



July 1987

FBI

Law Enforcement Bulletin

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Handling Infected Evidence

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FBI

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The Cover:

FBI Laboratory employee sterilizes evidence contaminated with the AIDS virus prior to examination. (See article p. 1.)

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Collecting and Handling Evidence Infected with Human Disease-Causing Organisms

"Today ... investigators and crime scene technicians are more likely than ever before to encounter crimes of violence involving blood and other body fluids of persons with infectious diseases."

By

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You have been assigned as the case investigator in a homicide that has just occurred in your jurisdiction. The crime scene is an apartment which has been properly secured by the first officers arriving. Upon entering the apartment, you observe the nude body of a young man, who has been stabbed numerous times, lying in a pool of liquid and coagulated blood. His hands are bound at the wrists with rope, the body has been emasculated, and no weapon is found. You also discover a hypodermic syringe, a spoon "cooker," and a suspicious white powder near the body, and in the bathroom, three drugs, Iso-niazid, Rifampin and Ethambutol, prescribed for someone at that address.

An experienced investigator could quickly ascertain that this was the scene of a homosexual murder and involves at least one intravenous drug user. The prescription drugs pose a dilemma until you later learn that they are

prescribed for persons with active cases of tuberculosis.¹

This victim is typical of one who fits into the group of high-risk people often infected with AIDS, hepatitis B, and tuberculosis. Knowing this, you resist the urge to immediately leave the apartment and begin to process the crime scene. But, how should you proceed? What precautions should you take to protect yourself and others from possibly contracting a lethal or infectious disease? And, what do you do with the evidence once it is collected?

Today, with AIDS and hepatitis B infections virtually epidemic, investigators and crime scene technicians are more likely than ever before to encounter crimes of violence involving blood and other body fluids of persons with infectious diseases. It is also likely that the patrol officer will encounter these infectious body fluids during his routine activities. For example, the

mouthpieces used on breath alcohol instruments can be contaminated with the saliva of a person with a communicable disease. Officers conducting traffic accident investigations may come in contact with potentially infectious blood, and the search of a suspected drug user can and has resulted in serious puncture wounds from secreted hypodermic needles.

This article does not purport to solve all the potential problems posed to law enforcement officers when handling blood and other body fluids. Its purpose is to acquaint the officer with some of the most commonly encountered diseases from infectious body fluids and to recommend precautions that can be taken.

Human beings can be infected with pathogenic (disease-causing) micro-organisms and may or may not show symptoms of a disease state. Examples of these pathogens include bacteria,



Special Agent Bigbee

such as those responsible for tuberculosis, syphilis, and gonorrhea; viruses, such as those responsible for AIDS, hepatitis, and herpes; and fungi, such as that responsible for candidiasis. Other microscopic organisms, such as one-celled animals, can also be found in the blood of humans.

Since it is beyond the scope of this article to present a detailed listing of each potentially infectious micro-organism law enforcement officers may encounter, this article will concentrate on the disease-causing organisms responsible for AIDS, hepatitis B, and tuberculosis. However, the precautions taken when dealing with any pathogen that may be found in body fluids are essentially the same.

AIDS

Acquired Immune Deficiency Syndrome (AIDS) has a variety of manifestations that range from asymptomatic (no symptoms) infection to severe immunodeficiency and life-threatening secondary infections or cancer.² The virus responsible for AIDS, HTLV-III (Human T-lymphotropic Virus Type III) is a "retrovirus" which invades the victim's immune system, destroys it, and causes the patient to become highly susceptible to secondary infections, including a severe form of pneumonia caused by the one-cell animal *Pneumocystis carinii*. Kaposi's sarcoma, a form of cancer, may also develop. The Centers for Disease Control (CDC) in Atlanta, GA, advise that tuberculosis cases in the United States have recently increased because of the occurrence of tuberculosis among persons with AIDS.³ The manifestations of this disease are usually confined to the lung area, but in AIDS patients, the bacteria often invades other areas of the body, including the lymph system.

