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NATIONAL INSTITUTE OF JUSTICE

Research in Brief

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ACQUISITIONS

Videotaping Interrogations and Confessions

by William A. Geller

The use of video technology in criminal interrogations is well known, but—at least in the United States—unexamined. It is estimated that in 1990, about one-sixth of all police and sheriffs' departments in the United States—almost 2,400 agencies—videotaped at least some interrogations or confessions. Concerns and questions about use of this technology have emerged:

- Why are police departments videotaping interrogations rather than relying solely on written reports, verbatim stenographic records of interviews, or audio recordings?
- Does videotaping outperform these other methods without creating offsetting complications?

- Should videotaping of interrogations be overt or covert?
- Are videotaped "recaps" adequate or should an entire interrogation be videotaped?
- What are the effects of videotaping for the prosecutor, the defense attorney, the judge, and the jury?
- Who makes the decision to videotape and how many professionals (e.g., detectives, audiovisual specialists) are needed?
- What are the financial implications of videotaping?
- How does videotaping affect the outcome of cases where tape are used as evidence?

Since no study had been performed in the United States to examine such issues, the National Institute of Justice (NIJ) commissioned the Police Executive Research Forum to conduct a study of the nature and prevalence of the videotaping of stationhouse interrogations and confessions for use by police, attorneys, and the courts.

The study consisted of three parts:

- A review of English-language literature (primarily from the United Kingdom, Australia, and Canada) on the subject to identify important issues.
- A nationwide survey in 1990 of police and sheriffs' departments to identify agencies that videotape interrogations or

When videocameras reached consumer markets in the United States in the late 1970's, they were used to document family parties and vacations and provide surveillance in retail stores and banks. They had little impact on police work until the mid-1980's when audio-video technology began to find a place in the criminal justice setting.

In the 1990's, police use of audio-video technology to document encounters with suspects became more widespread. For example, in July 1991, the Christopher Commission in Los Angeles recommended placing videocameras in squad cars both to reduce police abuse of force and to protect officers against unfair accusations of brutality. A year later, the Kolts Commission criticized the Los Angeles Sheriff's Department for failing to tape

record statements by witnesses and officers involved in police shootings.

During the 1990's, citizens attempted to use videocameras to record crime in action, particularly drug dealing in their neighborhoods. The videotape of Rodney King's beating, the best known of citizens' videotapes, is widely regarded as a compelling illustration of the power of video technology to illuminate for courtroom participants the details of disputed events that occurred at a different time and place.

Views on appropriate roles of videotaping have varied as the criminal justice community explores its utility and cost as well as ethical and legal issues. Research on these issues has been, however, minimal.

The National Institute of Justice (NIJ) has a responsibility to evaluate cutting-edge

technology and its potential to assist criminal justice agencies nationwide. NIJ commissioned this study to examine where and how videotaping is being used to document stationhouse interrogations and confessions of suspects. It is a preliminary study, analyzing the extent of the practice, the procedures in place, and why videotaping is viewed as an asset or a liability by various sectors of the criminal justice system.

The findings discussed in this *Research in Brief* are preliminary, but the weight of opinion among criminal justice practitioners with firsthand knowledge of videotaping seems to clearly favor videotaping interrogations for certain felonies.

National Institute of Justice

confessions, and a followup telephone survey of a sample of agencies that do and do not videotape.

● Interviews of local detectives, police supervisors, prosecutors, public and private defense attorneys, and judges in 11 diverse cities or counties where interrogations are videotaped. The 11 sites were Denver, Colorado; Fort Wayne, Indiana; Houston, Texas; Huntington Beach, California; Kansas City, Missouri; New York City (Bronx County), New York; Orange County, California; St. Louis, Missouri; San Diego, California; Tulsa, Oklahoma; and Washington, D.C. Personal interviews were also conducted in Denver with police from Adams County and the City of Westminster, Colorado, and with police in Burlington, Massachusetts, where the department had previously decided to restrict video documentation of booking procedures.

The aim of this exploratory study was to identify issues and practices pertaining to videotaping interrogations as a possible prelude to evaluative research. This *Research in Brief* describes a variety of videotaping policies and procedures in various locales and explores the perceptions of criminal justice practitioners about videotaping and its effects.

Overview of departments videotaping interrogations

On the basis of the survey and analysis of other data (see exhibit 1), researchers calculated that one-third of all American police and sheriffs' departments serving populations of 50,000 or larger are videotaping at least some interrogations. Based on surveyed agencies' plans to adopt videotaping, it is estimated that by 1993 more than 60 percent of such law enforcement agencies in the United States will use

videotape to document interrogations or confessions in at least some types of cases.

When surveyed in 1990, most departments had been videotaping interrogations for at least 3 years; 41 percent had done so for at least 5 years. Usually departments employ audiotapes (a technique raising many of the same issues as videotapes) for at least 4 years after relying solely on written methods before they advance to video documentation. A few leapfrogged directly from paper to video. In the latter agencies, one might expect videotaping to present more of a culture shock to criminal justice practitioners. Evidence from the study's interviews indicates that even when such culture shock occurred, its effects were not necessarily negative.

Types of cases videotaped. In 1990 U.S. police and sheriffs' deputies (hereafter generally referred to simply as police) videotaped suspects' statements in an

Exhibit 1. Calculation of the Number of U.S. Police and Sheriffs' Departments That Videotape at Least Some Suspects' Interrogations or Confessions

Service Population Group	Estimated Number of Departments in U.S.*	Percentage of Surveyed Departments That Videotape	Estimated Number of Departments in U.S. That Videotape
Under 10,000	9,948	12.2	1,214
10,000-24,999	2,408	28.9	696
25,000-49,999	936	25.9	243
50,000-99,999	434	31.8	138
100,000-249,999	184	32.4	59
More than 250,000	91	34.5	34
National Total	13,999	16.4	2,384

