

# ETHICS ROLL CALL

LISTENING TO THE INNER VOICE



## Institute for Law Enforcement Administration Celebrates 50 Years of Excellence

As part of the year-long celebration of “50 Years of Excellence” at the Institute for Law Enforcement Administration, a gala luncheon was held at the Center for American and International Law on Wednesday, May 23, 2007. Among the more than one hundred and twenty guests in attendance were members of the CAILE Board of Trustees; representatives of the ILEA Advisory Board; law enforcement leaders from a multitude of agencies served by the Institute; alumni of a number of ILEA programs; and distinguished representatives of the academic community in North Texas. Photographs of the luncheon appear throughout this publication, with more available on the ILEA web site.

It would not be possible to celebrate ILEA’s 50<sup>th</sup> Anniversary without recognizing a significant

event that occurred ten years earlier: the founding of the Center for American and International Law (which at that time was known as the Southwestern Legal Foundation). In 1947, Dean Robert Storey, then-Dean of the Southern Methodist University Law School, was the person who had the vision and the drive to establish what became an internationally-known institution where high quality traditional legal teaching and scholarship would interconnect with the practical, legal, business and community-oriented worlds.

Dean Storey, who was a military veteran of both World War I and World War II, concluded his military duty as Executive Counsel to Justice Robert Jackson, the Chief Prosecutor at the Trial of Major Axis War Criminals in Nuremberg (the

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### May We Introduce a New, Old Friend...

As many of you know, Dr. Daniel T. Primozic has been working with the Institute for Law Enforcement Administration and the Center for Law Enforcement Ethics as an adjunct faculty member since 1996. In June 2007, he left his post as Dean of the Liberal and Fine Arts of Santa Fe Community College to become the new Associate Director of ILEA, where he will help guide the efforts of the Ethics Center. Over the course of his association with ILEA, Dan has had the opportunity to interact with and come to know a number of law enforcement practitioners, and to develop a deep sense of respect for

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ILEA Staff (left to right): Gregory Smith, Associate Director; Daniel T. Primozic, Associate Director; Tracy Harris, Staff Assistant; Daniel P. Carlson, Director

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## CORNER

## ETHICS

## If I Only Had a Brain...

In an interesting article in the *The Wall Street Journal* (May 11, 2007), Robert Lee Hotz makes us aware of a new brain discovery which seems to link morality and the hard wiring of the brain itself. Drawing from research which suggests that impulsive, moral and emotional convictions come from "the brain trying to make its emotions felt" rather than from conscious principles, Hotz points out that: "Most of us feel a rush of righteous certainty in the face of moral challenge, an intuitive sense of right or wrong hard to ignore yet difficult to articulate."<sup>1</sup>

While sparing you all the scientific details, the bottom line seems to be that there are hunks of our brains (several inches behind the eyebrows) that are pivotal parts of the unconscious empathy and emotions we call upon in making moral and emotional decisions. That, of course, does not rule out the role played by family values, cultural heritage, legal traditions and religious beliefs in making ethical choices. In fact, we now know that those values, heritages, traditions, and beliefs, if held long and frequently enough, will somehow develop into little pathways of ideas inside the terrain of the brain and become part its hard wiring as well. In doing so, they become part of this intuitive moral and emotional response.

**Do All Professions Have Appalling Problems?**

While it sometimes seems that the police are the most popular of media targets, ethics problems occur (and are reported) in other professions as well.

For instance, from the hallowed halls of higher education, we can read about the MIT Dean of Admissions who was recently discovered to have lied about her resume in 1979 to get the job (as it turns out, she never received the bachelor's or master's degrees she had claimed). We can also read about Touro College's former admissions director and former computer center director being indicted on charges that they took part in a scheme involving fraudulent transcripts. This list of these kinds of ethics infractions could go on for some miles further. But the point is made.

**But What About the Police?**

Sadly there is no shortage, lately, of professionally embarrassing, unethical situations in the police world: e.g., Clayton Borough, New Jersey's former police chief and his wife were indicted recently on charges of stealing more than \$150,000 from Mothers Against Drunk Driving (*The New York Times*); police officers in Chicago's Special Operations Section found themselves in the media spotlight for an exceptionally high number of misconduct allegations (according to the *Chicago Tribune*, thirty officers from the section were accused of brutality and other offenses 862 times in the last five years). This sort of coverage obviously cannot help the image of the police departments with the communities they serve, nor can it be a boost to the image of the profession itself with the general public.

