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The Pacific Training Initiative Cooperation in Action

By
THOMAS J. BAKER

In their book, *Megatrends 2000*, John Naisbitt and Patricia Aburdene call the 21st century the “Century of the Pacific.”¹ Indeed, in many ways, it appears that the nations of the Pacific region have already embarked on a path of unparalleled progress and change.

While observers often concentrate exclusively on the economic aspects of this change, it is important to remember that the explosive growth of their collective economies during the past 3 decades induced other equally important

transformations within these nations. Many of these social, governmental, and policy changes will impact far beyond the Pacific region to affect other parts of the world. Because of the historically close relationship between the United States and other Pacific nations, much of this change will have particular impact in America.

One area in which the United States and several Pacific nations have established a cooperative approach is law enforcement training. The Pacific Training Initiative (PTI) combines the resources of several

Pacific nations and the United States to provide advanced training in law enforcement methodology and procedures. In many cases, geography and other factors make this cooperative approach the only practical avenue for providing this type of training.

GEOGRAPHY AND CRIME

Staggering distances of open ocean between small island nations characterize the geography of the Pacific. The Pacific Ocean’s 64-million square miles covers one-third of the earth’s surface.

The vast distances between the many islands and their numerous jurisdictions make them particularly susceptible to traveling carpetbaggers and con artists, who swindle island residents, businesses, and even governments out of their savings. The geography and disjointed legal systems of the region also invite drug runners, money laundering operations, and fugitives, who take advantage of both the vast distances and numerous jurisdictions to shield themselves from justice.

During the past several years, for example, money laundering operations and other criminal activities associated with offshore banking, which once prospered in the Caribbean, came under the increasing scrutiny of law enforcement. As a result, many of these criminal operations identified the Pacific as an attractive alternate location. Five Pacific island nations recently enacted bank secrecy legislation—a banking feature that money launderers find particularly attractive. Un-

fortunately, Pacific law enforcement agencies have limited experience from which to draw to confront this type of criminal activity.

Imagine the differences between the geographical and jurisdictional realities facing Pacific law enforcement agencies and those confronted by typical American departments. If a large-scale fencing operation is detected in an American community, the police department can develop a sting operation with surrounding jurisdictions, request investigative assistance from their State police, and forward evidence or fingerprints to the FBI for identification. A multijurisdictional approach involving the investigative resources of different agencies at various governmental levels is common.

Several factors make this type of approach implausible in the Pacific. Since the nearest jurisdiction may literally be 3,000 miles away, multiagency investigations are rare. Many island nations maintain a sin-

gle national police agency with resources resembling those of a single law enforcement agency in rural America. In addition, no depository of fingerprints, state-of-the-art crime labs, or computerized crime information networks exists. These factors create formidable obstacles to apprehending sophisticated criminals who migrate from nation to nation violating laws at will.

These conditions reaffirm the importance of cooperation among the law enforcement agencies of these nations. Moreover, the emerging prominence of the Pacific region, as well as its increasing trade with North America, makes enhanced law enforcement capabilities in this area critical to the United States. The Pacific Training Initiative represents the first step in an emerging cooperative approach.

THE PACIFIC TRAINING INITIATIVE

Road to Cooperation

In an address before an Asia/Pacific meeting of the IACP in Seoul, South Korea, the Director of the FBI stressed the need for enhanced police training in the region. Several months later, at a meeting of the South Pacific Chiefs of Police Conference, FBI officials discussed training needs with chiefs of police departments throughout the Pacific region.

These department administrators noted that the difficulties in staging police training in this region were compounded by several factors. The three primary problems were the great distances between each of the island nations, the near impossibility of hosting training schools on an individual island



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The Pacific Training Initiative draws upon the resources of various agencies and organizations to address specific training needs.
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basis, and the lack of financing available from many of the island governments.

During the IACP meeting, the police chiefs of the island nations encouraged the FBI to proceed with a police training initiative in the Pacific region. Both groups agreed that the most plausible avenue would be to hold the schools on American installations (or territories) and to invite surrounding independent island nations to participate.

The First PTI School

Planners scheduled the first Pacific Training Initiative school to take place on Guam in the northern Pacific. They determined that a 4-week course would be optimum—long enough for meaningful instruction but not so long as to inconvenience participants or departments. This first curriculum targeted midlevel managers.

The U.S. Navy installation on Guam cooperated fully with the school's planners by making classroom space and lodging available at a nominal fee. Personnel from FBI field offices on the west coast of the United States and Honolulu, as well as special agents from the legal attache's office in Canberra, Australia, participated in the training exercises.

The Guam Police Department acted as cohost for the school and was instrumental in making it a reality. Because travel expenses remained a difficulty for many of the participants, the U.S. Department of the Interior assisted by making funds available for travel to the school from the former U.S. Trust Territory of the Pacific.

Since every participating agency expressed a need for management instruction, the opening week of training concentrated on supervisory and management techniques. The next 2 weeks focused on basic investigative techniques, including instruction on interview and interrogation procedures, crime scene searches, report writing, and evidence collection. Because of an expressed need from several of the departments, instructors devoted the fourth week of the seminar to interpersonal violence issues.

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The Pacific Training Initiative represents the first step in an emerging cooperative approach.
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Building on Success

At the next annual meeting of the South Pacific Chiefs of Police Conference, the chiefs heard reports on the first PTI session and urged that the initiative continue. Thus, a second session of the Pacific Training Initiative was scheduled.

This training session, held on the island of American Samoa in the South Pacific, represented another example of multiagency cooperation. Since no naval facility exists on American Samoa, the island's Department of Public Safety secured a grant from the Bureau of Justice Assistance, U.S. Department of Justice, to cover lodging costs for the visiting participants. In addition, the South Pacific Chiefs of Police Conference secured a grant from the United Nations'

Drug Control Agency in Vienna, Austria, to cover travel expenses for the attendees.

Planners adjusted the curriculum for this session of the PTI to address training needs identified by the current participants. They retained the blocks of instruction concerning supervision/management and basic investigative techniques. However, a week of instruction on drug-related issues replaced the instruction on interpersonal violence.

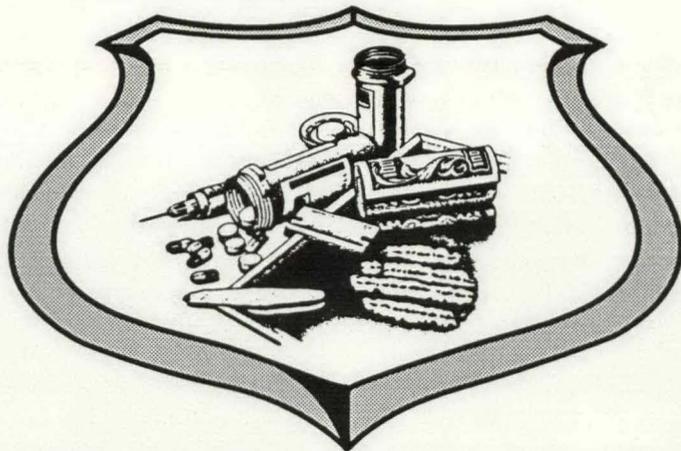
With the conclusion of the second session, midlevel officers from each of the independent island nations of the South Pacific had received PTI training. Planners now anticipate that the Pacific Training Institute will become an annual event, alternating between Guam and American Samoa. In future sessions, supervision/management and investigative techniques will remain as the core curriculum, with additional training provided on areas identified as being of particular interest to attendees.

CONCLUSION

The Pacific Training Initiative draws upon the resources of various agencies and organizations to address specific training needs. In the process, the PTI fosters goodwill and understanding among the emerging island nations of the Pacific and between these nations and the United States. The growing economic and cultural interdependence between America and the Pacific make such cooperative efforts not only worthwhile, but essential. ♦

Endnote

John Naisbitt and Patricia Aburdene, *Megatrends 2000* (New York: William Morrow and Company, 1990), 179.



Drug Testing Policy A Cooperative Effort

By Kenneth J. Gigli

Many police administrators confront a critical personnel problem that, until recently, has rarely been discussed—illicit drug use among police officers. While this problem requires the immediate attention of department administrators, who must act to eliminate drug use within their agencies, the approach to the problem must be tempered with caution. Clearly, unless administrators gain the employees' support prior to implementing a drug testing policy, employee dissatisfaction and low morale may result. Securing employee support could mean the difference between success and failure of a specific program.

When the chief of the Fort Wayne, Indiana, Police Department considered implementing a drug testing policy, he first surveyed officers to determine their attitudes on the issue. This helped to identify possible problem areas before any major action was taken.

It also made the officers feel a part of the decisionmaking process concerning a policy that would impact all of them.

Departmental Survey

The survey began with a carefully worded appeal for the officers' assistance in developing a departmentwide drug testing policy. In part, this appeal read as follows:

"It is my intention to solicit your views and opinions on the subject of drug testing for all members of the police department. The idea of such a policy is not borne of distrust, but of the need to design a program in the spirit of cooperative effort, that will yield a policy that can be conducted fairly, with adequate safeguards for protection of privacy and dignity for all members of the department...It is our concern for the need to balance the private interests of

those affected against the need to maintain the public trust, and the highest level of public safety service for our citizens. To assist us in this endeavor, please respond to the following survey."¹

The officers were then asked to answer nine questions designed to determine whether they believed that illicit drug use existed among sworn personnel, how they viewed the implementation of drug testing, and under what circumstances they believed drug testing would be appropriate.

Survey Results

One hundred ninety-four of 344 officers responded to the survey. Sixty-one percent believed that a substance abuse problem existed within the department, 86 percent favored a drug testing policy, and 65 percent favored a random drug testing policy.

The survey further revealed that members of the department who responded to the survey were in favor of a firm drug testing policy, based upon *specific complaint* and *reasonable suspicion*. Sixty-six percent of the respondents did not favor any "adequate notice" prior to random drug testing. The majority also believed that mandatory testing should exist for new applicants, officers involved in accidents where serious bodily injury or death occurs, and as a regular requirement for members of the Vice/Narcotics Division.

Developing a Policy

After determining how officers felt on key issues of a drug testing policy, the Planning and Research Unit drafted three proposals. The

first proposal was based on a literature study on drug testing, the second was taken from the *IACP Model Drug Testing Policy* but was adapted to the particular needs of the Fort Wayne Police Department, and the third was adapted from the Chicago Police Department's Drug Testing Policy.

With the three policies in hand, departmental managers began negotiations with representatives of the Fraternal Order of Police and the Patrolman's Benevolent Association. After a series of revised drafts, the three parties reached an agreement. The final policy culminated a cooperative effort between employees and management.

The Policy

The final drug testing policy requires mandatory testing, using specific sample collection procedures under predetermined circumstances. For example, all new applicants undergo drug testing, as do all probationary officers prior to the conclusion of their probationary periods. In addition, all officers assigned to the Narcotics Division, Emergency Services Team, and Internal Affairs must undergo mandatory drug testing.

Officials can also require drug testing when an officer's unusual behavior, conduct, or actions indicate possible substance abuse. In addition, testing is warranted when officials receive a specific complaint about an officer, supported by facts and documented in writing, or when an officer is involved in a serious incident. (A serious incident is defined as an incident that involves serious bodily injury or death, i.e., shooting, cutting, or physical force, or

an automobile accident resulting in death or serious bodily injury.)

The drug testing policy further requires that there be one departmentwide drug test for all sworn police personnel. After the initial test, 25 percent of the department members can be called for random drug testing. Any individual selected twice in one calendar year for testing cannot be selected for a third testing in that year.