The AIDS virus has been isolated from blood, bone marrow, saliva, lymph nodes, brain tissue, semen, cell-free plasma, vaginal secretions, cervical secretions, tears, and human milk.⁴ There is currently no vaccine against this virus which, if fully developed as a disease, is fatal.

The highest frequency of AIDS cases occurs in male homosexuals, intravenous drug users, and hemophiliacs—the "high-risk" categories. The transmission of AIDS has been shown to occur from male to male, male to female, female to male, by intravenous drug users sharing infected needles, from blood and blood product transfusions, transplacentally (through the placenta), by artificial insemination, and during organ transplant.⁵ In one unusual case, a male hemophiliac received the infection from a blood product, transmitted the virus to his wife, who then infected her infant after birth by Caesarian section, presumably from contaminated human milk.⁶

It appears unlikely that the virus is transmitted through casual contact or airborne particles. Cases of accidental inoculation by laboratory personnel with AIDS and hepatitis by needles and other sharp instruments have occurred.⁷ Correctional facility officers should be aware that the virus has been isolated from inmates in the United States who claim both homosexual contact and intravenous drug use.⁸ Because the incubation period may be years in duration, it seems logical that more prison inmates will exhibit symptoms of AIDS in the future.

In a study by the U.S. Department of Defense, conducted from October 1, 1985, through March 3, 1986, it was determined that positive tests for AIDS antibodies in military recruits was 1.5 per 1,000, a pattern that could be consistent throughout the United States in general.⁹ Leading experts and epi-

"The first line of defense against infection at the crime scene is protecting the hands and keeping them clean and away from the eyes, mouth, and nose."

demologists anticipate that in the next 20 years, this number will increase exponentially.

Researchers have determined that the AIDS virus can survive at least 15 days in dried and liquid blood samples at room temperature,¹⁰ although the survivability of the AIDS virus in other body fluids has not been determined. It is not known how long the hepatitis B virus and the tuberculosis spore can survive at room temperature.

Hepatitis B

Hepatitis B (serum hepatitis) is a viral infection that can result in jaundice, cirrhosis, and sometimes, cancer of the liver. The virus may be found in human blood, urine, semen, cerebrospinal fluid, vaginal secretions, and saliva.¹¹ Injection into the bloodstream, droplet exposure of mucous membranes, and contact with broken skin are the primary hazards. There is a vaccine currently available against hepatitis B.

Tuberculosis

This bacterial disease can be transmitted through saliva, urine, blood, and in some cases, other body fluids by persons infected with it. It can enter the body through droplets that are inhaled and primarily causes lung infections. The tuberculosis bacteria forms spores, similar to seeds in plants, that are highly resistant to drying and other physical means that would easily kill other bacteria.¹²

Defenses Against Exposure

What can be done to minimize the exposure of investigators and crime scene technicians to pathogenic microorganisms? The first line of defense

against infection at the crime scene is protecting the hands and keeping them clean and away from the eyes, mouth, and nose. The best protection is to wear disposable gloves. Any person with a cut, abrasion, or any other break in the skin on the hands should never handle blood or other body fluids without protection. Convenient boxes of latex medical examination gloves, in different sizes, may be purchased and kept in the crime scene kit or in the trunk of a patrol car. Always keep a plastic bag, clearly marked, which will be used for no other purpose than to collect contaminated items until they can be disposed of properly. Replace the gloves when they become heavily stained or if you leave the crime scene. When you are completely finished with the crime scene, or if you leave temporarily, wash your hands thoroughly with soap and water. If cotton gloves are worn when working with items having potential latent fingerprint value, wear cotton gloves over latex ones. Remember that under no circumstances, should anyone at the crime scene be allowed to smoke, eat, drink, or apply makeup.

Shoes can become contaminated with blood, which can then be transported from the crime scene to automobiles, the police station, or home. Protective coverings made of disposable plastic or paper should be considered.