**Is It the Nasty Media Folks?**

As we know, the media thrives on sensational news stories and sometimes goes out of its way to cover them, augment that coverage, and perhaps even make the tale a bit taller. But can we exclusively blame the problematic public image of the police profession on the media's vicious, rabid, mad-dog pursuit of the "story," or is it also the case that unethical police hand the media a stick to hit them with?

**So What's the Deal?**

The quick fix answer for the last two thousand years amounts to a version of "boys will be boys," or in this case "humans will be humans," i.e. all this unethical behavior should be marked up to something we, traditionally, have been pleased to call "human nature." We inevitably come to that conclusion, partly because it is an easy way to dismiss the problem: if it is human nature that causes these unethical episodes, and we cannot do much to change human nature, then there is not much we can do to rectify the episodes. We will need to make a way to move forward despite them and learn, thereby to live alongside them. But, as it turns out, we can slice this bread of "human nature" much more carefully than that.

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ADVERTISEMENTS...  
CONTAIN THE ONLY  
TRUTHS TO BE  
RELIED UPON IN A  
NEWSPAPER.

THOMAS  
JEFFERSON

## CALVIN AND HOBBS



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## Virginia Tech and *Tarasoff v. Regents of the University of California*

by Dan Primozić

In a *USA Today* article (July 16, 2007), Virginia Tech and the tragedies thereof resurfaced, this time in the form of a panel charged with reviewing and issuing recommendations regarding, among other things, the role of the state mental health community and university counselors in providing Seung Hui Cho (the Virginia Tech shooter) with effective, timely, and adequate counseling. This brought back to mind a much older case from 1976 concerning the duties of the mental health community in helping prevent tragedies such as this from occurring. In short, the case required that mental health professionals provide timely diagnosis of the mental states of murderers-to-be, along with timely and effective warning to the victims-to-be and other stakeholders in such cases. This is the landmark California Supreme Court decision, *Tarasoff v. the Regents of the University of California*.<sup>1</sup> Although this case came to my mind in a smooth and easy manner, I wonder what we learned from it in the intervening years between then and now.

In that old case, a female student named Tatiana Tarasoff was murdered by her ex-boyfriend Prosenjit Poddar, after he visited the campus psychologist to tell him that he fully intended to murder Tatiana when she returned from a trip to Brazil. The campus counselor informed campus police and the LAPD, but failed to warn Tatiana or her family residing then in Los Angeles. Neither did the campus police nor the LAPD inform any

one in the Tarasoff family concerning the danger to Tatiana's life.

The campus police took Poddar into custody and, after some questioning, released him because they thought he was no potential harm. LAPD did not interact with him, and up to that point in legal history, their obligation to inform the Tarasoffs was not yet established. But what about the mental health professional's obligations to Tatiana and the Tarasoffs? Patient confidentiality is surely important, just like it was for the mental health workers that dealt with Cho at Virginia Tech; but at what point does that duty necessarily give way to another duty: the duty to warn an innocent third party in harm's way? The mental health professionals and other officials on the campus of Virginia Tech rightfully kept up their defense of their preserving both their duty to medical confidentiality toward Cho and also Cho's right to preserve his liberties without interference from law enforcement or restrictions from campus authorities. Meanwhile, campus security and other local police agencies were taking an unhappy bath in the media limelight for what, some believed, they could and should have done to prevent this tragedy. Perhaps just a reminder for those mental health professionals from the old Tarasoff case would have come in handy; it certainly comes in handy now, I think.

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HUMAN NATURE  
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EVERY CASE.

ELISHA POTTER

## Who Do You Trust? [*sic*]

by Dan Carlson

Often, the most challenging part of writing for publication comes down to the mere selection of a title. And in the struggle to get it right, the author knows that he must choose carefully for, in just a very few words, he must capture the interest of the reader and, hopefully, evoke some sort of connection with the piece that follows. In the case of this article, the way in which a reader might respond to the title can be influenced by a number of things.

