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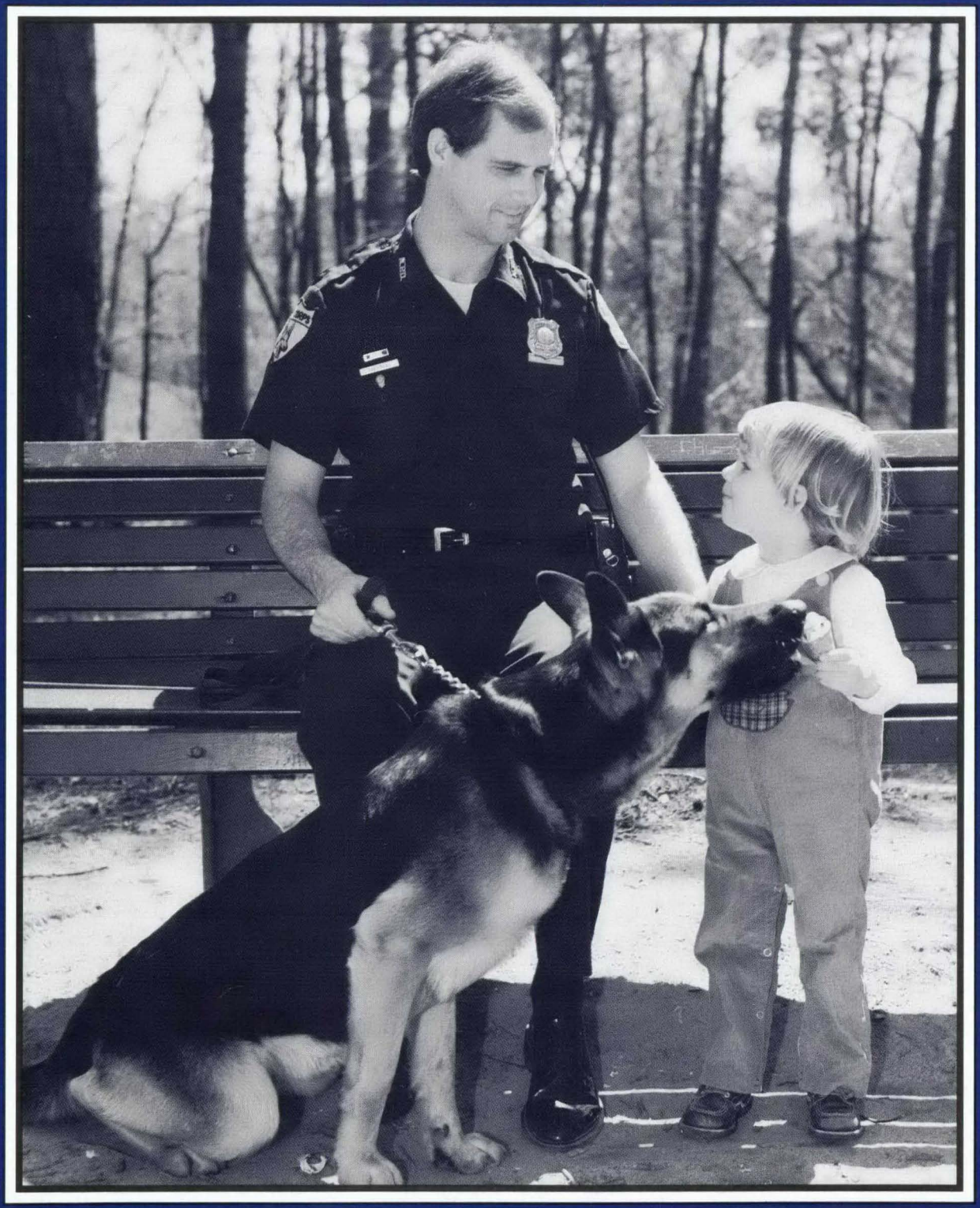

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Features

Departments

The Cover: *During the dog days of summer, a police K-9 shares an ice cream cone with a youngster. Photo courtesy of Joe Riplinger, Norfolk, Virginia, Police Department.*

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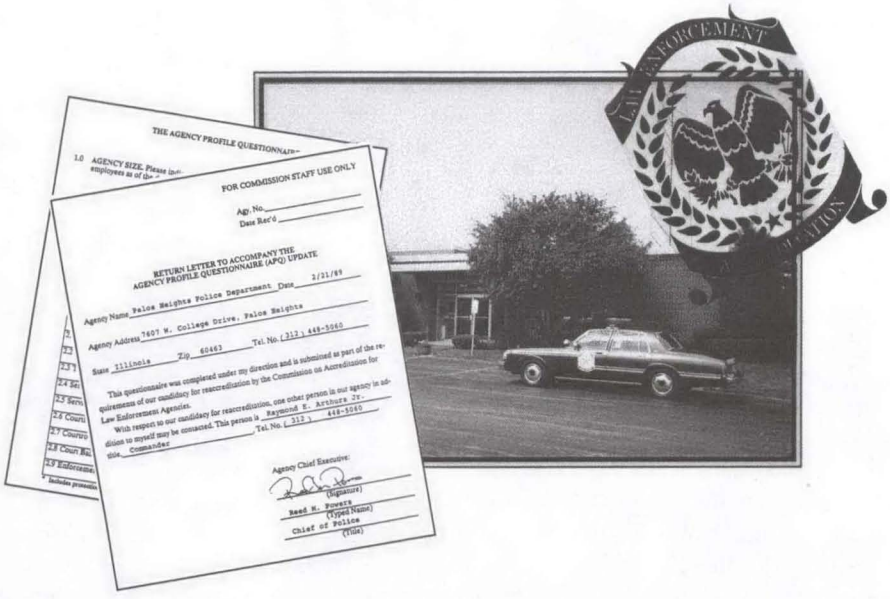
Accreditation

A Small Department's Experience



By
RAYMOND E. ARTHURS, JR.

Over a decade ago, four major law enforcement associations joined together to form the Commission on Accreditation for Law Enforcement Agencies (CALEA).[1] The primary purpose of the commission was to establish and administer an accreditation process for law enforcement agencies. Accreditation was one way to professionalize the police and to improve the delivery of law enforcement services to the communities they served.

To this end, CALEA researched, tested, and approved standards for law enforcement administration and operations. These standards were then made available to agencies through an accreditation program. Today, they still serve as the basis for law enforcement agencies to demonstrate voluntarily that they meet professional criteria.

This article provides a brief overview of the standards approved by CALEA and the accreditation process. It then covers the process and methods used by the Palos Heights, Illinois, Police Department to achieve accredited status.

ACCREDITATION STANDARDS

CALEA adopted some 900 standards, which are organized into 48 chapters. The standards address six major law enforcement topics.[2] Designed to reflect the best professional practices in each of the six areas, the standards concentrate on the ''what to do'' and leave the ''how to do'' up to the individual agencies.

Each standard is composed of three parts—the statement, the commentary, and the level of compliance. Agencies must comply only with standards applicable to the individual agency, based on size and the functions it performs. For example, the commission designated a number of standards that are not applicable to smaller agencies.

This is because small departments cannot be expected to employ specialists and perform certain functions that larger departments should and would be expected to do.

Also, standards fall into two categories—mandatory and nonmandatory. All agencies applying for accreditation must comply with each mandatory standard, if it is applicable to the agency. However, with nonmandatory standards, agencies must meet only 80 percent of them, and only if they are applicable to the particular agency. The commission staff usually determines nonmandatory standards for each agency after reviewing its application and documentation.

ACCREDITATION PROCESS

The accreditation process consists of five phases—application, application profile questionnaire, self-assessment, on-site assessment, and final review by the commission. The process is designed to bring law enforcement agencies into compliance with the established standards. CALEA then awards accredited status to those agencies that meet or exceed all requirements of the standards.

THE PALOS HEIGHTS EXPERIENCE

The Palos Heights Police Department initially applied for accreditation and was accepted by CALEA in 1984. However, when a number of staffing problems developed, the department put the accreditation process on hold. Two years later, in March 1986, the chief decided to seek accreditation again.

Application and Application Profile Questionnaire

To begin, the department requested information on accreditation and an application package from CALEA. Once the department completed and returned the questionnaire, the commission sent the agency the Application Profile Questionnaire. The department filled out the questionnaire and provided all additional information requested by the commission. After reviewing the completed questionnaire, the commission confirmed the agency's eligibility and forwarded the self-assessment package.

Self-Assessment

Before beginning the self-assessment stage, the department developed a set of procedural guidelines. Then, the department held meetings to explain and discuss the accreditation process with all members of the department. These meetings also provided a forum to seek input and assistance from all personnel in order to complete the accreditation process successfully.

The first step in the self-assessment phase was to appoint an accreditation manager, who was relieved of all official duties in order to devote full time to the accreditation project. For the entire period that it took to complete this stage of the accreditation process, the accreditation manager served as the focal point.

The accreditation manager's duties included preparing all the necessary files, keeping a log of standards either being worked on, reviewed and completed, and ensuring compliance with all mandatory and nonmandatory CALEA standards. Other responsibilities of the accreditation manager were to keep the chief informed of the progress of the project and to obtain any proof of compliance that might be needed from other city departments, commissions, or criminal justice entities. Also, during this phase, the accreditation manager served as

"The move toward accreditation involved input from the entire department."

Chief Arthurs served as the accreditation manager for the Palos Heights, Illinois, Police Department. He currently heads the Willowbrook, Illinois, Police Department.

liaison with the CALEA staff member assigned to the agency.

Then, individual files were prepared for each standard needed to achieve accreditation. Once this was done, the accreditation manager assigned chapters of standards to department members for review, revision, and level of compliance. For example, the department's detectives received the chapters concerning investigations, organized crime, juvenile operations, intelligence, and internal affairs. In a small department, the same two or three people basically handle these functions. Therefore, they were tasked with completing the necessary work on standards involving their area of expertise.

Personnel assigned to review departmental operations were selected because of their experience in a particular area, interest, availability, and assignment. For example, in the Palos Heights Police Department, the shift sergeants worked on chapters pertaining to patrol and traffic operations. The evidence officer handled the chapters on evidence and property management, while the accreditation manager completed the chapters on personnel structure and processes and records and communication. Chapter assignments on law enforcement roles, responsibilities and relationships, as well as organization, management, and administration, went to the patrol commander.

The accreditation manager kept track of the progress of the review and set a time frame for completion. If problems developed with standard compliance or with assigned tasks, the accreditation manager held meetings twice a month to resolve these problems. These meetings also kept the program on track and served to hold the interest of members involved.

To assist with the self-assessment phase, the department obtained copies of general orders and rules and regulations from a number of accreditated agencies to use as resource information. Personnel then reviewed current departmental rules and regulations, general orders, and policies, as well as local and State law, to determine agency compliance with the standards. In many cases, the department had a rule or order on a particular standard, but that rule or order needed to be revised or substantially altered to bring it into compliance with accreditation standards. In fact, soon after beginning the self-assessment, police administrators decided to revise totally the department's rules and orders into one new manual of general orders.

> ***"...it is extremely beneficial to an agency in self-assessment to participate in a local accreditation managers association...."***

At this stage in the accreditation process, it is extremely beneficial to an agency in self-assessment to participate in a local accreditation managers association, if one exists. Unfortunately, when the Palos Heights Police Department was in self-assessment, the local group for northern Illinois, the Northern Illinois Police Accreditation Coalition (NIPAC), was just forming. Since then, NIPAC expanded to become a statewide organization now known as the Illinois Police Accreditation Coalition (IPAC). The association is composed of accreditation managers of those agencies in Illinois that are either accredited, in self-assessment, or other law enforcement professionals interested in police accreditation. The group meets monthly to discuss problems experienced with accreditation or compliance with standards. IPAC is currently assembling a library of manuals from various agencies to assist law enforcement agencies in the accreditation process.

To continue with its self-assessment, once the department completed the new manual of general orders, the accreditation manager reviewed the proposed new orders to ensure compliance was met. Noted in the margin of each new order was the standard number adjacent to the proof of compliance. Written documentation also included the page, section, and paragraph where the proof of compliance could be found.

After initial review by the accreditation manager, all division commanders, shift supervisors, detectives, and the police chief received copies of the proposed new general orders. Each received a

review sheet that was to be completed indicating their review and incorporating comments regarding the proposed new orders. The only specific requirement with regard to review was that any comments or recommended changes must still result in compliance with the applicable standard.

Also, supervisors were instructed to obtain feedback from members of each shift. The benefit realized from having input from all members of the department was acceptance of the orders when they were finally issued. Allowing all department members to review each new general order led to a high level of personal involvement and a sense of accomplishment by all when the department achieved accredited status.

After obtaining feedback, the accreditation manager conducted a second review and prepared a final version for distribution. At this point in the self-assessment phase, the shift supervisors provided any needed instruction and training as a result of the new general orders. Personnel were required to document that they were advised of and understood the new orders and that they received the necessary training. Then, the patrol commander placed copies of these sign-off sheets in each personnel file.

Once finalized, the folders for each chapter of standards were then forwarded to the accreditation manager for one last review before being entered into the permanent accreditation files. If, during this final review, the accreditation manager determined there was a problem with proof of compliance, the chapter was returned to the member who initially worked on the review with a request that the problem be corrected.

At this point, when the agency nears completion of the self-assessment phase, a mock on-site assessment should be held by a team of assessors from a local accreditation support group, if one exists. Unfortunately, the Palos Heights Police Department did not have this luxury, since the local accreditation support group was just forming. However, a mock on-site assessment gives a department an unbiased review by police professionals who are familiar with the accreditation process. This mock on-site assessment is basically an abbreviated form of the real on-site review performed by CALEA, with particular emphasis on accreditation files. It is better to determine any problem or noncompliance with standards before CALEA assessors arrive.

