous wanted person. “Catch and Release” featured two such examples:

- In December 2011 Lamont Pride, a robber wanted for a shooting in North Carolina, shot and killed NYPD officer Peter J. Figoski. Pride had been arrested by NYPD twice in recent months, most recently on a drug charge for which he failed to appear. He was released on low bail both times because the North Carolina warrant didn’t authorize extradition.

- In June 2010 Dontae Morris, a felon with arrests for murder and weapons violations, shot and killed Tampa police officers David Curtis and Jeffrey Kocab during a traffic stop. Morris, who had been recently released from a prison term for sale of cocaine, had an active warrant for bad checks.

Just how Milwaukee came to endorse release practices that could lead to O.R.’s for murder suspects will be fodder for discussion for years to come. Partnering with what clearly seems to be an advocacy group (in 2010 Justice 2000 merged with Community Advocates) may have been imprudent. Budget-conscious county officials might have been seduced with promises of cost savings and freeing up bed space. Perhaps the appeal of an “evidence-based” based strategy was too hard to resist.

But don’t just trust Police Issues. It’s been a year since Malcolm K. Sparrow’s superb research article cautioned against assuming that “evidence-based” approaches can yield practicable solutions to the real-life dilemmas encountered by police. Those that prove useful, he said, tend to be rebranded variants of
what cops have already done. Dr. Sparrow counseled academics to heed the advice of practitioners, as they’re the real experts at the game. Last May judges in St. Louis, Missouri took that notion to heart. Sick and tired of gun violence, they started setting $30,000 bail, full amount cash only, on everyone caught illegally packing guns. No surprise, most remained locked up. Homicides promptly began to drop, and the year ended with 114, 20 percent less than in 2010 and the fewest since 2004. Researchers now studying the program think that it holds special promise.

Milwaukee, meet St. Louis.
CATCH AND RELEASE

Sometimes there really is no substitute for common sense

By Julius (Jay) Wachtel. “If you’re talking about somebody who the rap sheet in front of you shows is potentially a dangerous person, has a gun, has a criminal history, common sense says don’t let him out until you make one phone call.” New York City Mayor Michael Bloomberg’s criticism was directed at Evelyn Laporte, a Brooklyn judge who had brushed aside a prosecutor’s request to set $2,500 bail and released a man arrested on drug possession and child endangerment charges on his own recognizance.

Yet the suspect, Lamont Pride, 27, wasn’t an unknown quantity. Officers had caught him packing a knife a couple months earlier, a tangle that cost Pride a day in jail. Authorities in Pride’s home town, Greensboro, North Carolina had recently secured felony warrants accusing Pride of shooting a man in the foot as they quarreled over a woman. Pride, who allegedly used a .22 pistol, was charged with assault with a deadly weapon with intent to inflict serious injury, felony conspiracy, and possession of a firearm by a felon, the latter relating to a prior conviction for armed robbery, an offense for which he served 13 months in prison.

Now here’s the part that’s hard to swallow. Greensboro’s warrants specified “in-state extradition only.” Police and prosecutors would later explain that they didn’t consider Pride a flight risk and thought “he could still be in the area.” So why not authorize extradition? One can guess that in these times of strapped budgets there were second thoughts about sending officers to another state to bring back a local ne’er-do well, particularly if injuries, as in this case, were minor and the victim was no one special.

The story doesn’t end there. When NYPD arrested Pride for drugs and child endangerment an officer called Greensboro PD to confirm that they wouldn’t extradite. That fact was passed on to Judge Laporte, who also got a look-see at Pride’s long rap sheet. But she O.R.’d him anyway. Still, NYPD wasn’t done. A detective called Greensboro a few days later. Whatever transpired during that little chat clearly had an impact, and on November 8 North Carolina’s warrant was amended to authorize extradition.

Alas, it was too late. Pride skipped his New York City court appearance and was nowhere to be found. On December 12, NYPD officer Peter J. Figoski, 47, a 22-year veteran and father of four, responded to a report of a residential armed robbery. (It turned out to be a vicious attempt to rip off a local drug dealer.) While searching a dark apartment building officer Figoski and his partner were surprised by Pride, who allegedly pulled a 9mm. pistol and shot Figoski dead. Pride was caught during a foot chase.

Felons on the lam are always dangerous. On June 29, 2010 Dontae Morris allegedly shot and killed Tampa police officers David Curtis (l) and Jeffrey Kocab during a traffic stop. Morris, whose record includes arrests (but not convictions) for murder and weapons violations was released from prison two months earlier after serving a two-year term for possession and sale of cocaine. Only thing is, Morris had an active felony warrant for bad checks. “Right now we’re not going to start pointing the fingers of blame,” said Tampa PD Chief Jane Castor. “And frankly, it’s not going to bring the officers back.”
The deaths of officers Curtis and Kocab have been attributed to a complex tangle of bad decisions. Equally lethal results can flow from simple paperwork blunders. On January 23, 2011 “low-risk” parolee Thomas Hardy, 60, shot Indianapolis police officer David Moore during a traffic stop. Hardy was arrested after robbing a convenience store an hour later. Actually, Hardy shouldn’t have been on the street in the first place, as he had recently been arrested for felony theft. Regrettably, Hardy’s parole status hadn’t been entered into the computer, and he didn’t tell, so he was let go after arraignment.

Officer Moore succumbed to his injuries. Both his parents were cops. His father was a retired Lieutenant, his mother an active-duty Sergeant.

We’ve suggested in the past that bad decisions can be often attributed to a tendency to “dismiss, dismiss, dismiss.” Going to “extraordinary lengths to routinize information and interpret questionable behavior in its most favorable light” can have tragic consequences. Here are a few examples:

- Perhaps fearing that they might be branded as bigots, military authorities repeatedly ignored warning signs about the radicalization of Nidal Hasan, the Army major who killed eighteen and wounded twenty-eight at Fort Hood.

- A lack of regulatory will and Federal law enforcement resources were clearly at work in the case of Bernie Madoff, the record-breaking Ponzi artist whose decades-long scheme cost victims billions.

- Parolee Phillip Garrido enjoyed so much slack while under supervision that he was able to kidnap a young woman and, with help from his wife, confine her to a backyard pen for eighteen years as his sex slave.

- After doing fifteen years for rape, Cleveland serial killer Anthony Sowell was ignored by police despite a string of odd and violent goings-on at his home involving various women, including one who supposedly “fell” from a window.

- And who could forget would-be underwear bomber Umar Abdulmutallab, a self-made Nigerian terrorist whom American consular and intelligence authorities failed to place on the do-not fly list even after Umar’s father warned them that his radicalized kid was up to no good.

When funding is tight criminal justice agencies must economize. And yes, there are consequences. States have been granting early paroles by the bucketful, releasing inmates left and right to make room and save money. Yet predicting someone’s threat to society is chancy. In August three top Wisconsin juvenile corrections officials were suspended after police arrested three Milwaukee teens for a vicious robbery-murder. Two had been granted early releases while serving terms for violent crimes. One, now 18, did less than three years for directing a killing in which his adult codefendants got twenty years.

Decisions that can let potentially dangerous individuals go free should be taken in a reflective atmosphere with sufficient time to gather and evaluate all pertinent information. In the efficiency-obsessed atmosphere that pervades today’s criminal justice system that ideal is rarely reached. Pressures to economize can lead well-intentioned practitioners such as Judge Laporte to lose their way and forget why they’re there. It’s precisely for such reasons that Mayor Bloomberg’s admonition to use “common sense” should be taken to heart. Officers Figoski, Curtis, Kocab and Moore would ask for nothing less.
COPS NEED MORE THAN BODY ARMOR

As powerful weapons flood the streets, what can officers do?

By Julius (Jay) Wachtel. As a St. Louis grand jury began mulling over the shooting death of Michael Brown by a Ferguson police officer in August, the Senate’s Homeland Security and Governmental Affairs Committee swung into action. Their concern wasn’t with the killing but with what happened afterwards. Specifically, whether authorities over-reacted to protesters by swooping in with heavy-handed tactics and a bevy of intimidating military gear, including a fearsome-looking $360,000 BearCat armored truck paid for with a grant from the Department of Homeland Security.

Missouri’s own Sen. Claire McCaskill acknowledged that the bullet-resistant qualities of the vehicle had proven useful. Still, she and other legislators questioned whether the plethora of armaments being acquired by police forces in wake of 9-11, much of it military surplus furnished at no cost by the Defense Department, was overkill. America’s top cop, Attorney General Eric H. Holder Jr., promptly chimed in: “At a time when we must seek to rebuild trust between law enforcement and the local community, I am deeply concerned that the deployment of military equipment and vehicles sends a conflicting message.”

Law enforcement’s track record gives cause to worry. Missteps in handling demonstrations have poisoned police-community relations for decades. In 2007 we chastised LAPD after a commander declared an immigrant-rights march illegal, resulting in a violent confrontation that observers characterized – and not without justification – as a “police riot.” Apparently the department learned its lesson, and four years later we praised them for a massive but low-key and effective response to boisterous Occupy Wall Street demonstrators.

Yes, there was chaos and looting in Ferguson, and police were obliged to respond. Yet when (mostly white) officers attired in helmets and protective gear imprudently pointed weapons at a (mostly black) crowd – one cop from a nearby town actually threatened to shoot an unarmed protestor – it harkened to a past that our nation has struggled mightily to leave behind.

That, in a nutshell, was the backdrop for the Senate’s review. Considering the hearing’s tenor, the implications seem grim. While gun makers happily churn out ever-more lethal hardware for civilian use, the Ferguson imbroglio could make it far more difficult for law enforcement agencies, particularly, smaller, less well-funded departments to acquire protective gear and armored vehicles to counter the lethal threats that cops often face.

For an example of this dilemma look no farther than Davis, a town of about 65,000 nestled a short drive from California’s capital. A few weeks before Ferguson blew up, its police department was the proud recipient of a $680,000 armored car, courtesy the Department of Defense. In urging the acquisition Chief Landy Black told the city council that the vehicle’s ability to resist bullet penetration made it “the perfect platform to perform rescues of victims and
potential victims during active-shooter incidents, and to more safely deliver officers into active shooter incidents, barricaded hostage crises, and/or other or environments involving armed offenders.”

No matter. With only one dissenting vote, council members recently ordered Chief Black to return the MRAP to sender.

Had the good chief just been blowing gunpowder? Hardly. Thugs armed with high-powered weapons have been playing havoc with the Golden State’s cops:

- On July 16, three weeks before Ferguson, heavily armed bank robbers led Stockton police on a wild, bullet-riddled chase that ended with the fatal wounding of two suspects and, tragically, a hostage. An AK-47 type rifle and large quantities of ammunition were recovered. Police used an armored vehicle to close in. No officers were hurt.

- On August 18, nine days after Ferguson, LAPD engaged in a running gun battle with two suspects. One, armed with a high-powered rifle, shot and wounded a SWAT officer, and was killed with return fire. An armored vehicle helped bring the incident to a close.

- Four days later, on August 22, gang members armed with an AK-47 type rifle with high-capacity magazines and a handgun left a 31-year old San Bernardino police officer in critical condition with a head wound. His partner shot one of the assailants dead and three other suspects were arrested.

- UPDATE: On October 24, 2014, Luis Bracamonte, 34, aka Marcelo Marquez, used an AR-15 rifle to shoot and kill two Sacramento County, California sheriff’s deputies. He also wounded a third deputy and a civilian. Bracamonte was arrested along with his wife, who was armed with a handgun. Bracamonte, an illegal alien, had been twice deported.

But if we give cops what they’re asking for, aren’t we “militarizing” the police? Perhaps. On the other hand, when any ordinary citizen can bop into a gun store and come out with 7.62 and .223 caliber, high-capacity, high-cyclic rate rifles whose rounds will readily penetrate ballistic vests, the line between “police work” and “military work” seems thin, indeed. Consider, for example, the incident that made SWAT famous, the North Hollywood shootout of February 28, 1997, when two bank robbers armed with a 9mm pistol and five semi-auto rifles (several made full auto, an illegal but often simple conversion) wounded eight LAPD officers and five civilians.

Exactly how did platoons of frightened officers, crouching behind their cars with their peashooters drawn, define their roles then?

Still think that MRAP’s are a bit much? Each year the FBI compiles detailed statistics about police line-of-duty deaths. These provide a sobering view of the limitations of personal body armor:
According to the FBI, 535 law enforcement officers were feloniously killed during 2003-2012, 493 (92%) with firearms. Of those who fell to gunfire, 360 (73%) were killed with handguns, 92 (18.7%) with rifles, and 38 (7.7%) with shotguns.

Of those killed by firearms, 321 (65.1%) were wearing body armor. Wounds to the torso accounted for 101 (31.4%) of these deaths.

Rounds penetrated the vest (instead of entering above, below or between panels) in 22 (21.8%) of the instances where officers succumbed to torso wounds.

All but one of these lethal, panel-penetrating torso wounds were by rifles.

Back to Ferguson. Remember that even Senator McCaskill acknowledged the usefulness of the armored vehicle. If you have nothing other than ballistic garments, think hard before advancing on someone armed with a high-powered rifle and a bushel-full of ammo.

And keep in mind that whether or not you’re “militarized,” you’re still the police. You can’t call in an air strike.
COPS AREN’T FREE AGENTS

*To improve police practices, look to the workplace*

For Police Issues by Julius (Jay) Wachtel. How policing gets done clearly matters. Even if it’s mostly done right, do it wrong once and the consequences can haunt a community and the nation for decades. We’ll examine several prominent, science-based approaches to improving police practices, then (saving the best for last!) offer our own, workplace-centric view.

In 2011, not long before budgetary concerns brought down the annual shindig, your blogger sat in the auditorium as Dr. John Laub delivered the welcoming address at the NIJ conference. In his speech the agency’s freshly-minted director introduced a new way to fuse science and practice.

If that doesn’t ring a bell, shame! Have you never heard of “translational” criminology?

If we want to prevent and reduce crime in our communities, we must translate scientific research into policy and practice. Translational criminology aims to break down barriers between basic and applied research by creating a dynamic interface between research and practice. This process is a two-way street — scientists discover new tools and ideas for use in the field and evaluate their impact. In turn, practitioners offer novel observations from the field that in turn stimulates basic investigations.

We’ll come back to the newfangled concept in a moment. But first, let’s take a brief detour. In 1998, as part of the Police Foundation’s “Ideas in American Policing” series, Professor Larry Sherman applied the “evidence-based” concept from the field of medicine to the field of policing:

Evidence-based policing is the use of the best available research on the outcomes of police work to implement guidelines and evaluate agencies, units, and officers. Put more simply, evidence-based policing uses research to guide practice and evaluate practitioners. It uses the best evidence to shape the best practice.
If acting on evidence seems, well, commonsensical, keep in mind that action-directed cops and reflective scientists are probably not a natural mix. But problems have a way of forcing change. Propelled by a series of social crises, some of which police themselves instigated or made worse, and supported by initiatives such as George Mason University’s Center for Evidence-Based Crime Policy, evidence-centric research took off.

DOJ promptly jumped in. “Using Research to Move Policing Forward,” an article in the March 2012 *NIJ Journal*, highlighted the many benefits of “being smart on crime”:

Evidence-based policing leverages the country’s investment in police and criminal justice research to help develop, implement and evaluate proactive crime-fighting strategies. It is an approach to controlling crime and disorder that promises to be more effective and less expensive than the traditional response-driven models, which cities can no longer afford.

The Feds also announced a new website, crimesolutions.gov, that would function as a virtual repository of evidence-based criminal justice practices:

CrimeSolutions.gov organizes evidence on what works in criminal justice, juvenile justice and crime victim services in a way designed to help inform program and policy decisions. It is a central resource that policymakers and practitioners can turn to when they need to find an evidence-based program for their community or want to know if a program they are funding has been determined to be effective.

CrimeSolutions.gov is more than a bookshelf. It includes an evaluation component, with experts assigning grades on a sliding scale: effective, promising, inconclusive or no effects. To date, they have appraised 80 policing programs, mostly targeted efforts aimed at a specific community, and 11 broader practices. For example, the program “Hot Spots Policing in Lowell, Massachusetts” focused on reducing disorder in high-crime areas by, among other things, increasing misdemeanor arrests and expanding social services. Evaluators found that it reduced disorder and significantly reduced citizen complaints of burglary and robbery. It was rated effective. “Problem-Oriented Policing,” a widespread practice that assesses community problems and tailors a response, was reviewed through a meta-analysis of ten studies. In all, the practice seemed to yield significant reductions in crime and disorder and received the second-best rating, “promising.”

Basing decisions on evidence is all well and good. But how should knowledge be turned into practice? That’s where “translational” comes in. In his address, Dr. Laub defined translational research as “a scientific approach that reaches across disciplines to
devise, test and expeditiously implement solutions to pressing problems.” Just like evidence-based science, the translational approach also has its origins in medicine. To assure that end products are responsive to real-world needs, translational researchers and practitioners must collaborate at each step, from defining the issue to devising, implementing and assessing interventions. Involving practitioners allows them to share real-world knowledge with researchers, while involving experts allows them to convey and interpret scholarly findings to practitioners, who might otherwise be forced to rely on secondary sources.

So what’s missing? Neither the evidence-based nor translational approaches offer a template for discovering needs. That’s where a third paradigm, “Sentinel Events,” comes in. Initially described by Dr. Laub as the “organizational accident model,” it got started in aviation, was adopted by medicine, then became a key NIJ initiative (full disclosure: I was recently welcomed into its listserv and appreciate the kindness.) Sentinel researchers are alerted by things gone wrong. Using a structured, science-based approach, actual episodes of police shootings, wrongful convictions and such are examined in depth to discover weaknesses and devise changes “that would lead to greater system reliability and, hence, greater public confidence in the integrity of our criminal justice system.”

Several studies have praised Sentinel’s potential. For example, “A Sentinel Events Approach to Addressing Suicide and Self-Harm in Jail” (2014) concluded that using it to probe violent episodes in correctional facilities can “help to instill a new culture...that better ensures the safety and well-being of those under their custody.” Still, there is an obvious “if.” Sentinel’s success depends on acquiring accurate and complete accounts of what took place. But strangers who pop in with lots of questions after things turn sour might get a cold reception. How to get the real scoop? Here is what our nation’s medical accrediting agency recommends:

- Those who report human errors and at-risk behaviors are NOT punished, so that the organization can learn and make improvements.
- Those responsible for at-risk behaviors are coached, and those committing reckless acts are disciplined fairly and equitably, no matter the outcome of the reckless act.
- Senior leaders, unit leaders, physicians, nurses, and all other staff are held to the same standards.

NIJ’s 2015 guide for conducting sentinel reviews, “Paving the Way: Lessons Learned from Sentinel Events Reviews” emphasizes avoiding blame. And, harking back to translational research, it recommends that to insure an informed judgment review
teams include “sharp-end-of-the-stick practitioners with front-line knowledge” and researchers with “one foot in the practice world and one foot in the research world....” (For a 2014 NIJ collection of brief essays about the sentinel approach click [here](#).)

Sentinel drew our attention because *Police Issues* also works back from real events, admittedly in a far less scientific way. So what is it that we could possibly add? Let’s begin with a little story.

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A very long time ago, after completing his coursework at the University at Albany, your blogger turned to the matter of his dissertation. Fortunately, only two years had passed since he had interrupted his career as a Fed, so his memory of the workplace was still vivid. With invaluable support from Hans Toch and Gary Marx, two scholars with deep knowledge of the police environment, he got the job done. The product, “Production and Craftsmanship in Police Narcotics Enforcement,” explored the interaction between “quantity” and “quality,” which has long bedeviled practitioners of the policing craft. (Click [here](#) for a journal article based on the dissertation and [here](#) for a more chatty piece.)

We need hardly mention which of the two characteristics addressed in the title proved the more dominant. After interviewing and administering instruments to members of drug units at six police departments of varying size, it was apparent that line-level officers struggled to balance the same pressures to make “numbers” that had dogged your blogger and his colleagues. Here’s a typical officer comment about the salience of “numbers”:

> It filters down [that superiors] want higher numbers, so inevitably we give them higher numbers. You turn in your monthly report, you’ve got two arrests, they say “you had only two drug arrests”? Now, you may have gotten the two biggest dealers in the State, but they’re still going to complain because you’ve only got two.

Here’s one about the meaning of a “quality case”:

> A quality case is a case where you cover all the little aspects. You make sure your reports are descriptive, that they contain all the elements of the offense necessary for prosecution, that the evidence is properly handled....Basically you’re [covering] all the bases that you feel will be necessary to successfully prosecute that case.
And here’s how your blogger reconciled these views:

It may be that a narrow definition of case quality is an adaptation that allows narcotics police to maintain a craftsmanlike image while presenting the smallest possible impediment to production.

Production pressures have had an unending run in the nation’s major police agencies. Bill Bratton brought along number-centric COMPSTAT when he stepped in to manage LAPD. In 2012, three years after Bratton left, CRC Press released “The Crime Numbers Game: Management by Manipulation.” Authored by two John Jay Criminal Justice professors (one, a retired NYPD Captain), the book spilled the beans on Compstat’s corrupting influence. To make things seem hunky-dory, supervisors ordered officers to increase what could be counted, like car stops, while downgrading the severity of crimes (or if possible avoiding taking reports altogether.) Disgruntled cops soon spilled the beans, generating internal inquiries and a slew of damning media accounts. Alas, Compstat had already been adopted by many agencies and praised as a policing wunderkind (for the Police Foundation’s supportive assessment click here.)

Pressures to “make numbers” (or to keep certain numbers down) are well known in industry. But they’re seldom considered in policing. Let’s plagiarize from a recent post:

In every line of work incentives must be carefully managed so that employee “wants” don’t steer the ship. That’s especially true in policing, where the consequences of reckless, hasty or ill-informed decisions can easily prove catastrophic. But we can’t expect officers to toe the line when their agency’s foundation has been compromised by morally unsound practices such as ticket and arrest quotas. This unfortunate but well-known management approach, which is intended to raise “productivity,” once drove an angry New York City cop to secretly tape his superiors.... And consider the seemingly contradictory but equally entrenched practice of downgrading serious crimes – say, by pressuring officers to reclassify aggravated assaults to simple assaults – so that departments can take credit for falling crime rates.

When probing officer-involved calamities your blogger always considers pressures to produce. Another likely suspect is chaos. A never-ending series of posts (most recently, “Routinely Chaotic”) addresses factors likely to precipitate a disorderly police response; for example, a lack of information, insufficient resources, unpredictable citizens, and officers who are impulsive or unwilling to accept risk. Despite the best de-escalation training, such deficits can transform so-called “routine” encounters into nightmares that are virtually impossible to manage, let alone peacefully resolve. (For an instant workshop on chaos click on the “related posts” section of that blog piece.) Over the
years, the messiness of the police workplace has led us to suggest a host of correctives, from not involving cops unless absolutely necessary (an idea from, gee, medicine!) to implementing early intervention protocols so that problem characters get snagged before they cause their own demise.

Our suggestion here is that whatever the approach, whether evidence-based, translational or sentinel, explicitly considering the forces that affect (some would say, beset) the police workplace can point us to remedies that really work. To begin, check out the posts linked below. Then, let’s get busy!
CRIME-FIGHTING ON A BUDGET

When money’s tight can we afford specialized units?

By Julius (Jay) Wachtel. In many areas the prolonged downtrend in crime and violence has come to an end. At this writing Pittsburgh is well on its way to posting its worst murder record in a decade, with the number of homicides already equaling all of 2007. In Chicago, a city stunned by the recent brutal murders of actress Jennifer Hudson’s mother, brother and nephew, murder’s gone up nearly fifteen percent. As for the nation’s great crime-reduction success story, New York City, its murder rate (430 killings so far in 2008) is nine percent higher than at this time last year. Even the celebrated home of Operation Ceasefire is under siege; although Boston’s murder rate is slightly lower than in 2007, its proportion of victims under eighteen (67 so far in 2008) remains three times that of five years ago.

What can police do? There are three approaches to reducing crime and violence: uniformed patrol, selective enforcement, and a community model.

- Adding patrol officers seems the simplest solution. Unfortunately, budgets are tight and cities across the country are actually losing officers. New York’s force, the country’s largest, has dropped to levels of the early nineties. Due to their limited tax bases smaller cities have been particularly hard hit. By the end of 2008 Vallejo (Calif.), population 120,000, will have lost sixty officers from its once-robust complement of 150. At the opposite end of the U.S. Pontiac (Mich.), a city of 66,000, is making do with only 65 cops, a ratio of .98 officers per 1,000 population, less than half the national average of 2.4. As one might expect, crime has gone through the roof.

Just how important is patrol? Many years ago an experiment in Kansas City “proved” that random patrol had no effect on crime. The study has since been severely criticized because actual differences between beats -- some were left alone, in others random patrol was eliminated, and in others it was increased -- were far too small to expect a difference. Moreover neither citizens nor crooks had been informed of what was going on.

- Can cops be used more effectively? That’s the promise of selective enforcement. Problem areas can be flooded with uniformed officers to augment regular patrol and help tamp down crime. Teams of plainclothes and uniformed officers can be assigned to watch drug-dealing hot spots and stop and frisk
gang members. Gun-carrying felons can be targeted with Federal prosecution. Such strategies are credited with steep reductions in homicide in Baltimore. Hoping for similar results, Chicago is assembling a 150-officer task force to go after armed gangsters.

But not everyone’s sold. For the last nine months a gang squad and roving teams of officers have made hundreds of drug arrests and seized numerous guns in selected areas of Cleveland. Crime’s reportedly dropped like a rock. Yet the police union president claimed that the improvement isn’t due to proactive enforcement but to random fluctuations in crime -- “the luck of the draw.” Some citizens are also skeptical. As the co-chair of a Cleveland group noted, pulling officers from patrol -- what was done to staff specialized teams -- can leave some neighborhoods floundering. That’s why Boston’s police commissioner recently disbanded an eighty-officer surveillance task force and put them back in uniform. “Clearly in Boston the amount of visibility in the street is a great concern to the community, and we want to make sure we increase that.”

- Some claim that cops alone can’t make the difference. Boston’s Operation Ceasefire is probably the best-known example of a community-wide response to gang violence. Troublemakers were brought in for face-to-face confrontations with police and probation officers, who promised to arrest them at the slightest misstep. ATF was called in to stop gun trafficking, the DEA to dismantle drug operations. But it wasn’t all enforcement. Social agencies and church and community groups were very much a part of the effort, steering gang members to jobs, training and substance abuse treatment.

For several years results seemed spectacular, with reductions in homicide of as much as 61 percent. By 2000, though, the gang problem had come back and violence was up. What happened? Participants admitted that after an initial success the program lost steam, its complex structure proving exceedingly difficult to maintain over the long haul. A 2007 attempt to implement Ceasefire in Cincinnati stalled relatively quickly, apparently for much the same reason. Meanwhile hopes are high for a new Ceasefire program in Pittsburgh.

Policing is at heart a crude tool, a way to apply force to achieve desirable social ends. Beyond putting cops on the street and locking up offenders we don’t really know what works. In any case, as crime goes up and citizens feel less secure, strategies that reduce already sketchy beat coverage, in effect robbing Peter to pay Paul, may not be the best approach. It may not be sexy, but helping traditional patrol
and detectives become more efficient and effective by studying and adjusting how they work and deploy seems by far the most promising approach.
**DID THE TIMES SCAPEGOAT L.A.’S FINEST? (I)**

*Accusations of biased policing derail a stop-and-frisk campaign*

*For Police Issues by Julius (Jay) Wachtel.* Let’s begin with a bit of self-plagiarism. Here’s an extract from “Driven to Fail”:

As long as crime, poverty, race and ethnicity remain locked in their embrace, residents of our urban laboratories will disproportionately suffer the effects of even the best-intentioned “data-driven” [police] strategies, causing phenomenal levels of offense and imperiling the relationships on which humane and, yes, effective policing ultimately rests.

Our observation was prompted by public reaction to the collateral damage – the “false positives” – when specialized LAPD teams cranked up the heat in high-crime areas. Stripping away the management rhetoric, L.A.’s finest embarked on a stop-and-frisk campaign, and we know full well where those can lead. Facing a citizen revolt, **LAPD promised to fine-tune things** so that honest citizens would be far less likely to be stopped by suspicious, aggressive cops.

Well, that was in March. Seven months later, the *Los Angeles Times reported* that while the number of stops did go down, substantial inequities persisted. Among other things, blacks were being stopped at a rate far higher than their share of the population (27% v. 9%), while whites benefitted from the opposite tack (18% v. 28%). What’s more, even though whites were *more* likely to be found with contraband, they were being searched substantially *less* often than Blacks and Latinos.

That, indeed, was the story’s headline (“LAPD searches blacks and Latinos more. But they’re less likely to have contraband than whites.”) And the reaction was swift. Less than a week later, **Chief Michel Moore announced** that his specialized teams would stop with the stop-and-frisks and shift their emphasis to tracking down wanted persons:

Is the antidote or the treatment itself causing more harm to trust than whatever small or incremental reduction you may be seeing in violence? And even though we’re recovering hundreds more guns, and those firearms represent real weapons and dangers to a community, what are we doing to the tens of thousands of people that live in those communities and their perception of law enforcement?
To be sure, policing is an inherently “imprecise sport,” and doing it vigorously has badly upset police-community relations elsewhere. Still, if the good chief wasn’t just blowing (gun)smoke, foregoing the seizure of “hundreds” of guns might tangibly impact the lives of those “tens of thousands” who live in L.A.’s violence-plagued neighborhoods, and not for the better. (For an enlightening tour of these places check out “Location, Location, Location.”)

To better assess LAPD’s approach we turned — where else? — to numbers. California’s “Racial and Identity Profiling Act of 2015” mandates that law enforcement agencies disseminate information on all stops, including every detention or search, traffic and otherwise, voluntary or not. For its reporting the Times analyzed LAPD stop data for the period of July 1, 2018 through April 30, 2019. It’s available here.

We downloaded the massive dataset and probed it using specialized statistical software. It contains 549,488 entries, one for each person whom officers proactively contacted during that ten-month period. (Actual stops were considerably fewer, as many involved multiple individuals.) About seventy-two percent (396,032) of those contacted were encountered during vehicle stops for traffic violations. The remaining 153,456 were detained outside a vehicle (“non-traffic stops”). Reasons included on-view offending (e.g. drinking, littering or smoking a joint), openly possessing contraband such as drugs or guns, behaving in a way that suggested the possession of contraband or commission of an offense, having an active warrant, or being a probationer or parolee of current interest.

Latest Census estimates peg L.A. City as 48.7 percent Hispanic/Latino. As the bar graph shows their share of stops came in at 46.8 percent, well in sync with that figure. Yet as the Times alarmingly noted, whites, who comprise 28.4 percent of the city’s population, figured in just 18 percent of stops, while Blacks, whose share of the city’s population is only 8.6 percent, accounted for a vastly disproportionate 28 percent of stops.
And there was the matter of searches, as well. We crunched the numbers and produced this graph. As the *Times* reported, only a measly five percent of traffic stops of whites led to a search. Meanwhile Latinos were searched in 16.1 percent of traffic stops, and Blacks in 23.3 percent. Yet searches of whites reportedly turned up loot more often. Might whites, as the *Times* clearly suggests, be getting away with something?

As we discussed in “Driven to Fail,” stop-and-frisks had for better or worse become LAPD’s key tool in a campaign to tamp down violence. Specialized teams focused – albeit, not exclusively – on hot spots called “Laser” zones. A disproportionate number were in South and Central bureaus, the poorest and most severely crime-impacted areas of the city, predominantly populated by Hispanic/Latinos and Blacks.

Unfortunately, no stop location is given other than street address. Nor is there any information about crime rates or poverty levels. We set out to fill these gaps. To make the project doable we used statistical software to draw a random sample of one-hundred encounters. Given the dataset’s huge size that’s admittedly too few to adequately represent the whole. But it’s a start.

Our sample includes one-hundred distinct individuals who were detained at one of ninety-nine unique stop locations. Seventy were stopped while in vehicles; thirty not. Overall, their race and ethnicity – 45% Hispanic/Latino, 32% Black, 16% white – came
pretty close to the corresponding distribution (46.8%, 27.7%, 17.9%) for the full dataset. So we feel fairly confident extending our findings to the whole.

Let’s talk about the sample. Using the Times’ “Mapping L.A.” utility, which tracks the city’s 272 neighborhoods, we obtained violent crime data for the fifty-two neighborhoods that encompass the ninety-nine distinct street locations where citizens were stopped. It’s apparent from the sample that LAPD targeted the city’s more violent places. As the chart indicates, the mean violent crime rate of the sample’s neighborhoods, 41, is twice the citywide rate of 20.6, while the sample’s median rate, 29.8, is nearly three times the citywide 10.6.

Violence rates in 36 of the sample’s 52 neighborhoods exceed the citywide mean, and all but three exceed the citywide median.

Prior posts emphasize the centrality of neighborhoods. What about them might steer its inhabitants down the wrong path? Poverty – and what comes with being poor – are usually at the top of the list. We gathered racial/ethnic composition and poverty level data for each of the sample’s fifty-two stop locations by entering their Zip code into the 2017 American Community Survey. (Incidentally, a quick way to get a Zip code is to type the street address into Google.) This graph displays the results:

No surprise: whites predominate in most of the sample’s economically better-off neighborhoods. As poverty rates increase (note the citywide mean of 20.4 percent) Hispanic/Latinos and Blacks come into the majority. Crime, as the below scattergram illustrates, follows a similar pattern.
Each circle represents one of our fifty-two neighborhoods. Clearly, as poverty increases, so does violence. Number crunchers pay attention: the $r$ correlation statistic (zero means no relationship; one is a perfect, lock-step association) is a sizeable .612; what’s more, the two asterisks mean the coefficient (the .612) is statistically significant, with less than one chance in a hundred that it was produced by chance.

