



Problem-Oriented Guides for Police
Problem-Specific Guides Series
No. 33

Illicit Sexual Activity in Public Places

by Kelly Dedel Johnson





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Illicit Sexual Activity in Public Places

Kelly Dedel Johnson

This project was supported by cooperative agreement #2002CKWX0003 by the Office of Community Oriented Policing Services, U.S. Department of Justice. The opinions contained herein are those of the author(s) and do not necessarily represent the official position of the U.S. Department of Justice. References to specific companies, products, or services should not be considered an endorsement of the product by the author or the U.S. Department of Justice. Rather, the references are illustrations to supplement discussion of the issues.

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ISBN: 1-932582-47-9

April 2005



About the Problem-Specific Guides Series

The *Problem-Specific Guides* summarize knowledge about how police can reduce the harm caused by specific crime and disorder problems. They are guides to prevention and to improving the overall response to incidents, not to investigating offenses or handling specific incidents. The guides are written for police—of whatever rank or assignment—who must address the specific problem the guides cover. The guides will be most useful to officers who:

- **Understand basic problem-oriented policing principles and methods.** The guides are not primers in problem-oriented policing. They deal only briefly with the initial decision to focus on a particular problem, methods to analyze the problem, and means to assess the results of a problem-oriented policing project. They are designed to help police decide how best to analyze and address a problem they have already identified. (An assessment guide has been produced as a companion to this series and the COPS Office has also published an introductory guide to problem analysis. For those who: want to learn more about the principles and methods of problem-oriented policing, the assessment and analysis guides, along with other recommended readings, are listed at the back of this guide.)
 - **Can look at a problem in depth.** Depending on the complexity of the problem, you should be prepared to spend perhaps weeks, or even months, analyzing and responding to it. Carefully studying a problem before responding helps you design the right strategy, one that is most likely to work in your community. You should not blindly adopt the responses others have used; you must decide whether they are appropriate to your local situation. What is true in one place may not be true
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elsewhere; what works in one place may not work everywhere.

- **Are willing to consider new ways of doing police business.** The guides describe responses that other police departments have used or that researchers have tested. While not all of these responses will be appropriate to your particular problem, they should help give a broader view of the kinds of things you could do. You may think you cannot implement some of these responses in your jurisdiction, but perhaps you can. In many places, when police have discovered a more effective response, they have succeeded in having laws and policies changed, improving the response to the problem.
 - **Understand the value and the limits of research knowledge.** For some types of problems, a lot of useful research is available to the police; for other problems, little is available. Accordingly, some guides in this series summarize existing research whereas other guides illustrate the need for more research on that particular problem. Regardless, research has not provided definitive answers to all the questions you might have about the problem. The research may help get you started in designing your own responses, but it cannot tell you exactly what to do. This will depend greatly on the particular nature of your local problem. In the interest of keeping the guides readable, not every piece of relevant research has been cited, nor has every point been attributed to its sources. To have done so would have overwhelmed and distracted the reader. The references listed at the end of each guide are those drawn on most heavily; they are not a complete bibliography of research on the subject.
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- **Are willing to work with other community agencies to find effective solutions to the problem.** The police alone cannot implement many of the responses discussed in the guides. They must frequently implement them in partnership with other responsible private and public entities. An effective problem-solver must know how to forge genuine partnerships with others and be prepared to invest considerable effort in making these partnerships work.

These guides have drawn on research findings and police practices in the United States, the United Kingdom, Canada, Australia, New Zealand, the Netherlands, and Scandinavia. Even though laws, customs and police practices vary from country to country, it is apparent that the police everywhere experience common problems. In a world that is becoming increasingly interconnected, it is important that police be aware of research and successful practices beyond the borders of their own countries.

The COPS Office and the authors encourage you to provide feedback on this guide and to report on your own agency's experiences dealing with a similar problem. Your agency may have effectively addressed a problem using responses not considered in these guides and your experiences and knowledge could benefit others. This information will be used to update the guides. If you wish to provide feedback and share your experiences it should be sent via e-mail to **cops_pubs@usdoj.gov**.



For more information about problem-oriented policing, visit the Center for Problem-Oriented Policing online at www.popcenter.org or via the COPS website at www.cops.usdoj.gov. This website offers free online access to:

- the *Problem-Specific Guides* series,
- the companion *Response Guides* and *Problem-Solving Tools* series,
- instructional information about problem-oriented policing and related topics,
- an interactive training exercise,
- an online access to important police research and practices, and
- an on-line problem analysis module.



Acknowledgments

The *Problem-Oriented Guides for Police* are very much a collaborative effort. While each guide has a primary author, other project team members, COPS Office staff and anonymous peer reviewers contributed to each guide by proposing text, recommending research and offering suggestions on matters of format and style.

The principal project team developing the guide series comprised Herman Goldstein, professor emeritus, University of Wisconsin Law School; Ronald V. Clarke, professor of criminal justice, Rutgers University; John E. Eck, professor of criminal justice, University of Cincinnati; Michael S. Scott, clinical assistant professor, University of Wisconsin Law School; Rana Sampson, police consultant, San Diego; and Deborah Lamm Weisel, director of police research, North Carolina State University.

Nancy Leach and Cynthia Pappas oversaw the project for the COPS Office. Suzanne Fregly edited the guide. Research for the guides was conducted at the Criminal Justice Library at Rutgers University under the direction of Phyllis Schultze.



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The Problem of Illicit Sexual Activity in Public Places

This guide begins by describing the problem of illicit public sexual activity and the factors that contribute to it. It then identifies a series of questions to help you analyze your local problem. Finally, it reviews responses to the problem, and what is known about them from evaluative research and police practice.

Public sexual activity includes a range of behaviors, such as solitary nude sunbathing, flashing, streaking, solitary or mutual masturbation, fellatio, and vaginal or anal intercourse. While some behaviors do not involve sexual activity per se, they involve sexual content of concern to both the public and the police. These behaviors are consensual, meaning that the person or people involved willingly engage in them.[†] Both males and females participate in the full range of behaviors, and both opposite-sex and same-sex interactions occur. Jurisdictions vary in the specific criminal charges attached to these behaviors (e.g., indecent exposure, public indecency, lewd conduct).