Particles of dried blood fly in every direction when a dried blood stain is scraped. Because of this, surgical masks and protective eyewear should be considered when the possibility exists that dried blood particles or drops of liquid blood may strike the face or eyes. A mask and glasses will not protect you from viruses due to their minute size, but will certainly help prevent dried or liquid blood particles, which contain vi-

ruses, from entering the mouth, nose, or eyes.

While processing the crime scene, constantly be alert for sharp objects, since hypodermic needles and syringes are often secreted in unusual places. When handling knives, razors, broken glass, nails, or any other sharp object bearing blood, use the utmost care to prevent a cut or puncture of the skin. Even seemingly innocuous items, such as metal staples in paper, present a potential hazard. For this reason, use paper or plastic tape, whenever possible, when packaging evidence.

In the event you receive an accidental puncture or cut from a needle or instrument on which blood or another body fluid is present, immediately seek medical assistance. If an antiseptic, such as rubbing alcohol is available, cleanse the wound with the antiseptic, then wash with soap and water prior to seeking medical assistance. A physician will decide the best course of remedies, depending on the situation and the type of wound.

If practical, use only disposable items at a crime scene where infectious blood is present. However, even these items, such as pens, pencils, gloves, masks, and shoe covers, should be decontaminated before disposal. Preferably, the items should be incinerated; however, if this is not possible, arrange with your pathologist or a local hospital to sterilize the items by autoclaving and then dispose of them properly.

All nondisposable items, such as cameras, tools, notebooks, etc., also must be decontaminated. These items should be cleansed thoroughly with a solution consisting of 1 cup of sodium hypochlorite (common household liquid bleach) dissolved in a gallon of water (never mix bleach with ammonia or al-

“... protective practices ... along with exercising care and using common sense, will decrease the risk to the law enforcement officer and others.”

cohol). Either a bleach solution or ordinary rubbing alcohol will kill the AIDS virus within 1 minute.¹³ Remember to wear gloves to protect the hands when decontaminating.

Spilt blood that has not been analyzed as evidence should also be cleaned with the same bleach solution. The solution should be poured on these stains and allowed to air dry. Before releasing the crime scene, advise the owner of the potential infection risk.

Even after the evidence has been properly dried and packaged, it is still potentially infectious. Therefore, appropriate warnings should be placed on all items. This can be accomplished by purchasing adhesive-backed labels bearing the international biohazard symbol and a space for labeling the appropriate disease, or simply writing on each package a warning, such as “Caution! Contains Potential Hepatitis (or AIDS) Case.” This will alert all persons subsequently handling the evidence, such as laboratory personnel, prosecutors, defense lawyers, and police officers, to the hazards therein. To avoid removing evidence contaminated with infectious body fluids in the courtroom, place the items in transparent packaging once they have been properly dried, with appropriate initials, marking, etc., visible for identification.

Evidence containing any body fluid contaminated with human pathogen that is shipped to a forensic laboratory by U.S. mail is subject to the Code of Federal Regulations, Part 72. This regulation specifies that appropriate warning labels must be placed on the package, and any liquid substance must be triple wrapped and sealed.¹⁴ For further information on these procedures, contact the Centers for Disease Control, Office of Biosafety, 1600 Clifton Road, N.E., Atlanta, GA 30333 (404) 329-3883.

When conducting a crime scene investigation involving the shedding of blood from persons known to have infectious or contagious diseases, or even when it is suspected, the investigator should be very judicious with respect to the materials collected and forwarded to the laboratory for analysis. For example, in the scenario described earlier, it is obvious that the blood flowing from the victim's wounds originated from him. In another example, if John Smith is shot in the chest with a .44-caliber revolver by John Doe at a distance of 20 feet, there are several witnesses to the crime, and the assailant immediately flees the area with the weapon, it is obvious that the pool of blood underneath the body of John Smith originated from him. There is no probative value in analyzing the blood from the scene. Investigators and crime scene technicians should also consult with their local, State, or Federal forensic laboratory before submitting items for examination from persons with diseases, especially AIDS.

