Project Safe Neighborhoods

By Deputy District Attorney Gerry Lopez, Riverside County (CA) District Attorney’s Office

When people encounter others with whom they strongly disagree over hotly contested issues, they have a tendency to either refuse to meaningfully interact with each other, or as the cliché states, they “agree to disagree.” Too often, they fail to realize that they can agree to agree.

Many well-intentioned social services personnel and law enforcement officers strongly disagree (and therefore fail to join forces) over such issues as “three strikes,” the death penalty, and the prosecution of some juvenile offenders as adults.

Consequently, certain serious social ills, which could be effectively combated with comprehensive community collaboration, not only continue, but also actually thrive. Can this be remedied? Yes! These camps can agree to agree.

Knowingly or unknowingly, law enforcement officers and social services personnel already have much in common. For example, both sides want crime-free neighborhoods, healthy families, safe schools, and happy, educated, responsible, productive youth. These goals are so important and vital to the well-being of our communities, that uncommon ground should not and must not interfere with the common ground. By battling together in the trenches and fighting for important common ideals, these seemingly disparate groups can establish meaningful and mutually productive relationships and earn one another’s trust.

In western Riverside County (California), Project Safe Neighborhoods presents an opportunity to do exactly this. As adopted by the Riverside County District Attorney’s Office, Project Safe Neighborhoods is a comprehensive community collaboration that seeks to dramatically reduce gang violence and address the major issues that lead young people into gang activity.

Starting July 1, 2005, this program is being implemented in different target areas throughout 11 cities in western Riverside County. Though law enforcement will continue its traditional crime suppression efforts against hard-core violent gang members, the major focus of Project Safe Neighborhoods will be intervention and prevention. In addition to local, state, and federal law enforcement agencies, current partners include an impressive and rapidly growing list of community stakeholders including the University of California at Riverside, California Baptist University, Riverside Community College, the Riverside County Office of Education, local school districts, Catholic Charities, the Diocese of San Bernardino, Victory Outreach (and other local faith-based groupings), child protective services, public health and mental health agencies, the Economic Development Agency, the Riverside County Arts Council, Hispanic Lifestyle Magazine, Operation New Hope, Community Action Partnership, Leaders Guiding Leaders, and other community-based organizations.

The goal of this program is to bring into the target areas every available service and resource necessary to create healthy families, safe neighborhoods, and violence-free schools. Such services and resources include, but are not limited to, tutoring, mentoring, counseling, parent education, school staff training, after-school youth activities, employment, vocational and job training, community organizing, motivational school presentations (promoting life skills, higher education, and the arts), educational school presentations (regarding the negative consequences associated with gangs, crime, and incarceration), and assistance with basic needs such as health care, housing, food, and clothes.

The program’s strategy is not to create new resources or duplicate services, but rather to establish dedicated and trusting relationships among existing partners to effectively and collectively channel resources for the ever-important task of improving and securing our communities.

Leadership is all about making worthwhile ideas a reality and sustaining them over time. It is our hope that this community-oriented attack on crime will make a long-term impact, community by community.

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1 Gerry Lopez is a 15-year prosecutor with the Riverside County, California, District Attorney’s Office. He was formerly the lead attorney for the Youth Accountability Team Program, and is currently assigned as the gang coordinator for Project Safe Neighborhoods.
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rmed with a recent law review article, defense attorneys are on the prowl to chip away at the reliability and admissibility of firearms and toolmark identification by experts under Daubert/Frye tests. Although courts continue to view expert testimony in this area as an accepted and settled area of law, this law review article argues that there are systemic scientific problems with such identifications, to the degree that all identifications should be deemed inadmissible “across-the-board.” Specifically, the article cites three major sources of misidentifications by firearms and toolmark examiners: (1) the individual characteristics of toolmarks are comprised of non-unique marks, (2) subclass characteristics shared by more than one tool may be confused with individual characteristics unique to one and only one tool, and (3) the individual characteristics of the marks made by a particular tool change over time.

Defense attorneys may cite language in the article arguing that, historically, courts have been skittish to question whether firearm and toolmark identification is founded on adequate statistical, empirical foundations. As a result, the article asserts that examiners fundamentally mislead judges and juries by “claiming to be able to single out a particular firearm or other tool as the source of an evidence toolmark, to the exclusion of all other tools in the world.” The article suggests that examiners commonly refuse to specify the features that determine whether toolmarks match, as is commonly done in DNA identification practices. Under this subjective approach, the author concludes that expert testimony is not “pseudo science”—the basis for forming a pattern recognition conclusion cannot be explained to anyone else.

Two recent firearms cases support the long-standing conclusion that expert testimony is not “pseudo science”—United States v. Foster and Sexton v. State. The Foster court held that the “general reliability of the science of ballistics, including comparisons of spent cartridge cases even where there is no ‘known’ weapon recovered has been established...[B]allistics evidence has been accepted in criminal cases for many years...[I]n the years since Daubert, numerous cases have confirmed the reliability of ballistics identification.” United States v. Foster, 300 F. Supp. 2d 375, 376, 376 n.1. (D. Md. 2004). In Sexton v. State, the Texas Court of Criminal Appeals held that “the underlying theory of toolmark examination could be reliable in a given case.” (Note: The Sexton court deemed the particular firearms identification testimony inadmissible because of concerns about “the reliability of the technique used in this case.”) Sexton v. State, 93 S.W.3d 96, 101 (Tex. Crim. App. 2002).

A response to this article will be published in the November 2006 issue of the Columbia Science & Technology Law Review to be authored by Ronald Nichols. Mr. Nichols is a firearms and tool mark examiner with 20 years experience in the field of forensic science. He is certified as a Diplomat with the American Board of Criminalistics, a Fellow member with the American Academy of Forensic Sciences, and a Distinguished member of the Association of Firearms and Toolmark Examiners (AFTE). Although Columbia will not publish the article until November 2006, the law review has agreed to allow AFTE to publish it in full on its Web site. It will be available for downloading by any registered member of AFTE. Contact firearms experts in your jurisdiction for further assistance.

APRI’s Gun Violence Prosecution Program is compiling case law, motions and transcripts that counter this defense claim. To contribute documents, or for further information, contact us at 703-549-4253 or via e-mail at gvp@ndaa-apri.org.

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Articles of Interest

See www.ndaa-apri.org/apri/programs/gun_violence/button_case_law.html for links to these articles:

• SJC to Hear Arguments on Banning Fingerprint Evidence
• A New Way to Trace Gunshot to its Source
• Doctors Blame Taser Stun Gun for Fibrillation
• F.B.I. Abandons Disputed Test for Bullets from Crime Scenes

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2. Id. at 7.
3. Id. at 7, 8.