There are widely different perspectives on public sexual activity. Some do not believe the behavior constitutes a public safety threat; some view the behavior as a "victimless crime" involving two consenting partners; and some see the behavior as a threat to the community's "moral decency." "Impersonal," "casual," and "anonymous" sexual behaviors have negative connotations to many people, as they stand in contrast to ideals of romantic love, monogamous relationships, and long-term commitments.¹ Moral overtones pervade discussions of nudity and sexuality, particularly when they address same-

[†] "Dogging" is engaging in consensual sexual activity in public to attract an audience; the audience either observes or joins in. See Byrne (2003) and Mendenhall (2003).



sex interactions. These judgments often underlie the public's concern. Community morals and beliefs about how the law should regulate morality will affect how each community addresses the problem. This guide does not adopt any particular moral perspective; it is intended to inform you about the effectiveness and consequences of various approaches to controlling public sexual activity.

Primarily, such activity constitutes nuisance behavior and does not pose a serious threat to community safety. However, there are many reasons why the police should care about it.

- Public sexual activity can offend inadvertent witnesses.
- Public sexual activity can deter the legitimate use of public spaces.
- Public sexual activity may be related to the spread of sexually transmitted diseases, including HIV/AIDS.
- Discarded used condoms, lubricant containers, and other paraphernalia are unattractive and potentially hazardous.
- Public sexual activity can attract a hostile audience, creating a risk of violent crime such as assault and/or robbery, as well as nonviolent crime such as blackmail.
- Certain types of public sexual activity (e.g., flashing, streaking) are associated with heavy drinking.

The responses to public sexual activity can be fraught with difficulty. Charges of harassment, entrapment, bias and discrimination against homosexuals have historically surrounded efforts to address public sexual activity between men. Therefore, it is vital that you objectively analyze the problem so that you develop fair and effective responses.



Related Problems

Public sexual behaviors, and the factors that contribute to them, occur in several other contexts of concern to the police. These related problems, not directly addressed in this guide, require their own analysis and response:

- street prostitution, both heterosexual and homosexual;
- minors engaging in sexual activity in schools;
- sex-oriented businesses, such as adult bookstores, movie theaters, and sex clubs; and
- alcohol and drug use.

Factors Contributing to Illicit Sexual Activity in Public Places

Understanding the factors that contribute to your problem will help you frame your own local analysis questions, determine good effectiveness measures, recognize key intervention points, and select appropriate responses.

Participants

Both men and women engage in public sexual activity. Same-sex participants may constitute the main offenders in some locations, while opposite-sex offenders predominate at others. How researchers and law enforcement personnel have conducted their efforts has largely determined what is known about the participants; regardless, participants vary considerably in terms of age, socioeconomic status, marital status, and occupation. Any patterns, or lack thereof, are consistent across studies of the various types of public sexual behaviors.²



Certain patterns (e.g., opposite-sex coupling at a "lovers' lane") have not been studied empirically, while others (e.g., same-sex contact in public restrooms) have been studied much more extensively. It is important to note that engaging in same-sex activity does not necessarily imply a homosexual identity; in fact, many men who have sex with men in public places are married or otherwise heterosexually involved, and do not consider themselves to be gay.³

When apprehended, many offenders may suffer substantial social repercussions, in addition to any criminal justice-related consequences that may ensue. Threats to their marriages, friendships, jobs, reputations, and social standing often cause them to try to distract attention from their behaviors by showing exaggerated degrees of respectability, such as strong ties to the religious community or passionate condemnation of homosexuality.⁴ The larger the community's moral objections to public sexual activity mean that participants have much to lose if they are discovered.

Locations

The definition of "public" is not always clear. Some consider any place other than a private residence to be public. Others believe that places out of public view, even though they may be in public areas, are private. So-called "quasi-public" places provide some kind of physical barrier (e.g., car, bathroom stall, or bushes) between the participants and others.⁵ Except for exhibitionists (e.g., flashers or streakers)—those who expressly seek observers—many participants want to remain out of view.



Some activities, such as flashing or mooning, occur in a wide range of locations, while others most commonly occur in locations that specifically facilitate them. Some guidebooks and Internet resources identify specific public places where sexual activity occurs.

- **Organized public events.** Some festivals, parades, and college events have reputations for allowing, if not encouraging, certain types of public sexual behavior. For example, the flashing of breasts and genitals is common during Mardi Gras celebrations (whether in New Orleans or elsewhere).⁶ Annual campus events may include streaking or mooning.⁷ The presence of numerous people engaging in the behavior and the lack of vigorous enforcement of laws or rules prohibiting it facilitate its occurrence.
- **"Lovers' lanes."** Couples lacking a private venue may engage in sexual behavior in cars parked on secluded streets, in parking lots, or in alleys, or they may go to secluded areas of parks or beaches. Other couples may want to be seen, and thus they go to places that are easily accessible, well marked, and continuously open.⁸
- **Public restrooms.** While anecdotal evidence suggests that opposite-sex couples sometimes engage in sexual activity in public restrooms, the majority of research and public concern has focused on same-sex activity at such sites. Public restrooms so employed are often called "tearooms," and the behavior itself is sometimes called "copping." Restrooms in public parks, shopping malls, department stores, train and bus stations, and gyms are popular locations for such activity. They are usually easily accessible, their structural features afford some privacy, and their layouts provide an opportunity



† They are also common locations for both heterosexual and homosexual prostitution.

to spot potential witnesses.⁹ For example, most activity takes place in a stall as far away from the restroom door as possible. If someone enters the restroom, the participants typically stop the activity.¹⁰ Selected restrooms are usually isolated and rarely used by those in the area for legitimate purposes (e.g., shopping). This very pretext allows participants to remain in the restroom for some time without seeming suspicious.¹¹ In contrast to gay bars or sex clubs, public restrooms are neutral places, and one's presence there does not automatically indicate a homosexual identity.¹²

David Corbett



Locations where illicit sexual activity occurs are often advertised locally with graffiti or to a wider audience using the Internet.

Truck stops and highway rest areas. Truck stops and highway rest areas are also popular locations for same-sex activity.[†] They are easily accessible by vehicle, and provide a number of legitimate reasons for people's presence.¹³ The activity itself may take place in a vehicle, a restroom, or a secluded outdoor area. As with those who engage in sexual activity in public restrooms, those who do so at truck stops or rest areas generally don't want to be detected.¹⁴



Season, Time of Day, and Day of Week

The climate likely has an influence on outdoor public sexual activity. Obviously, the colder it is, the less likely the activity. To the extent that public sexual activity may occur at a particular event or as a tradition occurring at a specific time of year (e.g., Mardi Gras, Spring Break), the season also may affect the amount of activity. The time of day's effect on such activity depends on the location's primary legitimate purpose. For example, at truck stops, activity may increase in the late-night and early-morning hours, when truckers have stopped for the night.¹⁵ As some department stores and shopping malls are closed on Sundays, no sexual activity occurs in their restrooms then.

