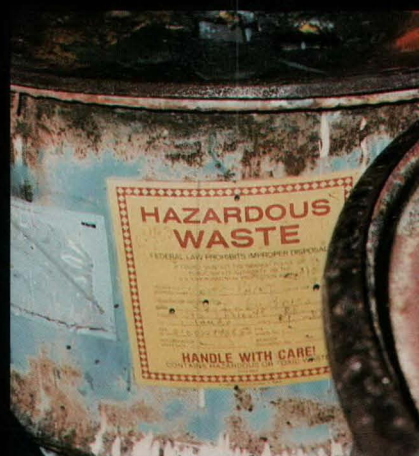
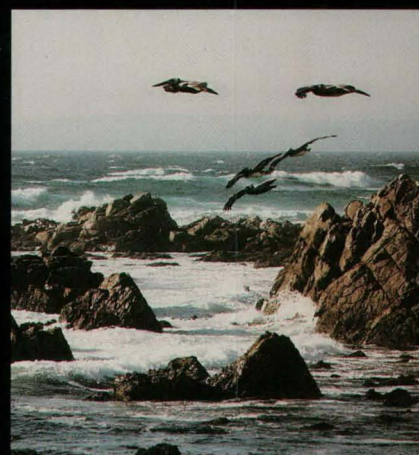




April 1991

FBI

Law Enforcement Bulletin



Environmental Crimes



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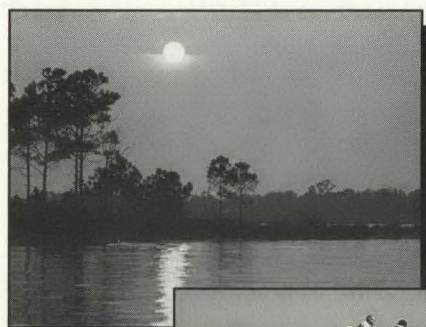
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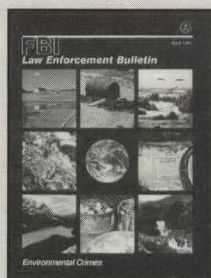
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William S. Sessions, Director

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Director's Message

Combating Environmental Crimes

In 1971, American conservationist Paul Brooks wrote: "We shall never understand the natural environment until we see it as a living organism....In America today, you can murder land for private profit. You can leave the corpse for all to see, and nobody calls the cops." Unfortunately, this was the case 20 years ago. No one could call the police, because no laws had been broken.

Today, however, in 1991, this is no longer true. Environmental laws and policies have been enacted to protect the public's health and quality of life, and vigorous enforcement of these laws is a top priority. The U.S. Congress has given law enforcement additional weapons to combat environmental crime by adding tough criminal sanctions to a host of environmental laws. Just last year, Congress passed the Clean Air Act Reauthorization. The act now provides greater sanctions—both criminal and civil—for environmental law enforcement.

The criminal dimension of environmental laws will make a difference in national efforts to clean up the country. Tough criminal sanctions should act as a strong deterrent to deliberate and careless polluters alike. To both the public and private sectors, these sanctions send a very firm message that shows law enforcement's determination to ensure compliance with environmental laws.

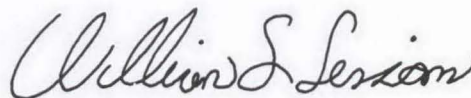
Law enforcement agencies must work together to enforce existing environmental laws and policies to protect our communities from criminal pollution and hazardous wastes. Local, State, and Federal agencies need to team up to maximize the impact of our investigative resources. Joint investigations are especially

effective because they draw on the experience of all contributing agencies.

The FBI works closely with the Department of Justice's Environmental Crimes Section and the Environmental Protection Agency (EPA) to enforce environmental laws and to identify specific environmental crime problems. Through this combined effort, significant accomplishments in the investigation and prosecution of environmental criminals have been realized.

A record number of felony indictments for environmental crimes was recorded in fiscal year 1990. Of the 134 indictments returned, 80 percent were against corporations and their top executives. More significantly, however, over one-half of those convicted of environmental crimes received prison sentences, and of those, 85 percent were jailed. In addition, nearly \$30 million in fines were imposed.

Environmental crime is a deadly serious subject with devastating consequences. People who endanger the planet for greed and profit must not be allowed to continue to break the law. Our environment is fragile, and it is up to all of us to protect it. Individuals must accept the responsibility for their own communities. Nations must set forth clear policies, laws, and regulations that will protect their environments. And, law enforcement and government agencies must relentlessly enforce these laws and policies.



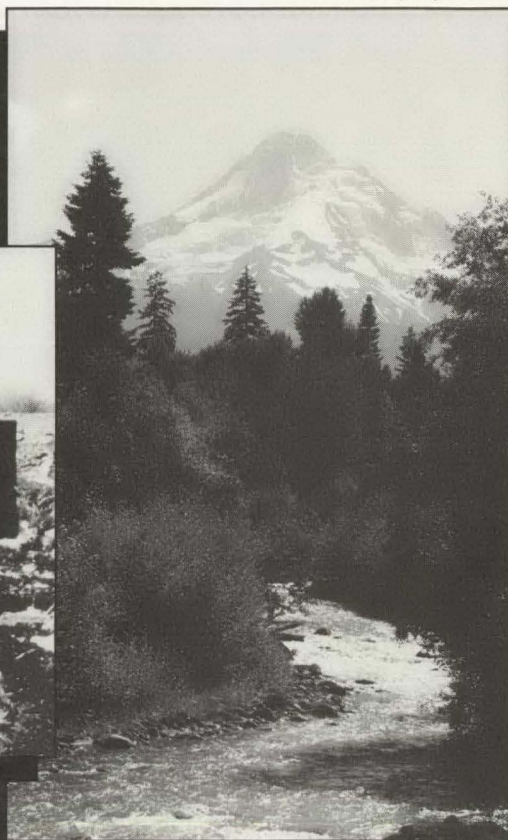
William S. Sessions
Director

Environmental Crimes

Investigative Basics

By
MARTIN WRIGHT
and
WILLIAM IMFELD

Photo courtesy of
Clay Myers, FBI



Chemical wastes have been dumped into America's environment for over 350 years, dating back to Pilgrim settlements in Massachusetts and the manufacture of saltpeter and alum. By the late 1930s, the chemical industry in the United States was producing over 170 million pounds of synthetic-organic chemicals annually. This figure skyrocketed to an estimated 2 trillion pounds an-

nually by the late 1980s, a direct result of the "chemical revolution" that has transformed America since World War II.¹

While the chemical revolution benefits all of us by creating new products to enhance our living standards, it also has a significant downside. It has created over 80 million pounds of hazardous waste, and alarmingly, if early 1980s estimates of only 10 percent

proper disposal are accurate, America faces an enormous silent enemy.²

Brief History

Pollution laws existed at both the State and Federal levels by 1899; however, more than 60 years passed before there were criminal sanctions for illegal disposal of hazardous wastes. In the late 1970s and early 1980s, the Resource

Conservation and Recovery Act and "superfund" legislation finally allowed prosecutors to seek stiff criminal sanctions for the illegal disposal of hazardous wastes. As a result, tremendous progress has been made in the effort to enforce environmental laws. Approximately 614 indictments or informations have been filed, over \$31 million in criminal fines have been imposed, and 474 corporations or individuals have been convicted. In addition, these cases have set precedents in the field of environmental law.

Because of the general public's heightened awareness and concern, environmental crimes are gaining the attention of law enforcement personnel, and many States already have established active environmental crime investigative units. However, in order to investigate these crimes successfully, it is necessary to develop an investigative plan.

Investigative Plan

A typical environmental crime investigation may begin with a complaint from a former disgruntled employee, who says that a certain company, in order to avoid the high costs of legal disposal, buried over 300, 55-gallon drums of hazardous waste in the back part of the company's property. If the allegation is determined to be credible, several critical steps should be taken. Investigators should:

- Identify which hazardous waste is involved
- Identify who is responsible for the illegal waste disposal

- Document the investigation in order to prove criminal intent

Investigators can learn important information about the companies in question by checking a variety of sources. Investigators should familiarize themselves with these sources.

Sources of Information

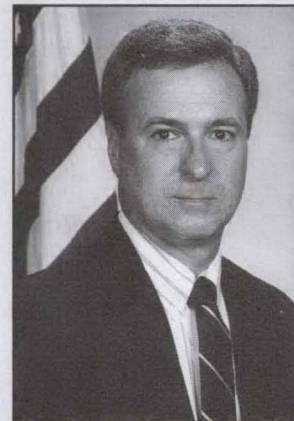
As soon as a case is opened, investigators should learn as much as possible about the suspect company. They should determine both what the company is authorized and not authorized to do. They should also determine what documentation the company is required to maintain so they will know what should be reviewed or inspected when investigators confront the company. And, it is important to anticipate

what hazardous materials may be involved by reviewing documents on past operations and violations.

Much of the information investigators need is available from State, local, and regulatory agencies. For example, States maintain lists of authorized hazardous waste generators and transporters, as well as treatment and storage/disposal facilities. Fire departments sometimes have information concerning on-site inspections or unusual occurrences at the company's facilities. Health departments may have complaints of contamination in nearby areas. In addition, licensing agencies have information about business operations, company officers and owners, and annual reports. And, reports filed with the Securities and Exchange Commission may reveal principal products, legal proceedings, financial data,



Mr. Wright



SA Imfeld

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directors/officers, and other significant information.

Informants are another good source of information. They may be able to pinpoint specific details about illegal activities, such as when and where these activities occurred, and what efforts were made to conceal the illegal acts.

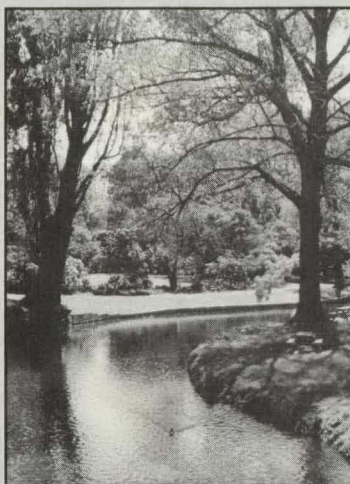
Once investigators learn as much as possible about the suspect company, they should decide how the investigation should proceed, what investigative techniques should be used, and the legality of those techniques.

The Investigation

There are several effective investigative techniques to use during hazardous waste investigations, including:

- Stationary, moving, and aerial surveillance to document ongoing criminal activity
- Long-range photography and closed-circuit television to document probable cause
- Tracing the origins of drum and barrel markings to manufacturers and purchasers
- Remote monitoring devices to gather evidence
- Consensual monitoring of informants and cooperating witnesses to obtain first-hand incriminating statements
- Grand juries, which may result in unexpected evidence through compelled cooperation

Photo courtesy of
Diane Monhollan, FBI



“...it is important for investigators to keep detailed notes on what they see, hear, taste, smell, and feel.”

Throughout the investigation, it is important for investigators to keep detailed notes on what they see, hear, taste, smell, and feel. Since exposure to hazardous materials causes physiological symptoms, investigators should let their senses help them in the investigation. It is also a good idea for investigators to take photographs to provide clear evidence of what they see.

While gathering evidence to substantiate criminal violations, it is also important to note any precautions the company has taken to prevent waste from escaping, such as fences, settling ponds, warning signs, and monitoring devices. If the company uses these precautions as a defense during prosecution, investigators should be ready to explain why they did not work.

Support Team

Another important step in hazardous waste investigations is to assemble a technical team to assist in the investigation. This team of experts offers technical and legal advice to the case investigators.