So what happens when we plug in race? This group of scattergrams depicts the “simple” (read: potentially misleading) relationship between each racial/ethnic group and violent crime:
As percent Hispanic/Latino and Black increase so does violence, while as percent white increases, violence falls. But we know full well that violence isn’t “caused” by race or ethnicity. It’s influenced by a variety of factors; for example, family supports, peer influences, childcare, educational, training, job and career opportunities, and so on. Of course, we’d love to assess the impact of each, but things would quickly become unwieldly. Instead, we can turn to poverty as their surrogate. Going back to the 52-neighborhood sample, let’s see whether factoring in (“controlling for”) poverty makes a difference:

Sure enough, once poverty is thrown into the mix, the simple (“zero-order”) relationships between race/ethnicity and crime substantially weaken. In fact, the correlations between race/ethnicity and violence for Hispanic/Latinos and for whites recede so far that their significance exceeds .05, the maximum risk that social scientists will take that what seems to be a relationship was produced by chance. What’s more, controlling for poverty is a crude approach. Imagine if one could accurately “control” for the influence of each and every important factor. Might the relationships between race/ethnicity and violence drop to zero?

Of course, neither criminologists nor cops nor ordinary citizens are surprised by the notion that violence is a byproduct of economic conditions. Even under the most sophisticated targeting protocols, police crackdowns usually wind up focused on poor places because that’s where violence takes its worst toll. Alas, as we recently pointed out in “Driven to Fail,” the imprecision of policing – and the behavior of some admittedly imperfect cops – can easily produce a wealth of “false positives,” straining officer-citizen
relationships that may already rest on flimsy supports. And leading to outcomes such as what drove us to write this piece.

To be sure, there are “yes, buts.” Check out our (thankfully) final graphic:

[Image: Race/ethnic distribution, All stops]

Suspicions at the *L.A. Times* were aroused by the discovery that an unseemly small percentage (17.9) of vehicle stops were of whites. Does that mean that L.A.’s cops are bigots? Well, as we’ve discussed, the targeting protocol zeroed in on 52 areas (right-side graphic) whose proportions of white and black residents differ substantially from their citywide numbers (left-side graphic.) And in the end, the racial/ethnic distributions of those stopped (center graphic) closely approximates that of the right-side graphic, meaning the population officers actually faced.

Yes, but. Maybe cops expressed their bigoted nature in another way. After all, how does one “explain” that only five percent of car stops of whites resulted in a search? (For Latinos it was 16.1 percent; for Blacks, 23.3.) And that more contraband was found when the few, unlucky whites got searched? Might it be, as the *Times* clearly implies, that in their haste to lock up Blacks and Hispanics L.A.’s finest purposely overlooked far more serious evil-doing by whites?

Well, that’s enough for now. Part II will continue exploring the disparities using data from several obscurely coded fields in the master file. We’ll also have something to say about the types of contraband seized and from whom. (Thanks to the dataset’s unwieldly
structure, that takes some doing.) And we’ll probably close off with some inspiring words of wisdom about vigorous policing. But that’s for next time. So stay tuned!
DID THE TIMES SCAPEGOAT L.A.’S FINEST?  
(PART II)

Quit blaming police racism for lopsided outcomes.  
And fix those neighborhoods!

For Police Issues by Julius (Jay) Wachtel. Part I challenged the L.A. Times’ apparent conclusion that race and ethnicity drove officer decision-making practices during LAPD’s stop-and-frisk campaign. Let’s explore who got stopped and who got searched in greater detail.

Who got stopped?

L.A. City is twenty-eight percent white. Yet as the Times noted, only eighteen percent of the 549,488 persons stopped during a ten-month period were white. On the other hand, Blacks, who comprise a mere nine percent of the city’s total population, figured in twenty-seven percent of stops. Proof positive of bias, right?

Not so fast. L.A.’s communities are far from integrated. We coded a random sample of stops for location and identified 52 distinct neighborhoods. Armed with demographics, we compared again. Check out those dotted lines. Once location is factored in, the racial/ethnic makeup of those who were stopped closely corresponds with the demographics of the place where they were stopped. That’s what one would expect.

Still, that doesn’t prove that bias didn’t play a role in targeting. For more insight about officer decisionmaking we focused on two data fields pertinent to the “why’s” of a stop: “traffic violation CJIS offense code” and “suspicion CJIS offense code.” (For a list of these Federally-standardized codes click here.) Seventy-two percent of those stopped (n=396,032) were detained in connection with a traffic violation. Overall, the racial/ethnic distribution of this subset was virtually identical to that of the target area. We collapsed the ten most
frequent violations into five categories. This graphic displays shares for each racial/ethnic group:

Twenty-eight percent of stops (n=153,456) were for non-traffic reasons. Of these, 82 percent (n=126,005) bore a CJIS crime suspicion code. Here are the top five:
The remaining eighteen percent of non-traffic stops lacked a CJIS suspicion code. That subset was 29.5 percent Black, 48.9 percent Latino and 17.4 percent white, which closely resembles the racial/ethnic distribution of target areas.

Proportionately, the distribution of stops – traffic and otherwise – roughly corresponded with each racial/ethnic group’s share of the population. But there were exceptions. Whites were frequently dinged for moving violations and yakking on cell phones, and Latinos for obstructed windows and inoperative lighting. Most importantly, Blacks had an oversupply of license plate and registration issues, with implications that we’ll address later.

Who got searched?

Ninety-seven percent of searches (n=135,733) were of Blacks, Latinos or whites. Justification codes appear in the “basis for search” field. While the CJIS offense and suspicion fields carry a single entry, basis for search is populated with a dizzying variety of comma-delimited combinations (e.g., “1, 4, 5, 12”):

1 – Consent search
2 & 5 – Officer safety pat-down
3 – Presence during a search warrant
4 – Subject on probation or parole
6 – Drugs, paraphernalia, alcohol
7 – Odor of drugs or alcohol
8 – Canine detected drugs
9 & 10 – Search incident to arrest
11 – Miscellaneous
12 – Vehicle impound

We collapsed the most frequently-used codes into five categories: officer safety, consent, probation/parole, drugs and alcohol, and incident to arrest (percentages exceed 100 because multiple codes were often used.)

Officer safety was the primary reason cited for
searching Blacks and Latinos. When it came to whites, incident to arrest took first place. That may be because whites were substantially less likely than Blacks or Latinos to grant consent, have drugs or alcohol in plain view or be under official supervision.

Patterns between groups seemed otherwise consistent, and what differences exist could be attributed to place and economics. Yet a niggling problem persists. Why, as the *Times* complains, were whites searched far less frequently during traffic stops than Blacks or Latinos? After all, when searched, whites had more contraband!

We’ll get to that in a moment. But first we’d like to point out a couple things that the *Times* left out. First, only fifteen percent of traffic stops involved a search. When all traffic stops are taken into account contraband was seized – much, assumedly in plain view – from 4.9 percent of Blacks, 3.2 percent of Latinos and 1.3 percent of Whites.

Neither did the *Times* say anything about the kinds of contraband seized. Since LAPD’s goal was to tamp down violence, we selected all encounters, traffic or not, where “contraband_type” includes the numeral “2”, meaning a firearm. Overall, 3,060 of the 549,488 individuals stopped during the project (0.06 percent) had a gun or were present when a gun was found. Whites were substantially less likely than Blacks or Latinos to be found with a gun, and particularly when searched.

Back to traffic stops with a search. For this subset the top codes were the same, excepting that parking infractions replaced cellphone misuse. Here are the results:
When we examined all traffic stops the one disparity that caught the eye was a substantial over-representation of Blacks for license plate and registration violations. As the above graphic illustrates, that’s even more so for traffic stops that led to a search. Overall, license plate and registration issues were the most frequent traffic violations linked to a search, appearing in out of every three episodes (19,789/59,421).

What’s the takeaway?

First, not all stops are created equal. Non-traffic stops are often precipitated by observations – say, a gangster with bulging pockets – that may “automatically” justify a “Terry” stop-and-frisk. Discerning what’s going on inside a vehicle is far trickier. Without something more, ordinary moving violations (e.g., speeding or running a stop sign) and equipment boo-boos (e.g., inoperative tail lights) don’t give an excuse to search.

That “more” can be a registration or licensing issue. If a plate has expired or is on the wrong vehicle, or if a vehicle’s operator lacks a valid license, officers have an opening to parlay a stop into something more. Indeed, a 2002 California Supreme Court decision (In re Arturo D.) expressly endorsed intrusive searches for driver license and vehicle registration information. (In time, the enthusiastic response apparently backfired, and just days ago California’s justices literally slammed on the brakes. (See People v. Lopez.) In any event, it often really is about money. Registration and licensing issues are tied to
economics, making many Blacks vulnerable to inquisitions while lots of whites get a free pass.

Our analysis of the “basis for search” and “basis for search narrative” fields revealed that at least 11,964 of the 549,488 persons in the dataset were on probation or parole. More than half (6,810, 56.9 percent) were encountered during a traffic stop. It’s not surprising that every last one was searched. Blacks, whose share of persons under supervision (30 percent of probationers; 38 percent of parolees) is about three times their proportion of the population (12.3 percent) were, as a group, by far the most exposed.

Policing is a complex enterprise, rife with risk and uncertainty. As with other human services, its practice is unavoidably imprecise. Although we’re reluctant to be too hard on our media friends, this may be a good time to remind the Times that trying to “explain” dissimilar outcomes by jumping to the usual conclusion – essentially, that cops are racists – can do a major disservice. As we’ve pointed out in a series of posts (be sure to check out our “stop and frisk” section), when cops target high-crime areas, the socioeconomics of urban America virtually assure disparate results.

So should police abandon aggressive crime-fighting strategies? That debate has been going on for a very long time. In our view, the real fix calls for a lot more than guns and badges. (For the latest, supposedly most “scientific” incarnation of targeted policing check out “Understanding and Responding to Crime and Disorder Hot Spots,” available here.) In our own, very measly opinion what’s really needed is a “Marshall Plan” for America’s neighborhoods, so that everyone regardless of ethnicity, skin color or financial resources gets the chance to prosper.

Of course, we all know that. Still, we’re waiting for a candidate to utter that magic word. Psst...once again, it’s “neighborhoods”!
DRIVEN TO FAIL

Numbers-driven policing can’t help but offend. What are the options?

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<th>LAPD Bureau</th>
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<th>Murders 2016</th>
<th>Rate</th>
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<td>3.3</td>
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For Police Issues by Julius (Jay) Wachtel. It’s been a decade since DOJ’s Bureau of Justice Assistance kicked off the “Smart Policing Initiative.” Designed to help police departments devise and implement “innovative and evidence-based solutions” to crime and violence, the collaborative effort, since redubbed “Strategies for Policing Innovation” (SPI) boasts seventy-two projects in fifty-seven jurisdictions.

Eleven of these efforts have been assessed. Seven employed variants of “hot spots,” “focused deterrence” and “problem-oriented policing” strategies, which fight crime and violence by using crime and offender data to target places and individuals. The results seem uniformly positive:

- Boston (2009) used specialized teams to address thirteen “chronic” crime locations. Their efforts reportedly reduced violent crime more than seventeen percent.

- Glendale, AZ (2011) targeted prolific offenders and “micro” hot spots. Its approach reduced calls for service up to twenty-seven percent.

- Kansas City (2012) applied a wide range of interventions against certain violence-prone groups (read: gangs). It reported a forty-percent drop in murder and a nineteen percent reduction in shootings.
• New Haven, CT (2011) deployed foot patrols to crime-impacted areas. Affected neighborhoods reported a reduction in violent crime of forty-one percent.

• Philadelphia (2009) also used foot patrols. In addition, it assigned intelligence officers to stay in touch with known offenders. Among the benefits: a thirty-one percent reduction in “violent street felonies.”

• Savannah (2009) focused on violent offenders and hot spots with a mix of probation, parole and police. Their efforts yielded a sixteen percent reduction in violent crime.

We saved our essay’s inspiration – Los Angeles – for last. It actually boasts three SPI programs. Two – one in 2009 and another in 2014 – are directed at gun violence. A third, launched in 2018, seeks to boost homicide clearances. So far, DOJ has only evaluated the 2009 program. Here is its full SPI entry:

From a tactical perspective, the project falls squarely within the hot-spots and focused deterrence models. But its fanciful label – LASER – gave us pause. “Extracting” bad boys and girls to restore the peace and tranquility of hard-hit neighborhoods conjures up visions of the aggressive, red-blooded approach that has repeatedly gotten cops in trouble. Indeed, when LASER kicked-off in 2009 LAPD was still operating under Federal monitoring brought on by the Rodney King beating and the Rampart corruption and misconduct scandal of the nineties. That same year the Kennedy School issued a report about the agency’s progress. Entitled “Policing Los Angeles Under a Consent Decree,” it noted substantial improvements. Yet its authors warned that “the culture of the Department remains aggressive: we saw a lot of force displayed in what seemed to
be routine enforcement situations” (pp. 37-38). And that force seemed disproportionately directed at minorities:

A troubling pattern in the use of force is that African Americans, and to a lesser extent Hispanics, are subjects of the use of such force out of proportion to their share of involuntary contacts with the LAPD....Black residents of Los Angeles comprised 22 percent of all individuals stopped by the LAPD between 2004 and 2008, but 31 percent of arrested suspects, 34 percent of individuals involved in a categorical use of force incident, and 43 percent of those who reported an injury in the course of a non-categorical force incident.

During the same period the Los Angeles Police Commission’s Inspector General questioned the department’s response to complaints that officers were selecting blacks and Latinos for especially harsh treatment. In “An Epidemic of Busted Taillights” we noted that members of L.A.’s minority communities had filed numerous grievances over marginal stops involving “no tail lights, cracked windshields, tinted front windows, no front license plate and jaywalking.” Yet as the IG’s second-quarter 2009 report noted, not one of 266 complaints of racial profiling made during the prior fifteen months had been sustained, “by far the greatest such disparity for any category of misconduct.” (Unfortunately, the old IG reports are no longer on the web, so readers will have to trust the contents of our post. However, a May 2017 L.A. Police Commission report noted that LAPD’s internal affairs unit “has never fully substantiated a [single] complaint of biased policing.” See pg. 18.)

Despite concerns about aggressive policing, LASER went forward. LAPD used a two-pronged approach:

- A point system was used to create lists of “chronic offenders.” Demerits were awarded for membership in a gang, being on parole or probation, having arrests for violent crimes, and being involved in “quality” police contacts. These individuals were designated for special attention, ranging from personal contacts to stops and surveillance.

- Analysts used crime maps to identify areas most severely impacted by violence and gunplay. As of December 2018 forty of these hotspots (dubbed LASER “zones”) were scattered among the agency’s four geographical bureaus. These areas got “high visibility” patrol. Businesses, parks and other fixed locations frequently associated with crimes – “anchor points” – were considered for remedies such as eviction, license revocation and “changes in environmental design.”
South Bureau wound up with the most LASER zones. Its area – South Los Angeles – is the city’s poorest region and nearly exclusively populated by minorities. As our opening table demonstrates, it’s also the most severely crime-impacted, with the ten most violent neighborhoods in the city and by far the worst murder rate. When we superimpose South Bureau (yellow area) on LAPD’s hotspots map, its contribution to L.A.’s crime problem is readily evident:

LAPD’s IG issued a comprehensive review of LASER and the chronic offender program two weeks ago. Surprise! Its findings are decidedly unenthusiastic. According to the assessment, the comparatively sharp reductions in homicides and violent crime that were glowingly attributed to LASER – these included a near-23 percent monthly reduction in homicides in a geographical police division, and a five-percent-plus monthly reduction in gun crimes in each of its beats – likely reflected incorrect tallies of patrol dosage. Reviewers questioned the rationale of the “chronic offender” program, since as many as half its targets had no record for violent or gun-related crimes. Many of their stops also seemed to lack clear legal cause. (Such concerns led to the offender program’s suspension in August.) While the IG didn’t identify specific instances of wrongdoing, it urged that the department develop guidelines to help officers avoid “unwarranted intrusions” in the future.
Well, no harm done, right? Not exactly. At a public meeting of the Police Commission the day the IG released its report, a “shouting, overflow crowd of about 100 protesters” flaunting “LASER KILLS” signs demanded an immediate end to the LASER and chronic offender programs. A local minister protested “we are not your laboratory to test technology,” while civil libertarians complained that the data behind the initiatives could be distorted by racial bias and lead to discriminatory enforcement against blacks and Latinos. And when LAPD Chief Michael Moore pointed out that his agency had long used data, an audience member replied “yeah, to kill us.” He promised to return with changes.

Chief Moore’s comments were perhaps awkwardly timed. In January the Los Angeles Times reported that officers from a specialized LAPD unit had been stopping black motorists in South Los Angeles at rates more than twice their share of the population. They turned out to be collateral damage from a different data-driven effort to tamp down violence. Faced with criticisms about disparate enforcement, Mayor Eric Garcetti promptly ordered a reset.

It’s not that LAPD officers are looking in the wrong places. South Bureau, as the table and graphics suggest, is a comparatively nightmarish place, with a homicide every three days and a murder rate more than twice the runner-up, Central Bureau, and six times that of West Bureau. And while dosages varied, LAPD fielded LASER and the chronic offender program in each area. Policing, though, is an imprecise sport. Let’s self-plagiarize:

Policing is an imperfect enterprise conducted by fallible humans in unpredictable, often hostile environments. Limited resources, gaps in information, questionable tactics and the personal idiosyncrasies of cops and citizens have conspired to yield horrific outcomes.

As a series of posts have pointed out (see, for example, “Good Guy, Bad Guy, Black Guy, Part II”), stop-and-frisk campaigns and other forms of aggressive policing inevitably create an abundance of “false positives.” As long as crime, poverty, race and ethnicity remain locked in their embrace, residents of our urban laboratories will disproportionately suffer the effects of even the best-intentioned “data-driven” strategies, causing phenomenal levels of offense and imperiling the relationships on which humane and, yes, effective policing ultimately rests.

What happens when citizens bite back? Our recent two-parter, “Police Slowdowns” (see links below) described how police in several cities, including L.A. and Baltimore, reacted when faced with public disapproval. A splendid piece in the New York Times Magazine explains what happened after the Department of Justice’s 2016 slap-down of
Baltimore’s beleaguered cops. Struggling in the aftermath of Freddie Gray, the city’s finest slammed on the brakes. That too didn’t go over well. At a recent public meeting, an inhabitant of one of the city’s poor, violence-plagued neighborhoods wistfully described her recent visit to a well-off area:

The lighting was so bright. People had scooters. They had bikes. They had babies in strollers. And I said: ‘What city is this? This is not Baltimore City.’ Because if you go up to Martin Luther King Boulevard we’re all bolted in our homes, we’re locked down. All any of us want is equal protection.

If citizens reject policing as the authorities choose to deliver it, must they then simply fend for themselves? Well, a Hobson’s choice isn’t how Police Issues prefers to leave things. Part of the solution, we think, lies buried within the same official reproach that provoked the Baltimore officers’ fury. From a recent post, here’s a highly condensed version of what the Feds observed:

Many supervisors who were inculcated in the era of zero tolerance continue to focus on the raw number of officers’ stops and arrests, rather than more nuanced measures of performance...Many officers believe that the path to promotions and favorable treatment, as well as the best way to avoid discipline, is to increase their number of stops and make arrests for [gun and drug] offenses.

In the brave new world of Compstat, when everything must be reduced to numbers, it may seem naïve to suggest that cops leave counting behind. Yet in the workplace of policing, what really “counts” can’t always be reduced to numbers. It may be time to dust off those tape recorders and conduct some some richly illuminating interviews. (For an example, one could begin with DOJ’s Baltimore report.) There may be ways to tone down the aspects of policing that cause offense and still keep both law enforcers and the public reasonably safe.

In any event, police are ultimately not the answer to festering social problems. Baltimore – and many, many other cities – are still waiting for that “New Deal” that someone promised a couple years ago. But we said that before.
FIGHTING THE WALL STREET MOB

Feds use wiretaps and “cooperating witnesses” to expose insider trading

By Julius (Jay) Wachtel. While Joe and Jane Citizen nervously watched the value of their 401(k)’s plummet, Raj Rajaratnam was raking it in. According to the Feds, the wealthy founder of the Galleon Group, a hedge fund that invests in technology companies, traded stocks in a way that would warm the cockles of a Mafia don’s heart. Instead of doing his homework and taking his chances, he bribed employees of firms such as Google and Hilton Hotels to give him details about company finances before the information went public.

That’s insider trading, and it’s illegal as heck. Every cent that Rajaratnam made came out of someone else’s pocket. His scheme was wildly profitable. Rajiv Goel, one of Rajaratnam’s many tipsters, allegedly told him that Goel’s employer, Intel, was about to invest in another company. Thanks to the tip, Rajaratnam made a quick $579,000.

For Rajaratnam that was small potatoes. Information that the Hilton chain was about to be sold made him $4 million. Advance knowledge that Google’s quarterly report would show a dip in profits was worth twice as much, a cool $8 million.

Rajaratnam had many sources. Danielle Chiesi, a trader who worked for another hedge fund, passed on tips from her own insiders. “I’m dead if this leaks. I really am and my career is over,” she once said.

Suspicious trading activity can lead to SEC investigations and civil fines. Indeed, it was a massive SEC inquiry that put the FBI on Rajaratnam’s trail. But convicting someone of a crime is something else again. Convicting someone of insider trading requires proof beyond a reasonable doubt that they purposefully stacked the deck, making admissions such as Chiesi’s crucial. After all, there’s nothing wrong in playing the market like it’s a racetrack, relying on sheer luck and a filly’s (or a stock’s) past performance. So how did the Feds manage to put the bracelets on Rajaratnam and his cohort? By using, for the first time ever, the same tool that’s been so successful against organized crime: the wiretap.

A wiretap is an electronic interception where neither party to a communication has given consent to be monitored. (Wiring up informers or undercover agents is not wiretapping, since they are a “party” to the communication and obviously gave consent.) Feds who want to wiretap must satisfy a District Court judge of several things. There must be probable cause to believe that someone committed an enumerated crime. Wiretapping must also be a last resort, meaning that “normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous.”

Rajaratnam and Chiesi are pending trial. They have objected to the wiretaps on several grounds, among them government misconduct. A Federal judge half-agreed but still allowed the intercepts to come in as evidence. We’ll leave arguments about the affidavit for another time. Here we’re interested in how the FBI’s case came together.
Rajaratnam was wiretapped first. **Probable cause** for his interception came from Roomy Khan, a “cooperating witness” who was one of Rajaratnam’s insiders. This wasn’t her first go-round. In 2001 she had secretly pled guilty to passing Rajaratnam’s insiders. Unfortunately, the FBI’s investigation stalled, probably because the events of 9/11 **shifted the agency’s focus to counter-terrorism.** Six years later the SEC alerted the FBI that Khan and Rajaratnam were at it again. Agents confronted Khan, who folded and agreed to cooperate (she has pled guilty and is angling for a reduced sentence.) Her subsequent phone calls to Rajaratnam yielded many golden admissions, for example, that “he knew someone ‘very good’ at Broadcom who could give him ‘the numbers.’”

There were three wiretaps on Chiesi. **Probable cause** was based on information discovered during the Rajaratnam intercepts. Unfortunately, the contents of the tapes are under seal, so what she actually did is unknown.

Fast-forward to November 26 and the **arrest of Don Chu.** His employer, Primary Global Research, is an “advisory firm” that hooks up traders at hedge funds with persons who are experts about various industries.

Of course, being an “advisor” can provide excellent cover for passing on insider information. A **Federal complaint** says that’s exactly what happened. Prosecutors accuse Chu of running a stable of “experts” who supply insider information about their employers. It was all going swimmingly until the FBI flipped one of the traders who was buying Chu’s services. His name is Richard Lee.

For months everything that transpired between Chu and Lee was literally “on the record.” FBI agent B.J. Kang (the same one who brought down Rajaratman) taped Chu providing insider information about two major technology companies, Broadcom and Atheros. Chu was afraid of the SEC, so he looked for company insiders in Asia, “where nobody cares.” One of his best was employed by Broadcom in Taiwan. Listed as a “consultant” on the books of Primary Global Research (and designated “CC-1” in the Federal complaint), the tipster was paid more than $200,000 between 2008-2010.

Now here’s the rest of the story. Richard Lee, the “cooperating witness” who brought down Chu, was one of fourteen traders and employees who pled guilty during the Rajaratnam investigation. Plea agreements invariably require that defendants play ball. Not counting Khan, that leaves a dozen additional “cooperating witnesses.” Did they also wear wires and make recorded phone calls for agent Kang and his colleagues? With word out that as many as **fifty** hedge funds are under investigation for insider trading, we’ll soon find out.
FORTY YEARS AFTER KANSAS CITY

Specialized teams may be dandy, but patrol still counts

By Julius (Jay) Wachtel. Nearly forty years have passed since a notable (some would say, notorious) experiment in Kansas City shook the foundations of American policing, bringing into question its organizing principle and laying the groundwork for a flood of empirical research into strategies of deployment.

In 1972 then-Chief Clarence Kelley (he would soon leave to head the FBI) invited George Kelling and his colleagues at the Police Foundation to use his department to test the proposition that routine patrol prevents crime. In what became known as the Kansas City Preventive Patrol Experiment (PPE), fifteen patrol areas were divided into five sets of three demographically similar beats, with each assigned one of three dosages (no change, more patrol, less patrol).

There’s never been any question that policing deters crime. One need only to turn to such naturalistic “experiments” as the police strikes in Boston and Montreal, the New York City blackouts and the destruction and looting that accompany mass disorders to see what takes place when hooligans think that they can rampage unmolested.

Wherever the threshold of general deterrence may lie, it’s likely to depend in large part on two factors: the visibility of police and their perceived effectiveness. Patrol officers play a key role. When not responding to calls for service they’re expected to brace suspicious characters, check out crime hot spots, help detectives solve crimes, effect on-view arrests, look for fugitives, corral misbehaving probationers and parolees, and so on.

According to the PPE report, that’s exactly how Kansas City cops went about doing their jobs. Naturally, one would think that all this activity had great deterrent value. But one would be wrong. When outcomes were measured one year later, the crime rates in “proactive” beats (more patrol), “reactive” beats (no patrol) and the single-car “control” beats (no change) were about the same. Ergo, patrol dosage didn’t matter.

Not so fast, said the critics. Researchers openly conceded that differences in dosage had been attenuated by factors outside their control. Some officers didn’t obey experimental protocols. Patrol cars frequently crossed into other areas while running back-ups and responding to calls. Although the report’s authors didn’t think that the contamination was of sufficient magnitude to affect their findings, several academics, most notably Richard Larson, disagreed. His objection, that patrol dosages didn’t vary to the extent required to adequately test the hypothesis, is supported by the fact that arrest rates were about the same regardless of dosage, a curious outcome indeed.

So far there’s been no attempt to replicate the PPE. Turning the messy environment of patrol into a laboratory is apparently more challenging than it seems. In “Policing for Crime Prevention” (DOJ, 1998) Professor Larry Sherman reviewed the very sketchy literature on random patrol and concluded that
evidence in its favor was virtually non-existent. On the other hand, considerable evidence had accumulated that focused enforcement efforts such as directed patrol and hot-spot policing could reduce crime and violence.

Ten years later an analysis by Dr. Anthony Braga concluded that hot-spot policing held a lot of promise. An anti-gun campaign in high crime areas of Kansas City took weapons off the street and reduced armed violence. A hot-spot program in Jersey City slashed prostitution and drug offending without incurring substantial displacement effects; even better, improvements persisted even after police withdrew.

Few such projects are conducted under anything that resembles controlled conditions, so interpreting their outcomes is often a guessing game. In 2009 the Philadelphia Foot Patrol Experiment, by Dr. Jerry Ratcliffe and his colleagues at Temple University, rose above the crowd by returning to the gold standard of scientific research – an experiment. From all appearances they seem to have done a far better job of it than the PPE.

During a three-month summer period pairs of new police academy graduates were assigned to sixty walking beats. Each was matched to a control area with similar rates of violent crime. Officers were essentially left to craft their own strategies. Some worked to develop relationships with residents and merchants, while others focused spent their time watching for possible offenders.

At project’s end researchers compared the crime counts. After accounting for a displacement effect there were 53 fewer violent crimes overall in the experimental area, about one less violent crime per beat and a 23 percent improvement over the control area. Statistically significant gains were demonstrated by experimental beats whose pre-intervention violent crime counts were in the upper forty percent, with the most violent areas reaping the greatest benefits. (The statistical significance of the difference between pre- and post- intervention violent crime counts was .05 for beats with pre-intervention scores in the 60th. percentile, and <.001 for those in the ninetieth percentile.) Proactive policing rose sharply. As might be expected, the largest gain, 64 percent, was in pedestrian stops. Arrests also increased, but at a substantially lower rate (13 percent.)

Philly's fling lasted three months. But it's still experimenting. Using funds from NIJ’s “Smart Policing Initiative,” which supports promising, evidence-based crime-fighting strategies, PPD is testing different approaches at eighty “micro-sites,” 20 with foot patrols, 20 problem-solving, 20 targeting chronic offenders, and 20 controls.

Indications are that hot-spot and similar approaches can help, especially when crime problems are well-defined and relatively treated and treatment dosages are substantial. (For news clips about recent efforts, including their pros and cons, click here). Still, at a time when shrinking resources make lengthy delays in police response the norm, some agencies have been returning officers to patrol. It’s happening in Chicago, whose new chief Garry McCarthy disbanded specialized crime-fighting teams to help make good on the mayor’s promise to put 1,000 more cops on patrol. Meanwhile the new chief at San Diego PD has dismantled long-standing community and problem-oriented initiatives. With eighty percent of patrol time taken up by emergency response, he insists that his hands are tied.

In America most policing is locally funded, so staffing and deployment varies. Yet as the economy continues to reel the future of specialized units seems cloudy. With no relief on the horizon, it may be
worthwhile to study how best to integrate hot-spot policing and other crime-fighting strategies into the patrol function, which is after all the basic mechanism for delivering police services in the U.S. It may be the time to stop letting the cart lead the horse.
HAVING YOUR CAKE, AND EATING IT TOO!

Two noted economists say we can reduce imprisonment and crime. But what kind of crime?

By Julius (Jay) Wachtel. In these days of shrinking budgets who wouldn’t want to take a bite out of crime while reducing prison populations at the same time? Think it’s a pipe dream? In “Imprisonment and Crime: Can Both be Reduced?”, the lead article in the February 2011 issue of Criminology & Public Policy, economists Steven Durlaf and Daniel Nagin argue that old-fashioned deterrence, if done right, can minimize the need to punish and incarcerate and save bucketfuls of cash along the way.

What “done right” means we’ll get to later. First let’s look at deterrence. Criminologists claim that punishment can deter two ways, by the severity of sanctions, and by the certainty that they will be imposed. Durlaf and Nagin are skeptical about severity. For one thing, criminals aren’t particularly known for their long-range thinking. For another, three-strikes and “truth in sentencing” laws have already cranked up sentence lengths to stratospheric heights. Even if severity deters, additional increases in sentence length would yield only marginal benefits.

On the other hand, they suggest that there’s plenty of room left to tweak certainty. Who’s best to do it, and at the least cost? It’s not corrections. To be sure, offenders can be sent back to prison should they violate the terms of their release. Hawaii’s Project HOPE, which gets a lot of favorable mention in the article, discourages probationers from crossing the line by promptly jailing them for a few days whenever they goof. But such programs are expensive and only affect persons already in the system. What Durlaf and Naglin are angling for is a way to scare potential offenders straight without laying a hand on them. How to do it? Let’s let them say it:

If one takes the total resources devoted to crime prevention as fixed, then our conclusions about the marginal deterrent effects of certainty and severity suggest that crime prevention would be enhanced by shifting resources from imprisonment to policing.

Durlaf and Nagin dismiss the deterrent effects of regular patrol and detective work. Instead, they suggest that the answer lies in targeted law enforcement. They seem particularly fond of hot-spot policing, mentioning several studies that found it reduced crime without incurring displacement costs. They also support efforts that target offenders. Among the examples cited are Boston’s Project Ceasefire and Project Exile, which used Federal laws to impose harsh sentences on criminal gun possessors. Durlaf and Nagin admit that the evidence about targeted strategies isn’t conclusive, and that the observed effects are uneven, but they’re nonetheless convinced that these approaches can deter offenders without making it necessary to process them in the first place. (Click here for a posting about hot-spots. Click here for a posting that summarizes studies of Ceasefire and Exile.)

We’ve argued in these pages that police count, so quarreling with academics who agree that cops are important might seem small-minded. But before one guzzles the Kool-Aid of harsh policing there are many concerns to sort through. Considering the criticality of police-community relations, it might seem
paradoxical to enthusiastically endorse aggressive practices, which have in fact become de rigueur in many communities during recent years. In passing, Durlaf and Nagin concede that harsh strategies such as stop-and-frisk can create citizen blowback. As those of us old enough to be retired from law enforcement well know, aggressive cops have also provoked riots. (For a discussion of New York City’s stop-and-frisk campaign click here. For accounts and news links to intensive policing projects around the U.S. click here.)

That’s not to say that there’s no place for hard-nosed policing. Surveillance and undercover work has been used to address open-air drug and sex markets for decades, usually at minimum inconvenience to the law-abiding. Such efforts, which continue under the rubric of problem-oriented and hot-spot policing, can clearly drive down offending, at least while cops are watching. Yet there’s little or no evidence that these strategies offer a beneficial collateral effect on assaultive crimes. Admitting as much, Sacramento police are set to test the idea of using hot-spots, not to counter violence per se but to reduce the number of routine calls for service. That, in turn, should supposedly give officers more time to devote to serious crime. Of course, whether such an indirect approach can produce results is open to question.

Looking to hot-spots and the like to deter violence may be unwise. Many, perhaps most shootings and killings aren’t resolved until detectives process crime scenes, interview witnesses and conduct follow-up investigations. Indeed, a proven way to boost homicide clearances is to increase, even temporarily, the number of investigators. If it’s true, as Durlaf and Nagin insist, that deterrence is best served by certainty of arrest, one can hardly think of a better way to deter violence than to deploy more detectives.

A time-tested approach to preventing violence is to target violent people. In Project Exile, police and Federal agents identified convicted felons who carried guns, the goal being to send them to prison for prolonged periods, under the reasonable assumption that they would otherwise be committing serious crimes. A well-regarded evaluation concluded that the program reduced violent crime. But such projects go against the grain of Durlaf and Nagin’s approach. Determined at the outset to “restrict our attention to changes in sanction policy that have the potential to reduce both imprisonment and crime,” they explicitly reject the most straightforward preventive tool in the criminal justice arsenal:

...we note that our analysis does not address incapacitation effects, which constitute a logically independent way of reducing crime from deterrence. We recognize that the possibility that incapacitation effects are large represents a potential challenge to our objective of reducing crime and imprisonment....