* Extrapolated from 1985 *Uniform Crime Reports (UCR)* data on 9,228 law enforcement agencies in the United States. The number of agencies listed in *UCR* data in each of the service population categories was as follows: under 10,000=6,557; 10,000-24,999=1,587; 25,000-49,999=617; 50,000-99,999=286; 100,000-249,999=121; and more than 250,000=60. Researchers extrapolated as follows: assuming there are 14,000 police and sheriffs' departments in the United States, they compared 14,000 to the *UCR* total of 9,228. They found they must multiply 9,228 by a factor of 1.5171 to equal 14,000. They then multiplied the number of agencies in each *UCR* service population group by this same factor (1.5171) to estimate the number of agencies in each category. This method necessarily assumes that, in each of the population groups, a similar proportion of the agencies will participate in the voluntary Uniform Crime Reporting program. Of course, this may not be true. That is, it is possible, for example, that virtually all of the agencies serving populations of 250,000 or larger participate in the *UCR*, while only three-fourths of the departments serving the smallest populations participate. If that were true, then multiplying the *UCR* participant tally in each category by the same corrective factor of 1.5171 to estimate the actual number of agencies in the Nation would produce errors of both under- and overestimation. In the absence of definitive national counts of police and sheriffs' departments, researchers necessarily fall back on such imperfect bases for estimating the number of departments.

estimated 57,000 criminal cases.¹ They were most likely to use videotapes in homicide cases; 83 percent of agencies that videotaped any suspects' statements did so in homicides.

Interrogation videotaping is used in investigating many other crimes but as the severity of the felony decreases, so does the likelihood of videotaping. The following are types of cases where videotaping was used to document interrogations or confessions, and percentages of surveyed agencies using the technology:

- Rape, 77 percent.
- Aggravated battery or assault, 71 percent.
- Armed robbery, 61 percent.
- Drunk driving, 59 percent.
- Unarmed robbery, 45 percent.
- Burglary, 44 percent.
- Other property crimes, 34 percent.

To tape or not to tape?

Agencies that videotape suspects' statements gave a variety of reasons for initiating the practice:

- Avoiding defense attorneys' challenges of the accuracy of audiotapes and the completeness of written confessions.
- Helping reduce doubts about the voluntary nature of confessions.
- Jogging detectives' memories when testifying.
- Countering defense criticism of "nice guy" or "softening up" techniques for interrogating suspects.

Most police agencies use video technology in some way; it is not lack of exposure that explains the reluctance of some in the profession to videotape suspects' statements. Conversations with police officers and prosecutors who do not videotape suspects' statements revealed strong views against doing so. Some said that suspects would be afraid to start talking with a videocamera rolling since they knew everything they said would be recorded and heard in court.

Cost was the explanation most police agencies around the country gave for not

videotaping interrogations. Financial concerns included the cost of video equipment, remodeling interview rooms, storing tapes, and maintaining the video and audio recording equipment. Among other reasons cited were, "It's not needed," and "If it [the investigative process] ain't broke, don't fix it."

Selective versus nonselective taping

Officials in some departments had another concern: the fear of having to videotape *all* suspects' statements in most types of

serious felony cases. These criminal justice practitioners argued that failure to videotape when the capacity to do so exists would result in the court's suppression of nonvideotaped statements offered by the prosecution, or adverse findings by judges and juries who would find a written confession unconvincing.

In fact, evidence was found both for and against the prediction that a police department that tapes *any* serious felony interrogations or confessions will have to tape *most* or *all*. In the national survey, 70 percent of responding agencies reported that after introducing videotaping they

Other Police Uses of Video Technology

The widespread use of video technology by local law enforcement officials is seen in the results of the 1990 survey. The following are percentages of surveyed local police and sheriffs' departments that reportedly employed video technology—at least occasionally—to:

- Document crime scenes, 63 percent.
- Record victim testimony, 51 percent.
- Record sobriety tests of drunk driving suspects, 49 percent.
- Conduct surveillance and document undercover operations, 48 percent.
- Document vehicle accident scenes, 41 percent.
- Monitor prisoners in lockups with closed-circuit TV, 31 percent.
- Record crime reenactments by suspect, 20 percent.
- Record eyewitness testimony, 8 percent.
- Record in-progress events (e.g., robberies and building checks) from cameras mounted in police vehicles, 5 percent.
- Document lineups, 4 percent.

Smaller departments generally do not make as much use of video technology as larger departments. Consequently, if the smallest agencies (of which there

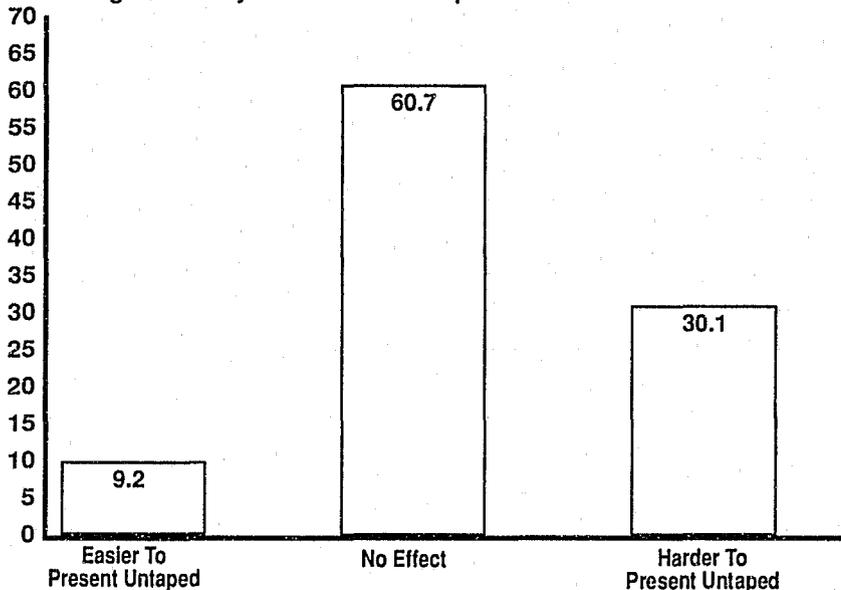
are thousands in the United States) were omitted from the calculations, no doubt these percentages would be much higher, as they are for recording interrogations and confessions.