As the investigation progresses, it is important to build an investigative support team to ensure proper preparation and execution of a site sampling plan, proper evidence collection and chain of custody, and proper analyses, storage, and disposal of samples. For example, from the onset of the investigation, the prosecutor should be available not only to recognize and interpret legal nuances but also to evaluate the potential for prosecution. Also, as the need arises, investigators should add other specialists to the team, including:

- Technical specialists, such as engineers, chemists, and geologists, who can give guidance on what to sample and how to sample properly
- Equipment operators for digging equipment, barrel handling devices, remote sensing and sampling devices, and a variety of hand-operated equipment necessary for unearthing buried evidence
- Health and safety specialists who can give advice regarding the dangers of possible exposure to hazardous substances and advice on what equipment and methods to use in order to maximize

the protection of search personnel

- Regulatory agency personnel to evaluate documentary and physical evidence to determine whether the continued operation of the company would jeopardize the public's health
- Other investigative personnel to photograph the site, maintain the search logs, identify and interview persons present at the facility, prepare sketches and field notes, and prepare chain-of-custody forms and receipts

In addition, there is a need for security and safety backup personnel. This should include police to assist in crowd control, fire department and emergency medical personnel in the event of an accident or possible explosion or fire during the search, and HAZMAT (hazardous material) personnel to assist in decontamination and confinement, if there is some exposure to hazardous substances.

During the preliminary investigation, investigators should attempt to answer as many questions as possible without intruding on the company's property. However, in order to obtain answers to all of the questions, company officials must be confronted, and this action may require a search warrant.

Search Warrants

Search warrants allow investigators to go onto private property to investigate further illegal hazard-

Photo courtesy of the EPA



"...no warrant should be executed until there is a health and safety plan that is understood by all search participants."

ous waste activity and to obtain samples of hazardous waste. However, before a search warrant can be issued, probable cause that a crime has been committed and that evidence exists in the place to be searched must be shown. Investigators should document their case through information they have developed during the investigation, as well as other supporting exhibits, such as maps, photographs, manifests, citizen complaints, and off-site monitoring results.

Of paramount importance when a search is conducted is recognizing that the persons executing the warrant may be exposed to hazardous substances. Therefore, no warrant should be executed until there is a health and safety plan that is understood by all search participants.

Also, no samples of hazardous or potentially hazardous substances should be taken by other than properly trained and environmentally protected personnel.

Prior to serving the warrant, each person on the investigative team should read the search warrant and affidavit. It is important that they understand what is within the scope of the warrant, such as items to search and seize and places to search. The team should be able to locate and secure the necessary evidence in an efficient and effective manner that is safe to both investigative personnel and the surrounding community.

Conclusion

The disposal of hazardous wastes in America is not a new problem. What is relatively new, however, is the public's heightened awareness of this environmental problem. In the last decade, well-planned, aggressive team approaches to environmental law enforcement have been the key to successful prosecutions for the illegal disposal of hazardous waste. Through experience and proper training, law enforcement officers can detect and investigate environmental crimes successfully. This, in turn, may ultimately serve as a deterrent to those who attempt to shortcut the system at the expense of the public's health.

LEB

Footnotes

¹ Christopher Harris, William L. Want, and Morris Ward, *Hazardous Waste, Confronting the Challenge* (Westport, Connecticut: Quorum Books, 1987), p. 5.

² Samuel Epstein, Lester O. Brown, and Carl Pope, *Hazardous Waste in America*, (San Francisco: 1982), p. 7.

A Manager's Guide to Computer Projects

By CHARLES BRENNAN

Increasingly, police managers find themselves placed in charge of computer projects within their departments. Many feel ill-equipped for the task because, although they know the operational side of their agencies very well, the technical aspects remain, in large part, a mystery. It is easy for even the most attentive manager to become lost at meetings, understanding little of the technical jargon and having to make decisions without a full understanding of all the facts. However, this need not be the case. Managers can take a number of steps to help ensure that technical projects will be completed successfully.

Project Management

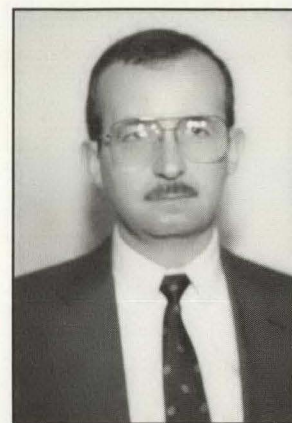
A large-scale technical project requires a project manager. This person should be of sufficient rank or standing in the department to make almost any decision independently once the job begins. A full-time manager is best, and many hardware/software vendors suggest that the department assign an individual solely to this task, since the project manager is the primary contact between the vendor and the department.

Technical Knowledge

Those assigned to a computer project who have no techni-

cal expertise at all must develop at least a working knowledge of computers. A recommended source is introductory courses at a local university. In addition, there are many books that explain both computer terminology and the operational aspects of the computer. A thorough understanding of the terms is especially important, since project managers must be able to comprehend what is discussed at meetings that they will be required to attend. But no matter what the technical background, it is important to make sure that meetings with vendors operate at the project manager's level of understanding. Vendors want to retain customers, and therefore, will take the time to explain the technical aspects in laymen's terms. If any fail to do so, the best course of action may be to consider another retailer. However, such issues should be dealt with before issuing a contract for products or services.

For large and complex projects, however, it is advisable to have some independent technical assistance. If the department has an in-house technical staff, they may provide all the help needed. If not, the city or county may have technical resources available. In any case, the technical team assembled should work closely with vendors providing equipment and software.



Inspector Brennan is assigned to the Information Systems Division of the Philadelphia, Pennsylvania, Police Department.

Project Goals

Every project has goals that must be satisfied, and computer projects are no different. The project manager must understand each one and how they affect separate entities within the department. For example, in large departments, the installation of a computerized records management system must satisfy the specific needs of many departmental units. It is important to realize from the outset that the system eventually put into place may not satisfy everyone's expectations. But, one of the manager's most important duties is to meld all of these seemingly competing needs into what is both practical and possible for the entire department.

Administrative Support

Department administrators must understand and support the project. The head of the agency will certainly be aware of the implementation of a large-scale computerization project, but may not fully understand the impact the project will have on the depart-

ment. For example, the installation of a computer system may require changes in departmental procedures, personnel allocations, and other fundamental aspects of the department's operation. The chief administrator should be kept aware of the project's progress, as well as what departmental changes will be necessary, through regularly scheduled status meetings.

Time to Plan

Proper planning is probably the single most important factor to computerize a department successfully. For every hour spent in good planning, 10 hours of aggravation can be avoided. The project manager should take time to enlist the assistance of employees and designate tasks. One way would be to form a committee to guide the project. Another consideration is to assign tasks, responsibilities, and timetables so that everyone knows what jobs must be done and who must do them.

Potential repercussions for the agency should be anticipated. For example, the introduction of personal computers (PC's) in an agency goes beyond just buying the machines. Such a purchase raises questions: Who will fix the equipment? What about training? Are there certain procedures governing their use or the information they contain? Other issues regarding specialized programs and additional software must also be addressed eventually.

Every computer system needs support that requires resources and personnel. And, while a computer system may reduce the

number of people needed for a certain task in one area, it may increase the personnel required in another.

Research

In any computerization project, there will invariably be problems encountered and problems to be solved that have the potential to be overwhelming. New software packages particularly are subject to problems. Testing in the "lab" cannot adequately

"Proper planning is probably the single most important factor to computerize a department successfully."

duplicate real life conditions. Therefore, if an agency is the first to install a package, it may be faced with complex problems to which there are no known solutions. Essentially, the department will be tasked with solving the problems for all departments purchasing the package thereafter. This could prove to be not only inconvenient but also very expensive.

There are two conditions, however, in which this general rule may be disregarded: 1) If a vendor offers a substantial discount, or 2) if the software is so unique and innovative that it cannot be purchased or tested elsewhere.

User Input

One of the biggest mistakes that could be committed in any

technical project is not to involve the users in all phases of development. No one understands the job better than those who have been doing it for years. Shortcuts that have been developed over time to "work around" problems could be missed if no one is consulted on "how it is done." And, making changes later to accommodate these procedures could be expensive. Only by involving those who will use the program can project teams be certain to develop a system designed for the job.

The Right Vendor

If planning is the most important facet of a technical project, then choosing the right vendor is next. Although there are no rules for vendor selection, there are certain guidelines that should be followed.

- Contact other departments
Every potential vendor should supply a list of clients who have installed similar systems. The project manager should take the time to contact a random sample of these clients to ask questions regarding the workings of the programs, problems encountered, and advantages and disadvantages of the system. The project manager should prepare a list of questions so that all important points are covered. Most departments are willing to share information about the reliability and performance of vendors.

Some vendors may claim that they are "business

partners'' with a larger computer firm; however, this does not mean that the larger company guarantees the vendor's products or software.

- **Make on-site visits**

The best way to see if vendors can do what they promise is to make a site visit. Before selecting a product or service, it is important to see it in operation. If at all possible, the police department using the product or service should be comparable in size to the one considering the purchase. Again, the project manager should plan for any site visits by formulating questions and determining what functions are important.

- **Judge vendors by the same criteria**

It is important to judge every software package or product by the same standards. This can be done by creating a matrix with vendors listed down one side of the page and the different criteria listed across the top. By placing an "X" in the column where the vendors meet the criteria, the project manager will have a simple and easy method to evaluate vendors and to determine which ones meet the standards necessary for the project.

Problem Log

All problems encountered in completing a major technical project should be relayed to one individual. This individual should

record the problem, who reported it, and how, or if, it was resolved. Among other things, a problem log ensures that all issues are communicated to the vendor centrally and in the same format each time.

"...a comprehensive, well-defined approach is invaluable to complete a technical project successfully."

Safety Net

In a complex project, it is very important to construct a type of safety net that would anticipate upgrades and factors overlooked during initial program development. This is especially true if the project involves the purchase of software. A good safety net for this type of project is to include a provision in the contract that requires the vendor to provide a certain number of programming hours to "enhance" the purchased software. In many cases, the enhancements are changes required due to circumstances not anticipated when the software specifications were given to the vendor. It is imperative to remember that certain manual procedures may not translate easily or cleanly to an automated format. The larger the project, the more likely things will be missed. Unless provisions are

made ahead of time, changes to the original specifications may require additional resource outlays.

Implementation

Once a new system is implemented, there is the impulsive tendency "get it up" and have everyone using it immediately. This tactic usually only confuses the users and breeds frustration. If the system has many different components, it is a good idea to introduce them gradually, to ensure that all users are operating at the same level of understanding before moving forward.

If possible, it is also advisable to test the system in a small segment of the department before releasing it for general use. This will allow time to gauge the reactions of a small sample group in a controlled area. It is better to find problems here and correct them before everyone begins using the system.

Conclusion

Technical projects require planning and forward thinking. But, even the most complex projects can be successfully completed if certain guidelines are followed. While some technical background, or at least familiarity with computer terminology, is important, a comprehensive, well-defined approach is invaluable to complete a technical project successfully.

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Point of View is a forum for law enforcement professionals to suggest recommendations to improve police work. Submissions for this feature should be no more than 750 words, typed, double-spaced, and forwarded to Editor, *FBI Law Enforcement Bulletin*, Room 7262, 10th & Pennsylvania Ave., NW, Washington, DC 20535.

Photo courtesy of the U.S. Coast Guard



The Environmental Protection Forum

Photo courtesy of Clay Myers, FBI



By
MICHAEL A. O'BRIEN

In recent years, environmental crime has received increased attention. The growing industrialization of our Nation, media focus on several serious environmental incidents, and a heightened public sensitivity to this type of offense has brought the environmental issue into the limelight.