Durlaf and Nagin expend pages of effort to rebut evidence that three-strikes and truth-in-sentencing laws reduce crime. (For a previous posting on point click here.) We’ll leave that quarrel for econometricians. It’s not that the authors claim that incapacitation has no value. Their objections are more nuanced. Imprisonment has reached its maximum form, so its potential to further improve things is at its limit. Incarceration makes offenders worse off. It’s difficult to predict who ought to be incapacitated, and for how long. Indications that it reduces crime can’t be trusted, as many other variables are at work. (Of course, that’s also true for deterrence.) And so on.

One would have more confidence in the authors’ conclusions had they analyzed the effects of incapacitation rather than merely taken shots at studies that conclude it works. Durlaf and Nagin’s skepticism about the benefits of imprisonment is evidenced by their concern about its criminogenic
effects. Apparently, they're unconcerned about the criminogenic effects of leaving a criminal free to ply his trade. Really, where does more learning take place – in prison or on the street?

In the next few weeks we'll be parsing sixteen reaction essays to “Imprisonment and Crime.” We'll also be examining two recently-released reports on criminal justice policy, one by the Smart on Crime Coalition, which addresses a variety of punishment-related topics, and another by the Justice Reinvestment Project, which suggests risk-assessment and supervision practices that purportedly reduce imprisonment and recidivism.

Stay tuned!
HIDDEN IN PLAIN SIGHT

The unintended consequences of sloppy policing

By Julius (Jay) Wachtel. In 2006 a 911 caller reported that women and girls were “living in squalor” in the rear yard of a home in Antioch (Calif.) A deputy contacted the homeowner and warned him that living outdoors in a residential area was a code violation. According to the complainant, the officer explained that he didn’t go inside or enter the yard because that would require a search warrant. He then left.

Two years later Phillip Garrido went to the UC Berkeley P.D. to apply for a permit to hold a religious event on campus. He was accompanied by two teens he introduced as his daughters. Worried about their “robotic” behavior and washed-out appearance, an officer asked Garrido to return the next day. Meanwhile she punched his name and birthdate into the computer. Bingo! The 58-year old man was on life parole for kidnapping and rape. He had spent eleven years behind bars.

Called by the cops, a stunned parole agent said no, Garrido didn’t have any children. Why were they asking?

It turns out the 11 and 15-year old girls who were with Garrido were indeed his, fathered with a woman whom he snatched eighteen years earlier in Placerville, a town about two hours’ drive away. Then only eleven, the girl was grabbed at a bus stop outside her home as her horrified stepfather looked on. For the next eighteen years she and the two daughters she would bear lived in a ramshackle arrangement of tents and lean-to’s behind the house that Garrido and his wife Nancy shared.
On September 4, 2009 San Bernardino (Calif.) police went to the group home where Trevor Castro lived to arrest him on a drunk driving warrant. After six months of being held captive in the squalid facility the 23-year old developmentally disabled youth was delighted to be handcuffed. After what he had experienced going to a *real* jail would be a pleasure.

Once inside officers were horrified by what they saw and smelled. Nearly two dozen elderly and mentally ill persons were living in modified chicken coops with no running water, using buckets as latrines. Running away was impossible, as the compound was encircled by a block fence topped with razor wire. Physical beatings were common.

The home’s operator had a history of run-ins with the authorities. Police arrested her on sixteen felony counts of elder abuse.

Neighbors applauded the action but wondered why it took so long. Patrol cops frequently responded to disturbances outside the home but always left without going inside, explaining that they couldn’t do so without a warrant. Complaints to code enforcement fell on deaf ears.

Doing nothing for lack of a search warrant is a lousy excuse. Inquisitive cops and detectives often probe private space by obtaining the consent of owners or occupants. There are also plenty of other things that can be done. Had the deputy simply run a criminal record check he would have learned that Garrido was on life parole for an offense that made any contact with teens highly irregular. Officers could have searched the property without a warrant or alerted a parole agent.

But the deputy didn’t check. Assuming, perhaps, that the complainant was exaggerating, he reportedly spent a half-hour with Garrido, then left. Too bad for Garrido’s victims, who wound up doing another two years in captivity before UC cops stepped in. “We are beating ourselves up over this,” said the Sheriff. “I’m first in line to offer organizational criticism, offer my apologies to the victims and accept responsibility.” (Click here for a video of the news conference.)

It was much the same story at the group home. Police could have asked to look around from the very start. If refused (an unlikely event) they could have referred matters to regulators. They, in turn, would have quickly discovered what officers would have learned had they bothered to check: *the home was unlicensed*. It could have been shut down and its owner arrested months earlier.
But officers never checked. Embarrassed city fathers now promise to investigate.

What trips up ordinary cops can also trip up the almighty Feds. Knowledgeable insiders had warned for decades that Bernard Madoff’s investment returns seemed grossly excessive, yet not once did the G-Men (and women) try to confirm that the trades which supposedly yielded the enormous profits were actually made (they weren’t.) Why bother? Madoff had a sterling reputation; what’s more, no Ponzi scheme of that magnitude could possibly exist!

But it did.

When your blogger ran an ATF gun trafficking group in the nineties he was astounded by the thousands of relatively new guns that LAPD recovered each year. Where did they come from? It turned out that many had been going out the back door of corrupt gun stores. (One such case accounted for 10,000 guns in two years.) It happened, in part, because ATF inspectors didn’t compare what dealers said they bought against distributor invoices, enabling crooked licensees to create piles of firearms for illegal resale by the simple expedient of leaving incoming guns off the books.

For police the first step towards recovery is to concede a weakness for jumping to conclusions. Serious crime isn’t always apparent, and as cops filter information through their storehouse of experiences and preconceptions it’s not surprising that they’ll occasionally goof. Fortunately, testing assumptions is often as simple as grabbing a mike, making a phone call and using a keyboard. Taking the trouble to confirm what’s “obvious” can keep officers from overlooking the unexpected, like captives living in tents and chicken coops.
IDEOLOGY TRUMPS REASON

Clashing belief systems challenge criminal justice policymaking

By Julius (Jay) Wachtel. Ideologies – collections of ideas, values and beliefs – are the sociopolitical glue that binds people into a common cause. Of course, there are consequences. Disputes between clashing ideologies have convulsed nations into war. At home, two competing ideologies – liberalism and conservatism – continue their long-running struggle for supremacy. Naturally, each camp trenchantly advances its own vision of justice, including how, when and to whom criminal sanctions should apply.

That split is reflected in the memberships of the American Society of Criminology (ASC) and the Academy of Criminal Justice Sciences (ACJS). With its roots in sociology, ASC has typically attracted so-called “progressive” scholars. In contrast, ACJS, which originated in a field once known as “police science,” enjoys a more practical orientation, and features a website that gives a prominent nod to practitioners. Still, both organizations publish respected scholarly journals and share substantial common ground. Indeed, the disciplines they cover enjoy a lot of overlap, and many academics belong to both groups.

This amity might soon be tested. Days ago the ASC executive board released an extraordinary statement. Its four main points, rendered in boldface, directly challenge the Trump administration’s criminal justice agenda:

- Immigrants do not commit the majority of crime in the United States.
- The proposed travel ban is not empirically justified and targets the wrong countries.
- The U.S. is not in the midst of a national crime wave.
- The U.S. government plays an important role in police reform.

Each statement is followed with a discussion that includes notes to data and scholarship. If that’s too subtle a reminder of the Society’s empirical cred’s (and by implication, the Trump administration’s unscientific approach) one of the closing paragraphs makes the point succinctly:

Recent Presidential executive orders and other administrative decisions are at odds with established evidence in criminology and criminal justice. Crime-control policies should be built on science, and elected officials at all levels of
government have a responsibility to endorse public policies that are evidence-based and that promote fairness, equality, and justice.

Incidentally, even that dig is footnoted, in this instance to a journal article that challenges the usefulness of deportations in reducing violent crime.

That’s not to imply that footnotes are bad. What’s disturbing about the discussions is that they seem tailored to support a particular ideological agenda. We’ll have more to say about that later. For now let’s tackle ASC’s views on immigration policy. Here is an abridged version of its position:

Immigrants do not commit the majority of crime in the United States. First, a century’s worth of findings on immigration and crime in the U.S. show that immigrant concentration decreases crime at the neighborhood and city levels – also known as the revitalization thesis. That immigration is a protective factor against crime also holds true for individuals; immigrants as a whole are far less likely to commit crimes than non-immigrants.

Indeed, as we skimmed the literature we found considerable support for the notion that immigration can revitalize neighborhoods. Data also consistently indicates that foreign-born immigrants are substantially less likely than native-born persons to break the law. Interestingly, research in Chicago suggests that this effect may weaken over time. Compared to the third generation (parents and children all born in the U.S.), first-generation, foreign-born immigrants were 45 percent less likely to commit an act of violence. For members of the second generation the advantage was reduced to 22 percent.

So what about that third generation? Table 4 in Undocumented Immigration and Rates of Crime and Imprisonment: Popular Myths and Empirical Realities (Rubén G. Rumbaut, August 2008) reports percent ever-arrested and percent ever-incarcerated for a sample of nearly three-thousand Southern California males, ages 20-39, of known race, ethnicity and generation (condensed version below).

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>Gen 1.5 - foreign born, arrived pre-teen</th>
<th>Gen 2 - U.S. born, at least one parent foreign-born</th>
<th>Gen 3 - U.S. born, both parents U.S. born</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Arrested</td>
<td>Incarc</td>
<td>Arrested</td>
</tr>
<tr>
<td>Mexican</td>
<td>22.3</td>
<td>11.9</td>
<td>29.8</td>
</tr>
<tr>
<td>White, non-Hispanic</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Black, non-Hispanic</td>
<td></td>
<td></td>
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</tbody>
</table>
While relatively low at the start, arrest and incarceration of Hispanics (and most other ethnic groups – see full table) increases dramatically by the third generation. By then between-group differences closely align with the U.S. imprisonment rate (“Prisoners in 2010,” Table 14.) Whites are least likely and blacks are most likely to be incarcerated, while Hispanics fall between.

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>2010 imprisonment rate per 100,000 pop.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
</tr>
<tr>
<td>Hispanic</td>
<td>1258</td>
</tr>
<tr>
<td>White</td>
<td>459</td>
</tr>
<tr>
<td>Black</td>
<td>3074</td>
</tr>
</tbody>
</table>

This phenomenon, which muddles neat, pro-immigrant conclusions, is no secret in the literature. Of course, to paint a truly illuminating picture would require parsing newcomers by their legal status. Inasmuch as legal immigrants are likely better educated, higher-income and have more job and educational prospects, we suspect that their descendants may also be more law-abiding. Instead, the ASC simply cherry-picked what data supported their views.

Let’s tackle another of the ASC’s targets: the Administration’s focus on violent crime. Here’s an extract from the Executive Board’s comments:

...rates of violent and property crime have been declining in the U.S. for at least a quarter century. Many criminologists have referred to this post-1990s period as “the great crime decline.” It is true that some cities experienced large increases in homicide in 2015, but this is not indicative of a national pattern as homicide rates overall remain significantly below 1990s peaks.

Once again, the ASC’s account misleads. “Is Crime Up or Down? Well, it Depends” conveys the obvious: whether crime has gone up or down depends on when we compare. Nationally, violence has been dropping since the eighties. But it’s still far higher than in 1960. It’s also important to consider where one sits. ASC conceded that “some cities experienced large increases in homicide in 2015.” But why leave out 2016? According to data compiled by FiveThirtyEight lots of hard-hit places got hit again. Killings in Cleveland increased by 20.6 percent; in Oakland, by 22.4 percent. For sheer numbers it’s hard to top Chicago, which suffered an appalling 747 homicides in 2016, a 17.6 percent increase from the merely deplorable 495 murders in 2015. (By the way, it’s logged 213 so far this year.) And don’t even think about comparing America’s numbers to, say, Canada or Great Britain!
Bottom line: many communities continue suffering from what any reasonable “empirical” person would consider a grotesque level of violence. Regardless of one’s ideological leanings, the numbers alone abundantly justify a vigorous response. For a prestigious criminological association to shrug it off by suggesting that things were once worse (they were once better, too) is, well, appalling. Perhaps one of the ASC’s luminaries might volunteer to move into an impacted neighborhood in, say, Chicago, place a calculator (and flak vest) by their bedside and let us know how it goes.

Bundling notions about complex topical areas such as immigration, violent crime and police use of force into a neat package is what ideologies do. Legal and illegal immigration can (does not!) yield different benefits and costs in the short term and the long. Surges in violence are (are not!) of legitimate concern in many cities. Reducing the use of force may (does not!) require changing a lot more than cops. To succeed at this one must sweep confounding data aside. What supports one’s position is good: what doesn’t is ignored. Incidentally, that’s called “confirmation bias.” We recently touched on that well-known phenomenon here. That it apparently infects the ASC is disheartening.

Our concerns also extend to the Trumpists. Impulsively conceived, poorly designed travel bans, moves to banish oversight of forensics, a return to the draconian drug sentencing policies of the past (click here and here), and the championing of aggressive police practices such as “stop and frisk” and “broken windows”, whose thoughtless use we’ve repeatedly criticized (click here and here) suggest they’re determined to occupy the opposite ideological bench. You know, the one to the (far) right of the ASC.

Meanwhile, as our polarized combatants settle in at their IPHones and greedily snatch at confirmatory morsels while fastidiously ignoring everything else, those who bear the consequences of their decisions are left to wonder: in this brave new data-driven, empirically-based world, is that really all there is?
INTRUSIONS “HAPPEN,” GOOD POLICE WORK DOESN’T

Home intrusions by homicidal strangers may be more common than police imagine

By Julius (Jay) Wachtel. When Patsy Ramsey told officers that she found a ransom note on the stairs that morning, claiming that her daughter had been kidnapped and demanding $118,000 for her release, eyes rolled. It was the day after Christmas 1996 in Boulder, Colorado. Instead of enjoying the holidays John and Patsy Ramsey were dealing with the abduction of their six-year old daughter, Jon-Benet. Later that day, when a thorough search of the home turned up the child’s body in the cellar, they became the prime suspects in her murder.

Within days the D.A. announced that the parents were under an “umbrella of suspicion.” Why? Mostly because the victim was found in her own home and there were no signs of forced entry. (Not that there had to be, as the house had unsecured windows and one unlocked door, but still...) And the $118,000 mentioned in the note happened to be the exact amount of the bonus that John Ramsey recently received.

For the next three years authorities pressed for the parents’ indictment. Finally in 1999 a Grand Jury said no. Police washed their hands of the case. Disgruntled officers left the department. Among them was former detective Steve Thomas, who in 2000 co-authored In JonBenet: Inside the Ramsey Murder Investigation, a book that suggested the mother accidentally killed Jon-Benet while disciplining her, then tried to cover it up. (He, his co-author and publisher later settled an $80 million libel suit filed by the Ramseys.)

His wasn’t the first book on the case. One year earlier Stephen Singular wrote Presumed Guilty – An Investigation into the JonBenet Ramsey Case, The Media and the Culture of Pornography. Drawing from his knowledge of the porn industry, he proposed that Jon-Benet’s death was an accident that happened while one of her parents -- probably the father -- was having her pose for pornographic pictures.

Finally in 2001 came the parent’s book, The Death of Innocence, which assembled the profile of an intruder from information gathered by lawyers and private eyes. Intrigued by their work, the new D.A., Mary Keenan, hired retired detective Lou Smit to take a fresh look. His opinion? The cruel way in which Jon-Benet was murdered (strangled with a garrote, then bashed on the head) and the presence of male DNA on
her underclothes indicated that the crime was committed by a sadistic pedophile who was familiar with the Ramseys and knew about the husband’s bonus.

Smit’s conclusion -- that it was an intruder -- was supported by a recent announcement that matching DNA has been found in a second location on Jon-Benet’s underwear, a place that her attacker would have had to grab to undress her. Although the DNA profile has yet to identify a suspect, it ruled out all family members, so the indefatigable D.A. (now known as Mary Lacy) wrote the family an official apology. John Ramsey was happy to be exonerated. His wife Patsy would have been equally pleased; she died from cancer in 2006.

Boulder police now face restarting the investigation from scratch. All the chief would say is that they’d consider it.

Two years after Jon-Benet’s murder a startlingly similar incident took place in Escondido, California. On the morning of January 21, 1998 the body of Stephanie Crowe, 12, was discovered in her room. She had been stabbed to death. There were no signs of forced entry and none of the family members said they heard anything. Four days later police brought in her 14-year old brother, Michael. After a relentless six-hour session he confessed. Police then picked up a friend, Joshua Treadway and gave him even harsher treatment. He not only confessed but implicated a third boy, Aaron Houser. (Houser maintained his innocence throughout.)

But in the Crowe case there was another suspect. Hours before the murder Richard Tuite, a 28-year old schizophrenic with a criminal record was reported wandering near the Crowe residence. Police were called but didn’t find him. The next day patrol officers encountered Tuite at a laundromat and brought him to the police station. They took his clothes, which seemed stained. Detectives, who had already focused on the boys, pooh-poohed any connection and didn’t bother sending anything to the lab.

Six months later a judge threw out all of Crowe’s confession and most of Treadway’s, ruling that both teens had been coerced. Still, he held the boys for trial as adults. He also ordered, on behalf of the defense, that the items taken from Tuite be examined.

In January 1999, as jury selection for the boy’s trial got underway, analysts reported that Tuite’s shirt was spattered with Stephanie Crowe’s blood. Charges against the boys were dismissed. Tuite’s case was taken over by the Sheriff’s Department and State Attorney General. In May 2003 he was convicted of voluntary manslaughter and sentenced to thirteen years.
How did Tuite get in the residence? Through an open garage and an unlocked laundry room door. (For a detailed account of the Stephanie Crowe case, up to the boys’ clearance, click here.)

Now consider the chilling case of Vicki Wegerle.

It was September 16, 1986 in Wichita, Kansas. Bill Wegerle was driving home for lunch when his wife Vicki’s car passed him going the opposite direction; strangely, she wasn’t at the wheel. Bill Wegerle found her in their house, strangled to death with a nylon stocking.

Police found no sign of forced entry. Wegerle immediately became the prime suspect. Word spread and people started to whisper. Their two children, who had been at school when the crime occurred, were mercilessly harassed by classmates.

Bill Wegerle was never charged, and neither was anyone else. With the investigation stalled, the family’s life, made miserable enough by the loss of a wife and mother, was upended for nearly eight years. Then in 2004 a copy of Vicki’s driver license and photographs of the crime scene were anonymously mailed to a Wichita newspaper.

One year later police arrested Dennis Rader, the “BTK” killer, a 59-year old married man and church deacon who had brutally murdered ten Wichita-area women between 1974 and 1991. After being out of the limelight for many years Rader had resumed taunting authorities, sending letters and leaving victims’ belongings in public places.

Rader’s DNA was matched to scrapings from Vicki Wegerle’s fingernails. He said that he got in her house by pretending to be a telephone repairman. (For Rader’s description of how he murdered Vicki click here.)

It’s not just living with someone that can get you in trouble. On August 12, 1989, Warwick, Rhode Island police discovered the body of Vicki Cushman, a single 29-year old woman in her ransacked apartment. She had been choked and her skull was crushed.

On a table detectives found an unmailed letter she wrote begging her lover to come back. It was addressed to Scott Hornoff, a married Warwick cop.

Hornoff was interviewed. He at first denied the affair, then an hour later admitted it. Detectives believed him and for three years looked elsewhere. Then the Attorney General, worried that Warwick PD was shielding its own, ordered State investigators...
to take over. They immediately pounced on Hornoff. Their springboard? Nothing was taken; the killing was clearly a case of rage. Only one person in Warwick had a known motive: Hornoff, who didn’t want his wife to find out about the affair. And he had initially lied. Case closed!

Hornoff was tried and convicted. His motion for a new trial was rejected. And there it would have ended, except that in November 2002, thirteen years after the murder and six after Hornoff reported to prison, a local man walked into the Warwick police station and confessed. He was Todd Barry, a jilted lover. Providing details that only the killer could have known, he said he broke into his ex-girlfriend’s apartment and killed her in a drunken rage. It turned out that Barry’s name had been in Vicki Cushman’s Rolodex all along.

Hornoff was freed. Barry got thirty years. But nothing’s really ended for Hornoff, who is still picking up the pieces of a shattered life.

Stranger-intrusion killings are relatively infrequent. But police don’t investigate “overall” -- they look into individual crimes, each of which is unique. Even when it turns out, as in the last example, that the victim and killer knew each other, it’s possible to go terribly wrong.

What’s the moral? Don’t just look where the light shines. And be very, very skeptical about what you think you know. Here’s how ex-cop Hornoff puts it: “After what I saw, there could be 10 witnesses to a crime and unless I saw it myself it would be very difficult for me to accuse anybody, and even if I did, that person would have to convince me that they didn't have a twin.”
IT'S AMATEUR HOUR IN THE SOUTHLAND

Goofs by L.A.-area cops generate unwelcome publicity – and probably, at least one lawsuit

By Julius (Jay) Wachtel. There are likely tens of thousands of police-citizen interactions every day, so one would expect a few goofs. But considering recent events, if they awarded Emmys for amateurish policing, two Southland agencies would be in strong contention. And the FBI wouldn’t be far behind.

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Friday, August 22nd was a gorgeous day in Beverly Hills. With a predicted low in the mid-70s, it promised to be a perfect evening for a pre-Emmy party. Alas, producer Charles Belk, 51, wouldn’t make it. After a couple tough hours running a “gifting suite” at a fancy hotel (don’t ask), Mr. Belk was lounging around in a presumably equally fancy restaurant when he became concerned about getting a…parking ticket. That’s why, about 5:20 pm, he left to check the meter.

His timing was atrocious. Only moments earlier another “tall, bald black man in a green shirt” held up a nearby Citibank. Spotting the shiny-domed Belk, officers must have thought he was manna from heaven. They gleefully pounced, applied handcuffs and sat him on the curb. Belk tried to explain (read his Facebook post here). He asked the cops to compare his appearance to the bad guy on the bank video. But no one was listening.

Forty-five minutes later, while Belk, the object of a “reasonable suspicion” detention under Terry, sat with his hands cuffed behind his back, a witness “positively” identified him as the robber. Ergo – probable cause!

After booking Belk at the Taj Mahal (that’s what they call BHPD’s stunning headquarters), detectives and the FBI grilled him. Surprisingly, Belk didn’t confess. Instead, he kept badgering them to watch the video. As the ordeal reached the six-hour mark, they finally gave in.

Belk was un-arrested a few minutes later. Sorry! Have a nice evening! (He’s now considering a lawsuit.)

Incidentally, one of the real robbers, a female, was also arrested. She’s been tied to nearly a dozen heists. But her male partner is still on the lam. So if you spot a tall, bald black guy…

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LAPD claims that its officers had plenty of justification for detaining starlet Danielle Watts (“Django Unchained”) and her boyfriend, celebrity-chef Brian Lucas, on November 11. According to gossip website TMZ, workers in a Studio City office building observed Watts and Lucas in a parked car, partially undressed and having vigorous sex, and they apparently kept at it even when someone confronted them to complain.
An aggrieved citizen dialed 9-1-1. But by the time officers arrived (presumably, they weren’t dispatched Code 3) Watts and Lucas were no longer in flagrante delicto. LAPD Sergeant Jim Parker, the senior officer on scene, told the Los Angeles Times that he asked the couple for their ID’s. Lucas complied. Watts didn’t.

In retrospect, her recalcitrance isn’t difficult to understand. What if a gossip website found out?

There followed a verbal jousting match between Watts, who stood on her rights as an American to not show ID, and Sgt. Parker, who insisted that she had to because, among other things, there was “probable cause.” Sgt. Parker recorded the encounter and gave the tape to the Times, which posted it online (take that, TMZ!) If you have the stomach, take a listen. It sounds just like a know-it-all older brother bickering with his obnoxious kid sister.

Except that brothers don’t handcuff their sisters and deposit them in the back of a black-and-white when they try to walk away.

Sgt. Parker soon confirmed Watts’ identity, removed the handcuffs (she said they cut her wrist) and released the couple. Really, he had little choice. The frisky stuff happened well before he got there, and cops can’t arrest for misdemeanors such as indecent exposure not committed in their presence. For that they need a warrant, which requires interviewing witnesses and assembling evidence. LAPD has presumably bigger fish to fry. And one cannot imagine a prosecutor going along.

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To be sure, these episodes are factually different. Yet both began with Terry stops that spiraled out of control. Consider, first, the arrest of Charles Belk. A photograph depicts two BHPD officers casually looking on while he sulks on the curb. Either cop could have pulled out a smartphone and within moments confirmed that Mr. Belk was indeed a producer working on Emmy-related events. Five minutes of “investigation” would have verified that he just left a nearby restaurant and that his car was parked nearby.

So, he impulsively decided to rob a bank while on a stroll?

True enough, a witness ID’d Mr. Belk as the robber. But experienced cops know how shaky one-on-one identifications (they’re called “showups”) can be. When someone who resembles a perpetrator is in police custody, witnesses can feel compelled to say “yes, that’s him.” Add a cross-racial element, as we assume applies in this case, and it’s doubly problematic.

Perhaps the street cops were leaving it to detectives and the FBI, which takes the lead in bank robbery cases, to do the basics. But it doesn’t look like the “experts” pulled out their smartphones, either. By the time they decided to test their own judgment the actual perpetrator was long gone. And when he is caught, forget about using the witness who ID’d Mr. Belk.

On the other hand it’s hard to develop much sympathy for Danielle Watts. Her evident “it’s all about me!” attitude grates. But in this blog we’re mostly interested in how police behave.
After all, they’re the ones who get the big bucks for persuading recalcitrant citizens to voluntarily comply.

And here officers fell seriously short. After being on scene for, say, thirty seconds, they must have realized that no citizen had been harmed (offended, perhaps). The call was indeed a “nothing.” Sergeant Parker readily conceded that he only persisted to verify Watts’ identity for his paperwork. Why he didn’t simply ask her companion, then use a smartphone to confirm, we don’t know. We do know, because we listened to the tape, that Sergeant Parker got hooked into a protracted debate and wound up sounding just like his irritating, self-righteous antagonist.

In the end, police gained the upper hand over a slight, small woman by applying handcuffs. Had the situation been handled more artfully, say, with verbal persuasion techniques routinely taught in police academies, officers might have still got the job done and made it to lunch on time. If nothing else, one hopes that Sergeant Parker and his colleagues learn some Verbal Judo before they run into a recalcitrant, 250-pound weightlifter on their next “nothing” call.
LAPD GOT IT RIGHT

Ousting Occupiers on its own schedule, with sensitivity and attention to detail

By Julius (Jay) Wachtel. “You have to agree that this is not your grandfather’s LAPD.” Connie Rice’s reaction undoubtedly perplexed some of her admirers. After all, only a short time earlier, during the early morning hours of November 30, more than a thousand cops swarmed over the City Hall lawn, shut down the Occupy encampment and arrested nearly 300 protesters.

Yet the well-known civil rights activist and long-time LAPD critic couldn’t be more pleased. Her feelings were shared by legal observers, ministers and rabbis who circulated through the site, keeping a wary eye on cops as they hauled campers away. Pam Noles, a protester and onsite monitor for the National Lawyers Guild, which supports the Occupy movement, praised everyone for keeping it peaceful: “The LAPD had their A game on....Both sides did what they had to do.”

Just what this “game” would be was decided well in advance. Determined not to emulate the chaos in Oakland, where cops hammered protesters with clubs, rubber bullets and tear gas, or the debacle at the University at California at Davis, where a campus police Lieutenant doused a line of students with pepper spray, Chief Charlie Beck resisted City Hall pressures to dismantle the camp while officers dialogued with protesters. LAPD resorted to arrests on only one occasion, when a crowd of Occupiers left their encampment, swarmed over an intersection and blocked traffic.

Most of L.A.’s politicos had come out in support of the protest early on. But after nearly two months it became increasingly clear that some protesters intended to camp out indefinitely. With efforts to come to a mutually acceptable solution floundering -- Occupiers couldn’t agree amongst themselves to accept free office space from the city in exchange for clearing the lawn -- LAPD declared the campout an unlawful assembly and set November 29 as the deadline for protesters to leave or face arrest.

Still, Monday morning came and went with nothing more than a couple of cops placidly walking through the camp. Of course, what they were doing -- inventorying tents -- presaged that the end was near. By then those who would leave had done so, leaving behind a core that vowed to remain until arrested. Yet even they gave assurances that they would submit peacefully. It was going exactly how Chief Beck intended.

Not quite five years earlier it was a different story. On May 1, 2007 thousands of activists and ordinary citizens assembled at MacArthur Park, in Los Angeles’ Pico-Union district, to protest Federal immigration policy. Although permits had been secured to hold the event, dozens of protesters turned rowdy, spilling into the streets, blocking traffic and throwing objects. Officers were caught unprepared. They declared an unlawful assembly and chased their quarry into the park, where families and members of the media had gathered. Video footage depicts cops indiscriminately flailing batons, firing rubber bullets and knocking down innocent persons who had no idea that anything had gone wrong.
It was an ugly incident. Then-chief Bill Bratton, who wasn’t present (he chose to attend a party and left the matter to subordinates) took blame for the undisciplined response. More than dozen cops received departmental sanctions. Los Angeles paid out more than $13 million to settle claims of excessive force.

Fast forward to 2011. Memories of the 2007 mêlée and the mishandling of Occupiers elsewhere convinced Chief Beck to take it slow and easy. He directed managers to establish a working relationship with protesters and plan for the day when officers might have to move in. Thanks to a good script and plenty of rehearsals both cops and protesters enjoyed a Hollywood ending.

If only all policing could be done this way. As we pointed out in “Making Time,” the urge to act quickly has repeatedly led officers to make poor decisions, occasionally with tragic consequences. In the case of the Wall Street protests that swept the country, pressures to give Occupiers the bum’s rush came from many sources, both inside and outside the police. Even in Los Angeles, where protesters were received favorably, impatience quickly set in. One day before LAPD moved in a story in the L.A. Times suggested that police delays emboldened protesters and made their eventual expulsion more risky. Chief Beck felt obliged to respond:

This is the Los Angeles Police Department. No one is more capable of laying down the law than we are. No one should have any illusions that this will be a difficult crowd management [task] for us. No one should have any illusions that this [the delay] is a sign of weakness, inability or lack of will from the Police Department.

Most Occupiers are ordinary citizens, fed up like the rest of us with the economic inequality that has ripped at the nation’s social fabric. If they choose to protest while others grin and bear it, that’s their privilege, and the attention that they’ve brought to the underlying problem may be well worth sacrificing a City Hall lawn or two. In any case, however one feels about the efficacy of their methods, it really doesn’t have to be police versus protesters, and for reminding us of that we have the good chief to thank.

As history has repeatedly demonstrated, things could have turned out quite differently. Cops go on duty to solve problems, not back away. They quickly learn that even the most “ordinary” citizens can be dangerous, and that gaining voluntary compliance – a must, as no one can fight their way through a shift – requires a certain fortitude of purpose. Officers are nearly always outnumbered, often massively so, and they know that timidity and indecision can encourage adversaries to take advantage, with potentially lethal consequences.

To be sure, officer personalities differ, and identical factual circumstances can lead to completely different outcomes. Still, the lessons that cops learn on patrol produce a working personality that is attuned to the unpredictable, stress-inducing contingencies of making stops and taking calls. Such skills aren’t optimized for handling demonstrations, where First Amendment rights and political realities require that officers shrug off levels of rowdiness and disrespect for authority that they wouldn’t (and perhaps shouldn’t) tolerate elsewhere.

Chief Beck’s singular accomplishment was to hold down the temperature. Officers got to know protesters, reducing the fear factor and making it less likely that, come D-Day, one side would misread the other’s intentions. Regularly placing uniformed cops onsite made their presence less threatening. And when it came time to clear the encampment, Chief Beck gave days of notice, then delayed as the deadline
passed to give everyone plenty of time to leave. At execution officers entered well-mapped territory in small, controlled groups, with civilian monitors present to remind everyone to mind their p’s and q’s. Everyone – police and protesters alike – knew what to expect and misunderstandings were relatively few.

Successfully managing a politically-charged event of this scale requires time, sensitivity and superb attention to detail. LAPD took their time and did it right. And in the tinderbox that is American society that’s not a little thing.
LESSONS OF ST. PETE

Police tactics remain stagnant while officer killings continue to rise

By Julius (Jay) Wachtel. The tragic murders of three St. Petersburg, Florida police officers in less than a month vividly demonstrates that even as the decades-long decline in violent crime continues, dropping from 506.5 to 429.4 per 100,000 population between 2000 and 2009 (preliminary figures indicate the rate continued falling in 2010), the threat posed to officers by armed criminals remains all too real.

According to the FBI the number of officers feloniously shot and killed was fairly stable between 2000-2007, fluctuating between 45 and 61 per year. Although an abrupt, unexplained dip in 2008 brought the toll down to 35, gun deaths promptly climbed back to 45 in 2009. Although last year’s FBI LEOKA data isn’t in, the National Law Enforcement Officers Memorial Fund reported 61 officers killed by gunfire in 2010, matching the previous decade’s high set nine years ago. What’s more, the trend apparently continues, with sixteen officers felled by gunfire so far in 2011 compared with ten killed at this juncture last year.

Considering the relatively small numbers and fluctuation one can’t conclude that officers face a heightened risk of being shot and killed. On the other hand, since society has apparently become less violent – the raw frequencies of violent crime are down along with the population-adjusted rates – one must wonder why cop killings aren’t also on the decline.

If you’ve read our prior posts on such things, you’d know what we think – that the proliferation of firearms and their increased lethality likely play an important role. In the long run such issues are of course important. But for now let’s consider some practical measures that might stem the toll.

On February 21, 2011 St. Petersburg, Florida police officer David Crawford responded to a nighttime prowler call. Spotting a youth who fit the suspect description, he parked his patrol car, took out a notebook and approached on foot. Crawford didn’t know that the slight, skinny 16-year old had a record for auto theft and had just tried to break into a car. Nor that he was skipping school and running with a gang. Nor that he was armed with a .380 caliber pistol that he recently bought on the street for $140.