Conclusion

Many police officers are amenable to the concept of policing themselves. They welcome firm, fair drug testing policies. However, the key to the success of the Fort Wayne Police Department drug testing policy lies in the fact

Survey Questions

1. Do you think that there is a substance abuse problem within the Fort Wayne Police Department?
2. Do you favor some sort of drug testing policy?
3. Do you think that drug testing should be mandatory for new applicants?
4. Do you favor random drug testing?
5. Do you favor a drug testing policy that is mandatory and based on "reasonable suspicion"?
6. Do you favor a drug testing policy that is mandatory and based on "specific complaint" and "reasonable suspicion"?
7. Should drug testing be mandatory when members of the department are involved in accidents where there is serious bodily injury or death?
8. Should any drug testing policy include adequate notice?
9. Do you favor drug testing as a regular requirement for any officer in the Vice/Narcotics Division?

that it was "conceived and implemented by a process of cooperative effort with members of the department."²

Allowing officers who have a vested interest in the drug testing policy to voice their opinions prior to its development creates an atmosphere of cooperation. This, in turn, fosters employee acceptance of the new policy. ♦

Endnotes

¹ "Attitude Survey," Fort Wayne, Indiana, Police Department, July 14, 1989.

² "Drug Testing Policy", Fort Wayne, Indiana, Police Department, June 1992.

Lieutenant Gigli is assigned to the Planning and Research Unit of the Fort Wayne, Indiana, Police Department.

Police Policy offers information on policies adopted by various law enforcement departments. These guidelines can be modeled to meet individual agency needs. Publication of a department's policy should not be construed as an endorsement of the FBI.

The International Criminal Investigative Training Assistance Program

By
ROGER YOCHELSON



On a hot, humid day in 1985, two men in an old sedan drive up to a small grocery in a Central American country. The driver waits in the car, while the other man walks into the store. Brandishing a handgun, he takes the money from the till, shoots the cashier in the neck and chest, and walks out to the street, where the busy foot traffic barely slows as he gets into the car and is driven away.

Because the store is on the outskirts of the city, homicide investigators take 40 minutes to arrive by bus. Meanwhile, the scene is overrun by curious citizens, journalists, volunteer firemen from competing companies vying for the bonus they

receive for delivering bodies to particular funeral homes, and the uniform patrolmen from that area.

When investigators finally arrive, they arrange for everyone present on the street and in the store at the time of the crime to be taken in for questioning. They conduct no preliminary interviews at the scene to determine whether the citizens to be questioned actually have any potential use or relevance.

Police personnel make no effort to preserve the crime scene or to collect and protect physical evidence. Within a week, investigators close the cursory investigation. They file a report and send it to the prosecutors and the court, where it

will either die under the crushing backlog of files or be dismissed for lack of evidence.

Seven years later, criminals commit a nearly identical crime. This time, however, the uniform beat officers arrive immediately, cordon off the area, and ask potential witnesses preliminary questions. Homicide investigators travel to the remote area in one of several new police vehicles, with crime scene kits in hand. The judge responsible for overseeing the investigative phase of the case arrives a short time later. The police collect and tag evidence. They also complete detailed drawings and descriptions of the crime scene. That same

day, investigators run a partial license plate number through a new records system and contact the National Insurance Crime Bureau (NICB) in the United States.

After several weeks of analyzing evidence and other information, the investigators identify two suspects. During subsequent warranted searches, the police retrieve what appear to be bloodstained clothes from the residence of one of the suspects. The crime lab, staffed with trained serologists, gets a positive match. With this evidence and corroborating witness testimony, police arrest the two suspects.

Followup investigations ordered by the judge tie the men to the 1985 grocery store robbery. Both men are convicted of robbery and first-degree murder, largely on the basis of the forensic evidence gathered. The same judge who presided over the 1985 investigation tries this case and compliments the police for the thoroughness of their work. What happened in the intervening years between these two cases is the story of the International Criminal Investigative Training Assistance Program.

BACKGROUND

In 1986, Congress established the International Criminal Investigative Training Assistance Program (ICITAP) to enhance investigative capabilities in democracies throughout Latin America and the Caribbean. ICITAP operates under the authority of the Deputy Attorney General of the United States and is fully funded by the Department of State through yearly grants from the Administration of Justice Programs. Congress authorized

ICITAP for three primary reasons: To enhance the professional capabilities of Latin American and Caribbean law enforcement agencies to carry out investigative and forensic functions; to assist in the development of academic instruction for criminal justice personnel; and to improve the administrative and management abilities of law enforcement agencies, especially those relating to career development, personnel evaluation, and internal discipline procedures.

Special Assistance

ICITAP also operates under the authority of the Urgent Assistance for Democracy in Panama Act of 1990, which was designed to provide training in civilian law enforcement techniques for the police forces of Panama. This expanded authority allows for enhanced efforts in Panama, whose criminal justice system required almost com-

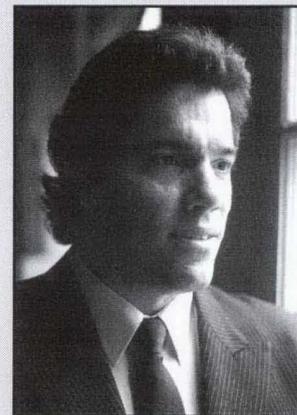
plete rebuilding after the ouster of Panama's president in 1989.

Additionally, ICITAP provides specialized training and assistance under its Colombian Judicial Protection Program, which began in August 1989 with funding authorized in the Anti-Drug Abuse Act of 1988. Additional funding exists for assistance to Bolivia, Colombia, and Peru—authorized under the International Narcotics Control Act of 1990. Congress is currently considering legislation that would expand the work of ICITAP into other countries in Europe, Africa, and Asia.

Training

Since beginning work in 1986, ICITAP has provided approximately 20,000 student-weeks of training to 10,000 students. ICITAP instructors offer courses on such divergent topics as investigative techniques, general criminal investigations, violent personal crimes,

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ICITAP represents the most concerted effort by the United States to aid the development of law enforcement capabilities in the Western Hemisphere.
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Mr. Yochelson, formerly the project design manager for ICITAP, now heads the Office of Public Administration for the Agency for International Development mission in Panama.

Countries That Receive ICITAP Training

- Anguilla
- Antigua & Barbuda
- Bahamas
- Barbados
- Belize
- Bolivia
- British Virgin Islands
- Cayman Islands
- Colombia
- Costa Rica
- Dominica
- Dominican Republic
- El Salvador
- Grenada
- Guatemala
- Guyana
- Honduras
- Jamaica
- Montserrat
- Nicaragua
- Panama
- Peru
- St. Kitts
- St. Lucia
- St. Vincent & The Grenadines
- Trinidad & Tobago
- Turks & Caicos
- Uruguay

and police management, as well as other more specialized training seminars for judges and prosecutors.

For the most part, ICITAP training emphasizes the rule of law and internationally recognized human rights standards. Limitations, however, do exist on ICITAP activity. ICITAP cannot provide lethal equipment or assistance related to enforcement techniques, such as arrest procedures, use of force, or patrol and traffic procedures.

Staffing and Direct Assistance

Staffing for ICITAP actually began in 1985 with the assignment of a supervisory special agent from the FBI as director for the office. An official who served overseas with the Agency for International Development was appointed as deputy director. Other early staff included additional FBI agents detailed to ICITAP and Department of Justice (DOJ) personnel. Since that time, the office has grown to include former DEA and Secret Service personnel, as well as professionals from a variety of other backgrounds.

Since the inception of the ICITAP concept, DOJ support has helped the program in a variety of ways. From participation by the highest executives of the FBI at conferences and other functions to the sponsorship of specific training and assistance in critical logistical efforts, DOJ and FBI association with ICITAP lent credibility and expertise to its mission.

In addition, the FBI continues to provide important direct support to the work of the office. This includes not only the agents on detail but also assistance with training programs and sharing of other resources, including facilities at

the FBI Academy in Quantico, Virginia.

IMPROVING CAPABILITIES

ICITAP represents the most concerted effort by the United States to aid the development of law enforcement capabilities in the Western Hemisphere. This is accomplished primarily through enhancing civilian policing skills, management assistance, academy development, regional and national dialogue among criminal justice agencies, and specific training programs.

Additionally, ICITAP provides various other types of aid, such as national and regional courses to police personnel, judges, and prosecutors in investigative techniques, management, and executive-level skills. Forensic science also represents an important element of ICITAP's efforts, and countries receive a significant degree of assistance through training seminars, donated equipment, and intern programs.

ICITAP directs its assistance primarily to police agencies, but significant work takes place with judges and prosecutors, as well. ICITAP also focuses on the relationship between the police and other criminal justice entities and supports various efforts to foster greater coordination through special courses and joint conferences. Specific initiatives include the creation of an Office of Professional Responsibility (OPR) in both the Guatemalan and Panamanian National Police and the first phase of the development of an OPR within the National Security Forces (police) of Honduras.

In Jamaica and Barbados, ICITAP works with local authorities to assist them in gaining accreditation through the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA), which developed a set of internationally recognized standards for law enforcement agencies. Both countries also receive substantial assistance intended to enhance the quality of training provided in their respective police academies. Both of these undertakings serve as models for other countries in the Caribbean.

BENEFITS

ICITAP assistance reflects a synthesis of the considerable evolution that has taken place in American crime prevention and law enforcement over the years. The numerous benefits of the ICITAP Program rebound both to the foreign recipients and to U.S. law enforcement.

Police techniques, training, management practices, organization, policies and procedures, and technology changed dramatically in the United States during the last 25 years. Underlying all of these changes, however, are the laws that provide proper authority to law enforcement while preserving fundamental rights for all citizens. Through its courses, conferences, and other activities, ICITAP attempts to move foreign law enforcement officials forward toward these evolved methodologies and technologies at an accelerated rate.

In most cases, however, the state of affairs in recipient countries is 15 to 50 years behind those in the United States. Many agencies employ antiquated methods and



“ICITAP relies on a positive exchange between recipient countries and American law enforcement agencies at various levels.”

equipment. For the most part, procedures have not been modernized since the days when the Kennedy administration provided training and materials.

In countries where these conditions exist, ICITAP training concentrates on the basics of sound investigation and prosecution. In countries with more advanced criminal justice systems, ICITAP provides counseling in such areas as protection strategies for judges and others under threat, management skills, threat assessments, and forensic techniques.

Benefits are often hard to measure in such long-term efforts. But tangible positive results have already been realized. In many cases, prosecutors succeed in winning convictions where defendants would previously have been released. Often, in these cases, judges and police cite ICITAP training as the reason for more thorough prosecutions.

Agencies also develop attitudes essential to modern policing. Some senior foreign law enforcement offi-

cials formed regional, multinational networks after they met initially in ICITAP courses and conferences. This type of regional cooperation rarely existed before ICITAP training began.

The cooperative effort derives return benefits for the United States as well. ICITAP has drawn on the talent and personnel of various American Federal, State, and local law enforcement agencies, which participate by hosting internships, providing hands-on training overseas, and sharing information domestically through conferences and seminars. American agencies also establish potentially useful contacts with foreign agencies that may become involved in international cases. And, the enhanced abilities in recipient countries make them better able to assist in investigating increasing multinational criminal activity.

OVERCOMING BARRIERS

Of course, ICITAP must overcome formidable obstacles. In a number of Latin American coun-

One Officer's Story

The following is a description of the typical situation faced daily by police officers in ICITAP recipient countries.

Before the sun rises high enough to clear the mountains surrounding the capital, Sergeant Gonzalez is waiting at the bus stop for the 1 1/2 hour trip to headquarters. He is wearing his standard issue blue uniform and black shoes, both supplied by the national police agency where he has worked for 22 years. With his salary of \$96 a month, Sergeant Gonzalez, his wife, and three children must live in an unheated cement house, with no phone and only intermittent electricity, in one of the many poorer neighborhoods on the outskirts of the capital city. When he finally arrives at work, he sits at a desk in a room shared by three secretaries and two subordinates. The chair he uses lost its padding some years ago; his desk predates his entry into service. He has two telephone lines, one kept free just to receive calls from within the building from superiors.