Other possible objectives of police use of video technology are to:

- Show the physical condition of a suspect when booked.
- Document the notification of a suspect regarding his or her constitutional rights.
- Assist in mental health evaluations of defendants whose sanity is at issue.
- Enable parties or witnesses who are absent from court to participate via closed-circuit TV or videophone in pretrial proceedings (such as arraignment, bail hearings, and preliminary hearings) and in court presentations (with prerecorded testimony).
- Monitor convicts under electronic "house arrest."
- Present the testimony of probation or parole officers in revocation hearings.
- Show trainees how they look and sound to others in simulation exercises involving fellow officers, witnesses, suspects, and the news media.

Exhibit 2. Effect of Videotaping on the Presentation of Untaped Confessions in Court

Percentage of Surveyed Local Police Departments In the United States



found it no harder to present in court suspects' confessions without video documentation. But 30 percent reported it was harder to secure the admission of nonvideo confessions after adopting the video program (exhibit 2).

In most communities visited, defense attorneys had at times insinuated to judges that police failure to videotape a confession implied that the interrogation could not stand scrutiny. In most locales these arguments rarely proved helpful in motions to suppress. Nor did they normally seem to aid the defense much in raising judges' or jurors' doubts about a defendant's guilt.

Those interviewed who expressed concern about having to videotape all confessions generally turned out to be investigators who were *not* engaged in videotaping. In Houston, Texas, for example, homicide detectives who rarely videotape their interrogations cited this concern, while robbery investigators who videotape many confessions did not. In addition, it appears from the survey that most detective units that introduced videotaping avoid the possible consequences of selective videotaping because they find the practice sufficiently beneficial to do it uniformly.² Still, the

possibility remains that selective taping might cause problems, and this is an area where further research is needed.

Overt versus covert taping

The national survey found that nearly all agencies videotape openly, either telling suspects they are being taped or leaving the camera or a microphone visible during the session. Still, those agencies that tape covertly thought highly of the procedure and its apparent benefits.

The ethics of surreptitiously videotaping a suspect during an interrogation are hotly debated in this and in other countries. The police cannot force a suspect to submit to a videotaped interrogation; the suspect can foil the interview by exercising his or her *Miranda* right to refuse to talk. This is one reason that covert videotaping is sometimes done: to portray a suspect talking willingly, who might, if aware of it, object to a video record being made. Another reason is to avoid distracting the suspect—and interrogators—with the videocamera, microphone, and equipment operator.

Concealing cameras using pinhole lenses or behind one-way mirrors and using submini-

ature microphones, however, may occur in overt as well as covert tapings. Police investigators who are committed to overt taping may also wish to keep distractions to a minimum during an interrogation. For example, the Tulsa, Oklahoma, police department, which has an overt taping policy, plans to move the camera operator and the videocamera and its tripod from the interview room, placing them behind a one-way mirror in an adjacent room, as some other agencies do.

A department may decide against covert taping for several reasons:

- State or local law may bar surreptitious taping. Federal constitutional law should not be a bar, however, since a suspect would be hardpressed to prove that he or she had a "reasonable expectation of privacy" while under police interrogation in a stationhouse interview room. Indeed, the *Miranda* warning makes explicit that anything suspects say can and probably will be used against their interests.

- A department may realize that, as a practical matter, word spreads too rapidly in jail and on the streets to keep covert taping practices a secret long.

- Covert taping may not square with the image of fairness in handling criminal suspects that a department wants to present to the public.

Full interrogations versus recaps

Departments are sharply divided between taping the entire stationhouse interrogation and a recapitulation, that is, a videotaped summary of highlights of information that the suspect is willing to repeat, after a previously untaped interrogation. A recap might include both incriminating and exculpatory statements or consist largely of a confession. A few of the visited departments also record recaps they expect to consist primarily of denials of guilt.

At agencies visited, fully videotaped interviews took an estimated average of 2 to 4 hours; the longest videotaped interview was approximately 7 hours. Recaps were estimated to take an average of 15 to 45 minutes. The distinction has cost implications both for the purchase of blank videotapes and the creation of transcripts from recorded tapes.

In favor of videotaping the entire interrogation. As a rule, defense attorneys interviewed said they strongly prefer entire interviews to recapitulations. They objected to recaps full of "leading questions with 'yes' or 'no' answers" and spoke of "suspects who have been Pavlov-dogged into a reaction during rehearsals." One public defender suggested that taping entire interviews might make the police more respectful of a suspect's rights.

Another concern, expressed mainly by defense attorneys and judges, is that recaps minimize the apparent remorse of the defendant. He or she is apt to have repeated an account again and again before the recording begins, robbing a recap of an emotional edge. As a result he or she may seem atypically cold and callous in the recap.

Another objection to recaps is that a seemingly trivial comment by a suspect under interrogation might prove crucial at trial but be lost in a recap. For example, a suspect might say, "I was there but I didn't do anything." This may seem unimportant at the time, but capturing the "I was there. . ." admission on videotape would more than likely prevent an alibi defense at trial.

Detectives who tape entire interviews are perplexed about why detectives who rely on recaps would risk losing potentially valuable information that a suspect might say spontaneously and then refuse to repeat on videotape after having time to realize it might be incriminating.

In favor of videotaping recaps. On the other hand, those accustomed to doing recaps cannot fathom how their counterparts can draw clearly incriminating statements from suspects amidst discussions full of tangents and exculpatory claims. Nor can they understand how agencies can afford the cost of videotaping interviews that last hours.³

Some detectives don't like taping an entire interview because they don't know what the suspect will say or where the interview is going. "You won't get the truth the first time around," said one police official, "and the defense attorneys will make use of the exculpatory statements." Yet others said that judges and jurors expect a suspect to begin an interrogation with denials, and their ability to watch the anticipated progression from protestations of innocence to admissions of

guilt gives them even more confidence in the authenticity, sincerity, and voluntariness of the incriminating statements.

Some practitioners asserted that recaps can lead to accusations that interrogators used coercion. A judge acknowledged that a defense attorney could "make points" with a jury over a "rehearsal" interrogation that preceded the recap. "But the police could overcome that," he noted, "by recounting at the beginning of the taped interview what transpired before the videotaping began." A number of agencies visited do just that; they even ask the suspect to describe how he has been treated by the police to that point. Most of the criminal justice personnel interviewed believe that turning on the videocamera only for a recap still suffices to remind interrogators to use tactics during the pretape interview that will not impede placing any recorded confessions into evidence.