Some (older) readers, for example, may have identified the title immediately as the name of a popular television game show which aired from 1958-1963. Incidentally, "Who Do You Trust?" was the program that launched the career of long-time "Tonight Show" host Johnny Carson.

Readers with a keen eye for linguistics will have noted, right away, that the wording ("Who Do You Trust?") is grammatically incorrect; hence the insertion of [*sic*] to make it clear that the words are presented here exactly as they appear in the original.

And the fact that this article appears in an ethics-related publication should have been a dead giveaway, leading some to assume (rightly) that the title might have something to do with one of the core values of policing - trust - and the ways in which that principle weaves through the fabric of the profession of law enforcement.

But what is it about "trust" that makes it such an important value? At the foundational level, the role of police officers as witnesses in court is a good example, for it is in that setting, on a daily basis, that trial outcomes hinge upon the degree to which judges and juries have faith in the testimony of officers. A second gut-level example of trust can be observed in the ways officers rely upon one another in high-risk tactical situations. In those circumstances, police officers must be able to trust - absolutely - in other officers, and have complete confidence that they will respond quickly and effectively.

Even within the traditional "chain of command" management style of policing, the notion of "trust" carries considerable weight; many practitioners have seen how swiftly the lives and

careers of those at one end of the rank spectrum can be affected by the actions of employees at the extreme opposite end. Hence, leaders find themselves trusting, daily, that officers will behave responsibly and make right decisions, while line personnel hope, just as regularly, that bosses will make appropriate choices in the process of leading the organization and its employees.

Sadly, recent history is replete with instances of horrific police behavior which, despite the minuscule numbers of officers involved, have resulted in widespread erosion of confidence in individual agencies and the profession in general. Consider, for example, the attack upon Abner Louima by a former NYPD officer who, in August of 1997, anally sodomized him with a broom handle. As police officers everywhere shook their heads in disbelief at this unconscionable act, they knew it would provide ammunition to critics of law enforcement, and make the jobs of good and upstanding officers more complicated and strenuous.

It is important to point out that police executives are not immune from making faulty decisions that lead to disrepute and diminished trust in agencies. In July, 2007, the Attorney General of the state of New York released details of an investigation revealing that the New York State Police had - for the first time in its history - collected, created and produced documents and information intended to discredit a political foe of the governor of that state. And although there have been no criminal allegations, the report makes it clear that ethics rules had been violated

The New York State Police is a highly-respected organization with a proud history of avoiding any entanglement in political intrigue. In their testimony before the Attorney General, the last three State Police Superintendents (who collectively served in that position more than twenty years) said that they had never been witness to the sort of unusual behavior alleged in the report, and that it was, indeed, unprecedented.

In discussing the tenuous nature of his position, the police chief in a relatively large city put it

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I SAY THAT A  
MAN MUST BE  
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FOR IT.

G. K.  
CHESTERTON

VIRGINIA TECH  
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In the case that the Tarasoffs brought against the regents of the University of California, Justice Mathew O. Tobriner wrote the majority opinion wherein he maintained that, in such cases, a doctor or psychotherapist must override their duty of confidentiality to their patients because of a prior "duty to warn" third parties of threatened dangers arising from the patient's violent intentions, even though it may have been true that the counselor could not accurately predict or foresee that the patient would actually commit the crime. As Tobriner put it: "We conclude that the public policy favoring protection of the confidential character of patient-psychotherapist communications must yield to the extent to which disclosure is essential to avert danger to others. The protective privilege ends where the public peril begins."<sup>2</sup>

Of course, there was also a dissenting opinion in this case, written by Justice William P. Clark, who argued that without the assurance of the duty of confidentiality regarding patients like Poddar, people needing treatment will no longer seek it; patients will not reveal their innermost thoughts to therapists for fear of disclosure to others. Thus, they will not receive effective therapy requiring a relationship of trust between therapist and patient. Despite the strengths of Clark's argument, Tobriner's position won the day and became a legal precedent for similar cases to come.