Sergeant Gonzalez will spend the day trying to coordinate the work of a dozen homicide investigators, explaining the cases to them and analyzing status reports. He will remind the detectives that the investigating judge in charge of the case and standard operating procedure within the agency demand that the investigation be completed in a matter of hours or days at most. He will then report to superiors and await instructions regarding his next steps. With few, if any, written policies

and procedures to follow, he will be constantly attentive to the wishes of senior staff and rarely, if ever, will he take initiative or use his own judgment to expedite any phase of the process. Darkness falls long before he starts the ride home.

The various additional activities required of Sergeant Gonzales during the month include giving tours of headquarters to largely disinterested VIPs and providing responses to internal affairs inquiries. He will be reminded quietly by various sources inside and outside the building that certain cases on his desk could—but perhaps should not—lead to suspects closely connected to two of the richest families in the country.

When Sergeant Gonzalez retires, he will take with him 2 months' salary as a pension. He will have decades of experience in law enforcement, which he will try to parlay into a position with a private security firm, a business, or a bank. However, he will be able to point out to basic training he received in marching, comportment, traffic laws, and physical fitness.

By improving the capabilities, management, and effectiveness of law enforcement agencies, ICITAP seeks to enhance the image of policing throughout Latin America and the Caribbean. In doing so, ICITAP hopes to improve the conditions under which law enforcement officers in these countries serve.

tries, police recruits possess little more than a ninth grade education. In many cases, the culture reflects a long history of frequent changes in government, shifting control by a variety of power groups, and frail economies. Opportunities for advancement have often been difficult to find, and guarantees of income or position are rare.

On the average, police officers in Latin America subsist on meager salaries, which partly results in low-level police corruption that citizens have come to accept. Superiors rarely exert any pressure on subordinates to perform well. Job security is almost nonexistent. Agencies offer little, if any, protection related to promotion or benefits. Therefore, few incentives exist for officers to perform professionally, and in fact, there are a number of disincentives to being thorough and conscientious.

The Caribbean suffers from a similar situation. The average recruit's educational and socialization level lags far behind those of their U.S. counterparts. Accordingly, some recruit programs must spend considerable time on basic secular education subjects.

Typically, Caribbean police officers hold second jobs to make ends meet. Housing is available for some police personnel, but conditions are deplorable. Salaries for Caribbean officers are generally higher than for Latin American police, with those in stronger economies earning about \$800 per month. With funding shortfalls, inconsistent messages from managers, inadequate facilities, and variable political will for change, reformers—both inside and outside these countries—face an

enormous challenge to help develop stronger police processes and institutions.

THE FUTURE

ICITAP has long-range goals throughout the hemisphere for improving the overall effectiveness of the various criminal justice systems. Administrators plan to accomplish

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these goals through improving skills, strengthening institutions, and changing attitudes that inhibit good policing.

As more retired and active duty American law enforcement officers become involved with ICITAP, they develop an increased appreciation for conditions in the United States. The generosity of American agencies continues to grow, with an increasing number of offers supporting internships and providing instruction and other assistance.

For the United States, the effort to create more professional criminal justice systems in Latin America and the Caribbean remains a key component in the overall goal to protect established democratic principles and develop stronger democratic institutions throughout the

Western Hemisphere. In fact, the United States accomplishes this through a variety of programs, including the FBI's National Academy, as well as training and assistance programs provided by other U.S. agencies. But ICITAP represents the largest and most concerted effort in this area.

If the work to date is any indication, ICITAP will have a tremendous impact in improving treatment of witnesses and suspects, increasing the skill levels of investigators, and limiting the indiscriminate use of force and authority in Latin American and Caribbean police agencies. Instead, these agencies will focus on modern investigative procedures, accountability, management practices, use of forensic skills and physical evidence, and maintaining a sense of purpose and credibility.

CONCLUSION

While much remains to be done, ICITAP establishes the basic groundwork for change. The key to success, however, is providing participating nations with the means to sustain and foster enhanced criminal justice practices and procedures.

ICITAP relies on a positive exchange between recipient countries and American law enforcement agencies at various levels. These agencies share with their foreign counterparts both the successes and frustrations experienced in American policing and criminal justice. For, despite well-publicized problems, the American criminal justice system remains a widely praised and sought after model for emerging democracies throughout the world. ♦

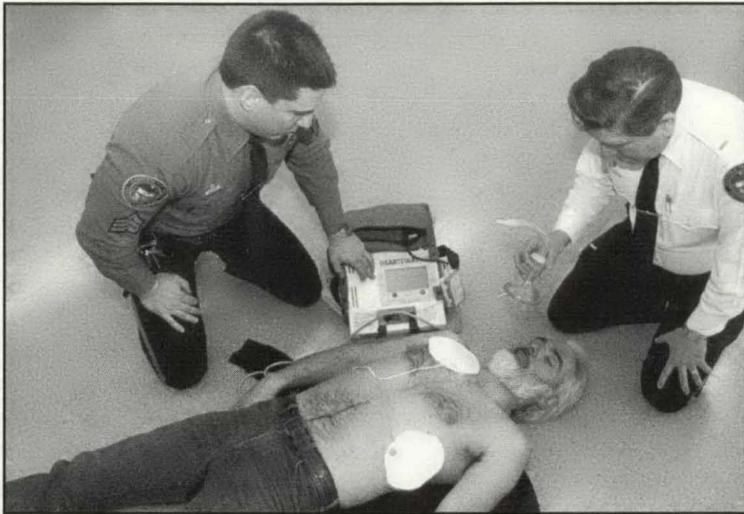


PHOTO BY LYDIA FORTE ROBERTS

AEDs — A Device To Save Lives

By Paul L. Pennypacker, Jr., and Robert F. Lanyon

In 1990, the American Heart Association issued a strong challenge. It reemphasized its staunch position that systematic provision of early defibrillation (restoration of regular heart rhythm through external electrical shock) must now be considered a prime goal of all public safety agencies.

In response, the Tredyffrin Township Police Department and the Paoli Memorial Hospital in Berwyn, Pennsylvania, entered into a pilot project, approved by the Pennsylvania Department of Health. This project provided for properly trained police officers, who are, in most cases, the first to arrive on the scene of an accident or medical emergency, to use automatic external defibrillators (AEDs).

AED Units

AED units provide electrical shock impulses to persons experiencing irregular heartbeats. The modern units, powered by a camcorder-type battery, are computerized, portable, and compare in size to a laptop computer.

Unfortunately, not all irregular heart rhythms respond to electrical shock therapy. Therefore, in the past, paramedics had to be trained to recognize the types of rhythms that would respond before applying a regular defibrillator. Now, the computerized AED unit analyzes the rhythm and indicates whether the victim's heart registers shockable or unshockable rhythm. This analysis determines whether responding officers should proceed with defibrillation.

Operating AEDs

Operating AEDs is simple. Once responding officers determine that the victim has no pulse and they initiate cardiopulmonary resuscitation (CPR), they attach the two leads of the AED unit to the victim's chest and rib cage, using adhesive patches.

They then activate the device by pressing the analyze button. At this time, the AED unit advises officers to check pulse, continue CPR, or to "stand clear, press to shock." This is performed three times. The device, not the officers, determines if further processing is necessary.

A mini-cassette recorder built into the unit records the entire chain of events. Local hospital personnel later review the tape to determine if the unit functioned properly and to ensure that the first responders followed proper protocol when administering assistance. They also perform maintenance of the AED units.

Training of Personnel

In order to qualify for the project, officers must have current Pennsylvania Department of Health First Responder status. This involves approximately 40 hours of classroom instruction and passing both a written and practical examination, covering a myriad of emergency medical techniques. In addition, a minimum of 6 hours training on the use, protocol, and maintenance of the AED unit is required. Recertification occurs every 3 months and consists of a 90-minute training session.

Success Rate

Approximately 1,000 people die each day in the United States from coronary artery disease. However, medical personnel estimate that survival rates among cardiac arrest victims increase by as much as 40 percent with early defibrillation.

The use of police officers to perform this medical procedure is the first project of its kind in Pennsylvania. Currently, the department has five AED units, which allow for each specific geographic area in the township to be covered 24 hours a day.

As of June 1992, the police department and the hospital's advanced life support team responded to 81 coronary emergencies. Seven patients experienced cardiac arrest, four of which received defibrillation therapy. One of the four was a man who collapsed at the local YMCA from a suspected heart attack. He survived because of this new procedure.

Conclusion

Although this pilot project is still being developed, the joint efforts of both the police department and the hospital can be a precursor to having an AED unit readily available for all first responders to an emergency. This only further assists law enforcement agencies in their mission to protect, to serve, and to save lives. ♦

Superintendent Pennypacker and Lieutenant Lanyon serve in the Tredyffrin Township Police Department in Berwyn, Pennsylvania.

Author Guidelines

Manuscript Specifications

Length: 1,000 to 3,000 words or 5 to 12 pages double-spaced.

Format: All manuscripts should be double-spaced and typed on 8 1/2" by 11" white paper. All pages should be numbered, and three copies should be submitted for review purposes.

Publication

Basis For Judging Manuscripts: Manuscripts are judged on the following points: Factual accuracy, style and ease of reading, structure and logical flow, length, relevance to audience, and analysis of information. Favorable consideration will generally not be given to an article that has been published previously or that is being considered for publication by another magazine. Articles that are used to advertise a product or a service will be rejected.

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HITS

Catching Criminals in the Northwest

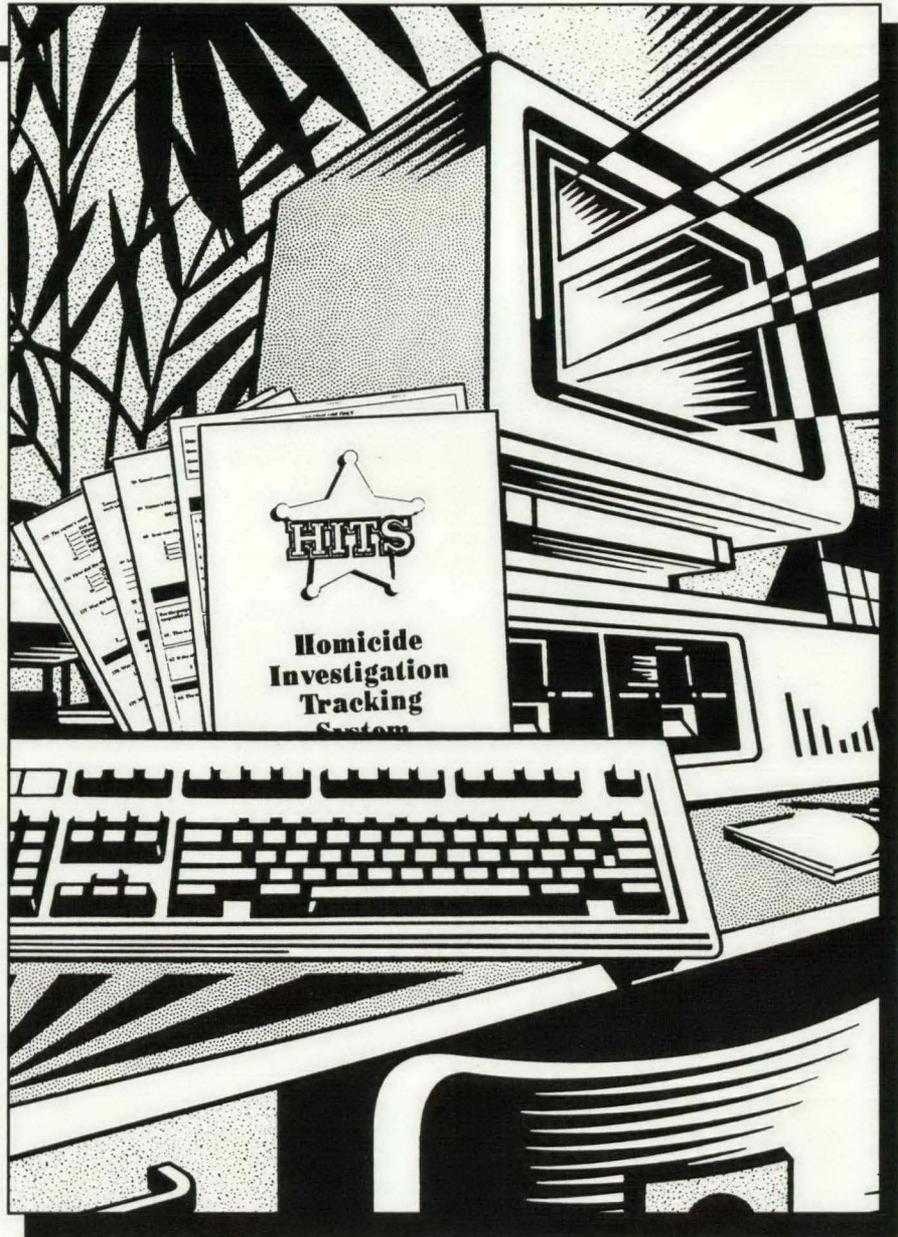
By
ROBERT D. KEPPEL, Ph.D.
and
JOSEPH G. WEIS, Ph.D.

