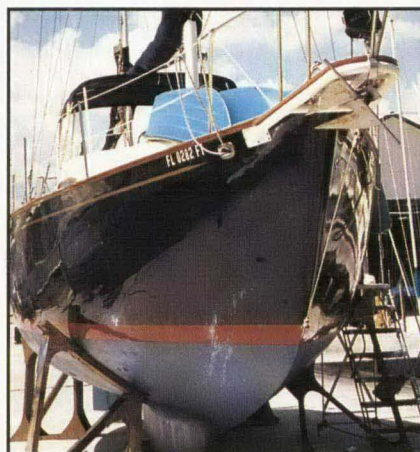
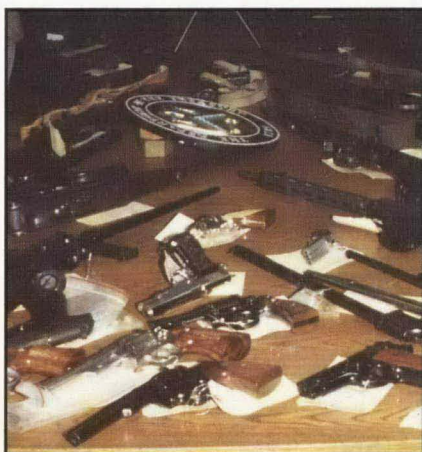
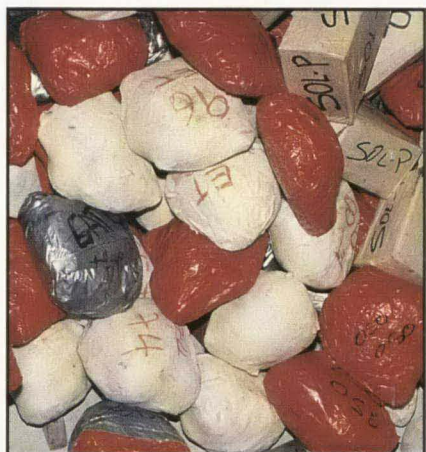
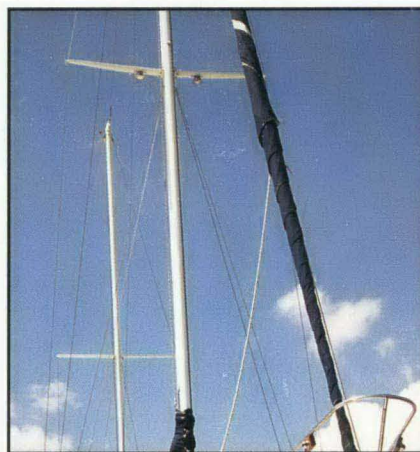
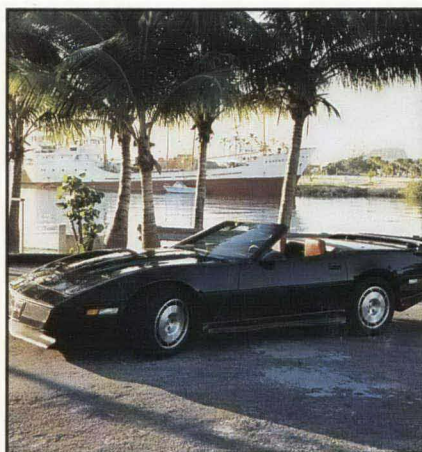
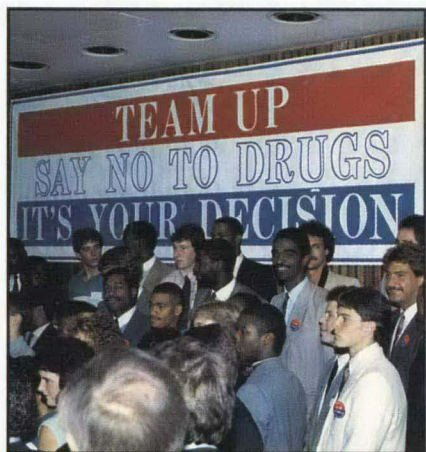
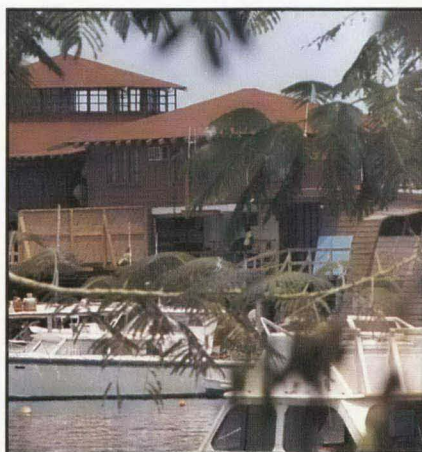
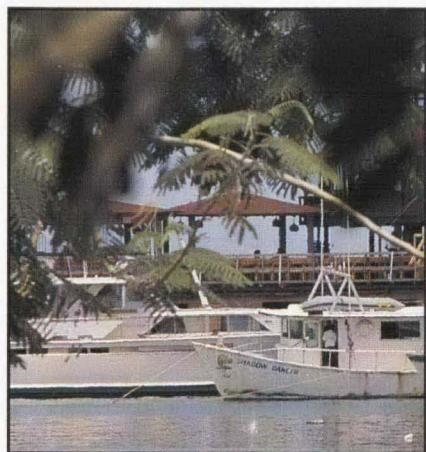




April 1990

FBI

Law Enforcement Bulletin



Combating America's Drug Problem



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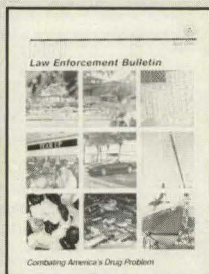
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United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William S. Sessions, Director

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Managing Editor—Kathryn E. Sulewski
Art Director—John E. Ott
Assistant Editor—Alice S. Cole
Production Manager—Andrew DiRosa
Staff Assistant—Carolyn F. Thompson

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Director's Message

A Fallen Hero

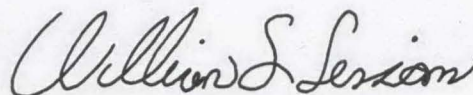
On January 19, 1990, FBI Special Agent L. Douglas Abram was killed in the line of duty. He was the 40th Agent in FBI history to lose his life in the line of duty. I know that every member of the FBI family and all law enforcement officers across the country are deeply saddened by the loss.

Mrs. Sessions and I attended the funeral of Special Agent Abram. I was profoundly moved by the strength and love of the Abram family and by the support of the St. Louis community. The funeral procession extended nearly a mile because so many law enforcement officers from so many agencies had gathered to honor Special Agent Abram. People on the street stopped to pay silent tribute to a fallen hero, although few could have known him personally. At the funeral service, Special Agent Abram's 22-year-old son spoke from his heart. He said it was the toughest thing he had ever had to do, but his message was simple: His father died doing what he loved.

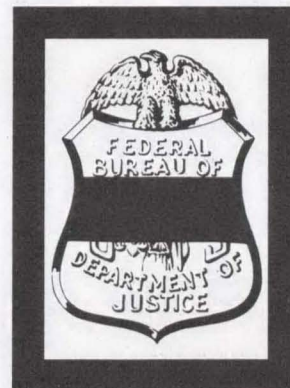
I shall never forget those moments. They uplifted everyone who witnessed them and confirmed in our hearts and minds that Special Agent Abram did not die in vain. The tragic loss of Special Agent Abram or of any law enforcement officer must be the catalyst for each of us to reaffirm our solemn oath to serve and protect the communities we serve. It should also cause each law enforcement agency across America to re-examine its

policies, procedures and techniques to ensure that officers who are asked to stand in harm's way do so only under the soundest of law enforcement principles.

There is no higher duty, nor more solemn responsibility, placed on law enforcement than to ensure that no officer dies in vain. In the harsh light of the loss of Special Agent Abram, and in the name of those men and women in law enforcement across the United States who have also made the supreme sacrifice, we shall continue the fight.



William S. Sessions
Director



The W.A.N.T. Task Force



Photo courtesy of Claiborne C. Myers, Jr.

By
BILL GORDON

Drug dealers continuously cross jurisdictional boundaries to evade apprehension and prosecution—a common problem faced by law enforcement agencies nationwide. In Paducah, Kentucky, the situation was no different. Drug dealers operated in areas outside of the local police department's jurisdiction. In fact, many dealers lived in one law enforcement jurisdiction and "worked" in another. On occasion, dealers would move

just before apprehension, usually to an area where the police department did not know them or did not have an aggressive drug enforcement program. The dealers became virtually untouchable.

The problem of drug dealers evading apprehension and prosecution was becoming more and more severe. Recognizing this, the Paducah chief of police assigned staff members to identify and implement an effective, but economical,

solution. The concept that emerged was the formation of a regional drug task force.

Pooling manpower, resources, and expertise offered a viable weapon against the area's drug barons. And even though there were specific details to be addressed, the concept of an interagency drug task force gained overall acceptance when proposed to the heads of local police departments in western Kentucky. This article details the estab-

lishment of the Western Area Narcotics Team (W.A.N.T.) task force, an aggressive, long-overdue tool for combating drug trafficking and related crimes in the Paducah area.

Developing the Task Force

During the first part of 1987, local law enforcement agencies met to discuss the possibility of developing a drug enforcement task force. Subsequently, problems were identified, solutions were addressed, and efforts were made to obtain funding through a Federal grant.

In addition, applicable Kentucky State laws were found to specifically address the task force concept. Under Kentucky Revised Statutes (K.R.S.) 431.007, entitled "Request for Mutual Assistance Law," one police department is allowed to request the assistance of another police department for a specific purpose. Unfortunately, this offered a short-term solution and one that required paperwork each time it was used. While suitable for emergency situations and for some short-term specific investigations of mutual interest, this law was not appropriate for longer, more complex drug enforcement efforts.

However, under the "Inter-Local Cooperation Act" (K.R.S. 65.210 through 65.300), government agencies could sign legal and long-term contracts which specifically outlined the circumstances and conditions that would allow law enforcement departments to work together. This was the best applicable law for the purposes of the western Kentucky area.

Review of Other Task Forces

Once it was determined that Kentucky State laws allowed for interagency operations, Paducah police officers reviewed the operational plans of other law enforcement agencies that had already developed aggressive drug enforcement programs or task forces. This was done to study what worked best and what problems commonly arose that could be avoided and/or addressed in advance.

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Pooling manpower, resources, and expertise offered a viable weapon against the area's drug barons.

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One task force studied consisted of personnel from city, State, and local Federal agencies. However, this particular task force already worked in the same jurisdictional area; basically, they joined forces to prevent duplication of work and to increase the amount of available resources. Because the main problem in western Kentucky was the lack of overlapping jurisdiction, the proposed regional task force needed an operational plan that would facilitate cooperation between the various law enforcement agencies involved.

Another task force in Kentucky, which had operated under an Inter-Local Cooperation Agreement since 1979, was also studied. This task force dealt with an area cover-

ing 39 cities and 3 adjoining counties with an international airport and a dense population of over 270,000 people, which obviously created difficult working conditions. The participants in this task force agreed to set up a separate agency specifically for drug enforcement. Each member department gave some type of support to this new agency, either in the form of manpower and/or financial support. Yet, while this was the best type of operation for the area, several problems were still encountered.

Problems Identified From Review

During the reviews of both forces, it became evident that both systems had inherent problems.

- Resentment

Some police officers displayed obvious resentment toward the task force members. In fact, task force officers readily admitted a lack of cooperation existed among the participating departments and that jealousy prevented the sharing of information freely.

- Funding

Maintaining such a unit is quite expensive, which necessitated year-round funding. This required some task force members to spend the majority of their time simply trying to obtain the necessary operating funds, which caused them to make less desirable court plea bargain arrangements for the forfeiture of seized assets. Also, the interagency cooperating

agreement did not provide stipulations regarding funding. A department that was dissatisfied with the way in which an operation was being conducted could terminate or seriously restrict funding at any time, without notice.

- **Personnel**

There remained the issue of personnel assigned to the task force. No arrangement had been made as to the caliber of officer transferred to the unit. Were departments, in fact, sending their most experienced, qualified officers in the area of drug investigations, or were they using the task force assignment for those who were undisciplined, ineffective, or simply just problem officers?

- **Seized Assets**

There were also frequent disputes over the division of seized assets. It was learned that with one task force, departments involved in drug arrests raced to seize property from drug dealers. In some cases, officers would even run past the person to be arrested in order to seize the property. There were also disagreements over which agency contributed the most to the operation.