David Corbett



The amount of traffic and accessibility to semi-public areas such as restrooms in parks vary depending on the time of day and season.

Motivations

Although people engage in public sexual activity for various reasons, some common patterns exist among the main types of behavior and location.



Exhibitionism occurs in a wide variety of settings. When taken to an extreme, it suggests the exhibitionist is prone to paraphilia,¹⁶ "a pattern of recurring sexually arousing...behavior that involves unusual and esp. socially unacceptable sexual practices..." (Merriam-Webster's Collegiate Dictionary, 11th ed.). Milder forms of exhibitionism, such as nude sunbathing or flashing during Mardi Gras celebrations, often occur because the participant feels anonymous in a large group. Crowds stimulate people to act in ways they would not normally do among their peers or in more regulated situations.¹⁷ Drinking alcohol, and the resulting loss of inhibition, is often identified as a contributing factor.¹⁸ While perceived anonymity may facilitate the behavior, participants also crave the attention, admiration, and validation they may receive from those who observe them.¹⁹

In contrast, some couples—particularly teenagers—engage in sexual activity in public because they have nowhere else to do so. A lack of privacy may also be the reason for male sexual activity in public restrooms. In particular, men with heterosexual identities may want to conceal their behavior from significant others. Their heterosexual identities also deter them from using other, less-public venues such as gay bars or sex clubs.²⁰ Some homosexual men also lack the freedom to pursue same-sex partners privately due to family or peer disapproval.²¹ A community's condemnation of homosexuality may drive the behavior to remote, although public, locations, particularly among those exploring their sexuality and not yet connected to the gay community.²²



Public sexual activity is not always simply a solution for those lacking a private alternative. Those who engage in "dogging" want strangers to watch them. Having an audience heightens their pleasure, and they may feel validated by others' wanting to watch and enjoy their "performance."²³ For others, the risk of being caught engaging in public sexual activity serves as an aphrodisiac and increases their overall pleasure.²⁴

Sexual activity in "tearooms," parks, rest areas, and truck stops is usually impersonal and anonymous, and does not lead to complicated entanglements involving commitments, obligations, or expectations from either party.²⁵ Those dissatisfied with their sex lives with their partners may consider engaging in anonymous and impersonal sexual activity as less problematic than having an affair.²⁶ And there's no need to solicit a prostitute, as the sex is free.²⁷ Finally, those engaging in anonymous sexual activity generally needn't worry about assessments of their physical attractiveness or social class, judgments often made in formal dating situations.²⁸

Transactions

Researchers know more about what leads to some forms of public sexual activity than they do about others. Why people sunbathe nude or teenagers park at "lovers' lanes" has not been well researched. In contrast, researchers better understand flashing during Mardi Gras. The widespread occurrence of flashing during the festivities has been attributed to the accumulation of beaded necklaces in return for doing so.²⁹ The "negotiations" regarding the exchange serve to legitimize it.³⁰



With the advent of the Internet, the practice of "dogging" has become more widespread. Those who want to be observed engaging in sexual activity use Internet chat rooms to provide potential audiences with dates, times, and locations.³¹ People also use chat rooms to offer tips to those interested in watching or participating in public sexual encounters. For example, the patterned use of parked vehicles' turn signals, interior lights, and window openings can serve as signals to interested parties.

Men seeking anonymous sexual contact with men in public restrooms must adhere to a highly structured and sequential pattern of interaction.³² These "scripts" generally involve eye contact, movement, and position in the restroom, and very rarely include any verbal exchange.³³ The specific patterns differ, but are just as compulsory, in other settings such as truck stops and rest areas.³⁴ Legitimate park or restroom users may be concerned about being sexually propositioned by other men. However, given the complexity of the behavioral scripts guiding these transactions, mistaken propositions are unlikely.³⁵

Collateral Consequences

Engaging in public sexual activity carries with it many risks, including the following:

- **Unwanted exposure.** Despite selecting a public location for sexual activity, many participants do not wish to be seen and publicly exposed. Whether through publicity resulting from police contact or through the broadcast of a "Girls Gone Wild" videotape, such exposure can have devastating social consequences.
-



- **Unintended or unwelcome audiences.** The very nature of public places means that those engaging in sexual activity there can't control who's in the immediate vicinity. Some people are concerned that young children or others who would find the behavior offensive might unwittingly witness it. In other cases, nude sunbathers or teenagers using a "lovers' lane" may be observed and/or approached by an unwelcome audience. Unwelcome voyeurs and would-be participants pose a risk to those engaged in all forms of public sexual activity.
- **Violence.** The risk of violence is particularly acute for men engaging in same-sex activity in public. Those who patronize public sex environments commonly feel at risk of victimization by "gay bashers," and some have developed strategies to minimize this risk, including:³⁶
 - refraining from initiating activity, particularly through verbal means;
 - carrying a weapon or attention-getting device (e.g., a whistle);
 - patronizing cruising sites with a friend, and periodically checking in with each other; and
 - limiting activity to familiar places that allow for a quick and easy escape.

Witnessing a woman exposing her breasts may lead some men, particularly those under the influence of alcohol, to believe they have permission to pursue sexual activity with her. As a result, flashers potentially risk unwanted sexual advances and sexual assaults. Highly publicized cases like that of David Berkowitz (aka the "Son of Sam") exposed the risk of violence for those using "lovers' lanes." Studies have shown that women who actively resist an attack are more likely to thwart a rapist, without increasing their risk of serious injury, than are women who don't.³⁷



- **HIV/AIDS and other sexually transmitted diseases.** Men patronizing public sex locations have long been identified as a population at increased risk of contracting HIV/AIDS and other sexually transmitted diseases. Historically, there have been three main risk-reduction strategies: 1) openly discussing one's sexual history, 2) limiting one's number of sexual partners, and 3) practicing "safe sex." Clearly, the first two are at odds with regularly having anonymous sex.³⁸ Some suggest that heterosexually identified men who engage in same-sex public activity may deny their risk of HIV exposure and disregard important precautions.³⁹ Because these men are not in the traditional target populations for prevention and education efforts, their knowledge of safe-sex practices has been questioned. Yet research has found that men who participate in sexual activity in public restrooms tend to be highly knowledgeable about HIV and its transmission.⁴⁰ Further, whether participants practice safe sex appears to depend more on the situational dynamics and participants' characteristics than on the location's being public.⁴¹ Nevertheless, outreach and education efforts continue to target this population to minimize the overall public health risk.
-



Understanding Your Local Problem

The information provided above is only a generalized description of illicit public sexual activity. You must combine the basic facts with a more specific understanding of your local problem. Analyzing the local problem carefully will help you design a more effective response strategy.