Investigators in Washington State battle violent crime with the Homicide Investigation and Tracking System (HITS). HITS, an electronic investigation system, stores, collates, and analyzes characteristics of all murders and sexual offenses in Washington State. Investigators statewide can then retrieve information from the system on these violent crimes to help them solve related cases.

The system relies on the voluntary submission of information by law enforcement agencies throughout the State. These agencies submit data on murders, attempted murders, missing persons (when foul play is suspected), unidentified dead persons believed to be murder victims, and predatory sex offenders.

IMPLEMENTATION

The HITS system developed out of a research project funded by the National Institute of Justice (NIJ). Initially, it was designed to record information on homicides in Washington State between 1981 and 1986. As part of the project, HITS operators contacted each of



the State's 273 police and sheriff's departments, as well as each of the 39 county medical examiner/coroner's offices, county prosecuting attorney's offices, the Department of Vital Statistics, and the Uniform Crime Report (UCR) Unit of the Washington Association of Sheriffs and Police Chiefs, to determine the number of murders in the State during this period.

With the cooperation of all law enforcement agencies in the State, researchers eventually entered over 1,300 murder files into the HITS system. All known cases were identified by name, case number, and the jurisdiction responsible for the investigation.

Originally, this data collection instrument used a form that was 54 pages long and contained 467 fields.

This instrument recorded information related to the quality of the murder investigation and its chances of being solved, in addition to the salient characteristics of the murder, the victim(s), and the offender(s). It took investigators nearly 2 1/2 hours to complete each form.

HITS operators now receive data on shorter versions of the original form. The new forms use the same salient characteristics as the original form, but omit the research questions. The homicide form, which is slightly different from the forms used for sexual assault cases and missing/unidentified persons, is the most extensive of the HITS forms and contains 250 fields of information. Investigators need approximately 30 minutes per case to complete each form.

THE HITS COMPUTER SYSTEM

The HITS Program operates from a minicomputer located in the Seattle office of the attorney general's Criminal Division. It allows users to define and manage databases and to write software applications easily and quickly. The most important feature of this system for investigation purposes is the *ad hoc* interactive search capability, which allows HITS analysts to design specific investigation queries, choosing from as many as 250 fields of information. These fields contain information in tabled and free-form text formats. Analysts can ask for single or multiple field information in any order or combination.

For example, detectives investigating the murder of a white female

prostitute, who had been raped and strangled and whose nude body was found in a wooded area, may want to know whether any similar murder occurred within the last 2 years. They could contact the HITS Unit with such a request.

Based on the information provided by the detectives, HITS analysts could query the database for any combination of the victim's gender, race, lifestyle, method and cause of death, geographic location of the crime, the absence or presence of clothing on the body, concealment of the body, and/or the dates of death and body discovery. In this way, analysts could identify other murder cases with common elements.

HITS analysts can then supply the detectives with the names of similarly murdered victims (if known), investigating agencies, case numbers, and the primary investigator's name and telephone

number. Designing the query usually takes only a few minutes, as does the data search.

The HITS staff compiled over 90 formatted and indexed queries so that routine inquiries do not have to be redesigned each time analysts attempt similar searches. These include specific name inquiries, list of murders within a certain jurisdiction, information about drug-related murders, murders of elderly females, and offender descriptions, to list a few examples.

HITS FILES

The HITS Program accesses information obtained from at least six different sources. A number of files store data on various violent crimes.

HITS Murder File

The HITS murder file—the initial database—contains victim, offender, and M.O. information for



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Dr. Weis is a professor of sociology at the University of Washington in Seattle.

over 3,400 murder investigations. Law enforcement officers statewide provide this data by completing the HITS homicide form.

Prior to official implementation of HITS, local police agencies participated only in the FBI's Violent Criminal Apprehension Program (VICAP), a national violent crime tracking program. Now, approximately 350 of the State's murder cases entered in the VICAP system before the creation of HITS have also been merged into the HITS murder file.

HITS Sexual Assault Data File

The HITS sexual assault data file maintains victim, offender, and M.O. information for over 1,500 rape investigations. The information from this file focuses on predatory sex offenders, nonacquaintance rapists, and serial rapists. Source information comes from HITS sexual assault forms submitted by investigators.

Preliminary Information File

The preliminary information file records data regarding crime classification, chronology, victim(s), offender(s), the M.O., geographic locations, weapons, vehicles, and any other pertinent information regarding violent crimes. As the name implies, this file stores preliminary information until the investigating agency submits completed HITS reports. Information sources for this file include teletypes, newspapers, crime bulletins, sex offender registration files, and investigator's requests.

HITS computer operators automatically enter information about any violent crime transmitted via

teletype through the Washington State Patrol's system into the preliminary information file. No other State system records this type of data for use in investigations.

Staff members also enter murder and rape information reported in any newspaper in Washington State. A clipping service provides newspaper articles weekly. The newspaper and teletype data are valuable and timely because they are, typically, the first notification to HITS that a violent crime has occurred in the State.

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The HITS Program significantly improves violent crime investigations in the State of Washington.
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The preliminary information file also includes investigators' requests for information. The file maintains each inquiry from a police investigator, whether staff members locate information concerning the crime or not. This allows investigators to preserve their inquiries in case additional information becomes available to answer the request. As investigators submit HITS forms for murder and sexual assault cases, HITS personnel purge the initial information on these crimes from the preliminary information file.

Department of Corrections File

Another database stores information contained in over 145,000

records from the Department of Corrections (DOC). This file gives HITS immediate access to the identification of present and former inmates with murder and sexual assault convictions. Their physical descriptions can be checked against the physical descriptions of unidentified suspects in recent sexual assault investigations. DOC staff members update this file bimonthly.

Additional Files and Records

The HITS system maintains a special data file with over 54,000 records relating to the Green River murders investigation. Staff members frequently analyze records against current incoming violent crime information. Analysts pass any "hits" on to the investigators in the King County, Washington, Police Department.

HITS also maintains a separate data file for gang-related crimes. This file contains over 74,000 records received from the Los Angeles County Sheriff's Department and from police agencies within Washington State. Analysts requested the data from Los Angeles after intelligence determined that numerous gang members had migrated from California to Washington and committed crimes. HITS staff members routinely use this file to search for aliases or monikers and for physical descriptions of suspected offenders.

"Time Line" File

The final data file used for analysis is a "time line" file that records the chronological activities of known violent offenders. This data file includes information about times and places of the offenders'

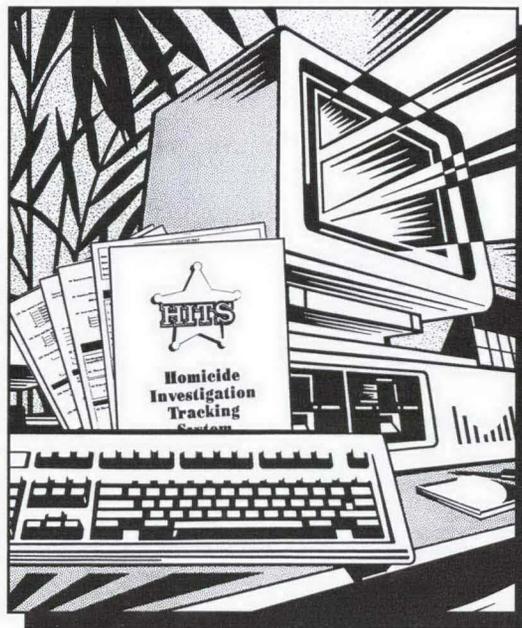
movements, which is gathered from employment, arrest, and banking records, traffic tickets, and any other lead collected during a murder investigation that reveals a possible location of an offender. These times and places can be cross-referenced against the dates and locations of violent crimes. The file serves as another means to determine if a known offender could have been the perpetrator of other violent crimes.

Due to the diversity of information sources, programmers constructed three master data files. These separate data files match the person, vehicle, and address information from all the other databases. This allows any one query to search for this information from all the databases at the same time. The fields available for analysis of the characteristics range from as few as 20 to as many as 250 in the murder file.

SERVICES TO LOCAL LAW ENFORCEMENT AGENCIES

HITS provides four major services to law enforcement agencies. In addition to supplying information about murders, attempted murders, predatory sexual assaults, unidentified dead persons, and missing persons, the system also tracks information concerning evidence, victimology, offender characteristics, offender's method of operation, associates, geographic locations, weapons, and vehicles related to murder and sexual assault cases and known murderers and sex offenders living in the community.

Further, HITS analysts collate information concerning murder cases to determine factors that may solve a particular homicide. This information can be used to



determine case, victim, or offender relationships to other violent offenses. HITS also provides investigators with resource information about experts available to assist with aspects of murder and sexual assault investigations and provides technical assistance and advice on how to proceed through the various steps in murder and sexual assault investigations.

HITS STAFF

The chief investigator of the Criminal Division of the attorney general's office supervises the HITS Unit. Besides the chief investigator, the unit also employs a HITS manager, five investigator/analysts, a violent crime analyst, two computer

programmers, a secretary, and a data entry operator.

The HITS manager develops the procedures and maintains the operations of the HITS Unit for police agencies throughout the State. The manager also coordinates HITS activities, which include training, collection of data, and analyses for police investigators statewide.

LOCAL AGENCY FINANCIAL PARTICIPATION

Implementation of the HITS Program involved no expense for local law enforcement agencies because the U.S. Department of Justice and the Washington State attorney general's office funded the entire project. In addition, the State attorney general's office bears the cost for ongoing operations.

Local agency participation in the FBI's VICAP Program became systematic in the State of Washington, which conserves investigators' time. Because the VICAP fields are collected within HITS forms, departments receive the benefits of participating simultaneously in both programs without duplicating efforts. The HITS staff performs the routine verification of murder information, telephone contacts, and lead checks required with participation in the VICAP Program, further conserving investigators' time.

REGIONAL EXPANSION EFFORTS

In October 1991, the Washington State attorney general and the

Requests for Investigative Assistance

HITS has received more than 400 requests for investigative assistance in murder cases. The following case examples demonstrate how HITS assists law enforcement agencies in their investigations.