> ***"The self-assessment phase is the most critical stage in the accreditation process...."***

The self-assessment phase is the most critical stage in the accreditation process, and it takes the longest amount of time. Locating proofs of compliance, writing new rules and orders or revising them, distributing new orders, and training personnel in new procedures developed to comply with standards require a substantial amount of time and effort.

On-site Assessment

When the department completed its self-assessment, it notified the commission staff in writing. CALEA then requested that certain random standards with proofs of compliance be forwarded for its review. The random standards requested vary from agency to agency, but usually deal with the critical issues facing law enforcement today. If CALEA determines that there are no perceived problems with the standards submitted, the on-site assessment begins.

For the on-site assessment, CALEA identifies a team of assessors and then allows the candidate agency to review those selected to avoid possible conflicts of interest. For Palos Heights, the on-site team consisted of three out-of-state chiefs of police. Then, the commission sets a date for the assessment.

The department and the commission's staff jointly prepared for the on-site assessment. Departmental staff members arranged for transportation and lodging. Also, a commission staff member joined the team at the assessment site to train the assessors and to participate in the on-site assessment. The accreditation manager provided the assessment team and commission staff member a tour of the facilities and the community and gave them

access to a department vehicle. Following the tour, the assessors and staff member conducted a review of the accreditation files as part of the assessors' training.

Then, the actual assessment began with a meeting between the assessors and the chief of police. The assessors started with a more extensive review of files and by conducting whatever interviews and inspections that were needed.

On the first evening of the actual on-site assessment, a public hearing was held. A public hearing is now mandatory, although this was not the case when Palos Heights was going through the accreditation process. In addition to the public hearing, hours were set during a 2-day period for assessors to hear telephonic comments from the public. Times for the public hearing and call-in comments were advertised by the agency through the printed and electronic media. The telephone number used for public comments was an untapped line and one that could be answered directly by the on-site assessment team leader or a designate.

At the conclusion of this phase, the assessors conducted an exit interview with the chief of police and the accreditation manager. Any problems found that could not be corrected through issuing or revising an order to bring an agency into compliance with a standard, or changes in the facility or operation, were discussed. By the completion of the exit interview, the agency had a good idea of what work needed to be done within the next 10 days before the assessment team report was sent to CALEA.

Once completed by the team leader, the assessment report was forwarded to the commission staff for review. Because the team determined the department to be in compliance with all applicable mandatory standards and at least 80 percent of nonmandatory standards, CALEA notified the agency to appear at its next scheduled meeting to be presented for accreditation.

> ***"For this department, accreditation was a process to professionalize, review, and improve the agency and its ability to provide law enforcement services...."***

Commission Review

The department's chief executive officer and the accreditation manager attended the commission meeting when the department was presented for accreditation. Through a telephone hookup, the on-site assessment team leader participated in discussions of the final report and the candidate agency's consideration for accreditation. During this meeting, any questions regarding the final report and any other topic regarding accreditation may be posed to the chief executive and the accreditation manager by commission members. At the conclusion of the hearing, the commission for accreditation voted to award accreditation to the Palos Heights Police Department.

CONCLUSION

The Palos Heights Police Department received accredited status in July 1987, approximately 16 months after the process began. The move toward accreditation involved input from the entire department. The process required many procedural changes to meet the standards of the commission, but these changes benefited the entire agency. For this department, accreditation was a process to professionalize, review, and improve the agency and its ability to provide law enforcement services to the citizens and community it serves.

LEB

Footnotes

[1] The four associations were the International Association of Chiefs of Police (IACP), the National Organization of Black Law Enforcement Executives (NOBLE), the National Sheriffs' Association (NSA), and the Police Executive Research Forum (PERF). The 21-member commission is composed of 11 law enforcement professionals and 10 representatives from the public and private sectors. Commission members are appointed for 3-year terms by unanimous consent of the president and executive director of each of the four law enforcement associations.

[2] The standards address the role, responsibilities, and relationships with other agencies; organization, management, and administration; personnel administration; law enforcement operations, operation support and traffic law enforcement; prisoner and court-related services; and auxiliary and technical services.

The Bulletin Reports

Hispanic Victims

A recent Bureau of Justice Statistics (BJS) report, ***Hispanic Crime Victims***, notes that from 1979 to 1986, the more than 18 million Hispanics in the United States suffered an average each year of 439,000 violent crimes and 830,000 personal thefts. In addition, households headed by an Hispanic had an annual average of 1.2 million burglaries, household thefts, and motor vehicle thefts. Yet, BJS announced that the annual rate of violent crime committed against Hispanics dropped after 1983 from about 44 offenses per 1,000 people in 1983 to about 31 per 1,000 in 1985. Even so, they still sustained a higher rate than non-Hispanics from 1979 through 1986.

During the 1979-1986 period, for every 1,000 Hispanics age 12 or older, there were 11 robberies and 12 aggravated assaults. For non-Hispanics there were 6 robberies and 10 aggravated assaults. Also, for every 1,000 households, Hispanics suffered an average of 266 household crimes—burglary, household larceny and motor vehicle theft—compared to the 205 offenses for non-Hispanic households.

According to the report, Hispanic violent crime victims were accosted more frequently by strangers (65 percent of the incidents) than were white violent crime victims (58 percent) or black violent crime victims (54 percent). Hispanic and black robbery victims more frequently faced offenders with weapons (57 percent of the robberies for both groups) than did white victims (43 percent). Black robbery victims more frequently were confronted by offenders with guns (29 percent of the incidents), while Hispanics more often faced robbers with knives (25 percent of the incidents).

Single copies of this special report (NCJ-120507), as well as other Bureau of Justice Statistics publications and data, may be obtained from the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850. The toll-free telephone number is 1-800-732-3277. For callers in Maryland and metropolitan Washington, D.C., the number is 1-301-251-5500.

TAPIC Report

The Technology Assessment Program Information Center (TAPIC) coordinates the testing of law enforcement equipment by independent laboratories and publishes the test results. A recent bulletin published by TAPIC is entitled ***Equipment Performance Report: Vehicle Tracking Devices***. The report includes test results on five transmitters and four receivers used in locating or following vehicles involved in a criminal enterprise.

The report details the test program used, the minimum performance requirements/methods of testing, and the tests results. The data compiled from the tests, which are included in this report, can guide prospective purchasers in selecting equipment that performs best under the conditions in which it will be used.

Copies of this report can be obtained by writing the Technology Assessment Program Information Center, Box 6000, Rockville, MD 20850 or by calling toll free 1-800-248-2742 or 1-301-251-5060 for those in Maryland and the Washington, D.C., metropolitan area.

Drug Clearinghouse

The Drug Information & Strategy Clearinghouse is now operating to promote the health and safety of public housing residents and to help control drug trafficking and other drug-related activities. Established by the Department of Housing and Urban Development (HUD), the clearinghouse provides housing officials, residents, community organizations, and State and local government agencies with a source for information and assistance on drug abuse prevention and trafficking control techniques. Other products and services include computer searches, information packages, referrals, HUD regulations and legal opinions, and resource lists. The strategies and resources referred may be useful for any community-based prevention effort.

To learn more about the Drug Information & Strategy Clearinghouse or to make an information request, call toll free 1-800-245-2691 (or 1-301-251-5154 in the Washington, D.C., metropolitan area) between 9 a.m. and 6 p.m. EST Monday through Friday. Written inquiries can be sent to the HUD Drug Information & Strategy Clearinghouse, P.O. Box 6424, Rockville, MD 20850.

Computer Crime

Increasingly, white-collar criminals use computers to commit crime. In fact, computer-related crime is growing rapidly in rate, seriousness, and sophistication, thus posing a new challenge to law enforcement. To be successful, agencies must strengthen their capabilities for investigating and prosecuting computer crime. Responding to this need, the National Institute of Justice (NIJ) published a report, ***Organizing for Computer Crime Investigation and Prosecution***, which provides an overview of the existing approaches that agencies use to handle computer-related crime cases.

The report provides case examples of crimes investigated by State and local law enforcement personnel. It also offers recommendations for the effective investigation and prosecution of computer crime.

Topics covered in the report include the impact of various computer-related crimes on businesses and individuals, as well as current investigative and prosecutive practices. It also covers the procedures employed by certain law enforcement agencies when dealing with computer crime. The report addresses the issues affecting the investigation and prosecution of these crimes, along with strategies for improving investigative and prosecutive policies and procedures. Also included in the publication are a sample application and affidavit for a search and seizure warrant, as well as a sample search and seizure warrant. The report also references computer crime statutes and training available for computer-related crime.

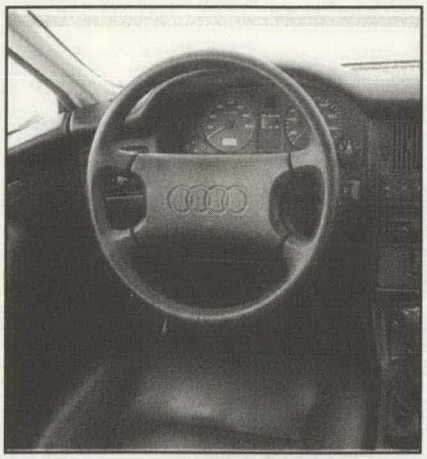
To obtain a copy of the report, call the National Criminal Justice Reference Service toll free at 1-800-851-3240; in the Washington, D.C., metropolitan area, the number is 1-301-251-5500.

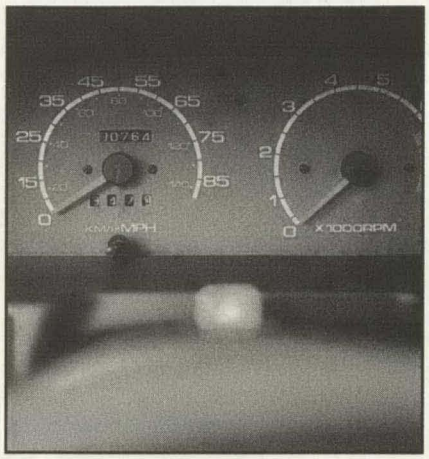
The Bulletin Reports, a collection of criminal justice studies, reports, and project findings, is written by Kathy Sulewski. Send your material for consideration to: *FBI Law Enforcement Bulletin*, Room 7262, J. Edgar Hoover Building, 10th & Penn. Ave., NW, Washington, DC 20535.

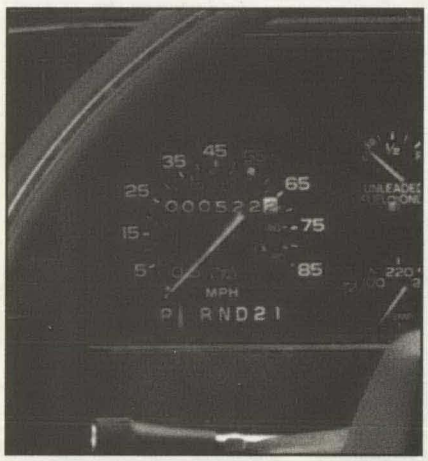
(NOTE: The material presented in this section is intended to be strictly an information source and should not be considered as an endorsement by the FBI for any product or service.)

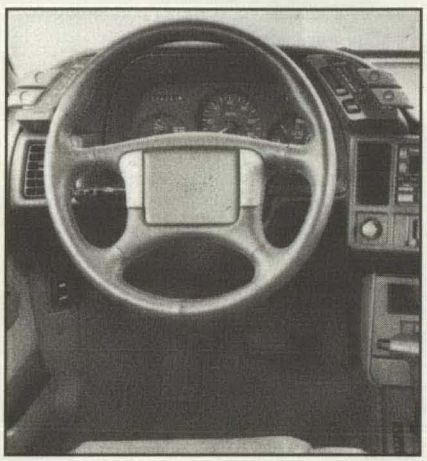
Odometer Rollback Schemes

By
JAMES E. SCRIPTURE, JR.

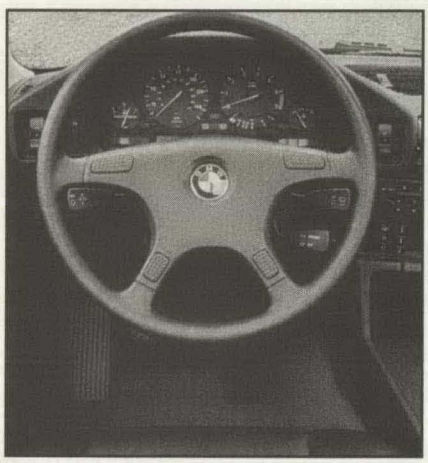


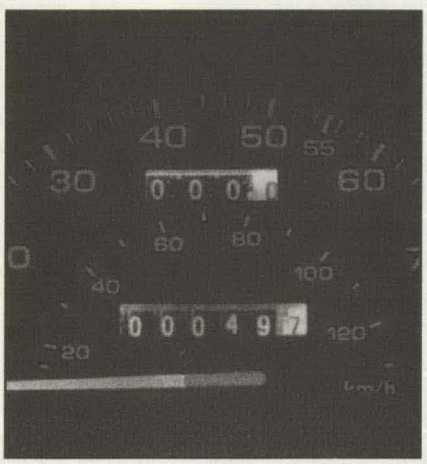


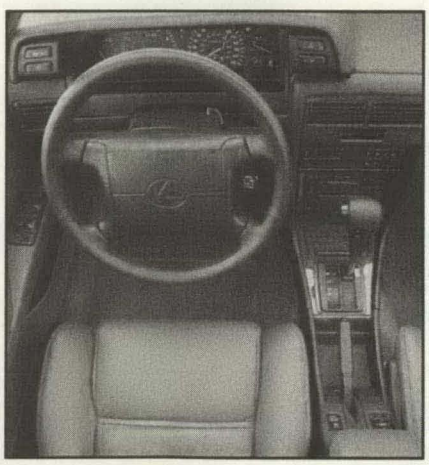




With the expense associated with purchasing a new motor vehicle and the proliferation of leased and rental cars in recent years, odometer tampering has become a very lucrative criminal activity. This is why this activity is now recognized as a serious form of white-collar crime. Odometer tampering involves reducing the high mileage figure on used vehicles and is often accompanied with title laundering. Prime targets are formerly leased, high







mileage vehicles that are 1 to 2 years old and still retain a polished appearance.[1]

Odometer rollback schemes represent a pervasive fraud that costs consumers billions of dollars annually. In fact, statistics compiled by the National Highway Traffic Safety Association (NHTSA) conservatively estimate the aggregate annual wholesale loss in the United States as a result of these schemes at approximately $3 to $4 billion. This calculated dollar loss is based on fraudulent, wholesale markups and not retail sales. Also, increased repair, maintenance, and safety costs associated with rollback vehicles are not included in the estimates.[2]

Surprisingly, the commission of odometer fraud is not limited to the stereotypical American used car dealer. The monetary incentives associated with turned back odometers and laundered automobile titles entice individuals at every level of the automotive industry. Participants may include automobile auction operators, new car franchise holders, registry of motor vehicle (RMV) officials, and new car manufacturers.