This old case came to mind because of all the talk in the Virginia Tech case concerning the duty of confidentiality to Cho, who, though he did not make outright threats to anyone, was someone

that gave some pretty clear danger signals to those in positions of authority: faculty, staff, administrators, and mental health workers. Just from a position of armchair quarterback on Monday morning, I wonder if these two cases are not similar enough to have set off an alarm in the minds of those who were in charge of Virginia Tech, that is, if they were familiar with the Tarasoff case. I reckoned, therefore, that lest anyone found themselves unprepared, or perhaps forgot about this important precedent, I would bring it to our attention. That way, perhaps, we may all recall what can happen when we fail in our "duty to warn."

In the world we live in, there is an important related and tough question about the extent to which we should allow the government to go in the interest of keeping us safe; we could, in fact, have a spirited discussion about the recent rulings on whether airline passengers could be sued for reporting what they felt was suspicious behavior on the part of other passengers. The discussion that Tobriner and Clark brought forth in the Tarasoff case, then, has genuine current meaning, for it outlines the real quagmire we face in wanting to be protected without having our individual rights infringed upon. Certainly this is an old problem that the framers of our constitution tried bravely and elegantly to put to bed. But it seems, the old beast just keeps on waking up.

<sup>1</sup> California Supreme Court; July 1, 1976, 131, California Reporter 14.

<sup>2</sup> *Ibid.*

MAY WE INTRODUCE A NEW, OLD FRIEND...  
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those who labor in the vineyards of the criminal justice system. We at ILEA bask in the good fortune of having Dan Primozić as a full time member of our staff, and we look forward to a long, significant, and productive dialogue with you all: new and old members, advocates, and participants of the Center for Law Enforcement Ethics.

Under Dan Primozić's guidance, all of the activities of the Center will remain intact, with some new offerings and delivery methods in the wind. For example, we are developing our first on-line, distance learning courses which should be ready for enrollments soon. We will be letting you know more about this endeavor as we move ahead, so be sure to watch this publication and the ILEA web site for what these offerings will be and when they will be available. We know that the people who participate in our programs are a busy bunch and have been wondering out loud concerning our providing some on-line, distance learning alternatives for supervisors, trainers, and leaders in the law enforcement profession – and we are responding to that call. Stay tuned for further information concerning those courses.

LIVE IN SUCH A  
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TOWN GOSSIP.

WILL ROGERS

## The Good, the Bad, and the Ugly (Must You Hire Them All?)

In a recent article in *Police Chief* (June 2007), Joseph A. Schafer, Associate Professor at the Center for the Study of Crime at Southern Illinois University, Carbondale, wrestles bravely with the ethical image problems that the profession of policing has, and also provides some strategies for making things better.

The focus, here, will be on only one of the major issues he raises – one that, over the years, has been a hot-button topic for discussions with participants in our ILEA courses. That topic is the process by which agencies recruit new employees, and a concern that some agencies may be “lowering the ethical bar” in terms of what an acceptable candidate might look like. Take, for example, the abandonment by some agencies of their zero tolerance stances regarding the use of controlled substances, and their argument that barring applicants for those and other such crimes and misdemeanors is no longer “feasible and responsible.” For an agency considering such a stance, it is important to stop and ask a simple question: what does such inferior, unethical behavior tell us about the judgment of the candidate? As Schafer asks, “Does [such behavior] suggest that the applicant might have credibility issues when testifying in court?” If the responses from participants in our recent courses are any indication, the answers seem to come in two opposing brigades.

One side’s answer follows the road opened by Kim S. Cameron, in her new book on leadership, where she claims that she believes that “we all hunger for that which elevates.”<sup>1</sup> If Cameron is right about that, as some think she is, then what in the world are the police doing by lowering the ethical bar, especially at a time when we need to have more and better ethical models everywhere, but especially in the profession of policing – a profession that, according to Schafer, has been having its own set of troubling ethical “image” issues lately? If anything, we need to be raising the ethical bar so that the community begins, again, to trust the ethical character of their police officers and departments. Are we merely collapsing under the hiring pressures in the profession of policing by “dumbing down” the ethical standards for entry, and if so, do we risk stumbling into a trap analogous to the one that has taken down so many politicians, corporate leaders and others who make unethical choices

when facing the economic pressures in their profession of business?