The devoutly held and diametrically opposed assumptions among experienced detectives about the costs and benefits of taping entire interviews versus recapitulations suggest that a variety of followup studies should be conducted, including controlled experiments, if possible,

and focus group discussions among knowledgeable interrogators from departments using a variety of videotaping procedures.

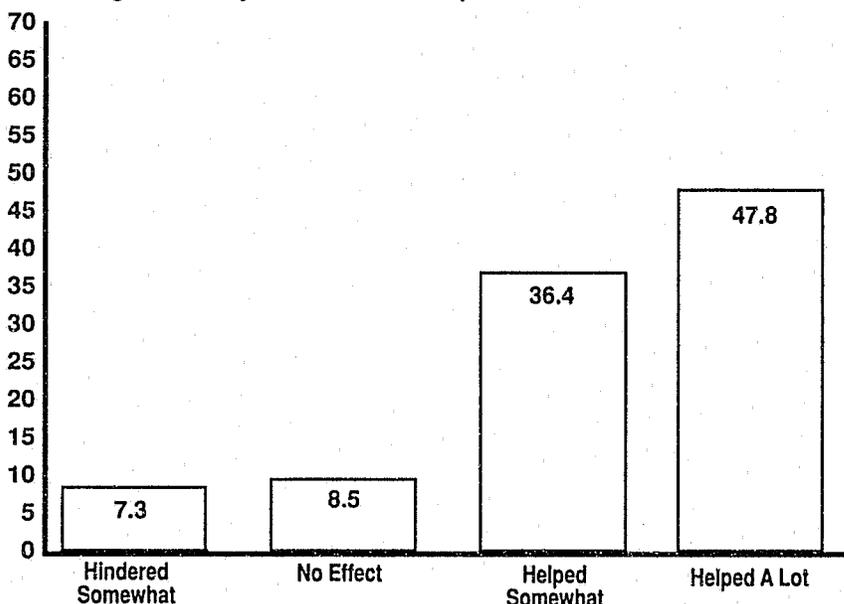
Videotaping and the quality of interrogations

The vast majority of surveyed agencies that videotape interviews believed that videotaping has led to improvements in police interrogations (exhibit 3). These include, according to agencies visited:

- Better preparation for interviews by investigators. Knowledge that their interrogation technique will be viewed by others outside the police agency prompts most detectives to plan their lines of questioning more fully than when using different interview documentation methods.
- Interrogations without such traditional distractions as a typewriter, notebooks, or additional personnel, such as a court reporter.
- Supervisors' monitoring of the interrogation on closed-circuit television or by subsequent viewing to assess interrogators' performance.

Exhibit 3. The Effect of Videotaping on the Quality of Police Interrogations

Percentage of Surveyed Local Police Departments in the United States



- Use of old tapes to train both new and experienced detectives in interview techniques.
- Ability to show an accomplice's taped confession to an uncooperative suspect and thus possibly stimulate a change in attitude.

Both the national survey and site visits produced information on how videotaping affects the interrogation process.

Suspects' willingness to talk. The survey did not support the notion, advanced in some studies in other countries, that videotaping, because it is seen as fairer to suspects, makes them more willing to talk. Since their adoption of videotape procedures, for each agency that reported suspects more willing to talk, three others reported suspects *less* willing (8.6 percent versus 28.3 percent; 63.1 percent of the agencies reported no change in suspects' propensity to talk due to the adoption of videotaping). Detectives in St. Louis, Missouri, noted that the camera attracts some suspects and repels others. Some are intimidated by the prospect of seeing themselves on television. Others play to the camera; for them, "it's show time."

Type of information obtained. The survey found that most of the suspects who appear on camera provide more incriminating information than suspects did previously. Sixty percent of responding agencies found they profited in this way, although 13 percent reported suspects provided less incriminating information. Yet most agencies visited during the study reported obtaining more of both incriminating *and* exculpatory information through videotaping. However, exculpatory statements generally were made in interviews in which the suspect offered an admission or confession. Most prosecutors said the added exculpatory information had not presented a problem for them.

Interrogation techniques. Some worried that taping would inhibit certain legitimate, effective interrogation tactics through fear that judges and juries might not like them. These include friendly gestures to build rapport and the use of any profanity or street talk. Although such fears seem to be unfounded, police in some agencies visited reported that videotaping temporarily forced an artificial

and counterproductive formality on interrogators.

Detectives reverted to a more balanced approach once they became accustomed to being taped; they realized that they could maintain professionalism while using traditional tactics. For example, when interrogators use profanity, as long as they are following up on the suspect's choice of words to communicate clearly rather than gratuitously or in an intimidating manner, it does not seem to bother judges or juries. Indeed, an interrogator's fastidious politeness often backfires, suggesting to suspect, judge, and jury alike that the interrogator is either naive or disingenuous.

Claims of police misconduct. The survey results, confirmed by many officers interviewed, indicated that because of videotaping fewer allegations of coercion or intimidation were made by defense attorneys (see exhibit 4). On-camera administrations of the *Miranda* warning by the police are one major reason for this result. Those officers interviewed also noted they felt less pressure in the courtroom and faced fewer defense assertions that police had fabricated confessions;⁴ claims that

were made typically were pro forma and were offered by defense attorneys primarily to avoid a client's claim of inadequate representation by counsel.

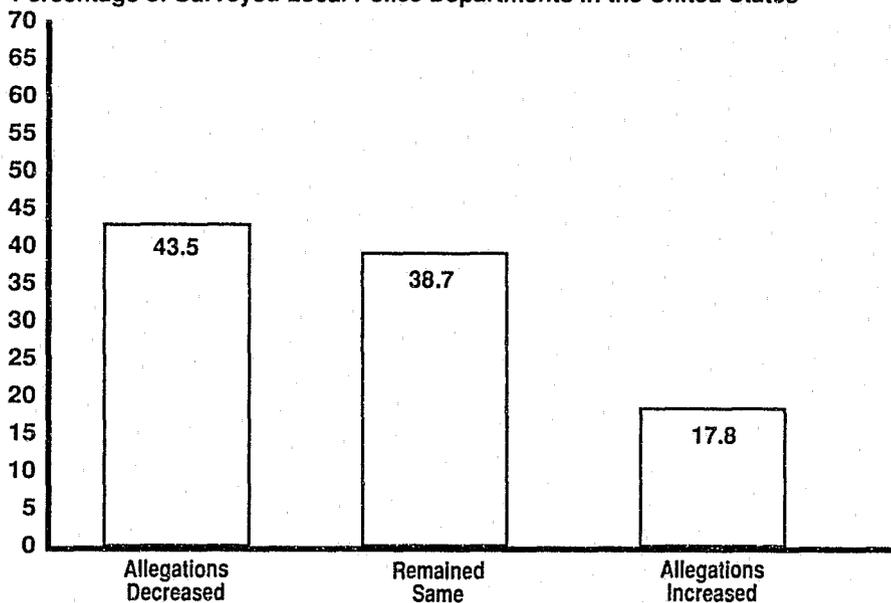
Effects of videotaping on charging, case preparation, and plea negotiations