Asking the Right Questions

The following are some critical questions you should ask when analyzing your particular problem with illicit public sexual activity, even if the answers are not always readily available. Your answers to these and other questions will help you choose the most appropriate set of responses later on.

Community Members

- How concerned is the community about illicit public sexual activity? What particular activities concern them? What are their specific concerns?
- Which community groups are particularly concerned, and why? Are they willing to tolerate any form or level of public sexual activity?
- Does the police department have any affiliation with gay and other civil-rights groups that could share in efforts to address the issue?

Victims

- How many complaints has the police department received from people who have witnessed public sexual activity? What is the nature of the complaints? What are the complainants' characteristics?
-



- Have any participants in public sexual activity been victimized? If so, how, and by whom?

Participants

- What types of public sexual activity occur in your jurisdiction (e.g., nude sunbathing, flashing, opposite-sex, same-sex)?
- What is known about the participants (e.g., age, gender, criminal history, marital status, residence)?
- What is known about their motivations for the behavior? To what extent do they fear exposure?
- What role do alcohol and drugs play in the participants' likelihood to engage in the behavior?

Transactions

- How do the transactions for the various types of public sexual activity occur?
- Do the participants use the Internet to identify particular locations and attract audiences and/or other participants?
- How do strangers negotiate public sexual encounters? Does anything about these interactions lend itself to intervention?

Locations/Times

- Where does public sexual activity occur? What factors attract the participants to the area(s)? Have the locations changed over time? If so, why?
 - If the activity at a particular location were to be displaced to another area, where do you think that would be? Why?
-



- What legitimate uses of public places does the activity disrupt? What nuisances (e.g., trash) does it create?
- Does public sexual activity benefit any businesses? Would publicity about such activity occurring at or near their locations harm any businesses?
- Does the amount of activity at each location vary by season? By day of week or time of day? What accounts for these variations?

Current Responses

- How concerned is your department about public sexual activity? Where does such activity rank on the department's priority list?
 - How does the department currently handle the problem? What is the prosecutor's policy regarding offenses? What is the typical sentence imposed? To what extent are arrests and prosecutions publicized?
 - Has the department undertaken undercover decoy operations to deal with the problem? If so, how did the community react to the operations? How successful were they in reducing the problem?
 - Has the department targeted same-sex and opposite-sex activity?
 - Aside from arrest and prosecution, what other responses have been applied to the problem? Have any been effective?
 - Has the public health community been involved with this issue? What do they know that could aid in your response?
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Measuring Your Effectiveness

Measurement allows you to determine to what degree your efforts have succeeded, and suggests how you might modify your responses if they are not producing the intended results. You should take measures of your problem *before* you implement responses, to determine how serious the problem is, and *after* you implement them, to determine whether they have been effective. All measures should be taken in both the target area and the surrounding area. (For more detailed guidance on measuring effectiveness, see the companion guide to this series, *Assessing Responses to Problems: An Introductory Guide for Police Problem-Solvers*.)

The following are potentially useful measures of the effectiveness of responses to public sexual activity:

- reduced number of citizen complaints (both formal and informal) about such activity;
 - reduced number of people observed "cruising" (i.e., seeking a partner or audience for sexual activity) at a particular location;
 - evidence that the activity has been displaced to other locations, days of the week, or times of the day (displacement could either improve or worsen the problem, but in any case suggests that the responses are having some effect on the problem);
 - reduced number of participants who report being victimized (e.g., assaulted, robbed);
 - reduced number of arrests of repeat offenders;
 - reduced volume of discarded condoms, lubricants, and other related refuse in the area; and
 - increased number of people legitimately using the location.
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Responses to the Problem of Illicit Sexual Activity in Public Places

Your analysis of your local problem should give you a better understanding of the factors contributing to it. Once you have analyzed your local problem and established a baseline for measuring effectiveness, you should consider possible responses to address the problem.

The following response strategies provide a foundation of ideas for addressing your particular problem. These strategies are drawn from a variety of research studies and police reports. Several of these strategies may apply to your community's problem. It is critical that you tailor responses to local circumstances, and that you can justify each response based on reliable analysis. In most cases, an effective strategy will involve implementing several different responses. Law enforcement responses alone are seldom effective in reducing or solving the problem. Do not limit yourself to considering what police can do; carefully consider whether others in your community share responsibility for the problem and can help police better respond to it.

General Considerations for an Effective Strategy

Most researchers and practitioners agree that focusing solely on arresting those engaging in public sexual activity is unlikely to reduce the overall scope of the problem. In your response strategy, you should acknowledge that it will be difficult to affect people's motivations for engaging in the activity. A balanced approach combining enforcement strategies and those targeting environments that support



the behavior is most likely to decrease the prevalence of the activity and the public's concern about it.

† In 2000, the Lambda Legal Defense and Education Fund filed suit against the Los Angeles Police Department for its allegedly discriminatory law enforcement tactics targeting gay men. See www.lambdalegal.org/cgi-bin/iowa/documents/record?record=555.

Used alone, enforcement efforts are likely to lead to displacement. Although not the most desirable outcome, there is evidence that when displacement does occur, the magnitude of the problem decreases with the move to a new location. New locations are often less desirable for several reasons, including distance and suitability. Further, changes in the times of day or days of the week on which the problems occur mean that response affected the problem in some way. When displacement occurs, police can often better manage the problem.

In the past, police have been criticized for using undercover or decoy operations. These operations, particularly when conducted improperly, leave the police vulnerable to entrapment claims. In addition, an exclusive focus on environments in which same-sex interactions occur can result in charges of bias and discrimination.[†] Therefore, you must address the full range of public sexual activity and target particular locations based on objective, justifiable assessments of threats to public safety.