The Paducah Program

After studying the various issues and task forces, the Paducah Police Department believed that a task force program needed to be designed specifically to meet Paducah's needs. It was concluded

that a more appropriate task force agreement would be to allow each member department to have direct control over drug investigations within its jurisdiction. This enabled each department to protect its own community while showing support of the program. Because each department involved would play as active a role in drug enforcement as it wished, jealousy should be eliminated. And, an arrest in any department's jurisdiction would directly reflect on that department, not on an agency that didn't participate in the operation. Problems could also be resolved more quickly because they would directly affect each respective police department instead of an external agency.

Each department would have final authority over all investigations within its jurisdiction, and the

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**Membership in the
W.A.N.T. task force
required only a desire
to join.**
”

supporting departments would have the choice of either to assist in the investigation or to refuse to be involved. Thus, each department could maintain its own standards, prepare its own news releases, and could successfully prosecute in its court system.

Membership in the W.A.N.T. task force required only a desire to join. Therefore, every department could participate regardless of its financial capability or size. In fact,

several departments in western Kentucky had only one or two officers and limited funding, but still became participating members of the task force. It was just as easy for small agencies to be involved as larger agencies, and their voting power within the task force was equal. The belief that brought this task force together was that all agencies in the western Kentucky area were equally affected by drug dealing and substance abuse.

A method for dividing seized property was also incorporated into the agreement. Property would be equally shared by the departments that directly participated in the investigation, after expenses were paid. The shares would be equal whether a department spent 1 hour or 100 hours assisting in the investigation. Therefore, the investigators could focus their attention on the safety of their fellow officers and citizens and on catching the criminal rather than “grabbing” at what they believed was their personal cache.

The W.A.N.T. task force was also organized so that it did not require direct funding. Each department would supply what equipment and manpower it had available at the time of each investigation and would retain control over these resources. Also, since jointly owned property was discouraged, there would be no disputes over when and for which investigations the equipment would be used.

Contact officers were designated within each department so that all participating departments would have a chain of command to

follow when communicating or working together. This assured that intelligence information would reach the proper people so that the case would get proper attention. This also enabled all participating departments to know who was in authority during the task force operation. The head of each department would also be greatly encouraged to select only the best and most competent officers to represent that department in the investigation.

It was recognized early in the implementation stage that not all departments would be able to work well with all the other task force participants all of the time. Therefore, the task force was set up in such a way so as not to require any one department to work with all the other departments in order to function effectively. For example, if one department did not get along well with another department, it could work with those that it did get along with. If one particular department had problems with all or most of the other departments, then the task force agreement required that the individual department work out its differences.

Regular task force meetings fostered confidence and friendships among the participating departments. This prevented frictions from developing over particular philosophies and personality conflicts. Even though the task force was limited to drug investigations, these regular meetings assisted in developing cooperation among the participating departments in other areas of law enforcement.

Conclusion

Since its inception, the Western Area Narcotics Team Task Force has been responsible for over 83 arrests involving serious drug dealers, the seizure of over 3.3 kilos of cocaine, approximately 13.4 pounds of marijuana, and 700 narcotic pills in its first year. Departments that have never been able to

vancement in the area of drug enforcement. The task force members have also received several inquiries from agencies across the United States and are often contacted to speak about the task force concept and to help set up similar operations.

Involvement in the task force has brought about new thoughts and concepts on better drug enforce-

“
Regular task force meetings fostered confidence and friendships among the participating departments.
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effectively deal with drug trafficking are now making arrests that previously might never have been made.

The Paducah Police Department and the surrounding area departments have benefited greatly by the task force concept. Cooperation and unity have been fostered, which has helped inspire community confidence in law enforcement departments. This, in turn, has encouraged citizens to provide more information on drug dealers to local law enforcement departments. In addition, the task force has helped to offset the expenses of catching drug dealers in the area.

The task force is still growing, and it appears that it may be one of the greatest law enforcement advancements in western Kentucky. As an indirect result, cooperation with Federal agencies developed, opening more doors for further ad-

ment and additional resources into play that were not accessible in previous years. However, as in all situations, actions speak louder than words. And, in Paducah's case, the best result of the task force is that the Paducah crime rate has decreased by 42 percent, robberies have decreased by 20 percent and overall thefts have decreased by 18 percent in just one year. This decrease, which is the first in Paducah's recent history, has been a direct result of this task force. With drug violation arrests up over 31 percent, needless to say, selling the idea of the task force is no longer a problem in the Paducah area.

LEB

Commander Gordon heads the Special Investigations Unit of the Paducah, Kentucky, Police Department.

Police Practices

K-9 Kards for Kids



Community support depends on sound public relations. Therefore, a police department must make every effort to maintain positive contact with the people it serves—especially its youth. Young people should have a positive impression of law enforcement and associate a police uniform with a person they can trust and respect.

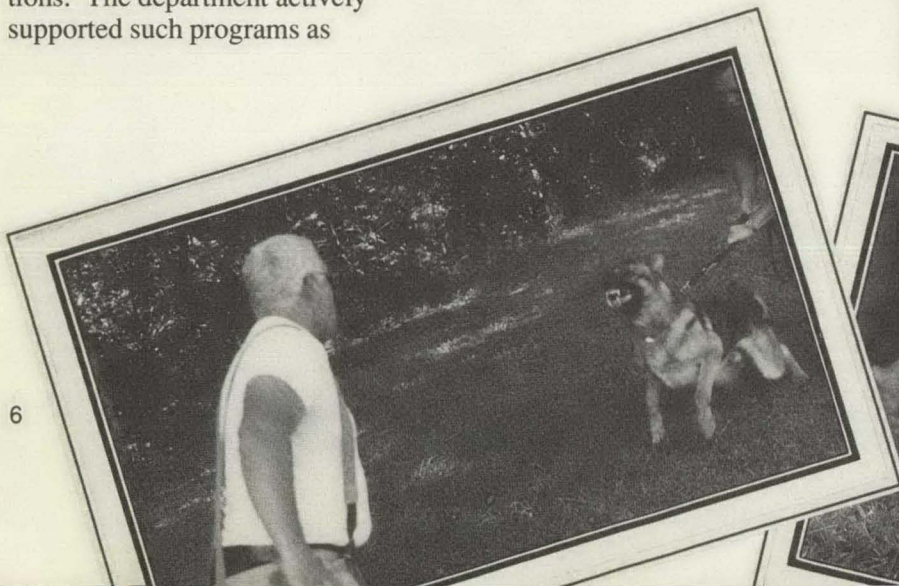
When the Salina, Kansas, Police Department wanted to target drug abuse prevention in the schools, it considered several options. The department actively supported such programs as

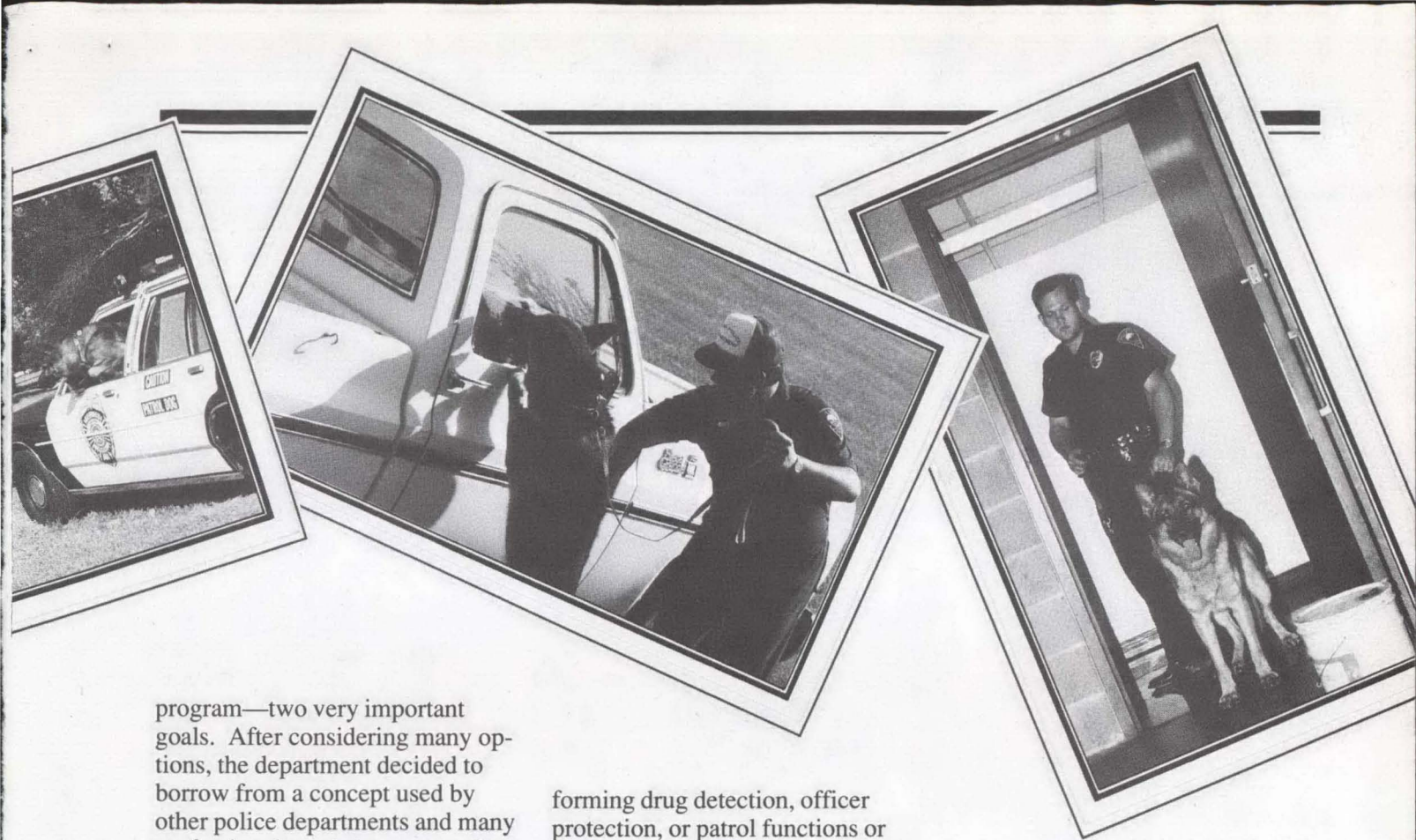
“DARE” (Drug Abuse Resistance Education) and “Say No To Drugs.” Yet, it believed it needed another effective method to carry the message to the youth of the community.

At the same time, the department wanted to promote the value of police dogs in fighting crime. Salina’s K-9 program had developed into an effective crime-fighting tool. Within 3 months, “Cliff,” a 2-year-old German Shepherd, and his handler appre-

hended 6 felons, including an escaped murderer; completed 14 drug searches; participated in 12 public demonstrations; and searched 5 buildings, resulting in the capture of a burglar. Even so, the department wanted the children to know that not all tools used by police are employed in a forceful or violent manner. It needed to reassure citizens, especially the children, that police dogs were not vicious, uncontrollable creatures with gnashing teeth, ready to attack indiscriminately.

Therefore, the Salina Police Department believed it needed a public relations program to promote drug abuse prevention and to show the benefits of its K-9





program—two very important goals. After considering many options, the department decided to borrow from a concept used by other police departments and many professional sports teams—trading cards. But instead of using a picture of a professional player on the front, the Salina Police Department used Cliff, its crime-fighting dog. The result was the creation of the K-9 card series.

The K-9 card series consists of 10 cards. On the front of each card is a picture of Cliff either per-

forming drug detection, officer protection, or patrol functions or posing with children. The back of each card carries a different "Say No To Drugs" message.

Children obtain cards by simply asking a police officer on the beat for one or by visiting the police department. Cards are also distributed by the Crime Prevention Unit and at the annual county fair.

The initial cost of 100,000 cards to start off the program was \$2,600, which was paid by the city. However, the community has indicated that it would fund the

program if city financing were no longer available.

Trading cards are part of Americana, and the value of many cannot be estimated. But what could be more valuable than attacking the scourge of drugs on today's youth. The K-9 cards are just one department's attempt to carry the drug prevention message to the young people of its community.

LEB

Police Practices serves as an information source for unique or noteworthy methods, techniques, or operations of law enforcement agencies. Submissions should be no more than 750 words (3 typed pages, double spaced) and should be directed to Kathy Sulewski, Managing Editor, *FBI Law Enforcement Bulletin*, Room 7262, 10th & Pennsylvania Ave., NW, Washington, DC 20535.



The Bulletin Reports

TASC Resource Catalog

Treatment Alternatives to Street Crime (TASC) makes community-based treatment available to drug-dependent offenders who would otherwise burden the justice system with repeated criminality. Information, resources, and contacts from TASC programs across the country have been compiled in the Bureau of Justice Assistance's (BJA) **Treatment Alternatives to Street Crime Resource Catalog**.