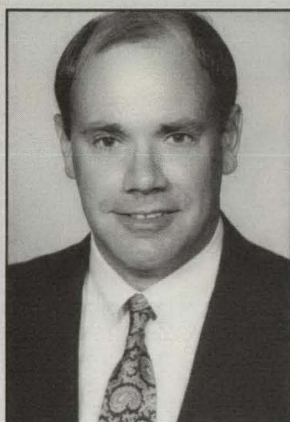
Coordinated efforts among law enforcement agencies, fire departments, and regulatory agencies have long been in place in some

parts of the United States, particularly the Northeast and West Coast. Still, many jurisdictions do not have an organized approach to the detection, investigation, and prosecution of the environmental criminal.

Shortcomings

The lack of organization and communication among some agencies arose for a number of reasons. Historically, environmental crime

was not an investigative priority. Few States enacted statutes that dealt adequately with environmental offenses, and typically, law enforcement agencies focused their attention on the more traditional crimes. Also, local district attorneys or States' attorneys offices handled so few environmental cases that no one individual gained sufficient expertise to prosecute the environmental offender. Moreover, judges who imposed minimal sanctions



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***A thorough knowledge of
State and Federal
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environmental crime.***
”

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Chief of the Economic Crimes Unit in the Office of
the State Attorney, Orlando, Florida.*

after a plea or conviction displayed a lack of knowledge as to the seriousness of environmental offenses and the costly effect of such crimes.

Even regulatory agencies, while having considerable knowledge of environmental science and regulations, were unprepared. For the most part, environmental workers lacked basic knowledge of the investigative techniques and case preparation skills necessary to prosecute the environmental criminal successfully. And, in most jurisdictions, several agencies shared the responsibility for enforcing environmental regulations. Identifying just which Federal, State, or local agency had the responsibility for a particular environmental problem was sometimes difficult and usually frustrating.

Solution

Environmental crime has no jurisdictional boundaries. It can occur anywhere, at any given time.

Therefore, a broad spectrum of participants from law enforcement and other public service departments is needed for any program designed to combat the environmental criminal.

To combat the environmental criminal, the Office of the State Attorney for the Ninth Judicial Circuit in the State of Florida organized the Central Florida Environmental Protection Forum. Previous efforts against environmental violators involving the office had been fragmented, and cooperative efforts between law enforcement and regulatory agencies were infrequent. By establishing the forum, organizers hoped to identify problems encountered in detecting, investigating, and prosecuting the environmental offender. They also wanted the forum to serve as a means for participants to gain an understanding of the different perspectives and capabilities of the agencies involved in the fight against environmental crime.

Organizers of the forum gathered representatives from

police agencies, fire departments, and environmental regulatory agencies at both the State and local levels. Also invited to join in the effort were local building inspectors, public health personnel, and sewer authorities. However, when organizing environmental forums, coordinators should not overlook agencies unique to a particular area, such as game and fish commissions, water management districts (a special taxing district in Florida), and coastal and marine patrols.

Forum's Purpose

The forum serves primarily as an information exchange. It is designed to instruct participants about the responsibilities and operations of the agencies involved in investigating and prosecuting all aspects of environmental crime, primarily through training sessions.

Perhaps the greatest problem in training members of an environmental forum is the diverse nature of their skills and experience. Training must cover all aspects of environmental crime, yet remain interesting to all.

Training

The Central Florida Environmental Protection Forum offers classes on State and Federal statutory law, chain of custody, and environmental evidence handling procedures. It also addresses the placarding and manifesting of hazardous waste, the requirements for investigating an environmental case, dealing with the criminal justice system, participating in a mock trial, and the proper response when contaminated by a hazardous substance.

A thorough knowledge of State and Federal environmental laws is critical when dealing with environmental crime. Crimes of this nature are complex, technical, and differ in significant ways from other types of crime. Environmental statutes, as well as amendments, relevant definitions, defenses, and exceptions, may be spread over several volumes. And while normally no individual obtains permission to commit an offense, it is quite possible that a suspected environmental violator may claim an exception under a particular statute in order to be issued a permit from an environmental regulatory agency. For example, a local township may be pumping raw sewage into a nearby lake, but if a permit to do so has been issued by a regulatory agency, criminal prosecution probably will not be initiated.

The training also incorporates a practical exercise staged in a simulated environmental crime scene. During this phase of instruction, firefighters learn that there is more to an environmental incident than their primary concern of containment and control. Police officers and regulatory workers learn how a fire department responds to a hazardous waste spill. In addition, information presented during this exercise that is so basic to one organization offers new insight to participants from other agencies. For example, firefighters can identify the senior fire officer on the scene by the color of helmet worn, a fact not readily known to police officers and regulatory workers.

This practical training exercise exposes participants to the complexities of incident control.

The shift of command can pose problems as control at the scene is passed from the fire department and its containment activities to the police department for investigation, and finally to the regulatory agency for clean up. In addition, the practical exercise affords the best means

gets the various agencies to work together. No longer are agencies faceless entities, but people trying to do their jobs professionally. Indeed, the forum allows those who work environmental crimes to meet their counterparts in other agencies, which facilitates cooperation. For

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...the most important benefit of environmental training is that it gets the various agencies to work together.

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available for participants to learn about unique environmental problems, such as a contaminated corpse or corrosive evidence.

Instructors for the training sessions are drawn from participating agencies. For instance, prosecutors teach law, police officers explain the proper way to investigate environmental crime, and regulatory workers provide information on environmental sciences. But, if other agencies can provide useful information, they should not be overlooked. Even if they cannot participate directly, they may be able to provide instructional materials. Outside instructors, as a norm, increase interest in the forum and generate higher attendance.

Benefits

Establishing an environmental forum produces immediate benefits. Perhaps the most important benefit of environmental training is that it

example, regulatory workers now know who in law enforcement has knowledge of and experience in working environmental crimes. Or, police officers may meet more readily with prosecutors they know to determine if an environmental violation has occurred and whether a particular incident is criminal or civil in nature.

Police officers may learn that the best place to send environmental crime evidence is not to a crime laboratory, but to a regulatory agency's laboratory. Questions regarding who is responsible for reviewing a particular environmental activity or which agency responds to an environmental incident no longer remain unanswered.

Maintaining Momentum

The extent of participation by the various agencies varies considerably. Some agencies participate enthusiastically in forum activities,

while others rarely appear for the sessions or drop out altogether. This is why it is important to continue to generate interest in the program. Agencies from other jurisdictions should be encouraged to join in the effort. Topics for instruction should be reviewed and updated, and new developments in environmental issues should be incorporated into the training.

It is important that training be balanced so that one particular topic does not dominate the sessions. The training should be sensitive to the member agencies, particularly in their desire to cooperate but to maintain separate identities. For example, fire departments and regulatory agencies do not want their personnel "turned into cops." This practice will also preclude possible claims by future defendants that forum members, by virtue of their participation, have become agents for the State's attorney or a police department.

Conclusion

Detecting, investigating, and prosecuting the environmental criminal poses a complex and often difficult task to each agency that deals with environmental violations. However, the successful prosecution of the environmental offender is possible when there is cooperation among police, fire, and regulatory agencies. Such cooperation will not occur spontaneously, but must be fostered through the exchange of information and knowledge. Only then will advances be made to combat environmental crime.

LEB

CHP's Hazardous Waste Investigative Unit

The amount of hazardous waste generated in this country changed dramatically with the industrial growth that followed World War II. For example, by the end of the war, U.S. industries generated roughly 500,000 metric tons of hazardous waste per year.¹ The Environmental Protection Agency's Office of Solid Waste now reports that the amount of hazardous waste generated has soared to approximately 300 million metric tons per year.

As the volume of hazardous waste production increased, the public became more aware of the dangers of improperly managed hazardous waste. Congress responded to this problem with strong legislation to protect both the environment and public health, and cities and States enacted strict pollution control laws to prohibit the illegal disposal of hazardous and toxic wastes.

These pollution control laws impact on corporations, which must bear the financial burden of proper waste disposal. As a result, to reduce operating costs, some corporations dispose of hazardous and toxic waste illegally. In order to avoid detection and prosecution, these corporations have, over the

years, become more sophisticated in the illegal methods by which they dispose of their hazardous waste. To combat this growing problem, the California Highway Patrol (CHP) established a Hazardous Waste Investigations Unit.

A Specialized Unit

The CHP, as a State agency, has jurisdiction throughout the entire State. And, because hazardous waste cases require closely coordinated multijurisdictional investigations, the CHP is the primary investigative agency for these crimes within California.

The purpose of the Hazardous Waste Investigative Unit is to reduce the number of violations involving the transportation and disposal of hazardous waste within the State. There are 10 hazardous waste investigators located in CHP divisions throughout the State. These investigators:

- Investigate and seek prosecution of those who illegally transport and dispose of hazardous waste
- Reduce the amount of illegally transported hazardous waste through public awareness programs and industry contact

- Assist patrol officers in cases that involve the transportation or disposal of hazardous waste
- Train personnel of both CHP and other agencies concerning hazardous waste
- Coordinate investigations with other agencies
- Participate in local task forces

The Hazardous Waste Unit investigators receive information concerning illegal waste disposal from a variety of sources, including informants, disgruntled employees, competitors, other State agencies, and field officers. Information received through these various channels has allowed the CHP to enact an innovative approach to the problem.

A Proactive Approach

In 1989, investigators of the Los Angeles County Environmental Strike Force and the CHP Hazardous Waste Unit tried a proactive approach to investigate illegal transporters of hazardous waste. The technique targets individual companies that are suspected of illegal activity in hazardous waste transportation and disposal.

A surveillance team focused on a particular hazardous waste disposal company that was licensed in California. There had been several complaints from companies that generate hazardous waste about the manner in which this transporter handled or transported waste from its facilities. A truck from the com-

pany was kept under surveillance from the early morning hours until the end of the day. Within 2 days, investigators witnessed several violations committed by the transporter, including felony transportation and disposal. During the surveillance, another company was also observed transporting and disposing of wastes illegally.



This surveillance resulted in several Federal and State charges being filed, and in addition, opened a new door concerning the illegal transportation of hazardous wastes to Mexico. The CHP, the EPA, and the FBI are continuing to focus on the illegal transportation of hazardous wastes into Mexico, and they have formed a liaison with the EPA's Mexican counterpart.

Conclusion

The California Highway Patrol is emerging as a forerunner

of investigations concerning the illegal transportation of hazardous waste throughout the State. Since its inception, the Hazardous Waste Investigations Unit has investigated or taken part in over 250 cases—several of which have resulted in felony charges. At the present time, the unit has a 100% conviction rate on cases that have been filed through the District Attorney's office. In addition, since 1985, the CHP has been reimbursed over \$40,000 for investigative services performed, not including fines entitled to the State.

The illegal disposal and transportation of hazardous waste is a growing concern for both the public and law enforcement. The CHP's Hazardous Waste Investigations Unit is an innovative approach to this problem—one that other departments may want to incorporate into their operations.

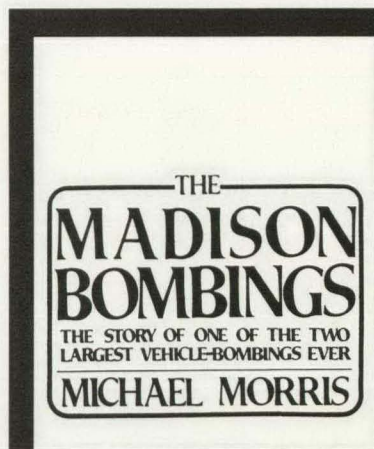
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Footnote

U.S. EPA Office of Solid Waste, *RCRA Orientation Manual*, January 1986, doc. no. WH562, Washington, D.C., 1986, pp 1-3.