Furthermore, these offenses can be extremely difficult to detect, investigate, and prosecute; they are generally perpetrated by intelligent individuals who develop elaborate, highly organized, and complicated schemes. Yet, some rollback operations uncovered by investigators were elementary and amateurish.

THE VARIETY OF SCHEMES

Falsifying Titles

One of the most primitive odometer rollback schemes occurs when a dealer purchases a high mileage vehicle in the name of the automobile dealership and subsequently resells it with a falsified, reduced odometer reading. This is accomplished merely by altering the high mileage figure noted on the title or by obtaining a new automobile title with a false mileage figure before reselling the vehicle.

The major disadvantage to altering only the odometer figure on the title is discovery. In most cases, these simplistic alterations are of poor quality and can be easily detected at automobile auctions by RMV officials who diligently examine title documents.

Altering Titles

This odometer rollback scheme is perhaps the most efficient. In this scam, the offending dealer employs a professional calligrapher or an artist to perform superior quality title alterations, which are often very difficult to detect with the naked eye.

Reassigning Titles

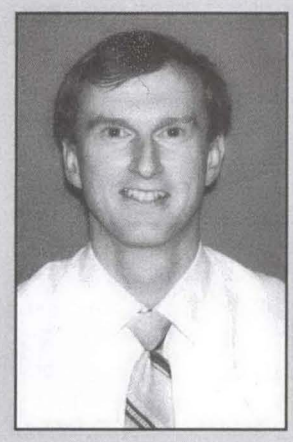
In most States, licensed automobile dealers can accept and transfer vehicle titles without reregistering them in the dealership's name. This is done by attaching an automobile dealer's reassignment of title form to the original automobile title. Numerous title reassignments may accompany an original title, as well as the washed title.

Also, offending dealers often manufacture phony title reassignments for a rollback vehicle in an attempt to avoid culpability. An offending dealer may also discard, rather than alter, prior reassignments of title, making it difficult to trace ownership of the vehicle. The practice of discarding and/or destroying title reassignments is called stripping a title.

Title Laundering

Another type of odometer rollback scheme occurs when offending dealers attempt to circumvent the

"Odometer rollback schemes represent a pervasive fraud that costs consumers billions of dollars annually."



Special Agent Scripture is currently assigned to the FBI's Boston, Massachusetts, Field Office.

problems associated with title alterations by purchasing title documents issued in the names of out-of-state automobile companies. This method involves surrendering an automobile title that contains a reduced mileage figure to an out-of-state registry of motor vehicles (RMV). The vehicle is then re-registered in the name of a company or dealership in another State, and the issued title, which contains the reduced mileage figure, is reassigned back to the offending dealer, creating a phony paper trail.

This false title history creates an unaltered title that distances the offending dealer from the odometer rollback. This new automobile title is referred to as a clean, washed, or laundered title. Because offending dealers always maintain physical possession of the vehicles in question until they are sold, geography is never a concern. In most cases, the only items that cross State lines are the phony title documents.

ROLLBACK OPERATIONS

Odometer Clockers

Initially, an offending automobile dealer makes minor cosmetic improvements to a vehicle, such as washing and waxing it. In addition, items such as brake pedals, tires, and floor mats, which are subject to noticeable amounts of wear and tear, are replaced. Then, the dealer usually pays a mechanic or another individual, referred to as a clocker, to turn back the odometer.

The price for each turn back varies, depending on the degree of difficulty associated with each vehicle. A proficient clocker can complete a rollback job in a matter of minutes by using such common tools as picks, wires, or screwdrivers. This enables the clocker to service a large number of vehicles in a relatively short period of time. These vehicles are subsequently sold on a retail basis directly from the offending dealer's lot, or more commonly, transported to one of numerous automobile auction houses in the United States.

> ***"...these offenses can be extremely difficult to detect, investigate, and prosecute...."***

Automobile Auction Houses

An automobile auction house is an integral part of many scams. Auction houses often encourage offending dealers to purchase high mileage vehicles from them in order to realize larger profits from high volume sales. An individual who intends to alter the odometer reading of a high mileage, attractive vehicle will frequently pay these wholesale automobile distributors or auction houses a price in excess of fair market value in order to secure the product. Appearance is important because the odometer will be altered and the vehicle sold at a commensurately higher price. Thus, the offender can afford to outbid legitimate automobile dealers for the same automobile because the higher cost is tempered with an illegal profit. Many auction houses even underwrite the sale.

The auction house serves as a commissioned broker during these transactions and rarely takes title to the vehicles. This method makes it extremely tempting for an auction house to transact business with known or suspected offending dealers who routinely negotiate high volume wholesale transactions.

In addition, auction houses that allow the dealer to take physical possession of formerly leased vehicles usually do not demand payment until they are sold. However, an auction house tries to protect its investment by maintaining possession of the title to each vehicle until payment is received from the dealer. This arrangement is possible because auction houses allow licensed dealers to sell automobiles at auction without immediately conveying the title to the purchasing dealer. This practice is referred to as selling a vehicle "title attached," meaning that the title transfer generally lags behind the physical transfer of the vehicle anywhere from a few days to 2 weeks.

Straw Dealerships

Title laundering schemes can involve the creation of dealerships under someone else's name. These businesses are commonly known in the automobile industry as straw dealerships.

Straw dealerships are used at strategic positions in a vehicle's title chain to deflect the criminal activity away from the offending dealership. The straw dealership usually does not maintain a vehicle inventory on its lot and operates in name only. Often, depending on the dealer registration and automobile titling requirements of the State where the

title will be washed, the dealership's address may actually correspond to a vacant lot, a residence, a post office box, or a telephone answering service. Rarely, if ever, will the straw dealership take physical possession of the automobiles involved in the rollback scheme.

Straw dealerships almost never maintain records, such as odometer statements and sale documents, which are required to be maintained under Federal law for a period of 4 years. These dealerships will eagerly pay the fines associated with noncompliance of required record keeping rather than maintain documentation that would implicate them in criminal activity.

Straw dealerships usually operate only for a few months before they are dismantled and moved to a different city or State under a new business name. This mobility makes it difficult for law enforcement authorities to identify those responsible for the scheme. In addition, an offending dealer may further complicate the vehicle's title history by using multiple straw dealerships in a series of fabricated transactions. A dealer can also pay a straw dealer to assume all of the risks—from purchasing high mileage vehicles to selling them with falsely reduced mileage. In this case, the user's name appears on none of the related paperwork, and the offending dealership does not appear to take possession of the rollback vehicles at any time.

APPLICABLE FEDERAL LAWS

In 1972, in recognition of the magnitude of the odometer rollback problem, Congress enacted the Motor Vehicles Information and Cost Savings Act (MVICSA),[3] seeking to eliminate odometer tampering. This act established certain safeguards to protect consumers because they often rely heavily on the odometer reading to determine the vehicle's value, safety, and reliability. The act made it a Federal violation to disconnect, reset, or replace an odometer for the purpose of disguising a vehicle's true mileage.[4]

> ***"...rollback and title laundering schemes...are limited only by the criminal's imagination."***

Depending on the circumstances, the primary Federal statutes that may be used in odometer-related prosecutions are Title 18, U.S. Code, Section 2314, Interstate Transportation of Stolen Property (ITSP) and Title 18, U.S. Code, Section 513, Possession of Forged or Altered Securities. Section 513 contains two extremely desirable features, the first being that the interstate transportation of the forged, altered, or counterfeited document is not a requirement for prosecution (unlike section 2314); rather, it makes the mere possession of such a document illegal. It defines forged and counterfeit documents as any which purports to be genuine but is not because it has been falsely made, falsely altered, or falsely completed. The Federal statutes contained in Title 18 of the U.S. Code pertaining to Mail Fraud, Section 1341; Conspiracy, Section 371; False Statements, Section 1001; and Fraud by Wire, Section 1343, are also cited in the indictments.

In October 1986, the Truth in Mileage Act of 1986 (TIMA) was signed into law, modifying MVICSA.[5] The primary features of TIMA dealt with title security, mileage disclosure, lease vehicle disclosure, dealer record retention, and lessor and auction record retention. It also increased the criminal and civil penalties applicable to MVICSA.

The Racketeer Influenced and Corrupt Organizations (RICO) Statutes [6] were originally intended for use in organized crime prosecutions. However, the RICO statutes can be interpreted to also include odometer rollback and title laundering activity.[7] Sections of the statutes contain offenses that Congress defined as constituting acts of racketeering and are the primary statutes traditionally used to prosecute odometer crime.[8]

The combined provisions of MVICSA, TIMA, and RICO legislation and other traditional criminal statutes form an intimidating platform from which to base anti-odometer fraud strategy. These statutes allow for substantial civil and criminal penalties against, and/or forfeiture from, those dealers who continue to engage in such criminal enterprises.

CONCLUSION

Today, rollback and title laundering schemes can range from

crude to brilliant. They are limited only by the criminal's imagination. Neither geographical barriers nor titling requirements pose insurmountable obstacles to individuals who are committed to carrying out their schemes.

Unfortunately, years may pass before consumers realize that they have been the victim of odometer rollback crime, if they every do. In the rare instances where dealers are caught, they usually enthusiastically negotiate a financial settlement with the customer in order to avoid negative publicity and potential civil or criminal proceedings.

At best, this means detection by law enforcement agencies is difficult, time consuming, and expensive. For the criminal, odometer tampering represents a relatively low-risk method of achieving substantial personal wealth. **LEB**

Footnotes

[1] U.S. Senate, Hearing on S.1407, pp. 32-33.

[2] U.S. Department of Transportation, National Highway Traffic Safety Administration, *Final Rule Implementing the Truth in Mileage Act*, April 1, 1988, pp. 78 and 82.

[3] Motor Vehicles Information and Cost Savings Act (MVICSA), 15 USC sec. 1981-1991.

[4] 15 USC sec. 1984.

[5] Public law 99-579.

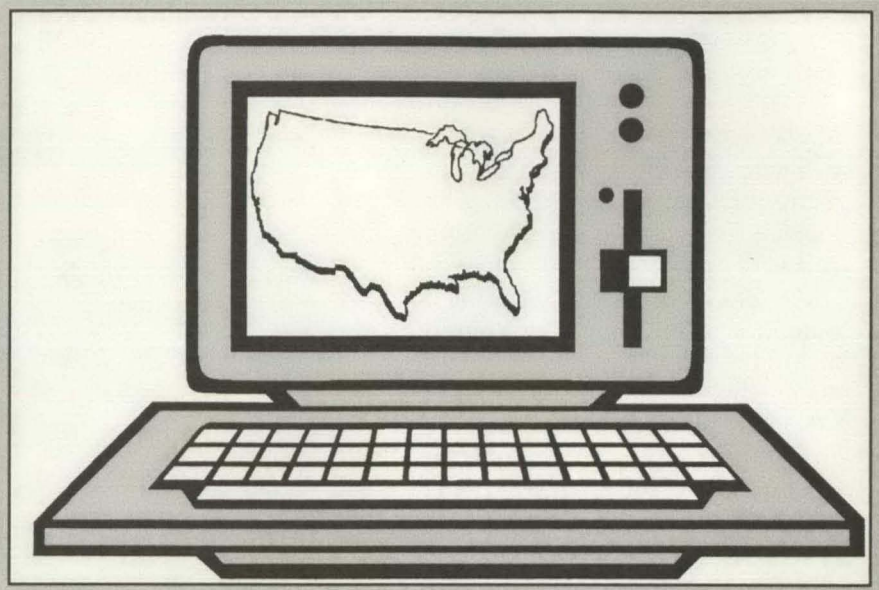
[6] The Racketeer Influenced and Corrupt Organizations (RICO) Statutes contained in 18 USC sec. 1961-1968.

[7] The Racketeer Influenced and Corrupt Organizations (RICO) Statutes, Sections 1341 (Mail Fraud), 1343 (Wire Fraud), and 2341 (ITSP) contain offenses which Congress defined as constituting acts of racketeering activity.

[8] Ibid.

Police Practices

Customs' BET Program



An effective interdiction effort requires the cooperation of all law enforcement agencies. To work toward this goal, the U.S. Customs Service in New York developed a specific program—the Border Envelope Team (BET)—to underscore a unified regional approach to interdiction. Customs personnel from both the Office of Enforcement and the Office of Operations produce multiple sources of intelligence to provide the most complete information on border activity.