Prosecutors' views. Prosecutors visited could point to no substantial effect of videotaping on decisions to charge suspects, but they were in virtually unanimous agreement that videotaping helped them assess the State's case and prepare for trial. Said one district attorney: "You learn a lot from the videotape—how sophisticated the defendant is, how he answers questions, how you might cross-examine."

Prosecutors credited videotaping with providing details impossible to capture from written interview notes or a transcript and mostly lost in an audiotape as well: the suspect's and officer's physical condition, demeanor, attire, intonation in speaking, body language, and the situation on the night (or day) of the arrest. Such nonverbal

Exhibit 4. Videotaping's Effect on Defense Claims of Improper Police Interrogations

Percentage of Surveyed Local Police Departments in the United States



cues can greatly add to—or subtract from—what the suspect is saying.

Although most prosecutors claimed that videotaping is an asset in negotiating acceptable pleas, one noted that it can cut both ways: Sometimes the video raises hopes among defense attorneys that they may be able to assert a defense (such as insanity or intoxication) that otherwise would not be credible. Even when videotaped statements produce unfavorable results for the State, they often help prosecutors prepare for either trial or plea bargaining. For example, one prosecutor noted that videotapes help her distinguish genuine remorse in a suspect from feigned remorse, an advantage in either situation.

Even if “the news is going to be bad,” at least the prosecutor is warned about what lies in store. And should a tape reveal the State’s case against a defendant to be weak, it may help the prosecution decide whether to charge the defendant with a less serious crime or to drop charges entirely.

Defense attorneys’ views. Defense attorneys’ opinions of videotapes were much more mixed than those of prosecutors. Some were flatly opposed to videotaping, primarily because it generally gives the State a strategic edge. Written and, to a certain extent, audiotaped confessions are easier for the defense to attack as the product of coercion or fabrication; these types of documentation also permit the defense to explore more areas of ambiguity in courtroom interpretations than can be done with videotaped statements.

Others—particularly public defenders with daunting caseloads—appreciated the client-control benefits of videotaping. They also claimed the nonverbal information conveyed was useful; for example, torn clothing could corroborate a defendant’s claim that he got into a fight with the homicide victim and the killing was not premeditated. Two of them separated their professional and personal reactions to videotaping. Said one private attorney who specializes in murder cases: “As a defense lawyer, I hate videotaping. As a citizen needing the protection of the police against criminals, I love it.”

One public defender said that videotapes can help the defense by capturing meaningful pauses in an interview that would be

lost in a written documentation. In another instance, a private attorney recalled a case in which his client was told that if he cooperated with the police he would not be charged; a codefendant would be charged instead. Because the videotape of his client’s response showed an eagerness to confess, the lawyer succeeded in his claim of improper promises.

Another public defender pointed out that a defendant’s behavior and speech on camera can help an attorney assess whether it would be useful to put him or her on the witness stand.

Videotapes were also deemed useful to the defense when the police use interpreters to question non-English speaking suspects. The tape captures the precise translation, facial expressions, and gestures used in the police questions or comments, the interpreter’s translation, and the suspect’s statement. The defense can hire a translator to study the video for erroneous translations that might be prejudicial to the defendant.

Some attorneys also said videotapes help them achieve “client control” by cutting through lies clients try to tell attorneys about how they were interrogated or what incriminating remarks they made. Tapes can also help attorneys persuade clients they are better off pleading guilty to a reduced charge because a taped confession virtually assures conviction. Most defense attorneys agree that if their clients confess, they prefer they do so on videotape; the others who prefer written confessions say they are easier to attack as the product of improper promises, coercion, fabrication, or other forms of interrogator misconduct.

Videos can be useful to attorneys not only in getting the client to admit what he did, but also in helping a defendant’s family accept the fact of his or her wrongdoing. And for defendants trying to be honest with their attorneys, videotapes can help jog memory about details that may help the defense.

Prosecution and defense access to tapes. In most locales visited for this study, prosecutors are given duplicates of the videotapes recorded by the police but defense attorneys’ acquisition of them is not automatic. Sometimes defense attorneys view videotapes at police stations, more often in

prosecutors’ offices. Sometimes they send blank videotapes to the prosecutor’s office to have a copy made; sometimes they must purchase copies (with exceptions typically made for indigent defendants); in rare instances they can obtain a copy only through discovery motions.

The point after arrest at which defense attorneys and their clients can view video statements varies from jurisdiction to jurisdiction. In Bronx County, New York, defense attorneys can view videos only after the client has been indicted. In Orange County, California, attorneys generally see the tapes within 2 to 4 weeks after an arrest. But their *clients*—those featured in the videos—often see their videotaped statements for the first time in court, at trial. An Orange County public defender pointed out that this puts him at a disadvantage.

Procedural issues of videotaping

The decisionmaker. Most of the 11 departments visited leave the decision of whether to videotape an interrogation or confession to the interrogating detective. In two of the agencies, however, a sergeant makes the decision; in two others, videotaping is standard in certain types of cases. However, standard procedure is not always followed; some detectives and assistant prosecutors, who do not share positive views about videotaping held by colleagues with whom they work side-by-side, sometimes try to prevent videotaping. But in the visited locales most officials reportedly comply willingly with the standard videotaping routines.

Written guidelines. Some agencies visited had comprehensive written guidelines for conducting such videotapings; others had only brief memos on how to use the video equipment. Still others had nothing in writing; they said the detectives conducting video interrogations were experienced enough not to need such reminders.