For more information on Hazardous Waste Investigative Units, contact Sgt. Lance Erickson, Department of California Highway Patrol, Southern Environmental Crimes Unit, 437 North Vermont Avenue, Los Angeles, California 90004, 1-212-664-0695.

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 pages, double spaced and typed) and should be directed to Kathy Sulewski, Managing Editor, *FBI Law Enforcement Bulletin*, Room 7262, 10th & Pennsylvania Ave., NW, Washington, DC 20535.



The Madison Bombings by
Michael Morris, Research House,
London, England, 1988.

The Madison Bombings is a meticulously detailed account of a series of bombings that occurred at the University of Wisconsin-Madison during the height of anti-Vietnam War protests in the late 1960s and early 1970s. The main bombing, at the Sterling Hall research building on August 24, 1970, was among the most powerful vehicle bombs ever used in an anti-war demonstration. It resulted in one death, many serious injuries, and tremendous damage to the hall and surrounding structures.

With the blast, however, the anti-war plotters dealt a serious blow to their own cause. As the viciousness of the assault became evident, many people began to question the legitimacy of the movement. Just as in successful shock therapy, the bomb blast helped to set straight the collective mind of America. The terrible destruction, injury, and fatality caused many in this country to

think more carefully about the consequences of their actions.

As the author so nicely brings out, the bombing damaged the anti-war movement because it isolated it from the audience it sought to reach. Those who supported the movement had drawn their strength from the moral certainty that they were right and the government was wrong. Their position was based on a refusal to engage in violence by supporting the "government's war" in Viet Nam. That position became meaningless and indefensible for the majority of supporters, where the movement's real strength existed, after police arrested those responsible for the Madison bombings.

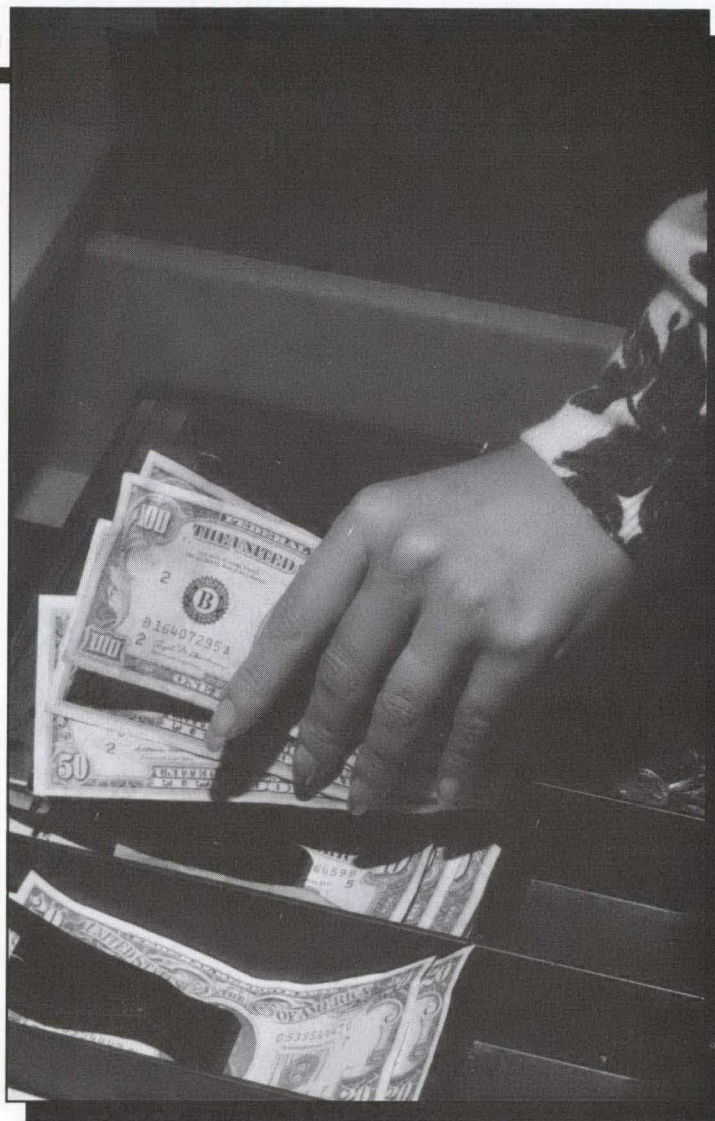
The book reveals the bungling and incompetence of the bombers who, before the devastating blast at Sterling Hall, had difficulty carrying out even the most basic operation. The book also traces, with fascinating detail, the investigation that led to their capture and subsequent conviction.

The bombers' legacy, though unintended, was to reveal the sophomoric reasoning of many protesters of that period. They succeeded in splintering the peace movement and showing that anti-violence was merely a slogan to many. *The Madison Bombings* provides an intricately detailed and extremely well-documented look at a devastating act that terrorized, murdered, and caused mass destruction.

Reviewed by
SA Richard Redman
Federal Bureau of Investigation
FBI Bomb Data Center
Washington, DC

Bank Employee Embezzlement

By
DENISE M. DUBÉ



In August 1988, representatives of a large regional bank contacted the Los Angeles County District Attorney to request assistance in prosecuting employee embezzlement cases. Apparently, employee embezzlement resulted in million-dollar losses each year, and the bank experienced only minor success in investigating and prosecuting these cases. After reviewing the bank's request, the district attorney realized the magnitude of the problem warranted im-

mediate attention. In September 1988, he directed the Major Fraud Section of the Los Angeles County District Attorney's Office to develop and implement a program that would facilitate processing bank employee embezzlement cases.

This article focuses on the extent of bank employee embezzlement, how a program to curtail this crime was developed, its implementation, and the problems encountered. It then details the

benefits that were realized once the program was put into effect.

The Problem

The bank estimated that it experienced approximately 30 employee embezzlement cases a month, with a resultant loss of \$2.5 million a year. No figure was projected for losses incurred due to undetected cases.

Of the embezzlement cases uncovered in 1989 by the bank's investigative auditors, a statistical

summary of the perpetrators shows that:

- 62% were female employees; 38% were male employees
- 66% had a high school education; 31% had some college; 3% other education
- 41% were between the ages of 20 and 25
- 25% were between the ages of 26 and 35
- 82% were working as tellers
- 47% took cash
- 71% had less than 1 year of service with the bank

The last statistic was by far the most important and the primary reason the bank pressed for a pilot program to investigate and prosecute employee embezzlements. The program not only would serve

as a deterrent to current employees but also would prevent offenders from finding employment in another bank before the embezzlement was discovered.

It is the transient nature of bank employees that compounds the embezzlement problem faced by banking establishments. Due to a proliferation of civil suits, banks usually do not warn other financial institutions of any problems encountered with an employee unless criminal charges have been filed. Therefore, it is important to uncover the crime and charge the person responsible before the embezzler moves on to work at another bank.

Developing the Program

The 200 investigators in the Los Angeles District Attorney's Office have full-time peace officer status under section 830.1 of the California Penal Code and are assigned to the Bureau of Investiga-

tion within the district attorney's office.¹ The duties of these investigators range from providing trial support to handling original jurisdiction cases, such as major fraud, consumer fraud, and environmental cases.

To begin, investigators met with bank representatives to evaluate the extent of employee embezzlement and to learn how county and city law enforcement agencies handled such crimes. They also wanted to determine what action the district attorney's office could take to improve the current situation.

From these meetings, investigators learned that the bank's main complaint was local law enforcement's inconsistency in handling embezzlement cases. Oftentimes, charges were not filed for many months after the initial complaint or an agency failed to keep the bank informed of the status of each case. The bank also found that in some instances, the law enforcement agency failed to file cases before the statute of limitations expired.

The investigators soon learned the reasons why banks encountered problems in getting their cases processed through the criminal justice system. In some instances, it became clear that officers in local agencies were too unfamiliar with the workings of embezzlement cases to complete a thorough investigation and the necessary followup for a successful prosecution. More often, an agency simply lacked the personnel needed to work the growing number of cases. Also, a prevailing belief



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Ms. Dubé is a supervisory investigator for the Los Angeles County, California, District Attorney's Office.

among officers was that embezzlement incidents were just "paper cases," and they placed these cases at the bottom of the priority scale. In fact, a U.S. Department of Justice report on the investigation of white-collar crime supported these findings.²

Implementing the Program

After meeting with bank representatives and identifying the problems that banks encountered with the criminal justice system, the district attorney's office then evaluated its resources to determine how it could effectively develop a program dedicated to employee embezzlement cases. For example, the Major Fraud Unit set specific criteria for the types of cases it works. Cases are accepted for investigation if they involve multiple victims and/or suspects, are multijurisdictional and complex in nature, and involve a considerable dollar loss. The types of cases for which the bank was requesting assistance could result in losses ranging from \$2,000 to \$100,000. Cases involving losses exceeding \$100,000 would be referred by the bank to the FBI for investigation.

It was impractical to think of dividing 30 cases a month among the Major Fraud Unit's 8 investigators. This would have a detrimental effect on the cases already under investigation. Therefore, another approach had to be taken.

Since one of the main complaints of the bank in dealing with local law enforcement agencies was inconsistency, the district attorney's office decided to relieve one investigator of his caseload and make him

the liaison investigator for the pilot program. This liaison investigator would serve as the contact person in the district attorney's office for the bank. In turn, the bank designated its own contact person to work with the liaison investigator.

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***...cooperation
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effectively.***
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The next step was to determine how the district attorney's office could best use the bank's resources to process these cases expeditiously. Obviously, for the district attorney's office to handle the number of cases projected, it became imperative that the bank prepare its cases as thoroughly as possible before submitting them to the liaison investigator. To address this issue, the district attorney's office offered to instruct the bank's investigative auditors on how to prepare cases involving employee embezzlement.

The liaison investigator and a designated deputy district attorney began by conducting a class for the bank's investigative auditors on how to write reports of witness and suspect interviews and prosecutive summary reports. Then, each investigative auditor received a folder that contained samples of each type

of report required in embezzlement cases.

The deputy district attorney explained section 3361 of the California Financial Code, misapplication of bank assets, under which most of the cases would be filed.³ Discussion also centered around the exhibits needed to file a case successfully, such as checks and bank documents.

Both instructors of the class stressed that cooperation between the bank and the district attorney's office was crucial for this pilot program to work. The liaison investigator encouraged the auditors to call him anytime if they had questions or needed assistance in completing a case package before filing with the district attorney's office.

The instructors also took time to explain the filing process fully. The investigative auditors needed to understand why the district attorney's office was requesting they do such thorough work before taking action on an employee embezzlement case. The bottom line was if this pilot program was to work, the bank's investigative auditors had to be responsible for completing as much of the paper work as possible prior to submitting it to the liaison investigator.

Reviewing Cases

Upon receiving the bank's report, the liaison investigator reviewed the package to ensure it was completed properly. The investigator returned to the investigative auditor incomplete reports, those that lacked documentation, or if the elements of the crime were not established. The liaison investigator

would return the incomplete package to the bank with a letter explaining why it was not being accepted for processing at this time.

If the bank's package was complete, the liaison investigator forwarded the report to a pre-selected deputy district attorney for filing. From this point on, any additional investigative work would be the responsibility of the liaison investigator, to include tracking all filed cases through the court system and maintaining of the monthly case status file.