If same-sex public interactions are part of your local problem, you should develop partnerships with local leaders of the gay and lesbian community and involve them in problem-solving. Not only can their endorsement go a long way toward addressing charges of bias or discrimination, but local leaders can also publicize the problem among the larger gay population and rally



support for the responses.[†] Similarly, efforts to control public sexual activity may affect local businesses, whose perspectives you should consider when planning your responses.^{††}

Finally, some of the responses below suggest some level of tolerance of the behavior—an approach that has had some success in Europe. However, community and political attitudes will make tolerance-based responses either more or less feasible. Therefore, before you design any responses, you must assess how much public sexual activity your community will tolerate. You can initiate candid and specific discussions about the types of activity to target by using videotapes and photographs to document the scope of the problem.^{†††}

Specific Responses to Illicit Sexual Activity in Public Places

Enforcement-Based Responses

Enforcement-based responses may be particularly effective when applied to activity such as flashing during annual events, because this conduct is often considered acceptable unless police demonstrate a commitment to controlling it. In particular, regarding annual events, there is reason to believe that the word will quickly spread that the police no longer tolerate such behavior.

[†] The Denver Police Department, Equality Colorado (a statewide gay-rights organization), and Cheesman Park West Neighborhood Association formed a coalition to address problems caused by sexual activity in a public park. The partnership helped to "build bridges over the gay community's persistent fear and mistrust of law enforcement" (Luzadder 2000).

^{††} For example, Mardi Gras celebrations contribute an estimated \$1 billion to the New Orleans economy each year (Filosa 2002).

^{†††} The Santa Ana (Calif.) Police Department used videotape and photographs to document the types of sexual activity occurring in a public park. The visual aids revealed the extent of the problem and were used to advocate special court-imposed probation conditions. They were also used to counter criticism of police efforts, as they showed activity clearly unsuitable for a public park (Santa Ana Police Department 2001).



† The San Diego Police Department posted the following notice in conspicuous locations throughout a public park: "Lewd Conduct Laws Strictly Enforced. Lewd Acts in Public Are a Violation of 647(a) PC. All Areas Within This Park Are Public Places. Violators Will Be Arrested" (Hall and Brady 1994). Similarly, in an effort to reduce flashing during Mardi Gras, New Orleans police posted approximately 1,000 posters throughout the French Quarter warning parade watchers that flashing is a crime that carries a \$1,000 fine and jail time (*Times-Picayune* 2000).

†† Establishing the legal grounds to stop a vehicle can be problematic because it is difficult to distinguish innocent from suspicious behavior. Departments wishing to use this response should seek legal advice.

1. Posting notices. In areas with high activity levels (e.g., streets on a Mardi Gras parade route, certain rest areas or restrooms), notices can warn potential offenders that public sexual activity is a crime that can lead to arrest. Such notices must be specific enough for the target population to recognize their risk, but general enough that they do not offend the casual observer.[†]

www.mindspring.com/~fnw3/nonudity.jpg



Signs warning against exposing oneself in public serve to increase awareness of acceptable practice.

2. Issuing warnings. Rather than making an arrest, police can issue warnings to suspected participants in public sexual activity. For example, police can warn women observed flashing their breasts that continuing to do so will result in arrest. Similarly, police can stop and warn men observed cruising known locations for public trysting.^{††} Because many people do not want their behavior to be exposed to family and friends, specific deterrence may be effective. If the behavior occurs in a crowd that largely supports the participants (e.g., during Mardi Gras), police should be aware of the potential for conflict and use a non-confrontational approach.⁴²



In addition, police can contact the registered owners of cars parked in public areas with high sexual activity levels. Letters notifying owners that police observed their car in such an area can also warn of the risk of violence and the health consequences of participating in anonymous, unprotected sexual activity.⁴³ However, because the targeted behaviors are not serious public-safety risks, concerns about this response's potential to deter legitimate patrons from using the areas and about unnecessary invasions of privacy may outweigh the response's potential effectiveness.

† The Santa Ana Police Department stationed unmanned, marked police cars throughout a park to give the illusion of constant police presence (Santa Ana Police Department 2001).

3. Creating the illusion of surveillance. The risk of being witnessed is sometimes enough to deter potential participants from using a location for sexual activity. Installing video cameras (whether operable or not), parking decoy police vehicles, distributing fliers, or posting warning signs about routine patrols suggests to those seeking privacy that they will likely be detected.[†]

4. Establishing highly visible patrols. Although some participants in public sexual activity seek an audience, others want privacy. Uniformed police officers and park rangers in patrol cars, on foot, or on bicycle can deny potential participants privacy for such activity. Opening a police substation (e.g., mobile office) can also effectively increase the level of police activity in a particularly problematic area. However, this is a labor-intensive and thus costly response.





5. Shifting enforcement responsibility to private security firms. Many shopping malls contract with private security firms to patrol both indoor and outdoor areas. Similarly, most colleges have campus police who patrol the grounds and buildings. Assigning these firms responsibility for maintaining the safety and security of facilities within their patrol areas can free police departments from devoting resources to nuisance behaviors.⁴⁴ Further, by handling these cases internally, businesses and schools can avoid negative publicity, and suspects may be spared the social devastation that can accompany an arrest made public.

6. Imposing "stay away" orders. As a condition of either bail or probation, courts can order those arrested for engaging in public sexual activity to stay away from public areas where the activity is prevalent. While these orders can reduce the activity level in targeted areas, they are also likely to displace the activity to other locations.

7. Using police crackdowns. Police usually make large-scale arrests in response to intense public pressure to control a problem. They effectively interrupt entrenched behavioral patterns. However, because such crackdowns require significant manpower, they are unlikely to be sustained for a significant time, and thus have limited effectiveness as a long-term solution. Further, even when the behavior is relatively limited in terms of geography and time (e.g., flashing at Mardi Gras), the sheer scale of such operations makes them very difficult to implement.



Environment-Based Responses

8. Designating geographic boundaries. If the community is willing to tolerate some level of public sexual activity, specific zones can be created that permit users to engage in certain behaviors without risk of arrest. Such zones should be well away from main recreation areas, should be clearly identified with markers and signs, and should include trash cans. This response has been effective with lower-level behaviors such as nude sunbathing, but could plausibly be adapted to other behaviors as well.[†]

[†] The North Wales Police Department addressed complaints about indecent exposure by nude sunbathers by clearly designating the boundaries of a nude-sunbathing area, and posting signs reminding sunbathers to stay within the boundaries and to dress fully before returning to public areas (North Wales Police Department 2002).