The other brigade lines up along the following trajectory of concerns: Do these former “disqualifiers” for the job of police officer still have any basis in the contemporary reality of the job market for police? Were these “pre-service” behaviors ever so inappropriate that they really would prevent any candidates from becoming sterling police models and mentors? Can we any longer afford those higher standards for candidates if we want to fully staff the rank and file, especially with best and brightest? And, of course, coming from out of the clouds of antiquity is another, always stunning, chestnut of a question: i.e., which of us was - and is - so ethically perfect that we can start hurling stones around? Who is so spotless, good, true, and beautiful that they really believe that they *deserve* a post in such a noble and right honorable profession?

These are good questions that, these days, must be answered rightly and swiftly, as the pool of “perfect” applicants continues to dwindle, and the large and small crimes against humanity continue to rise. Perhaps if you have an insight or two to contribute to the discussion of how to deal with this tough issue, you can write or email us and we will let you know what resolutions have been crafted through that process.

<sup>1</sup> Edward D. Hess and Kim S. Cameron, *Leading With Values: Positivity, Virtue, and High Performance*, Cambridge, United Kingdom: Cambridge University Press, 2006, p. 3.

**The world is hungry for goodness, it recognizes it when it sees it, and it has incredible responses to the good. There is something in all of us that hungers after the good and the true, and when we glimpse it in people, we applaud them for it. We long to be just like them.**

**Nobel Laureate Desmond Tutu**

[1999]

THE ANCIENT  
GREEK DEFINITION OF HAPPINESS WAS THE FULL USE OF YOUR POWERS ALONG THE LINES OF EXCELLENCE.

JOHN F.  
KENNEDY



At the 50th Anniversary luncheon (left to right) Dr. Lawrence Redlinger, University of Texas at Dallas; McKinney, TX, Police Chief Doug Kowalski; and Mr. Dan Carlson, Director of ILEA

### WHO DO YOU TRUST? [sic]

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this way: "The security of my job rests upon the behavior of a twenty-one year old person with a gun." In other words, this chief understands that a faulty decision by an inexperienced young officer at the other end of the chain of command could initiate a chain of events affecting the chief's tenure and job security. Put differently, the actions of a young patrol officer can complicate and intensify the world of the police chief.

Similarly, questionable behavior by the chief can adversely affect the trust a community has in its police department, and cause headaches and extra stress for the police officer out on the street. As he tried to ease the concerns of other New York State Police employees regarding the investigation currently rocking top commanders of that agency, one outspoken Trooper put it this way: "The state legislature supports us, and soon the public will again as well." Put another way, the actions of agency leaders can complicate and intensify the world of line police officers.

Any erosion of public trust in law enforcement raises legitimate concerns that should resonate with every police practitioner regardless of rank. And it does not matter whether the problem stems from the actions of a leader or someone on the front line ... when citizens lack confidence in law enforcement, the jobs of police officers - everywhere - become more difficult, intense, stressful and even more dangerous than they are by the very nature of the job description. Therefore, trust is a crucial, foundational thread in the fabric of the lives of police professionals at many levels, in many contexts, for many reasons. As such, it is a keystone virtue that must be understood fully, given adequate attention, and must never be ignored or taken for granted.

### ETHICS CORNER (IF I ONLY HAD A BRAIN...)

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#### So, What Does This Say About Human Nature?

First and foremost, what it *does not* say is that reason no longer has its place in careful, complete, and rigorous moral decision-making. The experiment discussed by Hotz tells us things only about our intuitive - "knee-jerk" - moral responses; those that must be accounted for in a thorough search for the good, but those that also must be carefully reviewed and sometimes overruled by the court of reason and time-honored decision-making principles and methodologies. Yet, the research does yield a more complicated view of what we place under the tent of "human nature." The more we know about what's in that tent, the more we will understand how it works and how it fails to work, morally speaking.