Success of the Program

From September 1988 through July 31, 1990, 51 bank employee embezzlement cases have been filed through the use of this program. Of these cases, 10 suspects have outstanding arrest warrants, 24 suspects have been convicted and sentenced, and 17 cases are pending in court. From these statistics, it is obvious that a substantial improvement has been realized in prosecuting bank embezzler cases.

This pilot program resulted in a faster turnaround time for cases reported which, in turn, led to charges being filed more expeditiously. Better followup and a uniformity in the handling of the cases were also realized. Now, the liaison investigator could check on the status of a case more readily because of the tracking system and statistical file that were implemented and maintained.

Another significant benefit is the realization by the district attorney's office that cooperation between the public and private sectors is crucial to combat this crime

effectively. The law enforcement community must recognize the need to work in conjunction with the private sector to prosecute bank embezzlement cases. On the other side, banks, title companies, and other financial establishments must assist the law enforcement community in investigating these complex cases.

For example, the bank involved in this pilot program offers classes in computer technology, bank terminology and procedures, and trends in bank fraud cases to Federal, State and local agencies in Southern California. This keeps the law enforcement agencies up to date on valuable information that leads to successful investigations, apprehensions, and convictions.

Conclusion

The development of a successful program to process bank employee embezzlement cases illustrates that law enforcement and private business establishments can work together toward a common goal. Only through these and other types of joint ventures will the public and private sectors be able to control and prosecute the growing number of fraud cases effectively.

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Footnotes

¹ California Penal Code, Section 830.1, p. 247.

² U.S. Department of Justice, *The Investigation of White-Collar Crime* (Washington, D.C.: U.S. Department of Justice, Law Enforcement Assistance Administration, Enforcement Program Division, Office of Regional Operations, 1977), p.2.

³ California Financial Code, Section 3361, p. 457.

Entrapment Defense Guidelines

The Institute for Law and Justice, in conjunction with the Bureau of Justice Assistance, published a monograph, *Entrapment Defense in Narcotics Cases: Guidelines for Law Enforcement*, to provide guidelines designed to minimize the likelihood of a successful entrapment defense, particularly in drug cases. The monograph contains four chapters, each addressing a specific area of the entrapment defense.

Chapter 1 defines the entrapment concept and briefly reviews pertinent U.S. Supreme Court decisions. Chapter 2 addresses the alternative standards governing the entrapment defense, while the next chapter provides specific guidelines for dealing with each of the prevailing entrapment standards. The final chapter covers the need for supervisory oversight to avoid the entrapment defense successfully.

To request a copy of the monograph, contact the Bureau of Justice Assistance, 633 Indiana Avenue, N.W., Washington, DC 20531, 1-202-514-6638.

Guide To Microcomputers

SEARCH Group, Inc., in conjunction with the Bureau of Justice Assistance, has prepared a manual entitled *A Guide to Selecting Criminal Justice Microcomputers*. The manual provides a comprehensive, step-by-step process for planning, researching, and selecting the system software and equipment best suited to the information needs of small- and medium-sized criminal justice agencies. The guide is designed to assist criminal justice practitioners who are beginning the process of procuring an automated system for their agencies.

Topics covered in the manual include an overview of microcomputer components, preliminary project planning, needs assessment, examining and analyzing products, and installation and implementation requirements, to name a few. Also provided is a glossary of computer terms and a resource directory of other useful publications.

Copies of the guide can be obtained from the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850. The toll-free number is 1-800-732-3277.

Police Chaplains

The International Conference of Police Chaplains has published a booklet entitled *Starting a Law Enforcement Chaplaincy Program*. The booklet is designed to assist any agency in planning and developing a chaplaincy program.

The booklet covers all aspects that should be considered in beginning or strengthening a

chaplaincy program. These include the qualities and qualifications of chaplains, how to find volunteer or full-time candidates, and training.

To obtain a copy, write to the International Conference of Police Chaplains, Route 5, Box 310, Livingston, TX, or call 1-409-327-2332.

Publications Catalog

Northwestern University's Traffic Institute has issued its *1991 Publications Catalog*. The catalog lists textbooks and training manuals currently offered by the institute that span a wide range of topics. The literature provides law enforcement with training and resource materials that reflect current theory and practice. Topics covered include traffic law en-

forcement, accident investigation, management, and supervision, to name a few.

Copies of the catalog can be obtained from the Book Department, The Traffic Institute, Northwestern University, P.O. Box 1409, Evanston, IL 60204. The toll-free telephone number is 1-800-323-4011.

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 & Penn. Ave., NW, Washington DC 20535.

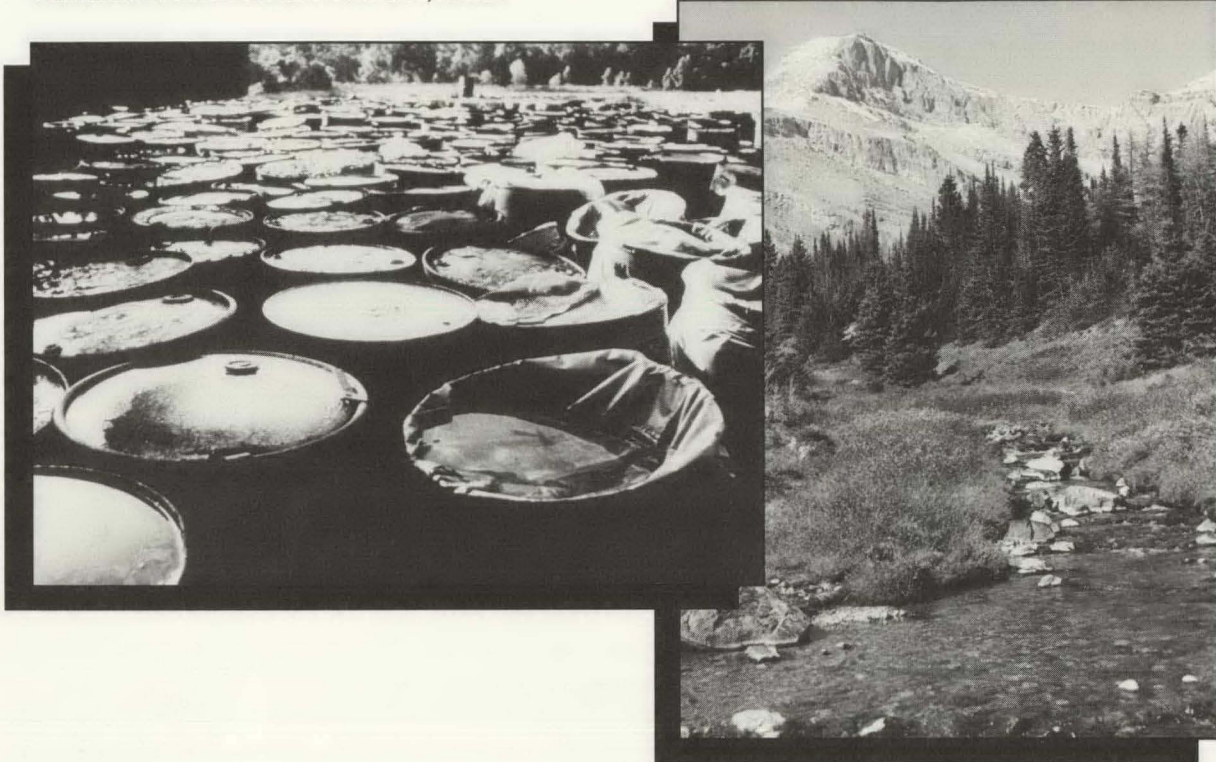
(NOTE: The material presented in this section is intended to be strictly an information source and should not be considered as an endorsement by the FBI for any product or service.)

Environmental Crimes Prosecution

A Law Enforcement Partnership

By
VINCENT A. MATULEWICH, M.S.

Photo courtesy of Ned Hamara, FBI



On a cold, rainy Sunday, a railroad police patrol discovered a large pile of abandoned drums along a dirt access road near the tracks of a major metropolitan commuter line. Upon closer inspection, the officers noted that many of the drums were leaking and that the air had a chemical odor. Soon, they became lightheaded, but were able to return to their patrol vehicle to call the local municipal police department for assistance.

After arriving on the scene, the local police officers, seeing the condition of the other officers, called in reinforcements. Shortly thereafter, the local health officer, supported by the fire and rescue squads, arrived at the scene. A decision was then made to notify the county and State agencies. Later, the county health department's emergency response unit arrived, followed by the State police's emergency management coordinator and the

State's department of environmental protection/hazardous materials incident team.

By this time, several hundred people, dressed in every conceivable type of protective clothing, were milling around an impromptu command post. As a portion of the contaminated area near the tracks was evacuated, and the decision to shut down the commuter railroad was made, the television news crew arrived. When all was said and

done, it was estimated that the cleanup would cost approximately \$100,000.

Reaction to this hypothetical dumping incident would depend on when it took place. If it occurred prior to Earth Day, April 21, 1970, most likely nothing would have happened. The drums of chemicals would have been allowed to ooze into the ground and contaminate the water supply. If it occurred during the 1970s or early 1980s, someone would pay for the cleanup, and in this case, it would be the railroad, since they owned the property where the drums of chemicals were found. The railroad, after cleaning up the site, would probably pass along the cost to the public in the form of a fare increase.

Today, however, if this incident occurred, the municipal police department would most likely request assistance from one or more law enforcement agencies to process the abandoned drum site as a crime scene before having the hazardous chemicals removed. The involved agencies would also conduct an investigation to determine who was responsible for the act and criminally prosecute the violators.

ENFORCEMENT HISTORY

Today, the United States produces approximately 125 billion pounds of hazardous waste annually.¹ Because many of the environmental crimes prosecuted now were considered environmentally acceptable acts 30 years ago, hazardous waste has become a dangerous legacy that can no longer be overlooked.² Toxic and hazardous waste from approximately 15,000 municipal and 75,000 industrial landfills

has contaminated public and private water supplies throughout the country.³ And, if left undiscovered, this contaminated water can cause cancer, birth defects, and genetic changes, as well as a variety of other disorders.

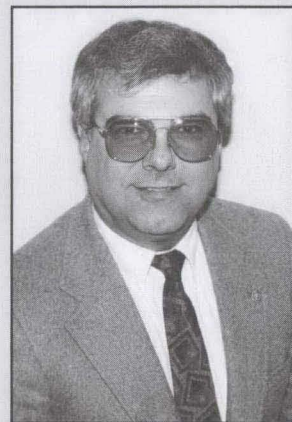
Eventually, in response to public pressure resulting from events such as the Love Canal, where chemical wastes produced and disposed of during World War II seeped into the homes of local residents, the Federal Government began to attack the problem of improper chemical disposal practices in two ways: 1) Preventing further chemical contamination; and 2) dealing with existing chemical waste.

To prevent new hazardous waste sites from being created, in 1976, Congress enacted the

Resource Conservation and Recovery Act (RCRA). RCRA sought to provide "cradle-to-the-grave" management of newly created hazardous wastes by imposing a set of regulations and a manifest system not only on the generators of hazardous wastes but also on the transporters and disposers of such chemicals. Under this act, treatment, storage, or disposal of hazardous wastes at any other place but an authorized facility is illegal. Violators are subject to civil penalties of \$25,000 per day of continued noncompliance, and persons convicted of violations are subject to criminal penalties of up to \$50,000 for each day of violation and imprisonment for a maximum of 5 years.⁴

To handle existing hazardous waste sites, Congress, in 1980,

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environment.
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Mr. Matulewich is a supervisory State investigator with the New Jersey Division of Criminal Justice's Environmental Prosecutions Bureau.

passed the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), commonly known as the "Superfund Act." This act established a \$1.6 billion fund to be used for, among other things, the clean up of abandoned hazardous waste sites.⁵

Also, during the 1980s, various States enacted criminal sanctions for both knowing or reckless conduct involving the illegal disposal or abandonment of toxic or hazardous wastes. Now, in addition to similar fines imposed by the RCRA, States could impose terms of imprisonment for up to 10 years.