The theory behind BET is that successful interdiction requires law enforcement to understand fully all entities working within the border environment. Monitoring the actions of importers, brokers, airline personnel and others who transact business on the border is critical. Once gathered, the information is made available to other law enforcement agencies on a routine basis.

Through research, observation and analysis, BET gathers extensive data on the various entities operating on the border and identifies those areas (cargo, passenger, and conveyance) that pose the greatest threat. The goal of BET is ultimately to produce profiles and patterns of operation that can determine potential areas of vulnerability.

Computer Systems

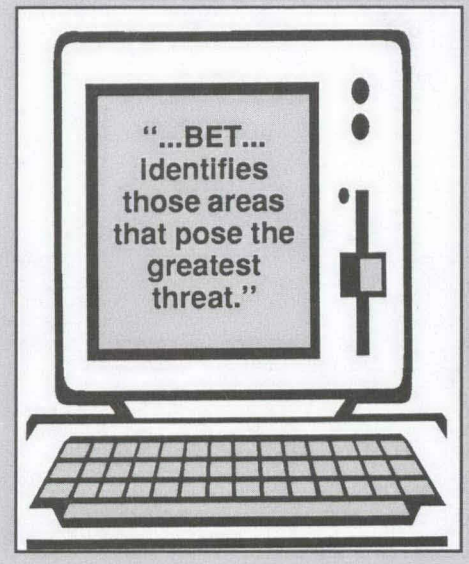
The profiles and patterns developed are entered into two

major computer systems. The Treasury Enforcement Communication System (TECSII) is an automated enforcement and inspection support system that can create, maintain and retrieve information. TECSII maintains information on wide-ranging subjects of interest to law enforcement, including the names of importers, brokers, aircraft, passenger and merchant vessels. The Automated Commercial System (ACS) is a comprehensive tracking, controlling and processing system of commercial cargo. It gives inspectors and agents the ability of on-line query of virtually the entire database.

Customs also maintains other, more specific, database systems. The Private Aircraft Enforcement Tracking System, used primarily at airports, screens pilots, crew members and passengers on privately owned aircraft entering the United States. The Exodus Seizure Database contains information extracted from high technology seizure reports in the New York region. Other similar systems assist agencies in identifying individuals associated with terrorist organizations and also track child pornography seizures.

Response Team

The Border Envelope Response Team (BERT), an extension of the BET concept, responds to all non-Customs seizures and arrests. Nine agents and five analysts gather information that will assist Customs in its interdiction mission. This team collects and reviews documents and records seized by other agencies to determine if there are potential



international implications surrounding a case. Data entered into the database systems can be used to identify criminal activity that crosses the border.

The BERT Program has helped solve cases where cross-border transactions afforded the strongest evidence in proving criminal activity. In one case, the New York State Police contacted BERT after a seizure of illegal fireworks. The suspect was identified as an active importer, and alerts were placed in the Automated Commercial System. In another case, agents of the Drug Enforcement Administration contacted BERT when a Chinese food importer was suspected of smuggling heroin with shipments of food. With the assistance of Customs, DEA agents uncovered 99 pounds of the drug hidden in a shipment of soy sauce.

A step forward has been taken in the exchange of intelligence among members of the law enforcement community. Through BET and BERT, the New York regional office of the Customs Service is attempting to create a more unified front against criminal activity involving the border.

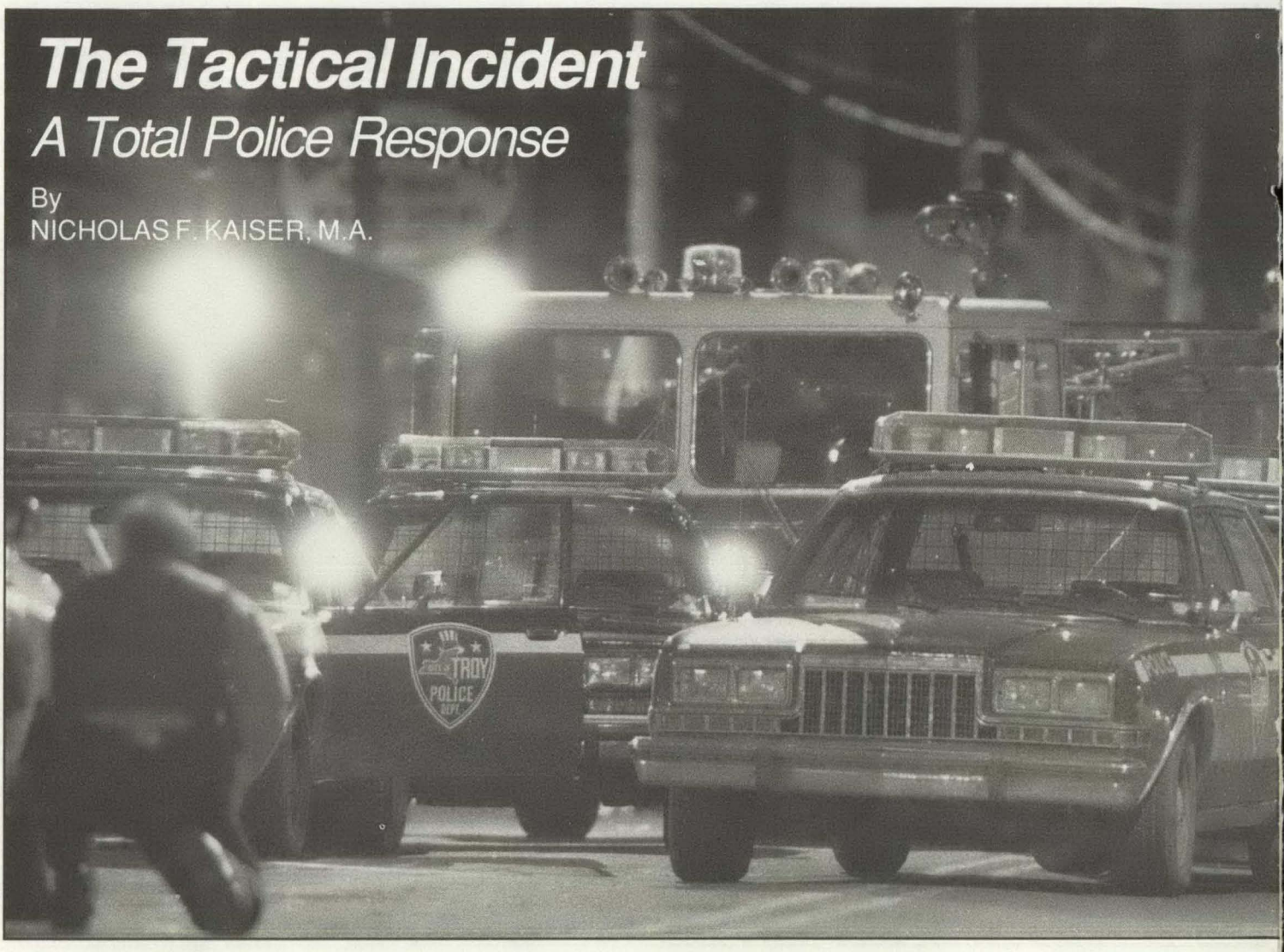
LEB

Information for this column was contributed by Robert F. Fitton, Intelligence Research Specialist, U.S. Customs Service, New York Region.

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

The Tactical Incident
A Total Police Response

By
NICHOLAS F. KAISER, M.A.

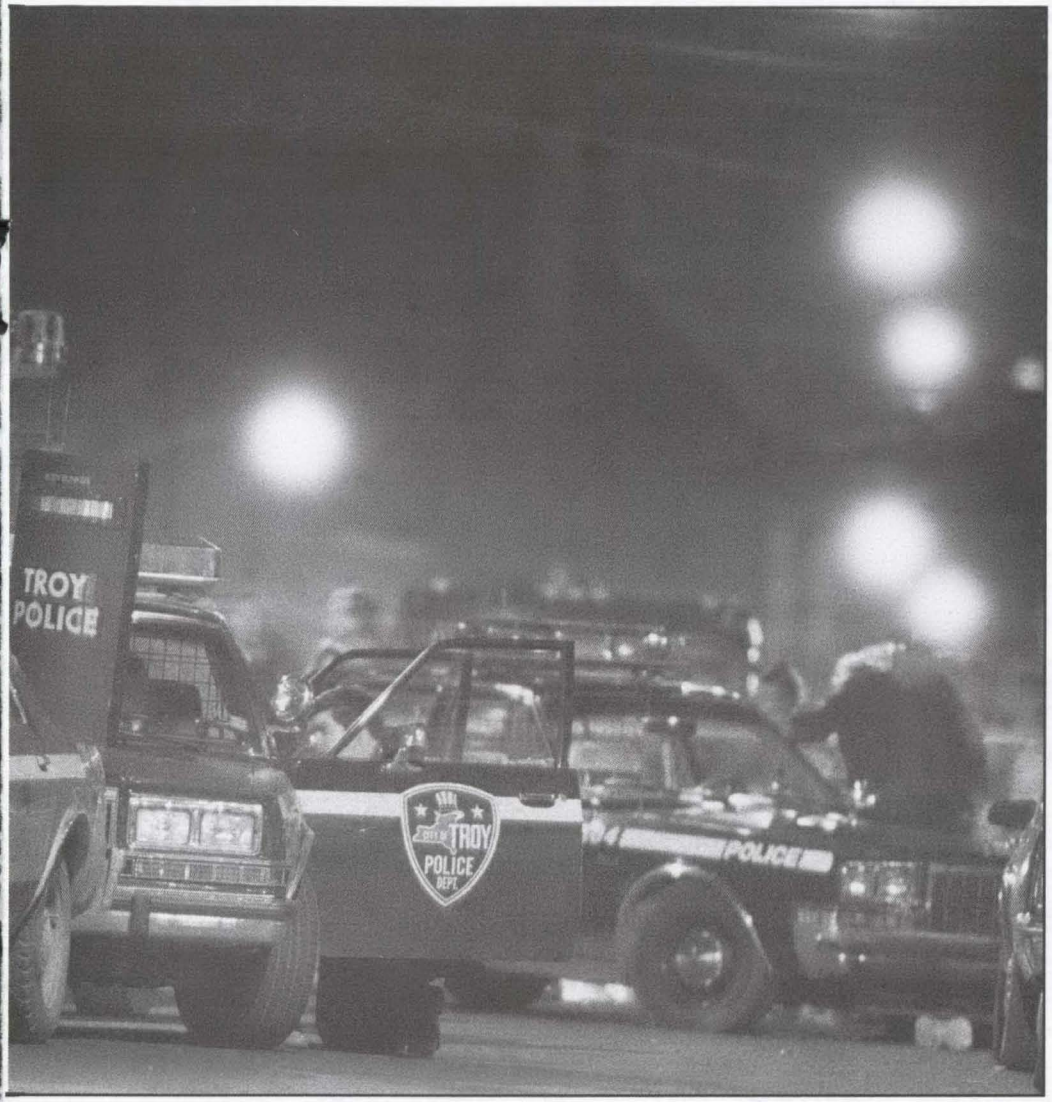


With the advent of police tactical units, police managers needed to consider new organizational structures within their departments. Accordingly, the development and testing of policies and procedures, along with opening new lines of authority and communications, became necessary. In fact, individual units adopted policies written especially for them. These individualized policies outlined how each unit would and could function. Specialization became the case in point.

Today, tactical units remain vital to any department's response to a critical situation. However, they cannot operate within a vacuum and depend on the support of other units. The critical situation requires all police units to work as one, not as individual entities.

Attaining this teamwork is essential to successfully contain a crisis situation. One way is to implement Standard Operating Procedures (SOPs) and policies that foster teamwork through a properly guided training program, briefings, and a sensitivity to feedback.

Initiating these policies and SOPs alleviates or eliminates many of the problems managers encounter. For example, when an SOP clearly defines who has authority over the scene of an incident, and this is reinforced during training,



authority probably will not be questioned during an actual crisis situation.[1] In the same way, establishing a team concept helps to minimize jealousy on the part of nontactical officers.[2]

This article will discuss the importance of a coordinated response to crisis situations and the importance of each participating department in the incident. It will also discuss how training, initiating appropriate policies and procedures, feedback, and briefings can improve a police department's total response to crisis situations.

TEAM RESPONSE TO A CRISIS

Communications Officers

The communications department is the initial point of contact in most crisis situations. In fact, the typical response begins with informing communications personnel, who then relay the facts to responding patrol units, investigators, tactical unit members, negotiators, and any other necessary personnel. The importance of clear, effective communication throughout the incident cannot be stressed enough. And, since most communication between units reacting to a critical incident is conducted through the communications officers, the role of this position in a crisis is essential to the team concept. In fact, most communication between units reacting to a critical incident is conducted through the communications officer.

Patrol Units

A responding patrol unit can resolve many calls before they escalate into a crisis situation. But, subsequent intelligence information and the use of proper containment procedures are essential should such a crisis emerge. An improper response by a responding unit could jeopardize the entire operation.

The most crucial moment of any critical situation is in the hands of the first officer on the scene.[3] The objective of this officer is to isolate, analyze and contain the incident, request the tactical team if needed, and gather available intelligence. By initially assessing the scene with a concern for safety of citizens and officers, containing the subject(s) by establishing a preliminary inner perimeter, and gathering and relaying pertinent information, the first responding officer provides a vital link in the total police response to a critical situation.