- A Spokane detective completed the HITS form for the murder of a male transient found stabbed to death in a railroad yard. Analysts compared this murder case to other murder cases in the HITS system. They identified a case in another county in which a male transient was found stabbed to death in a railroad car. HITS information revealed that a person previously considered as a possible witness in the Spokane case had been the listed suspect in the previous case. The named suspect is now a listed offender in a Midwest State for a similar murder. When the HITS team disseminated the information to other law enforcement agencies, another similar case was identified from a third county.
- A western Washington police agency was trying to develop information about a victim who had been raped and murdered at an unknown location east of the Cascade mountains about 5 years earlier. After analysis, the HITS Unit provided the inquiring agency the name of the victim.
- A police informant from the eastern United States told a Washington police detective that an acquaintance murdered two people in western Washington, one victim from the detective's jurisdiction and one from another, unknown place. The detective contacted numerous police agencies over a 4-day period, trying unsuccessfully to locate the second victim and the proper police department, in order to coordinate the investigations. The detective then called HITS and received the necessary information in a matter of seconds.
- After an extremely brutal rape and attempted murder, a detective made a request to the HITS Unit for information about offenders having certain physical descriptors and M.O. The HITS staff provided the investigating detective with a list of known sexual offenders released from prison during the past 5 years and the areas to which they had been released. Along with this information, the HITS staff provided a collection of photographs to the detective, and the victim immediately identified one of the offenders as her assailant.

superintendent of the Oregon State Police (OSP) signed an agreement linking the two law enforcement agencies in their efforts to fight violent crime. A component of this agreement allows Oregon access to the HITS system.

In fact, members of the OSP have monitored the development and implementation of the HITS program in Washington over the past several years. Investigators from both States understand that the natural geographical barriers between Washington and Oregon do not deter the mobile violent offender.

The Oregon State Police can now transfer their violent crime information into the HITS computer database. Through remote access, analysts in the OSP can coordinate violent crime information pertinent to investigations in Oregon. Data from over 700 murders committed in Oregon during the last 6 years are now stored in the HITS computer. As a result, police and sheriff's investigators from Washington and Oregon have ready access to violent crime information.

In addition to Oregon, law enforcement agencies from Canada, California, Idaho, and Kansas submit data on selected violent crimes to the HITS Unit for analysis. These relatively small steps represent a concerted move toward regionalization of the HITS system.

BENEFITS

The HITS Program significantly improves violent crime investigations in the State of Washington. Through the HITS system, analysts discovered that different types of murder cases, for example,

reflect critical solvability factors unique to each murder. This information proves very useful to detectives, many of whom investigate murders and sexual assaults on a daily basis. The HITS Program also provides police managers with information necessary to allocate investigative resources

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**...HITS saves
investigators
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more efficiently and strategically by helping to focus violent crime investigations.

HITS underscores the importance of open lines of communication and coordination among all components of the criminal justice system in investigations of common interest. The HITS Unit functions as the central location and repository where every police investigator in Washington State can readily find information about murder and sexual assault cases. Its implementation demonstrates that the timely coordination of comprehensive information provides the key to successful violent crime investigations.

The HITS Program also improves criminal justice training curricula for law enforcement investigators. The identification and prioritization of solvability factors assist investigators in identifying avenues of proper and logical followup. In fact, one police department used HITS procedures and

forms to provide the framework for establishing its followup guidelines in murder investigations.

In addition, HITS saves investigators incalculable hours of time when seeking information. Prior to HITS, much of this information could be accessed only through time-consuming, labor-intensive personal visits, interviews, telephone calls, teletypes, and letters.

The HITS Program also benefits small law enforcement agencies with investigators inexperienced in specialized violent crime investigation techniques. Not only do they have ready access to information not recorded anywhere in their department's files, but HITS investigators can provide guidance, based upon years of experience, about how to conduct violent crime investigations.

CONCLUSION

The HITS system offers law enforcement agencies in the State of Washington high-tech assistance to solve homicides and other violent crimes. Investigators find that a small investment in time can benefit the law enforcement effort throughout the entire State.

And, as HITS develops a more regional approach, its impact could prove significant throughout the northwest. However, the success of HITS and similar systems rests with the participation by member agencies. HITS can provide valuable leads to investigators because the raw data are voluntarily submitted to the system by all law enforcement agencies in Washington. The cooperation fostered by the HITS Program represents an essential element to its success. ♦

Reflections on British Policing

By KEVIN M. COURTNEY



This year marks the 150th anniversary of the Staffordshire, England, Police Force. As part of the celebration, the Jackson, Michigan, police chief and four members of the Jackson Honor Guard, including me, traveled to Staffordshire for a week-long visit. This visit was a tremendous personal and professional experience for all of us. We not only learned about the English police constable's (PC) job, but we also gained a new sense of pride and admiration for law enforcement officers in England and the United States.

English Demeanor

The English have a reputation for being reserved, and the PCs exemplified this trait. In fact, one of the first things we noticed about them was their remarkable patience, which was not just a show for the visiting Americans.

Numerous booking video tapes of violent and disorderly persons demonstrated the PCs' tremendous restraint. Furthermore, the media's coverage of current events and our observations of the PCs on the beat reinforced this image. Without question, the PCs generally reacted calmly to even the most explosive situations.

Unlike most well-equipped American police officers, the PCs carry only a short truncheon (nightstick), handcuffs, and a portable radio. Their lack of equipment presents a problem when assaults do occur. Oftentimes, PCs face several attackers and have to rely solely on

their own physical strength for protection. As a result, serious injuries often occur. It makes one wonder how American police officers would fare facing the same challenges with so few tools.

Although the English constables are interested in updating their equipment, they have trouble doing so. After explaining belt-carried chemical agents to several PCs and commanders, the Jackson officers created a great deal of interest. However, the British Government, which provides 51 percent of each police force's funding, makes the decisions. As an example, a police committee in England considered replacing the short truncheon with the sidehandled nightstick, but halted its review after incidents in the United States spotlighted the excessive force issue.

Yet, even though the government influences the purchase of equipment, less political interference exists in England than in the United States, just by the nature of the police organization. In England, there are only 43 police forces and 43 police chiefs, who are chosen by the police authority for each force. Each police chief serves until retirement and can only be removed for a serious act of misconduct. The police authority cannot vote to remove the chief from office. Consequently, the chief can make decisions based on department and community needs, with less regard for political considerations than in the United States.

Community Policing

Many American police departments only recently embraced com-

munity policing, but in England, it is a time-honored tradition. The PCs' continued use of foot patrols best exemplifies the community policing concept.

A common misconception is that PCs patrol only quaint little villages. Quite the contrary; many of their assignments are in council estates, the equivalent of low-income housing developments found in most American cities. Here, the PCs do not face residents with firearms, as American police officers might. They do, however, encounter many of the same situations as American police officers—drug dealing, violence, theft, child abuse, and domestic disputes. Yet, they still exhibit understanding and dedication to their assigned areas.

The PCs recognize the need to build a relationship between the police and the community, and they do exactly that. Even in council es-

tates, I witnessed the residents constantly recognizing and acknowledging the PC on patrol. One resident even gave the PC good information on the location of an escaped prisoner.

The residents of these neighborhoods have many of the same concerns as Americans—loud parties, illegal parking, theft, and public order. Unfortunately, due to limited resources, more serious crimes sometimes supersede these problems. By informing the public of the department's priorities, the PCs maintain community involvement.

Multicultural Society

During our visit, a volatile racial incident in Staffordshire demonstrated the parallels between the English and American police administrators. When a group of white residents attacked the drivers of an Asian-owned and operated taxicab company, the taxicab drivers armed

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The fortitude and professionalism we saw in England renewed our faith in our profession.
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Lieutenant Courtney currently serves as the Patrol Division Commander of the Jackson, Michigan, Police Department.

Rethinking SWAT

By Tom Gabor

Scenarios requiring the deployment of Special Weapons and Tactics (SWAT) teams have become fixtures of the contemporary American psyche. Indeed, in the public mind, a SWAT operation represents a rare occurrence in the administration of municipal services—a swift, highly efficient, and professional resolution to an identifiable problem. Yet, some administrators are beginning to question whether maintaining SWAT units makes the best use of increasingly limited resources.

I do not challenge the need for SWAT teams. They make up an integral part of law enforcement's response to today's crime problems. However, I do question the need for the number of SWAT units currently in existence around the Nation.

In an era when law enforcement agencies are caught in a wedge between rising crime rates and reduced funding, administrators should reexamine the allocation of resources to such a highly specialized unit. Managers may find that uniform patrol units could actually handle the vast majority of situations that now result in SWAT "callouts." Further, incidents that do warrant the unique abilities of a specialized unit may be handled by a regional or county SWAT team.

UNIFORM PATROL

In virtually every field situation, patrol officers represent the

themselves with baseball bats. Although the potential for violence was very high, the PCs kept order while the Staffordshire Command directed a very rapid and effective response. The command incarcerated the offenders and met with the victims to address their concerns. Thus, the department lowered tensions and diffused a very difficult situation.

Reciprocal Learning

The above incident exemplifies the changes currently taking place in English society. The influx of emigres from former English colonies has changed England from a homogeneous to a multicultural society. This also has created challenges for the PCs. Consequently, the Staffordshire command officers reacted enthusiastically to a program on policing a multicultural society, presented by the Jackson chief of police, who is an authority on the subject. The program created an opportunity for a wide-ranging discussion.

As another means of exchanging information, two members of the Jackson contingent conducted a second seminar on the American experience with crack cocaine. Crack only recently surfaced in Staffordshire, although it poses a more serious problem in other English cities. However, due to the size of England's geographical area and its excellent transportation system, the potential for an American-style epidemic exists. Currently, the high price of the drug helps to control the demand for it.

Crack notwithstanding, street drug dealing continues to present

problems with wide-ranging ramifications in England. The visiting American officers outlined the aggressive, high-profile enforcement approach used in Jackson, and while the PCs agreed that the neighborhoods affected by drug dealing need rescuing, the methods used in Jackson raised a few eyebrows. Again, the natural British restraint became evident, although the PCs acknowledged that they are gradually having to adopt more aggressive approaches.

As with the sparsity of equipment, a lack of funding affects the PCs' drug enforcement efforts. And, whereas in the United States, forfeiture proceeds go back into the local department, in England, the national government receives the proceeds. This takes away a source of funding from the PCs and forces them to work with a limited budget.

Conclusion

The benefits derived from our trip to Staffordshire cannot be expressed easily. The media attention made us recognizable to the citizens who, in turn, showered us with tokens of good will and good wishes. But the greatest gift we received was the understanding and respect that developed between us and our English counterparts.

The nature of our profession can often lead us to believe that we are fighting a losing battle alone. The fortitude and professionalism we saw in England renewed our faith in our profession. It is an honorable profession—one that is invaluable to society and one that employs those who are committed to making a difference. ♦



Lieutenant Gabor serves with the Culver City, California, Police Department.

first law enforcement presence. Generally, SWAT teams become involved only after patrol units stabilize the scene and uniformed supervisors assess whether their personnel or a SWAT unit should handle the situation.

In many organizations, patrol leaders may actually feel pressured to call for SWAT assistance on borderline cases, even though field supervisors believe that patrol personnel could resolve the incident. Unfortunately, this course of action often has less to do with officer or citizen safety issues than with justifying the costs of maintaining SWAT units.

SWAT CALLOUTS

When SWAT members arrive on a scene, they usually assume positions already held by patrol officers. There, they typically wait while negotiators encourage the suspect(s) to surrender. It has been my experience that due to these efforts, the majority of subjects—perhaps as many as 90 percent—

surrender without shots being fired. In 9 out of 10 of the remaining incidents, subjects may fire several rounds, then realize the hopelessness of their situation and surrender—before any tactical engagement of the SWAT team. This equates to roughly 99 percent of barricade situations that could be handled effectively by patrol units and negotiators alone. The remaining incidents—about 1 percent of all barricade situations—may require the engagement of a SWAT unit.¹

Analyzing SWAT Callouts

Even on those rare occasions in which the “waiting game” will not work—when the police cannot negotiate with the subject—SWAT assault may still be premature. In approximately one-half of these cases, provided there are no hostages, a canister of tear gas fired through a window will induce subjects to exit their barricade. At this point, either the subjects surrender, or if suicidal, they come out shooting. Uniformed patrol officers are more than capable of handling either scenario.