The catalog provides specific contact and program information for practitioners and administrators currently operating or considering a TASC program. The catalog identifies specific resource persons; lists national experts, appropriate Federal agencies, and national clearinghouses and associations in the drug abuse and criminal justice fields; presents information on Federal drug control formula and discretionary grant monies; and provides procedures for obtaining free TASC technical assistance and training.

The catalog can be obtained by calling the Bureau of Justice Assistance Clearinghouse at 1-800-851-3420. For callers in Maryland and the Washington, D.C., metropolitan area, the number is 1-301-251-5500. Refer to document number NCJ 119847.

Pretrial Drug Testing

The Bureau of Justice Assistance (BJA) has published a monograph to assist jurisdictions with planning and estimating costs associated with pretrial drug testing programs. The document presents issues and considerations that should help interested jurisdictions make appropriate decisions that are cost-effective and responsive to individual needs.

Estimating the Costs of Drug Testing for a Pretrial Services Program is a three-part document. The first part discusses jurisdictional factors affecting costs (size of arrestee population, rate of drug abuse in the jurisdiction, release rate, disposition time, and

salaries). Part two addresses policy and procedural factors (target population, number of drugs for which the program will test, and contracting an outside lab for testing). Cost models to illustrate how jurisdictional and procedural factors are translated into cost estimates are covered in the third part.

Copies of the monograph (document number NCJ 118317) are available from the Bureau of Justice Assistance Clearinghouse and can be obtained by calling toll-free 1-800-851-3420. For callers in Maryland and the Washington, D.C., metropolitan area, the number is 1-301-251-5500.

Telecommunication Fraud

The American Bar Association's (ABA) Section of Science and Technology has published a guide to aid in prosecuting telecommunication fraud. About \$5 million is lost in telecommunication fraud annually. More importantly, there has been no standard methodology established to combat this widespread and growing area of crime.

The guide, entitled **Guide to the Prosecution of Telecommunication Fraud by the Use of Computer Crime Statutes**, is

designed to assist law enforcement officials and the telecommunication industry in prosecuting such fraud under State computer crime laws. It contains a hypothetical investigative summary report and lists Federal and State-by-State legislation, case law and glossaries of terms and acronyms used in the industry.

Copies of the guide can be obtained from ABA Order Fulfillment, 750 N. Lake Shore Dr., Chicago, IL 60611, or call 1-312-988-5555.

Evaluating Drug Control Projects

The National Institute of Justice, in cooperation with the Bureau of Justice Assistance, has published a monograph, *Evaluating Drug Control and System Improvement Projects*, which details evaluation guidelines for drug control and system improvement projects. The guidelines were developed to assist State and local units of government to conduct program evaluations as required by the Anti-Drug Abuse Act of 1988.

The guidelines that are set forth are flexible instructions rather than rigid rules. They encourage governments to formulate strategies to focus their evaluation resources and suggest that agencies consider a range of evaluative activities. More importantly, the guidelines encourage agencies to develop information that will help determine future investments. Other topics covered in the monograph are methods of analyzing data and who should conduct the evaluations. The monograph also provides sources for information and assistance when conducting evaluations.

Copies of the evaluation guidelines can be obtained by calling 1-800-851-3420. For callers in Maryland and the Washington, D.C., metropolitan area, the number is 1-301-251-5500.

Operation Bootstrap

In 1980, Michael Shanahan, chief of the University of Washington Police Department, organized the Washington Law Enforcement Executive Forum, which brought public and private sector leaders together to see what they could do collectively to address their related needs. This led to the creation of Operation Bootstrap, the subject of a recent Research in Action report of the National Institute of Justice (NIJ).

Operation Bootstrap, begun in 1985, is an educational clearinghouse that provides tuition-free corporate management training programs to a cross-section of police administrators and officers across the country. It offers state-of-the-art management and self-help programs covering such subjects as effective supervision, conflict resolution, group problem solving, and stress management. About 70 corporations donated over 800 seats in their executive education programs in 1988, absorbing tuition costs for law enforcement personnel.

The Research in Action report is an analysis of evaluations of training sessions written by participating law enforcement personnel and discussions with corporate training directors. It reviews the program's history, how it functions, and where it is headed. According to James K. Stewart, NIJ Director, "In a time when police training budgets are stretched to the maximum just meeting basic and in-service law enforcement training, Operation Bootstrap offers an innovative way for police to maximize their training resources and gives law enforcement managers access to a wide range of topical material and specialized instructors."

To order copies of this NIJ publication, or for more information, contact the National Criminal Justice Reference Service at 1-800-851-3420. For callers in Maryland and the Washington, D.C., metropolitan area, the number is 1-301-738-6644. Request document number NCJ 118314.

The Bulletin Reports, a collection of criminal justice studies, reports, and project findings, is written by Kathy Sulewski. Send your material for consideration to: *FBI Law Enforcement Bulletin*, Room 7262, J. Edgar Hoover Building, 10th & Pennsylvania Ave., NW, Washington, DC 20535.

(NOTE: The material presented in this section is intended to be strictly an information source and should not be considered as an endorsement by the FBI for any product or service.)

Working Toward A Drug-free America

By
William S. Sessions



Background Photo by G.P. Stasiunas



FBI Director Sessions

My message is direct and simple: To battle this Nation's drug problem, the FBI is firmly committed to both attacking the supply of drugs and reducing the demand for drugs.

Since becoming the Director of the FBI in November of 1987, I have traveled across the country and met thousands of people who are very disturbed by the complex and growing problem of drugs. In fact, drugs is the number one issue on the minds of the American people. It's seen as more urgent than improving the quality of public education; more urgent than curing the AIDS

epidemic; more urgent than cleaning up the environment.

What role does the FBI perform to attack or counteract this massive illegal drug business? Let me give you a little background.

Drugs—An Investigative Priority

The FBI is a multimission agency charged with investigating over 200 separate violations of Federal law. In 1982, the former Attorney General, William French Smith, delegated to the FBI concurrent jurisdiction with the Drug Enforcement Administration (DEA) for the enforcement of Federal

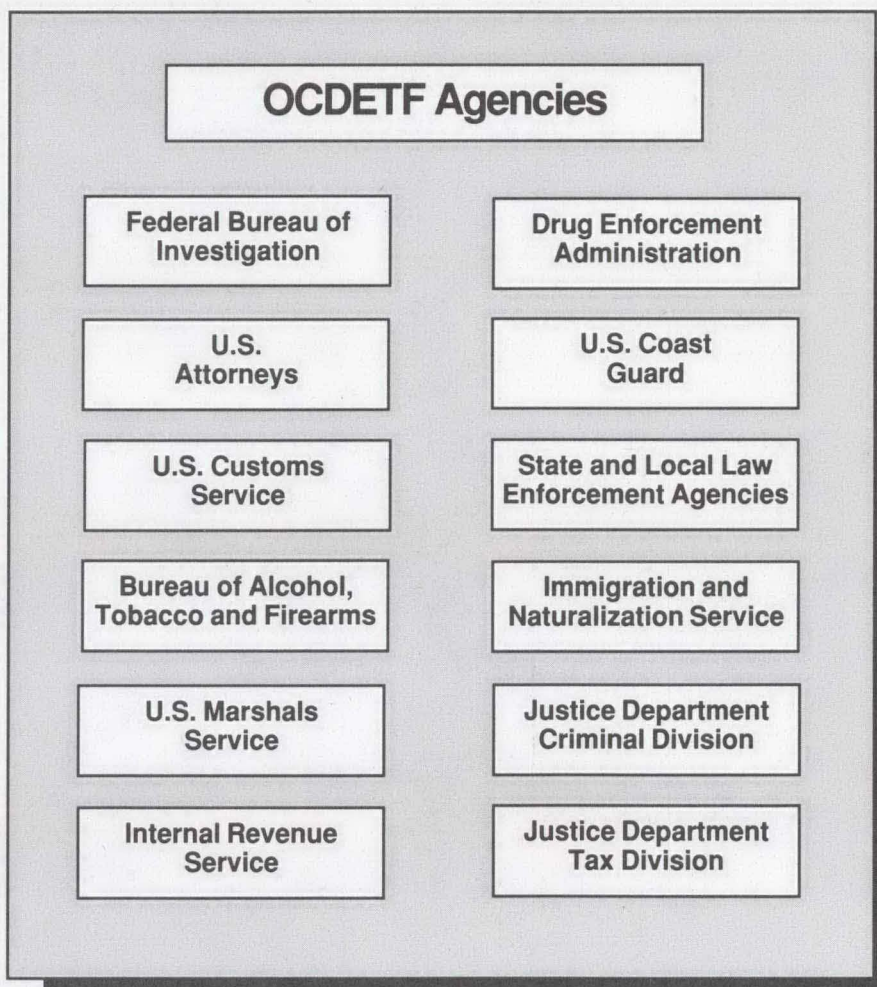
criminal drugs laws. Recognizing the increasing sophistication of the drug cartels, Attorney General Smith wanted the FBI to apply to drug enforcement the same expertise and investigative techniques that it has used so successfully over the years against traditional organized crime. He specifically mentioned the FBI's ability to investigate long-term cases using electronic surveillance, our expertise in complex undercover operations, and our experience in ferreting out public corruption and money laundering schemes.

The FBI immediately joined in cooperative efforts with other Federal, State, and local law enforcement agencies. In 1983, we joined with other organizations in the Organized Crime Drug Enforcement Task Force Program—the OCDETF Program. OCDETF is our big gun in the war on drugs. This task force approach has been very successful in battling traditional drug traffickers, such as the Sicilian Mafia and the Outlaw motorcycle gang. It's also flexible enough to deal with the new generation of drug criminals, such as two violent, Los Angeles-based gangs called the Bloods and the Crips.

Since 1986, the FBI's role in domestic drug enforcement has been focused by our national drug strategy. The FBI's National Drug Strategy is specifically built around the FBI's ability to conduct long-term, sustained investigations of criminal enterprises—investigations designed to dismantle their networks, arrest their leadership, and seize and forfeit their property and assets.

The National Drug Strategy rests on five planks:

- First, to investigate major drug trafficking enterprises for the purpose of dismantling the entire organization and seizing and forfeiting its assets;
- Second, to expand and enhance our drug intelligence base;
- Third, to identify and make projections of drug trafficking activities on a national scale;
- Fourth, to concentrate resources on major drug trafficking centers—places, like Los Angeles, New York, and Miami; and
- Fifth, to assist all law enforcement agencies that operate outside the primary drug centers with investigations of major drug trafficking enterprises.



The FBI's National Drug Strategy is a clearly defined, narrowly focused part of the effort to sweep America clean of drugs. We target and attack only the major drug trafficking organizations dealing in heroin and cocaine that control a large segment of regional or national drug markets. Many are international drug organizations that are rooted in foreign soil. We have targeted Asian, Mexican, Colombian, Sicilian, and other large-scale traffickers.

In 1987, drugs became a priority program of investigation at the FBI, joining organized crime, white-collar crime, foreign counterintelligence, and terrorism. In 1988, we strengthened the cooperative bond between the FBI and the DEA by formulating the joint drug plan. Under that plan, in six cities—New York, Miami, Chicago, Houston, San Diego, and Los Angeles—we have joint plans using the resources of both agencies in joint drug operations.

Drug trafficking today is a business and, like any business, it carries a balance sheet. On one side of this ledger, the corporate products—cocaine, heroin, and marijuana—flow out. And on the other side, the profits flow in.

How do drug traffickers legitimize these huge profits? They do this by laundering the money taken. Money laundering, like drug trafficking, is no longer a cottage industry. Entire subsidiaries and independent organizations are routinely created to conceal, transport, and invest the illegal profits of the drug-trafficking machine. So the FBI has adapted its many years of financial crimes investigative experience to wring the profits out of the laundering of drug money.

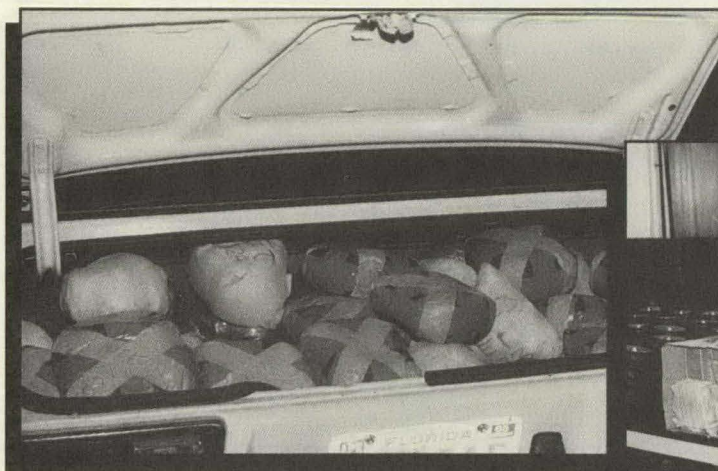
And our national drug strategy seems to be working. In fiscal year 1989, FBI investigations resulted in over 2,900 felony drug convictions. We seized over \$170 million of the drug traffickers' illegal profits.