SCOPE OF THE PROBLEM

Historically, private industry has not played a leadership role in protecting the environment and is still reluctant to take environmental precautions unless it views over-

ardous chemicals, this cost could be in excess of \$1,500 per drum. Larger corporations simply pass this added cost onto the consumer, but smaller, marginal companies often-times may need to cut corners to save money. As a result, it is usually marginally competitive, smaller companies, or facilities hired by them, that illegally dump hazardous waste.⁶

LAW ENFORCEMENT'S ROLE

In the early 1980s, only Louisiana, Maryland, Michigan, New Jersey, New York, and Pennsylvania employed specialized units to deal with environmental crimes on a full-time basis. In all, this amounted to a few dozen over-worked criminal investigators who were charged with developing investigative methods and procedures

the State law enforcement level.⁸ In addition, over 1,000 police officers and investigators have attended investigative training programs.⁹ This remarkable improvement in such a short time is directly attributed to law enforcement's perceived necessity of such teams and to public pressure.

The Municipal Police Department

By nature, most municipal police departments do not have the resources to devote themselves exclusively to investigating environmental crimes. However, municipal departments acknowledge that the public it is charged to protect is acutely aware of the dangers associated with hazardous chemicals. As a result, many have provided their patrol officers with problem awareness training so that they may properly secure hazardous areas from the public, and if possible, preserve the crime scene.

In most cases, for a municipal police department, dealing with hazardous chemicals means calling on agencies that have the capability and resources to control the situation. Chemicals found at any given site must be considered unknowns, and as such, must only be approached by trained personnel. Even so, municipal departments can act as invaluable resources to criminal investigators by providing informant information and by "working" the community for suspect leads.

The County District Attorney's or Prosecutor's Office

Due to limited resources, most county investigative departments

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...through problem awareness and investigative methods training, 29 States now have environmental crimes units at the State law enforcement level.

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whelming scientific evidence that demonstrates that the expenditure of funds is necessary. Despite this reluctance, most large corporations operate according to environmental regulations; however, there are others willing to break the law in order to save or make money.

Prior to the RCRA, the cost of disposing a 55-gallon drum of hazardous waste cost \$3 to \$5. Today, disposing legally that same waste costs \$300 to \$500. For some haz-

where none previously existed. To make matters more complicated, these investigators were "forced to work with," and at times rely upon, non-law enforcement agencies as their evidence collection teams and for records of those who generated, transported, and/or disposed of hazardous waste.⁷

Today, through problem awareness and investigative methods training, 29 States now have environmental crimes units at

also do not actively investigate environmental crimes. However, some counties consider hazardous waste a major public safety issue and actively pursue criminal violators. In some States, the local district attorney's or State attorney's office is the only agency with the statutory authority to prosecute criminal violations.¹⁰ This is especially true for counties that have a large industry-based economy and a high incidence of midnight dumping.

The State Police or State Attorney General's Office

Most environmental crimes units that are attached to the State police or the State attorney general's office are usually better equipped logistically to deal with the mobile nature of environmental violators who cross municipal and county lines.¹¹ In addition, State agencies are also better able to conduct long-term investigations leading to successful criminal prosecutions.¹²

Typically, State law enforcement agencies investigate and prosecute violations, such as fraud within the hazardous waste industry, illegal operation of hazardous waste facilities, and the illegal storage and disposal of hazardous wastes. In addition to environmental crime laws, State agencies also implement white-collar provisions of criminal codes and other violations of the law, such as theft by deception, falsifying or tampering with records, deceptive business practices, maintaining a nuisance, official misconduct, obstruction of justice, conspiracy, and manslaughter.¹³

State Regulatory Agencies

Although State regulatory agencies are not considered law enforcement agencies, they are an integral component to the successful criminal investigation of environmental crimes. These agencies maintain the "cradle-to-the-grave" manifest system required for all transactions involving the generation, transportation, and/or disposal of hazardous wastes. In addition, these agencies license and routinely inspect all facilities associated with

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Today, the United States produces approximately 125 billion pounds of hazardous waste annually.
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the generation and disposal of hazardous waste. Furthermore, as a component of their emergency response duties, they also maintain specialized units that are dispatched to collect sample evidence at the scene of midnight dumpings or other situations where hazardous waste may affect the public health.

The Federal Government

In 1984, the U.S. Justice Department granted law enforcement powers to 23 agents of the U.S. Environmental Protection Agency (USEPA). The agents are attached to USEPA's National Enforcement Investigations Center (NEIC)/Of-

fice of Criminal Investigation in Denver, Colorado, and operate out of USEPA regional offices located throughout the country. Currently, NEIC has 55 agents.

With the passage of the "Pollution Prosecution Act of 1990," Congress has mandated that the number of criminal investigators be no fewer than 200 by October 1, 1995. Additionally, the USEPA has centralized the administration of their special agents in Washington, D.C., within the Office of Enforcement. Even so, this number is far too low to respond to emergencies or to conduct extended surveillance on suspected dumpers. Therefore, the USEPA is primarily directed toward major, long-term investigations of national significance, assisting local or State environmental crimes units with technical support, and filling the void where no coverage is provided at the local or State level.¹⁴

The FBI has assisted the USEPA since 1981, and in 1986, 35 Special Agents from the FBI's White-Collar Crimes Section were given the additional responsibility for investigating Federal environmental crimes.¹⁵ Currently, the FBI is investigating over 300 environmental crimes cases.

THE PARTNERSHIP

Background

In 1980, in response to media and public pressure regarding hazardous waste, the Attorneys General of the Northeastern United States initiated the Northeast Hazardous Waste Coordination Committee. Originally comprised of 11 Northeastern States, the committee later



Photo courtesy of Steve Delaney, EPA

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*...hazardous waste has become a legacy
 that can no longer be overlooked.*
 ”

changed its name to the Northeast Hazardous Waste Coordination Project (NEHWP) and expanded its membership to 14 States.

The primary purpose of the NEHWP is to: 1) Promote and coordinate investigations among member States; 2) provide technical assistance; 3) provide an information bank for all public record information with respect to the various components of the hazardous waste industry; and 4) develop the law enforcement partnership and provide annual training on environmental crimes investigations to all levels of government. Because of the unique relationship that must be maintained with the State regulatory agencies, the project's membership is composed both of representatives from State law enforcement and

regulatory agencies. The project is funded by the participating States and the USEPA/National Enforcement Investigations Center (NEIC).¹⁶

To meet national goals, the NEIC used the NEHWP as a model to establish three other regional groups—The Midwest Environmental Enforcement Association (previously known as the Midwestern Hazardous Waste Association), the Western States Hazardous Waste Enforcement Network and the Southern Environmental Enforcement Network (previously known as the Southern Hazardous Waste Project). Today, 46 States and the Province of Ontario, Canada, are members of these regional groups. The only States not participating in a regional group are

Kansas, Montana, Texas, and Wyoming. The regional groups changed their names to reflect the USEPA's shift from simply hazardous waste enforcement to a multimedia approach to environmental enforcement dealing with surface water, ground water, pesticides, and air pollution.¹⁷

Training

However, in order to maintain successful environmental crimes programs, proper training is essential and must focus on two specific groups: 1) Law enforcement agencies that require only a subject awareness; and 2) law enforcement agencies that are actively involved in environmental crimes investigations. For the first group, training is limited to what environmental crimes are and which agencies actively investigate such crimes. Training for this group, which consists of representatives from municipal or county police departments and health, fire, and code inspectors, is usually limited to a 4- to 8-hour block of instruction. Such basic awareness programs, conducted by the regional groups or the State's environmental crimes unit, have enjoyed success throughout the Nation. These regional groups have the combined capability to train approximately 1,000 individuals per year in various topics.¹⁸

For those law enforcement and regulatory agencies involved actively in environmental crimes investigations, training is more in-depth and includes instruction in specific technical skills. For example, the NEHWP uses a two-step program that includes 1 week of classroom

instruction followed by a 3-day practical exercise that details an environmental crimes case from the initial response to the execution of a search warrant. This practical exercise helps to expose the criminal investigators and regulatory inspectors to each other's duties and responsibilities.¹⁹

In 1985, the USEPA perceived the need to develop a national training program regarding hazardous waste investigations. In conjunction with the National Center for State and Local Law Enforcement Training at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia, the NEHWP, and other State agencies, the USEPA developed a 2-week program that addresses criminal violations with regard to the handling, transportation, and disposal of hazardous waste. The program was developed for investigative and regulatory personnel and stresses the multidisciplinary approach to the investigation and prosecution of violations.²⁰

The passage of the "Pollution Prevention Act of 1990" required the USEPA to create a National Enforcement Training Institute. The emphasis of the institute will be to conduct comprehensive criminal and civil environmental enforcement training for Federal, State, and local personnel.

CONCLUSION

Despite the efforts to increase awareness and to educate law enforcement and related personnel to the significance and dangers of environmental crimes, there are still municipal departments and county and State agencies that have not ad-

ressed the issue of environmental crimes. Therefore, to increase awareness among these groups, the FLETC and NEIC have brought together the heads of State agencies that have long-standing enforcement programs with their counterparts in those States that have not adequately addressed the problem. Even so, more specialized training programs are needed for those environmental crimes investigators currently working in the field.

As law enforcement becomes more effective in dealing with environmental offenders, offenders

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”**

have become more adept at avoiding detection. To help meet this need, the regional groups have developed investigative training courses that deal specifically with the sophisticated dumper. It is hoped that through training and continued vigilance, law enforcement, together with its partner agencies, can successfully rid the Nation of those individuals who blatantly disregard the importance of a safe, clean environment.

LEB

Footnotes

¹ P. Miller, "Organized Crime's Involvement in the Waste Hauling Industry," in *A Report from Chairman Maurice D. Hinchey to the New York State Assembly Environmental Conservation Committee*, July 24, 1986, p. 187.

² S. Wolf, "Hazardous Waste Trials and Tribulations," *Environmental Law*, vol. 13, No. 2, Winter 1983.

³ Supra note 1.

⁴ M. Leepson, "Toxic Substances Control," in *Environmental Issues: Prospects and Problems* (Washington, DC: Editorial Research Reports, 1982), pp. 99-115.

⁵ Ibid.

⁶ A. Block and F. Scarpitti, *Poisoning for Profit: The Mafia and Toxic Waste in America* (New York: William Morrow and Co., 1985).

⁷ D. Rebovich, *Understanding Hazardous Waste Crime*, the Northeast Hazardous Waste Project and the New Jersey Division of Criminal Justice, June 1986, p. 70, and the National Association of Attorneys General, *State Attorneys General Guide to Environmental Law*, Washington, DC, 1990, p. 174.

⁸ Ibid.

⁹ The Northeast Hazardous Waste Project, *Annual Report*, 1987.

¹⁰ "L.A. Sheriff Expanding Unique Hazardous Materials Unit," *Crime Control Digest*, September 1, 1986, p. 10, and personal communication with R. Honnicker, Assistant Prosecutor, Monmouth County Prosecutor's Office.

¹¹ Supra note 7.

¹² Supra note 7.