9. Improving lighting. Improved lighting in problem areas reduces their attractiveness as trysting locations because the lighting reduces perceived privacy levels. Tamper-resistant, motion-sensing lighting may be useful at restroom entrances and in alleys.

10. Cutting back bushes and other vegetation. Eliminating the physical cover of overgrown areas in parks or rest areas can improve surveillance opportunities. However, cutting back bushes and other vegetation might degrade the ecosystem and aesthetics of parks and wilderness areas.

11. Redesigning restrooms. Restroom entrances' "envelope" or "maze" structure (i.e., walls or partitions that must be navigated to enter the restroom; used to prevent a direct line of sight into the restroom) can facilitate loitering and make police surveillance of activity occurring in and around restrooms difficult. Reorienting restroom entrances to face high-activity areas of a park or



property, improving lighting (as previously noted), and using cut-away stall partitions reduce the level of privacy for illicit sexual activity.⁴⁵ Similarly, single-user restrooms can reduce loitering and decrease the likelihood that someone entering the facility will inadvertently witness sexual activity.

12. Relocating remote facilities. Some facilities are popular trysting locations because they are in remote areas of public places and do not attract large numbers of legitimate users. By moving restrooms or other problem facilities to areas with more activity, the level of legitimate usage may increase, deterring those seeking privacy for sexual encounters.

13. Increasing the area's legitimate-activity levels. Locating dog-run areas, fitness facilities, or food-and-beverage vending near problem areas of public places increases the amount of foot-traffic and informal surveillance. As a result of the increased public exposure, those who don't want any witnesses to their activities will likely decrease them.

14. Limiting the location's hours of operation. The times of day when public sexual activity occurs vary depending on the type of activity, site, and community's individual characteristics. Specific time restrictions define the hours for legitimate use of the area, while limiting operation during the period when most problem behavior occurs.⁴⁶



David Corbett



Clearly posted signs indicating rules such as time restrictions on the use of public areas can help reduce unwanted activity.

† The San Diego Sheriff's Department's partnership with the North County Gay and Lesbian Association led to stories in gay publications that educated readers about the dangers of cruising and discouraged them from using specific locations being targeted by police (Won 1996).

15. Closing the problem facility, street, or area. When a combination of enforcement and environmental strategies fails to reduce illicit-activity levels, it may be prudent to close the facility, street, or area to the public.

Publicity-Based Responses

16. Using the media to deter potential offenders from frequenting trysting spots. Print and television media coverage can highlight the community's focus on the problem and stress the consequences for potential offenders, thus serving as a deterrent. Coverage in publications catering to the gay community can also help to discourage use of the problem locations.†

Paradoxically, media coverage may also increase activity levels at the identified locations. For some, the increased attention may heighten their excitement about engaging in illicit sexual behavior.⁴⁷ For others, the publicity may confirm a location's reputation as a good place to find partners.



† The San Diego Police Department made a written request to a variety of websites and guidebooks that listed a targeted property as a popular cruising location. Some organizations complied with their request; others did not (Hall and Brady 1994).

17. Requesting the removal of website and guidebook location references. Removing references to specific locations from websites and guidebooks that advertise cruising areas can reduce the number of potential patrons.[†] If websites and guidebooks refuse to remove location references, a second option is for police to post information about enforcement activities (either real or fictitious) to deter potential participants from using the locations.⁴⁸

Responses With Limited Effectiveness

18. Using undercover decoys. While using undercover officers to pose as interested parties in illicit same-sex public activity can lead to many arrests, such operations have not had long-term effectiveness in reducing overall activity levels. At best, they temporarily displace the activity to other locations, and the activity usually returns to prior levels once the operations have ceased. Further, given the active role that undercover officers must take to confirm suspects' intentions, the police may be vulnerable to entrapment claims. In addition, many officers are reluctant to serve as decoys because of the customary behavioral scripts they must follow.⁴⁹ Finally, some may see the serious social consequences of the publicity following an arrest as disproportionate to the severity of the offense.⁵⁰



19. Harassing or intimidating suspects. Many who engage in public sexual activity do not want witnesses and try to avoid being seen. Thus, it can be difficult for police to obtain probable cause for an arrest. When the community pressures police to address the problem, officers may resort to harassing or intimidating those observed loitering in parks or rest areas. This approach undermines police integrity, can create tension with the gay and lesbian community and other residents concerned about civil rights, and has not proved particularly effective.⁵¹



Appendix: Summary of Responses to Illicit Sexual Activity in Public Places

The table below summarizes the responses to public sexual activity, the mechanism by which they are intended to work, the conditions under which they ought to work best, and some factors you should consider before implementing a particular response. It is critical that you tailor responses to local circumstances, and that you can justify each response based on reliable analysis. In most cases, an effective strategy will involve implementing several different responses. Law enforcement responses alone are seldom effective in reducing or solving the problem.

Response No.	Page No.	Response	How It Works	Works Best If...	Considerations
<i>Enforcement-Based Responses</i>					
1.	20	Posting notices	Targets potential offenders who may not know the behavior is illegal, and deters those who fear social and criminal-justice consequences	...the notices clearly define the targeted behavior, are conspicuous and seen by potential offenders, and are supplemented by surveillance or patrol	It may stigmatize the site and deter legitimate use
2.	20	Issuing warnings	Provides the opportunity for specific deterrence, without the costs of a formal arrest	...patrol activities and information are synchronized so that police can identify repeat offenders	The consequences may not be seen as certain enough to deter the behavior; recipients of warnings may object to the presumed criminal intent; warnings could deter legitimate users



Response No.	Page No.	Response	How It Works	Works Best If...	Considerations
3.	21	Creating the illusion of surveillance	Destroys the illusion of privacy, deterring those who fear exposure	...potential offenders believe the surveillance is real	Increased police activity may give legitimate users the impression that the area isn't safe; the efforts may give the public a false sense of security
4.	21	Establishing highly visible patrols	Indicates that the police will detect illicit activity, deterring those who fear exposure	...patrol schedules are regular, but unpredictable	An increased sense of danger may heighten the excitement for some participants; increased police activity may give legitimate users the impression that the area isn't safe
5.	22	Shifting enforcement responsibility to private security firms	Increases the frequency of patrol	...businesses or other organizations have both a vested interest in controlling the behavior and sufficient resources for private patrols	Delegating responsibility may suggest that the police aren't concerned about the problem
6.	22	Imposing "stay away" orders	Restricts the activity of known offenders	...there's adequate monitoring, and the police have the information to identify offenders	It may displace the activity to other areas; it requires legal authority to enforce