And I am confident that the efforts of William Bennett, the Director of the Office of National Drug Control Policy—the “Drug Czar”—will enhance law enforcement's mission through his leadership in coordinating the Federal antidrug effort.

It is my belief that America's drug problem will not be solved by simply beefing up interdiction efforts and other traditional efforts of law enforcement. America's drug problem is ultimately caused by America's demand for illicit drugs.

Drug Demand Reduction

In the spring of 1988, because of a growing awareness that Americans who want drugs badly enough will get them—regardless of tough law enforcement—the FBI created its Drug Demand Reduction Program. The heart and soul of that program is our core of Special Agents trained in demand reduction. One Special Agent in each of our field offices is working in the local communities with agencies and



The Mexican drug trafficking operation WHITEMARE recently resulted in the seizure of over 900 pounds of heroin as well as over \$5 million in cash and assets.

The recent Columbian drug trafficking operation CAT-COM resulted in the seizure of over 4,000 kilograms of cocaine, 211,000 pounds of marijuana, and \$5 million in cash and assets.



programs to whittle down the demand for drugs in those communities. We call these Agents our "DDRCs": Drug Demand Reduction Coordinators.

DDRCs concentrate their efforts in the schools, in community groups, and especially in the workplace, developing a variety of educational materials on drug abuse. In addition, coordinators cooperate with local Drug Enforcement Administration agents, U.S. attorneys, State and local law enforcement, and many other government and private organizations to educate the public on the dangers of drugs.

In 1990, the FBI will add the subject of drug demand reduction to the curriculum in the FBI National Academy Program. The objective of the course will be to provide local law enforcement officers with the demand reduction knowledge they need to deal with the drug problem in their local communities, schools, and workplaces. The course will also help standardize the training on the subject in the FBI and law enforcement nationwide.

My point is that the FBI is focusing on education and prevention, not just criminal investigations, in our fight against the drug scourge. My hopes for success were bolstered when I read a University of Michigan survey of over 16,000 high school seniors. It reported that the students' use of cocaine, marijuana, and PCP dropped to the lowest levels in more than a decade. That's a welcome sign of progress. We need a united effort to create a national will against illicit drug use.

Drug abuse is not an isolated crime; it affects all of society. Drug abuse contributes to child abuse. Drug abuse contributes to violent

In 1988, joint drug plans were developed in six cities to better use the resources of both the FBI and the DEA in joint drug operations.



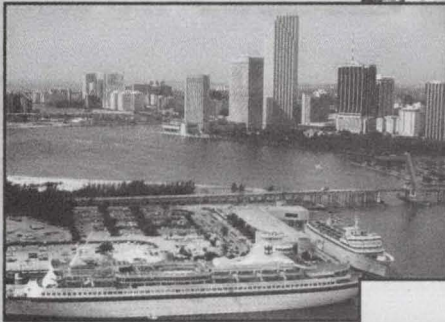
Chicago



Houston



Los Angeles



Miami



New York



San Diego

crime. Drug abuse and drug trafficking have caused both innocent civilians and courageous police officers to be killed in the traffickers' pursuit of profit.

Everyone is familiar with the loss of productivity in the workplace caused by drugs. The U.S. Chamber of Commerce reports that the abuse of illicit drugs costs businesses around \$60 billion each year. That is truly a staggering figure.

Drug Deterrence

We in the FBI have done much—and yet we have more to do—to make sure the FBI stays drug free. I believe that FBI employees must set an example. Because of its leadership role in law enforcement, the FBI must be staffed by men and women who are drug-free. So our drug deterrence program began on July 28, 1986, actually a few months before former President Reagan signed Executive Order 12564, which established the goal of a drug-free Federal workplace. Three years ago, we began urinalysis testing of our new Agent trainees.

Currently, we test Special Agent and support personnel alike before they are accepted into the FBI. We test employees who are under a reasonable suspicion of drug use. This year, after the Employee Assistance Program was finalized and employees received a 60-day notice, random drug testing began.

Urine screening programs stir up their fair share of controversy. Some see the procedure as highly intrusive. Recognizing this, we make sure that samples at the FBI are collected with dignity. And we

ensure that lab tests are conducted with complete accuracy and that the results are kept private, except for those in the chain of command when disciplinary action is needed.

But drug testing is only one of the four major elements of our drug deterrence program. The other three are employee education, supervisory training, and employee assistance programs.

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The FBI's National Drug Strategy is a clearly defined, narrowly focused part of the effort to sweep America clean of drugs.
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Our drug education program informs employees about the physical and emotional effects of drug use—including alcohol. Employees need to know about the impairment to their health and their total well-being. In addition, they need to know how drug use impairs productivity and how drug use endangers their production of personal income.

Supervisory training is also essential. For starters, supervisors are taught how to identify drug-abusing employees. Supervisors need to know how to confront the employees and refer them to an Employee Assistance Program (EAP) once a problem is spotted.

And what about employee assistance programs? Our program is staffed to deal with those people

who do test positive for drug use—or who recognize they have a problem and want to do something about it. The program must be confidential; it's the best encouragement we can give an employee to reach out for help. We must merit our employees' trust and cooperation. The whole mission of an EAP is to get employees off drugs, not to fire them. But if an FBI employee on drugs doesn't come forward freely and enroll in our EAP and then is tested positive, that employee is subject to disciplinary action.

We in the FBI want to discourage employees from starting to abuse drugs—and we want to encourage employees with present drug problems to get the help they need to become productive members of the FBI workplace.

To remove drugs from the workplace, we must couple drug testing with a clear drug abuse policy, educational programs, employee assistance programs, and supervisory training.

No single group or organization can shoulder the entire burden of solving the drug abuse problem. State and local police have their work cut out for them, as do health clinics and rehabilitation centers. We in the FBI certainly have our work cut out for us. But we must join together and coordinate our efforts.

Just think: If all the people who work in every company in America—from the huge automobile factories to the local convenience stores—if all these workers were drug free, the drug problem in our country would be greatly reduced. And that's a goal worth reaching for.

LEB

Undercover Violence

By
GARY E. WADE



Within the last 3 years, five special agents of the Drug Enforcement Administration (DEA) have been murdered while acting in an undercover capacity. Unfortunately, many State and local officers have also suffered the same fate. After such tragic occurrences, the first question immediately asked is, "What did they do wrong?" To this fellow officers may reply, "Nothing, they were murdered by drug traffickers," or "The undercover officers played the role too well and the violators had no idea they were cops." While this may be true, a DEA study of recent undercover shooting incidents suggests that more specific factors or practices may contribute to the ever-increasing incidents of violence during undercover scenarios.

BEHIND THE VIOLENCE

Drug enforcement and undercover operations are exponentially more dangerous today than in recent years. Primarily, this is due to:

- An added incentive on the part of the suspect to fight and flee
- Increased paranoia from the use of crack cocaine and other mind-altering drugs
- Increased mandatory prison sentences
- The mentality of certain foreign nationals toward law enforcement officials

- The proclivity toward violence of some foreign nationals
- The relatively high degree of anonymity of foreign criminals
- The enormous amounts of money involved in drug transactions, and
- The frequency of violence related to the drug trade

Because of these issues, all incidents where violent action was directed at the undercover agent must be carefully examined. These examinations should be made in situations resulting in injury or death to the undercover officer, as well as in those where violence was planned but never carried out.

DEA RESEARCH

The DEA performed case-by-case reviews of all agent-related

shootings, including undercover agents and local police, when possible, in an attempt to determine if any commonality exists. The conclusions drawn here pertain to undercover shootings only.

Analysis of the research disclosed seven critical factors applicable to undercover shootings. Problems associated with at least one of the following factors were found in every shooting incident:

- The operational plan
- Effecting an arrest from an undercover posture
- Management of the flashroll
- Communication with the undercover agent
- Complacency on the part of the undercover officer
- Accessibility of undercover weapons

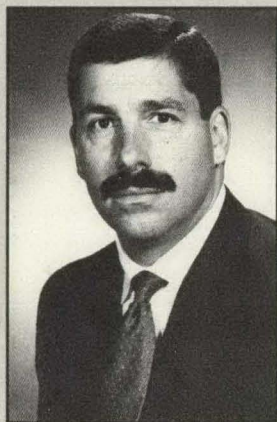
- Drawing inaccurate conclusions from accurate observations

Operational Plan

For years, developing the operational plan for an undercover operation consisted of officers brainstorming the options and answering such questions as where the undercover meeting would take place, how the flashroll would be handled, and what the trouble and bust signals would be. Some departments' operational plans were more detailed, some less. Yet, all plans were informal and not all of the essential personnel involved in the operation were present when the operational plan was explained. As can be expected, a poorly structured operational plan can be a detriment to the success of the operation and to the safety of the undercover officer.

Today, a complete, written operational plan should be mandatory. This does not suggest that a manuscript needs to be prepared for every undercover scenario; however, the details of the operational plan should reflect the risk level of the undercover operation. It should also cover pre-buy surveillance of the suspect and meet location, surveillance of the undercover agent and flashroll, alternate meet spots, trouble signals, arrest signals, and an arrest plan among others.

For example, if a large flashroll is being displayed to suspects with a proclivity for violence, the operational plan should restrict the handling of the flashroll, the movements of the undercover agent, and the timing of the arrests. However,



“Those involved in undercover operations...must be aware of the necessity for safe, effective tactics in undercover operations.”

Special Agent Wade is with the Drug Enforcement Administration assigned to the FBI Academy in Quantico, Virginia.

an operational plan need not be overly restrictive. It should be flexible enough to be easily amended by a phone call to the street supervisor to determine if an alternate plan is feasible and safe and to make sure that all officers are aware of the new plan.

The undercover agent must realize that it is essential to operate within the parameters of the operational plan. The undercover officer does not have and should never have the authority (unless it is a life-or-death situation) to alter the operational plan without the concurrence of the street supervisor.

The most difficult item to factor into the operational plan is a shut-down mechanism in case the seller attempts to steal the flashroll. The exchange must be arranged in such a fashion that the seller can do nothing to the undercover officer to accomplish this. The only alternative for the seller at that point is to provide the contraband or back out of the arrangement, giving some reason to the undercover agent for doing so. The undercover officer must be sufficiently confident of individual experience, abilities and training to realize that this is a successful conclusion to the scenario, even if an arrest is not made.

Making an Arrest

One of the most dangerous actions an undercover officer can attempt is to arrest a violator. At this stage in the operation, the violator is sold on the officer's cover or would not be delivering the drugs. Therefore, any action the officer takes to subdue or arrest the violator may

well be perceived as simply drug violence and he may respond in kind. The suspect may also resort to violence once he realizes he has been tricked into selling the next 15 years of his life to a police officer. For this reason, the undercover agent should be as far removed as possible from the arrest scene. If arresting officers cannot wait until the undercover agent has left the

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The undercover agent must realize that it is essential to operate within the parameters of the operational plan.
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scene before announcing their presence and purpose, the undercover agent needs to maneuver to the best available defense position and prepare for any level of violence.

Further, in other than a life-or-death situation, an undercover officer, who wants to make an arrest or who forces the situation so that an arrest can be made, is being controlled by actions and not by experience, common sense, and adherence to sound undercover tenets. In such instances, it may be necessary to reassess the officer's ability to continue in an undercover capacity.

Managing the Flashroll

Without question, the single issue causing the most violence in

undercover operations is mismanagement of the flashroll. To reduce the possibility of violence, there are a few basic rules to follow regarding the flashroll. First, never let the seller know or, more importantly, assume where the money is being kept prior to the flash. Second, once shown, the money should not be returned to the same place or at least the suspect must believe that it is being put elsewhere. Third, money should very rarely be displayed a second time during the negotiations. If it has to be displayed a second time, extraordinary measures should be taken to ensure its security. Obviously, there are several variables that dictate the level of caution, including the amount of the flashroll and the criminal history of the violator. These rules are necessary because without careful handling, the suspect may attempt to steal the flashroll rather than sell the drugs.

Recently, in a large southwestern city, officers displayed a \$60,000 flashroll to two foreign nationals for the proposed purchase of three kilograms of cocaine. In an attempt to lure the flashroll from the undercover agents, which had been removed from the "show location," the suspects offered to display nine kilograms of cocaine for the officers to test and pick their three kilograms. The officers not only refused to display the flashroll a second time but they also refused to leave the original meet location. They stayed within the operational plan and were successful that night.

