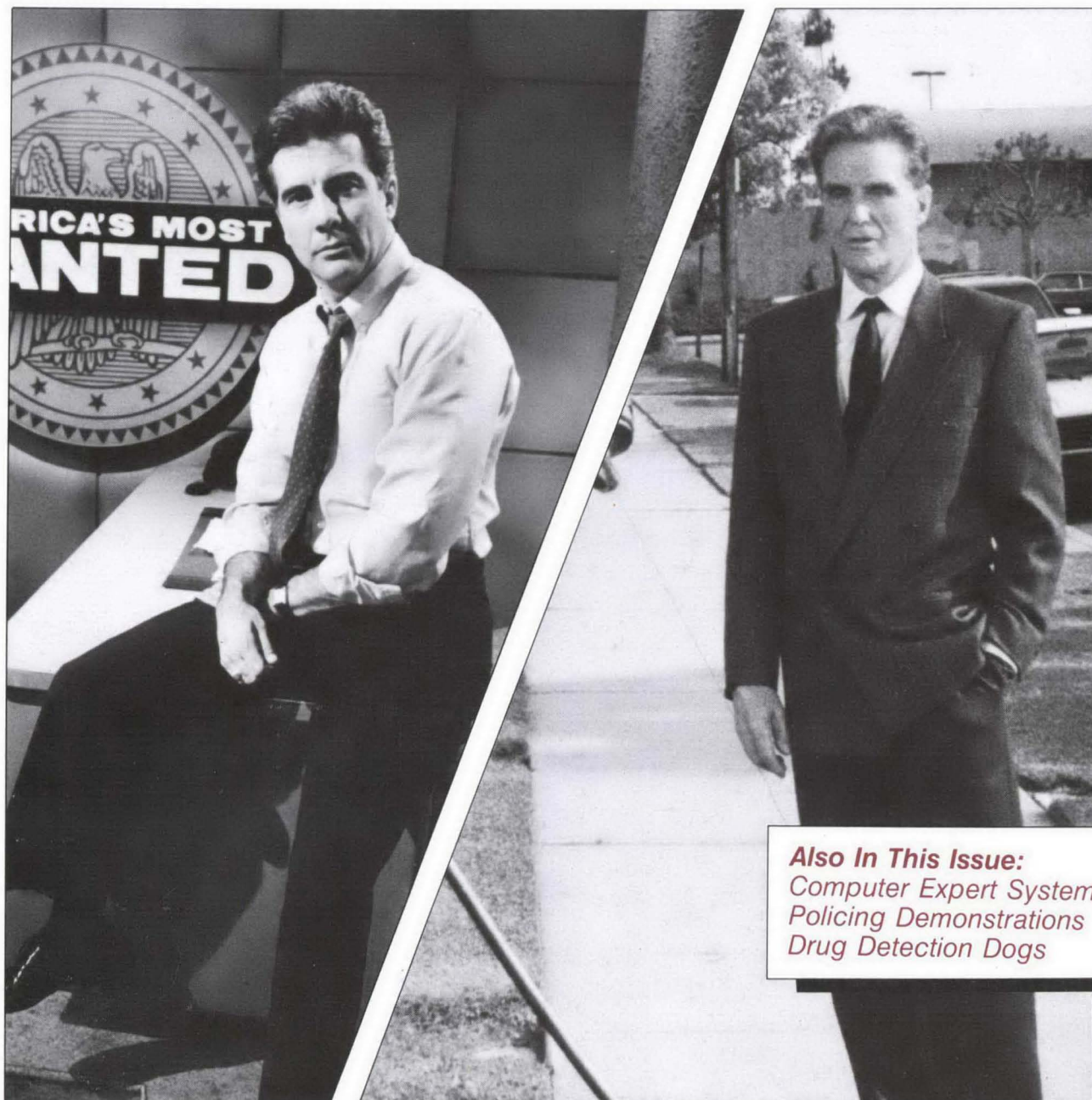




# FBI

August 1989

## Law Enforcement Bulletin



**Also In This Issue:**  
Computer Expert Systems  
Policing Demonstrations  
Drug Detection Dogs

## Crime-Time Television

# Contents

August 1989, Volume 58, Number 8

## Features

- 1 Crime-Time Television**  
By Scott A. Nelson
- 12 Expert Systems for Law Enforcement**  
By Roland Reboussin and Jerry Cameron
- 18 Policing Demonstrations**  
By Robert J. Johnston, Jr., and Lawrence F. Loesch, Jr.
- 26 Hounding Drug Traffickers:  
The Use of Drug Detection Dogs**  
By Kimberly A. Kingston

## Departments

- 10 The Bulletin Reports**
- 17 Book Review**
- 24 Police Practices**

# FBI

## Law Enforcement Bulletin



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

**William S. Sessions, Director**

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget.

Published by the Office of  
Public Affairs,  
Milt Ahlerich, Assistant Director

**Editor**—Stephen D. Gladis  
**Managing Editor**—Kathryn E. Sulewski  
**Art Director**—John E. Ott  
**Production Manager**—Andrew DiRosa

**The Cover:** Featured on the cover are John Walsh, host of "America's Most Wanted," and Robert Stack, host of "Unsolved Mysteries." See article p. 1.

The FBI Law Enforcement Bulletin (ISSN-0014-5688) is published monthly by the Federal Bureau of Investigation, 10th and Pennsylvania Ave., N.W., Washington, DC 20535. Second-Class postage paid at Washington, DC. Postmaster: Send address changes to Federal Bureau of Investigation, FBI Law Enforcement Bulletin, Washington, DC 20535.



# Crime-Time Television



By  
**SCOTT A. NELSON**  
 Section Chief  
 Office of Public Affairs  
 Federal Bureau of Investigation  
 Washington, DC



Americans live in an ever-changing electronic world where "one picture is worth a thousand words." One particular medium that has exerted a dominant influence over our society is television. Ninety-eight percent of all American homes have at least one television set which is turned on for more than 6 hours a day.<sup>1</sup>

TV has an almost mesmerizing power over viewers. It can captivate an audience to such an extent that it can influence public opinion and set public policy. Why? The answer is simple—television is everywhere. It is also entertaining, requires little effort, and presents information in both visual and audio terms.

Law enforcement agencies are just beginning to realize the full potential of this powerful medium and to use it to their advantage. In recent years, the law enforcement profession has joined forces with the TV media and, in turn, with the public to form a beneficial partnership. Weekly

"crime-time" television shows have resulted in the apprehension of fugitives, the solution of difficult cases, and positive publicity for the law enforcement agencies involved.

This article discusses the development of crime-time television and its pros and cons. It also offers suggestions to the law enforcement manager who may be approached by a local or national network to participate in a crime-solving program.

#### **Law Enforcement and the Printed Media**

The FBI's "Ten Most Wanted Fugitives" list was law enforcement's first major union with the media. A newspaper story in 1949 led to the creation of the list after a reporter asked the FBI for the names and descriptions of the "toughest guys" the Bureau would like to capture. The story generated so much positive publicity that on March 14, 1950, former FBI Director J. Edgar Hoover approved the "Most Wanted Fugitive" Program.

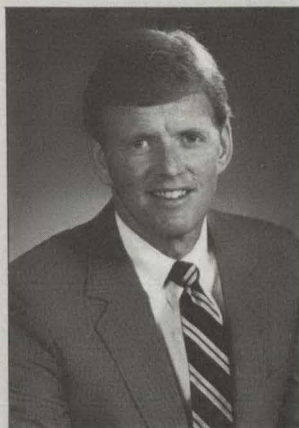
The success of this program is well documented. Within the first year, 9 of the first 20 "Top Tanners" were arrested as a result of citizen tips. To date, information from citizens alone has led to the capture of 121 of the 426 "Top Ten" fugitives who have been added to the list. Obviously, the widespread publicity generated by the printed media worked. The value of citizen participation in capturing the mobile, elusive criminal cannot be questioned.

#### **From Print to Picture Tube**

During the 1960's and early 1970's, television crime dramas dominated the airwaves. One of the most popular was "The FBI," which is considered to be one of the top five longest running television series. The program starred Efrem Zimbalist, Jr., as Inspector Erskine and aired from 1965 to 1974. It occupied a highly coveted time slot—Sunday at 8:00 p.m.—considered by many to be the "family hour." The series dramatized actual FBI cases that had been solved.

In the wake of the Vietnam War, crime dramas became unpopular to American television viewers. An anti-establishment mentality prevailed, and this impacted dramatically on the public's perception of law enforcement.

However, in the early 1980's, a new FBI drama starring Mike Connors appeared on the television screen. "Today's FBI" portrayed the changes that had taken place not only within the organization but also within the criminal world. A female Agent and a black Agent joined the team to solve cases dealing with modern-day crime problems, such as white-collar crime and organized crime.



Special Agent Nelson

“  
**Two of the most popular shows, 'America's Most Wanted' and 'Unsolved Mysteries' have become potent law enforcement tools.**  
”



The two shows, "The FBI" and "Today's FBI," were solely to entertain the viewing public. The cases portrayed had already been solved; the perpetrators had been apprehended and convicted.

### Crime-Time Television

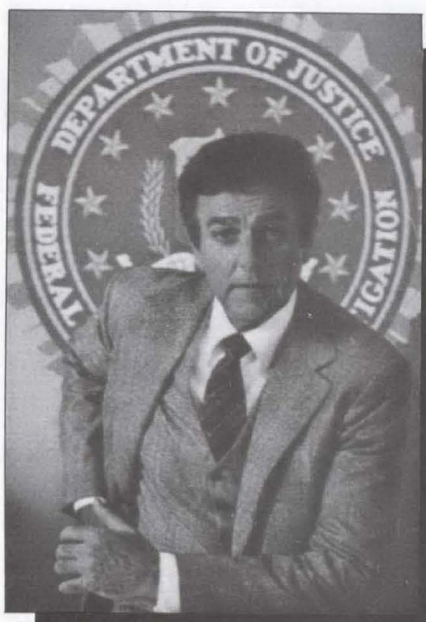
By the 1980's, there was a resurgence of public interest in crime dramas. Responding to

viewers' demands, networks revamped their programming schedules. But, the television shows took on a new look—a new direction.

Dramatized, factual re-creations or "reality programming" now appear on the screen. Viewers are asked to help identify or locate criminals. Crime-time television has taken a premier

position in modern-day programming.

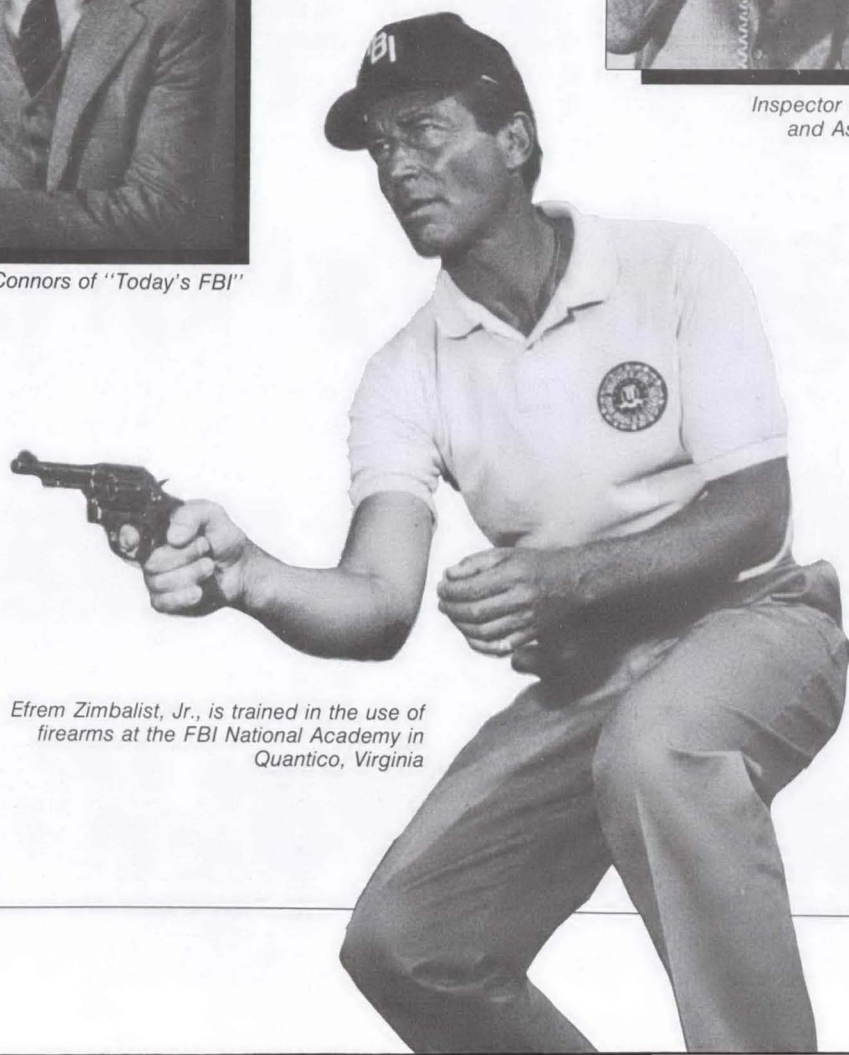
Two of the most popular shows, "America's Most Wanted" (AMW) and "Unsolved Mysteries" (UM) have become potent law enforcement tools. They are basically a more visual and more interesting extension of the "Top Ten" Program that has captured America's attention since



Mike Connors of "Today's FBI"



Inspector Erskine (Efrem Zimbalist, Jr.) and Assistant Director Ward (Phillip Abbott) of "The FBI"



Efrem Zimbalist, Jr., is trained in the use of firearms at the FBI National Academy in Quantico, Virginia



the 1950's. While AMW centers on factual fugitive re-creations, UM's format is more varied, covering not only fugitives but also unsolved criminal cases and unexplained mysteries. Both shows factor in entertainment, and that, combined with the public's desire to help, accounts for the audience draw.