Response No.	Page No.	Response	How It Works	Works Best If...	Considerations
7.	22	Using police crackdowns	Increases the likelihood of arrest, deterring those who fear exposure	...it's used as a short-term method to interrupt entrenched behavioral patterns, and is supplemented with more-sustained responses	Crackdowns are costly; they require significant manpower; they can overwhelm the criminal justice system with lower-level offenders
<i>Environment-Based Responses</i>					
8.	23	Designating geographic boundaries	Reduces the likelihood of inadvertent observation	...the boundaries are clearly marked, and activity outside of the boundaries is discouraged	Some may think it condones public sexual activity
9.	23	Improving lighting	Increases the ability to monitor activity	...the current lighting is inadequate, and participants do not want to be observed	Installing and maintaining the lighting may be costly
10.	23	Cutting back bushes and other vegetation	Improves the ability to monitor activity	...vegetation is providing cover for the activity, and participants don't want to be observed	It may have negative ecological and aesthetic effects; the public will more easily notice those who-despite the lack of cover-persist in engaging in the activity
11.	23	Redesigning restrooms	Improves the ability to monitor activity, reducing the sense of privacy some participants desire	...the new design does not deter legitimate users	Renovation costs may be substantial



Response No.	Page No.	Response	How It Works	Works Best If...	Considerations
12.	24	Relocating remote facilities	Increases informal surveillance by increasing legitimate use	...the new location encourages legitimate use	Relocation costs may be substantial
13.	24	Increasing the area's legitimate-activity levels	Increases informal surveillance, and demonstrates that those who want to use the area legitimately are fed up with the illicit activities	...legitimate use is consistent and occurs during times when illegal activities have generally occurred	It may take time to reassure legitimate users that the area has been reclaimed and is safe for their activities, and for children
14.	24	Limiting the location's hours of operation	Increases the difficulty in finding an area for trysting	... the community supports the change, and the area is patrolled during off-hours	The community may object to having less time for legitimate activities
15.	25	Closing the problem facility, street, or area	Increases the difficulty in finding a location for trysting	...the community supports the change, and any barriers used cannot be breached	It may be inconvenient for legitimate users
<i>Publicity-Based Responses</i>					
16.	25	Using the media to deter potential offenders from frequenting trysting spots	Deters those who fear exposure	...enforcement activities are seen as fair and unbiased, and the publicity is sustained over time	It may increase illicit-activity levels by heightening participants' sense of excitement or by confirming a location's reputation as an active cruising area



Response No.	Page No.	Response	How It Works	Works Best If...	Considerations
17.	26	Requesting the removal of website and guidebook location references	Limits the number of potential participants aware of trysting locations	...the high activity levels at the targeted locations are the result of the publicity they've received	Organizations that provide such information may refuse to cooperate
<i>Responses With Limited Effectiveness</i>					
18.	26	Using undercover decoys	Temporarily removes offenders from circulation; the social consequences may shame participants and deter repeated activity		This response is vulnerable to claims of entrapment or discrimination; the social consequences may be devastating and out of proportion to the seriousness of the offense; officers may be reluctant to take on such assignments
19.	27	Harassing or intimidating suspects	Discourages potential offenders from frequenting targeted locations		It undermines police integrity; it may create tension with the gay community if same-sex activities are specifically targeted



Endnotes

- ¹ Van Lieshout (1995).
 - ² For example, Desroches (1990), Byrne (2003), Forsyth (1992), and Redmon (2002).
 - ³ Humphreys (1975); Schultz (1998); Desroches (1990).
 - ⁴ Nardi (1995).
 - ⁵ Schultz (1998).
 - ⁶ Forsyth (1992); Redmon (2003).
 - ⁷ Anderson (1977).
 - ⁸ Mendenhall (2003); Byrne (2003).
 - ⁹ Huber and Kleinplatz (2002).
 - ¹⁰ Desroches (1990).
 - ¹¹ Desroches (1990).
 - ¹² Schultz (1998).
 - ¹³ Corzine and Kirby (1977).
 - ¹⁴ Troiden (1974); Corzine and Kirby (1977); Michael (1997).
 - ¹⁵ Corzine and Kirby (1977).
 - ¹⁶ American Psychiatric Association (2000).
 - ¹⁷ Redmon (2002).
 - ¹⁸ Redmon (2003).
 - ¹⁹ Redmon (2003).
 - ²⁰ Gray (1988).
 - ²¹ Murray (1999).
 - ²² Schultz (1998).
 - ²³ Byrne (2003).
 - ²⁴ Nardi (1995); Desroches (1990).
 - ²⁵ Desroches (1990).
 - ²⁶ Tewksbury (1995).
 - ²⁷ Tewksbury (1995).
 - ²⁸ Schultz (1998).
 - ²⁹ Shrum and Kilburn (1996).
 - ³⁰ Shrum and Kilburn (1996).
 - ³¹ Mendenhall (2003).
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- ³² Gray (1988).
³³ Gray (1988).
³⁴ See Michael (1997) and Troiden (1974).
³⁵ Troiden (1974); Gray (1988); Desroches (1990);
Michael (1997).
³⁶ Tewksbury (1995).
³⁷ Jabvorek (1979); Quinsey and Upfold (1985); Ullman
and Knight (1991).
³⁸ Schultz (1998).
³⁹ Leap (1999).
⁴⁰ Church and Green (1993).
⁴¹ Clatts (1999).
⁴² Anderson (1977).
⁴³ Hall and Brady (1994).
⁴⁴ Desroches (1991).
⁴⁵ Cockfield and Moss (2002).
⁴⁶ Santa Ana Police Department (2001).
⁴⁷ Tewksbury (1995).
⁴⁸ Santa Ana Police Department (2001).
⁴⁹ Gray (1988).
⁵⁰ Gordon and Hendricks (1998).
⁵¹ Schultz (1998).
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Kelly Dedel Johnson is the Director of One in 37 Research, Inc., a criminal justice consulting firm based in Portland, Ore. As a consultant to federal, state, and local agencies, her research on the juvenile and criminal justice systems takes one of three major forms: 1) developing written tools to enhance practice or inform public policy; 2) conducting investigations of the conditions of confinement in juvenile correctional facilities; and 3) undertaking rigorous evaluations of various juvenile and criminal justice programs to determine their effectiveness. She has provided evaluation-related technical assistance to over 60 jurisdictions across the country for the Bureau of Justice Assistance. In this capacity, Dr. Dedel Johnson worked with a broad range of criminal justice programs implemented by police, prosecutors, public defenders, local jails, community corrections, and prisons. Dr. Dedel Johnson consults with the Department of Justice as a monitor/investigator of civil rights violations in juvenile correctional facilities, most often in the area of education. Among her other research interests are prisoner reentry, risk assessment and offender classification, and juveniles in adult correctional facilities. Prior to working as a consultant, she was a founder and senior research scientist at The Institute on Crime, Justice and Corrections at The George Washington University, and was a senior research associate at the National Council on Crime and Delinquency. Dr. Dedel Johnson received bachelor's degrees in psychology and criminal justice from the University of Richmond and a doctorate in clinical psychology from the Center for Psychological Studies in Berkeley, Calif.