How much cocaine did they seize? None. They were successful

because they conducted themselves as professional drug officers and went home to see their loved ones. As it turned out, the suspects did have three kilograms of cocaine, but they sold it the day before. Their

placence. However, complacency may occur in more experienced undercover agents. After several successful undercover operations, agents can lose sight of what makes an operation successful, i.e., a good

ning, the suspect requested a meeting with the officer. During the telephone conversation, the officer advised the suspect not to bring drugs to the meeting because he was not bringing money and would not consummate the purchase that evening. The officer and a skeleton surveillance crew went to the meeting. A short time after the officer met with the violator, an apparent argument broke out between the two. The suspect pulled a revolver and shot and killed the officer. The suspect was subsequently killed by officers attempting to apprehend him.

In this case, perhaps the officer became too complacent and may have erred by taking only a skeleton surveillance crew. However, it is difficult, if not impossible, to predict how the criminal mind will react in any given situation. Therefore, complacency on the undercover agent's part only serves to place the undercover agent at increased risk.

Accessibility of the Undercover Weapon

Weapons are commonplace in the drug underworld; yet, criminals should not be made aware that the undercover officer is armed. However, if the criminal does see a weapon, the officer has a ready-made explanation for having it. Even so, some officers feel uncomfortable and believe that a weapon restricts them in what they can do and where they can go. Certainly, during negotiations with violators, the officer is at somewhat less risk than if money is or is expected to

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One of the most dangerous actions an undercover officer can attempt is to arrest a violator.

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sole intention was to kill the officers and steal the flashroll.

Communication

Today, it is inconceivable that any police officer or agent would be in an undercover capacity without ready access to a communication device, such as a beeper or cellular telephone. Because beepers and cellular telephones are no longer cost prohibitive, even the smallest drug team can afford them. The value of this technology is its capability to warn undercover officers of impending danger and/or to direct them to end negotiations and withdraw immediately. The officers' safety is the most important element, and without a means of communication, their safety is put in even more jeopardy. However, undercover agents should realize that while important, communication devices can fail and may, in fact, put the operation in even greater risk.

Complacency

Usually, it is not difficult to keep new and inexperienced undercover officers from becoming com-

informant, good undercover work, excellent surveillance, teamwork on the part of the unit, and/or using sound investigative techniques.

Another factor causing complacency is repetitiveness of undercover contacts. Over the course of an investigation, undercover agents will have many contacts with the violator. Some, but not all, involve a drug transaction. Once the undercover agents believe that they have been accepted by the violator, there is a tendency to relax, to not read the suspect's body language for trouble signals, or merely to ignore the signals. As a result, all too often, violators are underestimated. Streetwise, cagey violators do not tip their hands when they become suspicious of undercover officers. Therefore, the slightest change in the suspect's behavior should put undercover officers on guard.

Recently, an experienced undercover officer in a large western city met with a suspected dealer to purchase a quantity of heroin. When the suspect observed surveillance, the transaction was put off to another day. Later the same eve-

be present. However, during exchanges of drugs and money, the undercover agent should be armed. This practice will help in most cases, but sometimes the situation may develop too quickly.

For example, two DEA agents were killed and a third wounded in Los Angeles, California, in 1987. Each agent carried a weapon, and another gun was concealed in the undercover vehicle. Yet, the situation developed so rapidly that the agents did not have time to draw their weapons. This stark and tragic example shows that the weapons of undercover agents need to be readily available in critical situations, but even then, the undercover agent may not be able to access it quickly enough.

Inaccurate Conclusions from Accurate Observations

Everyday, officers watch thousands of drug transactions, each about the same, yet each a little different. Problems arise when officers draw the wrong conclusion from an accurate observation and then base all operational planning on that conclusion. Therefore, it is crucial that officers keep an open mind throughout the undercover operation. The following is a relevant situation.

The night before a proposed delivery of a kilo of heroin, officers observed two individuals of apparent Latin origin arrive at the main suspect's home. Prior to entering the house, they were observed removing an object that looked to be the size and shape of a kilogram of heroin from the trunk of their

vehicle. Later that evening, during a telephone conversation, the undercover officers were told by the source of supply that the deal was set for the next day as arranged. Further, the couriers had recently brought heroin to his house. The officers' observations, coupled with the statements made to the undercover agents, led them to believe that the suspect was in possession of the heroin, the sale would take place, and that the violators had every intention of completing the transaction and not robbing the undercover officer.

The observations on which officers based their operational planning were accurate. The individuals were Latin. They were involved with the source of supply; however, the kilo-shaped package did not contain heroin. It contained a .45

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**...a complete, written
operational plan
should be mandatory.**
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caliber pistol which was used to rob the undercover officer the following day. The planning would have been significantly different had the officers known a weapon was in the package. Obviously, they had no way of knowing this. The operational plan for the following day was based on the assumption that the contraband was in the source's possession. Once that presumption was made, other actions that may have indicated the suspects intended to

rob the undercover officer were either ignored or not given the significance they should have.

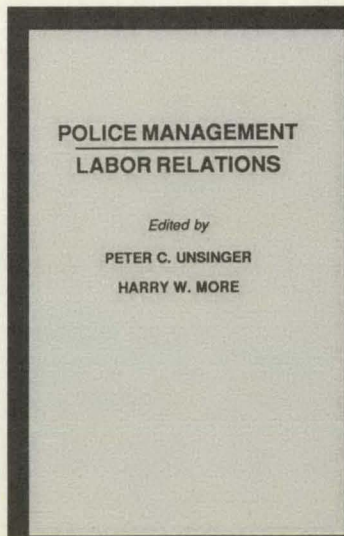
Surveillance officers and undercover officers must be ever alert for warning flags to the suspect's "operational plan." The illicit drug trade is always changing. Drug dealers are involved in a game of deceit and are paranoid in dealings with others. This makes them very volatile and unpredictable. Officers should observe the traffickers' activities and continually update their assessment of the traffickers' intentions.

CONCLUSION

If proper procedures are strictly adhered to relating to all seven critical factors, will officers always walk away unharmed from undercover operations? No. Unfortunately, there is no formula or absolute guarantee that adherence to any set of undercover tenets is going to ensure that an undercover officer or drug team will go home safely after every assignment. However, if these seven factors are discussed and proper procedures are followed, the level of officer safety increases significantly.

The drug trade is a violent business and is considered the number one social problem in the United States. Every law enforcement agency tasked to do so is trying to make an impact. Those involved in undercover operations, including first-line supervisors through upper-management, must be aware of the necessity for safe, effective tactics in undercover operations.

LEB



Police Management-Labor Relations, edited by Peter C. Unsinger and Harry W. More, Charles C. Thomas, Springfield, Illinois, 1989.

This book explores the basics of the labor/management relationship. The seven chapters carefully selected by the editors provide gems of information to stimulate thought and give direction to the law enforcement executive.

Police Management-Labor Relations provides a broad examination of the different aspects of labor issues in the law enforcement community. The seven chapters deal with the negotiation process, the "contract" concept, grievance mechanisms, discipline matters, due process, employee counseling and performance appraisals.

Three chapters are written with a California viewpoint, with references to California statutes and legal decisions;

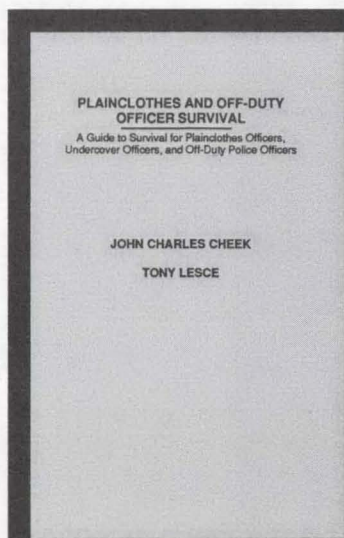
yet, readers outside California have much to gain from these chapters. For example, the chapter dealing with the memoranda of agreement provides answers for many questions, including who will draft the agreement clauses, when to draft, what words to use, and which traps to avoid.

Should a department be considering to develop or improve the grievance procedure, one chapter covers the pros and cons of the most common processes. Another chapter discusses the evolution of performance appraisal system and concludes that the most important aspect of an appraisal system is the rating supervisor who observes, evaluates, and provides feedback in a way that displays concern for the person and organization. It also provides insight into what makes a reliable and valid system and discusses the training necessary for implementation. Other chapters explore, equally well, related aspects of the labor/management relationship.

While each chapter could be expanded to book length to be covered extensively, this book offers precise and good advice for the improvement of police/management relations.

Police Management-Labor Relations can be a valuable resource and a good reference book for the law enforcement executive, police union leader or government administrator.

Reviewed by
SA Walt H. Sirene
Management Science Unit
FBI Academy
Quantico, Virginia



Plainclothes and Off-Duty Officer Survival, by John Charles Cheek and Tony Lesce, Charles C. Thomas, Springfield, Illinois, 1988.

As the title suggests, this book stresses survival skills for the plainclothes and off-duty police officer. In addition, it presents valuable suggestions and points to consider for all law enforcement officers. In addition to providing suggestions for dealing with the many dangerous situations that officers face every day, the book presents useful ideas that could be adopted into training programs. However, as is the case with many books of this type, several conclusions the authors make may not always be suitable for use, since they are based solely on statistical experiences of the law enforcement profession, rather than on actual street experience.

This shortcoming is demonstrated clearly in the discussion of shooting techniques. The book cites the studies

and experiences of New York's SOP-9 Report (a study that included all New York City Police Department personnel, uniformed and plainclothes), which found that 70% of the officers did not use their gun sights in real-life shootings. From this finding, the authors conclude that a shooting technique, such as the two-handed Weaver stance, is unreliable and should be discarded in favor of the one-hand grip which, they say, is most used by police. In this discussion, however, the authors failed to analyze an important statistic from the SOP-9 Report—the actual percentage of “hits” on subjects never exceeded 25%. If this were adequately considered, an entirely different conclusion could have been reached; that the one-hand shooting technique may not provide for sufficient accuracy.

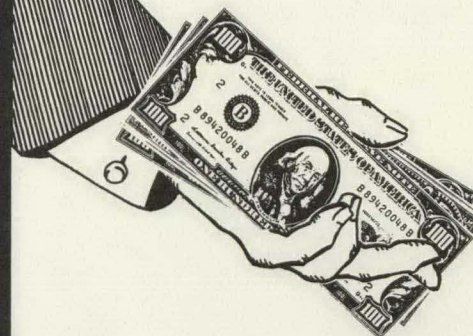
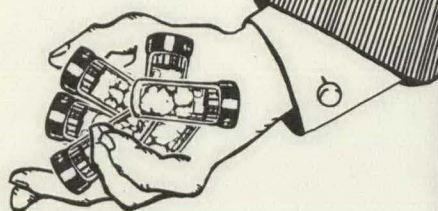
This book is best when it portrays difficult situations that present a potential danger to the officers and others and then suggests techniques to reduce the risks. One section recounts the mistakes made by two officers while they were canvassing a bar in the area where a robbery suspect had been spotted. The book then offers concrete suggestions and tips that may help officers avoid similar mistakes.

Except for certain conclusions drawn from insufficient data and real-life experiences, this book provides good basic information for law enforcement officers to consider as they encounter difficult situations.

*Reviewed by
SA Phillip Krumm
Firearms Training Unit
FBI Academy
Quantico, Virginia*

Laundering Drug Money

By
CARL P. FLOREZ
and
BERNADETTE BOYCE



Money laundering is perceived by law enforcement as the most difficult area of drug trafficking to understand, much less penetrate with traditional investigative tools. Part of the difficulty is not knowing the who, what, where, and how of money laundering schemes. Yet, recent investigations have successfully penetrated and dismantled several Colombian money laundering organizations.

Within the past 3 years, the Federal Bureau of Investigation (FBI), the Drug Enforcement Ad-

ministration (DEA), and the U.S. Customs Service concluded major undercover operations that led to the seizure of both drugs and money and the identification of money laundering organization members. In both Operation CASHWEB (FBI) and Operation PISCES (DEA), agents infiltrated the highest levels of Colombian drug traffickers and money launderers operating in the United States, Canada, Mexico, Panama, Colombia, the Bahamas, Aruba, the Cayman Islands, and the Turks and Caicos Islands. Operation C-CHASE, a Customs investiga-

tion, resulted in the indictment of 85 individuals, including several officials affiliated with international banks.