Investigators

Usually, by the time the investigators arrive on the scene, the first

responding officers have already gathered the intelligence and have contained the incident. This information often deals with the types of weapons involved, the location of suspect(s), and whether there are hostages. Investigators, therefore, must receive this information from these officers and then interview possible witnesses to update the intelligence. This information must then be made available to the other units involved, particularly the tactical unit whose mission and plan may be extremely dependent upon such information. Tactical units should not be their own intelligence arm and, as such, should rely upon others charged with this responsibility.[4]

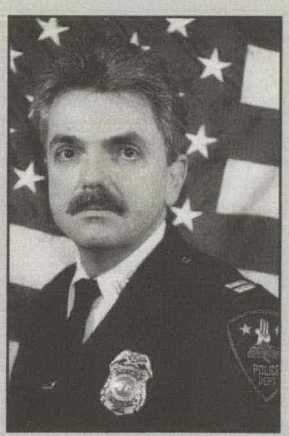
Tactical and Negotiation Personnel

Certainly, the tactical unit and the hostage negotiation team are integral parts of any police department's response to a crisis. The tactical unit's role is essential should an incident escalate to a point wherein an organized assault may be needed. The same holds true for the hostage negotiation team. At this point in the crisis situation, all other units become dependent upon an organized assault unit working with an experienced negotiation team.

Of course, every police manager would prefer to resolve these situations through skilled negotiation leading to a surrender of all offenders, but many times this is not the case and a tactical assault becomes the only alternative. In such instances, the tactical unit's mission is to protect all involved and to arrest or neutralize the suspect(s). Even so, other members of the department should be familiar with how tactical units operate and of their limitations when implementing a coordinated assault.

K-9 Teams

K-9 teams have also proven themselves to be useful in tactical situations.[5] They can be used to locate barricaded suspects, as part of entry and arrest teams, as diversions, and as psychological threats.[6] As with tactical units, other units must also be familiar with the use of K-9 teams so that the total police response can be effectively coordinated.



"Each critical incident must be viewed as an opportunity to learn and to prepare for the next event."

Assistant Chief Kaiser is the Chief of Patrol for the Troy, New York, Police Department.

METHODS FOR IMPROVING TEAM RESPONSE

Training

Proper training provides the foundation upon which to build a formidable response to critical situations. In most departments, the tactical unit trains on a regular basis, sometimes with hostage negotiators, K-9 and other specialized units. Unfortunately, most departments do not involve patrol officers or investigators in this type of training. For tactical unit members, while the need for training with special tactical weapons and tools must not be underemphasized, training with other units that respond to crisis situations should also be on a regular basis. By involving these other units in the training program, proper responses can be ensured.

During training, the tactical unit should also demonstrate the use of various devices, such as diversionary devices, machine guns, and door-breaching, so that others may understand the benefits and limitations of each. As a result, the confidence of other officers in the tactical unit and in their equipment will be reinforced.

Inservice training, with a block of instruction on crisis situations, can also be useful. Depart-

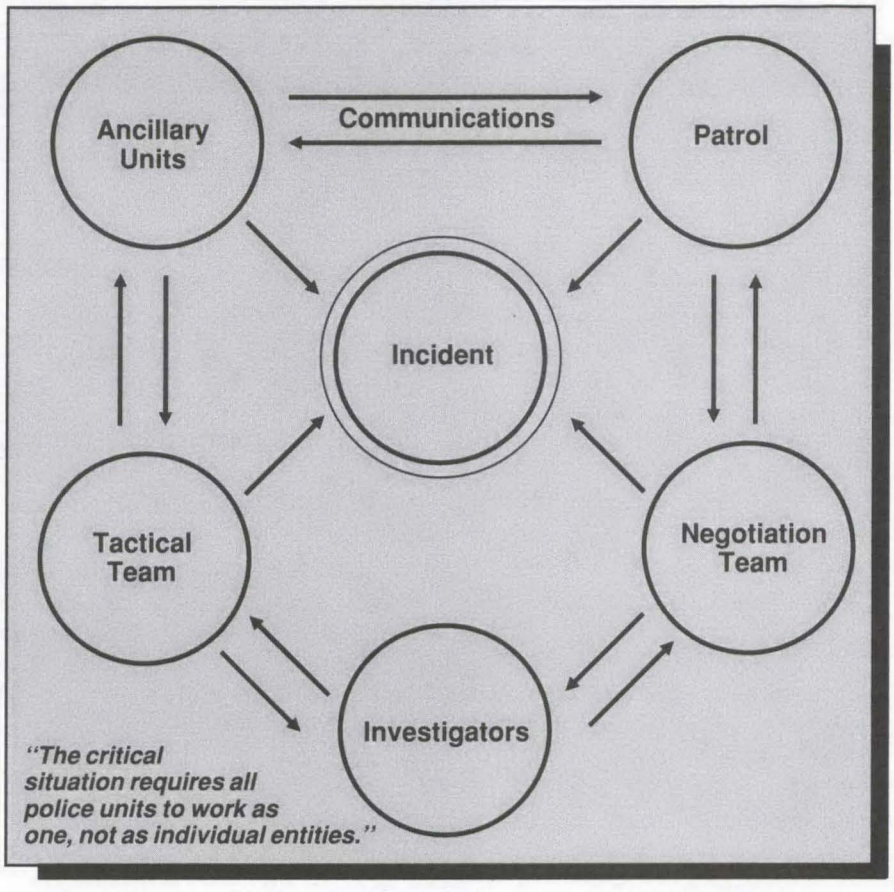
ments should consider involving all units in true-to-life scenario training at least twice a year. However, care should be taken to ensure that all officers understand the nature of their roles and how their performance relates to the others. Video tapes of these training sessions can be especially helpful.

Policies and Procedures

Many departments lack comprehensive policies for the coordination of tactical operations. Therefore, departments should specify policies, SOPs, and procedures for tactical situations, such as the division of labor between each unit and how individual units fit into the entire plan. In addition, since lines of authority may change at the scene of a critical incident, a written policy covering this area would effectively coordinate the operation and avoid confusion as to who is in command. These principles regarding command should be clearly stated in the department's SOPs and reinforced in training and debriefings.

Outside Feedback

Being sensitive to constructive criticism from sources outside the department can be useful in formulating an objective plan for improvement. For example, almost without exception, crises capture the media's attention. In fact, the media often will initiate a series of editorials as to how the incident might have been handled better. In this case, it is important to not become defensive and to remain as objective as possible in order to respond carefully to each commentary. Many times, useful information can be obtained from such editorials and can be used in future training.



"The critical situation requires all police units to work as one, not as individual entities."

Briefings and Debriefings

Each critical incident must be viewed as an opportunity to learn and to prepare for the next event. Briefings and debriefings, in particular, can be very effective in this regard and can also help to solidify cooperation among various units. Even though incidents occur without warning, thereby eliminating a complete, formal briefing, all officers should be briefed whenever possible in order to reduce the possibility of misunderstandings. For example, perimeter personnel should be advised of the tactical unit's intention to use diversionary devices so that their use would not be misinterpreted as unfriendly fire.

Accordingly, not only must the tactical unit debrief after each encounter, but everyone involved, such as patrol officers, investigators, K-9, and communications officers, should also participate in debriefings. When these debriefings take place, officers should discuss what went wrong and, equally as important, what went right during a critical incident. Even though strong emotions may arise, such as anger or fear, the end result will ultimately be objective learning.

The normal course of events at a debriefing usually includes recognizing problems and successes,

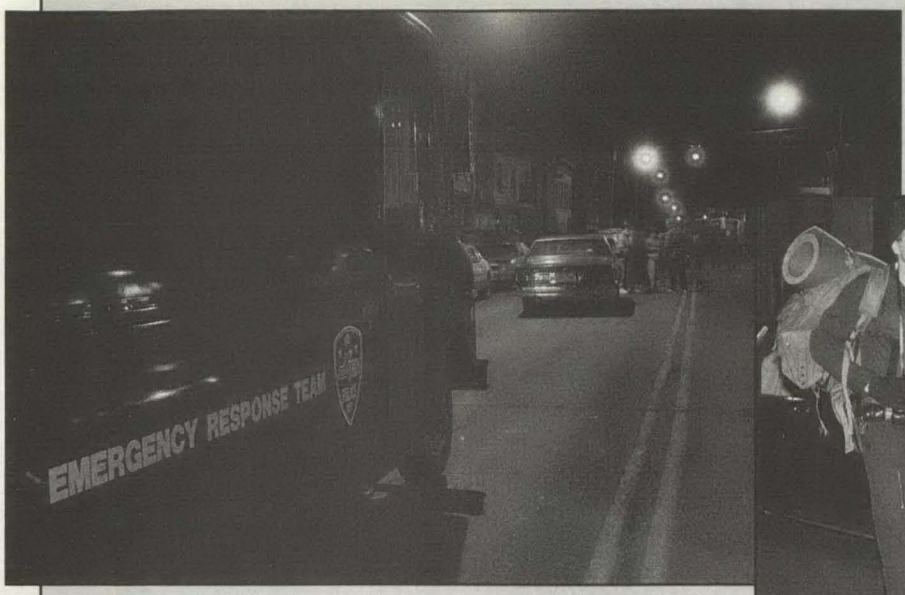


Photo courtesy of
The Troy Record

Photo courtesy of
John Carl D'Annibale/*Albany Times Union*

> ***"Departments should consider involving all units in true-to-life scenario training at least twice a year."***

admitting any problems internally, admitting the problem to others, and developing a solution. This can be difficult, because the tendency to blame others or oneself is hard to resist. But, objectivity and an emphasis on learning will result in a successful debriefing in most cases. Then, the various units should examine the overall plan and each officer involved must identify any mistakes. Finally, all the involved units should determine how to better handle the problems that arose during this particular critical incident should they reoccur.

CONCLUSION

Increased specialization in police departments across the country enables them to respond to unusual situations with more expertise. However, there are still instances where cooperation erodes at the scene of a crisis situation. But, with a specific departmental plan that includes established policies and SOPs, police departments can avoid disadvantages of this nature and can develop and use their various skills to the fullest.

As time passes, the introduction of new technologies will bring even more increased specialization to law enforcement. Therefore, it has become more important that each specialty work cooperatively with others in the pursuit of law enforcement goals. Only through teamwork and close cooperation between all law enforcement specialties can law enforcement agencies successfully conclude crisis situations. **LEB**

Footnotes

[1] James W. Stevens and David W. MacKenna, "Assignment and Coordination of Tactical Units," *FBI Law Enforcement Bulletin*, vol. 58, No. 3, March 1989, pp. 2-9.

[2] Ibid.

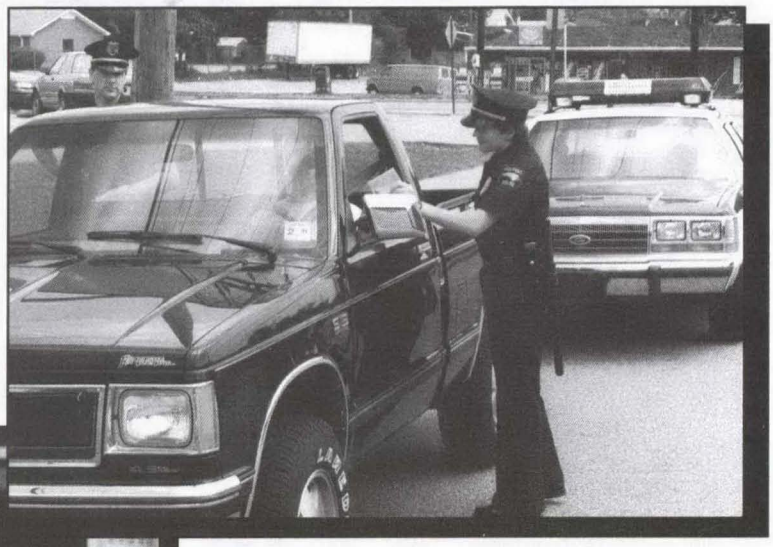
[3] John T. Dolan and G. Dwayne Fuselier, "A Guide for First Responders to Hostage Situations," *FBI Law Enforcement Bulletin*, vol. 58, No.4, April 1989, pp. 9-13.

[4] Captain Wade Y. Ishimoto, "Intelligence Support of SWAT Operations," *The Tactical Edge*, vol. 2, No. 1, Winter 1984, pp. 7-11.

[5] VanNess H. Bogardus, III, "The Application of K-9's to SWAT Operations," *The Tactical Edge*, vol. 1, No. 1, Fall 1983, pp. 19-22.

[6] Donn Kraemer, "The Application of Police Canines to Tactical Operations," *The Tactical Edge*, vol. 5, No. 1, Winter 1987, pp. 39-41.

A New Approach to FTO Training



By
BLAIR RANKIN

Prior to February 1989, the High Point, North Carolina, Police Department was using a traditional field training officer (FTO) program to supplement its academy training. This program had been in place since the 1970s; however, despite a highly structured format, new recruits graduating from the program reflected inconsistent work habits and attitudes. In addition, liability problems arose, as did concern for proper documentation, fairness, and doubts about the abilities of the FTOs themselves.

A close analysis determined that the central problem was a lack of consistency in the training methods used by field training officers. Recruits leaving the regimented environment of the academy were being assigned to several ''mini-FTO'' programs throughout the Patrol Bureau, depending upon vacancies. Each of these units, though accountable to a central training authority, had its own definition as to proper FTO training methods.

After considering many viable options, the department decided not to alter the FTO concept, but to continue its use with a new, highly

centralized field training team. This team would consolidate all FTO training into one unified approach to improve its management. After its first year, the program's impact has been positive. Such a team method is apparently unique from most traditional FTO systems and may not be applicable to all departments.