“

***Several other Federal agencies ... have also cooperated with the television industry to produce crime-time television shows and are reaping substantial benefits.***

”

However, according to Executive Producer Michael Linder, AMW puts the entertainment aspect into perspective:

“We know our program is seen as entertainment by the many in our audience who are simply fascinated by the often bizarre behavior of criminals. But, shock, violence and horror are dramatic devices we choose to avoid. We want to stress human values. Our cases are often the stories of ordinary people caught up in extraordinary events and people whose lives have been touched profoundly by crime. We intend to depict their lives with compassion and understanding. In that way, we believe other viewers will be motivated to help out of sympathy to victims of violence.”

AMW, hosted by John Walsh, whose son, Adam, was brutally murdered, premiered on February 7, 1988, on select Fox TV affiliates. Seen weekly by 12

to 15 million viewers, it is currently the number-one rated Fox television network show. Its popularity has boomed, and it now airs on 123 Fox-affiliated stations in major American cities.

John Walsh describes “America's Most Wanted” as a “weekly nationwide criminal manhunt.” The show attempts to

accurately reenact crimes at the actual scene whenever possible. However, only serious crimes which merit nationwide exposure and which can be solved with the public's help are reenacted.

“Unsolved Mysteries,” created by NBC's entertainment division, is hosted by Robert Stack. According to Stuart Schwartz, coordinating producer,

“‘Unsolved Mysteries’ initiated the crime-solving genre in January, 1987, when our first episode aired. The show grew out of several TV specials we did called, ‘Missing—Have You Seen This Person?’ in which we profiled missing persons cases and asked our audience to call in to an 800 number with tips. The show resulted in reuniting 25 missing people with their families.”

As of July 1989, UM has been credited with the solution of 26 cases, 17 of which were FBI cases. This past year, UM was rated the top new NBC series,

viewed by approximately 30 million people every Wednesday night.

### **A Beneficial Partnership**

Although crime-time television is common in such European countries as England, West Germany, and The Netherlands, the genre is still fairly new to the United States. Yet, the FBI has cooperated with certain crime-time television shows from the very beginning, recognizing the programs as unique opportunities to catch fugitives and solve cases through public/private involvement.

Several other Federal agencies, such as the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco and Firearms, and the U.S. Customs Service, and local and State law enforcement agencies have also cooperated with the television industry to produce crime-time television shows and are reaping substantial benefits. According to Michael Linder:

“We have worked with more than 95 law enforcement agencies in more than 130 cities and their cooperation has been simply astonishing. I see a new relationship emerging between law enforcement and the media. In the past, these organizations often engaged in adversarial politics, but at AMW, we believe we're creating a prototype which uses the strengths of each to accomplish a greater goal.”

Stuart Schwartz adds:

“Americans seem particularly concerned today with rising crime statistics. We believe that ‘Unsolved Mysteries’ creates an opportunity for national televi-



sion to work as a tool for law enforcement.... By cooperating with law enforcement agencies nationwide, we give case investigators an opportunity to be put directly in touch with those viewers having that one vital clue or piece of information that helps to solve a case.... We believe that television [and 'Unsolved Mysteries'] can be an effective partner in the fight against crime."

### Behind the Scenes

Both shows are constantly probing for new stories—the life-line of their programs. Each uses researchers to identify cases that can be developed into a segment of the show, although "cold calls" merely asking for leads have been made to police departments. However, with the programs' rising popularity, this is an infrequent occurrence. Stories selected are those that are serious, can be solved, and have interesting plots and sympathetic victims.

Once the case is chosen, and this may be done with or without the cooperation of the police department, the re-creation, or dramatization, begins. Real police officers/victims can be used, but often actors are hired. Departments may be asked to provide evidence, duty officers, police cars, equipment, or other real-life support for the episode. Pictures, plots, investigative theories, and poignant stories all become the "pegs" that make the story work. The media relies on the so-called "six C's": Catastrophe, crisis, conflict, crime, corruption and color, and to a degree, these programs are part of the larger TV game plan.<sup>2</sup>

## South Florida's "Eye on Crime"

The "Eye on Crime," a locally produced crime-time television show, premiered at 8 p.m. on July 29, 1988, on WPLG Channel 10, a Post-Newsweek station and ABC affiliate in the Miami/Ft. Lauderdale, FL, area. The program is hosted by WPLG anchor, Dwight Lauderdale, with professional commentary from Police Commander Bill Johnson. The program is similar to other crime-time television shows in that it requests its viewers to help capture lawbreakers, has a call-in number (1-800-447-1030) and provides police detectives to respond to tips. But, its focus is not on reenactments. Instead, WPLG's cameras accompany the police units throughout South Florida and provide live footage of crimes in progress or use actual police video tape in their segments.

The first program featured a segment concerning a breaking-and-entering case. The police and camera crew responded to a 911 call from a woman who had fled her home upon hearing a burglar enter. The police then surrounded the house and were able to disarm and capture the burglar.

"Eye on Crime's" first program also featured a segment on the "Loan Bandit," a local male, who was wanted by both the local

authorities and the FBI for several unique bank robberies. The "Loan Bandit" would "case" a bank, pretending to apply for a loan, and then return within a couple days with his loan application to rob the bank, ordering the teller to place large bills into his folded loan application. He would then leave the scene in a red Ford "Taurus" or Mercury "Sable."

On its first airing, the program earned an 8 rating and a 15 share. When it was telecast in its normal Sunday night time slot at 11:30 p.m., it drew a 9 rating and a 26 share, twice the normal Sunday rating. Program Manager, Sherry Burns, comments, "Eye on Crime" works because it's immediate and it's real—and nothing has a greater impact than that." She noted: "We called them in and told them what we wanted to do, what our goals were, and asked for their help." And, Broward County, FL, Sheriff Nick Navarro believes that "We in law enforcement have long recognized that our effectiveness is vastly increased when we have the support of the public at large."

As a result of "Eye on Crime's" first show, local police received viewer tips which led to arrest warrants being issued in one of the cases reported.





***"... we give case investigators an opportunity to be put directly in touch with those viewers having that one vital clue ... that helps to solve a case..."***

***—Stuart Schwartz, "Unsolved Mysteries"***

Characteristic of both programs are the call-in numbers and the availability of trained investigators to respond immediately to leads. AMW, for example, uses 1-800-CRIME89 and trained operators who relay tips to investigators in the studio.

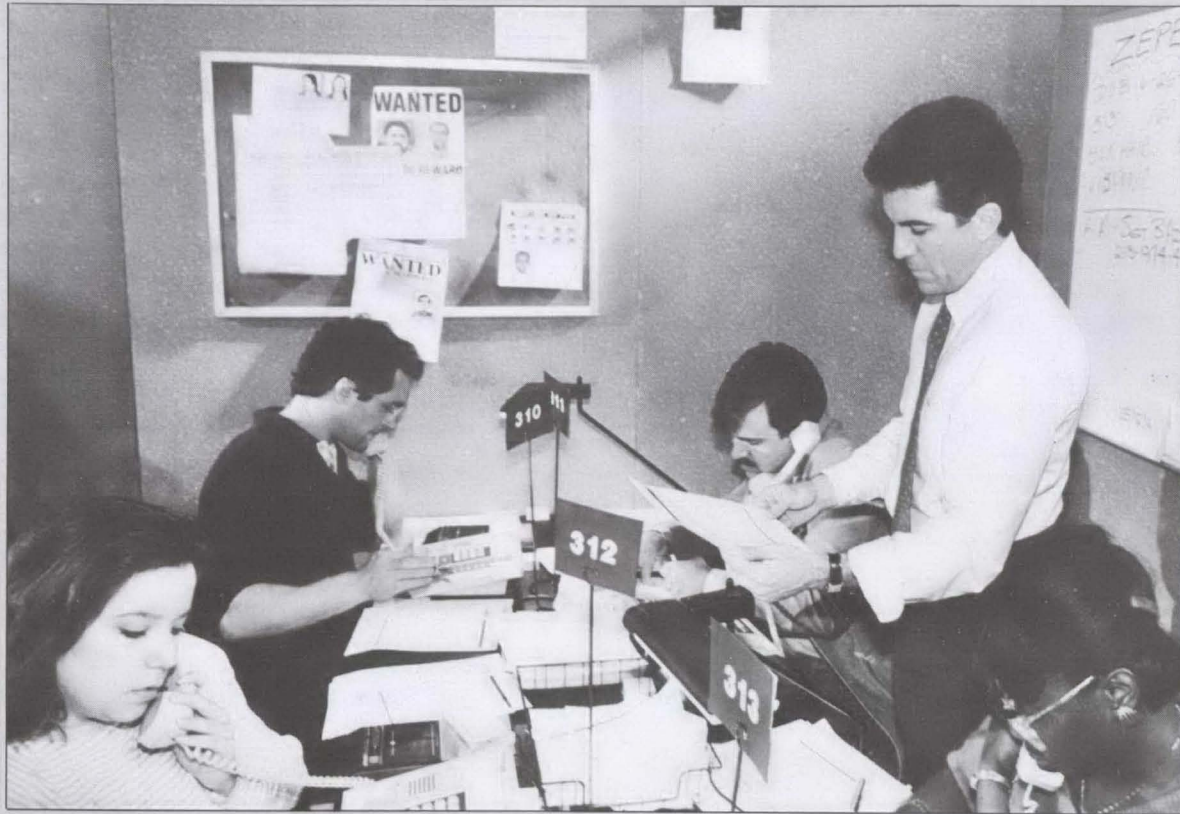
Within this partnership, each player has a specific role. Feeding information to the public is the business of the television show; apprehending the fugitive or solving the case is left to law enforcement. To succeed, the solution or

apprehension must be done quickly, so too must lead differentiation. Several thousand calls come in—some from cranks, some from well-meaning but not helpful citizens, and some from people with vital information. All need to be screened so that the good leads can be immediately identified and covered. A workable system is essential.

The TV program, the law enforcement agency, and the public all benefit when fugitives are caught and cases solved. Certainly, each program provides a

distinct public service, but at the same time, the networks are in the business to make money. They must maintain a certain audience share and attract advertisers. To do this, they must bring cases to a successful conclusion. Statistics are important, and departments should be careful to give credit where credit is due. As a general rule, a bona fide tip doesn't have to lead directly to the fugitive, or case solution, but it must be a catalyst, or important link, to that process.





***"I see a new relationship emerging between law enforcement and the media."***

**—Michael Linder, "America's Most Wanted"**

### Pros and Cons

There is no question that crime-time television works! AMW, for example, has featured over 166 wanted fugitives, 125 of whom are FBI fugitives. The results of this coverage are staggering: 78 FBI fugitives were taken into custody, 9 of which were "Top Ten" fugitives. Of the "Top Ten" captures, five were a direct result of AMW's coverage of the crime.

One of those captured from an AMW viewer tip was David

James Roberts, who was wanted for rape, multiple murders, and escape from a State prison. At the time, Roberts was working in a homeless shelter in New York City earning \$18,000 per year. During a stay in the hospital for a stomach illness, Roberts saw himself profiled on television. He then quietly checked himself out and went into hiding. However, as a result of the many telephone calls and leads derived from the program, a 12-man FBI team captured Roberts 4 days later on Staten Island.