Personnel at videotaped interviews. In the literature review, the researchers found that some commentators estimated that videotaping would save the criminal justice system money because fewer officers would have to attend an interrogation.

However, in three-quarters of the agencies surveyed, videotaping produced no change in the number of officers on hand.

Most commonly, two detectives are present during the videotaping of a suspect's interview. With documentation techniques other than video, one of the key justifications for having a second detective present is often that he or she can corroborate the details of the interview and appear in court to testify if the first detective is unavailable. For videotaping, the role of the second detective varies among detective units and across types of cases. Sometimes the second detective participates actively in asking questions; in other instances he or she is primarily a listener, an adviser to the lead interrogator, or the equipment operator. If the "good cop-bad cop" routine is employed, the second detective becomes the friendly alternative to the first interrogator's "tough guy" approach.

In addition to the officers conducting the interrogation, a supervisor or other investigative person may sometimes be outside the room, monitoring the interview on a TV screen with a speaker or headphones. Those outside the room may offer advice

to those inside. Methods for doing so at visited agencies ranged from the low-tech (e.g., knocking on the door and calling the interrogator out on the pretext of taking a phone call) to the high-tech (e.g., sending a message in silently on the interrogator's digital pager). In two departments visited, prosecutors also monitor the interrogation in certain cases: homicides, shootings by police, and major cases with possible "political overtones."

In New York City (at least in Bronx County, New York), the roles of prosecutors and police officers during a video interrogation are reversed. Once a suspect is willing to provide a statement to authorities in a homicide or other serious crime, the police summon the district attorney's office to send an assistant prosecutor to the precinct station to conduct the video session. Police personnel are in the interview room for security and guidance.

In certain other jurisdictions, prosecutors believe they should stay out of the investigation of a case because of the prosecutorial role they will play should the suspect be charged. One assistant district attorney expressed opposition to prose-

cutors participating in videotaped interviews because he thought it would appear to juries watching the tapes that he was taking unfair advantage of the suspect.

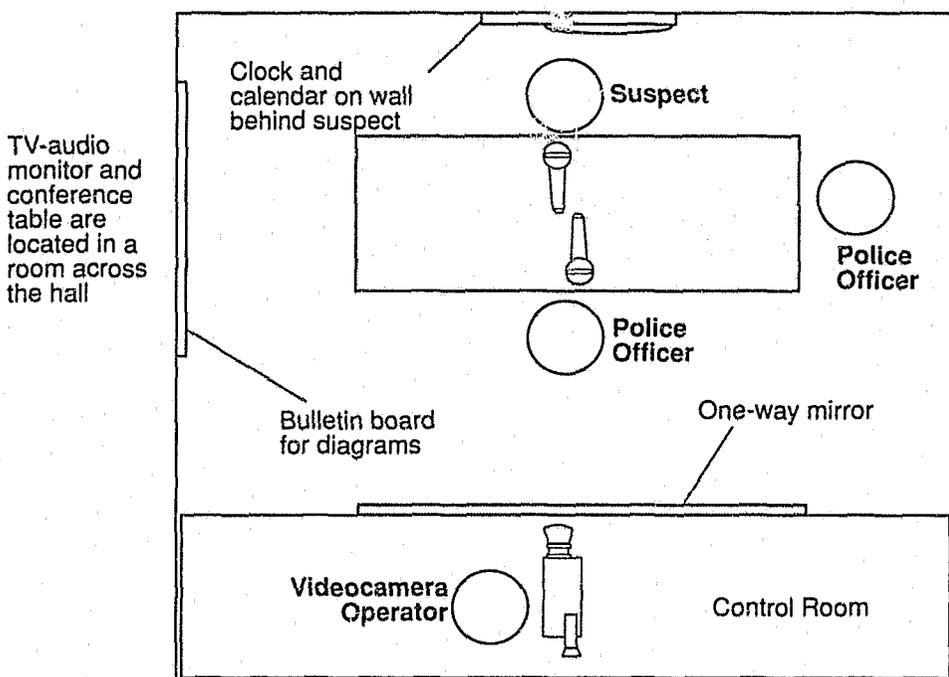
Equipment operation. During videotaping, an equipment operator is usually present—either inside the room or in an adjacent video control room, depending on where the camera and backup audio recorder controls are located. Sometimes the video operator is a civilian technician, but often he or she is a fellow detective. The operator's role is to ensure that the equipment does not malfunction, to replace video- and audiotapes if they run out, and, if the camera setup allows, to zoom in on such details as a suspect's face or an item of evidence or to pan the room to show who is and isn't present during the interview.

The survey found high levels of satisfaction with videotaping equipment technically. Equipment malfunctions or operator errors were described as a major problem by only 7 percent of police agencies. More than one-half reported having no problems at all.

Room layout. To take video statements, agencies visited had from 1 to 16 rooms; (16 Bronx County police stations each had a videotaping room). The rooms differed a good deal in physical layout, including the placement of interviewers and interviewees. (The Denver setup is depicted in exhibit 5.) In some agencies, the officer(s) conducting the interview was visible; in others, only the suspect was seen. In some room arrangements, detectives were shown only in a profile shot. It could be detrimental if detectives were off-camera or taped solely from the rear, as this could give rise to a defendant's claims that the interrogator used menacing facial expressions to intimidate him.

In each agency visited, the camera photographs the suspect's face from the front, but camera angles differ. If the camera is mounted too high on the wall and looks down at the suspect, it is frequently difficult to see the suspect's facial expression if he tilts his head down during questioning. The clarity of the recorded picture depends additionally on whether color or black-and-white video equipment is used, on room lighting, and—particularly when taping persons with dark skin—on the color of the wall or other backdrop behind the person's chair.

Exhibit 5. Denver Police Department Interview Room Layout



Equipment and remodeling costs. When purchasing video equipment, agencies can choose between high-quality consumer gear or professional television equipment. Professional facilities permit an agency to produce high-quality tapes and duplicate or edit expeditiously. (Typically, editing is minimal to avoid raising doubts about tape tampering; perhaps an inadmissible statement about other crimes will be excised.) Professional equipment, which is much more costly, is not needed to make acceptable videos of police interrogations, however. Several departments surveyed paid nothing for their video and backup audio recording equipment; they use recovered property.