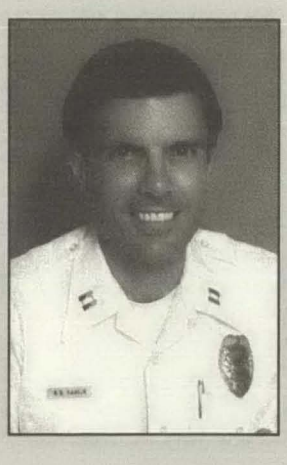
Traditional Field Training

Field training is a process by which officers receive formal instruction on the job. Although all officers receive a thorough introduction to law enforcement subjects during basic training, they cannot be expected to assume the full responsibilities of experienced police officers immediately following graduation from the academy. Therefore, additional training is given to officers in the field where they can learn from others who have already gained practical police experience.

In a typical FTO program, new recruits are assigned directly from the academy to ride with an FTO, usually a veteran officer who has volunteered for the position and who has received special training. During a specified 3- to 6-month period, several FTOs train and document the skills and abilities of each recruit. At the end of this time period, a formal review board decides whether to release the officer to work alone, return for more training or be terminated.

High Point's Former FTO Program

All new recruits with the High Point Police Department must receive 694 hours of basic law enforcement training from in-house, State-certified instructors. The new officers were then assigned to a 12-week FTO program, during which time they had three different FTO instructors. Lateral entry officers also completed this process.



Captain Rankin is a member of the High Point, North Carolina, Police Department.

> ***"...a new, highly centralized field training team...would consolidate all FTO training into one unified approach...."***

The department provided all FTOs with an FTO Recruit Officer Training Guide and required each FTO to submit a daily report and a weekly report. The FTO also interviewed the recruits weekly to keep them fully aware of their progress. A departmental training supervisor coordinated the staff and maintained all records of FTO training.

During the 12 weeks, recruits were also assigned to other areas of the department, such as records, communications, and traffic to gain insight and hands-on experience. For the final 3 weeks, they accompanied the FTOs on their duties, serving as a plainclothes observer. The process concluded with the recruit appearing before a formal review board.

Problems Encountered

Even though all FTOs used the same guidelines, procedures and report forms, newly assigned officers showed alarming inconsistencies. From officer to officer, there were varying levels of 1) how well each could perform certain tasks and follow proper procedures; 2) how thoroughly each knew the various areas of the city; and 3) how thoroughly each had been taught by their FTOs. Some FTOs rated more fairly than others, and some let poor performance slide. Also, the police attorney voiced concerns that the department could be held liable for officers not receiving proper, standardized, on-the-job training after completing the basic academy course.

The root of these problems appeared to be the organizational structure of the FTO program.

There was no quality control or command structure to assure uniformity. The inconsistency resulted from having field training conducted by several different teams. Although the departmental training supervisor was technically responsible for the program, team commanders established the guidelines for their respective teams. Selection and training of FTOs were not uniform, and standards varied from team to team. In addition, many of the high standards established during the basic training were soon lost as the recruit was told "how it is on this team."

High Point's New FTO Program

In early 1989, a newly designed system consolidated all the field training teams into one. The FTOs were assigned to the team based upon their ability to train new officers. One commander and two supervisors were selected after special consideration for their experience, proven abilities and the examples they would set. In High Point, patrol teams that do not serve a field training function consist of 1 commander, 2 supervisors, and 13 officers. However, the field training team consists of one commander, two supervisors, and nine FTOs. The four remaining slots for officers are filled in peak periods by off-duty volunteers from other teams.

When there are no recruits to train, the FTO team performs regular patrol functions. The entire team also receives instruction in trainee evaluations and uniformity of departmental tasks, so that each trainee acquires the same information and instruction, creating a uniformly trained officer. After completion of the FTO program, the new officers are assigned to one of the four regular patrol teams. They then serve as functioning police officers, able to assume their duties and work alone.

> ***"The FTO program is now tailored specifically to the department's requirements rather than individual team practices."***

The Impact

The new program has corrected the deficiencies that were evident in the previous FTO system. The FTO program is now tailored specifically to the department's requirements rather than to individual team practices. Centralized recruit training enables closer liaison between the FTO team and the training division. Now, uniform standards govern the FTO experience for all recruits. In essence, each has the same opportunity to succeed.

It is expected that this new program will continue to provide well-trained officers performing in a uniform manner, thereby minimizing departmental liability. Individual and collective training deficiencies should also be more easily spotted and addressed. Recruits will also be assured of exposure to all areas of the city and will, therefore, be available for patrol in any location. Recruits themselves will have a more receptive learning environment because they will remain together for a longer period of time after the academy phase. Thus, the retention period for new recruits should also be lengthened.

The First 12 Months

During the first year of operation, 20 recruits completed the program—18 successfully finished, and two were dismissed. However, one negative aspect of the new FTO program became apparent, and that was the effect the program had on FTOs. After training recruits for two straight sessions, the FTOs are approaching burnout. And, finding officers to replace them has been difficult. For the most part, top veteran officers are reluctant to volunteer for the FTO position because they believe they will be repeatedly assigned to the FTO team. Therefore, to put a more positive spin on the FTO program, the department authorized special incentives. FTOs receive a 5-percent pay increase while training new recruits, special "off" days after each assignment, and a special FTO ribbon to be worn on their uniform in recognition for their efforts.

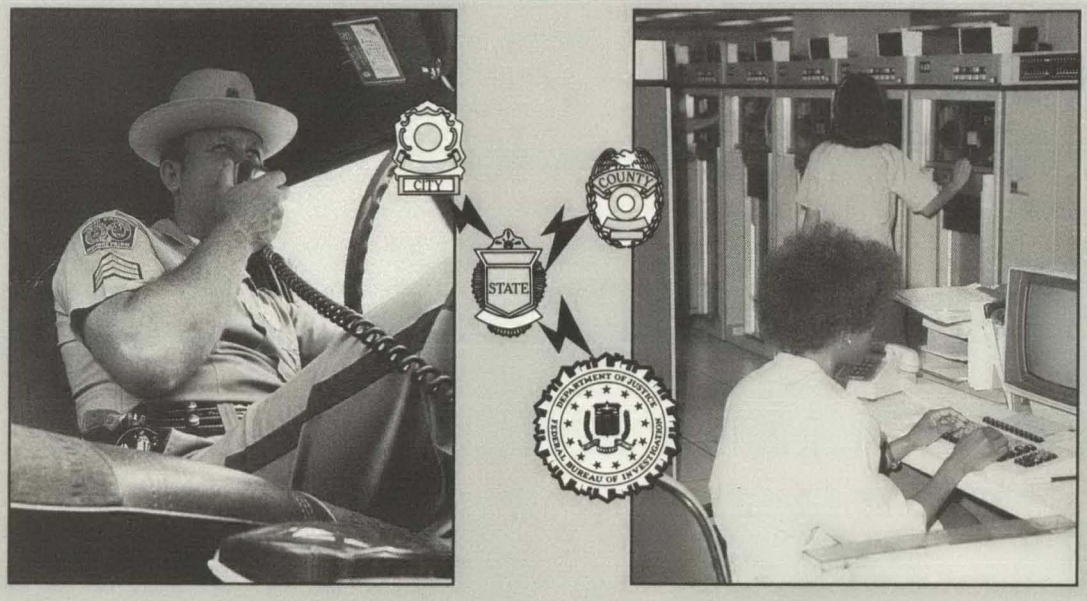
Conclusion

The High Point field training team approach has been very successful, despite its minor problems, and has proven itself to be a favorable setting for the FTO process. It strengthens management and control of the program and further enhances what is a proven and important field training tool.

LEB

Focus on NCIC

Identifying the Unidentified



Hunters find the torso of a white male in a field. A close examination of the body reveals that the victim has been shot. His head and hands, which were severed from the body, cannot be located. The only identifying mark is a tattoo of a woman's name on the victim's chest.

A major city police department receives a report that a young female with mental problems is missing. Several days later, in another jurisdiction, a young female commits suicide by jumping in front of a commuter train.

In both instances, subsequent investigations failed to provide any leads. Neither victim had any identification, and there were no missing person reports in either jurisdiction in which the bodies were found that corresponded with the physical descriptions of the decedents. This prompted law enforcement officers to enter all information available on both victims into the FBI's National Crime Information Center (NCIC).

THE NATIONAL CRIME INFORMATION CENTER

Since 1983, NCIC has provided computerized assistance in matching unidentified persons and bodies with missing persons. The key to successful use of the system is the prompt entry of records into NCIC's Unidentified Person File and its Missing Person File.

Each night, using the NCIC computer, FBI personnel conduct a cross search of descriptive information in the Missing Person File with the physical descriptors, dental characteristics, and personal accessories of unidentified deceased individuals or unidentified living persons, such as amnesiacs. This cross search provides a list of likely matches between records in the Missing Person File and those in the Unidentified Person File.

In each of the opening situations described, NCIC matched the unidentified bodies with persons who had been reported missing because user agencies entered all available information into the system. Yet, while these files are a

valuable asset to the law enforcement community, many officers are unaware of the availability of the files and are unsure when to enter unidentified person or missing person records into NCIC.

Unidentified Person File

The Unidentified Person File provides substantial latitude for entering records. Information should be entered into NCIC on any unidentified deceased person or on body parts when a body has been dismembered. In addition, information can be entered on living persons of any age who are unable to ascertain their identities, for example, an amnesia victim or an infant.

Missing Person File

The Missing Person File also provides a number of categories for entry. Law enforcement officers generally think of this file in terms of missing juveniles. However, there are additional categories that allow a police department to enter a person of any age who is missing and under proven physical or mental disability, or who is senile. The file also allows officers to enter information on persons of any age who are missing under circumstances indicating that their physical safety may be in danger or where their disappearance may not have been voluntary.

Also, either file can be used in case of a catastrophe. Specific entry criteria allow law enforcement to enter a record concerning a person of any age who is missing after a catastrophe and to enter information concerning the physical description of any unidentified catastrophe victims.

Entering Information

Every law enforcement agency in the United States can enter records in both the Missing Person and the Unidentified Person Files. However, the information entered must be complete and accurate.

Most inquiries of the Missing Person File involve living persons, and consequently, ask for standard information, such as name, date of birth, and Social Security Number. Unidentified persons, bodies, and body parts require more complex information. As a result, both files allow for entry of such information as blood type, corrective vision prescriptions, scars, marks and tattoos, and dental characteristics. Descriptive information on jewelry and clothing can also play a vital part in the identification process.

Cross Searches

The automatic cross search process uses artificial intelligence to make comparisons between the Missing Person and Unidentified Person Files. Every factor entered into the record is considered when seeking a match between the two files.

The computer initially considers such obvious factors as sex and race to limit the number of possible candidates for a match. As the computer comparison progresses, the computer considers and weighs each area, establishing a score to select the most likely records for review by investigators.

For example, in the first scenario detailed, the victim's head and hands had been severed to hinder identification. When the agency entered the missing person information, it included the unusual tattoo with the woman's name in the record. Because the tattoo had been entered, the computer established a high probability of a match. Without this information, the match would not have been made.

Each unidentified person case is unique. And while the single most effective method of identification through a cross search between both files is the use of dental characteristics, this information is frequently unavailable. Therefore, police should enter as much information as can be obtained. Effective computer matches have been made using combinations of information that, taken individually, are not unique. However, when combined, the

On September 12, 1990, the Law Enforcement Satellite Training Network, co-sponsored by the FBI and the Kansas City, Missouri, Police Department, will broadcast a 3-hour teleconference starting at 12:00 p.m. EDT on the investigative use of State and national computer systems. The program will feature the Unidentified Person and Missing Person Files and the specialized computer searching techniques available to law enforcement through NCIC and State computer systems.

information creates a unique profile that leads to an identification.

Newly obtained information should also be added to either file. Each time that a missing person or unidentified person record is modified with additional information, a fresh cross search is made. Entering additional information is particularly important in the Missing Person File, since some information may not be available at the time the report is taken. This could include blood type, dental information, and corrective vision prescriptions.

Once the cross search comparison is completed, the agencies that entered the missing person record and the unidentified person record each receive a complete listing of match possibilities. The number of possible matches varies according to the amount of information placed in each file. More complete information provides more opportunities for high quality matches and subsequent positive identifications.

CONCLUSION

Through the FBI's Missing Person File and Unidentified Person File, police have help to identify the unidentified. Every State, the District of Columbia, Puerto Rico, and the Virgin Islands have the capability to access each file. In addition, the manager of each State's criminal justice information system can answer any questions concerning these files. Or, users can obtain assistance from NCIC User Services at 202-FBI-NCIC.

LEB

VICAP Alert

Dell Jay McCuistian

Shown is a tattoo on the back of subject's right hand.

RACE: Caucasian
DOB: 6/12/65
POB: Pryor, Oklahoma
HEIGHT: 5'11"
WEIGHT: 160
HAIR: Light Brown
EYES: Blue
COMPLEXION: Fair
BUILD: Medium
CHARACTERISTICS: Rotten and missing front teeth; various satanic tattoos
SSAN: 441-74-2113
FBI#: 281715CA6

CRIME:

Dell Jay McCuistian was arrested on 2/7/88 for the rape of a 3-year-old girl and has been in custody since that date. McCuistian is currently incarcerated at the California Medical Facility, Department of Corrections, Vacaville, California, in the AIDS unit.

McCuistian was a loner as a teenager, became interested in witchcraft at age 10, and has been a self-professed satanist. He spent 2½ years in an Oklahoma prison for theft and was released 4/25/85.

Subject's presence has been documented in San Diego, California, in May and June of 1986. He traveled to Los Angeles, California, where he had numerous contacts with law enforcement from 7/4/86 until 2/7/88.