In each case, undercover agents positioned themselves inside the money laundering organizations, where they observed people collecting drug money. They learned how and to where the money was sent, and in some cases, identified the people who received the laundered funds. Those indicted were successfully prosecuted for violations of U.S. Code Title 21 (The Controlled Substance Act),

Title 31 (The Bank Secrecy Act), and various Title 18 violations, including The Money Laundering Control Act.

This article examines Colombian money laundering by describing who money launderers are and how they launder money. It presents a typical situation and then gives an account of the three-step money laundering process.

AN OVERVIEW

Drug trafficking revenues are estimated to be as high as \$300 billion annually worldwide, one-third of which is collected in the United States.¹ The Internal Revenue Service (IRS) estimates that traditional organized crime figures report only 40% of their income.² Colombian drug traffickers report even less, and in many instances, remove all their cash assets from the United States. Recently, Federal agents seized \$20 million from Colombian money launderers preparing to send the money to Colombia.³

Because criminals have to do something with their money besides just accumulating it, they try to conceal the origin of the cash using legitimate interests. Money laundering is the process that conceals and converts illegally earned cash to another payment medium by altering the appearance of the money's origin from illegal to legal.⁴

THE COLOMBIAN MONEY LAUNDERER

Many Colombian money launderers have legitimate businesses involved in the flow of cash between the United States and Colombia, making them natural conduits for drug traffickers to use. Others are associated with black

market exchange houses in Colombia or are freelance operators travelling to and from Colombia, the United States, and Panama for the sole purpose of laundering drug-generated monies.

For many of these operators, money laundering is socially acceptable. They rationalize that they are involved in the money market, not in the drug trade. They usually avoid using couriers or hiring employees who have criminal records or have any type of associa-

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Drug trafficking revenues are estimated to be as high as \$300 billion annually worldwide....
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tion with drugs. These money launderers make every effort to separate the two worlds of drug trafficking and money laundering. Yet, while they mentally disassociate themselves from the drug trade, they use high-tech devices, countersurveillances, and clandestine meetings to conceal their activities from law enforcement.

Many launderers operating in Colombia are naturalized citizens who immigrated to Colombia before the drug traffickers gained power through their illegal enterprises. With their vast financial skills and expertise, they were quick to join the drug traffickers as their reign of influence expanded. Working in the major cities of Cali,

Bogota, Medellin, and Barranquilla, the money launderers move the traffickers' cash through intricate international networks that hide the original source of the cash.

A TYPICAL TRANSACTION

Colombian money laundering operations are usually run by people in Colombia with ties to a money exchange house. A typical transaction begins when a launderer asks a drug trafficker, with whom he has direct contact, if money needs to be moved out of the United States. If drug money is available for transfer, the trafficker gives the launderer the necessary information to make the pickup.

While the drug trafficker's distribution organization collects the money to take to a certain city on a specified date, the money launderer instructs his U.S. broker to have a courier at this mutually agreed on transfer point. After making the connection with the distribution organization, the courier delivers the cash to whomever the broker is using to move the money out of the country. The money is then wire-transferred through several foreign accounts before it is forwarded to Colombia.

Those involved in the transfer process get paid based on either a preset amount for each transaction or a percentage of the amount of cash moved. Percentages may range from as low as 1 percent to as high as 8 percent. For instance, on a \$1 million transfer, a U.S. broker may get 5 percent or \$50,000 for moving the money out of the country.⁵

Both the CASHWEB and PISCES undercover operations placed operatives in a position to facilitate the movement of cash

received from couriers in the United States to Panamanian banks. This allowed law enforcement to identify the money laundering organizations, as well as the drug supply and distribution rings. Two undercover agents in Operation CASHWEB, both Anglo-Americans who spoke very little Spanish, were accused numerous times of being "Federales" (police officers); yet, the Colombians continued to use their services because their money delivery system was efficient and reliable.

THE MONEY LAUNDERING PROCESS

Money laundering is a three-step process. First, illicit money is generated from the distribution and sale of drugs. Second, the money is turned over to a money launderer for transfer out of the United States. Third, the money is moved out of the country into international channels by wire transfers, conversion, or smuggling. What follows is a brief discussion of the three ways money is moved out of the United States.

Wire Transfer

The use of wire transfers depends on a U.S.-based financial institution willing to accept huge cash deposits. One way to accomplish this is simply to bribe key bank personnel. Between 1980 and 1981, drug traffickers bribed the head teller, a loan officer, and the vice-president of the Great American Bank in Miami. The bank then processed large amounts of cash for a fee, which was divided among the three individuals and the bank. In exchange, the three employees agreed not to file curren-

cy transactions reports (CTRs), which are required by law for deposits over \$10,000. The employees also issued cashier checks disguised as loan proceeds to the traffickers and made wire transfers. Within a 13-month period, the bank laundered \$94 million.⁶

Some launderers avoid using bribery of bank officials by making several deposits under \$10,000 and only one large deposit. By doing so, only one CTR is generated, which

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**For the most part,
Colombians use
their illicit monies to
reinvest in the drug
trade....**
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usually does not flag Federal investigators. These deposits can be either cash, converted money orders, cashier checks, or another negotiable instrument. Launderers may also make single large deposits in rural banks throughout the United States, transfer the funds to a central domestic bank account, and then move the entire amount in a single transaction.

Conversion

The conversion method of money laundering is a lengthy process, but is used by many launderers because of the relative ease of carrying paper documents out of the United States. This method starts when the money launderer receives a large amount of cash, usually in small denomination

bills, from the trafficker's distribution network. The central money launderer then hires 5 to 10 persons to go to different banks, post offices, or other places that sell cashier checks, money orders, or travelers checks. Those hired purchase cashier checks for under \$10,000, to avoid the CTR reporting regulations, or money orders for \$500, which are then used to purchase larger cashier checks. The converted items are then moved out of the country by mail, through commercial shipping, or by someone hired to take a flight out of the country.

For example, during a typical pre-boarding passenger check of a flight from Miami to Bogota, U.S. Customs agents discovered a woman carrying several cashier checks totaling \$40,000. Each check was made out to her for an amount less than \$10,000. Also, an additional \$40,000 was sewn into the lining of her purse and taped under her arms.

Converted items can also be deposited in a domestic bank and then wire transferred to a foreign bank account. A good operation can easily convert \$1 million in one day, using 10 people with \$100,000 each to complete 15 to 20 transactions.

Smuggling

The third method for transferring illicit cash is smuggling, although this is not a preferred method because it increases the possibility of loss through accident, theft, or seizure by authorities. Any money launderer who accepts a consignment of cash is responsible for it from the time of pickup until it is delivered to the trafficker in Colombia. If something happens to the

money, he must be prepared to make good the loss.

Also, smuggling money is not an easy task. Drug money can be bulky and heavy because it usually consists of large amounts of small denomination bills. For instance, a suitcase filled with \$1 million in \$20 bills would weigh just over 100 pounds.

To smuggle money, money launderers usually hire a "mule," a person paid to physically transport the cash or converted items out of the country on their persons or in their luggage. Some launderers hide the cash in items for export, such as cars, televisions, or stereos. It is not uncommon for traffickers to provide the money launderers with the items to be used for smuggling purposes. As can be surmised, many money launderers operate legitimate import/export companies.

Launderers also use private airplanes to smuggle cash out of the United States. In one investigation, U.S. Customs agents seized a Lear jet in Texas, as it was preparing to cross the border with \$5 million in cash on board.⁷ Smuggling money out of the country by private aircraft is usually used when exchange rates are high and the launderer wants to use the trafficker's money to realize a profit over and above his fee by exchanging U.S. dollars for Colombian pesos.

For the most part, Colombians use their illicit monies to reinvest in the drug trade and to purchase real estate and other assets in Colombia. Once in Colombia, the illegally generated monies appear as legitimate funds free of the taint of criminality. Even so, most of the people in Colombia know that the vast wealth of certain individuals is

directly attributable to the drug trade.

MONEY LAUNDERING ORGANIZATIONS

The numerous groups involved in money laundering are in constant competition for drug traffickers' business. Competition is reflected in the percentage rates charged. For instance, a cash smuggler might request a 5-percent fee,

“
...law enforcement agencies can make a significant impact by continued investigations into money laundering organizations.
”

while a wire transfer group might charge 8 percent. Wire transfer provides a fast means of moving money with little risk of loss to the trafficker. However, the launderer's use of legitimate banks creates a paper trail, increasing the risk of exposure to law enforcement. Hence, the higher rate.

The group with the best contacts and the best business record (no seizures, no losses, no arrests) usually handles the most money. A good money laundering organization can easily handle \$100 million or more each year.

CONCLUSION

Law enforcement officials throughout the United States are

repeatedly frustrated when they learn of the vast amounts of monies reaped by Colombian drug traffickers from their criminal enterprises. However, successful Federal undercover investigations have targeted money laundering organizations to strike at the profits of that criminality.

Coupled with traditional investigations of organized drug trafficking groups, law enforcement agencies can make a significant impact by continued investigations into money laundering organizations. The results of these investigations are taking the profit out of the drug trade, one of the keys to stem the flow of drugs into this Nation.

LEB

Footnotes

¹ "Drug Money Soils Cleanest Hands," *Insight*, August 21, 1989, p. 9.

² Wharton Econometric Forecasting Associates, "The Income of Organized Crime," in *The President's Commission on Organized Crime: The Impact, Organized Crime Today* (Washington, DC: Government Printing Office, 1986), p. 486.

³ "\$20 Million Seized, 11 Arrested in N.Y.," *The Washington Post*, January 6, 1989, p. 4A.

⁴ Clifford L. Karchmer, *Illegal Money Laundering: A Strategy and Resource Guide for Law Enforcement Agencies* (Washington, DC: Police Executive Research Forum, 1988), p. 4.

⁵ Information drawn from conversations with money launderers and observation of their activities.

⁶ *President's Commission on Organized Crime, The Cash Connection: Organized Crime, Financial Institutions, and Money Laundering* (Washington, DC: Government Printing Office, 1985), pp. 39-41.

⁷ The money was seized by agents during Operation GREENBACK. This information was obtained from an interview with a U.S. Customs agent.

SA Florez and Ms. Boyce are assigned to the Economics and Financial Crimes Training Unit at the FBI Academy.

Money Laundering Q & A

Q : How can agencies work effectively together to curtail international money laundering?

A : Coordination among agencies investigating money laundering violations is the key to the Government's overall effectiveness. Much depends on the commitment of each signatory agency to the *Memorandum of Understanding Between the Secretary of Treasury and the Attorney General Pursuant to the Money Laundering Act of 1986* to adhere to its provisions. Mutual notification of activity concerning enforcement of Title 18, U. S. Code, Sections 1956 and 1957 is the essence of that agreement.

Money laundering bridges many statutes over which the FBI has primary jurisdiction. "Specified Unlawful Activity" listed in the Money Laundering Act of 1986 covers such diverse violations as drug trafficking, embezzlement, bribery, bank fraud, kidnapping, mail and wire fraud, RICO predicates, and espionage.

Each agency in pursuit of money launderers must determine the scope of the greater conspiracy which employs the services of the launderers before concluding any investigation. Addressing launderers in isolation is equal to treating a symptom of a disease rather than the causes of the disease.

Q : Has the concept of assigning overall responsibilities for combating financial crimes (including money laundering) to one agency ever been considered?

A : No. Financial crimes, including money laundering, are associated with many violations over which many agencies have jurisdiction and expertise. No one Federal agency has the resources or the capability to address all financial crimes while at the same time pursuing the overriding conspiracy of which the financial aspect is but a motivation. Like financial crimes, violence is also a common thread in many Federal violations—bank robberies, drug trafficking, terrorist incidences, weapons smuggling, etc. However, there have been no rational suggestions that one agency address all violent crimes.

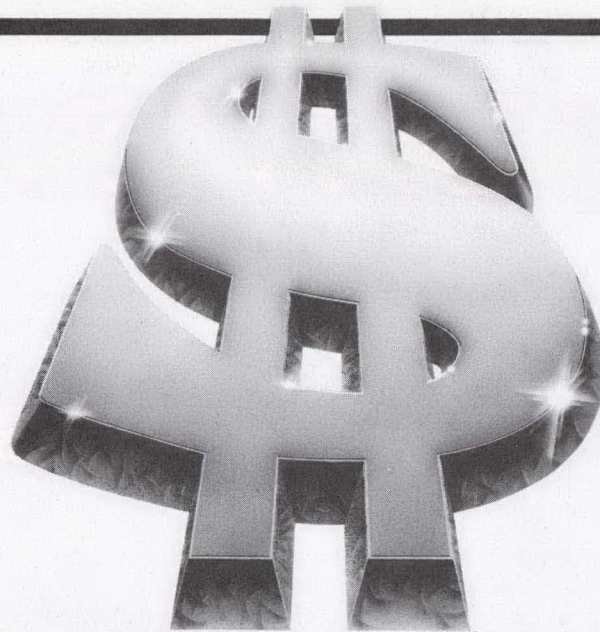
Q : How successful have Federal agencies been in conducting investigations into money laundering operations?