These television programs also have other benefits outside of solving cases and apprehending fugitives. They help to revive citizen cooperation with law enforcement and provide an outlet for citizens to voice their frustrations concerning the ever-increasing crime rate.

Increasingly, in today's society, many people are forced to live in areas infested with various criminal activity. This is taking its toll in fear, vigilantism, and death. These programs give citizens an



appropriate outlet and a means to cooperate with law enforcement in the fight against crime.

According to Michael Linder: "I believe we are witnessing the birth of a new era in citizen involvement. 'America's Most Wanted' has organized some 22 million viewers into the first nationwide neighborhood watch association. Our viewers are keeping a sharp eye out for crime and for fugitives. Since our premiere, we have logged well over 100 thousand tips which we have turned over to proper authorities. Americans are fed up with crime, and want to do something about it."

Also, crime-time television can help to reinforce and/or establish a much needed, long overdue union between law enforcement and the media. Too often, police agencies are cast as ineffective or insensitive, so a positive working relationship with media represent-

States found that 62.5% were rearrested for a felony or a serious misdemeanor within 3 years. Forty-seven percent of these were reconvicted and 41% were returned to prison or jail.<sup>3</sup> These criminals are the focus of crime-time television—the dangerous repeat criminals and serious offenders—those who pose the greatest public risk and those whose capture might result from widespread publicity.

However, with all the benefits that can be derived from crime-time television, the law enforcement manager should also be cognizant of the drawbacks. Certain sensitive issues, because they might affect the disposition of the case, must be considered before a department enters into an agreement with a network to produce a crime-time television show.

One very significant consideration is pretrial publicity. Losing a case in court because of the publicity received on a crime-time TV

may resort to depictions of gratuitous violence, which peak public interest. This can be counterproductive, since it can lead to charges of sensationalism and tabloid TV, which are offensive to most. More importantly, however, this detracts from the credibility of the network and the police agency involved, and therefore, should be avoided.

Finally, vigilantism, copy cat crimes, exposure of sensitive techniques, informants or cases, and civil liability can also result from crime-time television.

### **What To Do If Approached By Crime-Time Television**

Every law enforcement manager should give serious thought to *all* of the issues before a commitment to become involved in the production of crime-time television is made. Granted, the decision is not an easy one! However, the following points will assist in making the right choice:

- Weigh the pros and cons, the advantages and the disadvantages. In effect, do a quick cost-benefit analysis.
- Make case selections carefully. Choose cases that will benefit from widespread publicity.
- Consider public impact. Will the case prompt the public to take action? Does it have an unusual twist or peg that will capture the public's attention?
- Consider the effect on current investigative efforts. Will the widespread publicity hinder or side-track the investigation? However, always remember that a network may proceed

“

***Ninety-eight percent of all American homes have at least one television set and that set is turned on for more than 6 hours a day.***

”

atives can do nothing but help an agency's reputation.

A side argument can be made that quick apprehension of dangerous fugitives reduces crime by cutting back on recidivism, which is a recognized trademark of career criminals. In fact, a recent study based on 16,000 prisoners released from State prisons in 11

program negates the value of a fugitive apprehension or case solution. Then there is the issue of third-party privacy, which must be respected at all times.

Another point to remember is that a primary objective of a network is to capture the largest share of the viewing audience. Its existence depends on it. Thus, many



without a department's assistance, especially if it involves a controversial case and public information is available.

- Consult with departmental legal advisers and the prosecutor.
- Designate a staff member to act as liaison. This individual should be familiar with the case and know how to work with the media.
- Establish working rules with the program's executives. Define what is acceptable and what is not. For example, who has film editorial review authority—the TV producer or the law enforcement agency? Will the network cancel or alter the program if it is determined the case will be adversely affected? Where will the filming take place? Who will be filmed—on-duty personnel, witnesses, etc? Will the evidence be compromised if shown on television?
- Establish a catchy call-in number—one that can be easily remembered.
- Staff the call-in number with trained investigators so that all vital information received can be acted upon immediately.
- Keep track of successes. If a tip results in a fugitive capture or case solution, credit the show and make note of time saved and public benefit derived. Hold a press conference or issue a press release. *Inform the public of all accomplishments!*

## Conclusion

Today, we are witnessing the birth of a new era in citizen

## Crooks Catch a Crook

Mark Austin Goodman, booked under the alias of James R. Eide, was serving a 75-day sentence for a burglary charge at a minimum security stockade. On Sunday, May 15, 1988, inmates of the stockade were watching "America's Most Wanted" on the Fox Television network. Goodman was portrayed on the program as one of the U.S. Marshal's Top Ten Fugitives. These same inmates recognized Goodman as being James R. Eide, a fellow inmate.

The inmates learned from the segment that Goodman was wanted for 10 bank robberies in Oklahoma, 6 escapes (1 from a Federal prison) and numerous other charges in 4 States. The inmates then reported Goodman to prison officials, who called the hotline. This tip was 1 of 274 from people from across the country who thought they knew Goodman.

The corrections officers, in order to guard against his escape, decided to transfer Goodman to a more secure jail. He never made it. Goodman escaped from his captors by scaling a fence around the stockade. The U.S. Marshal's office in West Palm Beach then initiated a search. Goodman was arrested by Jupiter, FL, authorities on May 16, 1988, and turned over to U.S. Marshals.

involvement in fighting crime. Americans now realize that they do not have to be passive victims of crime. Rather, they can be active participants in the criminal justice system.

Television will be a strong link between law enforcement, the media, and the public well into the 21st century. By getting citizens involved, law enforcement and the television media have tapped a viable investigative resource. Used properly, this resource can be invaluable to every police department's crime fighting activities.

However, law enforcement needs to know how to use the television medium to its fullest potential. One way is to cooperate with

networks to produce crime-time television programs. The value of such programs has been proven. Cases have been solved; fugitives have been apprehended; positive publicity has been generated. Crime-time television has made a difference.

FBI

## Footnotes

<sup>1</sup>Wicke Chambers and Spring Asher, *TV PR: How to Promote Yourself, Your Product, Your Service or Your Organization on Television* (Rockland, CA: Prima Publishing & Communications, 1987), p. 16.

<sup>2</sup>Clarence Jones, *How to Speak TV: A Self-Defense Manual When You're the News* (Miami, FL: Kukar and Co., Inc., 1983), p. 62.

<sup>3</sup>Verified with Mr. Allen Beck, Bureau of Justice Statistics.



# The Bulletin Reports

## Prisoners in 1988

The Nation's State and Federal prison systems grew by almost 43,000 inmates in 1988, according to a report, ***Prisoners in 1988***, which was compiled by the Bureau of Justice Statistics. As of December 31, 1988, 627,402 men and women were being held by Federal and State correctional authorities, almost 298,000 more State and Federal prisoners than there were on that date in 1980.

The 1980-1988 Federal prison population growth was 107 percent. During the same period of time, State prison inmate populations grew 166 percent in the West, 120 percent in the Northeast, 86 percent in the Midwest, and 56 percent in the South.

The report details female prison population increases, as

well as overcrowding in the Federal and State prison systems. In addition, it calls attention to two trends that have contributed to the prison inmate increase during the 1980's. First, the likelihood that a serious offender will receive a prison sentence has increased, and second, the number of adults arrested for drug trafficking or manufacturing increased by 113 percent between 1980 and 1987.

*Single copies of the report can be obtained from the Justice Statistics Clearinghouse at the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850, or call the toll-free number 1-800-732-3277. For callers in Maryland and the Washington, DC, metropolitan area, the number is 1-301-251-5500.*

## Homicide Report

The Statistical Analysis Center of the Office of Criminal Justice Plans and Analysis has prepared a descriptive analysis of homicide in the Nation's capital over the past 3 years. The report, ***Homicide in the District of Columbia***, provides statistical information and a review of homicide-related issues. It examines the crime from the perspective of the victim, assailant, methods and motives, time and locations, and victim-assailant relationships. In addition to giving a national overview of homicide, the study also addresses several important local issues, including drug-related killings, homicide among blacks, homicide prevention, and patterns of the offenses.

*A copy of this report can be obtained from the Office of Criminal Justice Plans and Analysis, 1111 E Street, NW, Suite 500C, Washington, DC 20004, 1-202-727-6554.*

## State Legislation Source Book

The American Legislative Exchange Council (ALEC) has released the 1989-1990 edition of ***The Source Book of American State Legislation***, a compendium of model legislation. The book contains 54 model bills on subjects ranging from groundwater protection to tax policy to gun control. It is the result of 2 years'

work by 12 ALEC task forces composed of State legislators and members of the private sector.

Among the criminal justice bills contained in the ***Source Book*** are "The Model Exclusionary Rule Act," "The Bailable Offenses Act," "The Reduction in Frivolous Appeals Act," "The Electronic Home Detention Act,"

and "The Workplace Drug Testing Act."

*To obtain copies of the Source Book of American State Legislation, contact the American Legislative Exchange Council, 214 Massachusetts Ave. NE, Suite 400, Washington, DC 20002, (202) 547-4646.*



## Construction Bulletin

The National Institute of Justice has established the *Construction Information Exchange*, designed to help State and local officials make informed decisions on building and expanding facilities. The Exchange provides information on construction methods and costs for jails and prisons built since 1978. Through this program, those planning to build or expand facilities are put in touch with officials in other jurisdictions who have successfully used more efficient building techniques.

The *Construction Bulletin* is one of a series designed to share information on innovative approaches to building and financing corrections construction. For example, the bulletin entitled "From Arizona to South Carolina: Transfer of a Prison Design Model" tells how South Carolina's State Department of Corrections saved both time and money in planning and building an urgently needed new prison by sharing plans developed by the U.S. Bureau of Prisons for an institution in Phoenix, AZ.

For more information or to submit information for inclusion in the Exchange, contact *Construction Information Exchange/NCJRS*, Box 6000, Rockville, MD 20850, or call toll free, 1-800-851-3420, Maryland and Metropolitan Washington, DC, area callers (301) 251-5500.

## 1988 Officer Killings

Preliminary national figures released by the FBI's Uniform Crime Reporting Program show that 78 law enforcement officers were killed feloniously in the line of duty in 1988. The number of officers slain was higher last year than in 1987 when 74 officers were killed. Also in 1988, an additional 77 officers lost their lives to accidents while performing their duties.

Firearms were used in 76 of the 78 officer killings; handguns were used in 62 of the murders, rifles in 12, and shotguns in 2. One victim officer was beaten with a blunt object, and one was intentionally struck with a vehicle.

Twenty officers were wearing body armor at the time of their murders, and 13 were killed with their own weapons. Of the 78 slayings, 70 have been cleared by law enforcement.

Twenty-two officers were killed while investigating suspicious persons or circumstances, 7 while answering disturbance calls, 6 while enforcing traffic laws, 2 while handling or trans-

porting prisoners, and 1 was killed by a mentally deranged person. Seven officers were also killed by ambush.

Among the 33 officers who were slain while attempting to apprehend or arrest suspects, 12 were involved in drug-related situations, 7 were attempting to thwart robberies or were in pursuit of robbery suspects, 3 were responding to burglaries, and 11 were attempting arrests for other crimes.

Geographically, 36 officers were killed in the Southern States, 21 in the Western States, 12 in the Midwestern States, and 7 in the Northeastern States. One officer was killed in Puerto Rico and one in American Samoa.

Forty-six of the victim officers were city policemen, 19 were county officers, 7 were employed by State law enforcement agencies, 4 were Federal officers, and 2 were territorial officers.

(Press release by the Uniform Crime Reporting Program, Federal Bureau of Investigation, Washington, DC, May 1989)

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

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







---

# Expert Systems For Law Enforcement

BY

ROLAND REBOUSSIN, Ph.D.

*National Center for the Analysis of Violent Crime*

*FBI Academy*

*Quantico, VA*

and

JERRY CAMERON

*Chief of Police*

*Fernandina Beach, FL*

In a large eastern city, a police detective enters into a computer approximately 25 informational items about a burglary he investigated that morning. Once the data are in the computer, an "expert system" compares the *modus operandi* (m.o.) of this burglary with the known m.o.'s of suspects currently operating in the area. Within seconds, the computer responds with 10 possible suspects listed in order of probability. By the end of the day, the suspect listed first has been found in possession of the stolen articles and is in custody.