Although not verified, McCuistian admitted traveling through the following States and cities after his release from the Oklahoma prison on 4/25/85:

- Arizona: Phoenix
- California: Los Angeles, San Diego, Santa Monica, San Francisco, Anaheim, Orange County
- Colorado: Denver
- Louisiana: New Orleans

VICAP
NCAVC
(800) 634-4097
VIOLENT CRIMINAL APPREHENSION PROGRAM

- Nevada: Reno, Las Vegas
- North Carolina: New Bern
- Oklahoma: Pryor, Wagner, Oklahoma City, Tulsa, Muskogee
- Texas: Dallas, Houston, San Antonio
- Utah: Salt Lake City

On 9/27/89, McCuistian admitted sodomizing or raping approximately 10 young boys and girls (average age 5 years) since his release from prison. Subject did not give specifics but did state that he preferred boys. Subject would typically lure them to an isolated spot and attack. McCuistian would not admit to any murders.

MODUS OPERANDI:

Described below is the crime for which McCuistian is incarcerated:

On 2/7/88, subject approached a 3-year-old Oriental female victim and lured her away from her playmates. He then picked her up and carried her into a laundry room at an apartment complex where he choked the victim on two occasions. Subject removed victim's panties, inserted his finger and then his penis into the victim's vagina. Subject then masturbated over the victim, thinking she was dead. When finished with the victim, he placed her body behind a washing machine and fled.

ALERT TO CHIEFS AND SHERIFFS:

This information should be brought to the attention of all homicide/sex crimes officers. If unsolved cases in your department resemble McCuistian's modus operandi or fit the time frame, contact either Mr. Terry Green at the National Center for the Analysis of Violent Crime (VICAP), FBI Academy, Quantico, Virginia, 22135, (1-800-634-4097), or Detective Les Slack, Los Angeles Police Department, Wilshire Division, telephone 213-485-4035.

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Submission Guidelines

Manuscript Specifications

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

Format: All manuscripts should be double-spaced and typed on 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.

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, and analysis of information. Favorable consideration will generally not be given to an article that has been published previously or which is being considered by another magazine. Articles which are used to advertise a product or a service will be rejected.

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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.

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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, Room 7262, 10th and Penna. Ave., NW, Washington, DC 20535.

LEB

The Federal Grand Jury

Exceptions to the Rule of Secrecy (Part I)

By
AUSTIN A. ANDERSEN

AN HISTORICAL PERSPECTIVE

The modern grand jury was foreshadowed in feudal England during the 12th century, when King Henry II created the Assize of Clarendon in order to shift the power to prosecute from the Church to the Crown.[1] Under the Assize, prosecutions were initiated through an inquiry made by a body of 12 laymen, who resided in the vicinity of the crime, to determine if persons suspected of robbery, murder, or theft should be reported to the royal sheriff. The accused could plead guilty, deny the charges, or submit to the "ordeal by water."[2] Under the third option, defendants were innocent if they sank after being lowered by rope into a body of water; if they floated, however, they were found guilty.[3] Based on the harshness of this procedure, there is little doubt that the grand jury was initially intended to be an instrument of inquisition rather than a bulwark against despotism.

Although the Assize was designed to augment secular authority rather than to safeguard individuals from unfounded accusations, the practice of using persons from the locale of the crime to determine whether charges should be lodged against a member of the community eventually provided a measure of insulation against royal abuse of the criminal justice system. In order to serve as a "shield" to protect individuals from the prosecutive "sword" of the government, the grand jury gradually gained independence from the King by adopting the practice of hearing witnesses in private and swearing to an oath to keep the proceedings secret.[4]

Part I of this article discusses the transplantation of grand jury secrecy to the United States and examines the underlying policy for secrecy concerning matters occurring before Federal grand juries. It also analyzes exceptions to the rule of secrecy that are of importance to law enforcement officers and notes those instances when State and local police officers may gain access to information derived from Federal grand jury investigations. Part II explores the difficulties commonly encountered in complying with the secrecy requirement and in defining grand jury material and its disclosure.

EVOLUTION OF THE MODERN GRAND JURY

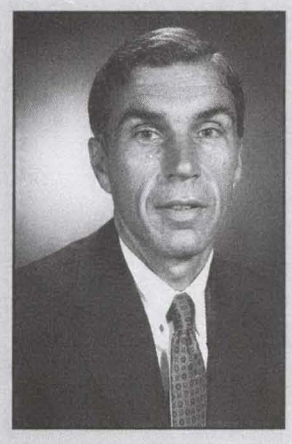
Viewed as protection from autocratic oppression, the grand jury, deliberating beneath a veil of secrecy, was widely accepted in American communities during the colonial rule of George III. These local juries not only enabled the colonists to refuse to prosecute political opponents of the British but also afforded a means of protecting citizens against persecution by partisan zealots.[5] After the United States achieved independence from Britain, the use of grand juries was enshrined in the fifth amendment of the Constitution, which begins, "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury...."[6] The language of the fifth amendment, however, does not make the institution of a grand jury incumbent upon the States. Moreover, the Supreme Court has held that the procedure in which a neutral judge finds probable cause to charge and arrest is a sufficient safeguard of a defendant's rights.[7] Therefore, States, unlike the Federal Government, remain free to proceed with felony prosecutions by means other than grand jury indictments. Nevertheless, most States have incorporated into their constitutions provisions for grand juries—as well as grand jury secrecy[8]—which often closely resemble the Federal model.[9] It is ironic that despite its historical significance, the grand jury in England was abolished as a cost-cutting measure in 1933.[10]

Although the fifth amendment is silent on the issue of secrecy, the practice was continued at common law[11] until 1945, when Congress codified Federal grand jury practice, including secrecy and its exceptions, in Rule 6(e) of the Federal Rules of Criminal Procedure (F.R.C.P.). Rule 7, F.R.C.P., specifies that when the grand jury is used, an offense punishable by death must be prosecuted by indictment. It also states that an offense punishable by imprisonment for more than 1 year must be prosecuted by indictment, unless waived, in which case, it may be prosecuted by information; any other offense may be prosecuted by indictment or information.

Rule 6(a), F.R.C.P., vests in the U.S. district court full discretion to order one or more grand juries summoned as required by the public interest. The Federal grand jury is composed of 16 to 23 jurors, with 12 votes needed for an indictment.[12] A prosecuting attorney, rather than a judge or jury member, presides over the daily operations. Rules of evidence are not applicable, allowing the prosecutor the freedom to use evidence which may not be admissible at trial to obtain an indictment, or true bill.[13] All proceedings, except the deliberation and voting of the jurors, must be recorded, and any recordings, notes, or transcripts are placed in the custody of the attorney for the government. The indictment is normally returned to a Federal magistrate in open court, but it may be sealed until the defendant is located and arrested.[14]

In part, secrecy of the grand jury is achieved by placing limitations on who may be a participant. Rule 6(d) restricts attendance at grand jury proceedings to attorneys for the government, the witness

> ***"...the proper functioning of the grand jury system depends on secrecy of the proceedings...."***



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

under examination, interpreters when needed, and a stenographer or operator of a recording device. No provision is made for the presence of an attorney for either the defendant or a witness giving testimony. While a witness' attorney may not be present inside the grand jury room, the witness may consult with the attorney outside the room at any time, either before or in the course of responding to questions. [15]

The general rule of secrecy, as set forth in Rule 6(e)(2), F.R.C.P., forbids a grand juror, an interpreter, a stenographer, an operator of a recording device, a typist who transcribes recorded testimony, an attorney for the government, or any person to whom disclosure is made by the attorney for the purpose of assisting in the enforcement of Federal criminal law, from disclosing "matters occurring before the grand jury" (a term courts often use interchangeably with "grand jury material"), except as otherwise provided for in the rules.[16] A knowing violation of the rule is punishable as a contempt of court.[17]

REASONS FOR GRAND JURY SECRECY

According to the U.S. Supreme Court, the general policy which justifies the rule of secrecy is the grand jury's need for freedom to pursue its "dual function of determining if there is probable cause to believe that a crime has been committed and of protecting citizens against unfounded criminal prosecutions."[18] Requiring a wide latitude of inquiry and virtual independence from external distraction, the grand jury has been described by the Supreme Court in 1919 as "a grand inquest, a body with powers of investigation and inquisition, the scope of whose inquiries is not to be limited narrowly by questions of propriety or forecasts of the probable result of the investigation, or by doubts whether any particular individual will be found properly subject to an accusation of crime."[19]

> ***"In part, secrecy of the grand jury is achieved by placing limitations on who may be a participant."***

In recognizing that the proper functioning of the grand jury system depends on secrecy of the proceedings, the Supreme Court, in *United States* v. *Proctor & Gamble*, provided even more specific reasons for the rule of secrecy in 1958:

- " To prevent the escape of those whose indictment may be contemplated;
- to insure the utmost freedom to the grand jury in its deliberations, and to prevent persons subject to indictment or their friends from importuning the grand jurors;
- to prevent subornation of perjury or tampering with the witnesses who may testify before the grand jury and later appear at the trial of those indicted by it;
- to encourage free and untrammeled disclosures by persons who have information with respect to the commission of crimes;
- to protect [the] innocent accused who is exonerated from disclosure of the fact that he has been under investigation, and from the expense of standing trial where there was no probability of guilt."[20]

In 1983, the Supreme Court identified three types of danger associated with the disclosure, absent a court order, of grand jury information concerning a criminal proceeding to government attorneys for use in related civil proceedings:

- Disclosure increases the risk of inadvertent or illegal further release of information to unauthorized persons and thus may threaten the willingness of witnesses to testify fully and candidly;
- It threatens the integrity of the grand jury process itself if there is a tendency for the government to manipulate the grand jury's powerful investigative tools to root out additional evidence useful in the civil suit, or even to start or continue a grand jury inquiry where no criminal prosecution seemed likely;
- The use of grand jury materials by government agencies in civil or administrative settings threatens to subvert the limitations applied outside the grand jury context on the government's

powers of discovery and investigation.[21]

EXCEPTIONS TO THE RULE OF SECRECY

The exceptions to the rule of secrecy specifically set forth in the text of Rule 6(e), F.R.C.P., are categorized according to the reason for disclosure. Under the appropriate circumstances, they provide various investigative options for Federal and State law enforcement officers to gain access to grand jury material.

Witnesses

By failing to mention witnesses in the categories of persons —jurors, interpreters, stenographers, typists, attorneys—expressly prohibited from disclosing matters occurring before the grand jury, Rule 6(e) eradicated the previous practice of some Federal districts of swearing witnesses to oaths of secrecy.[22] Making this exception unequivocal is the admonition that ''[no] obligation of secrecy may be imposed on any person except in accordance with this rule.''[23] The basis for this exception in the Federal system is the elimination of any potential for hardship created by the inability of a witness to reveal testimony to counsel retained to protect the witness' interests.[24] Attempts by government attorneys or other government personnel to muzzle witnesses concerning their testimony before the Federal grand jury have generally been construed by the courts as unwarranted and illegal obligations of secrecy. [25]

Relieving witnesses from the obligation of secrecy lessens to a degree the control of the prosecutor by allowing prospective defendants, or targets, some opportunity to learn the direction of the investigation. Therefore, a number of States have enacted statutes prohibiting a witness from ever disclosing testimony given before a State grand jury. Recently, the Supreme Court held that insofar as a State law prohibits witnesses from disclosing their own testimony *after* the term of the grand jury has ended, that law violates the first amendment to the U.S. Constitution.[26] While the grand jury is in session, however, the Court suggested that the State's interests in preserving grand jury secrecy may outweigh the competing first amendment right of freedom of speech.[27]

Attorneys for the Government

Rule 6(e)(3)(A)(i) provides an exception to the rule of secrecy for ''an attorney for the government for use in the performance of such attorney's duty to enforce federal criminal law.'' This exception is based on the prosecutor's practical need to know what evidence is before the grand jury, as well as the grand jury's need for the prosecutor's assistance and guidance in its investigation. An attorney for the government is defined as ''the Attorney General, an authorized assistant of the Attorney General, a United States Attorney, [and] an authorized assistant of the United States Attorney.''[28] The definition does not include attorneys for Federal agencies.[29] Although the prosecuting attorney for the government has access to the transcript of matters occurring before the grand jury, the ability to disclose this material to others is limited by the remaining exceptions set forth in Rule 6(e). Rule 6(e)(3)(C)(iii), for instance, allows disclosure by an attorney for the government to another Federal grand jury. This exception implies the ability of one government attorney to disclose grand jury information to another government attorney who is engaged in the enforcement of criminal law.

However, a government attorney may not under this exception make a discretionary disclosure of grand jury material to another government attorney for use in a related *civil* proceeding.[30] Instead, civil attorneys must seek disclosure of such information only ''when so directed by a court preliminarily to or in connection with a judicial proceeding.''[31] Such court-ordered disclosures are made upon a showing of ''particularized need'' or

“Attempts...to muzzle witnesses concerning their testimony before the Federal grand jury have generally been construed by the courts as unwarranted and illegal obligations of secrecy.”

''compelling necessity,'' with the primary purpose of the disclosure being to assist in the ''preparation or conduct of a judicial proceeding.''[32]

> ***''...defendants are entitled to a pre-trial disclosure of any recorded statements made by them before the grand jury which relate to the offense charged.''***

Courts have held that ''judicial proceedings'' do not include tax audits or preliminary agency investigations.[33]

Government Personnel Assisting the Attorney for the Government

Rule 6(e)(3)(A)(ii) permits disclosure by the attorney for the government of matters occurring before the grand jury to government personnel assisting the attorney in the performance of duties to enforce Federal criminal law.[34] This exception provides the most common method of access to grand jury material by Federal investigators; assistance to the attorney generally consists of investigation or analysis in support of the grand jury's efforts. Disclosure to government personnel assisting the attorney includes not only Federal but also State and local government employees, but only for the purpose of enforcing Federal criminal statutes (as opposed to use in civil, administrative, or internal agency matters).