A side issue that one of the researchers, Harvard neuroscientist Marc Hauser, brought forward is that because the moral-dilemma experiment<sup>2</sup> seems to show that the brain is hard wired for morality, "most moral institutions, he said, are unconscious, involuntary, and universal."<sup>3</sup> In order to validate that idea, Hauser gathered data from thousands of people in hundreds of countries, who shared unanimity concerning their basic moral choices. "A shared innate capacity for morality may be responsible, he concluded."<sup>4</sup>

The good news, then, is that in the dark, involuntary, innate recesses of our brains we have hope in finding common moral ground with our friends and enemies. The bad news would be that "human nature" is a bit more automatic and intractable than we would have ever guessed, and therefore, those people who make incorrect, immoral decisions will be even harder to change for the sake of living and working together morally and ethically.

<sup>1</sup> Robert Lee Hotz, "Scientists Draw Link Between Morality and Brain's Wiring," *The Wall Street Journal*, May 11, 2007.

<sup>2</sup> For more information concerning this experiment, see the article noted just above.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

IT HAS BEEN  
SAID THAT MAN  
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WHICH COULD  
SUPPORT THIS.

BERTRAND  
RUSSELL



Scenes from the 50th Anniversary celebration held on Wednesday, May 23, 2007.



## UPCOMING PROGRAMS

2007	
Teaching Diversity Train-the-Trainer	Sept 24-28
School of Police Supervision	Oct 1-26
Administration & Management of Training	Oct 8-12
Internal Affairs, Professional Standards and Ethics	Nov 5-9
Police-Media Relations	Nov 13-15
Police Supervisor's Update	Dec 5-7
Basic Police Supervision	Dec 10-14
2008	
School of Police Supervision (Arlington, TX)	Jan 7-Feb 1
Crime Analysis in the Information Age	Jan 21-23
Racial Profiling: Data Collection and Analysis	Jan 29-30
Management College	Feb 4-Mar 28
Advanced Ethics Train-the-Trainer	Feb 19-21
Guide to the Fair Labor Standards Act	Mar 6-7
Contemporary Issues & Ethics Conference	Mar 26-28
Basic Police Supervision	Apr 14-18
Internal Affairs, Professional Standards and Ethics	Apr 21-25

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Editor..... Daniel T. Primozić  
Staff Asst..... Tracy B. Harris

### ILEA CELEBRATES 50 YEARS continued from page 1

Nuremberg War Trials) in 1945-46. And as alumni of ILEA programs over the years know, the views and philosophy of Dean Storey - the importance of the rule of law and the notion of human rights, to name just two - are at the core of the Center for American and International Law, the Institute for Law Enforcement Administration, and the Center for Law Enforcement Ethics.

When Dean Storey and then-Dallas Police Chief Carl Hansson laid the groundwork in 1957, for what is now ILEA, they created something very special and, for its time, very unusual: an educational environment that proposed to step beyond the basic skills needed to confront crime and disorder and, instead, acknowledge and encourage the profession of law enforcement management as a career field in and of itself, and as a specialty of public administration.

Much has changed over the past fifty years, not the least of which would be the range of skills, knowledge and abilities the successful police officer must possess. In 1939, August Vollmer, former police chief of Berkeley, California, proposed that effective police officers must have "... the wisdom of Solomon, the courage of David, the strength of Samson, the patience of Job, the leadership of Moses, the kindness

of the Good Samaritan, the strategic training of Alexander, the faith of Daniel, the diplomacy of Lincoln, the tolerance of the Carpenter of Nazareth, and, finally, an intimate knowledge of every branch of the natural, biological, and social sciences." But no longer is that enough. Today, the effective law enforcement leader must also possess the technological savvy of Bill Gates, the financial sense of Warren Buffett, the physical stamina of Lance Armstrong, the judicial acumen of Judge Judy, the media skills of Tony Snow and, through it all, the temperament and character of Gandhi.

But while there have been many changes over the past fifty years, much about law enforcement remains the same, including the opportunity for police officers to do enormous good in the communities they serve. Those of us at the Institute for Law Enforcement Administration and the Center for Law Enforcement Ethics know how fortunate we are to be able to work with and come to know the kinds of people who take part in and support our programs and services. Police chiefs, sheriffs, law enforcement executives, leaders ... people who have had an impact on the organizations they lead and the communities they serve. We are deeply appreciative of the support we have enjoyed from this community over the years, and we look forward to beginning our next fifty years of continued service.