If exposure to tear gas does not cause subjects to exit—or if the subjects take hostages—then a tactical SWAT assault may represent the only viable option.

Still, it could be argued that SWAT assault is truly *necessary* in very few incidents. With this in mind, today’s agency administrators must ask themselves if maintaining a full-time SWAT unit makes the best use of limited funds and personnel resources.

Hostage Situations

Incidents involving hostages are intricately more complicated than barricade situations. In hostage incidents, uniform patrol units should relinquish control to appropriately trained SWAT teams. However, administrators should remember that for every such incident, there exist literally thousands of unnecessary SWAT callouts across the country for more routine events that patrol units could handle effectively.

DANGERS OF OVERSPECIALIZATION

Besides the considerable financial commitment associated with maintaining SWAT units, there exists another more subtle, but potentially negative, cost to police agencies. As police managers know, the specialized training and status that certain units receive can inspire a welcome and very constructive sense of esprit de corps within those units. However, after several years of

Sound Off provides a forum for criminal justice professionals to express alternative views on accepted practices or to address emerging, and perhaps controversial, issues. The *Bulletin* provides this platform to stimulate thought within the law enforcement community and to encourage administrators to consider new ways of addressing such issues. However, ideas expressed in **Sound Off** are strictly those of the author; their appearance in the *Bulletin* should not be considered an endorsement by the FBI.

specialization, a destructive sense of institutional elitism can develop.

Officers and supervisors in specialized units may lose a sense of identity with personnel in other sections of the department. If these views are allowed to persist, specialists begin to view patrol officers—the generalists—as second-class personnel. Even a *perceived* arrogance on the part of specialized units can lead to serious, and organizationally devastating, conflicts within agencies.²

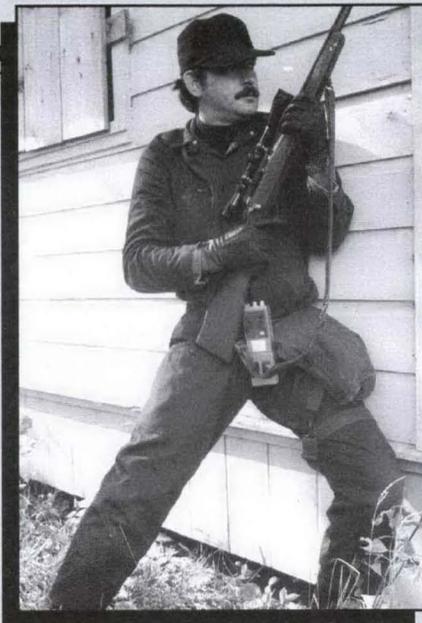
Members of specialized units, such as SWAT teams, may also become so consumed by their narrowly focused missions that training in other areas becomes lax. This is not inevitable, but overspecialization can create a sense within SWAT units that the specific abilities they possess represent the best response to almost every situation. This sentiment runs counter to the evolving understanding that today's crime problems require a multifaceted approach from law enforcement.

CALIFORNIA EXPERIENCE

Culver City

I have served in the Culver City, California, Police Department for over 16 years. In this time, the department requested the assistance of the county SWAT team once, but managed to resolve the incident prior to the team's arrival.

Culver City is not a sleepy little bedroom community. The city borders three very active



precincts of the Los Angeles Police Department (LAPD). The Culver City Police Department fields 115 sworn officers, and the community confronts the same crime problems that all major metropolitan areas face. Yet, for at least 16 years, the department's patrol personnel managed all major field incidents without the assistance of the county SWAT team.

Los Angeles County

Between 1988 and 1991, the Los Angeles County Sheriff's Office (LASO) responded to approximately 500 requests for SWAT assistance. Through the first 3 years, every incident—approximately 385 calls—resulted in a "talkout." SWAT members fired no shots, and no one was killed. In 1991, out of 115 calls, LASO SWAT exchanged gunfire with five subjects, killing four.³

During this 4-year period, negotiators settled 99 percent of the incidents without shots being fired. Even in the most violent year, 1991, LASO SWAT settled

96 percent of the incidents through negotiation. These statistics take on special significance considering that crime rates in Los Angeles County generally rank among the highest in the Nation.

WITHOUT SWAT, WHAT DO WE DO?

In no way do I advocate elimination of all SWAT teams—maintaining SWAT capabilities is an absolute necessity. At the same time, however, long-range budgetary realities will continue to force many agency administrators to search for expenditures that could be redirected.

I do believe that many of the SWAT units maintained by individual police departments throughout the country could be disbanded without threatening law enforcement capabilities. In most cases, existing regional or county SWAT teams could fill any void created. Granted, in some areas, regional SWAT units will either have to be created or enhanced, but in the long run, this will prove more cost-effective than funding individual units.

At the same time, the importance of maintaining regional SWAT capabilities cannot be overstated. Again, the Los Angeles County example applies. The county includes 47 municipal police departments and one sheriff's office (LASO). Each of the municipal departments has a mutual aid agreement with the sheriff's office, which maintains an extremely well-trained SWAT unit. Should an incident overwhelm a municipal agency's resources, the LASO SWAT team

can be dispatched to help resolve the matter.

Still, no fewer than 15 of the municipal departments in the county maintain their own SWAT teams. While some of these teams are part-time, the expenditures consume a considerable portion of their agencies' financial and personnel outlays. With restricted budgets, these costs seem difficult to defend, especially in light of the mutual aid agreements.

CONSIDERATIONS

Of course, certain exceptions exist. Large municipal agencies—such as the LAPD or the Chicago Police Department—can generally justify funding their own SWAT teams, even if they participate in countywide mutual aid agreements. Certainly, individual jurisdictions should consider population, demographics, crime rates, mutual aid responsibilities, and other factors when evaluating the need for SWAT teams.

Agencies in cities where fortified crack houses pose special entry problems for drug units should consider the special capabilities necessary to counter this problem. These and other considerations should certainly weigh in the minds of police administrators when reorganizing or reprioritizing SWAT units.

MAINTAINING SWAT CAPABILITIES

It may stand to reason that if municipal agencies disband their SWAT units, county SWAT

teams will become overwhelmed by the increased workload. This need not be the case. As stated previously, many field situations that now result in SWAT callouts should be handled by patrol units.

In fact, by removing the organizational bias toward SWAT callout, agencies will afford greater flexibility to field supervisors. Simply put, if an agency's patrol units can resolve an incident as effectively and more efficiently than a county SWAT team, they should be allowed to do so. The change in organizational structure within agencies could then actually lead to reduced calls for assistance from county SWAT units.

"...today's agency administrators must ask themselves if maintaining a full-time SWAT unit makes the best use of limited budget and personnel resources."

In addition, several municipal agencies, such as the Ventura, California, Police Department, employ alternatives to full SWAT deployment. If, for example, a barricade situation involves a single subject threatening suicide, patrol field commanders may choose to call out a supervisor and a negotiator rather than a full SWAT complement.

Responses to *Sound Off* should be sent on agency letterhead to Editor, *FBI Law Enforcement Bulletin*, Washington, DC 20535.

CONCLUSION

Long-term budget constraints force managers to make decisions they may not wish to make. However, agencies that plan ahead for reduced or static funding will be better able to continue providing their communities with effective law enforcement.

SWAT is an indispensable component of the overall approach to modern policing. At the same time, it is an area where increased cooperation between municipal and county—or regional—agencies can benefit all parties involved. This increased cooperation would allow agencies and communities to maintain capabilities while redirecting funds to other areas within police budgets.

SWAT units were designed to react to specific situations and to perform a very specialized function. It may be time to adopt a more unified approach and to amend field supervision directives so that centralized SWAT units can resume handling the incidents they were designed to handle. ♦

Endnotes

¹ These figures are estimates based on the author's experiences and internal reports of the Los Angeles, California, Police Department.

² See Tom Gabor, "Rotation: Is it Organizationally Sound?" *FBI Law Enforcement Bulletin*, April 1992, 16.

³ Based on internal Los Angeles Police Department Special Enforcement Bureau reports, compiled 1992.

Bulletin Reports

Money Laundering Control Strategies

In a recent *Research in Brief* publication entitled "State and Local Money Laundering Control Strategies," the National Institute of Justice presents an overview of the money laundering process intended to assist State and local law enforcement agencies in developing an appropriate enforcement role. The brief covers steps involved in laundering schemes and issues to consider when developing investigative strategies.

Other topics addressed include devising an enforcement strategy, using enforcement statutes effectively, and cooperating with Federal agencies. Strategies are also outlined for developing money laundering intelligence programs.

Copies of this research brief can be obtained from the National Institute of Justice, Box 6000, Rockville, Maryland 20850.

Juveniles in Custody

The Office of Juvenile Justice and Delinquency Prevention recently released a training video that presents Federal guidelines developed to handle the custody of juvenile status offenders and delinquents. The video tape and accompanying instructor's guide are designed for use at police academies, workshops, and roll calls.

The video presents real-life scenarios that show officers interacting with juveniles and demonstrates how Federal rules for juvenile custody differ from those of adults. It assists officers in learning how to best apply the guidelines in different situations.

The training package—the video tape and instructor's guide—can be obtained from the Juvenile Justice Clearinghouse, Department F, Box 6000, Rockville, Maryland, 20850; the telephone number is 1-800-683-8736. The cost is \$13.50.

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, 10th & Pennsylvania Ave., NW, Washington, DC 20535. 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.

Patrol Vehicle Testing

The Michigan State Police (MSP), in conjunction with the Technical Assessment Program of the National Institute of Justice, has published a detailed report on the results of the State Police's annual evaluation of police patrol vehicles. The report provides complete test information, including vehicle dynamics, on eight police patrol package cars and six special service package cars. To ensure an unbiased evaluation, all vehicles tested did not have overhead lights, lightbars, or spotlights.

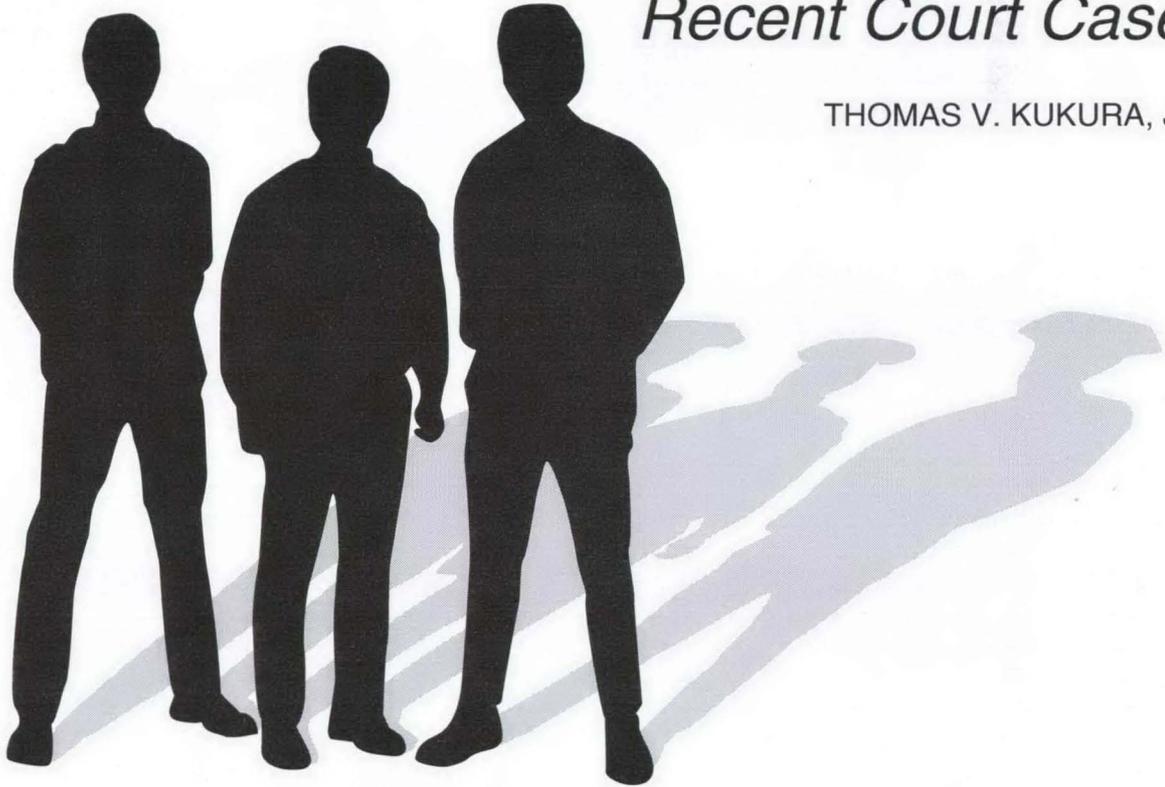
In addition to vehicle dynamics, the Michigan State Police also rated vehicles on acceleration, top speed, braking, ergonomics and communications, and fuel economy. The MSP vehicle specifications, test categories, and scoring published in the report reflect MSP needs. However, fleet managers of other departments can use the information to select patrol vehicles that best suit individual department needs.