Disclosure under this exception is made at the attorney's discretion and does not require a court order. Such disclosure is, however, subject to the following three restrictions:

- Any person to whom matters are disclosed cannot use that grand jury material for any other purpose other than to assist the attorney in matters concerning the enforcement of Federal criminal law;
- The attorney must promptly provide the district court before which the grand jury was empaneled with a list of the names of all persons to whom disclosure has been made;
- The attorney must certify that each person on the list has been advised of the obligation of secrecy.[35]

An issue often arising under this exception is whether a government employee who lawfully obtains grand jury material to assist a government attorney may divulge that material to other government personnel working on the same, related, or unrelated Federal criminal investigations. Because the conditions of this exception require the attorney not only to provide the court with the names of persons on the disclosure list[36] but also to certify that each person was advised of the obligation of secrecy, it seems clear that assisting personnel must seek the authority of the government attorney in order to make a further disclosure of materials identified as matters occurring before a grand jury.

Disclosure to Domestic Law Enforcement Agencies

It is often desirable for Federal and State authorities to cooperate in investigations where jurisdictions overlap, such as organized crime or political corruption. Therefore, Rule 6(e) was amended in 1985 to allow Federal prosecutors to disclose Federal grand jury matters to the personnel of law enforcement agencies of ''a state or subdivision of a state'' when the assistance of such personnel would be beneficial to the Federal investigation.[37] This disclosure is governed by the discretion of the government attorney and is subject to the same restrictions that are applicable to Federal personnel assisting the attorney. That is, *all* officers receiving such material must be advised of the obligation of secrecy and the name of each individual to whom disclosure is made must be promptly provided to the court.[38]

The 1985 amendment to Rule 6(e) also made it possible for a government attorney to disclose to an appropriate official of a State or subdivision of a State evidence developed during a grand jury investigation which relates to a violation of *State* law. It is important to note, however, that this disclosure[39] is accomplished by an order of the court rather than the discretion of

the attorney. Unlike the conditions for disclosure to personnel assisting the attorney in a Federal prosecution, disclosure of matters relating to a violation of State law will be made "in such manner, at such time, and under such conditions as the court may direct."[40]

Disclosure to the Defendant

Upon order of the court, disclosure of grand jury material may be made pursuant to a request of the defendant upon a showing that grounds may exist for a motion to dismiss the indictment based on matters which occurred before the grand jury.[41] In addition, Rule 16(a)(1)(A), F.R.C.P., mandates that upon request, defendants are entitled to a pre-trial disclosure of any recorded statements made by them before the grand jury which relate to the offense charged. Finally, a defendant may have access to transcripts of grand jury testimony of witnesses for the government after they have testified on direct examination in the trial of the case.[42]

Part II of this article will examine the difficulties encountered in disseminating grand jury material to foreign police agencies and in defining grand jury material and its disclosure. **LEB**

Footnotes

[1] Helmlolz, "The Early History of the Grand Jury and the Canon Law," 50 U. of Chi. Law Rev. 613 (1983).

[2] Kuh, "The Grand Jury 'Presentment': Foul Blow or Fair Play?" 55 Columbia Law Rev. 1103, 1106 (1955).

[3] *Id.* at 1107.

[4] The oath appeared as early as 1600. *See* Brown, "The Witness and Grand Jury Secrecy," 11 American Journal of Criminal Law 169, 170-171 (1983).

[5] *Id.* at 170-171.

[6] U.S. Const. amend V.

[7] *Hurtado* v. *California*, 110 U.S. 516 (1884).

[8] Only three States (Alabama, Connecticut, and New Hampshire) have no specific secrecy provision, S. Beale & W. Bryson 1 Grand Jury Law and Practice 7:04 at 15.

[9] Note "Grand Jury Secrecy v. The First Amendment: A Case for Press Interviews of Grand Jurors," 23 Valparaiso Univ. Law Rev. 559, 560-561 (1989).

[10] *Id.* at 564.

[11] *See e.g., In Re Grand Jury Proceedings*, 4 F.Supp. 283, 284-5 (E.D. Pa. 1933).

[12] Rule 6(a)(1), F.R.C.P.

[13] *See* Beale & Bryson, *supra* note 8 at 1:06, at 32.

[14] Rule 6(e)(4), F.R.C.P.; this provision allows law enforcement officers to locate and arrest indicted individuals who are apt to flee upon learning the details of a public indictment.

> ***"The exceptions to the rule of secrecy... provide various investigative options for Federal and State law enforcement officers to gain access to grand jury material."***

[15] *See, e.g., In Re Taylor*, 567 F.2d 1183 (2d Cir. 1977); *see also*, Waller, "An Introduction of Federal Grand Jury Practice," 61 Wisconsin Bar Bulletin 17, 19 (1988).

[16] Rule 6(e)(2), F.R.C.P.

[17] *Id.*

[18] *Branzburg* v. *Hayes*, 408 U.S. 665, 686-687 (1972).

[19] *Blair* v. *United States*, 250 U.S. 273, 282 (1919).

[20] 356 U.S. 677, 681 n.6 (1958), quoting from *United States* v. *Rose*, 215 F.2d 617, 628-629 (3d Cir. 1954), quoting from *United States* v. *Amazon Industrial Chemical Corp*, 55 F.2d 254, 261 (D.C. Md. 1931). The passage is later referred to in *United States* v. *Sells Engineering, Inc.*, 103 S. Ct. 3133, 3140 (1983).

[21] *Sells Engineering, supra* note 20, at 3142-3143; and *United States* v. *John Doe, Inc. I*, 107 S. Ct. 1656, 1663-64 (1987).

[22] *See* Notes of Advisory Committee on Rules, Note to Subdivision (e), Rule 6, F.R.C.P.

[23] Rule 6(e)(2), F.R.C.P.

[24] *Supra* note 22.

[25] *See, e.g., In Re Grand Jury Summoned October 12, 1970*, 321 F.Supp. 238 (N.D. Ohio 1970); *United States* v. *Radetsky*, 535 F.2d 556 (10th Cir. 1976); *In re Vescovo Special Grand Jury*, 473 F.Supp. 1335 (C.D. Cal. 1979).

[26] *Butterworth* v. *Smith*, 110 S.Ct. 1376 (1990).

[27] *Id.*

[28] Rule 54(c), F.R.C.P.

[29] *In re Grand Jury Proceedings*, 309 F.2d 440 (3d Cir. 1962).

[30] *Sells Engineering*, *supra* note 20, at 3140.

[31] Rule 6(e)(3)(C)(i), F.R.C.P. Use of this exception is not limited to government attorneys; any party to a judicial proceeding may petition the court to release grand jury material in the interests of justice. This exception existed at common law as well. In *United States* v. *Socony-Vacuum Oil Co.*, 310 U.S. 150, 234 (1940), the Court noted that after the grand jury's work in complete, "disclosure is wholly proper where the ends of justice require it."

[32] *United States* v. *Baggot*, 103 S.Ct. 3140, 3164 (1983).

[33] *Id.* at 3166. *See also, Bradley* v. *Fairfax*, 634 F.2d 1126 (8th Cir. 1980) (disclosure denied for parole revocation hearing); *United States* v. *Bates*, 627 F.2d 349 (D.C. Cir. 1980) (disclosure denied for agency investigation.)

[34] Rule 6(e)(3)(A)(ii), F.R.C.P.

[35] Rule 6(e)(3)(B), F.R.C.P.

[36] *See* Notes on Advisory Committee on Rules, 1985 Amendment, Rule 6 (e)(3)(A)(ii) which states, in part, "...because not all federal government personnel will otherwise know of this obligation [secrecy], the giving of the advice and certification thereof is required as to *all* persons receiving disclosure...."

[37] Rule 6(e)(3)(A)(ii), F.R.C.P.

[38] *Supra* note 36.

[39] Rule 6(e)(3)(c)(iv), F.R.C.P.

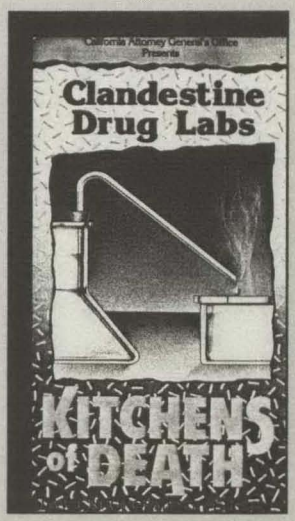
[40] *Id.*

[41] Rule 6(e)(3)(c)(iv), F.R.C.P.

[42] 18 U.S.C. 3500.

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

Video Review



Clandestine Drug Labs: Kitchens of Death, *video tape produced by the California Attorney General's Office, 1989.*

The dramatic increase in the number of clandestine drug laboratories seized in recent years and the many hazards presented by these laboratories pose a serious problem for law enforcement personnel. In response to the problem, this training video was developed to provide street officers with information regarding clandestine laboratories and the dangers associated with them.

The 30-minute video tape is divided into three segments. Each segment concentrates on a different aspect of the problems surrounding clandestine drug labs.

The first segment, "Introduction to Clandestine Laboratories," provides a brief description of these labs and explains why they pose such a potential danger to the officer. Several different laboratories in typical environments are presented. Officers who have encountered clandestine laboratories describe their experiences and stress the hazards that they faced.

Segment two, "Detection and Location," describes the situations in which an officer might encounter a clandestine laboratory. Often officers find laboratories while responding to an unrelated complaint at the laboratory site. Or, a disassembled "boxed" lab, being transported from one site to another, may be encountered by an officer during a routine traffic stop. Any such situation poses serious hazards to the officer. Therefore, the officer must be able to recognize these labs. The video identifies those key indicators, such as chemical odors, which will alert officers to the existence of a laboratory.

Segment three, "Booby Traps and Hazards," identifies the many serious dangers facing the officer at the laboratory site. This portion of the video provides information on how to recognize and deal with these dangers. Among the hazards are booby traps—including sharpened sticks, trip wires, rigged firearms, explosives—and the constant danger of potentially deadly chemical mixtures. Weapons pose a special hazard because of the probability of explosive gases being present at a lab site. The video also identifies the many chemicals that could be found at clandestine laboratories and discusses their hazardous properties.

The instructions are simple for officers who encounter a clandestine drug lab. Due to the serious hazards, they should secure the site, call for a specially trained clandestine laboratory enforcement team, and call the fire department. Because of the potential dangers, an officer should never attempt to handle the situation alone.

Because of the important information presented in this training video, it should be made available to all departments in need of a general overview of clandestine drug laboratories. Enforcement personnel at all levels, especially patrol officers and investigators who are most likely to encounter clandestine drug labs, should be afforded the opportunity to view this tape.

Copies of the video tape can be purchased by calling 1-916-638-8383.

Reviewed by
SA Randolph D. James
Drug Enforcement Administration
Washington, DC

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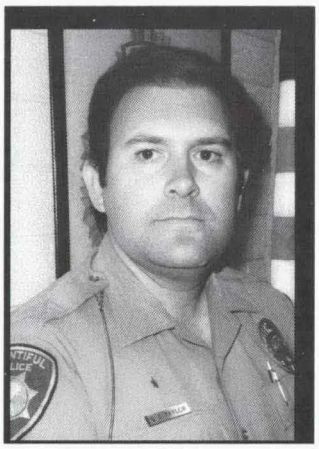
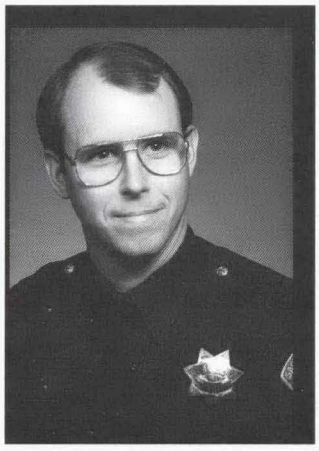
The Bulletin Notes

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



Officer Taylor

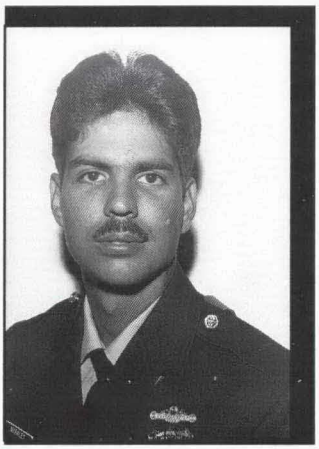
Officer Brian Taylor of the Bountiful, Utah, Police Department was one of three officers who responded to a residential fire. Upon arrival, the officers were informed by a parent that three children were still in a basement bedroom. After the officers made several unsuccessful attempts to gain entry into the smoke-filled home, Officer Taylor placed a blanket over his head, entered the house and located the children's bedroom. He then awoke the children, and carrying the youngest in his arms, brought them to safety.



Deputy Jones

Deputy Cullis ''Don'' Jones of the Sacramento County, California, Sheriff's Department was interviewing a witness to an apartment complex disturbance when he was shot by an assailant who had just robbed a nearby convenience store. Saved by his safety vest, Deputy Jones returned fire, wounding the suspect. The individual was placed under arrest and later convicted of his crimes.

Officer Adolfo Morales of the Philadelphia, Pennsylvania, Police Department responded to a report of a man drowning in a river. Upon arriving at the scene, Officer Morales located the victim, who was struggling to hold on to an unconscious child. After radioing for rescue units, he dived off a 20-foot retaining wall into the frigid waters, swam to the subjects and supported them until the fire department arrived. When rescue personnel lowered a ladder into the water, Officer Morales carried the child to safety and assisted in rescuing the other victim.



Officer Morales

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