A : The skills and expertise in money laundering matters of the FBI, DEA, IRS, and U.S. Customs Service became readily apparent in a joint investigation of Colombian drug organizations codenamed POLAR CAP. The most expansive joint operation ever waged against a drug money laundering apparatus, POLAR CAP has so far resulted in the arrest of 33 conspirators and the seizure of \$45 million in assets. Also, the FBI's CASHWEB/EXPRESSWAY case, a 3-year undercover operation in which the IRS participated, successfully penetrated three money-laundering organizations serving three of the largest Colombian drug trafficking organizations. The undercover operation, combined with 19 court-authorized electronic surveillances in 9 FBI field divisions across the country, led to 137 indictments, the seizure of 2,000 pounds of cocaine, 22,000 pounds of marijuana, and \$14.7 million in cash. An additional \$300 million was traced to foreign banks.

Q : How does the FBI approach money laundering?

A : The FBI addresses international money laundering as part of all its drug investigations and in white-collar crime cases where disguising illicitly obtained funds is necessary to enhance and insulate the main criminal conspiracy. The FBI views money laundering, like public corruption, as a supporting mechanism of the criminal conspiracy. To address money laundering separately dilutes the impact of the principal strategic focus of the FBI's drug program—dismantling drug organizations, arresting their leadership, and then seizing and forfeiting their illicit profits. Therefore, the FBI's National Drug Strategy (NDS) dictates that money laundering be addressed in all drug cases and does not have money laundering pursuits as a separate line item.

LEB



Forfeiture of Attorney's Fees

By
KIMBERLY A. KINGSTON, J.D.

“A man may as well open an oyster without a knife, as a lawyer’s mouth without a fee.”¹

It is no great surprise that drug traffickers earn several billion dollars each year in illegal profits. Equally unsurprising is the fact that a substantial portion of those profits end up in the pockets of high-priced defense attorneys hired to defend the drug traffickers in Federal prosecutions. This profitable partnership, however, may be coming to an end.

Through forfeiture statutes, Congress has given the Federal Government the opportunity to finance the war on drugs by seizing and forfeiting the drug traffickers’ illegally obtained assets. Moreover, in two recent decisions, *United States v. Monsanto*² and *Caplin & Drysdale, Chartered v. United States*,³ the U.S. Supreme Court held that the government’s ability to forfeit extends to drug assets needed or used to pay attorneys’ fees. This article will briefly examine the history of these two cases and discuss

the reasoning behind these landmark decisions.

CASE HISTORIES

In *Monsanto*, a Federal indictment was returned against the defendant alleging, among other things,⁴ that he created a continuing criminal enterprise.⁵ Additionally, the indictment alleged that a home, an apartment, and \$35,000 in cash were acquired by defendant as a result of drug trafficking and these assets were, therefore, subject to forfeiture under the provisions of

the Federal Comprehensive Forfeiture Act of 1984 (CFA).⁶ On the day the indictment was made public, the government sought and obtained an order restraining the sale or transfer of the indicted assets pending trial.⁷ The defendant subsequently moved to vacate that order on the grounds that the frozen assets were necessary to retain an attorney. The defendant's motion was denied by the district court,⁸ and he proceeded to trial with the assistance of court-appointed counsel.

In the midst of defendant's trial, the Second Circuit Court of Appeals⁹ reviewed the district court's restraining order and decreed that it be modified to permit the frozen assets to be used to pay attorneys' fees. The defendant was then offered the opportunity to hire private counsel. However, since final arguments were about to begin in the 4-month trial, the offer was declined. The defendant was ultimately convicted of the charges

against him, and the jury returned a special verdict finding the assets in question forfeitable beyond a reasonable doubt.

In separate actions, defendant appealed his conviction, and the government sought Supreme Court review of the order releasing defendant's assets to pay attorneys' fees. While defendant's appeal was pending, the Supreme Court agreed to hear arguments on the issue of forfeiture of attorneys' fees.¹⁰

On the same day the government argued its case in *Monsanto*, the Supreme Court heard oral arguments in the *Caplin* case. *Caplin* was initiated when the defendant, Christopher Reckmeyer, was charged in a multicount Federal indictment with running a massive drug importation and distribution operation as part of a continuing criminal enterprise. The indictment alleged that specific assets in Reckmeyer's possession¹¹ were forfeitable under the CFA as proceeds

of his drug trade. Consequently, the district court entered an order restraining the sale or transfer of any of the potentially forfeitable assets. Notwithstanding this order, Reckmeyer paid the law firm of Caplin & Drysdale \$25,000¹² for preindictment legal services and moved for the release of additional assets to pay post-indictment legal fees. However, before the district court had an opportunity to act on Reckmeyer's motion, a plea agreement was reached. Under the terms of the agreement, Reckmeyer pleaded guilty to the continuing criminal enterprise charge and agreed to forfeit all the assets named in the indictment. Subsequently, the district court sentenced Reckmeyer on the criminal charges and entered an order forfeiting virtually all of his assets.

Following the forfeiture order, the law firm of Caplin & Drysdale petitioned the district court to release the \$25,000 already paid to the firm and an additional \$170,000 of Reckmeyer's forfeited assets to compensate for legal services rendered. The district court granted the firm's petition, and that decision was affirmed by a panel of the Fourth Circuit Court of Appeals.¹³ On review, however, the fourth circuit, sitting en banc, reversed the order granting the law firm a share of Reckmeyer's forfeited assets.¹⁴ The Supreme Court subsequently granted the law firm's petition for review.¹⁵

When arguing before the Supreme Court, the parties opposing forfeiture of attorneys' fees in both *Monsanto* and *Caplin* raised a



Special Agent Kingston is a legal instructor at the FBI Academy.

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...the right to counsel
of one's own choice
is not an absolute
right.”

number of statutory, constitutional, and ethical issues.

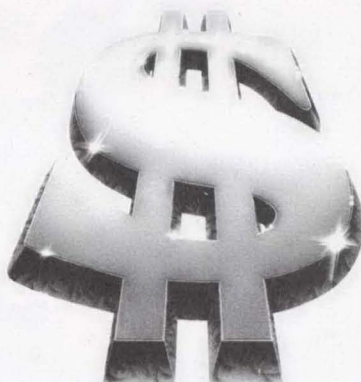
STATUTORY ISSUES

With respect to the statute, the Supreme Court was confronted with three questions:

- 1) Did the wording of the CFA permit the forfeiture of funds needed to pay an attorney?
- 2) If the language of the statute does permit forfeiture of attorneys' fees, should a court-created exception be fashioned?
- 3) Did Congress intend the forfeiture of attorneys' fees?

To answer the first question, the Court looked to the actual language of the statute. Specifically, §853(a) of the CFA provides, in part, that "any property constituting, or derived from...proceeds...obtained directly or indirectly" from a felony violation of the Federal drug laws shall be subject to forfeiture upon conviction.¹⁶ Additionally, §853(c) of the Act states that "any right, title or interest in [forfeitable] property...vests in the United States upon the commission of the act giving rise to [the] forfeiture."¹⁷ This latter provision is often referred to as the "doctrine of relation back."

The combined effect of these two provisions is that the Federal Government's title to any asset derived from drug trafficking relates back to the moment those assets were illegally acquired. Any subsequent efforts on the part of the drug trafficker to avoid the effects of forfeiture by selling,¹⁸ trading or giving away assets are futile because the trafficker no longer possesses lawful title to those assets.



“
'The privilege to practice law...is not a license to steal.'
”

After reviewing these provisions, the Court found that the language of the statute was "plain and unambiguous,"¹⁹ and there was not even a "hint...that assets used to pay an attorney are not 'property' within the statute's meaning."²⁰

Having determined that the language of the statute clearly permit the forfeiture of funds needed or used to pay an attorney, the Court next considered whether an exception should be created that would exempt attorneys' fees. Proponents of this position argued on the grounds that the statute did not specifically include attorneys' fees in its definition of property subject to forfeiture.²¹ The Court, however, reemphasized its finding that the CFA provisions at issue are "broad and unambiguous"²² and noted that "Congress' failure to supplement §853(a)'s comprehensive phrase—'any property'—with an ex-

clamatory 'and we even mean assets to be used to pay an attorney' does not lessen the force of the statute's plain language."²³

Finally, the Court looked behind the statute for any indication that Congress intended to exclude attorneys' fees from forfeiture. To the contrary, the Court discovered that Congress had refused repeated efforts on the part of the defense bar to create an exception for attorneys' fees. Congress' failure to act on these efforts, even though it had amended the CFA in other areas, belied any intent on the part of Congress to exclude attorneys' fees.²⁴ Rather, the Court found that Congress, when enacting the CFA, "decided to give force to the old adage that 'crime does not pay.'"²⁵ The Court found "no evidence that Congress intended to modify that nostrum to read 'crime does not pay, except for attorneys' fees.'"²⁶

Having concluded that there were no statutory impediments to the forfeiture of attorneys' fees, the Court next considered whether such forfeitures would violate any constitutional protections.

CONSTITUTIONAL ISSUES

Those opposed to forfeiture of attorneys' fees raised several constitutional arguments in support of their position. These arguments were grounded in both the sixth amendment's guaranteed right to counsel and the fifth amendment's due process protection.

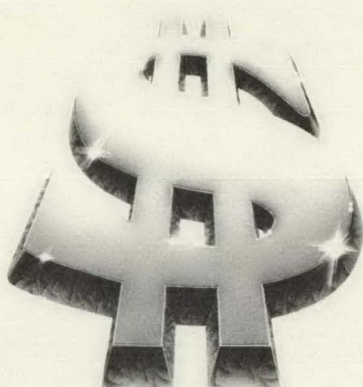
Sixth Amendment Argument

The sixth amendment to the U.S. Constitution guarantees that "[i]n all criminal prosecutions, the accused shall enjoy the right...to

have the assistance of counsel for his defense.”²⁷ This amendment has been interpreted by the Supreme Court to give a defendant the right to an attorney of his own choosing.²⁸ It is this right to “counsel of choice” that opponents of forfeiture claimed was made “impossible, or at least impermissibly burdensome,”²⁹ by the forfeiture laws. Without access to their assets, defendants are unable to secure the services of their preferred attorneys.

Although recognizing the right to “counsel of choice” as one of its own progeny, the Supreme Court took a much more limited view of the scope of that right. According to the Court, the right to counsel of one’s own choice is not an absolute right. Rather, a defendant has only the right to the assistance of counsel that can be secured with his own funds. If his own funds are insufficient, then he will be adequately represented by an attorney appointed by the court. In other words, “a defendant may not insist on representation by an attorney that he cannot afford.”³⁰

Applying these principles to the cases before it, the Supreme Court observed that there was nothing in the CFA that prohibits a defendant from hiring the attorney of his choice. The Court pointed out that under the statute, only forfeitable assets can be frozen. Accordingly, there is nothing to prevent a defendant from using his nonforfeitable assets to pay an attorney. Moreover, it is possible that defendants without nonforfeitable assets, like Reckmeyer, would be able to secure representation by attorneys willing to take the chance



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**‘...a defendant may
not insist on
representation by
an attorney that he
cannot afford.’**
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that their fees would be paid in the case of an acquittal.³¹ Obviously, in such situations, there is no interference with the right to counsel of choice.

The real linchpin of the opponents’ arguments, however, focused on those instances when a defendant is unable to retain the attorney of his choice because of the unavailability of his assets or due to the risk that any fees paid to the attorney would later be forfeited to the government. It is in these instances, argued the opponents, that the sixth amendment right to counsel is infringed.

Finding this argument “untenable,”³² the Supreme Court compared the drug trafficker to a

common robbery suspect and made the following observations:

“Whatever the full extent of the Sixth Amendment’s protection of one’s right to retain counsel of his choosing, that protection does not go beyond ‘the individual’s right to spend his own money to obtain the advice and assistance of...counsel.’ A defendant has no Sixth Amendment right to spend another person’s money for services rendered by an attorney, even if those funds are the only way that defendant will be able to retain the attorney of his choice. A robbery suspect, for example, has no Sixth Amendment right to use funds he has stolen from a bank to retain an attorney to defend him if he is apprehended.”³³

Like the robbery suspect, the drug trafficker with no legitimate funds is entitled to court-appointed counsel. He is not, however, entitled to use the government’s money to pay the attorney of his own choosing.