Departments that paid for audio-video equipment and renovated interview rooms with soundproofing and proper lighting spent between \$5,000 and \$40,000. The Bronx district attorney's expert on videotaping, with more than 20 years of first-hand experience in setting up and running a video recording program for serious felony confessions, reported that it costs \$25,000 to construct "one complete interview setup, including playback equipment and top-of-the-line editing equipment. This," he observed, "is slightly more than the cost of one police car and certainly less than a police officer's salary." He acknowledged that "multiple setups for larger departments will be more," and reported that the Bronx district attorney's office "replaced all [its] equipment—five field units, five playback setups, and editing—for \$60,000. I doubt," he suggested, "anyone in the world really will need more than we have, so cost is very low."

Transcripts and their costs. Police and prosecutorial officials in some jurisdictions worry that everyone involved in a case will, as a matter of routine, insist on verbatim transcripts of the audio of entire interrogation tapes, which can run 5 hours or longer. In many jurisdictions transcription has become the rule rather than the exception.

Making so many and such lengthy transcripts could be problematic for some criminal justice budgets. However, if agencies videotape only short recaps, transcripts are more affordable.

Other issues were raised about transcripts in addition to their cost in time and money. Prosecutors differed about the importance

of having a transcript before deciding whether to charge a suspect. Some found it facilitated their review of the case. Others did not mind its absence; they relied on the video and police summaries of the investigation.

Prosecutors who prefer to work with transcripts noted that they can read and flip pages more quickly than they can watch, rewind, or fast-forward a video, looking for a particular section. Some also noted the difficulty of getting ready access to a video player and TV monitor when they want to prepare a case.

An emerging technology could speed the location of key information on videotapes or video disks. Interactive video technology, in conjunction with voice recognition and automated transcription equipment, can generate a written transcript on screen (or in a printout if necessary) as well as an audio and visual recording. Using this technology prosecutors would be able to search for and find key words or even key visual images in the video recording of the interrogation as quickly as one searches for and locates a particular selection on a compact disk or a key word in a word-processed document today. Further research and development is needed to adapt these technologies for criminal justice applications.

Safeguarding tapes. Criminal justice practitioners in other countries have expressed concern that electronic documentation of interviews—key evidence in trials—can be tampered with, lost, damaged, or destroyed either purposely (for example, by placing a tape next to a powerful motor whose magnet will erase the tape) or inadvertently through poor storage techniques. However, among those interviewed for this study, no one expressed concern about intentional tampering; some expressed minimal concerns about accidental damage to or loss of tapes.

To control access to master tapes and protect them from accidental damage, departments typically inventory the tapes like other case evidence. In no instance was the master tape treated as the investigating officer's personal "electronic notebook," although duplicates of tapes involving cases under investigation were often held by detectives. Other measures taken to safeguard recorded tapes include

making a backup copy, preventing the tapes from being accidentally recorded over by removing the tab on the tape housing, storing tapes in rooms with humidity and temperature controls, and maintaining logs to monitor who is given access to the tapes.

Videotapes in the courtroom

Videotapes as evidence. Videotaping is thought to help win acceptance into evidence of incriminating statements by accused persons. This is primarily because it makes it easier to show the voluntary nature of a confession. Most judges interviewed saw such benefits in videotaping. One noted, "It makes police work credible." Another said, "Juries really like videotapes. This form of evidence holds the jurors' interest." Judges believe decisions to admit confessions in evidence and to convict or acquit are more credible when the suspect is questioned on camera. Others interviewed substantiated that videotaping facilitates court admission of confessions, even if they are recapitulations of long statements.

Effects on convictions and sentences. Prosecutors interviewed reported that videotaping was a factor in their negotiating more guilty pleas and higher sentences. Likewise, the vast majority of police departments surveyed reported that videotaping had helped secure guilty pleas (exhibit 6). Tulsa police reported:

As soon as the defense attorneys around here find out that their clients have given a videotaped confession, the cases are plea bargained out. With audiotape, we didn't get nearly so many pleas. The defendant could still claim the police held a gun to his head or had a foot on his throat.

As for securing convictions, an equally overwhelming proportion of agencies surveyed believed videotaping had helped do this. Those interviewed generally agreed. Police in Washington, D.C., said: "We have obtained convictions that might not otherwise have been obtained through use of the videotapes; for instance, in cases in which the suspect's body language was very important to the jury."

A prosecutor in San Diego, California, however, indicated that videotapes can cut both ways:

The big question in homicide cases is intent. If the suspect on the videotape is crying his eyes out, saying he didn't mean to shoot the victim, this can hurt the prosecution's ability to prove intent. On the other hand, I have used the video to refute claims by a suspect that he was high on dope or insane during the interrogation.

As to how videotaped confessions affected sentences, most but not all of those interviewed felt longer sentences resulted. A private defense attorney cited two or three of his cases in which a videotaped confession, showing a remorseful and cooperative defendant, operated to mitigate the sentence, and another case in which his client got a longer sentence because he was cooperative but appeared unremorseful. A judge in Denver, Colorado, indicated that seeing a defendant's honesty or remorse on a video can foster leniency. But a judge in New York City observed that in 12 years on the bench he had yet to encounter a killer who expressed remorse.