The expert system that made this apprehension possible is a new form of computer software that will revolutionize the use of

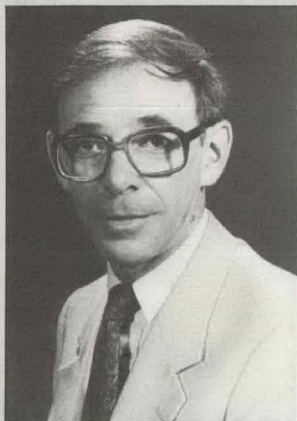
computers by law enforcement agencies and help propel the profession into the 21st century.<sup>1</sup> By greatly increasing productivity, this problem-solving tool will become part of every progressive law enforcement agency's arsenal against crime.

Expert systems are part of a domain referred to as "artificial intelligence," or AI.<sup>2</sup> Computers use AI to solve problems in specific areas in a way that simulates the processes of human intelligence. An excellent example is MYCIN, a system that diagnoses diseases of the blood rapidly and effectively.<sup>3</sup> In describing MYCIN, Buchanan and Shortliffe explain that an expert system is "... an AI program designed (a) to provide expert-level solu-

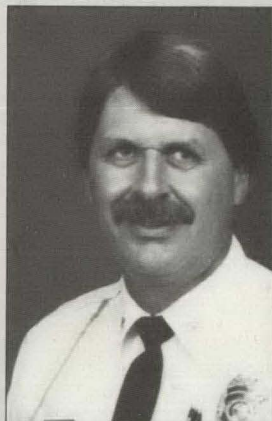
tions to complex problems, (b) to be understandable, and (c) to be flexible enough to accommodate new knowledge easily."<sup>4</sup>

The heart of such a system is human knowledge derived from experts. This forms a "knowledge base" consisting of 1 to 500 rules.<sup>5</sup> Each rule is an "if-then" statement, e.g., "If the patient's temperature is over 100°, then an infection may be present." The user, however, never sees the rules when using the program. Instead, the system queries the user about the case and eventually arrives at a diagnosis. At any stage, the user can ask the system why it is making a particular query or how it reached a particular decision.





*Dr. Reboussin*



*Chief Cameron*

Expert systems have a number of advantages over human thought processes. First, the system preserves the expert's knowledge, so that if the expert eventually leaves the organization, a large proportion of his or her expertise is retained. For example, just prior to retirement from a major national corporation, one professional helped to create a system that he estimated retained approximately 90 percent of his knowledge.<sup>6</sup>

Another benefit of the expert system is that it can be more accurate than any one person for a number of reasons. First, the system retains simultaneously the extensive knowledge of several persons; it never forgets and never overlooks anything. Nor does it jump to conclusions. Also, since experts continually update information, the system is kept current. Thus, the system has the potential to be "more expert" than any one human being. That is the situation with MYCIN right now—not at some time in the future. Harmon and King state: "The various evaluations that have been undertaken all suggest that MYCIN is as good

or better than the most very skilled human experts."<sup>7</sup>

However, an inherent weakness in such programs is that the expertise is strictly confined. In the case of MYCIN, its domain is limited to the diagnosis of meningitis and prescription of appropriate drugs.

Today, in the commercial world, expert systems are used to do many tasks—to search for good mineral sites, to design computer systems, to navigate aircraft, to land the space shuttle, to drill for oil, to troubleshoot complex electronic and mechanical systems, etc. The DuPont Corporation has 200 expert systems currently running and expects to have 2,000 operating by 1990. The estimated savings in manufacturing processes per year for each system is \$100,000.<sup>8</sup>

#### **Expert Systems at the NCAVC**

At the National Center for the Analysis of Violent Crime (NCAVC), there is considerable interest in adapting AI systems for use in criminal investigative analysis, formerly referred to as psychological profiling or criminal

personality profiling.<sup>9</sup> Criminal investigative analysis has been described in a number of recent publications.<sup>10</sup> Simply put, it is the process of identifying major personality and behavioral characteristics of an individual who has committed a homicide or other violent crime through detailed analysis of the crime scene and related evidence.

The rationale for this process is that behavior reflects personality. The same rationale underlies any projective test or task. That is, given a standard task, much is learned about an individual by observing how he or she performs this task. Those who have seen this task performed many times and have a broad background of experience can relate the way the task is performed to the characteristics of the person performing it.

Information about the victim and the crime scene is essential to the analysis process. With detailed information as to age, sex, occupation, and daily habits of the victim, the autopsy report, and a specific description of the crime scene, the behaviors of both victim and offender during the crime can be reconstructed.

The result of this analysis is a description of the person who committed the crime, which includes physical characteristics (age, sex, and race), behavioral characteristics (whether the offender lives near the scene of the crime, lives alone, or is unemployed), and personality traits and characteristics (the nature of relationships with women or volatile temper). An intermediate trait would be the nature of the offender's relationship with the victim. It should be stressed that the analysis does not identify a spe-



cific individual; rather, it identifies a particular type of person. Local authorities must then relate the description provided to a particular individual.

NCAVC is currently developing an expert system to perform this type of investigative analysis. This system, called PROFILER, has the potential to analyze better than any one person for reasons previously mentioned. In addition, there is another reason that is more interesting because it deals with the actual analysis process.

After the NCAVC has created a large database of violent crimes, the expert system will be able to derive the probabilities for individual rules empirically. At the present time, these probabilities are derived clinically, that is, they are based on the experience and wisdom of individual analysts. For example, consider the rule, "If the body has been placed or arranged face down, then the assailant knew the victim." Say for now that this rule is assigned a probability of .70, based on the judgment of NCAVC analysts. However, the ideal future system database will be able to run all cases in which the victim was arranged face down and the offender was eventually identified and will be able to calculate the actual probability based on the data.

Certainly, the PROFILER system will never replace skilled human investigative analysts, nor is it intended to do so. Rather, the system will function as an analyst's assistant or consultant in several ways. First, the system can assist in training apprentice analysts by comparing their results with the system's, and by giving reasons for the conclusions drawn. Second, the system can aid skilled analysts in much the same way.

By studying the discrepancies between their conclusions and those of the system, experienced analysts may be led to consider other possible variables. This may help create a better profile, revise the knowledge base, or both. Finally, when proven both reliable and valid, the system allows human analysts to spend less time developing the profile and more time working on other aspects of the case.

### Developing an Expert System

There are two main steps in developing an expert system. First, the agency should consider purchasing a shell, which is essentially a pre-written expert system program into which one can plug a set of rules. It is not as flexible as writing a program, but with the shell, the system becomes operational immediately. Later, if the package is too limited, additional programming can be added. With

locate a true expert who is willing to cooperate. Then, collect the expert's knowledge into a set of rules. Once this is accomplished, all other problems are trivial. However, if this is not done, the proposed expert system will not function.

Most of the rules for PROFILER, for example, were developed by observing the investigative analysis process in a group setting. Individual analysts checked the rules, making suggestions, revisions, and deletions to come up with approximately 150 rules in the PROFILER prototype.

After developing a set of rules, the knowledge base is entered into the shell. Initially, there may be problems getting used to the syntax. However, once familiar with the syntax, the user can proceed to the main task—making use of the system to its fullest potential.

**“Expert systems have a number of advantages over human thought processes.”**

the experience gained using the shell, a more complete package can be obtained from a programmer.

Shells range in price from \$99 to \$65,000. However, spending more than \$500 initially would not be cost-effective. It is better to start with a small and inexpensive system that operates on the department's PC. When the first shell is outgrown, then an agency can move up in range.<sup>11</sup>

The second step is creating a knowledge base, that is, a set of rules. In order to do this, first

### How Can an Expert System Help You?

Basically, an expert system can be built to solve any problem complicated enough to make the system cost-effective, but simple enough so that the task can be specified in a set of rules the computer can understand. As an example, in rape investigations, an expert system could analyze the modus operandi for the rape and suggest the most likely suspects from among a group whose m.o.'s are known.

The Baltimore County, MD,



Police Department currently uses such a system to solve burglaries. The system contains about 110 rules and has a database of information on burglaries, suspects, and m.o.'s. Information on a reported burglary is entered into the system, which then gives a list of possible suspects.

A system could be designed to represent the expertise of any person or group in a department, such as detectives investigating specific crimes (sex offenders, other violent crimes, property crimes) who share a certain expertise. When codified, this expertise forms the basis for a fairly complex expert system.

This, in fact, is what the Baltimore County Police Department did in developing its burglary system. The rules in their system were developed from the expertise and accumulated knowledge of its burglary detectives. In addition to identifying burglars, a system like this, with only slight modifications, could be used to train detectives newly assigned to burglary investigations. In fact, many other training situations lend themselves to automation with an expert system, e.g., patrol procedures, arrest techniques, or search methodology.

However, difficulties can materialize. While expertise in computer science is not a prerequisite, developing a knowledge base (the set of rules) and transferring it to the computer requires a certain amount of effort. Then the system must be developed so that it grows from the "toy" prototype into a system that provides useful infor-

mation, which takes a minimum of 6 months of full-time work.

Developing an expert system could require the cooperation of a number of units within a department. Cooperation not only reduces the manpower needed to develop a system, but once a system is developed, it could be shared and used more effectively and efficiently.

**“The expert system ... will revolutionize the use of computers by law enforcement agencies....”**

#### Expert Systems and the Future of Law Enforcement

In a provocative article on artificial intelligence and its future use in law enforcement, Tafoya states:

“The well informed, intelligent use of computer technologies, such as artificial intelligence and expert systems, could make a significant difference in the manner in which the law is enforced and the public served.<sup>12</sup>

Law enforcement agencies in America, already heavily committed to the use of computers, must plan now to take advantage of the new developments in artificial intelligence. The versatility and increased power of expert systems provide American law enforcement agencies the edge they will need in the 21st century. **FBI**

#### Footnotes

<sup>1</sup>J. Cameron, "Artificial Intelligence: Expert Systems, Microcomputers and Law Enforcement," *Law and Order*, vol. 36, March 1988, pp. 58-66; W.L. Tafoya, "Artificial Intelligence Research and Development Project of the National Center for the Analysis of Violent Crime at the FBI Academy," 11th Annual Law Enforcement Information Systems Symposium, IACP, Gaithersburg, MD, August 1987.

<sup>2</sup>F. Hayes-Roth, D.A. Waterman, and D.B. Lenat, eds. *Building Expert Systems* (Reading, MA: Addison-Wesley, 1983).

<sup>3</sup>M. Van Horn and The Waite Group, *Understanding Expert Systems* (New York: Bantam Books, 1986).

<sup>4</sup>B.G. Buchanan and E.H. Shortliffe, *Rule Based Expert Systems* (Reading, MA: Addison-Wesley, 1984), p. 3.

<sup>5</sup>"Knowledge Based Systems, An Overview," video tape, part II, Texas Instruments, Dallas, TX, 1986; supra note 3, p. 94.

<sup>6</sup>Texas Instruments *ibid.*

<sup>7</sup>P. Harmon and D. King, *Expert Systems: Artificial Intelligence in Business* (New York: John Wiley and Sons, Inc., 1985), p. 21.

<sup>8</sup>Knowledge Box, *PC AI*, vol. 2, July/August 1988, p. 55.

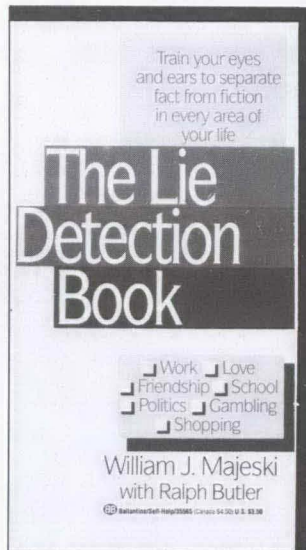
<sup>9</sup>R. Reboussin, "Development of a Rule-based Expert System for Profiling Murderers," paper presented at the annual meeting of the Academy of Criminal Justice Sciences, St. Louis, MO, March 1987; D. Icovie, "Automated Crime Profiling," *FBI Law Enforcement Bulletin*, vol. 55, No. 12, December 1986, pp. 27-30; W.L. Tafoya, "The Potential Role of Artificial Intelligence in Law Enforcement," paper presented at the annual meeting of the Academy of Criminal Justice Sciences, Orlando, FL, March 1986; Tafoya, supra note 1.

<sup>10</sup>J.E. Douglas, et. al., "Criminal Profiling from Crime Scene Analysis," *Behavioral Sciences and the Law*, vol. 4, 1986, pp. 401-421; J.E. Douglas and A.E. Burgess, "Criminal Profiling: A Viable Investigative Tool Against Violent Crime," *FBI Law Enforcement Bulletin*, vol. 55, No. 12, December 1986, pp. 9-13; R.R. Hazelwood, et. al., "Criminal Personality Profiling: An Overview," in *Practical Aspects of Rape Investigation: A Multidisciplinary Approach*, eds., R.R. Hazelwood and A.E. Burgess (New York: Elsevier, 1987), pp. 137-149.