The youth abruptly turned around and opened fire. Four or five rounds struck officer Crawford in the torso, fatally wounding him. He returned fire but to no effect. And no, he wasn’t wearing a ballistic vest.

The community reeled. Less than a month had passed since the murder of two other St. Petersburg officers. On January 24 a warrant-service team comprised of a St. Petersburg detective, a deputy sheriff and a US Marshal went to the home of the spouse of Hydra Lacy Jr., 39 to arrest the local thug on an aggravated battery warrant. A large, beefy man, Lacy had a prison record and a serious assaultive history, including an arrest for sexual battery. Police reports indicated that he might be armed with his wife’s 9mm. pistol and that he told her he would shoot it out before going back to prison.
The team, which had been seeking Lacy for weeks, was certain that he was inside. His wife answered the door. She quietly admitted that her husband was hiding in the attic. There were guns in the house, but she didn’t know if he got one when he jumped out of bed.

A police K-9 officer, Jeffrey Yaslowitz, 39, was just coming off shift and offered to help. He and his dog found nothing at first. Officer Yaslowitz then boosted himself into the attic and confronted Lacy. The marshal soon joined him. The suspect seemed compliant and lay down on his stomach as though he was surrendering. Lacy then suddenly pulled a 9mm. pistol and began firing. Yaslowitz was mortally wounded and fell inside the attic. The marshal, whose injury was less severe, tumbled downstairs.

Officer Thomas Baitinger, 48 and others rushed into the home to rescue their colleagues. Lacy fired through the ceiling, killing Baitinger. After several additional exchanges of gunfire – Lacy was by then armed with officer Yaslowitz’s .40 caliber pistol – officers were finally able to pull Yaslowitz down. It took a tactical team, an unsuccessful attempt at negotiation and the partial tear-down of the residence with heavy equipment to bring the episode to a conclusion. Lacy, who remained holed up throughout, was found dead of gunshot wounds.

What lessons can be gained from the murder of officer Crawford? Like other St. Petersburg cops he worked in a one-officer car. And that’s in a city with a high crime rate – one ranking of cities over 75,000 population places it 370 worst out of 400 in serious crime, just one place short of Philadelphia and only eight shy of Newark.

Well, there are lots of arguments pro and con over one-officer units. Suffice it to say that the real reason for having them is that it provides twice the “coverage” for half the cost. Financial constraints and the apparent easing in violence has encouraged agencies everywhere to adopt the questionable practice, and by now the pattern is so entrenched that changing it is probably far-fetched.

Yet consider the downsides. First, there is the obvious peril of going one-on-one with anyone. (For a graphic example check out Dancing With Hooligans.) Then there’s the difficulty of trying to keep a situation contained while running license plates and record checks and communicating with one’s peers. And if the unexpected happens, which in police work means frequently, a solo officer may be so in the thick of things that calling for help is impossible.

On November 7, 2010, Riverside, California police officer Ryan Bonaminio pulled over a truck that had been involved in a hit-and-run. What officer Bonaminio didn’t know was that the driver, Earl Green, 44, was a multi-convicted felon on parole, and that he had just stolen the vehicle from a rental yard. Green fled on foot, with Bonaminio in pursuit. At some point Bonaminio slipped and fell. Green jumped on the officer, took away his .40 caliber Glock pistol and shot him dead. Green was subsequently arrested and charged with first-degree murder.

Officer Bonaminio’s murder spawned concern about Riverside’s practice of running one-officer cars. (The city is no quiet burg, earning 210th. place out of 400 on the measure referenced above.) Chief Sergio Diaz promptly came out with a blistering repartee of critics “sitting at home eating Cheetos in their underwear.” Well, while writing this piece your blogger was in his robe, sipping herbal tea. But during his
brief experience piloting a one-officer car in a small community he remembers a certain encounter that could have easily ended in tragedy. And no, he was too busy fighting to reach for the mike. (His behind was saved by a citizen.)

Officers Yaslowitz and Baitinger had plenty of law enforcement company. Yet they too lost their lives. But how could it happen? One would think that going after a violent person ensconced in an attic and probably armed is a ready-made situation for a surround and call-out, to be followed by negotiation and, if need be, the use of chemical agents. That indeed is how SWAT eventually handled it, but only after two officers had already died.

Cops are can-do people. They’re also prideful. One can certainly appreciate the desire to get the job done without having to call in tactical units. Not knowing the rules of engagement in St. Petersburg, we surmise that the warrant-service team, which to all appearances worked independently, made up their tactics on the fly and wound up involving other officers beyond their level of preparation.

That’s not to say that SWAT is always a perfect solution. In Oakland: How Could it Happen? we wrote of the shooting deaths of four Oakland police officers in a single day. A wanted parolee who had just shot and killed two motorcycle officers was holed up in an apartment. A SWAT team converged on the scene. After an hour a decision was made to assault the premises. Two of the first officers to enter were shot dead as the wanted man fired through interior walls.

There is really no answer short of handling every arrest of a dangerous person with extreme care. On January 20, 2011 Miami-Dade detectives were looking for Johnny Simms, a 22-year old convicted drug dealer with a rap sheet for armed robbery. A notoriously violent man with tattoos depicting flames, a gun and the words “savage” and “10-20 life,” Simms was wanted for the cold-blooded murder of a man he gunned down some months earlier.

Detectives went to an apartment where they knew Simms had been staying. They knocked on the door and were admitted by Simms’ mother. Just then the suspect jumped into the room, gun blazing. Officer Amanda Haworth, 44 sustained a fatal head wound. Officer Roger Castillo, 41, who was standing just outside, was also stuck by a bullet and killed. Another detective came running around the complex and shot Simms dead.

One thing’s for sure: if we really paid attention to experience, police tactics would be far more standardized than what presently seems to be the case. Officers wouldn’t be routinely doing one-on-ones with possibly dangerous characters. Really, safety requires that we give up some efficiencies. Agencies that run one-officer cars should think it over. At a minimum they must set and enforce rules that prohibit lone-wolf foot pursuits and require that two units converge on every possibly risky contact.

Serving warrants on violent persons calls for a specialized approach, including surveillance, so that encounters take place in as safe and controlled an environment as possible. Tactical teams must either be
in charge or present. And once they become involved, deviating from normal surround and call-out practices, such as what happened in Oakland, must be strongly discouraged.

Yes, there’s one more thing. Wearing ballistic vests should be mandatory, even when it’s hot and muggy. In DNA’s Dandy, But What About Body Armor? we bemoaned the sad state of body armor, both as to its comfort and protective capabilities. We again call for a major effort in that direction. Hopefully, someone’s out there listening.
LOVE YOUR BROTHER -- AND FRISK HIM, TOO!

Aggressive patrol strategies have costs other than money

By Julius (Jay) Wachtel. Brushing aside concerns by the retiring police commissioner, Philadelphia’s mayor-elect Michael Nutter announced that officers in the City of Brotherly Love would be implementing a “stop, question and frisk” campaign to combat a soaring murder rate, in 2006 nearly four times that of New York City (27.7/100,000 v. 7.3/100,000).

Nutter, who will take office on January 7, was elected on a platform that makes fighting crime the top priority. His police-centric emphasis contrasts sharply with an initiative by outgoing chief Sylvester Johnson and other community leaders to flood Philly’s most dangerous neighborhoods with citizen patrollers. (Two-hundred members of the "10,000 Men: A Call to Action" movement are due to begin their duties this Thanksgiving weekend.)

Stop-and-frisk is nothing new. Cops have been detaining and questioning citizens since there was a police. But its roots as a legally-sanctioned strategy trace back to 1968, when the U.S. Supreme Court decided in Terry v. Ohio that the Fourth Amendment allows officers to detain and frisk persons if there is “reasonable suspicion” that they are armed and about to commit a crime, a much less stringent standard than the probable cause requirement for conducting a search or making an arrest.

Rulings after Terry allow officers to make investigative stops and temporarily detain anyone they reasonably suspect may have committed or is about to commit a crime, whether or not they might be armed. (See, for example, U.S. v. Arvizu). Reaching the “reasonable suspicion” threshold requires more than a guess -- it calls for the presence of objective, articulable facts that a reasonably well-trained officer would find compelling. Once they detain someone officers remain bound by the Constitution, so searching for anything beyond a weapon requires probable cause, and interrogation calls for Miranda.

On its surface, Mayor-elect Nutter’s violence reduction approach seems like an ideal application for stop-and-frisk. But as the saying goes, the devil is in the details. Even if he follows through with plans to declare “crime emergencies” and impose curfews, his officers will still have to obey both the Constitution and Terry. Anti-crime campaigns place police, from the chief to patrol, under enormous pressure. Imagine what might happen when it is possible, as in the case of investigative stops,
to count the number of times that a particular technique is applied. Will officers be encouraged to do quality work or just rack up the numbers? Will they pull over cars and stop pedestrians willy-nilly or only when there is reasonable suspicion?

And it’s not just a question of what’s legal. Whether or not aggressive policing is done by the book, a heavy hand can erode the bonds of trust and confidence between citizens and police. When he was asked about a stop-and-frisk campaign, the present chief said, “While I’m the police commissioner, I’m not going to do it.” Well, soon there will be a new sheriff in town, who will do it. Let’s hope it’s done right -- legally and with restraint -- so that the besieged city can finally live up to its ambitious slogan.
MISSED SIGNALS

In hindsight everything’s simple. But policing takes a lot more than hindsight.

By Julius (Jay) Wachtel. So much violence, so little time! While the (virtual) ink from “Hidden in Plain Sight” was still wet we were shaken by horrific news from Cleveland, where police were unearthing human remains at the home of registered sex offender Anthony Sowell. As digging continues eleven bodies have been found, all female. So far the identities of ten are known. Ranging in age 25 to 52, most were reportedly addicts and sex workers. Sowell, who had been released in 2005 after doing fifteen years for rape, had apparently lured them in with drugs and liquor.

How was he caught? It wasn’t because police and public health authorities followed up on complaints about a horrible stench emanating from the residence (they didn’t).

It wasn’t because a woman accused Sowell of choking and raping her last November. (Sowell was arrested but the case was dismissed, apparently because the victim didn’t seem credible.)

It wasn’t because a deputy checking up on sex offenders got suspicious when he stopped by to chat with Sowell last month. (The officer didn’t enter the home. Maybe it smelled too bad. Anyway, there was no need, as Sowell was reporting as required. A psychologist even declared that he was unlikely to reoffend!)

It wasn’t because a woman told police that shortly after the deputy left Sowell choked and raped her, then offered her money to keep quiet. (She supposedly didn’t show up for an interview.)
And it wasn’t because a naked woman landed on the street after “falling” from Sowell’s upper-floor window. (She reportedly refused to talk to officers who went to see her at the hospital.)

In the end Sowell’s September victim finally met with the cops. What she said led them to obtain arrest and search warrants. Once inside the home, their noses led them to two bodies. Hmm, something suspicious here!

Only days after the grim discovery in Cleveland another mass killing rocked the nation. This one happened all at once. On November 5, 2009 a thirty-nine year old Fort Hood psychiatrist went on a shooting spree, killing thirteen and wounding twenty-eight. Major Nidal Malik Hasan now stands charged with capital murder.

Hasan had a troubled history. According to a former classmate at the Medical University of the Armed Services, he frequently expressed opposition to the wars in Iraq and Afghanistan and considered himself “a Muslim first and an American second.” Hasan once gave a lecture on “whether the war on terror is a war against Islam.” When students challenged him about the topic’s relevance (it was an environmental health course) Hasan got “sweaty and nervous and emotional.”

After graduating in 2003 Hasan was an intern and resident at Walter Reed Medical Center. If anything, his clashes with colleagues got worse. Hasan seemed distracted. He was often late for work and made himself unavailable even while on call. Coworkers said that he was occasionally belligerent and belittled colleagues. Hasan’s detached attitude and extremist orientation (he gave a bizarre lecture in which he remarked that “the Quran teaches that infidels should have their heads cut off and set on fire”) led colleagues to worry about his mental health. Indeed, superiors considered terminating Hasan’s residency, but the procedures were onerous and they were afraid he would accuse them of religious bias. In the end Hasan was dealt with in the time-tested manner: he was promoted (to Major) and transferred to Fort Hood.

While at Walter Reed Hasan exchanged e-mails with radical cleric Anwar al-Awlaki. Designated by the U.S. as a “global terrorist,” the imam lives in Yemen, where he went after leading a Virginia mosque that Hasan attended. Picked up by routine intercepts, the e-mails were forwarded to a Joint Terrorist Task Force. Agents apparently contacted a top official at Walter Reed, who surmised that the messages were in connection with Hasan’s research on post-traumatic stress. Concluding that the e-mails were innocuous, the task force closed its file. But what did they really know about Hasan? Had they been told that his PowerPoint presentation on post-traumatic stress included a slide with the purported Muslim warrior creed, “we love
death more than you love life”? Were they aware that he was trying to get an early separation because of alleged religious persecution?

Neither Walter Reed nor the task force were in a position to investigate an odd duck at Fort Hood. That was a job for Army intelligence or CID. But they weren’t alerted, so the puzzle remained unassembled. Even had they looked they would have missed a key fact: Hasan had recently purchased a handgun. And not just any handgun, but an unusually expensive, highly lethal, high-capacity cop killer that was never intended for civilian use. Of course, since the Feds and Texas lack centralized gun registries, there was no way to know that Hasan bought a gun short of asking him or visiting gun stores.

Everyone (like your blogger) who’s kicked off an intelligence program knows to prepare for an avalanche. Whether information arrives electronically or through word of mouth, there are hardly enough resources to examine data let alone pursue more than a tiny fraction of leads.

That embarrassment of riches affects everyone, from the pointy-heads at police HQ to the cop on the beat. Cast your net too broadly and you’ll invariably commit a rash of “Type 1” errors, sending out trivial leads and squandering your credibility. Narrow your search and you’ll get bit by “Type 2” errors, missing worthwhile targets like Sowell or Hasan whom any idiot should have known to investigate.

Police are expected to accomplish something. As we’ve pointed out, catching real terrorists is tough, so it’s not surprising that given limited resources the Feds might choose to “rope in” dummies. More generally, the tendency to reach for low-lying fruit is manifested in a preference for so-called “actionable” intelligence, meaning that the underlying offense is self-evident or nearly so. Put simply, until a victim signed on the dotted line Sowell was just another of the umpteen weasels polluting Cleveland’s troubled Imperial Avenue neighborhood. Hasan? He wasn’t even on radar.

It’s a truism that Type 2 errors of omission usually go undetected, so the chances of being seriously embarrassed by not acting are small. Sowell and Hasan were exceptions. Their dangerousness wasn’t appreciated because the default strategy is to dismiss, dismiss, dismiss. Unless there’s an obvious violation, officers may go to extraordinary lengths to routinize information and interpret questionable behavior in its most favorable light. Consider for example the Madoff scandal, where the Feds overlooked blatant inconsistencies and ignored detailed tips in a rush to “prove” that all was well.
Doing nothing is easy to justify. According to the spokesperson for the Cleveland sheriff, the deputy who talked with Sowell didn’t go in the house because he didn’t have the authority. Hasan was promoted because kicking him out might have triggered controversy. Absent an underlying crime – Sowell’s murders were as yet undiscovered; Hasan’s were still to be committed – neither case offered an obvious entry point or investigative path. Intending no pun, there was plenty of reason to dig, but the calculus of political, bureaucratic and individual needs mitigated against anyone picking up a shovel.

As we suggested in “Hidden in Plain Sight,” disorganized, poverty-stricken neighborhoods are particularly challenging. Sowell preyed on victims who were indisposed to turn to police, and if they did, were unlikely to be believed. Citizens besieged by violence had long given up trying to wake up the city to their plight, while overburdened cops looked on even the oddest circumstances, like women tumbling from windows, as just another symptom of the miserable conditions on their beat.

In the end, it’s that last observation that offers the hint of a remedy. Rare events such as mass murder are difficult to predict precisely because they are rare. Our best shot at preventing them lies in avoiding the urge to routinize and in paying close attention to the unusual and offbeat, like naked women falling from the sky and military officers e-mailing with terrorists.

Solving cases retrospectively is easy. Developing the ability to anticipate crime and work prospectively is the real trick.
MURDER, INTERRUPTED?

Searching for violence-reduction strategies other than hard-nosed policing

By Julius (Jay) Wachtel. “The Interrupters,” one of the season’s most acclaimed documentaries, follows three Chicago Ceasefire street workers as they seek to disrupt the cycle of violence and retaliation that infuse the everyday lives of poor youth with fear and uncertainty.

Launched in 1999 by the University of Illinois School of Public Health, Chicago Ceasefire deployed former gang members in inner city areas to identify and counsel high-risk youth, mediate disputes and defuse potentially violent situations. This approach distinguishes Chicago from Boston Ceasefire (aka Boston Gun Project,) a 1996 initiative that tackled the problem of youth homicide by staging meetings (“call-ins”) with parolees and probationers to scare them straight and offer options. (Click here and here for full descriptions and evaluations of both projects.)

Chicago and Boston have been modeled by other initiatives. In 2003, a 49 percent one-year increase in Pittsburgh’s homicide rate led a coalition of community organizations to develop “One Vision One Life,” a violence-reduction program whose protocol follows Chicago Ceasefire’s street-worker approach.

One Vision staff selected three areas for intervention. Two, “Northside” and “Hill District” were best by exceptionally high homicide rates, 31 and 44 per 100,000 respectively. A third, “Southside,” had a relatively low rate of 4/100,000 but was considered problematic for other reasons. It was intended that outcomes would be compared with non-targeted areas within Pittsburgh.

One Vision hired forty street workers who lived in the target districts and had street credibility. They identified and interacted with at-risk individuals, referring them to a variety of programs and furnishing employment, housing and social assistance. Workers (aka “interrupters”) conveyed a “no shooting” message, interceding in disputes and applying mediation techniques to help settle things nonviolently. They also responded to homicides and shootings and tried to prevent retaliation. Although street workers occasionally exchanged information with police, there was no regular interaction, which seems understandable given their unique role.

One Vision was in effect during 2004-05. Evaluators concede that assessing its effectiveness was complicated by the fact that like the Chicago and Boston programs, One Vision’s protocol was only “quasi” experimental. Treatment areas had been purposively selected by One Vision staff, making it impossible to rule out the possibility that factors extrinsic to the intervention could be responsible for any post-intervention differences between experimental and control groups. In the end, after considering eleven variables, including violent crime rates, educational level and transiency, evaluators decided it was appropriate to compare Northside, Hill and Southside to the aggregate of non-target areas. One Vision staff also identified seventeen areas that they thought similar to the three treatment sites for use as a secondary control. In addition, efforts were made to measure spillover effects for Hill and Southside (Northside is isolated by rivers, making spillover unlikely.)
What were the results? In a word, unexpected. Before-after comparisons revealed that aggravated and gun assaults increased substantially more in the intervention than control areas. The one exception was Northside, where gun assaults increased less than in the secondary control area. It was One Vision’s sole “success” story.

<table>
<thead>
<tr>
<th>Area</th>
<th>Homicide</th>
<th>Aggravated Assault</th>
<th>Gun Assault</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pre</td>
<td>Post</td>
<td>Change</td>
</tr>
<tr>
<td>Northside</td>
<td>0.04</td>
<td>0.06</td>
<td>0.02</td>
</tr>
<tr>
<td>Hill District</td>
<td>0.09</td>
<td>0.09</td>
<td>0.00</td>
</tr>
<tr>
<td>Northside and Hill District comparison, all</td>
<td>0.04</td>
<td>0.05</td>
<td>0.01</td>
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<tr>
<td>Northside and Hill District comparison, One Vision</td>
<td>0.08</td>
<td>0.11</td>
<td>0.03</td>
</tr>
<tr>
<td>Southside</td>
<td>0.02</td>
<td>0.02</td>
<td>0.00</td>
</tr>
<tr>
<td>Southside comparison, all</td>
<td>0.04</td>
<td>0.05</td>
<td>0.01</td>
</tr>
<tr>
<td>Southside comparison, One Vision</td>
<td>0.08</td>
<td>0.12</td>
<td>0.04</td>
</tr>
</tbody>
</table>

Researchers also evaluated the differences in the before-after change between experimental and non-experimental (control) areas. (The table on the right is for the secondary control area. A probability of .05 or less denotes that the differences are statistically significant.)

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Predicted Monthly Rate Change</th>
<th>P-Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northside</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Homicide</td>
<td>0.321</td>
<td>0.7432</td>
</tr>
<tr>
<td>Aggravated assault</td>
<td>25.2095</td>
<td>0.0000</td>
</tr>
<tr>
<td>Gun assault</td>
<td>13.244</td>
<td>0.0000</td>
</tr>
<tr>
<td>Hill District</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Homicide</td>
<td>-0.5710</td>
<td>0.3374</td>
</tr>
<tr>
<td>Aggravated assault</td>
<td>7.7365</td>
<td>0.0255</td>
</tr>
<tr>
<td>Gun assault</td>
<td>6.6038</td>
<td>0.0008</td>
</tr>
<tr>
<td>Southside</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Homicide</td>
<td>-0.2540</td>
<td>0.6976</td>
</tr>
<tr>
<td>Aggravated assault</td>
<td>25.3953</td>
<td>0.0000</td>
</tr>
<tr>
<td>Gun assault</td>
<td>14.6630</td>
<td>0.0000</td>
</tr>
</tbody>
</table>

For homicide the difference is not statistically significant. But with one exception (the Hill District, when compared to the secondary control area) aggravated and gun assaults increased significantly more in treatment areas. Spillover effects (not pictured) generally followed the same trends, the one exception being that spillover from Hill was inexplicably linked to a significant decrease in aggravated assaults.

In summary, One Vision proved a near-fiasco. Not only did it fail to reduce homicide, it seemed to worsen the problem of assaults. Evaluators rejected the only theoretical explanation at hand – that street workers may have inadvertently increased gang cohesion – as there was little interaction between street workers and gangs. They attributed One Vision’s poor showing to insufficient dosage and inaccurate
targeting. According to evaluators, the program emphasized “persons in need” over hardcore criminals, such as those served by Chicago Ceasefire. Neither did One Vision partner with law enforcement, a key component of reportedly successful “Pulling Levers” approaches including Boston Ceasefire, SACSI and Project Safe Neighborhoods.

But holding other efforts up as models of what One Vision could have been is unsatisfying. For example, while advocates of Chicago Ceasefire cite its supposedly resounding success, evaluators were skeptical. While Ceasefire was in effect Chicago also played host to Project Safe Neighborhoods (PSN), a major gun-violence reduction initiative that features harsh Federal prosecution. Like One Vision, Ceasefire was a quasi-experiment, with a design that may have been insufficiently robust to assure that it, rather than PSN, was the driving force behind any benefits that may have accrued. (Incidentally, it’s the same issue that beset the evaluation of Boston Ceasefire.)

Back to One Vision. How can we account for its wrong-way effects on crime? The simplest explanation is that at a time when crime and violence were on the upswing throughout Pittsburgh, local experts – One Vision staff members – accurately targeted areas where the problem was most acute. One Vision probably had little or no effect, leaving violence to rise at a faster rate on its own.

Really, once we brush rhetoric and false hopes aside, there’s preciously little proof that “soft” interventions such as Ceasefire and One Vision can be effective without the coercive presence of the police. Unlike Chicago and Boston, Pittsburgh lacked a hardcore law enforcement program on which to piggyback. It had to do it all by itself. And predictably, it failed.

In 2003-2004 another quasi-experiment, Project Greenlight, applied a “cognitive-behavioral” approach to help put inmates on the right track before release. It too seemingly made things worse. We concluded that it didn’t, and that the only reason it looked that way was because, as Greenlight’s own data revealed, those assigned to the program had more severe criminal propensities to begin with than controls.

That’s not to say that street workers and the like can’t be useful. To make a convincing case for such approaches, though, would call for a research design that uses random selection and assignment to control for extraneous factors. Indeed, one is available. It’s called a real experiment.
NO SUCH THING AS “FRIENDLY” FIRE

As good guys and bad ramp up their arsenals,
the margin of error disappears

For Police Issues by Julius (Jay) Wachtel. During the evening hours of December 8 Ian David Long, 28, burst into a busy Los Angeles-area nightclub, threw smoke bombs into the crowd and unleashed a barrage of more than fifty rounds from a Glock .45 pistol. Twelve patrons were shot dead and one was wounded. Long hid and waited for police. Two officers soon burst in. Long opened fire, striking Ventura County sheriff’s sergeant Ron Helus five times. A sixth and fatal wound, to the heart, was accidentally inflicted by return fire from a highway patrol officer armed with a rifle.

Long legally purchased his gun two years ago. He had enhanced it with a laser sight and high-capacity magazines, the latter illegal in California yet easily obtainable elsewhere. Why he acted may never be known. During the horrific episode the six-year Marine Corps vet (he served in Afghanistan) posted Instagram messages denying any motive other than insanity: “Fact is I had no reason to do it, and I just thought... f***it, life is boring so why not?”

Long would soon bring the incident and his life to a close with a shot to his own head.

One month later, on February 12, eight NYPD officers responded to a report that a man with a gun forced two employees into the back of a mobile phone store. Among those who rushed to the scene were two detectives who were nearby when the call came.

Detective Brian Simonsen, 42 and his partner, Matthew Gorman, 34, accompanied two beat cops into the premises. Just then the robber, Christopher Ransom, a deeply troubled 27-year old, emerged from the back, flaunting a handgun. A 42-round barrage instantly followed.

Both detectives were wounded; Simonsen, fatally. A beloved veteran cop, he was working on his day off. The 27-year old suspect, a chronic offender, was also wounded. As it turned out, his “gun” was a realistic-looking toy, so only police rounds flew. An accomplice who was outside acting as a lookout fled but was arrested later.
According to the FBI, 455 law enforcement officers were feloniously killed with firearms between 2008 and 2017. Seventy-one percent (323) fell to a handgun. Most common calibers were 9mm. (94), .40 (78) and .45 (36). Twenty-three percent of deaths (104) were caused by high-powered rifles, with calibers .223/5.56 (34) and 7.62 (26) the most frequent.

During the same period 800 other cops were feloniously injured with a firearm. Handguns were implicated in 557 (72%) of the 770 instances where kind of gun was known. Top three handgun calibers were 9 mm. (166), .40 (92) and .45 (80). Rifles caused 142 injuries (18%); top three calibers were 7.62 (60), .223/5.56 (28) and 5.45/5.56 (15).

Firepower and gun availability have grown exponentially during the past decades. Excluding exports, domestic manufacturers produced 1,333,241 semi-automatic handguns in 2008. Of these, about 827,000 were in 9mm. and larger caliber. A decade later, in 2017, a staggering 3,415,582 pistols were produced for domestic consumption. About 2,220,000 were 9mm. caliber and beyond.

With guns so abundant (and so enthusiastically marketed) it’s inevitable that many will wind up in the hands of criminals (click here for a related blog post and here for a longer piece.) In 2017 ATF traced 316,348 firearms, mostly seized by local police. Nine-millimeter pistols were the most frequently recovered, coming in at 84,196 (27% of the total). A more powerful caliber, .40, was second at 38,311. Forty-five caliber took fifth with 24,242, and .357 came in eighth at 9,500. Rifles were close behind. The devastating 5.56mm./.223 duo had 9,359 cumulative recoveries, while the fierce 7.62mm. of AK-fame had 7,145. These weapons are especially problematic, as their super high-speed projectiles create large temporary wound cavities that pulverize nearby organs and rupture blood vessels (click here for a summary and here for a quick course.)

What’s available to counter these threats? Body armor. Its protective qualities are strongly impacted by bullet size, composition and, especially, velocity. Arranged by protective capability, from least to most, here are the most recent Federal standards for ballistic vests:
FMJ: full metal jacket; JHP: jacketed hollow point; S: soft point; RN: round nose

Levels IA, II and IIIA denote increasingly protective (read: bulkier, heavier, hotter) versions of soft body armor. Defeating high-velocity rifle rounds such as the 7.62 or .223 requires the hard armor of levels III and IV, which are unsuitable for patrol.

During 2008-2017 twenty-two officers died from bullets that penetrated their body armor. (Keep in mind that this doesn’t include non-fatal penetrations, which are likely far more frequent, nor fatalities caused by wounds to areas not protected by armor.) Only one penetration death was attributed to a handgun, a so-called 5.7mm. “big boomer” with ballistics similar to high-powered rifles (an example is the FN “Five-seven.”) All other penetration deaths were caused by rifles, with 7.62mm. and 5.56/.223 caliber tied for the top spot at six deaths each.

How protective should armor be? Given the tradeoff between comfort and safety, Level II has probably been the most popular. Here’s what the Feds think:

For armor intended for everyday wear, agencies should, at a minimum, consider purchasing soft body armor that will protect their officers from assaults with their own handguns should they be taken from them during a struggle; Level IIA, II or IIIA as appropriate. (p. 21)
Of course, even the most bullet-resistant body armor can’t protect against wounds to exposed areas. A recent Houston drug raid gone sour left four officers wounded. Two were struck in the neck, one in the shoulder, and one in the face (all fortunately survived.)

Let’s return to our two examples of “friendly fire.” We don’t know whether the Ventura County sergeant was wearing a ballistic vest. But only a cumbersome armor-plated garment could have protected him from the rifle round fired by his colleague. As for the NYPD detectives, neither was wearing armor, so the consequences seem, with the benefit of hindsight, sadly predictable. Here’s how the victim officers’ superiors explained the tragedies:

Ventura County Sheriff Bill Ayub, about the death of Sgt. Helus: “In my view, it was unavoidable. It was just a horrific scene that the two [deputies] encountered inside the bar.”

NYPD Chief Terence Monahan, the agency’s top uniformed officer, about the death of Detective Brian Simonsen: “We talk about the tactics, we talk about incidents that have occurred over the course of the last six months. You want to avoid that crossfire situation. But understand — it’s great to train — everything happens in a second. You’re reacting within seconds and you’re in fear for your life. Your adrenaline is high.”

“Routinely Chaotic” addressed the chaos and confusion that accompany some street encounters. Can it occasionally lead cops to shoot each other? Well, we’re no tactical wizards, but before conceding that such things are inevitable, here are a few ideas for preventing poor outcomes:

- As NIJ suggests, everyone should wear body armor that will, at a minimum, stop a projectile discharged by a colleague. That rules out the use of long guns other than during highly coordinated tactical responses.

- After Columbine, delaying (i.e., “surround and call-out”) is out of favor when innocent lives are at stake. Still, responses must not become chaotic. To prevent possibly lethal confusion an early arrival should remain behind to coordinate colleagues as they show up.
• Fire discipline is essential. Even the most impromptu entry team must designate “point” and “cover.” Who will engage, and who will protect those engaging, must be explicit from the start.

• Routinely Chaotic pointed out that “butting in” can prove lethal. Late-arriving officers, including supervisors, must take their cues from cops already on scene.

Of course, it’s not just police lives that are at risk. “Speed Kills” mentioned that innocent citizens are occasionally wounded and killed by misplaced police gunfire. (We distinguish this from purposeful shootings of citizens who turn out to be innocent.) Googling brought up two recent examples. In one, police bullets pierced a wall and killed a six-year old boy in his home. In the other, two bystanders – a 46-year old woman and a twelve-year old boy – were injured by police bullets that were meant for a fleeing suspect.

In our gun-crazed land the threats that citizens pose to cops and to each other, and that cops occasionally pose to innocent citizens and other cops, are ballistically identical. Officers must routinely exercise great care to avoid compounding this intractable dilemma. We’re confident that at least to that extent, Sheriff Ayub and Chief Monahan would certainly agree.
OAKLAND: HOW COULD IT HAPPEN?

Dissecting the murder of four police officers, and its implications

By Julius (Jay) Wachtel. The blame game’s already underway. Only hours after parolee-at-large Lovelle Mixon shot and killed four Oakland (Calif.) police officers, the horrific event was being portrayed as another example of America’s losing battle against crime and violence.

Some, including California Attorney General Jerry Brown, wagged their fingers at the State’s much-maligned correctional system, which routinely places dangerous men like Mixon, who did six years for armed carjacking, under the supervision of vastly overburdened parole agents (Mixon was one of seventy.) Meanwhile Los Angeles County Sheriff Lee Baca and writer-activist Earl Ofari Hutchinson bemoaned practices that keep ex-cons from getting the jobs and education they need to succeed in law-abiding society. Gun control advocates complained of the ease with which would-be killers can circumvent the few meaningful restrictions that exist (two of the officers were reportedly shot with an assault rifle that is illegal in California but easily obtainable elsewhere.) Concerns were also raised, albeit far more discreetly, about the tactical decisions that might have led four experienced police officers, including two SWAT-team sergeants, to be gunned down by a single assailant.

It all began when sergeant Mark Dunakin stopped Mixon for an expired license tag. Returning to his motorcycle, Dunakin discovered that Mixon’s driver license was fictitious and called for backup. Officer John Hege arrived. As Dunakin headed back to the car, possibly to make an arrest, Mixon stepped out with a pistol and opened fire. Both officers fell, wounded. Mixon walked up and shot them again at point-blank range. Dunakin died at the scene; Hege lingered for hours before being declared brain dead.
Mixon fled to his sister’s apartment, where he had stashed an assault rifle. Less than two hours later, an Oakland PD SWAT team forced their way in. Mixon, who was hiding in a closet, fired wildly through the walls, fatally wounding sergeants Daniel Sakai and Ervin Romans, who were struck in the head. Other officers then shot Mixon dead.

There’s no such thing as a “routine” traffic stop. Just hours after the Oklahoma City Federal Building was brought down by a truck bomb, killing 168 and injuring more than 400, a highway patrolman stopped Timothy McVeigh for a traffic violation. McVeigh, who had the advantage, could have reached for the loaded Glock 9mm. under his jacket. But he didn’t.

Mixon chose differently. He had been avoiding his parole officer and probably guessed there was a warrant for his arrest. What’s more, only a day before the shootings, Oakland police learned that Mixon’s DNA profile matched biological evidence recovered from the recent rape of a twelve-year old girl. A suspect in a string of crimes including another rape, auto theft and murder (a witness who implicated him refused to testify), Mixon had just done nine months for parole violation after being caught with a drug scale and a stolen laptop. For a time he worked as a janitor but according to a cousin Mixon bought the car he was driving with proceeds from a far more lucrative gig: pimping.