There are currently two opinions in forensic laboratories concerning the examination of cases with body fluids derived from persons with AIDS infections. The first is that the virus is not highly transmissible in dried stains and liquid blood samples, poses little hazard to laboratory personnel, and will be analyzed as usual. The other is that even though laboratory workers are at low risk of acquiring an AIDS infection from forensic specimens, that risk is not acceptable, especially when the laboratory worker could acquire an infection and unknowingly transmit it to his or her spouse.

The FBI Laboratory, in conjunction with the National Institutes of Health and the National Bureau of Standards, is currently conducting research into the feasibility of sterilizing forensic evidence with gamma radiation without

destroying the proteins required for serological examination. This procedure, if successful, would allow the evidence to be sterilized, thereby presenting no health hazard to laboratory workers or anyone subsequently handling the evidence and allowing for a complete serological examination. Until this procedure proves successful and is adopted, the FBI Laboratory will accept AIDS cases for analysis only if prior authorization has been obtained from the Section Chief, Scientific Analysis Section. The current prerequisites for acceptance of an AIDS case in the FBI Laboratory are as follows:

- 1) The contributor must understand that the submitted evidence will be autoclaved, which will render the evidence unsuitable for serological analyses. Other units of the FBI Laboratory will then conduct their examinations.
- 2) Acknowledgement letters from both the prosecuting and defense attorneys must accompany all evidence advising they are aware that serological evidence will be destroyed and that this procedure will not be subject to legal or judicial action in the future.
- 3) The evidence must be properly packaged and labeled.

It is the goal of the FBI Laboratory to continue to perform examinations as a full-service laboratory for its contributors. However, the safety and welfare of its employees and the rest of the law enforcement community are the laboratory's highest priorities and must be taken into consideration when accepting and analyzing evidence.

In the event your laboratory will not process cases involving blood or other body fluids from AIDS victims or suspects, it is recommended that the inves-

tigator contact that laboratory for the name and addresses of other public or private laboratories equipped to deal with infectious diseases and willing to examine the evidence.

Conclusion

Law enforcement personnel investigating violent crimes must handle blood- and body fluid-stained evidence on a constant basis. Often, these body fluids will be contaminated with infectious and disease-causing micro-organisms. There is no sure way to prevent accidental inoculation or contraction of a disease. However, protective practices, such as those discussed in this article, along with exercising care and using common sense, will decrease the risk to the law enforcement officer and others. These safety procedures should

always be used, and the officer should always assume that blood and other body fluids are potentially infectious, regardless of the source.

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Footnotes

¹Centers for Disease Control, "Diagnosis and management of Mycobacterial infection and Disease in persons with Human T-lymphotropic virus type III/Lymphadenopathy associated virus infection," *MMWR*, vol. 35, 1986, pp. 448-452.

²Centers for Disease Control, "Classification system for Human T-lymphotropic virus type III/Lymphadenopathy-associated virus infection," *MMWR*, vol. 35, 1986, pp. 334-349.

³Supra note 1.

⁴J. Groopman et al., "HTLV-III in saliva of people with AIDS-related complex and healthy homosexual men at risk for AIDS," *Science*, vol. 226, 1984, pp. 447-449; S. Salahuddin et al., "Isolation of infectious human T-cell leukemia/lymphotropic virus type III (HTLV-III) from patients with acquired immunodeficiency syndrome (AIDS) or AIDS-related complex (ARC) and from healthy carriers; a study of risk groups and tissue sources," *Proc Natl Acad Sci, USA*, vol. 16, 1985, pp. 5530-5534; J. Vogt et al., "Isolation of HTLV-III/LAV from cervical secretions of women at risk for AIDS," *Lancet*, vol. 1, 1986, pp. 525-526; C. Wofsy et al., "Isolation of AIDS-associated retroviruses from genital secretions of women with antibodies to the viruses," *Lancet*,

vol. 1, 1986, pp. 527-529; L. Thiry et al., "Isolation of AIDS virus from cell free breast milk of three healthy virus carriers (letter)," *Lancet*, vol. 2, 1985, pp. 891-892.