<sup>11</sup>E. Shapiro, "AI, AI, Oh!" *Byte*, vol. 12, June 1987, pp. 321-324; S. Aguiar, "The New Low-cost Expert System Shell," *PC AI*, vol. 1, Summer 1987, pp. 44-48.

<sup>12</sup>Tafoya, supra note 1, p. 12.





*The Lie Detection Book* by William J. Majeski with Ralph Butler, New York, Ballantine Books, 1988.

"In thy face I see the map of honor, truth, and loyalty." Here Shakespeare demonstrates man's ancient awareness of the need to base the evaluation of others on more than just their words. Literature is filled with references to the topic of Mr. Majeski's book, nonverbal behavior. Furthermore, experts in psychology, communications, and other fields have published countless volumes regarding the topic. So why invest time and money in yet another publication dealing with the same old stuff? Because few

of the existing works provide the investigator with a practical method of systematically applying the principles that have been the subject of so much writing. The typical investigator cares little for research results presented in clinical terms regarding clinical findings. Majeski, a retired NYPD investigator, recognizes this.

As the title indicates, this book deals primarily with how to detect deception, and it does so by providing a virtual step-by-step "cookbook" recipe that investigators can readily adapt to their own situations. The author makes no claim of providing any new discoveries; conversely, he emphasizes that the reader periodically will have noticed much of what the book describes. However, these sporadic observations do little to enhance the investigator's effectiveness. The author intended this publication to heighten the reader's awareness of sounds and actions previously overlooked or dismissed as inconsequential. It clearly and succinctly provides some practical tips for improving listening and observation skills and some suggestions for evaluating the information received.

Only when the writer ventures into the area of interrogation, a small segment of the

book, does the clarity and practicality of the material seem questionable. The writer's attempt to provide a solution to the problem of obtaining confessions is too generalized; it ceases to be succinct and becomes superficial.

The co-writer, Ralph Butler, formerly a sports writer for the *New York Post*, contributes a flavor of gamesmanship, stresses concentration and practice, and infuses a sense of fair play throughout the book. These characteristics emphasize the practical nature of the material and enhance reader enjoyment.

The suggestions offered result from years of experience, not from data collected in a controlled clinical environment. Through the years, many investigators have developed and used the techniques contained in this book, but very few have been able to convey their knowledge to others. Excerpts from this book will probably never be found in any published research regarding nonverbal behavior; it was written for investigators by an investigator.

Reviewed by  
SA John E. Hess  
Education & Communication  
Arts Unit  
FBI Academy  
Quantico, VA





# Policing Demonstrations

By  
CHIEF ROBERT J.  
JOHNSTON, JR.  
and  
CAPT. LAWRENCE F.  
LOESCH, JR.  
*Police Department  
New York, NY*

**T**he proper handling of demonstrations is a major concern of law enforcement, especially since the U.S. Constitution guarantees freedom of speech and the right of the people to assemble peacefully. Protecting the rights of everyone involved and maintaining order have become the responsibilities of the police, who pledge to uphold the Constitution when taking the oath of office. However, many variables complicate the problems associated with policing demonstrations.

Oftentimes, officers are placed in the role of mediator or referee between two opposing forces. Individual beliefs and opinions may shade the issue at hand, regardless of the desire to remain objective. Also, the makeup of the demonstrators, such as age, religion, sex, and eth-

nicity, may dictate the manner of policing. Other factors to consider are the actions and conduct of a given group, their training and tactics, the number of demonstrators as compared to the number of officers, the extent of police training and experience, and the physical conditions of the demonstration site, to name a few.

The key to handling a demonstration successfully is trained and experienced law enforcement personnel. Recent protests have only fostered the belief that to properly control modern-day mass demonstrations, policing tactics and equipment must be constantly updated. In order to carry out this mission, the New York City Police Department (NYPD) has implemented training programs and specific methods and techniques designed to prepare personnel to handle civil disorders.



## TRAINING

The NYPD addresses disorder control in four specific areas of recruit training—law, police science, social science, and physical education. The law courses explain the constitutional guarantees afforded demonstrators, as well as the legal guidelines that must be followed. This includes the laws of arrest, disorderly conduct, obstructing governmental administration, and resisting arrest, along with other related statutes.

The police science course covers the department's policies and procedures with regard to demonstrations, while the social science instruction acquaints officers with the psychological aspects of crowd control and group behavior. Physical education instructors teach recruits crowd control formations and the need for self-discipline, both physical and mental, when policing a demonstration.

Refresher courses are also provided to departmental personnel. Further, management training programs are conducted to provide sergeants and lieutenants with necessary supervisory skills. Uniformed members of the rank of captain and above sharpen their skills in an executive development program.

In addition, a training course for disorder control and demonstration policing is required for all uniformed personnel. This course is designed to cover tactics and platoon formations which are adaptable to meet special needs based on actions taken by activist groups. Included in the curriculum are expedited arrest procedures, which encompass the use of

stretchers and other removal methods, transportation, and processing of prisoners.

## TODAY'S DEMONSTRATORS

### Strategies

The sophistication of demonstrators today becomes more evident with each staged event. Organizers record the actions of the police and then train their people in ways they believe will effectively hinder the policing of the next demonstration. The tactics employed counter the procedures and equipment used by the police. For example, demonstrators form human chains by holding hands or interlocking their arms and legs, they do not carry identification in order to delay the arrest process, and they passively resist by going limp when asked to move, thus forcing the police to physically carry them from the scene.

Another common practice is for demonstrators to chain themselves to stationary objects. In the past, ordinary bolt and chain cutters made these tactics ineffective.

However, in recent rallies across the Nation, anti-abortion protestors have fortified the lock-and-chain method by bringing a 200-pound reinforced concrete slab called the "block" to the demonstration site. Its design is similar to the "stocks," which were used to secure a person's head and limbs as a form of punishment in colonial America times. After placing the "block" at strategic locations (entrances and exits), two people would place either their heads and necks or one of their limbs in a cutout and then lock themselves in. This type of barricade required police not only to unlock the individuals but also to remove the heavy cement slab from the site. To exacerbate this condition, the demonstrators used U-shaped kryptonite locks made of high-strength armor and carbon steel, which made conventional bolt cutters ineffective and the removal of the locks slow and tedious.

### "Operation Rescue"

"Operation Rescue" is a national coalition of "pro-life"



Chief Johnston



Captain Loesch





*Stretchers are used when demonstrators passively resist police by going limp.*



*Demonstrators interlock hands and arms to form a "human chain" when prevented from crawling under french barriers.*



*Demonstrators hamper removal of those arrested by lying under Transit Authority buses with their heads positioned in the area of the wheels.*

(anti-abortion) groups organized to "rescue" unborn victims of abortion. A "rescue" is accomplished by obstructing the operation of targeted clinics for as long as possible through nonviolent civil disobedience, e.g., sit ins and passive resistance to arrest.

On January 13, 1989, an "Operation Rescue" group with approximately 1,200 protestors staged a "sit down" in front of a planned parenthood center in Manhattan. Because of the rapid response of arrest teams, the clinic opened within 2 hours, and 277 persons were arrested.

NYPD's ability to minimize the effect of this demonstration was the result of training, planning, and effective use of available equipment. After the demonstration was under control, all commanders returned to headquarters to critique the policing of this demonstration and to plan for the others expected on the following day. This was not an easy task, since New York City has more than 50 abortion clinics, and police did not know which ones were targeted.

However, during this planning stage, certain strategic issues became evident. First, mobile units were essential in order to expedite police response. Second, the demonstrators had to be prevented from crawling under barriers, arrest buses, and police vehicles. Once strategies had been devised and the proper crowd control equipment readied, only the demonstrations sites needed to be identified.

On January 14, 1989, six different abortion clinics throughout the city became demonstration sites. Eight mobile units were available; each was self-contained and included uniformed police and



supervisors, police legal advisers, community affairs and public information representatives, and fully equipped technical support, communication, and emergency services personnel. Additionally, each mobile unit was assigned trucks carrying barriers, tow trucks to remove "blocks," and buses to transport prisoners. Stretchers were available to assist in removing demonstrators, and plastic handcuffs were used for mass arrests.

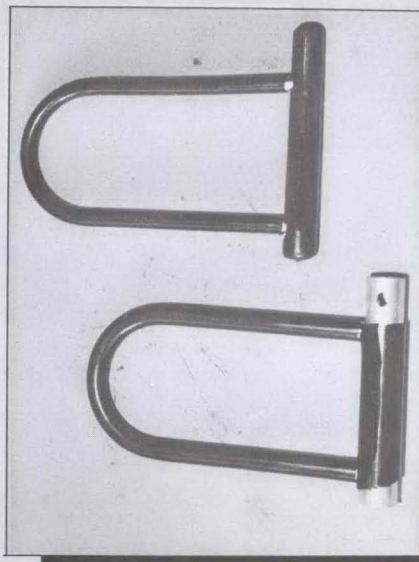
The police at each demonstration site were equipped with a court order enjoining the demonstrators from participating in unlawful conduct, and this injunction was read aloud before the arrests took place. An arrest processing center was set up at a separate location to handle the large number of expected arrests.

The planned tactics were a success. By day's end, 652 demonstrators had been arrested. Most were removed on stretchers to avoid injury to officers and demonstrators.

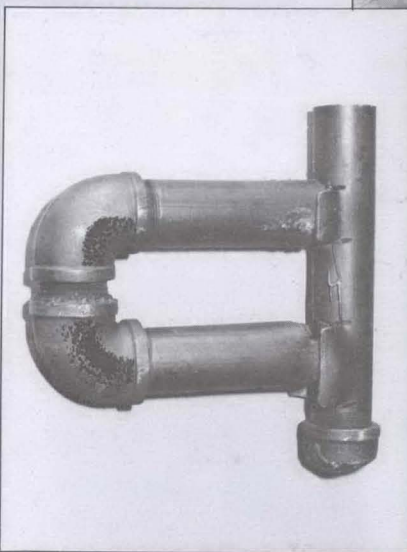
### Crowd Control Devices

Instead of traditional wooden "horse" barriers, "french barriers" (metal) were used. These barriers were joined together in such a fashion that protestors could not crawl through the openings at the bottom. The use of tandem french barriers divided the crowd into two pen-like areas and expedited clearing the entrances.

Even though the french barriers worked, a new problem was encountered when protestors grabbed hold of the metal rungs, thus hindering police efforts. To overcome this problem, the department has since developed the "crowd interposer," which is a 4' x 8' sheet of  $\frac{3}{4}$ " plywood



*Demonstrators attach U-shaped locks to each other's ankles and sit in a "wagon wheel" configuration.*



*Demonstrators use both U-shaped locks encased in steel pipes and unencased locks to attach the ankles of two demonstrators with the neck of a third.*





with hand holds cut out on one side. With this device, an arrest team can remove a person directly in front of the entrance and fill the vacant spot with an officer holding one end of a crowd interposer. The arrest team then proceeds to move through the crowd. Once done, french barriers manned by police officers are positioned to take the place of crowd interposers.

### Problems Encountered

One setback involved the use of U-shaped locks. At three different locations, a group of at least seven protestors formed a human chain in the shape of a wagon wheel. Using chains with U-shaped locks, the demonstrators were joined at the ankles and necks, with at least one person chained to a permanent fixture at the demonstration site.

An air-powered cut-off tool was used to remove the locks, but only after numerous problems were overcome. For example, the average air bottle used to operate the cutting tool lasted approximately 5-7 minutes, but it took some 15 minutes to remove each lock. Blades needed to be changed continuously because they wore down. Some locks were filled with crazy glue; others were encased in 2-inch diameter steel or galvanized pipe, which was filled with a tar-like substance and small stones. The heat of the blade softened the tar, clogging the blades.

The locks used by the demonstrators were .625 inches in diameter with a cross-bar diameter of 1.25 inches. Each weighed 4 to 5 pounds, depending on length, and were made of a tough grade of steel fully hardened to 120,000 PSI (pounds per square inch). The locks were tubular key locks hardened to resist picks and drilling. However, after testing and research, a successful removal procedure was developed. (See sidebar.)