Were the officers’ deaths preventable? We can blame the “system” until the cows come home, but Mixon’s conduct clearly suggests that there was no way to control him outside of a cell. And in a society where bearing assault rifles is considered a God-given right it was equally impossible to keep him away from guns.

If it’s not the “system,” might things have turned out differently had the motorcycle officers taken more care? Maybe, but cops can’t draw down on everyone. Patrolling the inner cities, where a goodly proportion of adult males have spent time in prison, almost requires being in a state of denial. Paradoxically, experienced officers may be at special risk. Having managed to avoid serious trouble for years, they may get careless and ignore warning signs that would send a rookie diving for cover. Perhaps the second officer’s arrival was a distraction. Maybe it lulled both into a false sense of security. We’ll never know.

Once the unfathomable happened and two officers were down, having someone call to say where the shooter had holed up was an unexpected break. Normally such situations are resolved with a “surround and call-out,” but Mixon didn’t respond. A cop killer was hiding in an apartment building whose design reportedly offered no safe way to evacuate its occupants. Since the murder of twelve students and a teacher at Columbine High School, SWAT teams have been far more inclined to act sooner
rather than later when innocents are at risk, and that’s what they did here. Throwing in two “flash-bang” grenades as a diversion, they stormed the apartment. We know what happened next.

Exactly how the SWAT team made entry and why it chose to proceed as it did will be a topic of analysis and debate for years. Although some practices may change, the prognosis is ultimately poor. Due to the penetrating power of modern ammunition and the difficulty of protecting the head many SWAT teams prefer to make entries “stacked” behind hard armor. Unfortunately, full-height shields that can defeat rifle fire are too heavy and cumbersome to fit into tight spaces and may impede visibility. Many agencies have deployed robots, but they’re also subject to constraints. For one thing, they can’t see through walls; Mixon, it’s reported, was hiding in a closet.

Given the number of guns in civilian hands, when individuals are hell-bent to do the wrong thing assuring officer safety is well-nigh impossible. For madmen with a rifle there is simply no solution.
OF HOT-SPOTS AND BAND-AIDS

Intensively policing troubled areas isn’t a lasting remedy

By Julius (Jay) Wachtel. In 2005 L.A. County Sheriff Lee Baca bemoaned that a scarcity of resources was limiting his ability to battle gang murders in Compton, which the LASD serves under contract. With nearly half his patrol deputies committed to contracts with other cities and his countywide gang squad seriously understaffed, the Sheriff was reluctant to shift officers to a “hot spot” lest problems pop up elsewhere. But when year-end stats revealed that murders in Compton were sharply higher while those in nearby LAPD areas were way down, Baca flooded the city with homicide detectives, gang investigators and deputies from unincorporated areas.

After a couple months of success the impromptu task force was disbanded. As one might expect, Compton promptly reverted to its old habits. When a July 2006 weekend of violence left four dead and others wounded, Baca sent back the extra troops, and that’s where they remain. Compton is getting a lot more police coverage than it pays for, and no one’s apologizing.

There is no question that hefty, localized increases in police coverage can dampen violent crime. That’s why N.Y.P.D. recently decided to assign an entire academy graduating class of 914 recruits to its mobile field force, doubling it to nearly 2,000 so that it can start flooding troubled areas in Brooklyn. This flexibility is made possible by its superiority in numbers, in turn made possible by what New York City officers get paid (hint: it’s a lot less than L.A.) Except for wealthy communities, high salaries are invariably accompanied by low patrol densities, so sustaining a police “surge” (thing Baghdad) can be difficult. Just how expensive is it to police SoCal? West Covina, a typical middle-class community, estimates salary and benefits for a single officer at $125,000 per year. Since four officers are required for 24/7 coverage (three plus one for days off), that’s $500,000 for one cop around the clock, not including a vehicle, gas, equipment or support services! If officers work in pairs figure a cool million per year, per patrol car.

How does hot spot policing work? It’s simple: stop as many suspicious vehicles and pedestrians as possible. Under the “Terry” doctrine officers can frisk anyone they reasonably suspect is armed. Since the Supreme Court’s ruling that the underlying “reason” why a cop stops a car is immaterial, traffic laws are applied to the hilt.
Everything from a “white light to the rear”, to a missing expiration year sticker, to a five-mile per hour speeding violation is used to justify stops.

But searching a vehicle or going beyond a pat-down requires more than suspicion - it calls for either consent or probable cause. And that’s where the troubles begin. Pressured to show results, officers have fudged observations, falsified reports and abused suspects. Other than for Rafael Perez, the cocaine-stealing officer who originally blew the whistle, the Rampart scandal was never about cops lining their pockets -- it was about officers lying, cheating and planting evidence to justify arrests and cover up acts of brutality, including some terrible use-of-force mistakes.

Can intensive policing make a lasting dent on violence? Yes, if officers remain indefinitely. Otherwise, no. Surges usually happen in areas -- like Compton -- that are poor and socially disorganized. That’s why it’s nearly impossible to “fill in” behind departing officers with community-based initiatives, as those require the active involvement of citizens who aren’t afraid to testify and help police.

Hot-spot approaches may also have a natural life-cycle. If limited to a narrow time frame aggressive enforcement is likely to be accepted, even welcomed. But policing is not a precise instrument. Unless officers proceed with exquisite care, innocent persons will inevitably get caught up in the dragnet, and as the inevitable confrontations and misunderstandings pile up citizen support is likely to diminish.

Is there a better solution than the hot-spot band-aid? Probably not. Ideally, law enforcement resources would be distributed according to crime problems, not citizens’ ability to pay. Unfortunately, American policing has from inception been highly fragmented, thus dependent on local funding. Extreme situations like L.A. County’s, where the Sheriff’s budget is overwhelmed by jail needs and contracts prevent sending deputies where they are most needed, only emphasize the structural defects of a criminal justice system that, no matter how unintentionally, best serves the interests of wealthy communities.

Don’t believe it? Go visit Beverly Hills P.D. Don’t get lost in their headquarters, which wags have dubbed the Taj Mahal. Wind your way through rows of detective desks to the crimes against persons squad. (Try not to do it on the day when they have their one murder a year.) Tell them Compton needs help. Then oink back!
QUANTITY, QUALITY, AND THE NYPD

By Julius (Jay) Wachtel. “Make cases, put people in jail, numbers. Our department right now is heavily into numbers...There are [statistics] being taken through the chain of command, ‘see how good a job we’re doing, how many people we’re putting in jail,’ that sort of thing.”

Given the controversy embroiling the NYPD, one might think that this comment was made only the other day. But it wasn’t. More than thirty years ago, narcotics officers from New York City and several other large police departments whom I interviewed for my dissertation were unanimous as to one thing: numerical productivity wasn’t the only way that bosses measured their performance, but it was far and away the most important.

By the second decade of the twentieth century so-called “scientific” management and its obsession with counting had become entrenched features of the private sector. Actually, numbers didn’t become gospel in the public sector until the 1960’s, when the new Secretary of Defense, Robert McNamara, infused the Federal government with practices brought over from Ford Motor Company, which he had served as president. During the Vietnam War, McNamara’s endless reports of bombs dropped, acres deforested and enemy killed were repeatedly offered as proof that victory was inevitable. His mea culpa in “The Fog of War” (2003) came forty years late.

Government managers jumped on the bandwagon. Policing usually consumes a majority of city budgets, and now that computers made number-crunching ridiculously easy concerns about the use of public funds could be easily addressed. Cop shops didn’t make widgets, but they did produce its equivalent, in the form of countable tickets, stops and arrests.

It wasn’t just about justifying police budgets. Reducing everything to numbers had another benefit: it made performance “evaluation” ridiculously simple. What couldn’t be counted didn’t exist. “Making cases” became the new mantra. Concerns that reductionism might fundamentally distort what cops actually do were ignored. Worries about the quality of police work were brushed aside.

From there it was just a short step to quotas. Although informal understandings about minimum numbers of tickets, stops and arrests had always been there, systems such as Compstat, Bill Bratton’s gift to the NYPD, reified counting. It wasn’t just lowly beat cops who now had to take care. Sergeants, Lieutenants, Captains – every manager could be held accountable for meeting standards whose objective appearance lent a scientific imprimatur.

Counting isn’t always inappropriate. Officers should write some tickets and make some arrests, and it’s probably wise to pay attention to those whose productivity seems unreasonably low. Yet bureaucracies that measure their performance with numbers are apt to look stagnant unless – you guessed it – the trend line keeps going up. It’s in the nature of the counting beast: whether or not crime is on the increase, stops and arrests must keep going up.
Of course, endlessly boosting production will at some point require that officers take shortcuts. Police hamburger, though, usually gets made out of the public eye. Accusations that NYPD officers were pressured to stop citizens or pat them down without “reasonable suspicion” can’t be evaluated with a calculator, so proving that cops cheated may be difficult.

What ought to be done? We know that numerical measures can easily displace other, more worthwhile criteria. Numbers must never stand alone but be carefully integrated into the definition of what it means to do a quality job. Police management styles must also change. Pressuring cops to “get numbers” breeds cynicism, devalues the craft of policing and can precipitate a moral decline in the ranks. Police, politicians and the public must come to grips with the fact that our New Centurions are not well positioned to fix fundamental social ills, and that assigning officers “mission impossibles” will lead even the best-intentioned cops to breach the moral and legal boundaries of their craft.

It seems that several badge-wearing NYPD whistleblowers have come forward and will be testifying in the current Federal civil trial about the effects of pressures to produce on officer behavior. It will be interesting to see if what they have to say will really “count.”
R.I.P. COMMUNITY POLICING?

*Reclaiming professionalism sounds great, but it begs an underlying issue*

By Julius (Jay) Wachtel. Having suffered for years through the mind-numbing rhetoric of community policing, your blogger was thrilled to attend the panel entitled “A New Professionalism” at the June 2010 conference of the National Institute of Justice.

Sparks flew from the very start when Christopher Stone, Guggenheim Professor of the Practice of Criminal Justice at Harvard’s Kennedy School took on – hold your breath – community policing. Placing himself firmly in the ranks of the contrarians, he criticized its “cacophony” of purpose, airing out what many have whispered for years, that by absorbing every promising strategy that comes along, with even the most focused crime-fighting programs labeled as inspired by its principles, the concept has been blurred beyond recognition.

As it turns out Dr. Stone wasn’t there just to slay one dragon. A monograph soon to be released by Harvard’s Executive Session on Policing intends to rehabilitate – hold on to your fedoras – police professionalism. Dr. Stone and his colleagues will argue that their version, snappily entitled “the new professionalism,” does not portend a rebirth of the much-maligned model that dominated American law enforcement in the decades preceding community policing. (To complicate matters some insist that the recent explosion in aggressive strategies such as stop and frisk signals a reincarnation of the “bad” professionalism, but never mind.)
There are at least four aspects to the new, improved version (keep in mind that Harvard’s report isn’t out, so this is based on what your blogger scratched out the old-fashioned way):

- A “new accountability” that goes beyond talking about integrity to creating systems that support it; for example, using databases to track officer behavior and warn of emerging problems.

- A “new public legitimacy” that integrates the professional model’s law-centered response with community policing’s emphasis on citizen participation and consent.

- An emphasis on fostering organizations that “transcend parochialism” and can learn, adapt and innovate as circumstances change.

- A “national coherence” that creates common ground among America’s hyper-fragmented police system.

But wait a minute: wasn’t the community concept supposed to be a Swiss Army knife? Didn’t it take care of every important concern? Not according to Dr. Stone. Even its central tenet – that citizens must help shape the police response – has supposedly fallen short. Exactly what “communities” are supposed to do is vague. What’s more, the strategy is silent in areas rife with liberty concerns. How should police deal with political dissent? When should they apply aggressive methods like stop and frisk? How should they employ those new, enticing technologies?

Not so fast, said David Sklansky, Professor of Law and Chair of the Berkeley Center for Criminal Justice. (Full disclosure: David was an Assistant U.S. Attorney while I supervised an ATF squad in Los Angeles. That he didn’t always prosecute when we wished will have no influence on this essay.) While Prof. Sklansky agreed that community policing has definitional issues, one being that communities don’t agree within themselves as to what’s needed, he argued that it nonetheless focuses much-needed attention to the tendency to under-engage with citizens and over-rely on technology. Voicing skepticism about recent innovations such as “information-led” and “predictive” policing, he worried that their preoccupation with numbers harkens back to the same old bureaucratic tendencies that veered professionalism off course. Instead of doing away with community policing he suggested developing an “advanced” version, and we trust that its precepts will be addressed in the forthcoming paper.

Professors Stone and Sklansky were followed by Chief Ronald Davis, East Palo Alto, California. His views reflected the concerns of someone who’s involved in the
practical side of things, securing resources and making things happen so that others have something to pontificate about. Although Chief Davis supports improvements, he warned that any departure from the status quo could confuse politicians and grantors. With COPS disbursing millions each year that’s not an idle concern.

Chief Davis also offered a provocative question. Is policing a profession or a vocation? If it’s a profession its rules, practices and techniques should make the national coherence that Dr. Stone finds lacking a non-issue. Yet profound socioeconomic, cultural and political differences between communities, even those located within the same political boundaries, assure that policing will remain far from “coherent” for the foreseeable future.

In his seminal volume, “Varieties of Police Behavior,” James Q. Wilson argued that the centrality of discretion defines police work as a craft. Unlike a true profession, policing doesn’t lend itself to standardized procedures or written directives. It’s mostly learned through apprenticeship, as even the best academies can’t simulate the infinite variety of situations and personalities that officers encounter each day. Policing’s deeply individualized and particularized nature makes its study exceptionally challenging. And we haven’t even touched on how police interact within their own ranks, nor with outsiders.

To understand why cops and chiefs behave as they do we must understand the forces that shape their environment. In past years that was done ethnographically (think Wilson, Manning, Van Maanen and Muir.) Lacking contemporary research of such depth it seems wise to take another look at how the sausage gets made. There are many interesting questions. Crime has supposedly receded, so why have things taken such an aggressive turn? In an earlier post we mentioned the veteran Camden PD captain who was browbeaten during a Compstat meeting because one of his teams made only a single arrest in four days. Whether that one pinch was particularly difficult or noteworthy seemed to be of little interest, which considering the pressures generated by Compstat isn’t particularly surprising.

That’s not to say that constructs such as community policing or police professionalism or the new versions of each have no value. Yet developing a framework that can advance policing to the next level requires far more than from what this (admittedly astigmatic) vantage point looks like a mishmash of ideology, assumptions and superficial observation. So, having discouraged jumping to prescriptions it now seems only fair to make one. Before revising any more paradigms, let’s do the grunt work. If we need a template, “Varieties of Police Behavior” seems an excellent choice. Dr. Wilson sent graduate students to eight communities; with money from COPS we could dispatch them to eighty, and do it regularly. Imagine that: a national survey! Interviewing a cross-section of cops,
politicians and citizens couldn’t help but enlighten us about how policing gets done and, most importantly, why.

First describe; then and only then prescribe. Isn’t that what we insist our students do?
RISKY BUSINESS

Warrant service is killing cops

By Julius (Jay) Wachtel. Aggressive policing is back in style. With support from NIJ and university-based researchers, police departments across the U.S. have implemented a variety of hard-hitting, targeted approaches to combat violence and get guns off the street. Assessments of their efforts have been largely positive. Of course, whether it’s Boston’s new and improved Ceasefire, Memphis’ Blue CRUSH or Philadelphia’s Operation Pressure Point, in the end it all comes to the same thing: cull violent men from the streets and send them to prison for a very long time.

What’s seldom pointed out, though, is that not all the bad guys get “culled” right away, and many who do are released before trial. Indeed, for the most serious crimes, such as murder, enough evidence to file charges may not be developed for weeks or months, leaving dangerous men – the “worst of the worst” – free to roam the streets until they’re picked up, if at all, on warrants.

Over the years virtually every major law enforcement agency has created specialized warrant service teams. Many work in concert with task forces organized by the U.S. Marshals Service. Dubbed Fugitive Apprehension Strike Teams (FAST), these groups reportedly arrested more than 90,000 fugitives, including nearly 1,000 murder suspects, during 2005-2009. In February 2011 the Dallas-Fort Worth FAST, which includes U.S. deputy marshals and officers from the Dallas and Fort Worth police and sheriff’s departments, arrested its 10,000th. fugitive since the team’s 2004 inception. Two of its most recent captures were being sought for aggravated robbery; its 10,000th. was a man wanted for the aggravated sexual assault of a child.

Warrant service can be very productive. Just this month, the Trenton, New Jersey sheriff’s fugitive unit worked with deputy U.S. marshals from the New York/New Jersey Fugitive Task Force to capture four highly sought-after fugitives, including three gang members, on warrants charging drug dealing, burglary, aggravated assault and felony weapons offenses. One suspect was surprised at work. Two others were caught at their rural “hideout” and gave up without a struggle. So did the fourth. A member of the Latin Kings, he had bolted into a home and hid in a closet.

Regrettably, not all encounters end so peacefully. And the toll this year has been frightening. On January 20 Miami-Dade detectives Amanda Haworth, 44 and Roger Castillo, 41 were working with a Marshal’s fugitive task force hunting a wanted killer. They tracked the man to an apartment and were let in by his mother. Gunfire broke out; by the time it was over both detectives and the wanted person lay dead.

Four days later another tragedy played out in St. Petersburg, Florida. Officers with a fugitive task force were told that the ex-con they sought for aggravated battery was hiding in an attic. They called for backup. Two St. Petersburg police officers not on the warrant team, Jeffrey A. Yaslowitz, 39 and Thomas Baitinger, 48 entered the home and were shot to death. A deputy U.S. Marshal was seriously wounded.
Three weeks later, on February 16, West Virginia Deputy U.S. Marshal Derek Hotsinpiller, 24 was killed and two colleagues were wounded when a man wanted for drug trafficking opened fire with a shotgun. Catastrophe then struck in St. Louis. On March 8 Deputy U.S. Marshal John Perry, 48 was killed and another marshal and a police officer were wounded by a fugitive who ambushed them inside a residence. A tactical unit found the man dead from gunshot wounds an hour later. He was being sought on drug and assault charges.

Members of fugitive squads train together and develop special expertise. However, they and the ordinary cops who come to their aid lack the firepower, protective gear and chemical weapons available to full-fledged SWAT teams. SWAT operations are planned with safety in mind. Locations are surrounded and neighbors evacuated. Suspects are called out or, if necessary, flushed out with chemical munitions. Few if any warrant teams are prepared to take such measures. It’s not that they would want to. Turning felony arrests into major tactical events would seriously impair their productivity, allowing dangerous offenders to stay on the streets far longer, or as some fear, permanently.

Dallas PD nonetheless decided two years ago to tip the scales in favor of safety. On January 6, 2009 gang unit Corporal Norman Smith and other officers went to an apartment to serve a warrant for aggravated assault. They tried to use a pretext to get in but were met with gunfire. Corporal Smith was fatally shot in the face. Dallas PD promptly revamped training and procedures. Carrying ballistic shields and using standard “knock and announce” procedures are now required.

In a July 1998 overview of “pulling levers” NIJ endorsed the use of aggressive police tactics, including warrant service, as a way to help tame violent drug markets (photos depicting plainclothes cops raiding an apartment appeared on the journal cover.) To forewarn citizens and discourage potential criminals, it recommended that the following message be conveyed to the community in advance (boldface added):

We have three serious crackdowns ready to deploy. They will involve heavy police and probation presence, warrant service, and the like. Those arrested will receive special prosecutorial attention and, if convicted to probation, will be put on strict supervision probation regimes; groups and individuals with a history of violence will be screened for added attention by DEA and the U.S. Attorney. We will decide, over the next 2 weeks, where to direct those crackdowns. We will make our decisions based on whether, between now and then, there is any violence associated with your drug market....

Aggressive policing can have unintended consequences. It can anger residents of crime-impacted areas, cause anxious officers to mistakenly shoot innocent persons, and, as discussed above, lead to officer deaths and woundings. NIJ has been inexplicably silent about these side effects. Now that there’s a new director on board – and a criminologist, no less – here’s hoping that a more well-rounded approach will prevail.
ROUTINELY CHAOTIC

Rule #1: Don’t let chaos distort the police response. Rule #2: See Rule #1.

By Julius (Jay) Wachtel. “She was too fast for me.” Taking the stand at his trial for murder, manslaughter and negligent homicide, that’s how NYPD Sgt. Hugh Barry explained winding up in a situation that ultimately forced him to pull the trigger, mortally wounding Deborah Danner, 66, a diagnosed paranoid schizophrenic. Only a day later Mayor DeBlasio declared the officer at fault: “The shooting of Deborah Danner is tragic and it is unacceptable. It should never have happened.” Police Commissioner James O’Neill agreed: “That’s not how we trained. We failed.”

On October 18, 2016 officers were dispatched to the apartment building where Ms. Danner lived and occasionally lost control. Sgt. Barry testified that when he arrived Ms. Danner was ensconced in her bedroom, a pair of scissors in hand. He said he convinced her to put the scissors down and come out, but she soon became recalcitrant. Fearing she’d go back for the scissors, he tried to grab her, but the panicked woman slipped away. So he chased her back into the bedroom, and got confronted with a baseball bat. Sgt. Barry testified that Ms. Danner ignored repeated commands to drop the object, then aggressively stepped towards him and began her swing.

In our earlier comments about the case (A Stitch in Time and Are Civilians Too Easy on the Police?) we referred to NYPD’s lengthy and, in our opinion, confusingly written protocols. In all, these rules apparently prescribe that unless a mentally ill person’s actions “constitute [an] immediate threat of serious physical injury or death to himself or others” officers should limit their response to establishing a “zone of safety” and await the arrival of their supervisor and an emergency services unit.

Well, a sergeant got there, and he didn’t wait for the specialists. With the Big Apple still reeling from Eric Garner’s death at the hands of a cop two years earlier, the mayor and police commissioner probably figured that accepting responsibility and promising reform was the wisest course. Ditto for the D.A. While she vigorously insisted that her decision to prosecute was based on the facts, and nothing but, expressions of concern by Black Lives Matter and other activists might have helped spur Sgt. Barry’s indictment seven months later.

As one would expect, the charges – and their severity – caused an uproar in cop-land. Here’s how the NYPD Sergeant’s Benevolent Association disparaged the “political prosecution”: 
Police Commissioner James O’Neill stated that “we failed” when describing the fatal shooting of Deborah Danner, an emotionally disturbed woman who attacked Sgt. Hugh Barry with a baseball bat. The reality is that Commissioner O’Neill “lied” because, in the split-second that Sgt. Barry had to make a momentous decision, he followed department guidelines...

Here’s how a union member saw it:

...There is nothing easier than to be a Monday morning quarterback. This is an absolute joke, my thoughts and prayers are with all of you guys in particular Sgt. Barry. I am quite confident justice will prevail in this situation...

While their arrival was staggered (Sgt. Barry reportedly came in next to last), five patrol officers and two paramedics ultimately handled the call. According to a reporter who sat through the trial, their testimony clashed:

Two emergency medical technicians and five police officers have testified over the last two days of trial, giving differing accounts of what happened. It is not unusual for witnesses to a shooting to remember things differently, though in this trial, some of the inconsistencies have been striking.

“Striking” seems an understatement. A paramedic testified that she was conversing with Ms. Danner when the supervisor arrived. Sgt. Barry didn’t contact her, and officers soon butted in, causing the agitated woman to scurry back to the bedroom. However, four officers insisted that the medics never actually entered the apartment, while the fifth, Officer Camilo Rosario, said that the EMT who spoke with Ms. Danner retreated to the front door when Sgt. Barry arrived. Officer Rosario’s account also differed from Sgt. Barry’s. Officer Rosario said he informed his supervisor about the scissors and Ms. Danner’s refusal to voluntarily go to the hospital. So they soon decided to go to the bedroom to fetch her. Officer Rosario, who was right behind Sgt. Barry, agreed that Ms. Danner threatened with a bat, and that’s when the shooting happened.

Sgt. Barry conceded that containing Ms. Danner within a “zone of safety” and awaiting the arrival of an emergency services team might have been possible. He also turned away (we think, correctly) the suggestion he should have used a Taser, as CED’s are neither suitable nor intended for use as defensive weapons. Of course, Sgt. Barry wasn’t being prosecuted for violating policy but for needlessly taking Ms. Danner’s life. In the end, the judge (it was a bench trial) felt that prosecutors did not meet their stiff burden, and he acquitted Sgt. Barry on all counts.
In “Are Civilians Too Easy on the Police?” we suggested that the case was purposely overcharged so that jurors who may have been reluctant to severely sanction a cop had a lesser offense on which to convict. That’s probably why Sgt. Barry opted to be tried by a judge. He is presently on desk duty awaiting an internal hearing. Unless he can convincingly argue that his decision not to wait for specialists was correct – that Ms. Danner posed an imminent threat to herself or others – his future with NYPD seems bleak.

In science the “ideal case” is a made-up example that typifies the situation under study. But when it comes to failed encounters between citizens and police there’s little need to concoct scenarios. Our Use of Force and Strategy and Tactics sections brim with accounts of policing gone wrong (for a few recent examples click here). Indeed, handling chaos is what cops do. What they try to avoid – usually, successfully – is letting the messiness of the real world infect their response so it turns into what officers sneeringly refer to as a “cluster”.

To be sure, there is no shortage of guidance for handling fraught situations. Experts routinely advise that officers who encounter troubled persons “de-escalate” and slow things down, giving themselves an opportunity to think things through and making time for supervisors and specialists to arrive. Well, they may not have called it “de-escalation,” but that commonsense approach is what good cops have always done. Regrettably, what advice-givers can’t supply is more cops. Lots of bad things can happen during a shift, from nasty domestic disputes to robberies and shootings, so care must be taken to leave some uniforms available. Given limited resources (anybody out there got too many cops?) calls must be handled expeditiously and without needlessly tying up specialized teams. As a one-time police sergeant, your blogger thinks that’s what Sgt. Barry was trying to do. Really, a supervisor, five officers and two EMT’s on a single call would be pretty darn good most anywhere.

Might things have turned out differently had an officer Tasered Ms. Danner early on? Possibly. NYPD’s rules specifically allow (i.e., encourage) using CED’s “to assist in restraining emotionally disturbed persons.” Properly deploying the devices, though, can be tricky. At least two officers must be directly involved. Subjects should be relatively still, offer an ample target area and not be heavily clothed. Applying multiple doses or zapping the infirm, elderly or mentally disturbed (Ms. Danner fits at least the last two categories) can prove fatal. CED’s are useful, but far from an unqualified solution.

Fine. Humankind is frail. Chaos rules the streets. There is a surplus of wackos and a shortage of cops. One-size-fits-all solutions are rare. So, Dr. Jay, what do you suggest?
We won’t belabor the subject of critical incident response, which has been exhaustively addressed by authoritative sources (for two examples click here and here.) Instead, let’s advance a couple of points that are frequently missing from the conversation.

First, as to early intervention. “A Stitch in Time” emphasized the pressing need to detain mentally disturbed persons for examination and treatment as soon as they become a cause for police concern. That’s especially true for individuals such as Deborah Danner who live alone. If that seems harsh, consider that waiting until the third episode may, as with Ms. Danner, turn into a death sentence.

Secondly, we must stop thinking of police as a quasi-military force. Those of us who have been in both occupations know that military operations are typically conducted in groups. Policing is decidedly not. While police also have sergeants, lieutenants and what-not, life-changing decisions are regularly made by twenty-somethings with a badge, acting completely on their own. By the time supervisors such as Sgt. Barry arrive on scene a lot has usually transpired. From our reading of news reports, Officer Rosario seemed to be especially well-informed, having observed Ms. Danner’s behavior from the early stages of the incident through her interaction with the EMT. But he apparently deferred to the judgment of his late-arriving superior, who promptly grabbed for the woman, and ultimately shot her, within five minutes of arrival.

What to do? Police protocols should place those most familiar with a situation – typically, the first officer(s) on scene – in charge, at least until things have sufficiently stabilized for a safe hand-off. Officer Rosario and his colleagues had been monitoring the disturbed woman and waiting her out. Had Sgt. Barry taken on a supportive role, as supervisors routinely do, and let her alone, a heart-warming Hollywood ending might have been far more likely.
By Julius (Jay) Wachtel. Last Monday a throng of academics, practitioners and grantees (and this blogger) assembled in Arlington, Virginia for the 2009 Conference of the National Institute of Justice. It was obvious within moments that DOJ had a special message to put across. Kristina Rose, NIJ’s acting director had hardly taken up the mike when she launched into an ebullient portrayal of a rejuvenated, researcher-friendly, scientifically-oriented organization anxious to develop evidence-based strategies to combat crime, drugs and terrorism.

The hotel’s immense ballroom felt like a revival tent. At long last, science is here to stay!

Ms. Rose then turned over the podium to her boss, Laurie Robinson, acting head of the Office of Justice programs, the umbrella agency of which NIJ is a part. While Ms. Rose, a key NIJ official during the Bush years looked on, Ms. Robinson sharply rebuked the preceding Administration for snubbing research. Declaring that “science will once again be respected at the Department of Justice,” she said that extensive safeguards had been put in place to prevent political meddling. Hours later the same assurances were put forth in a luncheon address by her boss, Attorney General Eric Holder.

Allegations that Bush and his cronies were hostile to science aren’t exactly new. Yet when the new kids on the block wind up sounding like Elmer Gantry one wonders whether they’re merely slapping lipstick on the same old pig. That’s not an idle concern. Although the AG and his underlings seemed sincere, it hasn’t been that long since the National Academy of Sciences pointed out that a host of forensic “disciplines” touted under both Republican and Democratic administrations lacked a scientific basis. NIJ’s brazen, ultimately unsuccessful attempt to suppress the study
helps explain why the NAS suggested that an independent organization be created to oversee forensics, as “advancing science in the forensic science enterprise is not likely to be achieved within the confines of DOJ.”

Writing in a recent issue of The Criminologist, a former president of the American Society of Criminology voiced serious doubts about placing DOJ in charge of criminal justice research. His concern, that political appointees might be tempted to twist conclusions to fit policy (or, one might add, ideology) isn’t the only drawback. Confounding complexities, a lack of basic knowledge about the causes and prevention of crime and a paucity of valid metrics can make it well-nigh impossible to determine whether newfangled interventions offer unique advantages. DOJ, as a law enforcement agency, expects its components to demonstrate success in the fight against crime. As the conference wrapped up one well-regarded researcher (and frequent grantee) privately complained that NIJ’s eagerness to showcase solutions is a recipe for exaggeration.

There were other issues.

- Little or nothing was said about about preventing police misconduct and excessive force.

- Not unexpectedly, the silence about gun control (as opposed to gun violence) was deafening.

- A few participants expressed distress about the overarching emphasis on DNA, which they saw as a money pit that can starve the development of other deserving technologies. For example, the effectiveness of ballistic vests has hardly improved in the last two decades, yet basic research in this area has been essentially abandoned to private industry.

PoliceIssues will be commenting on specific aspects of the proceedings in the coming weeks. To contribute your thoughts -- and we hope that you will -- please click on “Feedback.”

Stay tuned!
SEE NO EVIL, SPEAK NO EVIL

Why don’t witnesses come forward? Often, for a very good reason

“These rats deserve to die, right or wrong? . . . My war is with the rats. I’m a hunt every last one bitch that I can, and kill 'em.”

Extract from wiretap of Philadelphia drug lord Kaboni Savage, charged in 2009 with ordering seven murders.

“If you see something, you better look the other way...Don't tell nothing unless you can take care of yourself, because the city don't have nothing in place to help you.”

Philadelphia resident Barbara Clowden commenting on the murder of her sixteen-year old son only days before he was to testify against the man who tried to burn down their home.

By Julius (Jay) Wachtel. According to the Philadelphia Inquirer thirteen witnesses or relatives of witnesses have been murdered in the city of brotherly love since 2001. Philadelphia does have a witness assistance program, currently funded at about $1 million per year. But despite the danger – Ms. Clowden’s son, Eric Hayes, was gunned down far from their old neighborhood – help is limited to paying for a motel room and living expenses, and that only for four months. Beneficiaries must sign a 13-page form that requires them to stay away from their former neighborhoods and avoid those they left behind. That’s not unusual. Because relocated witnesses tend to return to their old haunts, no less an authority than the U.S. Department of Justice recommended that cities with witness protection programs draft detailed contracts to forestall liability.
Witness intimidation is a major national concern. According to a 2006 study it figured in nearly a third of Minneapolis murders and half of its violent crime. It’s supposedly why Trenton’s citizens are reluctant to help police, and why Boston’s cops cleared less than four in ten homicides. None of this should prove surprising. Nearly two decades ago about one-third of Bronx County (NY) criminal court witnesses reported they had been threatened; of the remaining two-thirds, a majority said they feared reprisal.

What can be done to discourage intimidation? The Justice Department has recommended several strategies, including admonishing defendants to stay away from witnesses, keeping dangerous persons in jail until trial, strengthening penalties for making threats, and vigorously prosecuting those who do. Of course, none of these approaches is fail-safe. In-custody defendants can get friends to do their bidding. Prosecuting intimidators after the fact doesn’t solve the original problem. Doing so also requires – you guessed it – a willing witness.

Spending more money protecting witnesses would help. Still, with 14,180 murders and 1,382,012 violent crimes in 2008, relocating everyone is impossible. What’s more, few persons are eager to upend their lives for the sake of putting someone in jail. Those who do are prone to break the rules, occasionally with lethal consequences. Consider the case of 23-year old Chante Wright. Placed under protection of US Marshals after witnessing a homicide in Philadelphia, she was shot and killed only hours after returning home to visit her ailing mother. If getting witnesses to cooperate is difficult, what about compelling them to testify under penalty of law? DOJ discourages the practice, warning that it can “backfire” and lead those who might eventually cooperate to “forget.” On the other hand, your blogger knows from experience that once such witnesses take the stand they usually tell the truth. Those who prevaricate can be impeached, and particularly if they’ve made inconsistent verbal or written statements in the past. Indeed, misbehaving witnesses have often influenced jurors to convict.