Copies of the report can be obtained by writing or calling the Technology Assessment Program Information Center, Box 6000, Rockville, Maryland 20850, 1-800-248-2742 or 1-301-251-5060 in Maryland or Metropolitan Washington, DC.

Undercover Investigations and the Entrapment Defense

Recent Court Cases

By
THOMAS V. KUKURA, J.D.



Law enforcement officers often employ trickery and deception to catch those involved in criminal activity. The U.S. Supreme Court has recognized that when investigating certain criminal behavior, law enforcement may lawfully use an array of undercover techniques. However, in 1992, the Supreme Court in *Jacobson v. United States*¹ overturned a Federal child pornography conviction based on an entrapment defense.

Entrapment and other related defenses are often asserted by criminal defendants to challenge the le-

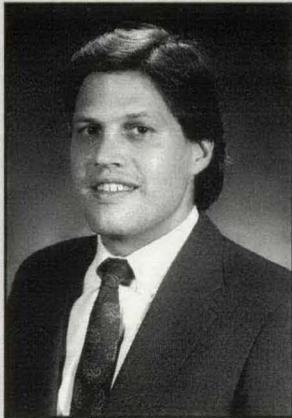
gality of various undercover investigative techniques. This article begins with a discussion of the entrapment defense in the context of the *Jacobson* decision. It then examines selected lower Federal court decisions that delineate several important factors law enforcement officers should consider when conducting undercover operations.

While *Jacobson* involves the so-called subjective view of entrapment used in the Federal courts, some State jurisdictions permit an objective entrapment defense that stresses the wrongfulness of Government action without regard to the

defendant's criminal predisposition.² This article focuses on recent cases concerning the subjective entrapment defense, which concentrates on the predisposition of the defendant. However, the general principles discussed are relevant for any law enforcement officer considering the use of undercover techniques.

Background of the *Jacobson* Decision

In February 1984, a 56-year-old Nebraska farmer (hereinafter the defendant), with no record or reputation for violating any law,



Special Agent Kukura, Drug Enforcement Administration, is a legal instructor at the FBI Academy.

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Entrapment and other related defenses... challenge the legality of various undercover investigative techniques.
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lawfully ordered and received from an adult bookstore two magazines that contained photographs of nude teenage boys. Subsequent to this, Congress passed the Child Protection Act of 1984, which made it illegal to receive such material through the mail. Later that year, the U.S. Postal Service obtained the defendant's name from a mailing list seized at the adult bookstore, and in January 1985, began an undercover operation targeting him.

Over the next 2 1/2 years, Government investigators, through five fictitious organizations and a bogus pen pal, repeatedly contacted the defendant by mail, exploring his attitudes toward child pornography. The communications also contained disparaging remarks about the legitimacy and constitutionality of efforts to restrict the availability of sexually explicit material, and finally, offered the defendant the opportunity to order illegal child pornography.

Twenty-six months after the mailings to the defendant commenced, Government investigators sent him a brochure advertising

photographs of young boys engaging in sex. At this time, the defendant placed an order that was never filled.

Meanwhile, the investigators attempted to further pique the defendant's interest through a fictitious letter decrying censorship and suggesting a method of getting material to him without the “prying eyes of U.S. Customs.” A catalogue was then sent to him, and he ordered a magazine containing child pornography.

After a controlled delivery of a photocopy of the magazine, the defendant was arrested. A search of his home revealed only the material he received from the Government and the two sexually oriented magazines he lawfully acquired in 1984.

The defendant was charged with receiving child pornography through the mail in violation of 18 U.S.C. § 2252 (a)(2)(A). He defended himself by claiming that the Government's conduct was outrageous, that the Government needed reasonable suspicion before it could legally begin an investigation of him, and that he had been entrapped by the

Government's investigative techniques. The lower Federal courts rejected these defenses, but in a 5-4 decision, the Supreme Court reversed his conviction, based solely on the entrapment claim.³

Entrapment Based on a Lack of Predisposition

In *Jacobson*, the Supreme Court held that law enforcement officers “...may not originate a criminal design, implant in an innocent person's mind the disposition to commit a criminal act, and then induce commission of the crime so that the Government may prosecute.”⁴ The Court's rationale followed a traditional entrapment defense analysis that focuses on two basic questions. First, did the Government induce the defendant to commit the crime? Second, assuming the Government improperly induced the defendant to commit the crime, was the defendant nevertheless predisposed to commit the criminal act prior to first being approached by Government agents?

Because the Government did not dispute that it induced the defendant to order the pornography, the sole issue before the Court in *Jacobson* was whether the Government had proved beyond a reasonable doubt that the defendant was predisposed to order the illegal pornography *before* the Government intervened. Based on the unusual facts of this case, the Court held that the Government failed to prove Jacobson's predisposition to commit this criminal act, independent of the attention the Government directed at him for 2 1/2 years.

The Court rejected as insufficient the Government's evidence of the defendant's predisposition de-

veloped 1) *prior* to the Government's mailings and 2) *during* the course of the investigation. The preinvestigative evidence of predisposition consisted solely of the defendant's then lawful 1984 purchase of the two magazines. The Court found this lawful purchase insufficient to show predisposition to do what is now unlawful because "there is a common understanding that most people obey the law even when they disapprove of it."⁵

The Court likewise dismissed the Government's evidence of predisposition gathered during the investigation, finding that the defendant's responses revealed, at most, a predisposition to view photographs of teenage sex and a willingness to promote a given agenda by supporting lobbying organizations. The Court concluded that this evidence was not sufficient to prove, beyond a reasonable doubt, that the defendant was predisposed to commit the crime of receiving child pornography through the mail.

Since *Jacobson*, courts have discussed the following four questions relevant to entrapment and related defenses that law enforcement officers should consider prior to initiating undercover investigations:

- 1) Does the Government need reasonable suspicion before targeting an individual in an undercover investigation?
- 2) What constitutes inducement?
- 3) What constitutes evidence of predisposition? and
- 4) What is the viability of the so-called outrageous Government conduct defense?

Each of these issues will be addressed in turn.

Does the Government Need Reasonable Suspicion Before Targeting an Individual?

Numerous Federal courts have held there is no Federal constitutional requirement for any level of suspicion to initiate undercover operations.⁶ The issue of whether the Government needed reasonable suspicion to approach the defendant in *Jacobson* was resolved in the Government's favor by the lower courts, and the Supreme Court refused to overturn that holding.

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...inducement focuses on the Government's conduct, while predisposition focuses on the defendant's actions and statements.
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These decisions rejected the claim that the Government needs a pre-existing basis for suspecting criminal activity before targeting an individual in an undercover investigation. The decisions are based on the grounds that there is no constitutional right to be free of investigation and that the mere fact an undercover investigation started without reasonable suspicion "does not bar the conviction of those who rise to its bait."⁷ However, as a practical matter, investigative agencies have little incentive to expend their limited resources on frivolous undercover investigations, and some agen-

cies proactively implement internal policy guidelines designed to ensure that persons targeted are predisposed to engage in the contemplated illegal conduct.⁸

What Constitutes Inducement?

The Federal defense of entrapment requires that a defendant first establish that he was induced to commit the crime. Then, the burden shifts to the Government to prove the defendant was nonetheless predisposed to commit that crime. If a defendant cannot establish Government inducement, the inquiry ends, and the Federal defense of entrapment fails.⁹

Inducement generally requires more than merely establishing that an officer approached and requested a defendant to engage in criminal conduct. While evidence that the Government engaged in persuasion, threats, coercive tactics, harassment, or pleas based on sympathy or friendship may amount to inducement, most courts also require the defendant to demonstrate that the described Government conduct created a substantial risk that an undisposed person or otherwise law-abiding citizen would commit the offense.¹⁰

For example, in *United States v. Young*,¹¹ the Internal Revenue Service (IRS) placed an undercover female informant at an IRS site to investigate drug activity. The informant became friendly with the male defendant, who hoped the relationship would develop into a romantic one.

During the next 4 months, they had contact at work and talked frequently over the telephone. The informant initiated at least five of these telephone conversations, in

which they discussed their mutual marijuana habit and the availability of marijuana. Sometime later, the defendant agreed to find a buyer for a quantity of marijuana that the female informant indicated was available.

The court found this alleged evidence of inducement insufficient because the level of contact was not so persistent as to be harassing or coercive. Nor was the friendship such that the defendant would feel compelled to respond affirmatively to the informant's offer.¹²

In *United States v. LaChapelle*,¹³ the Government initiated a child pornography investigation similar to *Jacobson*. The Government began the operation by developing a flier advertising a fictitious Belgium company that could supply "extremely hard to obtain erotica."

Unlike the defendant in *Jacobson*, LaChapelle independently and unilaterally inquired about the availability of child pornography and proceeded to order such materials at the first available opportunity, without the Government pressing him to do so. The court held the defendant failed to establish inducement and distinguished *Jacobson*, where the Government had mentioned child pornography in at least five mailings and aggressively urged Jacobson to battle censorship in four other mailings before Jacobson broke down and ordered a magazine.¹⁴

In both *Young* and *LaChapelle*, the defendants needed little encouragement to take part in criminal activity. These cases suggest that inducement is not established if law enforcement officers merely pro-

vide the opportunity or facilities to commit a crime by the use of artifice and stratagem.

What Constitutes Evidence of Predisposition?

Most courts consider the inducement and predisposition elements of entrapment to be closely related, and often, the same evidence will establish both elements.

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...inducement is not established if law enforcement officers merely provide the opportunity or facilities to commit a crime....

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The primary distinction between these elements is that inducement focuses on the Government's conduct, while predisposition focuses on the defendant's actions and statements.

For example, in *United States v. Skarie*,¹⁵ a Government informant, who was a distant relative of the defendant's estranged husband, moved in with her and asked her to put him in touch with people who could sell him and his friend drugs. She declined at first, but the informant continued to pressure and threaten her. He impaled one of her chickens on a stick and left it outside her back door; he later stated that what happened to the chicken could happen to people as well.

The defendant subsequently took the informant to meet a source, who later brought approximately 3

pounds of methamphetamine to the defendant's house. At this point, police arrested the source and the defendant.

The U.S. Court of Appeals for the Ninth Circuit found in *Skarie* that the Government *induced* the defendant to break the law because the informant initiated the idea of a drug sale, pressured the defendant repeatedly to agree to the plan, and threatened the defendant to convince her to do so.¹⁶ Because the court found Government inducement, the burden shifted to the prosecution to prove beyond a reasonable doubt that the defendant was disposed to commit the criminal act prior to first being approached by Government agents.