### Procedure To Remove U-Shaped Locks

- 1) Cut a small square or window-shaped opening in the steel/galvanized pipe
- 2) Remove any tar and stones from the window area
- 3) Use an 4 1/2" electric cutter/grinder powered by a portable generator. When equipped with a 1/16" carborundum blade, this tool can cut through an unobstructed lock in less than 20 seconds

NOTE: Using water to cool the metal will prolong the cutting process

#### Safety Measures:

- Wear safety goggles and gloves
- Place a piece of steel or a pliable thin sheet of metal between the pipe or lock and the person's limb or neck
- Use a gel blanket or similar wet material to protect the demonstrator from heat or sparks generated by the cutting tool



### CONCLUSION

The proper handling of demonstrations is not a simple matter. Therefore, police departments must remain current with the tactics used by demonstrators.

As today's demonstrators become more sophisticated and disciplined in the furtherance of their causes, the police must rely on training and state-of-the-art equipment to neutralize demonstrator strategies. Continually evaluating and upgrading training, planning, and disorder control tactics will ensure a department has the necessary knowledge to effectively police a demonstration. FBI



# FBI Law Enforcement Bulletin

## Author Guidelines

The *FBI Law Enforcement Bulletin* is an official publication of the Federal Bureau of Investigation and the Department of Justice.

### General Information

*Frequency of publication:* Monthly

*Purpose:* To provide a forum for the exchange of information to improve the law enforcement profession.

*Audience:* Members of the criminal justice profession, but primarily law enforcement managers.

### 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 8½" by 11" white paper. All pages should be numbered and three copies should be submitted for review purposes. Where possible, floppy disks using WordPerfect should be submitted with typed manuscript. References need only be used where the exact words are taken from another source or where the idea or concept reported was first presented by the source named and is not widely known.

*Writing Style and Grammar:* The *Bulletin* follows the Govern-

ment Printing Office Style Manual and/or The Chicago Style Manual.

### Photographs And Graphics

A photograph of the author should accompany the manuscript. Other suitable photos and illustrations which support the text and assist reader comprehension should also be furnished. Black and white glossy prints reproduce best. In addition, special effort should be made to obtain a high quality, black and white or color glossy photograph, vertical format, for possible use as a cover. Local newspapers and magazines are often excellent sources for such photos; however, permission to reprint is required from photographer or company. If such photos are available, please include the newspaper or magazine title and a photocopy of the photo with the manuscript.

### Publication

*Basis for Judging Manuscripts:* Manuscripts will be judged on the following points: factual accuracy, style and ease of reading, structure and logical flow, length, relevance to audience, analysis of information. Favorable consideration will generally not be given to an article which has been published previously or which is being con-

sidered by another magazine. Articles which are used to advertise a product or a service will be rejected.

*Query Letters:* The Editor suggests that authors submit a detailed one- to two-page outline before writing an article. This is intended to help authors but does not guarantee publication of the article.

*Author Notification:* Receipt of manuscript will be confirmed. Letters of acceptance or rejection will be sent following review. Articles accepted for publication cannot be guaranteed a publication date.

*Copyright:* Because the *Bulletin* is a Government publication, materials published within it are not copy-righted.

*Editing:* The *Bulletin* reserves the right to edit all manuscripts.

### Submission

Authors may contact the Special Agent coordinator for police training at the nearest FBI field office for help in submitting articles, or manuscripts may be forwarded directly to:

Editor, *FBI Law Enforcement Bulletin*, Federal Bureau of Investigation, Headquarters, Washington, DC, 20535. Telephone: (202) 324-5343.

FBI



### *Teddy Bears Aid Child Abuse Victims*



**T**he exploitation of children continues to be a growing concern of law enforcement. As the number of reported incidents increase, new approaches must be found to meet the needs of the traumatized child, family members, and law enforcement personnel.

When investigating cases involving physically and sexually abused children, law enforcement personnel must open lines of communication with the child. This is not always an easy task since child victims are often embarrassed, reluctant to discuss their abuse, fearful of punishment, or may not even understand what transpired. However, the Juvenile Division of the San Francisco Police Department has taken an approach that attempts to address the needs of both the child and investigating officers. This approach involves distributing teddy bears to young victims.

#### **More Than A Toy**

For the child, the teddy bear can provide emotional support. It becomes a friend the child can turn to for comfort and offers the young victim a constant, dependable source of solace—a portable “safe space”—as the child moves through the system. Coming from an authority figure, the teddy bear shows that adults *can* relate to children in nondestructive, nonthreatening ways.

There are also benefits to the law enforcement officer who presents young abused victims with a teddy bear. It helps the youngster's family see the officer as a professional who cares about the child's wellbeing. This, in turn, leads to acceptance and inspires increased trust, while opening lines of communications. A greater willingness to communicate facilitates the gathering of evidence, which will eventually assist in apprehending the

offender and lead to a successful prosecution.

Providing a teddy bear to a victimized youngster also improves officer morale. Seeing an abused child find comfort with a new “friend” is extremely satisfying for professionals whose work is often stressful and frustrating.

#### **Program Components**

Caring for Children, Inc., an international nonprofit organization established to address psychological and emotional health needs of children in crisis, initiated the pilot program by furnishing 250 teddy bears to investigating officers. It also opened the way for consultation and training of police officers on the emotional needs of the children whose cases they investigate. By making available the services of mental health professionals, investigators receive assistance in handling specific cases.



## Case Account:

An 8-year-old girl was placed in a foster home after it was determined she had been sexually abused. She refused to talk about it at all, with anyone. After several unsuccessful attempts to talk with the girl over a period of weeks, the investigator gave her a bear "as a friend." When he left, the little girl and her bear were at the window, and the bear was "waving good-

bye" to him. The next day, the Juvenile Division received a call from the girl's foster parent, who said the child wanted to talk about the abuse incident to the man who had given her the bear. With the child's statement as evidence, the district attorney was able to prosecute the offender and win the case.

Several training sessions were held to deal with such issues as the role of police officers when dispensing teddy bears, which children should receive the teddy bears, and at what point in the investigation should the bear be given. Methods of presentation and accompanying explanation to the child were also considered in the training. The city's Department of Social Services also offered to make available their training resources for Juvenile Division officers on a continuing basis.

A demonstration project, tailored to the department's needs, was held to initiate those officers who volunteered to participate. This is a critical component of any program, since officers must be genuinely interested in the program, understand its potential value, and have a favorable attitude for the program to succeed.

The distribution procedures were also submitted for review and approval to the District Attorney's office to assure there could be no accusations made for

"rewarding" a child in exchange for specific information.

### Followup

The confidentiality of all records relating to criminal abuse cases eliminates the possibility of case-by-case evaluations. However, Caring for Children, Inc., representatives maintain contact with officers and keep records as to the number of teddy bears distributed, the age of recipients, and opinions of participating officers.

### Summary

The project is an unqualified success. It furnishes unique and meaningful assistance to vulnerable youngsters. It has also

generated significant and positive news media coverage and excellent public relations for the San Francisco Police Department and has built community goodwill for everyone involved.

The enthusiasm and cooperation of the officers went beyond all expectations. In the words of the commanding officer of the Juvenile Division, "I thought it was frivolous. It's not. I've seen it in action, and it works."

---

*Material for this column was submitted by Lt. Alexander Stevens, San Francisco, CA, Police Department, and H. Samantha Grier, President, Caring for Children, Inc.*

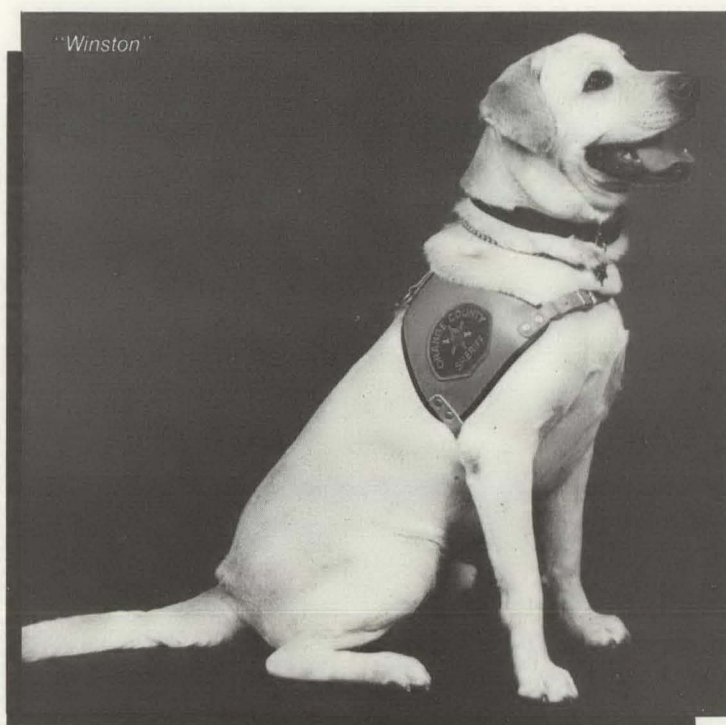
**Police Practices** serves as an information source for unique or noteworthy methods, techniques, or operations of law enforcement agencies. Submissions should be no more than 750 words (3 pages, double spaced and typed) and should be directed to Kathy Sulewski, Managing Editor, *FBI Law Enforcement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



---

# Hounding Drug Traffickers

## The Use of Drug Detection Dogs



By

KIMBERLY A. KINGSTON, J.D.

*Special Agent  
Legal Counsel Division  
FBI Academy  
Quantico, VA*

**H**is early years were difficult. He was shuttled from one temporary home to the next, always in trouble, never properly cared for or loved. He seemed destined to fail until he stumbled into a career with the Orange County, CA, Sheriff's Office. In the 6 years that he has been with the sheriff's office, he has played a significant part in confiscating over \$52 million worth of drugs, \$14 million in cash proceeds from drug sales, and several million dollars worth

of drug-related assets. In recognition of his monumental contribution to the war on drugs, he has received no less than 12 official commendations. His name is Winston — and he is no ordinary policeman. In fact, he is not a man at all. He is a dog.<sup>1</sup>

Dogs like Winston have become very common weapons in the struggle against drug trafficking. The dogs' highly developed olfactory senses have proven invaluable to law enforcement officers, and courts have recognized

the evidentiary value of a well-trained drug detection dog.<sup>2</sup> There is no doubt that these dogs have a significant role in law enforcement, and that role can be enhanced by law enforcement's awareness of fourth amendment proscriptions concerning the use of detection dogs.

This article discusses recent Supreme Court and lower court cases establishing fourth amendment guidelines for the use of specially trained dogs in the following areas: (1) Public places, (2) third-



party controlled areas, (3) private residences, and (4) motor vehicles. Adherence to these guidelines will help to ensure the admissibility of evidence discovered as a result of dog sniffs and the continued vitality of drug detection dogs in law enforcement.

### SUPREME COURT ENDORSES USE OF DOGS IN PUBLIC PLACES

The role of detection dogs in law enforcement has been made more secure by the decision of the U.S. Supreme Court in the case of *United States v. Place*.<sup>3</sup> In *Place*, law enforcement officers at New York's LaGuardia Airport lawfully detained defendant on a reasonable suspicion that he was carrying a controlled substance.<sup>4</sup> When defendant refused to consent to a search of his luggage, the officers gave him the opportunity to accompany his luggage to the office of a Federal judge where a search warrant would be sought. Defendant declined the offer but requested and received a telephone number where the officers could be reached. After defendant left the premises, his luggage was taken to Kennedy Airport where, 90 minutes after the initial detention, it was subjected to a "sniff test" by a trained narcotics detection dog. In response to the dog's positive reaction to one of the bags, a search warrant was secured. The subsequent search of the bag revealed a substantial quantity of cocaine. The defendant was later arrested and indicted for possession of cocaine with intent to deliver.

After the district court denied defendant's motion to suppress the evidence seized from his luggage,<sup>5</sup> defendant entered a plea of guilty

but reserved the right to appeal the denial of his suppression motion. On review, the U.S. Court of Appeals for the Second Circuit reversed on the grounds that the lengthy detention of defendant's luggage exceeded permissible limits and consequently amounted to a seizure in violation of the fourth amendment.<sup>6</sup> The U.S. Supreme Court affirmed.