That, in fact, has been the experience in Philadelphia. A defense lawyer and former D.A. praised its prosecutors, saying that they’re “among the best in the country in trying recantation cases. They’ve raised it to an art form.” Detectives try to “lock in” witnesses by getting detailed statements early on. And should witnesses clam up or change their minds, officers are more than happy to take the stand and read what they were told, “line by line.” Prosecutors have even ordered the arrest of material witnesses to guarantee their availability come trial. To prevent intimidation court records must be signed out with photo ID, and D.A.’s often ask that defense lawyers be prohibited from giving clients copies of police reports (reproducing and distributing official documents on the street is a common intimidation technique.)
Over a defense objection, a scared female witness was even allowed to take the stand while draped in a burka.

Whether one asks or compels witnesses to testify, it’s impossible to avoid the underlying moral dilemma. How can we balance their safety against the imperatives of fighting crime? In July 2005 two assailants shot and killed Philadelphia resident Lamar Canada over a gambling debt. An eyewitness, Johnta Gravitt, voluntarily identified one of the shooters as Dominick Peoples. Gravitt’s statement was supported by Martin Thomas. A friend of Peoples, he told police that the suspect buried the guns used in the shooting in his backyard (they were dug up.) It was an open-and-shut case, at least until ten days after the 2006 preliminary hearing, when Gravitt was gunned down. Someone then posted a copy of Thomas’ statement on a local restaurant wall. It bore the ominous inscription, “Don't stand next to this man. You might get shot.” Thomas stopped cooperating. Forced to appear at Peoples’ trial two years later, he recanted everything.

Peoples was convicted of killing Canada. Gravitt’s murder remains unsolved. As of this writing, Thomas hasn’t been harmed.
SLAPPING LIPSTICK ON THE PIG (PART I)

Do elaborate violence-reduction initiatives make a difference?

“Given his extensive criminal record, if there was a Federal law against jaywalking we’d indict him for that.”

By Julius (Jay) Wachtel. Issued by United States Attorney Don Stern (yes, Stern), the pithy threat, which was plastered throughout a violence-ridden Boston neighborhood, was actually part of Operation Ceasefire, a strategy devised by Harvard researchers to combat youth gun violence.

Ceasefire had two components: a law enforcement campaign to curb gun trafficking, thus reduce the supply of firearms, and a so-called “pulling levers” approach intended to reduce the demand for guns. Beginning in 1996 gang members in selected crime hot spots were summoned to group meetings where they were warned by police, probation and the Feds that if violence continued serious consequences would follow. Educators, job training specialists and community workers were also on hand to offer alternatives. Posters were put up to spread the word about the project and what happened to those, like Freddie, who dared to ignore it.

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**GOAL: STOP THE VIOLENCE**

**BOWDOIN STREET OPERATION**

INTERAGENCY OPERATION: POLICE, AITE, PROBATION, PAROLE, D.A., U.S. ATTORNEY, SCHOOL DISTRICT, D.A., SCHOOL POLICE
SHARE INFORMATION AND INTELLIGENCE: DAILY
SET DOWN DRUG MARKETS, WHEN THERE IS VIOLENCE, NOISE PROHIBIT
HEART POLICE PRESENCE: YOUTH/VIOLENCE ENFORCE FORCE DISTRICT C-1,
DRUG CONTROL UNIT, ATE
SKIM AREA
10 ARRESTS
70 HRS
MULTIPLE GUN SEIZURES
WARAPETS SERVE
DISORDER ENFORCEMENT
COMMUNITY ORGANIZING
HEART PROBATION PRESENCE, NIGHT AND DAY:
10 SUSPENSIONS
25 HRS
CONTINUOUS AREA CHECKS
NEW RESTRICTIONS ON ALL RAGE
PRAISE WITH PTY
PROBATION INFORMATION
SHARED WITH POLICE OFFICERS

**FREDDIE CARDOZA**

**PROBLEM: VIOLENT GANG MEMBER**

“Given his extensive criminal record, if there was a Federal law against jaywalking we’d indict him for that.”

—Don Stern, US Attorney

**SOLUTION: ARMED CAREER CRIMINAL CONVICTION**

Arrested with one bullet
Sentence: 19 years, 7 months
No possibility of parole

**ADDRESS:**

OTISVILLE FEDERAL CORRECTIONAL INSTITUTE
Maximum Security Facility, New York
Once the notification and publicity phases were done the hammer fell. Cops swarmed problem locations, doing stop-and-frisks and arresting drug dealers, gun possessors and those with outstanding warrants. Probation officers conducted surprise searches. Thanks to United States Attorney Don Stern’s enthusiastic participation, felons and drug dealers caught with guns -- or, as in the above example, ammunition -- wound up in Federal court, where bail was rare and sentencing tough. Progress was soon evident. Comparing the two-year implementation period (May 1996 - May 1998) to the five years preceding the intervention, the mean number of monthly gun deaths for ages 24 and under fell sixty-three percent. Citywide gun assaults declined by a quarter.

During 1998-2000 a violence-fighting initiative called SACSI sought to implement the Ceasefire model in ten cities: Indianapolis, Memphis, New Haven, Portland, Winston-Salem, Albuquerque, Atlanta, Detroit, Rochester and St. Louis. U.S. Attorneys were in charge of each site. Once the preliminaries were done police and the Feds hit the streets with all they had. Their gloves-off approach yielded promising results. Gun assaults in Indianapolis fell 53 percent. Portland enjoyed a 42 percent decrease in homicide.

Although SACSI gave lip service to “pulling levers” NIJ’s own report reveals that for better or worse the focus was overwhelmingly on law enforcement:

Each of the SACSI sites implemented both enforcement and prevention strategies, yet all sites, particularly at the start, emphasized enforcement and prosecution. Many of the initial strategies were enforcement oriented -- targeting hotspots and repeat offenders, crackdowns, sweeps, saturation patrols, serving warrants, and making unannounced visits to probationers....Prevention activities in most sites were meager and implemented late in the SACSI program....(pp. 10, 15)

Evaluators tried to assess the effectiveness of notification and warning strategies. Their conclusions weren’t encouraging:

The impact of the lever-pulling approaches was mixed. Three of four sites found that offenders had indeed “heard the message” about new violence bringing swift and certain law enforcement action. Yet, in those same sites, there was no difference in the recidivism rates of lever-pulling attendees and those of comparison groups of offenders. Researchers in Indianapolis found a general deterrent effect due to offenders’ awareness of increased police stops, probation sweeps, and the like, rather than their awareness of SACSI “offender notification” meetings and messages. (pp. 4-5)
Federal law treats gun-toting criminals harshly. **Title 18, United States Code, section 924**, imposes a mandatory minimum 5-year penalty on drug dealers and violent offenders caught with guns. Armed felons with three prior convictions for violence or drug trafficking are subject to a fifteen-year term with no possibility of parole. In 1997 these provisions became the centerpiece of **Project Exile**, a program intended to rid Richmond (Virginia) of armed thugs.

Unlike Ceasefire, there was no pre-hammer component -- it was all vigorous policing from the very start. Within a year gun homicides were down forty-one percent.

In 2001 the U.S. Justice Department blended components of Ceasefire, SACSI and Project Exile into an anti-violence initiative called **Project Safe Neighborhoods** (PSN).

U.S. Attorneys in each judicial district were encouraged to work with mayors, police chiefs, local prosecutors and probation and parole to devise and implement comprehensive, locally-attuned strategies to fight violent crime. Trainers and IT experts were provided. Although the emphasis was on law enforcement, sites were encouraged to incorporate Ceasefire’s “pulling lever” components, and many did.

A recently published evaluation of **PSN** offers a mixed picture. While Federal prosecutions increased overall, philosophical differences and workload concerns made some U.S. Attorneys and judges reluctant to take on street offenders, whom they viewed as a local responsibility. In districts where PSN took hold the partnerships were mostly among law enforcement agencies rather than the broader spectrum envisioned by Ceasefire. And getting probation and parole involved wasn’t always easy, a significant issue given their key monitoring and sanctioning roles. (Probation officers may have been reluctant to play “cop,” thus lose credibility with their charges.)
Evaluators identified eighty-two cities where PSN was implemented and 170 cities where it was not. Violent crime rates were compared between the pre-intervention period of 2000-2001 and a four-year period, 2002-2006, when the program was in effect. PSN cities (also called “target” cities) were classified by “dosage”, meaning the program’s rigor -- high, medium or low. (It’s too complicated to go into here, but dosage was measured in a way that heavily weighted law enforcement efforts.) Both PSN and non-PSN cities were also categorized by level of Federal prosecution -- high, medium and low.

Statistical significance aside, PSN’s effects seem insubstantial. Overall, violent crime per 100,000 pop. fell about 4 percent in PSN cities (top trend line) while in non-PSN cities it declined about 1 percent.

PSN’s effects might have been attenuated by weak implementation. As the chart demonstrates, sites higher in “dosage” fared better at the start. (Why the effects of medium dosage persisted, while high dosage did not, is an open question.)

High levels of Federal prosecution seemed helpful for PSN and, to a lesser degree, non-PSN sites, while low levels appeared catastrophic for the latter. Again, there is
some inconsistency, as low level of Federal prosecution is associated with a greater reduction in violence than medium level.

<table>
<thead>
<tr>
<th>Level of Federal Prosecution</th>
<th>PSN Target Cities</th>
<th>Non-PSN Target Cities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>-5.3%</td>
<td>+7.8%</td>
</tr>
<tr>
<td>Medium</td>
<td>-3.1%</td>
<td>&lt;1.0%</td>
</tr>
<tr>
<td>High</td>
<td>-13.1%</td>
<td>-4.9%</td>
</tr>
<tr>
<td>Total*</td>
<td>-8.89%</td>
<td>-0.25%</td>
</tr>
</tbody>
</table>

*Total percentage change was calculated from the entire target/non-target city data

Whatever their causal mechanism, most gains were wiped out over time. By 2005 the trend in violence was on the upswing for non-PSN cities regardless of prosecution level, for PSN cities at all prosecution levels, and for PSN cities at both low and high dosages of program implementation.

As the PSN evaluation suggests, and as recent events in Boston, Cincinnati and elsewhere illustrate, lean economic times and other factors can make programs like Ceasefire, SACSI, Project Exile and PSN difficult to sustain. Expending scarce resources on complex partnerships with non-governmental entities and on elaborate techniques such as offender call-ins and notifications raises even more questions. How well such approaches work and whether they add sufficient value to justify their distraction and expense are among the issues we’ll look at next week.
SLAPPING LIPSTICK ON THE PIG (PART II)

“Proving” that crime-control strategies work is laden with pitfalls

By Julius (Jay) Wachtel. In August 2005 the prestigious journal Criminology & Public Policy published “Did Ceasefire, Compstat, and Exile Reduce Homicide?”, an analysis by Richard Rosenfeld and two colleagues from the University of Missouri-St. Louis of three celebrated violence reduction programs: Boston’s Project Ceasefire and Richmond’s Project Exile (both discussed in Part I) and Bill Bratton’s Compstat, a program that began in New York City and spread throughout the U.S.

Each program was widely credited with success. But according to the authors none had been satisfactorily evaluated. Using sophisticated statistical techniques, they sought to determine whether declines in homicide in Boston, Richmond and New York City went significantly beyond drops that were being experienced elsewhere. Corrections were taken for police coverage, incarceration rate, level of cocaine use, population density and resource deprivation, the last a composite measure that includes factors such as poverty rate and male unemployment.

Their conclusions rattled more than a few cages. Once extrinsic factors were taken into account New York’s drop in homicide didn’t significantly exceed that of comparable areas. Compstat might be a terrific idea, but in this study it wasn’t demonstrably so. Richmond, on the other hand, easily passed the test, its adjusted 22 percent yearly decline in firearm homicide proving significantly better than reductions elsewhere.

Ceasefire proved to be a mixed bag. As this chart from the Ceasefire report illustrates, a steep and persistent decline in the number of youth gun homicide victims coincided with the project (pre/post-intervention means 3.5/1.3. See “Reducing Gun Violence: the Boston Gun Project’s Operation Ceasefire,” National Institute of Justice, September 2001, p.58)
Examining an extended three-year post-intervention period, Rosenfeld and his colleagues calculated that Boston enjoyed an adjusted 30-percent yearly drop in youth gun homicides, nearly twice the 16 percent yearly reduction reported in comparable cities. However, since the actual number of deaths was few, the 14 percent improvement wasn’t enough to reach statistical significance. (Expanding the victim age range, thus increasing their number by only three yielded what the writers termed “marginal” significance.)

But let’s not quibble. Boston Ceasefire posted impressive real-world results. That’s to be expected. Police, probation officers and Federal agents served warrants, did stop-and-frisks, made drug and gun busts and conducted probation and parole checks. Yet, although the NIJ Research Report concedes that the program incorporated the “certainty, swiftness and severity of punishment” aspects of the deterrence model, the tendency has been to credit Ceasefire’s success to its unique notification and warning aspects. That explanation has become so common that when discussions at the recent NIJ conference turned to the program one could be excused for thinking that there was no enforcement component at all. On the contrary: as the descriptive sections of the NIJ report make clear, police & probation efforts were very substantial. They were certainly so from the perspective of offenders, who are unused to concerted law enforcement measures, and particularly if they persist.

Teasing out just how much of Boston Ceasefire’s fourteen percent gain came from locking people up and how much from everything else was impossible then, and it’s impossible now. As one of Project Safe Neighborhoods’ evaluators told the blogger, specifying the effects of, say, notifications is well-nigh impossible.
In 1999 the University of Illinois School of Public Health initiated Chicago Ceasefire.

Don’t be fooled by the “Ceasefire” label -- this is an unique approach. Street workers and “violence interrupters” prowled inner-city areas, identifying and counseling high-risk youth, mediating disputes and defusing situations that might lead to violence. Every effort was made to keep staff members independent and credible. Unlike Boston, there was no deployment of police, and while official tips about violence were welcomed, information only flowed one way.

A recent NIJ evaluation reports mixed results. Seven of Chicago Ceasefire’s sites were matched with seven locations where the program was not in effect. Homicides fell significantly more than in the matched area at only one site (again, death counts were very small.) Other results were more promising. When compared to matched locations, four project sites experienced additional decreases of 17 to 24 percent in shots fired, and four demonstrated additional decreases of 16 to 34 percent in actual shootings.

Evaluating Chicago Ceasefire presents many challenges. There were other projects, including PSN, operating in and near Ceasefire sites. Assessors also raised serious doubts about the equivalency of the comparison sites. That’s a potentially fatal flaw. High-crime locations such as those where Ceasefire was deployed tend to attract more policing. Without data on the nature and intensity of law enforcement activity, attributing improvements to program effects is risky.

There’s another concern. Consider, for example, the far higher violence rates of PSN vis-à-vis non-PSN cities. Of course, you say: that’s how sites were selected in the first place! But extreme scores are unstable and apt to revert to more moderate levels for no discernible reason. If a generalized crime drop is already underway, precipitous changes could be easily misinterpreted. Absent a robust research design, bundling high-crime locales is just asking for trouble come evaluation time.
In “Knowing when to fold 'em: an essay evaluating the impact of Ceasefire, Compstat and Exile,” UCLA statistician Richard A. Berk gloomily concludes that unless programs are specifically designed to be rigorously evaluated doing so may be unwise.

What if random assignment, a strong quasi experiment, or a convincing analysis of observational data are not in the cards? Even if the policy questions are vital, it may be wise to throw in the hand. Suspect science, even the best that can be done under the circumstances, does long run damage to the credibility of all science. The position taken here is that under these circumstances, responsible researchers should withdraw until stronger studies are possible. It may even be possible to help make those stronger studies more likely.

Guilding the lily with unsupportable claims ultimately works to everyone’s disadvantage. Yet public servants don’t have the luxury not to decide, and their decisions must be based on something. Often that “something” is their best judgment, informed with hefty doses of real-world experience. Next week in the (hopefully) final part of this series we’ll examine some promising real-world approaches to fighting crime and violence.
SLAPPING LIPSTICK ON THE PIG (PART III)

*Simple policing strategies are the best*

By Julius (Jay) Wachtel. It’s as close to a Nobel as a criminologist can get. David L. Weisburd, a professor with joint appointments at Hebrew University and Virginia’s George Mason University was awarded the 2010 Stockholm Prize in Criminology for demonstrating that hot-spot policing doesn’t displace crime. One of a growing number of academics who propose that offending is rooted in place, Dr. Weisburd believes that concentrating efforts at crime-prone locations deters crime and can minimize conflicts between the public and police.

In the mid-90’s Dr. Weisburd and his colleagues tested an enhanced drug hot spot strategy in Jersey City (N.J.) Police identified fifty-six open-air drug markets. At half undercover officers bought drugs and made arrests as usual. In the others they cranked things up, selecting targets in advance rather than ad-hoc, placing extra cops on patrol and sending in housing and liquor inspectors. What happened? Both the old and new approaches suppressed drug activity about equally. Effects from the enhanced sites also benefitted adjoining areas, contradicting the conventional wisdom that intensive policing displaces crime.

In a later study Dr. Weisburd and others geocoded 14 years (1989-2002) of Seattle crime data to reflect “street segments” (both sides of the street of a contiguous block.) Their analysis replicated earlier findings that crime concentrates at relatively few places. They also discovered that offending at these hot-spots was stable over time, and that the city’s crime drop, which coincided with a general improvement across the U.S., was mostly due to declines at high-crime “micro-locations.” (“Trajectories of Crime at Places,” *Criminology*, 42:2, May 2004.)

Dr. Weisburd returned to Jersey City to revisit the crime-displacement hypothesis. Two hot spots were selected; one prostitution, the other drugs. Police hit the prostitution site with a series of reverse stings, each time arresting dozens of clients. They also set up checkpoints between operations to inform and warn potential customers. A narcotics task force, a violent offender squad and intensified patrol took care of the drug location. (A few non-law enforcement tactics were applied at both locations, but what the cops did seems by far the most salient.)
Prostitution and drug offending plunged at both sites, with gains remaining evident after policing subsided. Again, there was a “diffusion of benefits” to surrounding areas and no substantial displacement. Offenders later explained to researchers that relocating was not so much in the cards as it would be difficult and unsafe. (“Does Crime Just Move Around the Corner?” *Criminology*, 44:3, August 2006.)

Drug, vice and stolen property stings (remember the LEAA-funded storefront operations?) have been around for decades. To respond to shootings and gang violence police across the U.S. have deployed specialized gang and anti-violence units and staged stop-and-frisk campaigns. As effective as such strategies may be (credited with a 32 percent 2007-2008 homicide drop in *Milwaukee*) they also tend to sweep in innocent citizens, making it crucial that officers are well trained and supervised and that there is good communication between the police and the community.

Multi-agency task forces are very popular. Philadelphia’s “*Operation Pressure Point*” deploys teams of police, probation officers and Federal agents to crime hot spots on weekend evenings, when most violence occurs. In *Charlotte* (N.C.) police partner with ICE to combat violent Central American gangs. U.S. Marshals regularly stage fugitive apprehension projects. A recent California example netted more than 1,000 wanted persons, including thirty-one homicide suspects.

Long-term Federal-local racketeering investigations seem particularly promising. Last month the U.S. Attorney in Los Angeles struck at the *MS-13 gang*, indicting twenty-four members on charges that could in some instances draw life terms. In May he indicted 147 members of the *Varrios*, a gang that is centered in the tiny, impoverished unincorporated community of Hawaiian Gardens.

Despite their many successes, the literature still treats police as though they’re in the nineteenth century. It’s assumed that crime can’t be deterred without (a) bringing in outside experts to (b) design stunningly complex programs that (c) involve special innovations and (d) call for multiple “partners.” And we haven’t even mentioned the
impenetrable, eye-popping rhetoric that’s usually offered in justification. In fact, there’s pitifully little proof that tacking on extraneous interventions -- slapping lipstick on the pig, if you will -- adds significant value to the core component of most anti-crime strategies: the police. As Cincinnati discovered, adding complexity can create turmoil, making programs so unwieldy that they can’t possibly be sustained.

It may not seem so from TV cop shows, where everything gets resolved in sixty minutes and there’s no paperwork, but even simple arrests consume lots of resources. Police must also jump through legal and procedural hoops that civilians can’t begin to fathom. Most officers accept the limits of their authority and try to be effective within established law and procedure. Asking them to do things far removed from the norm is a recipe for confusion. Consider how Baltimore officials reacted to the notion (a strategy actually applied in High Point, N.C.) of making buys from street drug dealers, then calling them in and threatening prosecution if they don’t behave:

Representatives from the Police Department, state's attorney's office and mayor's office attended training last year sponsored by the Bureau of Justice Assistance to learn about how it works, and determined it wasn't a good fit for Baltimore, where much criticism of law enforcement focuses on repeat offenders who avoid prosecution. “When you have a city as violent as Baltimore, if you have enough to bring an indictment, we're not going to give bad guys a choice,” said Margaret T. Burns, a spokeswoman for Baltimore State's Attorney Patricia C. Jessamy. [A mayor’s representative] said elements of the strategy might work, “but having enough information to indict somebody and then not actually doing so is not something that this group felt was appropriate.”

“Not giving bad guys a choice” is hardly the most pressing issue. In his younger days, when your blogger worked undercover buying everything from machine guns to a stolen front-end loader (don’t ask) he quickly learned that there’s no such thing as a “routine” deal. Explaining why someone got hurt while police were fulfilling the odd requirements of an “innovative” program is not something that any chief or prosecutor would want to do.

Tightening the law enforcement screws may be easier than dealing with the underlying conditions that breed crime. But keeping things down once the cops are gone is tough. Even crooks learn, and once the low-hanging fruit gets picked -- and get picked it must -- taking it to the next level may require far more resources than a local agency can spare. (That’s where the Feds can help.) Initiatives such as Weed and Seed have sought to sustain gains with social service and community-building programs. Results, though, have been uneven, possibly because of the very heavy lifting that’s needed to turn disorganized communities around.
We may be asking far too much from the police while giving them far too little credit for their knowledge and accomplishments. As the ones most intimately aware of their environment, they’re in the best position to design and implement appropriate responses to crime. Outside advice can be useful, but it must be offered humbly and accepted with a critical eye. In the end, encouraging police to work where they’re most comfortable and productive, while offering them the resources and information they need to do a quality job, will insure that the critical things only they can do are done right.
SPEED KILLS

*Acting swiftly can save lives. And take them, too.*

*By Julius (Jay) Wachtel.* On April 20, 1999, two high school seniors staged an elaborately planned massacre at Colorado’s *Columbine High School*. Before committing suicide they shot and killed twelve students and a teacher and wounded nearly two dozen others. When it comes to police strategy, Columbine changed everything. Criticism that lives would have been saved had officers moved in more quickly – they awaited SWAT, which took forty-five minutes to arrive – led the Governor’s review commission to suggest a new approach:

Clearly, rapid deployment poses risks to innocent victims but, even so, immediate deployment by teams of responding officers to locate and subdue armed perpetrators seems the best alternative among a set of risky and imperfect options in a situation like that at Columbine High School. (p. 67)

Dubbed IA/RD (“Immediate Action/Rapid Deployment”), the new strategy marked a shift in response philosophy, from containment to prompt intervention. To be sure, IA/RD doesn’t simply mean “ barging in.” Officers are supposed to be trained in this approach, and when the opportunity comes form small teams and move in a coordinated fashion. Yet when things get “hot” in the real world time is at a premium, and the one thing that cops must have to make good decisions – accurate information – is often lacking.

Reacting swiftly can save lives. As events regularly demonstrate, it also creates “risks to innocent victims” that cannot be easily dismissed. During the early morning hours of July 31, Aurora (CO) patrol officers responded to a report of intruders at a private residence. They came upon a chaotic scene. Within moments gunfire erupted inside the home. An adult male came into view holding a flashlight in one hand and a gun in the other. When commanded to drop the weapon he raised the flashlight. An officer not yet identified shot him dead. Inside the residence cops found a naked dead man and an injured 11-year old boy. It turned out that the person whom the cop killed – Richard “Gary” Black Jr., a decorated Vietnam vet – was the lawful resident. *He had fought with and shot the naked man* – a known gang member and ex-con – after the intruder broke into the home and tried to drown Mr. Black’s grandson in the bathtub.

Hasty responses have also proven tragically imprecise. On June 16 Los Angeles police officers were summoned to a *stabbing at a homeless shelter*. It turned out that an angry
resident had cut his ex-girlfriend’s hands with a knife (her injuries were not critical.) When cops confronted the 32-year old assailant on the sidewalk he grabbed a disabled person, Elizabeth Tollison, 49, and put the knife to her throat. Officers opened fire, killing both.

Five weeks later, on July 21, a man who shot his grandmother led LAPD officers on a wild car chase. He eventually crashed his vehicle by a Trader Joe’s. Firing at officers, he ran inside. Police fired back. One of their rounds fatally wounded a store employee, Melyda Corado, 27. After a prolonged standoff, the suspect, Gene Atkins, 28, surrendered peacefully.

Sometimes there is no need to intercede. On September 6, Dallas police officer Amber Guyger, 30, finished her shift and drove to the apartment building where she had been living for a month. On arrival she parked one level higher than usual and inadvertently wound up at the apartment directly above her own. It so happened that its brand-new tenant, PricewaterhouseCoopers employee Botham Jean, 26, had left his door unsecured. Officer Guyger knew something was amiss but nonetheless walked in and reportedly issued loud “verbal commands.” But they failed to have the desired effect. Apparently thinking herself in peril, she fired twice, killing Mr. Jean in his own apartment.

Over the decades law enforcement experts, academics, interest groups and the Federal government have recommended ways to make policing more effective while preventing needless harm to the law-abiding. “Making Time,” a key tactic that skillful cops have always used, has been incorporated into organizational directives and training regimes, essentially becoming an official tool of the trade.

So what’s holding things back? Why is Police Issues revisiting the same concerns ad nauseam?

On October 20, 2014 Chicago officers responded to a call about a teen trying to break into parked vehicles. Patrol cops soon encountered 17-year old Laquan McDonald. He was walking down the street, reportedly “swaying” a knife. As our original post indicated, and as the officers likely assumed, the teen had lived a hard life. So they called in for assistance to peacefully corral the troubled youth. A half-dozen additional units soon arrived:

‘We were trying to buy time to have a Taser,’ Officer Joseph McElligott testified Monday in a hushed Cook County courtroom. ‘(McDonald) didn’t make any direct movement at me, and I felt like my partner was protected for the most part inside the vehicle...We were just trying to be patient.’
Officers retained their approach even when McDonald ignored commands to drop the knife and slashed a police car’s tires. Then officer Jason Van Dyke and his partner pulled up. According to his colleagues, Van Dyke, a 14-year veteran, emptied his pistol at the youth within six seconds (his partner stopped him from reloading.) More than a year later, following public protests and a court-ordered release of officer bodycam video, officer Van Dyke was charged with murdering McDonald. (Van Dyke is presently on trial. For compelling details about the case see the special section in the Tribune website.)

This wasn’t the first time that a cop’s unwelcome intrusion undermined a promising response. “Routinely Chaotic” discussed the notorious October, 2016 killing of Deborah Danner, a mentally ill 66-year old woman. While she was being successfully contained a late-arriving supervisor butted in, causing Ms. Danner to flee to the bedroom and pick up a baseball bat. Sgt. Hugh Barry promptly shot her dead. He was tried for the killing but acquitted by a judge. (Sgt. Barry remains on limited duty awaiting departmental action.)

In the uncertain environment of the streets, outcomes are shaped by many factors, including the availability and accuracy of information, police and mental health resources, and officer knowledge and experience. Officer personality characteristics, though, typically receive scant attention. Yet all who have worked in law enforcement (including your blogger) know that its practitioners are human: they have quirks, and their behavior can deteriorate under stress.

“Three Inexplicable Shootings” suggested that “cops who are easily rattled, risk-intolerant, impulsive or aggressive are more likely to resort to force or apply it inappropriately.” Violent experiences – and in our gun-saturated land they are deplorably common – undoubtedly play a major role in fashioning the lens through which officers perceive and respond to threats:

- One year before blundering into the wrong apartment, Dallas officer Guyger (mentioned above) shot and wounded a parolee after he took away her Taser. Her actions were deemed justified and the suspect, who survived, was returned to prison. (An unidentified “police official” attributed officer Guyger’s recent, lethal lapse to the effects of an excessive long shift.)

- One month before killing Richard Black, the unnamed Aurora cop shot mentioned above shot and killed an armed pedestrian whom he and a partner confronted during a “shots-fired” call. Although the shooting seemed justified, a
lawyer for Black’s family questioned whether the officer should have been returned to regular duty so quickly.

Our “sample” is infinitesimally small. It’s also not lacking for contradictions. Chicago cop Jason Van Dyke, for example, testified that he had never fired at anyone other than McDonald during his 14-year career. (Officer Van Dyke did amass a not-inconsequential record of citizen complaints, including one that triggered a large monetary award.)

According to the National Law Enforcement Officers Memorial, thirty-one officers were shot and killed during the first half of 2018, while twenty-five fell to gunfire during the same period in 2017. Los Angeles, where your blogger is based, has been beset with shootings of police. On July 27 a gang member on probation shot and wounded an LAPD officer who told him to exit his vehicle during a seemingly “routine” traffic stop (the assailant was shot and killed by her partner.) On September 19 two L.A. County Sheriff’s deputies were wounded during a firefight with assault suspects. One suspect was killed and another was wounded.

When streets teem with guns and with evildoers willing to use them, risk-tolerance can be “a very hard sell.” But there’s no arguing that rushed police decisions can needlessly kill. What’s the solution? PERF’s “Guiding Principles on Use of Force” suggests that keeping distance, taking cover and “de-escalating” can provide a safe middle-ground:

...rushing in unnecessarily can endanger the responding officers...When officers can keep their distance from a person who is holding a knife or throwing rocks and attempt to defuse the situation through communication and other de-escalation strategies, they can avoid ever reaching that point where there is a significant threat of death or serious physical injury to anyone, including themselves.

Still, considering the dynamics of street encounters, there’s no guarantee that time, cover and distance will be available. In the uncertain and often hostile environment of the streets, officers can find it impossible to quickly choreograph and implement a peaceful response. Bottom line: “slowing down” requires that cops occasionally accept considerable risk. Should their judgment be off, they can be easily hurt or killed. That’s not ideology: it’s just plain fact. And it’s the fundamental dilemma that well-meaning “experts” have yet to address.
THE GANGS OF L.A.

*To rid a city of gangs, look to the basics first*

Nero has become synonymous with deadly inaction in the face of crisis, which is precisely why his name springs to mind as one considers the Los Angeles City Council and its dangerous fiddling over control of the city’s anti-gang programs...(Tim Rutten, “That Deadly Gang in City Hall,” *Los Angeles Times*, April 2, 2008)

*By Julius (Jay) Wachtel.* Now that our home-town paper has joined Controller Laura Chick’s campaign to transfer control of gang programs from the self-dealing City Council to the self-serving Mayor, it seemed a good idea to turn on the ol’ time machine (*L.A. Times* historical on *Pro-Quest*) and check out the gains we’ve made during the last century and a quarter of anti-gang crusading:

Last night between 11 and 12 o’clock Officers Whaling and Steele, together with the private watchman on the beat, made a round-up and captured seven of as tough youngsters as there are in the city, five of whom were white and two colored.... (“Youthful Hoodlums,” Aug. 3, 1889)

More than forty robberies here, in Long Beach and in the Big Bear Lake district were said by the police to have been admitted in signed confessions obtained yesterday from members of the “baby bandit gang” who were rounded up on Monday.... (“Baby Bandits Admit Crimes,” Aug. 6, 1924)

Chief of Police Parker yesterday ordered additional police into duty to combat juvenile gangs, as detectives in the latest gang slaying faced the “silent treatment” from witnesses....Meanwhile more youth gang crimes were reported here. (“New Crimes by Youth Gangs Bring Boost in Police Force,” Dec. 16, 1953)

Three cars filled with Watts area youth drive 40 miles to Pacoima, stop a carload of unknown boys and blast them with a shotgun. The attackers roar away before police can get to the scene. Five carloads of boys from Pasadena cruise into South Los Angeles, fire a shot and toss a gasoline-filled bottle at a group of boys....
(“Cars Give Teen-Agers Range and Speed in Crime,” July 5, 1961)

After declaring that youth gang violence had reached “epidemic proportions,” Los Angeles County Sheriff Peter J. Pitchess announced a new crackdown Thursday on juvenile crime. He told a Hall of Justice news conference that a special 50-man team of veteran officers has been assembled.... (“Pitchess Opens War on Youth Violence,” Dec. 19, 1975)

Los Angeles police are conceding that traditional patrol practices are no match for the continual wave of violent street gang crime in the East Valley, including Sunland-Tujunga. The LAPD’s Valley Bureau has asked the department to create a 28-man unit that would specialize in breaking up gangs and arresting members.... (“Special Patrol Urged to Curb Youth Gangs,” Nov. 12, 1978)

Flash forward thirty years:

Scores of marchers walked through a section of the South Robertson area of Los Angeles with banners calling for an end to gangs and guns and urging other locals to join the fight against crime. But just days later, residents [were] shaken by fresh bloodshed in two separate shootings that left a 37-year-old resident dead and a transient wounded. (“Two Shootings Unnerve L.A. Neighborhood,” April 3, 2008)

Los Angeles police shot and killed a man Wednesday afternoon in Wilmington after he fired at them several times, authorities said, with one of the rounds from his gun ricocheting off an officer's protective vest and grazing his body...Officers had intended to arrest the man, David Sedillo, 26, who authorities said was in a street gang and was wanted for threatening law enforcement officers’ lives. (“Suspect is Shot, Killed,” April 3, 2008)

Gangs are an endemic fixture of urban life. (If you think they’re only a problem here, check out Paris, whose suburbs regularly explode in riots set off by encounters between besieged cops and the young underclass.) Try as we might, it seems impossible to shake off the cycle of poverty, ignorance and hopelessness that leads youth astray. We’ve become so desperate that when a smart cookie like the City Controller comes along and promises that we can reorganize our way out of the
swamp we snap at anyone who stands in the way. How dare the City Council disagree!

Well, simmer down. What Controller Chick proposes, placing all gang programs under a “czar” working out of Hizzoner’s office, sounds suspiciously like that oh-so successful Federal model of Homeland Security. Really, if all it took to rout gangsters was bureaucratic reshuffling, wouldn’t every city across the U.S. from Alameda to Washington already be doing it? Are our elected officials really so venal that they’d let the killing continue just so they can hang on to pet projects?