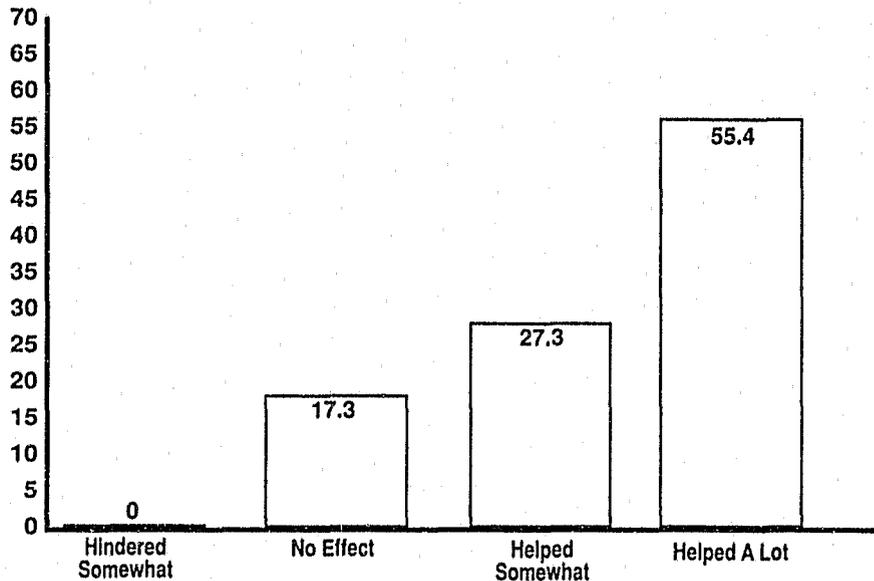
A consensus favoring videotaping

Police tools and tactics must be employed in a way that balances several sometimes competing objectives. A balance must be struck between effectiveness, efficiency, and legitimacy. On the basis of this exploratory study, videotaping appears to be a distinctly useful tool, because it is seen as simultaneously furthering the criminal justice system's pursuit of disparate objectives:

- Videos can help police accurately and efficiently assess a suspect's guilt or innocence.

Exhibit 6. Effect of Videotaping on Guilty Pleas

Percentage of Surveyed Local Police Departments In the United States



- They foster humane treatment of suspects, fairness, and respect for civil rights and liberties.

- They can help to persuade other authorities and the public that police interrogations are conducted professionally and thereby reduce some of the stresses that impede excellence in police work.

In the national survey, a striking 97 percent of all departments that have ever videotaped suspects' statements continue to find such videotaping, on balance, to be useful. Likewise, agencies visited were

asked, knowing what they know of videotaping now, if they would do it again. Every agency said yes.

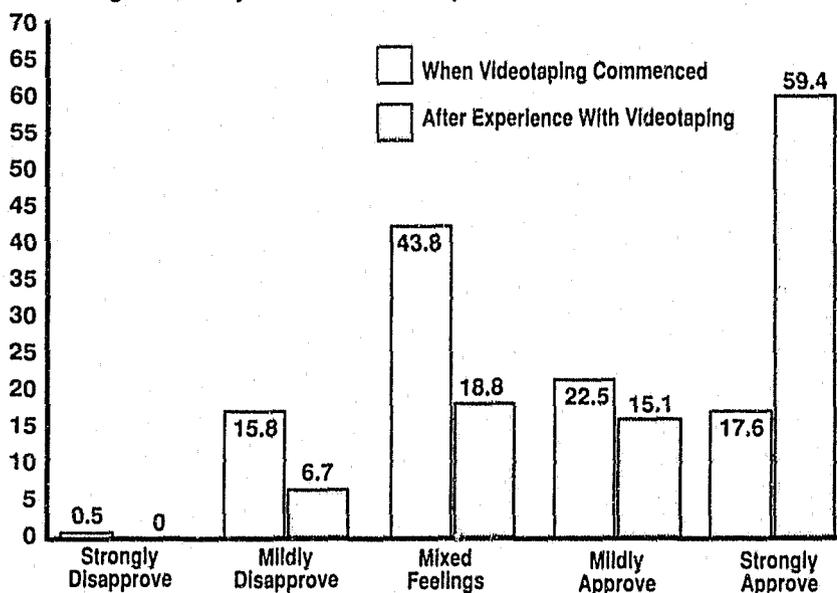
In departments that have adopted video documentation of suspects' statements, early resistance by detectives has been transformed into active support among most. The survey found that 60 percent of agencies switching to videotape reported that their detectives at first disapproved of or had mixed feelings about the practice. By the time of the survey, however, after most of these agencies had several years of experience with videotaping, the

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Exhibit 7. Police Attitude Toward Videotaping

Percentage of Surveyed Local Police Departments in the United States



disapproval and mixed review figure had fallen to 26 percent (exhibit 7). Initial resistance, the interviews suggested, is primarily a general resistance to change. As one detective put it, "The only people who like change are babies with wet diapers."

The weight of opinion among criminal justice practitioners who have firsthand knowledge of videotaping interrogations and confessions thus seems clearly positive. Whether these perceptions would be confirmed by additional research that moves beyond this exploratory effort to a more quantitative evaluation of process and outcome effects, remains to be seen.

Future evaluations that build on this preliminary study of issues and practices in videotaping should provide more insight into the benefits and drawbacks of an

increasingly popular investigative tool for U.S. police.

Notes

1. Site visits disclosed that many departments' records did not distinguish between the videotaping of statements by suspects and the videotaping of statements by witnesses or victims. As a result, the findings of this national survey—in which respondents, forewarned of researchers' telephone interviews, probably checked records to estimate how often their agencies videotape suspects' statements—must be taken as preliminary.
2. Even detectives who aim to videotape interrogations turn off the camera occasionally when suspects insist they will speak only if they are not taped.
3. Notably, the practice of taping entire interviews was not limited just to small agencies

with relatively few serious felony interrogations per year.

4. Some of the advantages of videotaping suspects' interrogations or confessions are intangible but no less valuable. In an era where homicide tallies have set new records and staffing levels in police and sheriffs' departments are not growing, some wonder how departments consider adopting a time-consuming use of video technology. Many criminal justice practitioners, however, argue that videotaping could save time compared with other ways of documenting interrogations. Even if it does not, it seems to avoid something even more important—wear and tear on officers. Backed by a videotape clearly showing that a suspect's confession is voluntary, a detective on the witness stand who denies using coercion to win a confession is in a strong position. Whatever videotaping's costs in terms of time and money, it promises savings of officer stress and burnout, which may be among its most valuable advantages.

William A. Geller is Associate Director of the Police Executive Research Forum. His full report titled *Police Videotaping of Suspect Interrogations and Confessions: A Preliminary Examination of Issues and Practices*, highlighted in this *Research in Brief*, is available on loan from the National Institute of Justice/NCJRS, Box 6000, Rockville, MD 20850; write or call 800-851-3420 and request NCJ No. 139584. The report is also available from the Police Executive Research Forum, 2300 M Street NW., Ste. 910, Washington, DC 20037 (202) 466-7820.

Findings and conclusions of the research reported here are those of the researcher and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

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