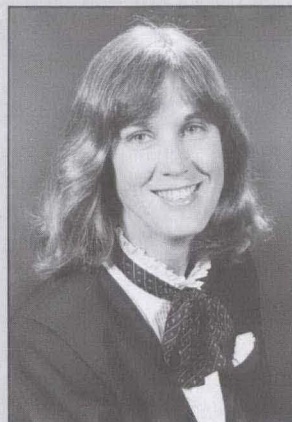
Although unnecessary to the resolution of the dispute in *Place*,<sup>7</sup> a majority of the Court took the opportunity to address the constitutionality of "dog sniffs."<sup>8</sup> Specifically, the Court considered whether the use of a dog to detect odors emanating from defendant's luggage constituted a search requiring compliance with fourth amendment dictates.<sup>9</sup> The Court engaged in a two-step analysis to determine whether the officer's actions violated any expectation of privacy that was both subjectively and objectively reasonable.<sup>10</sup>

Finding first that the defendant had a subjective expectation of privacy in his luggage, the Court then considered the more important question of whether that ex-

pectation of privacy was objectively reasonable. In other words, did the use of the dog violate any expectation of privacy that society as a whole was willing to recognize and protect? Of particular significance to the Court was the fact that the dog sniff did not require the opening of defendant's luggage.<sup>11</sup>

"[T]he 'dog sniff' does not expose noncontraband items that otherwise would remain hidden from public view, as does, for example, an officer's rummaging through the contents of the luggage. Thus, the manner in which information is obtained through this investigative technique is much less intrusive than a typical search. Moreover, the sniff discloses only the presence or absence of narcotics, a contraband item. Thus, despite the fact that the sniff tells authorities something about the contents of the luggage, the information obtained is limited. This limited disclosure also ensures that the owner of the property is not subjected to the embarrassment

Special Agent Kingston



“**Drug detection dogs are extremely effective weapons to use in the war on drugs.**”



and inconvenience entailed in less discriminate and more intrusive investigative methods."<sup>12</sup>

In view of the limited intrusiveness of this dog sniff which only revealed one thing (i.e. whether there was contraband in the item tested), the Court concluded that this single fact is something society is not willing to protect. Consequently, under the circumstances present in *Place*, the use of a trained dog, although foiling defendant's subjective expectation of privacy, did not violate any objectively reasonable expectation of privacy and, therefore, was not a search under the fourth amendment.

In *Place*, the Court did not go so far as to say that no dog sniff would ever be considered a search. Rather, the Court was careful to limit the impact of its decision by narrowly concluding that "the exposure of [defendant's] luggage, which was located

## LOWER COURT CASES

As a result of the limited application of the Court's pronouncement in *Place*, lower courts have had to consider anew the constitutionality of using specially trained dogs in other than public places. Some of these courts have continued to hold that the dog sniff is not a search,<sup>14</sup> while other courts have held to the contrary.<sup>15</sup> The distinguishing factor appears to be the degree of privacy the individual defendants have had in the "other than public places." For example, if the nonpublic place where the dog sniff occurs is controlled by a third party and the defendant has no reasonable expectation of privacy in the area, then the sniff of defendant's property found at that location does not constitute a search. However, if the dog sniff takes place in an area where defendant has a reasonable expectation of privacy, such as his home or automobile, then the sniff does amount to a search and it

“  
... if the dog sniff takes place in an area where defendant has a reasonable expectation of privacy ... then the sniff does amount to a search....  
”

in a public place, to a trained canine — did not constitute a 'search' within the meaning of the Fourth Amendment."<sup>13</sup> The obvious implication of the Court's narrow ruling is that if the location of the article subjected to the dog sniff was changed, then the conclusion that the sniff was not a search could also change.

must be reasonable under the fourth amendment. The following cases demonstrate this distinction and illustrate different courts' approaches to the legality of dog sniffs in various nonpublic places.

### Third-Party Controlled Areas

In *United States v. Lovell*,<sup>16</sup> the Fifth Circuit Court of Appeals upheld the legality of law enforcement officers subjecting a pas-

senger's luggage to a sniff test once it has been entrusted to the care of a third-party common carrier.

Benny Lovell's nervous appearance<sup>17</sup> piqued the interest of U.S. Border Patrol Agents at the El Paso International Airport. The agents observed Lovell for the brief time it took him to check his luggage with a skycap and walk to the airline terminal and noted that he was visibly shaking and frequently glanced over his shoulder. The agents decided to remove Lovell's luggage from the airline conveyer belt and to subject the bags to a dog sniff.<sup>18</sup> After a positive alert from a trained narcotics detection dog, a search warrant was obtained. Pursuant to the warrant, agents opened Lovell's luggage and found 68 pounds of marijuana. Lovell was subsequently arrested and charged with possession of a controlled substance with intent to distribute.

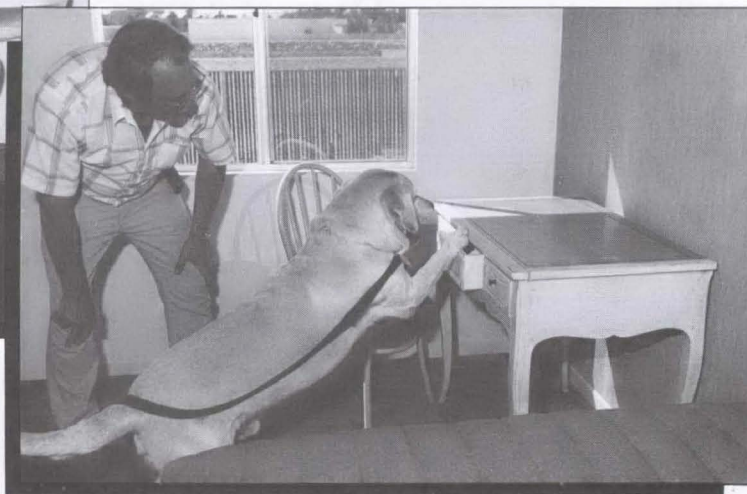
Prior to trial, Lovell moved to suppress all the evidence obtained from his luggage on the grounds that the bags had been seized and then searched in violation of his fourth amendment rights.<sup>19</sup> The U.S. Court of Appeals for the Fifth Circuit was asked to decide whether: 1) The removal of Lovell's bags from the airline conveyer belt was a seizure under the fourth amendment, and 2) whether the sniff<sup>20</sup> of the luggage was a search.<sup>21</sup>

In response to the first query, the court distinguished between luggage taken from the custody of a traveler and luggage taken from the custody of a third-party common carrier. Finding the latter to be much less intrusive, the court





"Winston" detects the odor of drugs during a training exercise in a hotel room. Had this been an actual search, both probable cause and a search warrant would normally have been required.



concluded, "... momentary delay occasioned by the bags' removal from the conveyer belt was insufficient to constitute a meaningful interference with Lovell's possessory interest in his bags. As a result, the Agents' actions did not constitute a seizure."<sup>22</sup>

The court also rejected defendant's contention that the sniff of his luggage was a search. The court began by recognizing that "when airport security concerns are not implicated, every passenger who has luggage checked with an airline enjoys a reasonable expectation of privacy that the contents of that luggage will not be exposed in the absence of consent or a legally obtained warrant."<sup>23</sup> Nonetheless, the court concluded that the passenger's reasonable expectation of privacy did not extend to the airspace surrounding the luggage; the use of a drug detection dog to sniff luggage in the custody of a common carrier

is not a search and, therefore, neither probable cause nor a reasonable suspicion is required to justify the action.<sup>24</sup>

*Lovell* is just one of many cases holding that the use of a drug detection dog to sniff items placed in the care and custody of third parties is not a search under the fourth amendment. The same result has been reached in cases where dogs have been used to detect the odor of drugs emanating from safe deposit boxes,<sup>25</sup> packages shipped through Federal Express,<sup>26</sup> cargo stored in the facilities of a private carrier,<sup>27</sup> and parcels traveling in the U.S. mail.<sup>28</sup> The common thread running through each one of these cases is that the particular defendants involved had no reasonable expectation of privacy in the area in which the drug detection dog was used and, therefore, the dog sniff was not subject to fourth amendment constraints.

### Private Residences

Law enforcement officers may desire to use a detection dog in areas where there is unquestionably a reasonable expectation of privacy, such as sniffs of a person,<sup>29</sup> a private home, or hotel room. Using a dog under such circumstances generally implicates a person's reasonable expectation of privacy<sup>30</sup> requiring prior judicial authorization or other appropriate justification under one of the exceptions to the warrant requirement.

For example, in *United States v. Thomas*,<sup>31</sup> the Second Circuit Court of Appeals held that simply using a dog to detect odors emanating from defendant's apartment constituted a search, even though no entry into the premises was made. In *Thomas*, the defendant claimed that the warrantless use of a drug-trained dog outside his apartment to detect odors originating from within was an illegal



search that tainted the subsequently issued warrant. The court acknowledged the precedent established in *Place*, but noted that the use of a dog to detect odors in a suitcase is quite different than using a dog to reveal the contents of an individual's home. Emphasizing the fact that an individual has a heightened privacy interest in his dwelling place, the court made the following statement:

"[A] practice that is not intrusive in a public airport may be intrusive when employed at a person's home. Although using a dog sniff for narcotics may be discriminating and unoffensive relative to other detection methods, and will disclose only the presence or absence of narcotics, it remains a way of detecting the contents of a private, enclosed space. With a trained dog police may obtain information about what is inside a dwelling that they could not derive from their own senses. . . . Here the defendant had a legitimate expectation that the contents of his closed apartment would remain private, that they could not be 'sensed' from outside his door. Use of the trained dog impermissibly intruded on that legitimate expectation."<sup>32</sup>

In keeping with this rationale, the court in *Thomas* concluded that the use of a dog to detect the odor of drugs coming from defendant's apartment was a search which required both probable cause and a search warrant.<sup>33</sup>

### Motor Vehicles

The *Lovell* and *Thomas* cases illustrate two diametrically opposed situations. In *Lovell*, the

defendant had no expectation of privacy in the area where the dog sniff occurred, while in *Thomas*, the defendant's privacy interest was extremely high. Dog sniffs may also occur in motor vehicles<sup>34</sup> or other areas where defendants are afforded a reduced expectation of privacy.

“  
... courts have  
recognized the  
evidentiary value of a  
well-trained drug  
detection dog.  
”

For example, in *United States v. Whitehead*,<sup>35</sup> law enforcement officers noticed defendant as he arrived at the Miami, FL, Amtrak Station 10 minutes before the scheduled departure of the morning train to New York City. Defendant called attention to himself by carefully scanning the front of the station before entering. The officers initiated an investigation by speaking to the taxi driver who drove defendant to the station and the ticketing agent who sold defendant his ticket. The taxi driver advised that defendant had been picked up at a Miami hotel well known to the officers as a common meeting place for drug traffickers. The ticketing agent informed the officers that defendant paid cash for a first-class sleeping car ticket to New York, the reservation for which had been made only a few hours before. With this knowledge, the officers approached defendant, and after identifying themselves, asked to

speak with him. Although defendant agreed to talk to the officers, he immediately broke into a profuse sweat. When asked to identify himself, defendant produced a pair of military dog-tags, but claimed to have no other identification. In response to further questioning, defendant advised that he had been in Miami for 2 days to play tennis with friends. The officers then informed defendant that they were conducting a narcotics investigation and asked for consent to search defendant's bags. When defendant denied his consent, he was permitted to board the train with no further interruptions.

After defendant's departure, the officers in Miami contacted Amtrak officers who boarded the train when it made a scheduled stop in Washington, DC. More officers boarded the train in Baltimore and with them were two drug-trained dogs. One of the officers knocked on defendant's door. When the door was opened, the officer identified himself and was given consent to enter. Once inside, the officer asked for permission to search defendant's bags. Defendant again broke into a profuse sweat and asked what would happen if he objected. The officer indicated he had dogs available to sniff the luggage. At that point, defendant told the officer to "bring on your dogs."<sup>36</sup> The dogs were brought into the roomette, where they both alerted to one of defendant's bags. Defendant and his luggage were detained while a warrant was obtained. The subsequent search of the suitcase revealed 3 kilograms of cocaine.



Prior to trial, defendant moved to suppress the cocaine found in his luggage on the grounds that the dog sniff of his luggage, which was located in his roomette, was an unlawful search under the fourth amendment. The trial court rejected this motion and found defendant guilty of possessing cocaine with intent to distribute. On appeal, defendant renewed his fourth amendment claim.

Recognizing that the roomette in question was not a "public place," the U.S. Court of Appeals for the Fourth Circuit first considered whether the roomette was the equivalent of defendant's home or hotel room where his expectation of privacy is heightened, or instead more akin to a motor vehicle where the privacy interest is diminished. After pointing out that trains, like cars, are subject to pervasive government regulation and their mobility creates the same "law enforcement exigency ... and ... potential for immediate flight from the jurisdiction,"<sup>37</sup> the court made the following observation:

"Whitehead's roomette was moving swiftly in interstate transit. Whitehead's status therein was that of a passenger, not a resident. Although Whitehead had no ability to direct the train's movement, its continuing journey imposed practical constraints on the officers' ability to mount a full-fledged investigation within jurisdictional boundaries. Moreover, Whitehead could leave the train at any stop, and unlike a hotel guest, he had no authority to remain on the train once it reached its destination."<sup>38</sup>

Based on these observations, the court rejected defendant's contention that the roomette was the functional equivalent of a hotel room or a temporary home that deserved the most scrupulous protection under the fourth amendment.