¹³ Supra note 7 and New Jersey Department of Law and Public Safety, "Division of Criminal Justice Annual Activities," 1986, p. 27.

¹⁴ Third Conference of State Environmental Enforcement Organization, National Association of Attorneys General and NEIC. Denver Federal Center, Denver, Colorado, January 23 and 24, 1991.

¹⁵ Personal communication with Special Agent J. Molton, Federal Bureau of Investigation.

¹⁶ The Northeast Hazardous Waste Project, *Five Year Report: 1980-1985*.

¹⁷ C.G. Wills and C.W. Murray, Jr., "State Environmental Organizations," *National Environmental Enforcement Journal*, vol. 4, No. 7, 1989, pp. 3-8.

¹⁸ Personal communication with M. Staub, Training Chair for the Northeast Hazardous Waste Project.

¹⁹ Ibid.

²⁰ J. Miller, "Hazardous Waste Investigative Training Program Feasibility Conference Notes," Federal Law Enforcement Training Center, Glynco, Georgia, 1985.

Searches of Premises Incident to Arrest

By
A. LOUIS DIPIETRO, J.D.



All arrests, regardless of the seriousness of the crime for which they are made, pose serious risks to arresting officers. In recognition of the danger and the need to discover and seize evidence, the law has long permitted officers to make a warrantless search incident to an arrest.¹ However, an arrest inside premises where officers are in unfamiliar surroundings and on their adversary's "turf" often pose greater risks to the arresting

officers than on-the-street or roadside encounters. With these considerations in mind, the U.S. Supreme Court recently expanded the scope of an incident to arrest search in the context of an in-home arrest.

This article begins with a brief summary of the general requirements for searches incident to arrest and then examines the recent case of *Buie v. Maryland*,² in which the Supreme Court expanded the

scope of searches of premises incident to arrest. Such searches now include protective sweeps for persons under the following two alternative grounds: 1) Searches of immediately adjoining areas; and 2) searches of other areas based on reasonable suspicion of danger to the arresting officers.

GENERAL REQUIREMENTS

A lawful custodial arrest based on probable cause carries with it the

legal authority to conduct a warrantless search incident to that arrest to secure weapons or means of escape and to preserve evidence. However, the constitutional validity of a search incident to arrest does not depend on whether police have any facts that the person arrested possesses weapons or evidence. A lawful custodial arrest, standing alone, establishes the authority to conduct a search incident to arrest, irrespective of whether suspects are later acquitted of the offense for which they were arrested.³ Probable cause to arrest must exist before searching.⁴ But, a search may be conducted immediately prior to the arrest as long as probable cause existed prior to the search, and the fruits of the search do not serve as part of the probable cause.⁵

A search of premises incident to arrest must be conducted substantially contemporaneous with the arrest.⁶ Once officers exclusively control any personal property not immediately associated with the person to be arrested, and there is no longer any danger that the arrestee might gain access to the property to seize a weapon or destroy evidence, a search of that property can no longer be justified as incident to arrest.⁷ However, courts have held that arresting officers need not jeopardize their safety in order to make a contemporaneous search. In fact, officers may first secure the arrestee with handcuffs before searching incident to arrest.⁸ Such searches are generally considered substantially contemporaneous if they follow immediately after an arrest.

The "contemporaneous" requirement applies to searches of the

area within the arrestee's immediate control and to items, such as luggage, not directly associated with the arrestee. However, it does not extend to searches of the person, clothing, or personal belongings on the arrestee's person.⁹ Accordingly, courts have approved delayed incident to arrest searches of an arrestee's clothing,¹⁰ the contents of a wallet¹¹ and address book,¹² but not a briefcase.¹³

In *Chimel v. California*,¹⁴ the Supreme Court limited the scope of an incident to arrest search to the arrestee's person and areas within his immediate control. Courts have interpreted this ruling to include not only the arm's length radius encircling an arrestee's wingspan but also areas accessible to an arrestee at the time of arrest, regardless of actual accessibility at the time of search.¹⁵ In that regard, the court held in *New York v. Belton*¹⁶ that the search of a jacket located inside the

passenger compartment of the car in which Belton was riding was within the arrestee's immediate control.

SUPREME COURT AUTHORIZES PROTECTIVE SWEEPS

The scope of a search of premises incident to arrest authorized by *Chimel* was not always adequate to afford safety to the arresting officers. Thus, the Supreme Court in *Maryland v. Buie*¹⁷ expanded the scope of incident to arrest searches to permit arresting officers to go beyond *Chimel*, which limited such searches to the person and areas within his immediate control. *Buie* expands the scope of a search of premises incident to arrest to include a warrantless protective sweep of all "immediately adjoining" areas. It also authorizes protective sweeps into "other areas" based on reasonable suspicion.



Special Agent DiPietro is a legal instructor at the FBI Academy in Quantico, Virginia.

“...police need no additional justification beyond the lawful custodial arrest itself to automatically sweep areas immediately adjoining the place of arrest.”

”

Background

In *Buie*, two men, one of whom was wearing a red running suit, committed an armed robbery. Police obtained arrest warrants for Buie and an accomplice. Two days later, the police telephonically verified that Buie was home, and officers proceeded to his house.

Buie did not dispute the right of police up to the point of his arrest to search anywhere in the house where he might have been found. Instead, Buie argued that Detective Frolich's entry into the basement after the point of his arrest was not constitutionally justified as incident to arrest. The Supreme Court agreed

permitting the arresting officers to take reasonable steps to ensure their safety after making the arrest.

The Court approved the following two alternate grounds for police to conduct protective sweeps¹⁹ of premises for persons incident to arrest: 1) An automatic right to search any area "immediately adjoining" the place of arrest; and 2) a right to conduct a protective sweep of "other areas" based on reasonable suspicion that the area to be swept harbors an individual posing a danger to those on the arrest scene. This new protective sweep authority in the context of in-home arrests, when added to the traditional search incident to arrest authority established in *Chimel*, permits the scope of such searches to be broken down for analysis into four distinct areas with respect to the arrest. For illustration, these areas can be thought of as a series of concentric circles representing a bird's eye view looking down on the arrest. (See fig. 1.) The two innermost circles represent searches of the person and items immediately associated with the person and the area within the arrestee's immediate control. The outermost circles represent searches of immediately "adjoining areas" and "other areas," which were approved in *Buie*.

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[A] protective sweep...is not a full search...but rather a narrowly confined cursory inspection of those places where a person might be hiding.
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Once inside, they fanned out through the first and second floors; one officer shouted into the basement ordering anyone down there to come up. When a voice asked who was calling, the officer announced three times, "This is the police, show me your hands." Eventually, a pair of hands appeared around the bottom of the stairwell, and Buie emerged from the basement. He was arrested, searched, and handcuffed. Thereafter, another officer, Detective Frolich, entered the basement to determine if someone else was down there and noticed a red running suit lying in plain view on a stack of clothing. The officer seized the red running suit which, at trial, was admitted into evidence over Buie's objection.

to review the case to decide the justification required before Detective Frolich could constitutionally enter the basement to see if someone else was there.¹⁸

Supreme Court Decision

The Supreme Court weighed the additional invasion of Buie's privacy in those remaining areas of his house not searched prior to his arrest against the interest of the officers in assuring themselves that Buie's house was not harboring other dangerous persons who could unexpectedly launch an attack. By noting that an ambush in a confined setting of unknown configuration is more to be feared than one in open, more familiar surroundings, the Court struck the balance in favor of

IMMEDIATELY ADJOINING AREAS

Justification—Lawful Custodial Arrest

In *Buie*, the Court specifically stated:

"As an incident to the arrest the officers could, as a

precautionary matter and *without probable cause or reasonable suspicion*, look in closets and other spaces *immediately adjoining* the place of arrest from which an attack could be immediately launched."²⁰

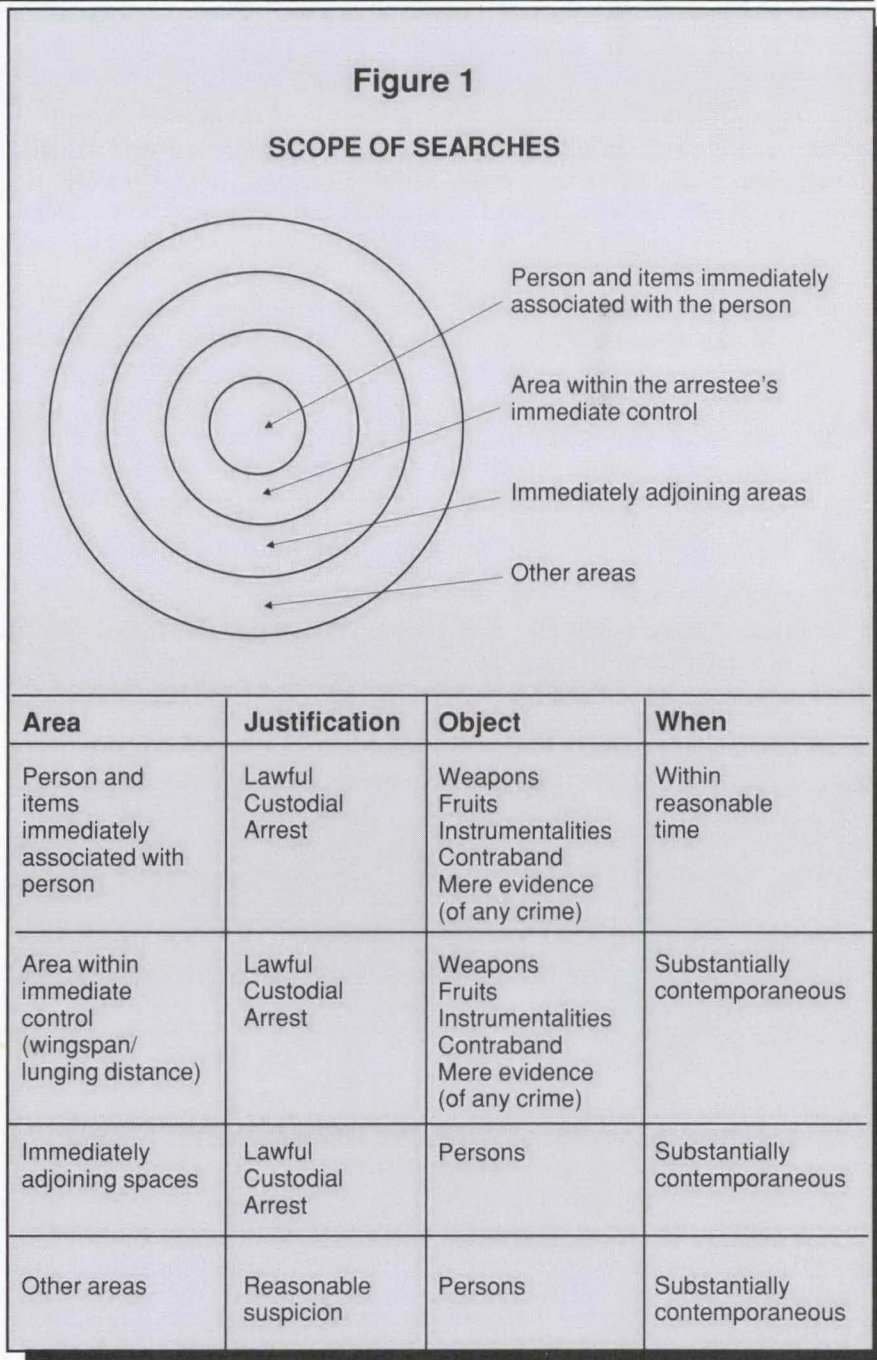
Buie thus holds that police need no additional justification beyond the lawful custodial arrest itself to automatically sweep areas immediately adjoining the place of arrest.