We actually know a lot about gangs and crime. For example, we know that if you’re reading this post you probably live in a place where it’s safe to walk at night. Crime, particularly gang crime, is a matter of place. Demographics do matter. Gangs arise in areas beset by poverty and its correlates: unemployment, violence, drug-dealing, single-parent households, illiteracy. The values that form in this witches’ brew are passed on between generations, accounting for the persistence of behavior that bedevils outsiders and even gangsters often find self-defeating.

What’s to be done? Nothing can happen until residents of gang-infested areas feel free to go about their business without fear of being killed or extorted. Anyone who’s been exposed to the perverted mentality of gang leaders and “shooters” (triggermen, an influential few within each gang) knows just how difficult a task this is. It’s a job for police, who must respond in sufficient numbers -- and here quantity is important -- to restore the salience of conventional controls.

Where society is profoundly disorganized schools wind up being the best place -- often the only place -- for transmitting and promoting positive values. But schools often take on the character of their communities, which isn’t necessarily a good thing. In areas where the neighborhood is the problem we must help transform educational institutions into oases of peace and learning. Tough-love policies and a willingness to exclude disruptive students are key to creating an atmosphere of safety and tranquility where those who are inclined to learn, can. Many students would also be better served through quality vocational education rather than conventional curricula that leaves them without a marketable skill even if they somehow manage to hang on until graduation.

Prisons are the place of last resort. Yet they too can help. Creating “prisons within prisons” -- secure places where inmates disposed to better themselves receive intensive educational and vocational training -- can go a long way towards breaking the cycle of release and re-incarceration that besets our correctional system. Naturally the same goes for community corrections.
There are other valuable approaches. Still, until the basics are attended to, local programs of the kind that L.A.’s “gang czar” might oversee are unlikely to provide significant relief. (If you don’t agree, do your own *Pro-Quest* search and report back.) Getting upset about who’s in charge of what doesn’t count is a silly distraction. It’s like fiddling while Rome burns.
THE MORE THINGS CHANGE...

Twenty years after the L.A. Riots, are things really better?

By Julius (Jay) Wachtel. In 1990, when Los Angeles marked the twenty-fifth anniversary of the Watts Riot, the worst civil disturbance in modern American history, most experts agreed that despite all the studies and reports improvements had been few and little of significance had changed. Regrettably, their depressing assessment was confirmed only two years later when Angelenos suffered through a second conflagration.

Now, as weary Southlanders mark the twentieth anniversary of the so-called “Rodney King” riots, named after the black parolee who was beaten senseless during an encounter with police, the rush is on to demonstrate that this time we really did “get” it. At a recent event sponsored by the Los Angeles Times, civil rights leader Connie Rice and former D.A. Gil Garcetti pointed to the 1992 riots as a transformative event that changed the LAPD from an occupation force to a progressive “majority minority” department far more sensitive and responsive to citizen needs.

There’s no doubt that the LAPD looks different. By most accounts, it also seems to act differently. According to a columnist’s glowing report, the “siege mentality” is gone. A favored explanation is that the shift to community policing instilled a new culture. Cops began treating everyone with dignity and respect, defusing decades of hostility and reducing the likelihood that history would repeat itself.

If nothing else, the 1992 riots set off a game of musical chiefs. Best known for warning officers that differences in physiognomy made it unwise to place blacks in choke holds, nasty old Daryl F. Gates was quickly replaced by an outsider, former Philadelphia police commissioner Willie Williams. He left at the end of an undistinguished five-year term that was marked, among other embarrassments, by an inability to pass the California POST exam. As his replacement the city chose Bernard Parks, a brilliant but embittered LAPD insider whose discipline-intensive response to the Rampart corruption scandal would make him wildly unpopular with the troops.

Like Williams, Parks was denied a second term. He was succeeded in 2002 by William Bratton, a savvy New Yorker who cozied up to civic leaders and politicians. An experienced top cop, Bratton relaxed Parks’ reign of terror while retaining a firm grip on the ranks. When he left in 2009 to return to consulting work, it was again time to draw from within the ranks. Charlie Beck, a consummate LAPD insider, was appointed chief. Less wedded to arrest and crime statistics than the numbers-obsessed Bratton, he’s also proven less of a disciplinarian, with a track record of letting officers off the hook that’s upset police commissioners.

As to one thing there’s no doubt: the streets are indeed far more peaceful. LAPD’s 77th. Street Division, in the heart of south Los Angeles, recorded 32 killings in 2011, nearly 80 percent fewer than the 143 murders in 1992. A knowledgeable cop explained that arresting gang members and a decline in the crack trade led to “less bad guys on the block” and a more tranquil atmosphere.
As we mentioned in “Reform and Blowback,” mass incarceration may be responsible for a big chunk of the “Great Crime Drop” of the 1990s. Between 1990 and 2006 the imprisonment rate climbed from 447 to 503 per 100,000, while time served increased 29 percent for property crimes and 39 percent for violent crimes. So it’s hardly surprising that crime plunged by about a third. But the funding to support stiff sentencing has evaporated, and prison budgets are being slashed everywhere. Police layoffs, once unthinkable, are now commonplace. And there are ominous signs that the crime curve is flattening out. Despite a shrinking population, homicides increased in Detroit from 308 to 344 last year, while armed robbery is on the upswing in Washington D.C., New York City and Philadelphia.

Economic conditions in south L.A. have also worsened. Median income is lower than in 1992, and unemployment in two districts approaches a catastrophic rate of one in four. When so many lack a job, that’s a lot of fuel for the fire. Meanwhile demographic shifts have turned large chunks of the inner city into mostly Hispanic, freezing out blacks who aren’t part of the personal networks that are key to landing lower-end jobs.

In tough times one looks to the government. But the City of Angels has its own problems, in the nature of a $220-million tax shortfall, leading Mayor Antonio Villaraigosa to warn of impending layoffs. With fewer public-sector jobs and less government aid, prospects for the unemployed, undereducated and those with criminal records are bleaker than they’ve been in decades.

Do ordinary people think that things are getting better or worse? One week ago your blogger listened in as journalist and radio host Patt Morrison posed that question to a gathering at USC. In no particular order, here is what some audience members had to say (not verbatim, but fairly close):

- **Black female, middle-aged, south L.A. resident then and now:** Things have not changed. In the neighborhood there is still the same status quo. There is definitely a division [between affluent and others].

- **White ex-activist:** LAPD officers are much more involved and have a better relationship with citizens.

- **White male:** Racism hasn’t changed much.

- **Journalist who covered the 1992 riots:** All that has changed is the LAPD, for the better.

- **White male educator:** Public education is worse than twenty years ago.

- **Voice in the crowd:** Riots can start again unless there is socioeconomic change. Have not addressed the major economic difference.

- **White male:** Gap between haves and have-nots has increased.

- **Older white woman:** Community policing is becoming more effective. Improvement since Darryl Gates left.
Rodney King, the guest speaker, showed up late. Here are a few of his exchanges with Ms. Morrison (not verbatim, but fairly close.)

Q. Have the city and the police changed?

A. Yes. It’s a slow process. The City of L.A. has worked on race relations and [established] commissions.

Q. Has LAPD changed?

A. Has changed a lot. Changing chiefs around.

Q. Are people getting along better?

A. Better. We have come a little ways, we have a long ways to go. It has to be in each of our hearts, [it’s] up to each one of us as individuals each day.

Overall, Rodney King conveyed a far more hopeful message than the mostly bleak prognostications offered by his audience. Of course, he was there to sell a book. It’s “The Riot Within: My Journey from Rebellion to Redemption,” written with Lawrence J. Spagnola.

Untangling cause and effect is difficult. Even so, your blogger guesses that the new, improved LAPD that Rodney King and others spoke of didn’t originate from a chief’s directive but is the byproduct of a kinder and gentler environment. Using the UCR report building tool revealed that in 1992 Los Angeles had 1,094 murders (pop. adjusted rate 30.3), 39,508 robberies (rate 1,093) and 46,445 aggravated assaults (rate 1,285). In 2010 there were 293 murders (rate 7.7), 10,924 robberies (rate 288) and 9,344 aggravated assaults (rate 246).

Case closed? Maybe not. Perhaps the LAPD really has become so adept that no matter socioeconomic conditions, crime will keep going down, and that no matter how poorly citizens behave, officers will never again spark off a riot. Yet, as a couple of tense officer-hooligan confrontations witnessed by an L.A. Times columnist suggest, the goodwill generated by the department’s ostensibly new approach may not have percolated to society’s fringes, where poverty and hopelessness furnish abundant kindling.

Hopefully, we’re wrong.
THERE’S NO EASY SOLUTION

The domestic arms race has made police work exceedingly risky

“The actions of those officers were appropriate, and they're not to be criticized in any way.”

By Julius (Jay) Wachtel. That’s how LAPD Chief Bill Bratton laid down the law to the Los Angeles Times when a reporter asked whether the shooting death of a SWAT officer and the grievous wounding of another might have been averted had the team not acted so hastily.

While the question may have come too soon, it’s one eminently worth asking. Only moments before SWAT arrived patrol officers were already set to barge into the home of a resident who called 911 and told dispatchers that he had shot and killed his family.

Why did SWAT rush in? After the 1999 Columbine massacre departments around the country supplanting conventional “surround and call-out” doctrines with “active shooter” strategies that endorsed making a quick entry, by patrol officers if necessary, when doing so might save lives. Without doubt, the new approach has worked. Prompt response by Kansas City patrol officers is credited for minimizing the toll of an April 2007 shopping center shooting spree that left one officer wounded and two citizens dead. More recently, officers burst into a packed Missouri city council meeting and shot dead a crazed gunman who had killed two cops and three city officials, probably saving several others from the same fate.

Swift action can work miracles. But all bets are off if the element of surprise is missing and the perpetrator has had time to prepare; for example, as in Los Angeles, where the shooter positioned himself behind stacked mattresses and waited for officers to burst in. Active shooter strategies were not intended for barricaded suspects, and there is no doubt that despite Chief Bratton’s testy response LAPD will be carefully reviewing its policies to help prevent a repeat tragedy.

Information is naturally the key. But how can officers know whether someone really is lying in wait? How much time must lapse before it’s considered too dangerous to rush in? Newfangled technology is hardly the answer. Dropping in microphones, sending in a robot -- all these are uncertain tools that take a lot of time, time that those already threatened or bleeding to death don’t have.
There is another, equally serious issue -- gun lethality. According to Federal gun manufacturing records, less than twenty percent of handguns made in 1973 were high-caliber, meaning .357 and above for revolvers and 9 mm. and above for pistols (not including .38 revolvers and .380 pistols, which are considered medium caliber.) On that year only one-third of newly-manufactured handguns were pistols, a significant point since these can potentially hold more rounds than revolvers and are much quicker to reload. Over the next quarter-century things dramatically changed. By 1998 fifty-eight percent of handguns produced were high-caliber, and by 2006 the figure was a stunning sixty-five percent. On that year three-fourths of handgun production was reserved for pistols.

Wound severity is a function of ballistics (see, for example, De Maio’s Gunshot Wounds,” 2d. Ed., p.59). As caliber and velocity increase, the energy that a bullet can transfer to tissue soars:

**Ballistics of commonplace pistol ammunition**

<table>
<thead>
<tr>
<th>Caliber</th>
<th>Muzzle velocity (ft.-sec.)</th>
<th>Muzzle energy (ft.-lbs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Low) .25</td>
<td>760</td>
<td>64</td>
</tr>
<tr>
<td>(Mid) .38</td>
<td>975</td>
<td>264</td>
</tr>
<tr>
<td>(Hi) 9mm</td>
<td>1220</td>
<td>334</td>
</tr>
<tr>
<td>(Hi) .40</td>
<td>1135</td>
<td>403</td>
</tr>
</tbody>
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Critics claim that firearms manufacturers purposely racked up their products’ lethality as a marketing ploy, much as auto manufacturers increased sales by building ever-larger SUV’s. Racing to keep from being outgunned, officers now routinely carry high-capacity .40 and .45 caliber pistols. (A .40 caliber pistol was one of the two handguns that the Missouri killer used when he burst in to the city council meeting. He stole it from the body of a police sergeant he had already murdered.)

What does this mean to the cop on the street? Even when medical care is promptly available, as during the incidents in Los Angeles and Missouri, the arms race has made gunshot wounds far less survivable. Of the 26 officers shot and killed in 2006
while wearing body armor, nineteen were wounded in the head and neck, critical areas where differences in the lethality of a projectile can determine whether a victim lives or dies. Increases in lethality can help explain why, while the national murder rate has steadily dropped since the early 1990’s -- sixteen percent between 1997 and 2006 -- the number of officers feloniously killed by firearms has fluctuated. According to the FBI, 68 were killed in 1997, falling to 41 only two years later, then rising to 61 in 2001. Substantially fewer officers -- 46 -- were shot and killed in 2006. But in 2007 the count went way up again, with an estimated 69 officers killed by gunfire.

There’s no snappy ending here. Considering the lethality and ubiquity of firearms, it’s a wonder that officers keep stepping up to the plate. And considering our bizarre love affair with guns, the future promises only more dead cops.
TO DISCOVER THE TRUTH

When kids tell tall tales the consequences can be grave

By Julius (Jay) Wachtel. Jim Amormino was stunned. "In 28 years in law enforcement, I have never had a 4-year-old make up a story like this." The Orange County (Calif.) Sheriff’s Department spokesman was referring to an incident last month where a “spiky-haired man with a dragon tattoo” reportedly tried to snatch a kid playing in a park. Eight sheriff’s cars and a helicopter later, the victim admitted that the man she described was a TV character. She made the whole thing up to get back at her mother for leaving her alone in the playground.

Last March OCSD deputies fanned out in another dragnet when a 12-year old Aliso Viejo girl reported that a man tried to abduct her at knifepoint. Hundreds of leads were checked before the girl admitted that she lied to justify missing her school bus. Amormino admitted that on average his agency received one such a report a month, usually from kids who are trying to get out of trouble.

“He grabbed my hair and then he started pulling me. And that's when I screamed. I tried to go away, and then my friends were trying to help me, and that's when he started choking me.” After spending eight months in jail, Eric Nordmark went to trial in January 2004 for sexually assaulting three Garden Grove (Calif.) teens. But on the second day one of his accusers tearfully recanted. They made it all up. Their motive? To avoid being punished for coming home late.

In March 2006 a 12-year old Buena Park elementary school student told police that she was sexually assaulted in a school restroom. An examination revealed some minor injuries. The girl gave a detailed description of the event and even helped prepare a composite sketch of the assailant. Days later she admitted making the whole thing up. Why? Who knows?

Sometimes kids are encouraged to lie. In January 2006, after spending seven months in San Bernardino County (Calif.) jail, Christopher Fitzsimmons was released when DNA tests proved that he did not rape the 4-year old girl who accused him of assaulting her in a park. Defense investigators discovered that the girl’s mother, an acquaintance of Fitzsimmons, had accused others of raping her daughter, including two after his arrest.

In 2005 Kyle Sapp publicly apologized. Two decades earlier he was one of dozens of children who swore that the owner and employees of a Manhattan Beach (Calif.)
preschool forced them to commit numerous sex acts. None of it was true. Police and psychologists were sure that something happened, so the kids told them what they wanted to hear. “I felt everyone knew I was lying. But my parents said, ‘You’re doing fine. Don't worry.’ And everyone was saying how proud they were of me.”

Fortunately, that case fell apart and the only two defendants who went to trial were acquitted. But other endings haven’t been so tidy. Consider the case of John Stoll, freed in May 2004 after serving eighteen years for allegedly leading a cabal of Bakersfield (Calif.) child molesters. The last of forty-six defendants in a string of put-up cases, Stoll’s luck turned during two tearful, in-court recantations, including one by a 26-year old man whose false testimony as a child sent his own mother to prison for six years.

Or how about the Wenatchee (Washington) child sex ring? In 1995 forty-three adults were arrested for sexually abusing sixty children. Eighteen were convicted, some on thousands of counts. Most were poor, rural people; several were mentally handicapped. But all the stories were lies, implanted by police and psychologists who isolated the children in a juvenile facility and pressured them to talk. Years later one remembered being told that “my parents did things to me and to my sisters...When I disagreed and said they were wrong, they said I was lying. I had to remember. I had to talk.” Some defendants served several years in prison before being exonerated. In 2001 the city and county were ruled negligent and forced to pay compensation. Awards went as high as $3 million.

Eager to resolve immediate problems, to cover up being late for school or to get rid of a pesky detective or psychologist, children may not realize the harm their lies can cause. Young people are particularly susceptible to manipulation and pressure. Unsophisticated, dependent and eager to please, they don’t realize that authority figures may not have their best interests at heart. And whatever they say can always be taken back, right?

Wrong. Consider the case of three West Memphis (Ark.) teens who were accused of murdering three Cub Scouts in 1993. Under relentless interrogation, one of the accused, a developmentally disabled youth, confessed and implicated two friends. Although there was no physical evidence connecting them with the brutal crimes, his confession -- which he quickly recanted -- led to their convictions. They’re still in prison. (DNA recently tied a victim’s father and the father’s friend to the scene. A Federal habeas hearing is pending. For another example check out the blog entry on the Stephanie Crow case.)

Criminal investigators shoulder a tremendous burden. Their job, as I frequently admonish my students, is not to “collect evidence”, or “collect evidence beyond a
reasonable doubt”, or any such simplistic formulation. *It’s to discover the truth.* And *that’s* a distinction well worth remembering.
TOO MUCH OF A GOOD THING?

*NYPD’s expansive use of stop-and-frisk may threaten the tactic’s long-term viability*

“These are not unconstitutional. We are saving lives, and we are preventing crime.”

*By Julius (Jay) Wachtel.* That’s how department spokesperson Paul J. Browne justified the more than one-half million “Terry” stops done by NYPD officers in 2009. But not everyone’s on board. A current Federal lawsuit by the Center for Constitutional Rights charges that the department’s own statistics (NYPD must keep stop-and-frisk data in settlement of an earlier case) prove that its officers routinely and impermissibly profile persons by race.

In *Terry v. Ohio* (1968) the Supreme Court held that officers can temporarily detain persons for investigation when there is “reasonable suspicion” that they committed a crime or were about to do so. Persons who appear to be armed may also be patted down (hence, “stop-and-frisk.”) Later decisions have given police great leeway in making investigative stops. For example, in *U.S. v, Arvizu* (2002) the Court ruled that officers can apply their experience and training to make inferences and deductions. Decisions can be based on the totality of the circumstances, not just on individual factors that might point to an innocent explanation.

Last year NYPD stop-and-frisks led to 34,000 arrests, the seizure of 762 guns and the confiscation of more than 3,000 other weapons. Eighty-seven percent of those detained were black or Hispanic. Since they only comprise fifty-one percent of the city’s population, to many it smacked of racial profiling. In its defense, NYPD pointed out that fully eighty-four percent of those arrested for misdemeanor assault in 2009 were also black or Hispanic. Its stops, the department insists, are proportionate to the distribution of crime by race.
There is data to support both views. A 2007 Rand study found only a slight disparity in the intrusiveness and frequency of NYPD stops once differences in crime rates are taken into account. But a 1999 analysis by the New York Attorney General concluded that the disparity in the frequency of stops could not be explained by racial differences in criminal propensity.

Dueling studies aside, NYPD concedes that blacks, Hispanics and whites who are stopped are equally likely to be arrested (for all races, that’s about six percent.) Indeed, blacks are less likely than whites to have weapons (1.1 versus 1.6 percent.) So why are blacks and Hispanics far more likely to be stopped in the first place? According to NYPD, that’s because anti-crime sweeps usually take place in high-crime (read: poor) precincts where many minorities happen to live.

It’s a truism that policing resembles making sausage. Even when cops try to be respectful, no amount of explanation can take away the humiliation of being stopped and frisked. Although NYPD executives and City Hall argue that the tactic has been instrumental in bringing violent crime to near-record lows, a recent New York Times editorial and a column written by Bob Herbert, one of the city’s most influential black voices, warn that its use has driven a wedge between cops and minorities.

NYPD’s aggressive posture harkens back to the grim decade of the 1960’s, when heavy-handed policing lit the fuse that sparked deadly riots across the U.S. Encouraged to devise a kinder and gentler model of policing, criminologists and law enforcement executives came up with a new paradigm that brought citizens into the process of deciding what police ought to be doing, and how. The brave new era of community policing was born.

It wasn’t long, though, before observers complained that the newfangled approach was of little help in reducing crime and violence. Spurred for more tangible solutions, academics and practitioners devised problem-oriented policing, a strategy that seeks to identify “problems,” which may include but are not limited to crime, and fashion responses, which may include but are not limited to the police. But despite its attempts at practicality, POP’s rhetorical load is substantial, while its strategic approach is not much different than what savvy police managers have been doing all along.

Then CompStat arrived. To be sure, police have always used pin maps and such to deploy officers. CompStat elevated the technology. More importantly, it prescribed a human (but, some argue, not necessarily humane) process for devising strategic responses to crime and holding commanders accountable for results. It was introduced, incidentally, by the NYPD.
Compstat has been criticized for placing unseemly pressures on the police. Its preoccupation with place, though, resonated with criminologists who had long believed that geography was critical. Soon there was a new kid on the block: hot-spot policing. An updated, more sophisticated version of a strategy known as selective enforcement, it encourages police to fashion responses that take into account the factors that bind geography to crime. It’s not just that a certain kind of crime happens at a certain time and place, but why.

After forty years of ideological struggle and experimentation vigorous policing has come back in style. For an example look no further than the campaign pledge by Philadelphia Mayor Michael Nutter to attack the city’s violence epidemic with hot spot policing and “stop, question and frisk” His call to action has been echoed in cities across the U.S. From Newark, to Philadelphia, to Detroit, Omaha and San Francisco, police are using a variety of aggressive strategies including stop-and-frisk to restore the peace and get guns off the street.

That’s the good news. The bad news is that from Newark, to Philadelphia, to Detroit, Omaha and San Francisco.... Benefits don’t come without costs. Stop-and-frisk is no doubt effective, yet as recent events in New York City demonstrate it’s not without potentially serious consequences. An inherently elastic notion whose limits officers frequently test, Terry is more than ripe for abuse. Of course, whether NYPD’s enthusiastic embrace has stretched stop-and-frisk beyond what the Supremes intended will be the subject of litigation for a long time to come. Let’s hope that events on the ground don’t make the decision moot.
TRAFFIC STOPS AREN’T JUST ABOUT “TRAFFIC”

Two instances of using traffic laws to justify drug searches reach the Supreme Court

By Julius (Jay) Wachtel. Nicholas Heien and Naynor Vasquez were tooling along rural North Carolina when they drove by a parked sheriff’s patrol car. Officer Darisse looked up. On the lookout for “criminal indicators,” the eagle-eyed cop noticed that Vasquez, the driver, seemed “stiff and nervous.” So he pulled out to follow. Officer Darisse then noticed that one of the vehicle’s brake lights wasn’t working.

Bingo!

In his report, Officer Darisse wrote that he stopped the car because of a malfunctioning brake light. He could hardly have claimed otherwise. To justify a stop an officer needs, at the very least, reasonable suspicion of law-breaking. Merely “driving while stiff” isn’t enough.

As one might expect, the cop wasn’t all that interested in light bulbs in the first place. But to rummage through a car requires either the occupants’ consent or probable cause that contraband or other evidence of a crime may be present. After issuing a written warning about the malfunctioning brake light the officer asked if he could search for drugs and such. Vasquez didn’t object and Heien, the vehicle’s owner, grunted his assent.

A full forty minutes later the good officer had his prize: a baggie of crack cocaine. He promptly arrested the pair for transporting drugs. What officer Darisse didn’t know then – but certainly knows now – was that the North Carolina vehicle code requires only a single functioning brake light.

That oopsie set off a fascinating legal drama. In Heien v. North Carolina (no. 13-604, cert. granted 4/21/14) Heien argues that his conviction – so far every court, including the North Carolina supreme court, has ruled against him – goes against common sense. After all, if citizens are expected to know the law, shouldn’t the cops? (Vasquez pled guilty and isn’t a party to the appeal.)

In the law, though, logic isn’t necessarily dispositive. Heien’s petition for certiorari points out that State and Federal appeals court have come down on both sides of the issue. Some have ruled that stops based on the mistaken belief that a certain traffic law exists violate the Fourth Amendment, thus poison the fruit of the tree. Others have allowed evidence gained through such stops, holding that an officer’s “objectively reasonable” belief is enough.

As to the last point, North Carolina heartily agrees. It argues that mistakes of law and of fact should be evaluated by the same standard – their objective reasonableness. Officers supposedly need “leeway” to be effective, and holding them to a higher bar for mistakes of law would be impractical. It’s also unnecessary, as there are few cases in which such errors could be excused.
At the heart of the dispute lies the “good faith exception” to the exclusionary rule. Heien argues that when a stop is predicated on a non-existing traffic law the exception does not apply – everything must be suppressed. North Carolina disagrees; in its view, an objectively reasonable mistake of law is not the kind of outrageous police conduct that the Fourth Amendment was intended to prevent.

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Dennys Rodriguez and Scott Pollman were tooling along a Nebraska highway when police officer Struble observed their vehicle drift across the line demarcating the shoulder. Officer Struble initiated a traffic stop. He then asked Rodriguez, the driver, to accompany him to his police car, where a drug-sniffing dog awaited. Whether Rodriguez realized what was up we don’t know. He asked if he had to leave his vehicle, and when told “no” he stayed put. That and Pollman’s evasive demeanor aroused the cop’s suspicions.

After issuing a warning ticket the officer told the pair to stick around and radioed for backup. Help arrived in six or seven minutes. Officer Struble then walked the pooch around the car. It alerted, and a search turned up a “large bag” of meth.

Rodriguez and Pollman were convicted on Federal drug charges. On appeal, they claimed that once the officer issued the warning they should have been let go, and that their detention, if only for seven minutes, violated their Fourth Amendment rights. Their pleas were rejected by the Eight Circuit, which had itself allowed “de minimis” extensions for drug sniffing in prior cases.

In their appeal to the Supreme Court (Rodriguez v. U.S., no. 13-9972, cert. granted 10/2/14) Rodriguez and Pollman cite a number of state and Federal court decisions which hold that once legitimate police business has been concluded, even the briefest detention is Constitutionally impermissible. “Liberty is compromised not because of the traffic violation that permitted the stop in the first instance but because of the officer’s own curiosity or hunch. When that is the case, the length of detention is irrelevant.”

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With lower court decisions in their cases stacked against them, the petitioners seem to be at a serious disadvantage. Rodriguez and Pollman were legally stopped and only briefly detained. Had the officer delayed writing the warning until backup arrived, which under the circumstances (it was midnight) seems prudent, what would be left of their claim?

On the other hand, Heien’s argument has promise. His stop was inherently unlawful. One wonders about the message that making a “good faith” exception in such cases would convey. That an officer’s well-crafted “reason” can matter more than the law?

Your blogger isn’t normally fond of gambling, but he predicts that the Supremes will reverse Heien and affirm Rodriguez/Pollman. Stay tuned!
TRANSLATIONAL? THAT’S RIGHT, TRANSLATIONAL

A new paradigm seeks to bridge the gap between theory and practice

By Julius (Jay) Wachtel. Translational? Um, what’s that?

It’s criminology’s new direction, that’s what. In a recent speech NIJ’s new Director, John Laub, on leave from his position as Distinguished Professor of Criminology at the University of Maryland, said that he first learned of the tongue-twister through his daughter, a physician. It turns out that “translational research” (root: “translate”) is a scientific approach that reaches across disciplines to devise, test and expeditiously implement solutions to pressing problems.

Wait a minute: isn’t that supposedly the purpose of applied research? Well, according to no less an authority than Wikipedia there is a difference. Applied research is mostly concerned with incremental gains. Translational research, on the other hand, is the nimble cousin of basic research, able to accomplish paradigmatic shifts but far more swiftly.

Translational research has become popular in medicine. That makes sense: when lives are at stake it’s important to move quickly from theory to practice. Dr. Laub feels the same urgency about crime and justice. Hence the theme of this year’s National Institute of Justice Conference, “Translational Criminology: Shaping Policy and Practice With Research.”

For an example of a translational approach we turn to the “National Police Research Platform,” an NIJ-funded initiative that seeks to measure police effectiveness. Housed at the University of Illinois at Chicago, the project is in its third year, with twenty-eight agencies enrolled. At a presentation on June 20 its director, Dr. Dennis Rosenbaum, emphasized that the intention is to eventually create a nationally representative sample of three-hundred departments of various size.

To date the Platform has issued ten reports in areas including officer stress, supervision, training, technology and integrity. All data has been gathered through online surveys of sworn personnel, civilian employees and ordinary citizens. It is anticipated that in time other sources of information will be incorporated as well. There are also plans to collect data longitudinally and to test new strategies with randomized trials.

For now, the Platform has concentrated on providing information rather than implementing change. At the June 20 session Dr. Gary Cordner, Professor of Criminal Justice at Kutztown University said that prompt feedback lets agencies self-assess in a timely fashion, compare themselves to overall norms and take such measures as they deem necessary. As an example he mentioned a survey about first-line supervision. One of its findings was that 62 percent of supervisors, the largest proportion, placed “a lot” of emphasis on keeping officers out of trouble, while only 19 percent felt that way about arrest and citation productivity. Responses seemed fairly consistent across agencies. That, according to Dr. Cordner,
Isn’t always the case. In another survey, officers in smaller agencies thought that discipline was much more fairly administered than those in large agencies.

Well, that seems interesting. So what else is going on? Check out CrimeSolutions.gov. Introduced at the 2011 conference, NIJ’s newest stab at translational research reports on the effectiveness of selected criminal justice programs in corrections, courts, drug abuse, juvenile justice and law enforcement. Using a highly structured process NIJ analysts review existing, published evaluations and at the end assign one of three grades: effective, promising, and no effect.

To date CrimeSolutions has rated 22 policing programs. Seven were awarded the highest grade and fourteen received the intermediate score. Only one was deemed to lack a significant benefit.

Surveying officers, `a la the Platform and rating criminal justice programs, `a la Crime Solutions is all well and good. But a truly “translational” approach would go far beyond collecting opinions and performing secondhand reviews. After all, translational research is supposed to use basic science to correct critical shortcomings, and not in turtle years. We’re talking something like the race to the moon, a concerted effort that in a few years accomplished what might have otherwise taken centuries.

Yes, NIJ has a measly budget. Still, if Dr. Laub is set on going “translational” he might consider taking on a couple of critical issues, then provide sufficient resources to see researchers and practitioners through the entire process. One that comes to mind is the highly consequential matter of ballistic vests, whose wearability and protective characteristics have hardly advanced in decades while the lethality of firearms that cops face has skyrocketed. (For related posts, click here and here.)

What do you say, Dr. Laub? Can NIJ do like NASA and bring together scientists and engineers from government and industry to tackle this urgent need, “translationally”?

Well, that’s enough of coining new terms. Watch for more about the 2011 NIJ Conference in forthcoming weeks. And welcome to the fifth year of Police Issues!
WHAT CAN COPS REALLY DO?

Specialized teams can help, but their officers must come from somewhere

By Julius (Jay) Wachtel. “We have shown time and again that if you invest in law enforcement and hold police accountable . . . you will absolutely have a very definitive effect on crime.” According to LAPD Assistant Chief Earl Paysinger, that’s why the citizens of Los Angeles are enjoying a continued drop in homicide, with six percent fewer killings in 2008 than 2007, a reduction of twenty-seven percent over five years. Paysinger was taking his cue from Chief “Hollywood” Bill Bratton, whose well-known refrain -- “I take credit when crime goes down, I take blame when crime goes up” -- sticks in the craw of criminologists who insist that economics and social forces have a far greater effect on crime trends than the police.

As regular readers of the Los Angeles Times know, the paper enjoys a long-running love affair with the Chief. Citing no authority other than Paysinger, the same article flatly reports that “the drop in violence is due, in part, to the LAPD's success in reducing gang-related crimes.” Never mind that near the end of the piece the luckless commander of the crime-besotted Central Division calls a startling one-year jump of 21 percent in robberies nothing to worry about: “These things happen. Some years numbers go up a little; some years they’re down. The important thing is we are not seeing any patterns [that suggest larger problems].” Incidentally, Bratton’s goal of an overall five-percent crime drop wasn’t met (it was half that). And with the city’s finances in the toilet, his crime-reduction goals for 2009 are yet to be set.

Can the police really impact crime? If there is an effect, can it be measured? These are distinct questions, but to answer the first requires that we say “yes” to the second. That’s where the problem comes in. In a recent op-ed in the L.A. Times, James Q. Wilson credited “sharp” declines in crime in New York and Los Angeles to strategies such as Compstat and stop-and-frisk. He also had particularly kind words to say about Bratton: “What he has accomplished without a big increase in the size of his force has been remarkable.” Then, in his very next breath, America’s top expert on the police made a stunning turnaround:

To try to sort out the combined and complex relations between crime and the economy, the age of the population, imprisonment, police work, neighborhood culture and gang activity, the National Academy of Sciences Committee on Law and Justice (which I chair) has begun an effort to explain something that no one
has yet explained: Why do crime rates change? If you have any good ideas, let me know.

Well, that’s helpful!

Some cities are experiencing far higher crime drops than L.A. In 2008 homicide in Milwaukee declined a startling 32 percent, while in Cleveland it fell 24 percent. Police credited the improvements to targeted enforcement strategies, including flooding affected areas with cops and using stop-and-frisk to arrest potential shooters and get guns off the street.

Criminologists speak of two kinds of deterrence: general and specific. “General deterrence” works by creating fear of punishment. Citizens are made aware that there is a criminal justice system, that police are on patrol and that evildoers go to jail. Cranking it up by, say, flooding a problem neighborhood with cops can tamp things down even more. Unfortunately, improvements usually prove fleeting; when cops move on as eventually they must, crime returns.

One way to enhance the gains is by bringing in the second kind of deterrence. In “specific deterrence” we prevent future crimes by arresting offenders. While the preventive effects are lagged, meaning they might not be immediately felt, they will persist as long as perpetrators remain incarcerated, thus unable to commit more crimes.

“Hot spot policing” that combines aspects of general and specific deterrence, such as in Milwaukee and Cleveland, may offer the best solution. However, as the economy sours and officer/population ratios deteriorate, increasing coverage in one area might require drawing officers away from another, in effect robbing Peter to pay Paul. When some of L.A.’s better-off citizens learned that their already skimpily patrolled neighborhoods would have even fewer cops, their reaction was predictable.