The court's review, however, did not end there. Defendant countered with the argument that even though motor vehicles are given less protection under the fourth amendment, probable cause is still required to justify the warrantless search of such vehicles. Again, the court disagreed. Because the dog sniff is so much less intrusive than a traditional search, the court reasoned that a prior showing of probable cause was unnecessary. Instead, the court found that such a limited and discreet intrusion as is caused by a dog sniff could be justified on the basis of a reasonable suspicion. In light of the facts known to the investigating officers in *Whitehead*, the court found that

“

**... the use of a drug detection dog to sniff items placed in the care and custody of third parties is not a search under the fourth amendment.**

”

a reasonable suspicion existed at the time the dog sniff was conducted.

Many cases have adopted the rationale used in *Whitehead* and have upheld the use of dogs to detect drugs in motor vehicles when a reasonable suspicion can be articulated.<sup>39</sup> The fact that a warrant based on probable cause is

not required is attributable in large part to the reduced expectation of privacy attached to motor vehicles.

## CONCLUSION

Drug detection dogs are extremely effective weapons to use in the war on drugs. Traffickers have attempted to thwart the efforts of these dogs by packaging drugs in containers filled with moth balls and garlic.<sup>40</sup> When these attempts at concealment failed, drug cartels, acting out of fear, actually put contracts out on the lives of certain detection dogs.<sup>41</sup> The fear exhibited by the drug traffickers is itself a reward to the law enforcement community because it means that a weapon that works has been found.

To keep this weapon working, law enforcement officers must be careful to use detection dogs within the boundaries set by the courts. Those boundaries can be summarized as follows:

- If the dog is used to sniff an area where the defendant has an extremely high expectation of privacy, then a warrant based on probable cause or an exception to the warrant requirement is a prerequisite;
- If the sniff is to occur in an area of reduced expectation of



privacy, then a mere showing of reasonable suspicion is all that is required; and

- If the dog is used to sniff an item located in a public place or a place controlled by a third party, then no search will occur and fourth amendment proscriptions regarding searches need not be a concern.

Although other constitutional considerations may arise, such as the level of suspicion needed to seize luggage from a traveler<sup>42</sup> or the amount of time an item may be detained prior to conducting a sniff test,<sup>43</sup> law enforcement officers can help insure the legality of the dog sniff itself by staying within these boundaries. **FBI**

#### Footnotes

<sup>1</sup>Fleming, "Winston's Last Chance," *Reader's Digest*, November 1988, pp. 100-4.

<sup>2</sup>An alert by a well-trained detection dog is normally sufficient to establish probable cause. See, e.g., *United States v. Race*, 529 F.2d 12 (1st Cir. 1976); see also, Comment, 13 San Diego L. Rev. 410 (1976).

<sup>3</sup>103 S.Ct. 2637 (1983) (hereinafter cited as *Place*).

<sup>4</sup>Reasonable suspicion had previously been established by officers who had talked to Place before he boarded his plane for New York.

<sup>5</sup>Defendant's suppression motion claimed that the warrantless seizure of his luggage violated his fourth amendment rights.

<sup>6</sup>*United States v. Place*, 660 F.2d 44 (2d Cir. 1981). For a review of the proper scope of an investigative detention, see Hall, "Investigative Detention: An Intermediate Response," *FBI Law Enforcement Bulletin*, November 1985, December 1985, and January 1986.

<sup>7</sup>Because a majority of the Supreme Court found that the 90-minute detention of defendant's luggage was too long, and therefore, an unreasonable seizure under the fourth amendment, there was no need for the Court to address the "dog sniff" question. See Justice Brennan's concurring opinion in *Place*, 103 S.Ct. 2637 at 2646 (Brennan, J., concurring).

<sup>8</sup>The concurring Justices chastised the majority for being "unable to resist the pull to decide the constitutional issues on a broader basis than the record before it imperatively requires." *Id.* quoting *Street v. New York*, 394 U.S. 576, 581 (1969).

<sup>9</sup>U.S. Const. amend. IV reads: "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized."

<sup>10</sup>This two-step test for determining the existence of a reasonable expectation of privacy was first announced by the Supreme Court in *Katz v. United States*, 389 U.S. 347 (1967).

<sup>11</sup>*Place*, *supra* note 3, at 2644.

<sup>12</sup>*Id.*

<sup>13</sup>*Id.* at 2645.

<sup>14</sup>See, e.g., *Gamble v. State*, 473 So.2d 188 (Ala. App. 1985); *State v. Snitkin*, 681 P.2d 980 (Sup. Ct. Hawaii 1984); and *Stout v. State*, 688 S.W.2d 188 (Tex. App. 1985).

<sup>15</sup>See, e.g., *United States v. Tartagura*, 864 F.2d 837 (D.C. Cir. 1989); *Crosby v.*

unreasonable in its execution as to cross the bounds of constitutional propriety, we are not confronted by such a process here."

<sup>22</sup>*Lovell*, *supra* note 16, at 916.

<sup>23</sup>*Id.* 913.

<sup>24</sup>*Id.*

<sup>25</sup>See, e.g., *Strout v. State*, 688 S.W.2d 188 (Tex. App. 1985) and *State v. Boyce*, 723 P.2d 28 (Wash. App. 1986).

<sup>26</sup>See, e.g., *Gamble v. State*, 473 So.2d 1188 (Ala. App. 1985).

<sup>27</sup>See, e.g., *State v. Snitkin*, 681 P.2d 980 (Sup. Ct. Hawaii 1984).

<sup>28</sup>See, e.g., *State v. Kesler*, 396 N.W.2d 729 (Sup. Ct. N.D. 1986).

<sup>29</sup>In *State v. Boyce*, 723 P.2d 28 (Wash. App. 1986), the court held that a canine sniff of a person or of objects being carried by the person is "... offensive at best and harrowing at worst to the innocent sniffer" and requires a reasonable suspicion. *Id.* at 31 n. 4.

<sup>30</sup>See note 10, *supra*.

<sup>31</sup>757 F.2d 1359 (2d Cir. 1985), *cert. denied*, 474 U.S. 819 (1985).

<sup>32</sup>*Id.* at 1366-7.

<sup>33</sup>Although the court found that the warrantless use of the detection dog was a fourth amendment violation, it refused to suppress the evidence. Rather, the court found that since the subsequently issued warrant was executed in good faith, and pursuant to the Supreme Court's decision in *United States v. Leon*, 104 S.Ct. 3405 (1984), the exclusionary rule need not apply.

<sup>34</sup>For cases involving dog sniffs of motor vehicles, see *United States v. Tartagura*, 864 F.2d 837 (D.C. Cir. 1989); *United States v. Stone*, 866 F.2d 359 (10th Cir. 1989); *United States v. Hardy*, 855 F.2d 753 (11th Cir. 1988); *United States v. Dicesare*, 765 F.2d 890 (9th Cir. 1985); and *O'Keefe v. State*, 376 S.E.2d 406 (Ct. of App. Ga. 1988).

<sup>35</sup>849 F.2d 849 (4th Cir. 1988).

<sup>36</sup>*Id.*

<sup>37</sup>*Id.*

<sup>38</sup>*Id.*

<sup>39</sup>See note 34, *supra*.

<sup>40</sup>See note 1, *supra*.

<sup>41</sup>*Id.*

<sup>42</sup>See note 6, *supra*.

<sup>43</sup>*Id.*

**“Many cases ... have upheld the use of dogs to detect drugs in motor vehicles when a reasonable suspicion can be articulated.”**

*State*, 492 So.2d 1152 (Fla. App. 1986); and *Commonwealth v. Johnston*, 530 A.2d 74 (Pa. Sup. Ct. 1987).

<sup>16</sup>849 F.2d 910 (5th Cir. 1988) [hereinafter cited as *Lovell*].

<sup>17</sup>*Lovell's* nervousness was evidenced by his shaking, his fumbling, his erratic hand writing and a "toothpick in his mouth ... was going 90 miles an hour." *Id.* at 911.

<sup>18</sup>Prior to the dog sniff, the agents compressed the sides of the suitcase and both got a faint smell of talcum powder and a strong odor of marijuana. The court found no fault with the agents' actions. *Id.*

<sup>19</sup>After the district court refused to suppress the evidence, *Lovell* entered a conditional plea of guilty and reserved the right to appeal the denial of his suppression motion. *Id.* at 912.

<sup>20</sup>Because the agents sniffed the luggage prior to bringing in a detection dog, the court focused its attention on the legality of the human sniff.

<sup>21</sup>The court also considered whether squeezing or "prepping" the bag was a fourth amendment violation. On this issue, the court stated, "... while we could hypothesize a 'prepping' process so violent, extreme and

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



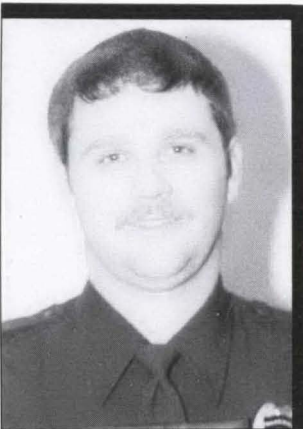
## The Bulletin Notes

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



Specialist Hennekes

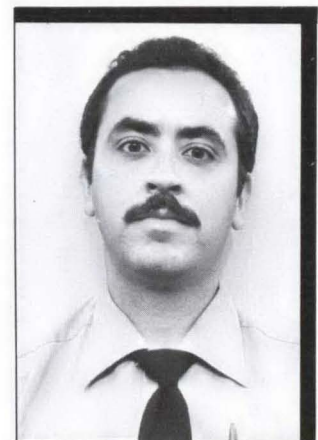
Police Specialist Robert Hennekes of the Cincinnati, OH, Police Department was jogging while off duty when he was told by a local citizen that a bank robbery suspect had just left a nearby bank. Although unarmed, Specialist Hennekes chased the suspect to a nearby getaway vehicle where the suspect shot him once in the chest. Specialist Hennekes was critically wounded but still managed to obtain descriptive information on the suspect and his vehicle which led to an apprehension a short time later. Hennekes has since recovered from his injuries and has returned to work.



Officer Kratochvil

Officer Bryan Kratochvil of the University of Nebraska at Lincoln Police Department was on his way to visit a friend when he came upon a fire at a local apartment complex. Crawling on his hands and knees, Officer Kratochvil twice entered the burning, smoke-filled building in an attempt to rescue children whom he heard crying in one of the apartments. He was able to rescue an unconscious 5-year-old child before losing consciousness himself from the smoke. He was later treated for smoke inhalation and released.

Officer Robert Diaz of the Corpus Christi, TX, Police Department was making a routine check of a local convenience store when he observed an unfamiliar clerk behind the counter. Noticing blood on the man's trousers, Officer Diaz questioned him and then quickly took him into custody. After securing the suspect in the police cruiser, Officer Diaz conducted a thorough search of the store. He discovered the female clerk who regularly worked there lying inside the cooler and bleeding from a shotgun wound to the chest. Officer Diaz called for an ambulance, and the clerk has since recovered from her wounds.



Officer Diaz



**U.S. Department of Justice  
Federal Bureau of Investigation**

Second Class Mail  
Postage and Fees Paid  
Federal Bureau of Investigation  
ISSN 0014-5688

Washington, D.C. 20535

Official Business  
Penalty for Private Use \$300  
Address Correction Requested

## **Major Art Theft**

Between July 17, 1988, and August 24, 1988, approximately \$750,000 worth of cultural property was burglarized from a private residence in New York, New York. Pictured are two paintings stolen in the burglary which also included sculpture, Persian rugs, silver and lusterware.

Any information concerning this theft should be directed to FBI, New York City, telephone (718) 459-3140. Refer to their file number BQ 87A-86990. You may also contact the National Stolen Art File, FBI Laboratory, Washington, DC, telephone (202) 324-4434.



**Top:** George Rouault, Christ with Two Disciples, oil on board, 11" x 14", value estimated at \$150,000.



**Left:** Marc Chagall, Othello and Desdemona, oil on canvas, 16" x 13", value estimated at \$150,000.