Recommended Readings

- ***A Police Guide to Surveying Citizens and Their Environments***, Bureau of Justice Assistance, 1993. This guide offers a practical introduction for police practitioners to two types of surveys that police find useful: surveying public opinion and surveying the physical environment. It provides guidance on whether and how to conduct cost-effective surveys.
 - ***Assessing Responses to Problems: An Introductory Guide for Police Problem-Solvers***, by John E. Eck (U.S. Department of Justice, Office of Community Oriented Policing Services, 2001). This guide is a companion to the *Problem-Oriented Guides for Police* series. It provides basic guidance to measuring and assessing problem-oriented policing efforts.
 - ***Conducting Community Surveys***, by Deborah Weisel (Bureau of Justice Statistics and Office of Community Oriented Policing Services, 1999). This guide, along with accompanying computer software, provides practical, basic pointers for police in conducting community surveys. The document is also available at www.ojp.usdoj.gov/bjs.
 - ***Crime Prevention Studies***, edited by Ronald V. Clarke (Criminal Justice Press, 1993, et seq.). This is a series of volumes of applied and theoretical research on reducing opportunities for crime. Many chapters are evaluations of initiatives to reduce specific crime and disorder problems.
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- ***Excellence in Problem-Oriented Policing: The 1999 Herman Goldstein Award Winners***. This document produced by the National Institute of Justice in collaboration with the Office of Community Oriented Policing Services and the Police Executive Research Forum provides detailed reports of the best submissions to the annual award program that recognizes exemplary problem-oriented responses to various community problems. A similar publication is available for the award winners from subsequent years. The documents are also available at www.ojp.usdoj.gov/nij.
 - ***Not Rocket Science? Problem-Solving and Crime Reduction***, by Tim Read and Nick Tilley (Home Office Crime Reduction Research Series, 2000). Identifies and describes the factors that make problem-solving effective or ineffective as it is being practiced in police forces in England and Wales.
 - ***Opportunity Makes the Thief: Practical Theory for Crime Prevention***, by Marcus Felson and Ronald V. Clarke (Home Office Police Research Series, Paper No. 98, 1998). Explains how crime theories such as routine activity theory, rational choice theory and crime pattern theory have practical implications for the police in their efforts to prevent crime.
 - ***Problem Analysis in Policing***, by Rachel Boba (Police Foundation, 2003). Introduces and defines problem analysis and provides guidance on how problem analysis can be integrated and institutionalized into modern policing practices.
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- ***Problem-Oriented Policing***, by Herman Goldstein (McGraw-Hill, 1990, and Temple University Press, 1990). Explains the principles and methods of problem-oriented policing, provides examples of it in practice, and discusses how a police agency can implement the concept.
 - ***Problem-Oriented Policing and Crime Prevention***, by Anthony A. Braga (Criminal Justice Press, 2003). Provides a thorough review of significant policing research about problem places, high-activity offenders, and repeat victims, with a focus on the applicability of those findings to problem-oriented policing. Explains how police departments can facilitate problem-oriented policing by improving crime analysis, measuring performance, and securing productive partnerships.
 - ***Problem-Oriented Policing: Reflections on the First 20 Years***, by Michael S. Scott (U.S. Department of Justice, Office of Community Oriented Policing Services, 2000). Describes how the most critical elements of Herman Goldstein's problem-oriented policing model have developed in practice over its 20-year history, and proposes future directions for problem-oriented policing. The report is also available at www.cops.usdoj.gov.
 - ***Problem-Solving: Problem-Oriented Policing in Newport News***, by John E. Eck and William Spelman (Police Executive Research Forum, 1987). Explains the rationale behind problem-oriented policing and the problem-solving process, and provides examples of effective problem-solving in one agency.
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- ***Problem-Solving Tips: A Guide to Reducing Crime and Disorder Through Problem-Solving Partnerships*** by Karin Schmerler, Matt Perkins, Scott Phillips, Tammy Rinehart and Meg Townsend. (U.S. Department of Justice, Office of Community Oriented Policing Services, 1998) (also available at www.cops.usdoj.gov). Provides a brief introduction to problem-solving, basic information on the SARA model and detailed suggestions about the problem-solving process.
 - ***Situational Crime Prevention: Successful Case Studies***, Second Edition, edited by Ronald V. Clarke (Harrow and Heston, 1997). Explains the principles and methods of situational crime prevention, and presents over 20 case studies of effective crime prevention initiatives.
 - ***Tackling Crime and Other Public-Safety Problems: Case Studies in Problem-Solving***, by Rana Sampson and Michael S. Scott (U.S. Department of Justice, Office of Community Oriented Policing Services, 2000) (also available at www.cops.usdoj.gov). Presents case studies of effective police problem-solving on 18 types of crime and disorder problems.
 - ***Using Analysis for Problem-Solving: A Guidebook for Law Enforcement***, by Timothy S. Bynum (U.S. Department of Justice, Office of Community Oriented Policing Services, 2001). Provides an introduction for police to analyzing problems within the context of problem-oriented policing.
 - ***Using Research: A Primer for Law Enforcement Managers***, Second Edition, by John E. Eck and Nancy G. LaVigne (Police Executive Research Forum, 1994). Explains many of the basics of research as it applies to police management and problem-solving.
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Created Date: March 30, 2005

e01052683
ISBN: 1-932582-47-9