Is it possible to “do” specific deterrence without redistributing officers? Detroit thinks so. It partnered with the U.S. Marshal’s Service in a campaign to round up fugitives; at year’s end homicide was down fourteen percent. No, the results weren’t equal to Milwaukee’s, but the impact on patrol coverage was minimal. And if those caught up in the dragnets were active criminals, taking them off the street -- and keeping them off -- absolutely prevented crime.

Keeping them off. There’s more to it than just making arrests. Now that they constitute as many as half or more of all murders, stranger homicides present a particularly vexing problem. Many are gang killings, where willing witnesses are rare, and despite the promises of CSI there may be little physical evidence left behind other
than a bullet. **Cutbacks that thin the detective ranks**, perhaps to bolster patrol, may leave little opportunity to do the intensive, *quality* legwork that’s necessary to identify and convict killers, and none to investigate other serious offenses that, had they been solved, might have also led to the incapacitation of dangerous men.

Crime rates fluctuate. Even when the swings are as pronounced as Milwaukee’s we disparage them as “random” not because they really are but because we lack the tools to accurately measure and apportion the change. What part is attributable to social forces? The economy? Policing? That uncertainty, though, shouldn’t discourage police from putting their best friend in the crime-fighting business to work. **Specific deterrence works:** as long as we keep arresting and imprisoning active offenders we’ll prevent crime. And that’s something you *can* count on.
WHAT’S MORE LETHAL THAN A GUN?

Officers have more to fear from accidents than from criminals

By Julius (Jay) Wachtel. May and June were terrible months for the California Highway Patrol. On May 7 Officer David Benavides lost his life when his patrol aircraft crashed. One month later, on June 9, motorcycle officer Phillip Ortiz was on a freeway shoulder writing a ticket when he was struck by an errant vehicle; he died from his injuries two weeks later. On June 11 CHP motorcycle officer Tom Coleman was killed when he collided with a truck during a high-speed chase. On June 27 the toll reached five when two officers, Justin McGrory and Brett Oswald were struck and killed by vehicles in separate incidents, McGrory while citing a motorist and Oswald as he waited for an abandoned car to be towed.

Accidents kill many more cops than gunplay. According to the FBI, 530 officers were feloniously killed in criminal encounters between 1999-2008, with ninety-two percent (486) shot to death. But nearly half again as many (746) perished in accidents. Seventy-one percent (528) died in auto, motorcycle and aircraft wrecks (including pursuits, responding to calls and ordinary patrol, all under “collision”). Sixteen percent (123) were on foot, ticketing motorists, directing traffic and investigating accidents when they were fatally struck by a vehicle. Thirteen percent (95) were killed in other mishaps, including accidental shootings, falls and drownings.
Texas led in both accidental and felonious deaths (81 and 52, respectively). California was second in both (78 accidental and 46 felonious). For both the causes of accidental death matched those of the U.S. as a whole. Seventy-three percent (59) of officers accidentally killed in Texas died in collisions, 15 percent (12) when struck by a vehicle, and 12 percent in other ways. California’s proportions were 71 percent, 15 percent and 14 percent.

Florida was third in accidental deaths (47) and fourth in felonious (22). But its proportion of struck by vehicle deaths was considerably higher, with one officer killed while on foot for every three who died in collisions (in Texas and California it was about one in six.)

Five dead CHP officers in less than two months is an appalling number, whatever the cause. That three were struck and killed by errant vehicles seems particularly noteworthy. As these two charts demonstrate, the incidence and distribution of accidental police deaths in the U.S. has been relatively stable over time. But while the numbers are small, California has seen an uptick in deaths of officers struck by vehicles.

According to the FBI 17 CHP officers lost their lives in accidents between 1999-2008. Ten died in collisions, six when struck by cars, and one in an accidental shooting. Referring to the chart on the right...
(again, keep in mind the low numbers) it seems that CHP officers are somewhat more likely to be fatally struck by a vehicle than the California norm.

CHP over-representation in the struck-by-vehicle category becomes more evident when we expand the timeline. Online CHP accounts of officer deaths reveal that 38 officers were accidentally killed between 1991 and July 2010. Twenty-two (58 percent) lost their lives in collisions, 15 (39 percent) when struck by vehicles, and one died in an accidental shooting. (Overlapping FBI and CHP data were reconciled except for one case in 2000 and one in 2003.)

Considering where CHP officers spend their time that’s hardly surprising. Making stops on freeways and interstate highways exposes them to high-speed traffic, where there is little opportunity to correct one’s mistakes or accommodate errors made by others. All bets are off when drivers are tired, distracted, intoxicated or driving faster than conditions warrant.

Police are well aware of the dangers. In 2003 the International Association of Chiefs of Police (IACP) and NHTSA formed a committee, LESSS, to study ways to mitigate the hazards of traffic stops. Its initial recommendations suggested enhancing police car resistance to rear-end crashes, packing trunks to avoid the penetration of fuel tanks and passenger compartments in rear-end collisions, improving the visibility of officers and vehicles, widening traffic lanes and building shoulders, enacting “move over” laws to slow oncoming traffic and keep it away from stopped police cars, and devising best practices for safely positioning officers and vehicles. An appendix listed traffic stop procedures in use by a dozen law enforcement agencies, including the CHP. In a related article the IACP’s Police Chief magazine, while conceding there were differences in opinion, recommended, among other things, that officers “minimize their...time in cruisers and prepare citations and other documents outside their vehicles whenever feasible.”

In 2005 LESSS issued a roll-call video, “Your Vest Won’t Stop This Bullet”. Reproduced in print by Police Chief, it offered tips to enhance the safety of traffic stops. Suggesting that insofar as possible officers stay out of their cars until ready to leave, it suggested that if they had to use a radio or such they strap in to avoid becoming a projectile should the vehicle be struck.
Why abandon a metal container to take one’s chances on foot? Thanks to the Arizona DPS, which documented the risk in 2002, word spread that Ford Crown Victoria Police Interceptors were susceptible to catching fire in high speed rear-end collisions. Taken on (some say, reluctantly) by NHTSA, the vulnerability led to a number of recommendations, including the suggestion that officers carefully pack their vehicle’s trunk. LESSS didn’t come out and say so, but the risk of these fires (about a dozen cops had already perished in them) undoubtedly influenced their recommendation that officers on traffic stops keep out of their cars.

Traffic stops aren’t the only hazard. Eight of the fifteen CHP officers struck and killed by cars between 1991-2010 weren’t ticketing anyone: two were investigating unoccupied cars, three were at an accident site, and two were directing traffic. Standing on a roadway is risky, and particularly so when motorists are impaired (intoxicated drivers were involved in at least a third of the officer deaths.) Being under the influence, though, doesn’t fully explain why someone would veer into a traffic stop. One possible explanation well known to driving instructors is target fixation, the tendency to steer in the direction where one is looking rather than where they intend to go. Suppose for example that emergency lights catch the attention of a drunk, sleepy or unskilled driver. Depending on the circumstances, their impairment might keep them from correcting in time to avoid running into the scene. To that extent bright warning lights could actually be counterproductive.

Clearly there’s a long way to go to make cops safe. One hopes that the CHP’s recent tragedies spur renewed efforts to counter the plague of accidental deaths that beset law enforcement. It’s the least we can do for our police.
WHEN ONE GOOF IS ONE TOO MANY

Pilots use checklists. Physicians, too. Why not detectives?

I do believe I should have photographed the flumazenil on the floor before I put it on the table. Yes, in hindsight I would have done that.

By Julius (Jay) Wachtel. One would think that if there is a time to dot all the i’s and cross all the t’s this would have been it. This wasn’t just any case. So why did the coroner’s investigator pick up that object before photographing it, violating a rule that every rookie knows?

It turns out that the vial found in Michael Jackson’s bedroom contained a drug used to reverse the effects of benzodiazepine, a commonly prescribed sedative for treating insomnia. Flumazenil is useless for overdoses of propofol, the powerful surgical sedative that caused the troubled singer’s death.

Dr. Conrad Murray is on trial for involuntary manslaughter. He allegedly overdosed Jackson with propofol, which has no known antidote, then failed to adequately monitor him. When the physician discovered that Jackson wasn’t breathing, he supposedly threw a Hail Mary pass by administering flumazenil. Murray’s lawyers vigorously disagree. What really happened, they insist, is that Jackson self-administered a lethal dose of propofol while the doctor wasn’t looking. They even pointed to the syringe that he supposedly used.

Alas, Jackson’s fingerprints aren’t on it. But the investigator’s are. That’s welcome news for the defense, which is expected to argue that careless handling wiped away evidence of what really took place. It’s their best shot. Jackson’s fingerprints haven’t been found on any syringes or medicinal containers, so unless Murray’s legal team can plant doubts about the quality of the state’s forensic efforts speculation that the pop star acted as his own physician will remain just that.

This odd case aside, poor police work can be very consequential. Last week a Texas man was freed after serving 25 years for murdering his wife. He had always insisted he was innocent, and he was right. (Click here for an account from the Innocence Project, and here and here for two articles in a series by the Austin Statesman.)

On August 13, 1986 Michael Morton left for work. Later that day a neighbor stopped by and discovered the body of Morton’s wife, Christine. She had been beaten to death. Morton was promptly charged. Prosecutors presented a case that focused on the couple’s quarrels and Michael Morton’s dissatisfaction with his wife’s weight and their sex life. To enhance the case a coroner used a questionable process to set the time of death as the previous evening, while the couple was home.

Jurors returned a guilty verdict in less than two hours. A half-hour later they came back with the sentence: life imprisonment. That was Michael Morton’s first lucky break.
His second was when he gained representation by the Innocence Project. Earlier this year a private lab performed DNA testing on a bandanna found near the home but not introduced at trial. Bingo! Analysts reported that it bore the victim’s blood as well as genetic material from a third party. That person was identified as an ex-con with a lengthy, multi-state record, including convictions for burglary and assault with intent to kill. He is now a prime suspect in two murders: the killing of Christine Morton and the beating death of an Austin woman two years later.

In their haste to get Michael Morton authorities ignored or glossed over several significant facts:

- Two days following the murder the victim’s Visa card was used and recovered at a store in San Antonio.
- A $20 check made out to Christine Morton was cashed nine days after her murder. Her endorsement had been forged.
- One day after the murder a neighbor told a deputy that a stranger’s vehicle had parked near the Morton’s residence on several occasions, and that its driver walked into the woods behind the home.
- In a recorded phone call with police eleven days after the murder, Christine Morton’s mother related a conversation with the couple’s three-year old boy, who was at home when the killing took place:

  Child: “Mommy’s crying. Because the monster’s here. He hit Mommy. He broke the bed.”
  Grandmother: “Is Mommy still crying?”
  Child: “No. Mommy stopped.”
  Grandmother: “Then what happened?”
  Child: “The monster threw a blue suitcase on the bed. He’s mad.”
  Grandmother: “Where was Daddy, Eric? Was Daddy there?”
  Child: “No. Mommy and Eric was there.”

A blue suitcase was found lying on Christine Morton’s body. That and the child’s words led the woman to conclude that her son-in-law was innocent. Just like he said, her daughter had been murdered by an intruder. But she later declined to speak with defense lawyers. And no, they were never told about the audiotape or the other unfollowed leads.

Atul Gawande is a friendly guy. He’s also an author, a writer for *The New Yorker* and, in his spare time, a surgeon and professor at Harvard medical school. His most recent book, “The Checklist Manifesto,” begins with the story of a girl who survived a lethal accident thanks to a coordinated effort by team of medical specialists. Paragraphs later he describes a complex case in which he participated that began equally well but nearly came to a tragic end because of a belatedly detected infection.

According to Dr. Gawande there are 150,000 post-surgical deaths each year. He estimates that half are avoidable. “However supremely specialized and trained we may have become,” he writes, “steps are still missed. Mistakes are still made...Our great struggle in medicine these days is not just with ignorance and
uncertainty. It’s also with complexity: how much you have to make sure you have in your head and think about. There are a thousand ways things can go wrong.”

Dr. Gawande’s book has a simple goal: to insure that the i’s get dotted and the t’s get crossed. To keep things on the right track it suggests that medical professionals do what pilots do – use a checklist. (Click here for one that Dr. Gawande developed for the World Health Organization.)

Of course, the concept of a checklist is nothing new. Nearly every activity from bird watching to industrial processes has one. And yes, there are some for law enforcement. Click here for one that’s specific to homicide investigation. Using it might have spared the coroner’s investigator assigned to the Michael Jackson case considerable embarrassment (item H-5-a-4: “Photograph specific items of evidence such as footprints, cartridge cases, weapons, etc. as observed in place at scene…”) It might have prodded detectives investigating Christine Morton’s murder to expand their inquiries beyond what they thought “obvious.” For example, sections H-16 and H-17 mention a need to look into the victim’s finances and the theft of money or property.

Just like they’ve helped aviators and physicians, comprehensive, well-designed checklists can guide investigators through the complexities of the real world. If taken seriously they might also help neutralize tendencies towards tunnel vision. To accomplish these goals checklists must be living documents that require participation and endorsement by each officer who contributes to an investigation. They should be shared with prosecutors and made discoverable by the defense.

What Harvard’s Dr. Gawande learned in the school of medical hard knocks is nothing new to criminal justice. As a recent example in Los Angeles demonstrates, human frailties and the exigencies of policing have the potential of producing outcomes that are every bit as disturbing as medical goofs. If using checklists can help – and there’s every indication they can – let’s put our heads together and get busy.
WHEN WALLS COLLIDE

*Ideological quarrels drown out straight talk about border security*

For Police Issues by Julius (Jay) Wachtel. Before moving on, try to identify the authors of these quotes. Click on the links to check your answers. If you're right, you get bragging rights! And if not, don’t fret. You’ll be in great company.

“I voted numerous times when I was a senator to spend money to build a barrier to try to prevent illegal immigrants from coming in. And I do think you have to control your borders.” [article video](https://example.com)

“We simply cannot allow people to pour into the United States undetected, undocumented, unchecked, and circumventing the line of people who are waiting patiently, diligently, and lawfully to become immigrants in this country.” [article video](https://example.com)

Were you surprised? So was your blogger. Yet when it comes to immigration and its control, the tenor of these times is decidedly different. On January 20, 2017, President Trump issued [Executive Order 13767](https://example.com), directing the Department of Homeland Security (DHS) to “take all appropriate steps to immediately plan, design, and construct a physical wall along the southern border, using appropriate materials and technology to most effectively achieve complete operational control of the southern border.”

Two years later, having run smack dab into another wall (a Democratic House), the President’s “five-billion dollar” dream remains unfunded, hobbling the Government and leaving reasoned discussion about border security for another day. But like our hero Sergeant Joe Friday, Police Issues is all about the facts. So, what are they?
According to historical U.S. Border Patrol data there has been a decades-long increase in illegal crossing along the southwest border. In 1960 arrests totaled 21,022. After a protracted climb, apprehensions peaked at 1,615,844 in 1986 and at 1,643,679 in 2000. Counts have since dropped to the levels of the early 70s, with 303,916 apprehensions in 2017 and 396,579 in 2018.

Arrests, of course, represent only a fraction of unauthorized entries. A comprehensive February 2017 report by Congress’ General Accounting Office (this essay’s main data source) estimates that during FY 2013-2015 (October 1, 2012 - September 30, 2015) more than one million persons illegally entered the U.S. through the southwest border.

Physical security has not been ignored. A 1996 law ordered the installation of fencing in areas highly impacted by illegal entry, including a “triple-layer fence” near San Diego. Subsequent amendments upped the game so that by 2015 miles of fencing along the southwest border had increased more than five-fold. Its quality was also enhanced, with pedestrian (left photo) and vehicle barriers (right photo) transitioning to a hardy “bollard” style made up of closely spaced, large-diameter vertical posts. Our nearly 2,000 mile long southwest border (696 miles land and 1295 miles of river) is now secured by 354 miles of primary pedestrian fencing, 82 percent (290 miles) of bollard design, and by 300 miles of primary vehicle fencing (225 miles of a more impervious, modern design.)

During FY 2007-2015 $2.3 billion was spent to improve and extend barriers. Routine maintenance came in at about $450 million. With average costs of $6.5 million per mile for primary pedestrian fencing and $1.8 million per mile for primary vehicular barriers, the enhancements didn’t come cheap. For example, replacing 14.1 miles of legacy pedestrian fencing with bollard-style in Tucson and Yuma cost $68 million, or $4.9 million per mile. Other recent projects include $13.4 million to replace 1.4 miles of
pedestrian fencing in New Mexico and $45 million for a similar 7.5 mile project in Naco, Arizona.

What was the payoff? According to Customs and Border Protection (CBP), an agency of the Department of Homeland Security (DHS), bollard-style fencing is pricey but superior, keeping illegal immigrants from gaining ready access to populated areas and forcing the more determined to travel to remote, unguarded locations where they cannot quickly blend in. CBP recorded nine-thousand-plus breaches of pedestrian fencing during 2010-2015, with legacy barriers suffering nearly six times as many incursions per mile (82 v. 14) as their bollard counterparts. In Nogales, bollard fencing reportedly reduced assaults on agents by 81 percent, while bollard-style vehicle barriers slashed “drive-throughs” in Tucson by 73 percent. Many “degraded” sections of pedestrian and vehicle fencing remain to be addressed.

Even the most modern barriers, though, aren’t foolproof. Bollard fences can be climbed and, as illustrated by the photograph at the top, forcibly breached. That’s where the President’s obsession comes in. A solid, sturdy wall that prevents drive-overs and drive-throughs, is of sufficient height to discourage climbing and rock-throwing, and has a foundation that obstructs ready tunneling, would be by far the most effective. Still, even those who disagree with Speaker Pelosi (she said a wall would be “immoral”) might find its prison-like ambience off-putting. And the cost of building a continuous wall, and doing it right, would be astronomical. Five billion seems just a down payment.

But we’re ahead of ourselves. If Congress’ number-crunchers have anything to say about it, the wall’s prospects are dim for another reason. You see, the document we’ve been filching from is entitled “SOUTHWEST BORDER SECURITY: Additional Actions Needed to Better Assess Fencing’s Contributions to Operations and Provide Guidance for Identifying Capability Gaps.” Before passing judgment, the GAO’s nitpickers are demanding the facts, just like Sergeant Joe. Here’s an extract from their ultimately disparaging assessment:

CBP has not developed metrics that systematically use these, among other data it collects, to assess the contributions of border fencing to its mission. For example, CBP could potentially use these data to determine the extent to which border fencing diverts illegal entrants into more rural and remote environments, and border fencing’s impact, if any, on apprehension rates over time. Developing metrics to assess the contributions of fencing to border security operations could better position CBP to make resource allocation decisions with the best information available to inform competing mission priorities and investments.
Bottom line: tell us how many illegal border-crossings your proposals would prevent, and we’ll decide if it’s worth it.

A copy of Homeland Security’s response appears on pp. 67-68 of the GAO report. Echoing its antagonist’s often impenetrable verse, DHS promises to supply appropriate “metrics” by March 31, 2018. Well, that date came and went. Then in July 2018 the GAO issued a second report. It’s entitled “SOUTHWEST BORDER SECURITY: CBP Is Evaluating Designs and Locations for Border Barriers but Is Proceeding Without Key Information.” Its assessment focused on a request to expend $1.6 billion in the 2019 fiscal year to build 65 miles of wall in Rio Grande Valley (page 11.) However, in GAO’s not-so-humble opinion, the “metrics” still didn’t – no pun intended – measure up:

DHS plans to spend billions of dollars developing and deploying new barriers along the southwest border. However, by proceeding without key information on cost, acquisition baselines, and the contributions of previous barrier and technology deployments, DHS faces an increased risk that the Border Wall System Program will cost more than projected, take longer than planned, or not fully perform as expected. Without assessing costs when prioritizing locations for future barriers, CBP does not have complete information to determine whether it is using its limited resources in the most cost-effective manner and does not have important cost information that would help it develop future budget requests.

These comments might seem perfectly reasonable, but in the context of law enforcement – that, after all, is what CBP does – our nation’s auditors are asking for an awful lot. Measurement is simple and arguably accurate when variables are readily quantifiable; say, profit and loss in business, crimes committed and cleared by arrest in everyday policing. But demanding that DHS produce a cost-benefit analysis for each border-hardening proposal would require it to attach numbers – accurate numbers, not just guesses – to the illegal crossings and, even more importantly, other crimes the expenditures would prevent. That seems a bit much. After all, had proof of such effects been a condition for funding ATF, your blogger wouldn’t have a retired special agent’s badge to display on his bookshelf.

So why the obstinacy? While GAO enjoys a reputation for impartiality, its employees may not appreciate the President’s “my way or the highway” approach. (Incidentally, GAO’s report about the costs of the President’s excursions to Mar-a-Lago are yet to be made public. One can only hope they will reflect the same tenacity and attention to detail that characterizes the agency’s more mundane work.)

Of course, Congress gets the final say. GAO is only there to inform. In this case, though, their joint efforts have aligned in a way, intentionally or not, that can only
frustrate the President’s ambitions. From that perspective his perhaps regrettable tantrums make perfect sense. Meanwhile, the nation still pines for a comprehensive, truly objective assessment of what (and how much) ought to be done to safeguard its borders. Alas, in this ideologically fraught, hopelessly divided climate, that prospect seems no more likely than building the wall.
WHO RIOTED IN MAC ARTHUR PARK?

Bratton, who wasn’t there, moves swiftly to censure those who were

By Julius (Jay) Wachtel. Within hours of the May Day melee at MacArthur Park, Chief Bratton warmed the cockles of every plaintiff’s attorney in town when he spanked L.A.’s finest, publicly refusing to “defend the indefensible.” Videotapes clearly showed Metro officers firing rubber projectiles and whacking away at ordinary citizens whose most heinous crime was assembling for a picnic. A few newsies got a full dose of equal treatment, a big no-no considering that LAPD’s rough handling of the media during the 2000 Democratic Convention led it to enter into a consent agreement allowing reporters safe access to police lines.

Then came the LAPD’s own report, which took commanders to task for failing to anticipate problems and coordinate and control the response. LAPD agreed that its crowd control techniques were poor, the decision to disperse overbroad if not totally unnecessary, the order -- done from a helicopter! -- inaudible, the force used likely excessive (ka-ching!) and training inadequate.

Now, to admit one or two little mistakes is one thing, but LAPD’s mea culpa (click here), which runs to more than one-hundred pages, so broadly indicts the agency’s management and training functions that one must wonder whether anyone at Parker Center has ever cracked open a book on policing. In a flurry of activity, Chief Bratton promptly relieved a Deputy Chief of his duties and reassigned a Commander “pending the action of personnel complain investigations.” The only thing apparently not being investigated is the Chief’s decision to attend an entertainment industry function rather than be present to oversee his department’s response to the largest planned demonstration in the City this year.

Only days ago, in an update to the report, LAPD brass informed its lapdogs at the Police Commission that the department is zeroing in on twenty-six officers for using excessive force. But the LAPPL claims that Bratton misconstrued his own department’s use-of-force policies, which the union insists are so broad that it’s perfectly OK to fire rubber bullets at demonstrators and slug them with batons to move them along.

Meanwhile, dozens of claims alleging police-inflicted injuries are themselves moving through the L.A. City Attorney’s bureaucracy, many extensively documented with medical records and videotapes. And when it comes time for the plaintiffs to present their case, guess who’ll be their number one witness? Chief “I wasn’t there”
Bratton himself! Rest assured that he’ll be in the same sparkling uniform that he wore to that important Hollywood function while his troops were preparing to do the “indefensible” at Pico-Union.

Ka-ching!
WHO’S GUARDING THE HENHOUSE?

While Madoff pulled off the heist of the century, who was watching?

By Julius (Jay) Wachtel. The widow was in disbelief. Her entire trust fund of $29.2 million wiped clean, she had only fond memories of that “lovely” and “thoughtful” New York financial magnate, an honored member and occasional visitor to the ultra-exclusive Palm Beach country club, founded a half-century ago to accommodate those whose ethnicity kept them from getting in anywhere else.

Bernard L. Madoff’s business occupied three floors of Manhattan’s Lipstick Tower. On the eighteenth and nineteenth floors platoons of traders chugged away buying and selling securities. But the real action was on the secretive seventeenth floor. That’s where the former NASDAQ chairman and his assistant, Frank DiPascali, ran an exclusive investment business that earned their well-heeled clients returns of ten to twelve percent year-in and out, as predictably as the tick-tocking of a fine Swiss watch.

On December 11, 2008 two FBI agents appeared on Madoff’s doorstep and asked whether he had an “innocent” explanation for the improbable accusations leveled against him by his sons, both principals in the brokerage side of the house. That’s when the Baron of Wall Street soulfully admitted, “there is no innocent explanation.”

Investigators were stunned. Of the seventeen-plus billion that should have been in client accounts only three-hundred million remained. Madoff said that everything else had been lost in a decades-long Ponzi scheme in which principal from new suckers was used to pay existing investors. Now that the economy had tanked and withdrawal requests were skyrocketing the jig was up. Madoff’s best guess of the total loss? Fifty billion, or twice what GM and Chrysler are pleading for to avoid bankruptcy.
Madoff’s victims are everywhere. Big losers in Southern California include L.A.’s Jewish Community Foundation, down $6.4 million, and Steven Spielberg’s Wunderkinder, a charity to which the acclaimed director reportedly contributed $1 million per year. Many Hollywood notables used money managers who invested with Madoff. One, Stanley Chais, faces a multi-hundred-million dollar lawsuit for failing to do due diligence. A respected philanthropist who served with Madoff on several charity boards, Chais complains that he, too was snookered.

In the East the roster of victims includes the Elie Wiesel foundation, named after the Nobel laureate and Holocaust survivor, which lost $37 million, and the JEHT foundation, which supports a host of non-profits including Cardozo law school’s famous Innocence Project. (JEHT was wiped out and closed its doors.) Yeshiva University, where Madoff was treasurer of the Board of Trustees and director of the business school, got whacked for a cool $100-125 million. Many New York real estate projects financed or secured by funds entrusted to Madoff are also imperiled. But by far the biggest losers are several externally-owned “feeder funds” that had Madoff manage their assets. One, the Fairfield-Greenwich Group, lost $7.5 billion. Another, Ascot Partners, lost $1.8 billion.

And that’s not all. Madoff’s tsunami also swept through Europe, leaving banks from Spain to Great Britain to Switzerland reeling with losses totaling billions.

How could it happen? All along there were whispers that it was a con game. As early as 1999 a respected Wall Street executive concluded that Madoff’s sterling results were bogus and turned him in to the S.E.C. Most who suspected something was amiss guessed, it now seems incorrectly, that Madoff’s unusually consistent performance was due to “front-running.” If he knew what securities the brokerage side of the house was about to buy, he could acquire them for his investors first, thus temporarily increasing their value. Then when the brokerage placed its bid he could sell the stocks at the inflated price, generating a tidy profit for his clients and a commission for himself.
That’s insider trading and illegal as heck. It would have required his sons’ help, but so far it seems that they’re in the clear. In an interview for a 2001 article, “Madoff Tops Charts; Skeptics Ask How”, Madoff denied any improprieties. He attributed his success to a unique system of hedging stock purchases that sharply reduced the effects of market fluctuations. Why didn’t he set up his own fund and really rake it in? Um, he was happy working for commission and didn’t want to bother.

Shift gears to the violence-ridden decades of the eighties and nineties when LAPD was recovering ten-thousand guns a year. Many were recently purchased. It turned out that some licensed retailers were making big bucks pushing guns out the back door. How could that be? Dealer records were rarely reviewed. And even when inspectors showed up they never compared the books against distributor invoices, allowing unscrupulous sellers to accumulate large quantities of unrecorded guns for illegal resale.

No, guns aren’t stocks but the principle is the same. Decades of deregulation have taken the bite out of the dog. In recent Congressional testimony, former S.E.C. Chairman Arthur Levitt complained that politicization and budget cuts curtailed enforcement and demoralized employees. In what the New York Times characterized as a “mea culpa,” Christopher Cox, the S.E.C.’s current head, angrily accused these same employees of ignoring a decade of warnings about Madoff. Rather than investigate they simply “relied on information voluntarily produced by Mr. Madoff and his firm.” Like the ATF inspectors, they accepted the books at face value.

What else might they have done? They could have verified how much capital Madoff really held. Or they could have visited “Friehling & Horowitz,” the obscure auditing firm responsible for examining his books. Private financial researchers who did so ran into a middle-aged accountant and a secretary working out of a tiny office in remote New City, New York. That was one of the many reasons they advised their clients to steer clear of Madoff.

No one in the S.E.C. has the power to arrest. That’s why an FBI agent signed the criminal complaint. In contrast with ATF, DEA, Customs and Immigration, which house regulatory and criminal investigation functions under the same roof, the FBI and S.E.C. work separately, creating a distance that inevitably inhibits the free exchange of information. Had it been otherwise a savvy agent might have learned of the scheme before it turned into an international catastrophe. In any case, we would be far better served if our battalions of highly-paid auditors and special agents spent their time aggressively ferreting out crime rather than picking up the pieces after the fact. It’s simply not good enough to put up a fence after a fox cleans out the henhouse.
WHO’S GUARDING THE HENHOUSE? (PART II)

The devastating legacy of Al Gore’s reinvention movement

By Julius (Jay) Wachtel. In the wake of a mortgage scandal that brought on the worst economic crisis since the Great Depression, current and retired FBI agents are doing something totally out of character: they’re sniping at their beloved Bureau. In a recently published exposé a former agent charged that the agency’s shift of thousands of agents to counter-terrorism fatally impaired its ability to combat financial crime. “The public thought the administration was resourcing counter-terrorism when in fact they were forcing cannibalization of the criminal program. Now the chickens have come home to roost.”

Crime may be hard to prevent but it’s usually easy to discover. Victims are likely to complain. And for so-called “victimless” crimes such as such as drug dealing and prostitution police can target the settings where these crimes are known to occur and use surveillance and undercover to draw out offenders.

But what the mortgage shysters were doing was different. To all appearances they were conducting a legitimate business. Want to buy a home but lack proof of income? No problem, just tell us what you make, and if it’s enough (wink, wink) you’re in! Everyone got their slice of the pie, from brokers who sealed the deals to supposedly rock-solid financial institutions that bundled the shaky loans into tempting, high-yield securities. In time, as teaser rates expired and homeowners found themselves unable to keep up foreclosures soared, driving down home values and rendering those nifty mortgage-backed investments worthless. Felled by greed, Wall Street’s carefully nurtured façade of invulnerability collapsed. Surprise! The Masters of the Universe had no clothes.

Where were the cops while all this was going on? Even the vaunted FBI is at its best after a crime has occurred and there are witnesses and victims to describe exactly what happened. But borrowers weren’t complaining, at least not until they found themselves on the street. Neither were lenders. As a retired FBI official pointed out, “you had victim banks that would not acknowledge that they were victims. ‘We're not out any money,’ they would say. ‘Nothing has been foreclosed.’ The banks weren't reporting, the regulators weren't regulating, and the FBI was concentrating on external mortgage fraud as opposed to the underlying internal problem.”
Regulators not regulating? What’s that all about? Rewind to the early 90’s, when in a Pollyannish fit of goodwill Vice-president Al Gore sought to bring Government and industry together in a new Great Hug:

The Vice President introduced the idea of customer service for regulated industries -- that "good players" who want to comply with federal regulations often need information and assistance... Most importantly, the Vice President called on federal regulators to form partnerships with the community they regulated to explore even more groundbreaking ways to achieve goals like clean air and safe food. In February 1995, to reinforce the work of the Vice President and his regulatory workgroup, the President met with regulators. He directed them to cut obsolete regulations, reward results, not red tape, get out of Washington-create grass roots partnerships, and negotiate, don't dictate.

Within a year sixteen-thousand pages of “unnecessary federal regulations” fell to the knife. By 2000, when the National Performance Review had run its course, a glowing self-assessment boasted that agency rule books had been thinned by an astounding 640,000 pages. But the NPR’s most tangible accomplishment was its impact on the Federal civilian workforce, where it supposedly eliminated a whopping 426,000 positions. (That turns out to be a bit of an exaggeration, as the government had been steadily shrinking since at least 1990. Still, Congressional Budget Office statistics reveal there were 225,900 fewer non-Postal civilian employees in 2000 than 1995, a not-inconsequential decrease of eleven percent.)

Perhaps more significantly, the worker bees who remained on the job got hammered with a New-Ageish ideology that redefined the relationship between industry and government as a “partnership”, with the former becoming the latter’s “customer”. Traditional Government performance measures such as the number of times that regulators slapped an industry’s hands were eschewed in favor of a kinder and gentler approach:

The use of regulatory partnerships has become the preferred approach for getting results. NPR worked with five key regulatory agencies (EPA, FDA, FSIS, OSHA and FAA) to pilot new approaches, to deploy information technology, and to do a better job measuring what matters— namely their impact on their mission (e.g. clean air) as opposed to historical process measures (e.g. the number of tickets written for regulatory violations). As a result, food-borne illness, toxic emissions, and worker injury rates are dropping. And the regulated community has better information and tools to help with compliance.
Naturally, boosters of government reinvention declared the effort a resounding success. Meanwhile no one seemed to notice that regulatory agencies had turned into mere shadows of their former selves. “The regulators are the ones embedded in the banks,” a former FBI agent pointed out. “They would be able to see [financial fraud] if they were looking. They were the first line of defense in detecting it.” Unfortunately, the canaries in the coal mine had lost their voice. Demoralized by reductions in staffing and political interference, the S.E.C. and its sister agencies demonstrated little interest in pursuing the examples of “pervasive financial corruption” that kept popping up. Lacking victims or demonstrable evidence of serious harm, it’s no surprise that the FBI chose to allocate its resources in a different direction.

Yes, we trusted. We trusted the system to police itself. We trusted brokers, dealmakers and investment bankers to watch out for the public interest. Yet thanks to “reinvention” no one was looking over their shoulders. There was nothing to deter profit mongers from tying up their consciences alongside their yachts. And it’s not over. Only the other day our new Prez chastized Wall Street bankers for shamelessly awarding themselves bonuses even as the government was rushing to prop up their institutions with Federal funds.

Like they say, “what’s new”? 