Scope—Limited to Persons

This protective sweep authorized by *Buie* is not a full search of the premises but rather a narrowly confined cursory inspection of those places where a person might be hiding.²¹ It is important to note that this scope limitation to searching for only persons is equally applicable to both sweeps of "immediately adjoining spaces," as well as to sweeps of "other areas."

Since the Supreme Court did not further define "other spaces immediately adjoining the place of arrest," police must look to lower court decisions for guidance in ascertaining the precise limits to such searches. In *United States v. Hernandez*,²² a Federal district court upheld the action of two deputy U.S. marshals in opening a closet door in a living room where the defendant was arrested and seizing evidence that was in plain view in the closet. This ruling was predictable, since *Buie* specifically permitted the arresting officers to look in closets immediately adjoining the place of arrest.

A more difficult question that police and lower courts will be



forced to address concerns what "other spaces immediately adjoining" the place of arrest qualify for suspicionless sweeps

under the expanded *Buie* rationale. The area that may be subjected to these suspicionless protective sweeps appears to exceed *Chimel's*

area of immediate control limitation. However, until a body of case law defines the precise parameters for such searches, a workable rule of thumb for police to follow is the "one threshold" rule. That rule permits arresting officers to cross one threshold contiguous with and leading from the room where the arrest occurred.

In *People v. Febus*,²³ a New York court approved a police officer's pushing open a slightly ajar door to an apartment after the officer had arrested the youth outside the apartment. The court believed the area on the other side of the door was a space immediately adjoining the place of arrest from which an attack could immediately

those areas "immediately adjoining" the place of arrest if they have reasonable suspicion to fear for their safety. In order for the sweep to proceed beyond spaces immediately adjoining the arrest, the Supreme Court in *Buie* held:

"[T]here must be articulable facts which, taken together with the rational inferences from those facts, would warrant a reasonably prudent officer in believing that the area to be swept harbors an individual posing a danger to those on the arrest scene."²⁴

The reasonable suspicion needed to justify a protective sweep of "other areas" of premises incident to arrest requires police to

Sixth Circuit held that government agents who conducted a lengthy protective sweep of premises following an arrest could not point to any specific reason why they believed another person dangerous to the agents was in the house at the time of the arrest. The court suppressed the evidence found during the sweep because the government failed to meet its burden to articulate a particular reason to support the agents' belief that a dangerous individual was present.

Likewise in *Hayes v. State*,²⁶ two officers attempting to justify a sweep following an arrest testified that there was a *possibility* that a dangerous person with a violent past *might* be there, but the officers could point to no facts to support their belief. The Supreme Court of Nevada held that while the officers need not have probable cause to believe a dangerous third person is present, the *mere possibility* of such presence is *not enough*. The court reasoned that if any possibility of danger were sufficient to create a reasonable belief of a danger, the police would have *carte blanche* power to conduct sweeps of citizens' homes incident to virtually any arrest and that by means of post-hoc rationalizations, the police could justify virtually any sweep search.

Another issue addressed by the *Hayes* court is important for all law enforcement officers. When asked why it would not have been safer simply to withdraw from the residence, a detective responded that sweep searches of residences incident to arrest were "standard operating procedure." The court

"...officers should document and be prepared to articulate the factual justification of any protective sweep conducted incident to an arrest."

be launched. The court held that an officer should not have to close his eyes to reality and await the glint of steel before acting to protect himself or others.

PROTECTIVE SWEEPS IN "OTHER AREAS"

Reasonable Suspicion Required

Police may conduct a sweep in "other areas" of premises beyond

have a reasonable *individualized* suspicion. The burden of proving the legitimacy of such warrantless searches is on the government, and police do not have automatic authority to conduct them.

The Basis for Fear Must be Articulated

In *United States v. Akrawi*,²⁵ the U.S. Court of Appeals for the

found such blanket sweep search procedures patently unconstitutional and ruled that such searches may not be conducted automatically or as a matter of routine.²⁷

Similarly, in *United States v. Castillo*,²⁸ an officer testified that it was standard procedure to do a protective sweep of the premises. In rejecting that statement as a "flip remark," the U.S. Court of Appeals for the Ninth Circuit observed that the fourth amendment was adopted for the very purpose of protecting citizens from "routine" government intrusions into the home and expressed dismay that any trained police officer in the United States would believe otherwise. Notwithstanding the officer's erroneous belief that he was entitled to make protective sweeps as a matter of routine, the court concluded that the arresting officers did have specific facts to reasonably believe that other persons were on the premises to justify a protective sweep.

Sweep Must Terminate When Fear Dispelled

The Supreme Court in *Buie* noted that the protective sweep aimed at protecting the arresting officers may last no longer than necessary to dispel the reasonable suspicion of danger, complete the arrest, and depart the premises.²⁹ Once police determine that no person who poses a danger to them is present, their authority to sweep the premises ends, and they must, barring other exigencies, leave the residence.³⁰ In that regard, the court in *United States v. Akrawi*³¹ ruled that agents who remained in the house for 45

minutes following an arrest did not have any factual justification to support a casual relation between the sweep and their claimed necessity to protect themselves.

CONCLUSION

Most challenges to an officer's search incident to an arrest in the home will arise in the context of a

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The reasonable suspicion needed to justify a protective sweep of 'other areas'... requires police to have a reasonable individualized suspicion.
”

motion to suppress evidence found during the search. As in all warrantless searches, the government bears the burden of proving that the search falls within one of the few specifically established and well-delineated exceptions to the warrant requirement.³² Where the initial intrusion into areas of a home gives officers access to evidence in plain view, such evidence can be seized if its incriminating nature is immediately apparent.³³ To insure the admissibility of evidence seized during an in-home arrest, law enforcement officers should document

and be prepared to articulate the factual justification for any protective sweep conducted incident to an arrest. Finally, on remand from the Supreme Court, the Court of Appeals of Maryland ruled in the *Buie* case that Detective Frolich's protective sweep of Buie's basement was justified by a reasonable belief that Buie's accomplice might have been hiding there and might have had the gun used in the robbery.³⁴

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Footnotes

¹ *United States v. Robinson*, 414 U.S. 218 (1973).

² 110 S.Ct. 1093 (1990).

³ *Hill v. California*, 401 U.S. 797 (1971).

⁴ *Sibron v. New York*, 392 U.S. 40 (1968).

⁵ *Rawlings v. Kentucky*, 448 U.S. 98 (1980). See also, *United States v. Donaldson*, 793 F.2d 498 (2d Cir. 1986), cert. denied, 479 U.S. 1056 (1987); *United States v. Hernandez*, 825 F.2d 846 (5th Cir. 1987), cert. denied, 484 U.S. 1068 (1988).

⁶ *Preston v. United States*, 376 U.S. 364 (1964).

⁷ *United States v. Chadwick*, 433 U.S. 1 (1977).

⁸ See, e.g., *United States v. Bennett*, 908 F.2d 189 (7th Cir. 1990), where the court of appeals approved a warrantless search of a motel room immediately following the arrest of its occupants, even though both occupants were handcuffed at the time of the search. The officers were not required to be "punctilious" in their judgments under the quick developing circumstances.

⁹ *United States v. Edwards*, 415 U.S. 800 (1974).

¹⁰ *United States v. Oaxaca*, 569 F.2d 518 (9th Cir. 1978) (shoes taken from pre-trial detainee 6 weeks after the arrest).

¹¹ *United States v. Passaro*, 624 F.2d 938 (9th Cir. 1980) (seizure of arrestee's wallet upon arrival at initial place of detention, search of its contents, and photocopying of documents contained therein, even though evidence unrelated to crime for which arrested).

¹² *United States v. Holtzman*, 871 F.2d 1496 (9th Cir. 1989).

¹³ *United States v. Schleis*, 582 F.2d 1166 (8th Cir. 1978).

¹⁴ 395 U.S. 752 (1969). In *Chimel*, the court defined the area of "immediate control" to mean the area into which an arrestee might

reach in order to grab a weapon or destroy evidence.

¹⁵ *Wisconsin v. Murdock*, 455 N.W.2d 618 (Wis. 1990). Three arrestees were handcuffed in back, face down on the floor offering no resistance while police searched. In approving the search, the court held that the scope of search is not dependent upon the level of control the arresting officers have over the arrestee or the arrestee's actual ability to gain access to the area searched, because an officer is not required to weigh the arrestee's probability of success in obtaining a weapon or destructible evidence hidden within his or her immediate control. See also, *United States v. Queen*, 847 F.2d 346 (7th Cir. 1988).

¹⁶ 453 U.S. 454 (1981).

¹⁷ *Supra* note 2.

¹⁸ If Detective Frolich's entry into the basement was lawful, then the seizure of the red running suit, which was in plain view and for

which the officer had probable cause to believe was evidence of a crime, was also lawful. *Horton v. California*, 110 S.Ct. 2301 (1990).

¹⁹ In *Buie*, the Court defined a "protective sweep" as a quick and limited search of a premises, incident to an arrest and conducted to protect the safety of police officers or others. 110 S.Ct. at 1094.

²⁰ *Id.* at 1098 (emphasis added).

²¹ *Id.* at 1099.

²² 738 F.Supp 779 (S.D.N.Y. 1990).

²³ 556 N.Y.S. 2d 1000 (N.Y. Sup.Ct.), appeal granted, 562 N.E. 2d 885 (1990).

²⁴ 110 S.Ct. at 1098.

²⁵ 920 F.2d 418 (6th Cir. 1990).

²⁶ 797 P.2d 962 (Nev. 1990).

²⁷ *Id.* at 967.

²⁸ 866 F.2d 1071 (9th Cir. 1988).

²⁹ 110 S.Ct. at 1099.

³⁰ *United States v. Oguns*, 1990 WL 205208 (2d Cir. 1990).

³¹ *Supra* note 25.

³² *Katz v. United States*, 389 U.S. 347 (1967).

³³ *Supra* note 18.

³⁴ *Buie v. Maryland*, 586 A.2d 167 (Court of Appeals of Maryland 1990).

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.

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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.



Sergeant Lansburgh

While driving off duty, Sgt. Richard Lansburgh of the Woodland, California, Police Department observed an elderly man fall from a motorcycle parked at a convenience store. Officer Lansburgh immediately instructed bystanders to call for help, and after determining the subject was experiencing cardiac arrest, began to administer CPR. When rescue units arrived, the subject was transported to a nearby hospital, where he was treated and released.



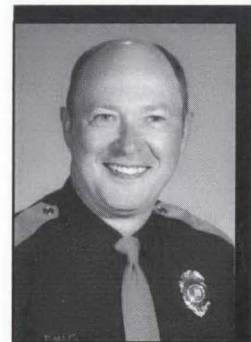
Officer Fanning

Officer Michael Fanning of the New York City Transit Police Department joined two NYPD officers in pursuit of a violent, emotionally disturbed patient who had escaped from a city hospital. One officer caught the escapee, but the subject struck the officer several times and threw him into oncoming traffic. As the struggle continued, he seized the other officer's service revolver. When the assailant threatened the officer with the weapon, Officer Fanning fired a shot, which neutralized the subject and saved the unarmed officer's life.

During heavy rainstorms and surging flood conditions, Troopers Jerry Hatfield and Jim Mays of the Alabama Department of Public Safety Aviation Unit were alerted to three men stranded in a remote area. The troopers immediately piloted a helicopter to the heavily wooded area, and under very unfavorable conditions, succeeded in rescuing the three victims.



Trooper Hatfield



Trooper Mays

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