When putting the sixth amendment right to counsel issue to rest,³⁴ the Court took the opportunity to remind attorneys that they are not above the law; lawyers have no right to accept illegal proceeds in payment of their fees. “The privilege to practice law,” noted the Court, “is not a license to steal.”³⁵

Fifth Amendment Argument

With the sixth amendment right to counsel issue resolved, the Court next considered whether the forfeiture provisions of the CFA

violated the fifth amendment's due process clause.

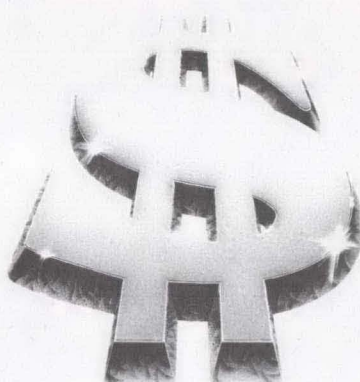
The fifth amendment guarantees, in part, that "[n]o person shall be...deprived of life, liberty, or property, without due process of law...."³⁶ The Supreme Court has held that the essence of the due process clause is "fair play."³⁷ It is this notion of fair play that opponents of forfeiture claimed could be violated by those portions of the CFA that permit forfeiture of attorneys' fees. Specifically, it was alleged that the power to forfeit assets needed to retain an attorney could be used by the government to "upset the 'balance of forces between the accused and the accuser'"³⁸ to such a degree that it would be a denial of due process.

Rejecting this argument, the Court noted that the forfeiture provisions of the CFA provided the government with a very powerful weapon. Just like any other weapon, its impact could be devastating if used unfairly.³⁹ However, the Court found no reason to declare the entire process unconstitutional. Instead, the Court assured those concerned that specific abuses of the forfeiture provisions could be dealt with by the lower courts when, and if, such cases arise.⁴⁰

Having found all fifth and sixth amendment challenges to the forfeiture of attorneys' fees to be without merit, the Court next turned its attention to the ethical considerations.

ETHICAL ISSUES

Three additional arguments were raised by the parties opposing forfeiture, all of which involved



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**...the government's
ability to forfeit
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possible ethical conflicts confronting lawyers defending drug traffickers whose assets are potentially subject to forfeiture.

First, opponents pointed to a portion of the CFA that exempts from forfeiture transfers made to persons "reasonably without cause to believe that the property was subject to forfeiture."⁴¹ This provision, it was argued, would encourage an attorney to be less than thorough when investigating his client's case so as to protect from forfeiture any fees he has received. However, the Court recognized that the only way an attorney could avail himself of this exemption would be to fail to read the indictment charging his client which, under the provisions of

the CFA, must list forfeitable assets. Concluding that this situation was never likely to occur, the Court rejected opponents' first argument.

Next, it was contended that an ethical conflict could arise during the plea bargaining stage. A lawyer might be tempted to encourage his client to accept a plea agreement that entailed a longer prison sentence, but no forfeiture, in order to protect the attorney's fee. Not persuaded by this argument, the Court stated that giving into this temptation would constitute ineffective assistance of counsel, which could be adequately dealt with under existing case law.⁴²

Finally, it was posited that the forfeiture provisions of the CFA create a system "akin to 'contingency fees' for defense lawyers; only a defense lawyer who wins acquittal for his client will be able to collect his fees."⁴³ Such contingency fee systems, it was argued, are considered unethical in criminal cases by many States and the American Bar Association. In response, the Court expressed doubt that the CFA created such a contingency fee system and noted that many defense attorneys are unable to collect their fees unless they win acquittals for their clients. Moreover, the Court found that even if the CFA created a contingency fee system that is considered "at odds with model disciplinary rules or state disciplinary codes, [it would] hardly render the federal statute invalid."⁴⁴

CONCLUSION

Having exhausted all opponents' arguments, The Supreme Court in *Monsanto* and

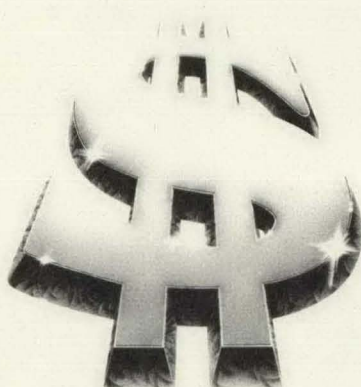
Caplin conclusively determined that there are no statutory, constitutional, or ethical impediments to the forfeiture of attorneys' fees under the criminal provisions of the CFA. Of course, there are numerous other statutes, both State and Federal,⁴⁵ that arguably permit the forfeiture of assets needed or used to pay attorneys' fees. Because the language of these statutes will undoubtedly differ from that of the CFA, there is some room for lower courts to determine that these other statutes, by their wording, do not allow for the forfeiture of attorneys' fees. There is, however, no longer any doubt that such forfeitures are both constitutional and ethical.

Law enforcement officers who are empowered to seek forfeiture under the provisions of the CFA or similar statutes should be encouraged by the decisions in *Monsanto* and *Caplin*. Legislators, by adopting forfeiture statutes, have given the government an effective weapon to use in the fight against illicit drugs. That weapon has become much more powerful as a result of the Supreme Court's decision in these two cases.

LEB

Footnotes

- ¹ Barten Holyday, *Technogamia*, ii, 5.
- ² 109 S.Ct. 2657 (1989) [hereinafter cited as *Monsanto*].
- ³ 109 S.Ct. 2646 (1989) [hereinafter cited as *Caplin*].
- ⁴ Monsanto was also charged with violating the racketeering, tax and firearms laws in connection with his heroin operation.
- ⁵ 21 U.S.C. §848.
- ⁶ 21 U.S.C. §853(a).
- ⁷ The restraining order was granted on an *ex parte* motion made by the government pursuant to 21 U.S.C. §853(e)(1)(A).
- ⁸ The decision of the district court was reviewed by the Second Circuit Court of Appeals. On review, the court found no basis for defendant's statutory or constitutional challenges to the forfeiture. The court did, however, remand the case to the district court for an ad-



“ Like the robbery suspect, the drug trafficker with no legitimate funds is entitled to court-appointed counsel. ”

versarial hearing in which the government would have to demonstrate the likelihood that assets in question were forfeitable. On remand, a hearing was held and the government succeeded in overwhelmingly establishing the likelihood of forfeiture. *Monsanto*, supra note 2, at 2661.

⁹ The second circuit vacated its earlier opinion and heard defendant's appeal en banc.

¹⁰ 109 S.Ct. 363 (1988).

¹¹ The specified assets included valuable gems, \$200,000 in U.S. currency and several parcels of real property, one of which was valued at \$5.3 million.

¹² The law firm placed the \$25,000 in an escrow account pending the outcome of this case.

¹³ *United States v. Harvey*, 814 F.2d 905 (4th Cir. 1987).

¹⁴ 837 F.2d 637 (4th Cir. 1988).

¹⁵ 109 S.Ct. 363 (1988).

¹⁶ 21 U.S.C. §853(a).

¹⁷ 21 U.S.C. §853(c).

¹⁸ 21 U.S.C. §853(c) creates an exemption for the bona fide purchaser for value of forfeitable property who, at the time of purchase, was reasonably without cause to believe that the property was subject to forfeiture.

¹⁹ *Monsanto*, supra note 2, at 2662.

²⁰ *Id.*

²¹ 21 U.S.C. §853(b) defines “property” as follows:

- (1) real property, including things growing on, affixed to, and found in land; and
- (2) tangible and intangible personal property, including rights, privileges, interests, claims and securities.

²² *Monsanto*, supra note 2, at 2663.

²³ *Id.*

²⁴ *Id.* at 2663-64.

²⁵ *Id.* at 2665.

²⁶ *Id.*

²⁷ U.S. Const. amend. VI.

²⁸ *Wheat v. United States*, 486 U.S. 153 (1988).

²⁹ *Caplin*, supra note 3, at 2651-52.

³⁰ *Id.* at 2652.

³¹ *Id.*

³² *Id.*

³³ *Id.*, quoting *Walters' v. National Association of Radiation Survivors*, 473 U.S. 305, 370 (Stevens, J., dissenting).

³⁴ An additional sixth amendment argument was advanced by the American Bar Association as *Amicus Curiae*. This argument claimed that requiring a defendant in a CCE or RICO case to rely on court-appointed counsel would result in a type of ineffective assistance of counsel “*per se*” because of the complex nature of such cases. This argument was rejected by the Court when it recognized that such a position would preclude the prosecution of indigents on such charges because those persons would have to rely on appointed counsel. *Caplin*, supra note 3, at 2655 n. 7.

³⁵ *Id.*, at 2653, quoting *Laoka v. United States*, 82 F.2d 672, 677 (10th Cir. 1936).

³⁶ U.S. Const. amend. V.

³⁷ *Galvan v. Press*, 74 S.Ct. 737 (1954).

³⁸ *Caplin*, supra note 3, at 2656, quoting *Wardius v. Oregon*, 412 U.S. 470, 474 (1973).

³⁹ *Id.* at 2657.

⁴⁰ *Id.*

⁴¹ 21 U.S.C. §853(c).

⁴² See, e.g., *Strickland v. Washington*, 466 U.S. 668 (1984).

⁴³ *Caplin*, supra note 3, at 2656, n. 10.

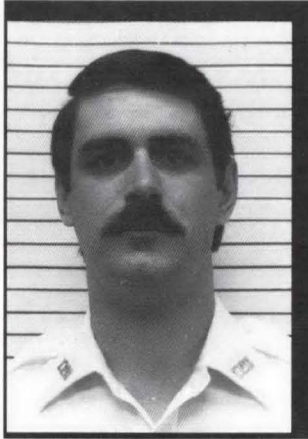
⁴⁴ *Id.*

⁴⁵ For other Federal statutes having forfeiture provisions, see Controlled Substances Act, 21 U.S.C. §881; Organized Crime Control Act of 1970, 18 U.S.C. §§1963 and 1955(d); Copyrights Act, 17 U.S.C. §§506(b) and 509(a); and Child Protection Act of 1984, 18 U.S.C. §§2253 and 2254.

Law enforcement officers of other than Federal jurisdiction who are interested in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

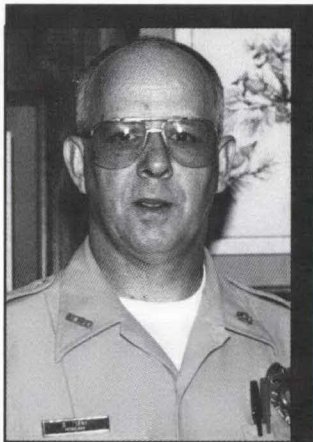
The Bulletin Notes

Law enforcement officers are challenged daily in the performance of their duties; they face each challenge freely and unselfishly while answering the call to duty. In certain instances, their actions warrant special attention from their respective departments. The *Bulletin* also wants to recognize their exemplary service to the law enforcement profession.



Officer Laney

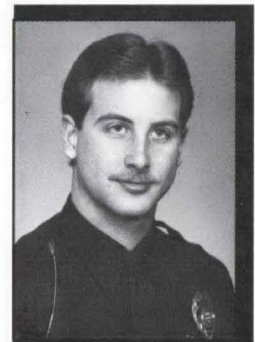
Officer Stark Laney of the Troy, Alabama, Police Department responded to a fire at an apartment complex. After learning that a mother and infant were still in their apartment, Officer Laney entered the burning building, and with the aid of two firefighters, he was able to locate the unconscious victims and bring them to safety.



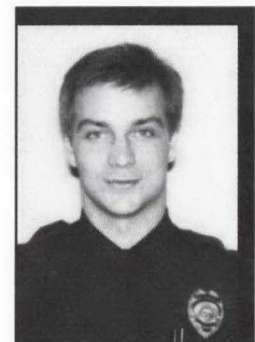
Officer Beseny

Officer Donald Beseny of the Munhall, Pennsylvania, Police Department was one of several officers responding to a hostage situation in which a suspect, after a thwarted robbery attempt, held a knife to a woman's throat and attempted to flee. While other officers blocked possible escape routes, Officer Beseny positioned himself so that he could not be observed by the assailant. When the officers were able to distract the man briefly, Officer Beseny tackled him. After a brief struggle, in which he again attempted to flee, the suspect was subdued and taken into custody.

While on night patrol after a recent snowstorm, Officers Mark Adams and Joseph Kidwell of the Fairlawn, Ohio, Police Department observed tire tracks in the snow that veered off the roadway and out of sight. The officers searched the area and located a car at the bottom of a 30-foot ravine. They radioed for emergency teams and assisted in rescuing the driver, who had sustained severe lacerations and was suffering from hypothermia.



Officer Adams



Officer Kidwell

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