The court identified the following five factors as being relevant in determining predisposition:

- 1) The character of the defendant
- 2) Who first suggested the criminal activity
- 3) Whether the defendant engaged in the activity for profit
- 4) Whether the defendant demonstrated reluctance, and
- 5) The nature of the Government's inducement.¹⁷

Using these factors, the court found that no reasonable jury could find beyond a reasonable doubt that the defendant was predisposed to sell drugs independent of the insistent and threatening actions of the informant.

Proving Predisposition

Several recent cases reveal how Government agents provided a

court with articulable factors to prove predisposition, which defeated an entrapment defense, despite evidence of Government inducement. For example, in *United States v. Casanova*,¹⁸ the defendant, a federally licensed firearms dealer, sold several guns to a Government agent and an informant posing as convicted felons. The court assessed the five factors applied in *Skarie* and determined that the defendant was predisposed based on the following evidence.

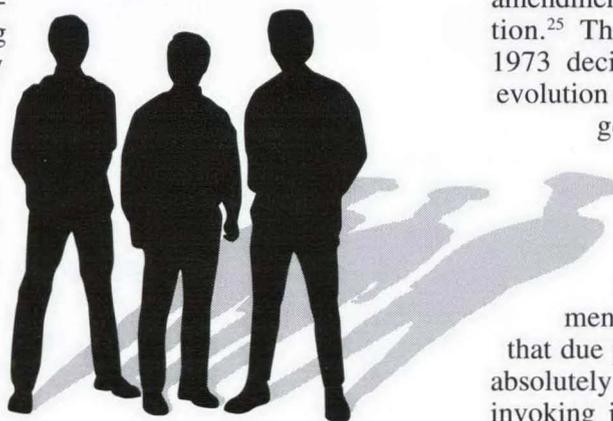
First, the defendant had several prior misdemeanor convictions disclosing a less than law-abiding background. Second, he readily agreed to sell a weapon to the informant, even after he had been informed on two occasions of the informant's felon status. Third, he admitted engaging in the illegal activity to make a "quick buck." And, finally, the defendant demonstrated a lack of reluctance to engage in the criminal conduct.¹⁹

In *United States v. Martinez*,²⁰ the Government provided evidence of predisposition by showing that during a surreptitiously recorded conversation with an undercover DEA agent, the defendant proved well versed in drug trafficking terminology. The defendant also advised the agent about the prices of various drugs in certain geographical areas, all of which indicated the defendant's "knowledge and experience" in the drug trade.

In *United States v. Olson*,²¹ the court found "copious evidence" of predisposition where the record reflected the defendant had two prior felony drug convictions, a drug arrest during a probationary period, and frequent association with drug

traders. In addition, the defendant made a quick reply to an undercover agent's invitation to "talk business."

However, the lack of any evidence that a defendant previously engaged in a specific crime does not conclusively preclude any predisposition to commit the crime. Evidence of predisposition may also be established by showing the defendant's desire to make a profit, an eagerness to participate in the criminal activity, or a quick response to the Government's inducement offer.²²



Clearly, an undercover investigator cannot lawfully create predisposition. However, the Court in *Jacobsen* did not foreclose the possibility of developing evidence of predisposition during the investigation. Therefore, officers should carefully document any evidence of a defendant's eagerness to engage in illegal conduct.

For example, the court in *United States v. Lew*²³ found that the defendant was predisposed to bribe an IRS employee based on his enthusiastic response to the revenue officers' overtures concerning the bribery. Similarly, the U.S. Court

of Appeals for the Fifth Circuit held that even though the Government may initiate an illegal scheme, such as money laundering, a defendant's "willing and active participation in the scheme" can establish a predisposition toward the crime.²⁴

The Outrageous Government Conduct Defense

A defense closely related to the objective view of entrapment is the outrageous Government conduct defense, which is predicated on the Due Process Clause of the fifth amendment to the U.S. Constitution.²⁵ The Supreme Court, in a 1973 decision, foreshadowed the evolution of this defense by sug-

gesting that even where predisposition is established, "[W]e may some day be presented with a situation in which the conduct of law enforcement agents is so outrageous that due process principles would absolutely bar the government from invoking judicial processes to obtain a conviction...."²⁶

The outrageous Government conduct defense presents a very narrow opportunity to challenge Government conduct. And while many courts recognized the viability of such a defense, it is clearly considered to be an extraordinary defense reserved for only the most egregious circumstances.²⁷

One of the few cases in which a court actually acquitted a defendant based on this outrageous Government conduct defense was *United States v. Twigg*,²⁸ where a Government informant suggested the establishment of a speed laboratory and then supplied the chemicals, glass-

ware, and the isolated farmhouse used for manufacturing. The informant also did the bulk of manufacturing because the defendant did not have knowledge of the manufacturing process.

The court invoked the due process defense and found that although proof of predisposition to commit a crime will bar application of the entrapment defense, fundamental fairness will not permit a defendant to be convicted of a crime in which police conduct was outrageous. The defense of outrageous Government conduct is theoretically viable where the Government is overly involved in the creation of a crime or coerces a defendant to participate, but the defense has only succeeded in cases like *Twigg* with a very high degree of Government involvement or coercion.

Conclusion

To ensure that undercover investigations do not give rise to successful claims of entrapment or related defenses, all law enforcement officers should consider the following three points before conducting undercover investigations. First, while reasonable suspicion is not legally necessary to initiate an undercover investigation, officers should nonetheless be prepared to articulate a legitimate law enforcement purpose for beginning such an investigation. Second, law enforcement officers should, to the extent possible, avoid using persistent or coercive techniques, and instead, merely create an opportunity or provide the facilities for the target to commit a crime. Third, officers should document and be prepared to articulate the factors demonstrating

a defendant was disposed to commit the criminal act prior to Government contact.

Such factors include a prior arrest record, evidence of prior criminal activity, a defendant's familiarity with the terminology surrounding a particular criminal venture, and a defendant's eagerness to engage in the criminal activity. The most convincing evidence of predisposition will typically occur during the initial Government contacts, which officers should carefully document to successfully defeat the entrapment defense. ♦

“
...officers should carefully document any evidence of a defendant's eagerness to engage in illegal conduct.
”

Endnotes

- ¹ 112 S.Ct. 1535 (1992).
- ² For a comprehensive discussion of the various views of entrapment, see *State v. Johnson*, 606 A.2d 315 (Sup. Ct. of N.J. 1992).
- ³ The Supreme Court declined to address the issues of outrageous Government conduct or the need for reasonable suspicion.
- ⁴ 112 S.Ct. at 1540, citing *Sorrells v. United States*, 53 S.Ct. 210 (1932).
- ⁵ *Id.* at 1542.
- ⁶ See *United States v. Jacobson*, 916 F.2d 467, 469 (8th Cir. 1990), *en banc*, reversed on other grounds by 112 S.Ct. 1535.
- ⁷ *Id.* at 1545.
- ⁸ The Court in *Jacobson* cited approvingly from the Attorney General Guidelines on FBI Undercover Operations. 112 S.Ct. at 1541, n.2; See also, *United States v. Casanova*, 970 F.2d 371 (7th Cir. 1992), where the court mentioned ATF policy regarding initiation of undercover investigations.
- ⁹ *United States v. Van Slyke*, 976 F.2d 1159 (8th Cir. 1992).

¹⁰ *United States v. Mendoza-Salgado*, 964 F.2d 993 (10th Cir. 1992).

¹¹ 954 F.2d 614 (10th Cir. 1992).

¹² *Id.* at 617. However, in *United States v. Beal*, 961 F.2d 1512 (10th Cir. 1992), the court found Government inducement on the basis of persistent phone calls and contacts by informant.

¹³ 969 F.2d 632 (8th Cir. 1992).

¹⁴ *Id.* at 635.

¹⁵ 971 F.2d 317 (9th Cir. 1992).

¹⁶ *Id.* at 320.

¹⁷ *Id.*

¹⁸ 970 F.2d 371 (7th Cir. 1992).

¹⁹ *Id.* at 375-76.

²⁰ 979 F.2d 1424 (10th Cir. 1992).

²¹ 978 F.2d 1472 (7th Cir. 1992).

²² *United States v. Sanders*, 962 F.2d 660 (7th Cir. 1992), where court found ready response by defendant to involvement in bribery established predisposition.

²³ _F.2d_, 1992 WL 348515 (2d Cir. 1992).

²⁴ *United States v. Arditti*, 955 F.2d 331 (5th Cir. 1992).

²⁵ See *United States v. Mosely*, 965 F.2d 906 (10th Cir. 1992). It has also been suggested that the outrageous conduct defense might rest upon the equitable supervisory power of the courts. See *Hampton v. United States*, 96 S.Ct. 1646, 1655, n.4 (1976).

²⁶ *United States v. Russell*, 93 S.Ct. 1637, 1642-43 (1973).

²⁷ *United States v. Olson*, 978 F.2d 1472 (7th Cir. 1992). *Olson* raises doubts as to the validity of the outrageous Government conduct defense. See also *United States v. Hart*, 963 F.2d 1278 (9th Cir. 1992); *United States v. Payne*, 962 F.2d 1228 (6th Cir. 1992); *United States v. Jones*, 976 F.2d 176 (4th Cir. 1992).

²⁸ 588 F.2d 373 (3d Cir. 1978). See also *United States v. Sontana*, _F.Supp._ (D. Mass. 12/10/92), where a Federal district court found Government's conduct outrageous in a reverse sting when it supplied a would-be heroin distributor with a sample (13.3 grams) of high purity heroin, did not recover it, and most importantly, the heroin apparently made its way to unknown users.

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

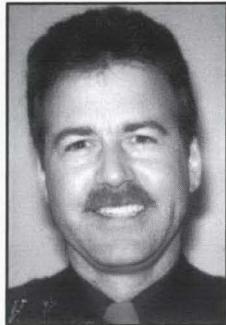
The Bulletin Notes

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

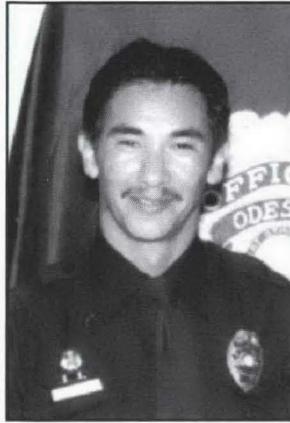
While off duty and waiting to testify in court, Deputies Matt Guy and Dave Mervau of the Kent County, Michigan, Sheriff's Department were informed by a citizen that a nearby bank had just been robbed. Through a window, the deputies observed the suspect running down the street with smoke emanating from a bag he carried. Deputies Guy and Mervau pursued the subject, apprehending him and an accomplice who sat in an awaiting vehicle.



Deputy Guy

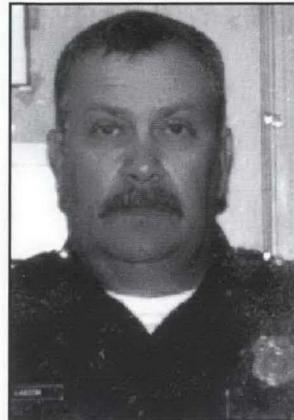


Deputy Mervau



Officer Valdez

While on patrol, Officer Johnny Valdez of the Odessa, Texas, Police Department observed smoke coming from a residence. After being informed that a male resident remained in the house, Officer Valdez entered the burning structure to search for the man. Officer Valdez located the victim lying on the kitchen floor and carried him to safety.



Sergeant Larcom

While off duty, Sgt. Ed Larcom of the Canton, Pennsylvania, Police Department responded to the report of a distraught man threatening several civilians with a loaded hunting rifle. After 2 hours of tense negotiation, during which time the assailant repeatedly threatened him with the rifle, Sergeant Larcom finally persuaded the man to surrender without further incident.