⁵N. Lapointe et al., "Transplacental transmission of HTLV-III virus," *N. Eng. J. Med.*, vol. 312, 1985, pp. 1325-1326; C. Prompt et al., "Transmission of AIDS virus at renal transplantation," *Lancet*, vol. 2, 1985, p. 672.

⁶M. Ragni et al., "Acquired immune deficiency syndrome in the child of a homophilic," *Lancet*, vol. 1, 1985, pp. 133-135.

⁷Abbott Laboratories, Diagnostics Division, "HTLV-III infection in health care workers," *HTLV-III Chronicle*, October 1985, pp. 1-6.

⁸Centers for Disease Control, "Acquired immune deficiency syndrome (AIDS) in Prison Inmates—New York, New Jersey," *MMWR*, vol. 31, 1983, pp. 700-701.

⁹Centers for Disease Control, "Human T-lymphotropic virus type III/Lymphadenopathy associated virus antibody prevalence in U.S. military recruit applicants," *MMWR*, vol. 35, 1986, pp. 4211-424.

¹⁰L. Resnick, et al., "Stability and inactivation of HTLV-III/Lav under clinical and laboratory environments," *JAMA*, vol. 225, 1986, pp. 1887-1890.

¹¹G. Wistreich and M. Lechtman, *Microbiology* (New York: McMillan Publishing Company, 1984).

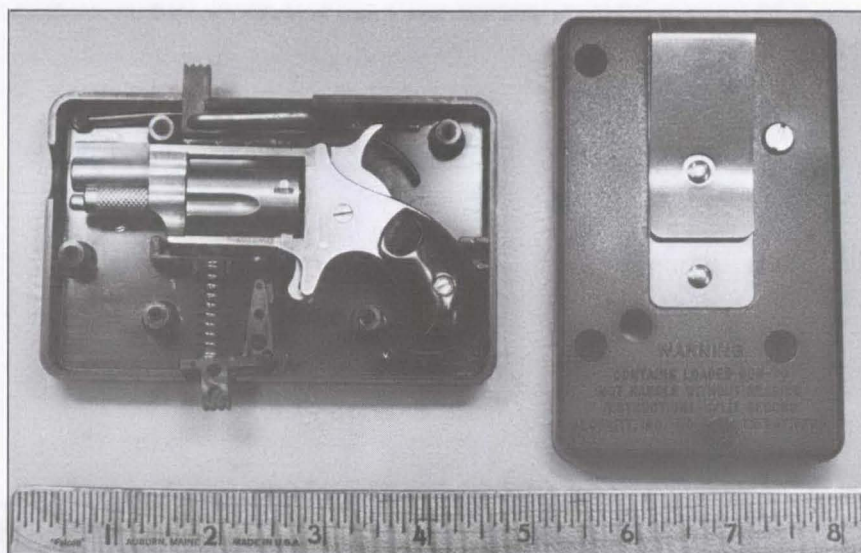
¹²Ibid.

¹³Supra note 10.

¹⁴D. Taylor (1986), Centers for Disease Control, Atlanta, GA, (personal correspondence) 1986; J. Richardson and W. Barkley (eds.), "Biosafety in microbiological and biomedical laboratories," U.S. Department of Health and Human Services, Centers for Disease Control and National Institutes of Health, 1984, pp. 10-23.

Perilous Personal Pager

Both the Orange County, CA, Marshal's Department and the Massachusetts State Police submitted to the *Bulletin* information on this weapon which poses a new threat to law enforcement. The weapon holster, with authentic label, telephone number, and belt clip, resembles the individual pagers which have become so commonplace in today's society. Inside, a five-shot, .22LR short barrel revolver can be concealed. External controls and an opening in the bottom allow the weapon to be cocked and fired while remaining within the plastic casing. The same weapon also fits into a brass belt buckle.



You're a Newly Appointed Chief of Police!

By
WILLIAM D. FRANKS, M.P.A.
*Chief of Police
Fargo, ND*

Congratulations on your appointment as chief of police. This advancement most likely is the result of years of experience as a deputy chief or senior command officer in your department or in a large or mid-sized police department. Now you have accepted a position that will be challenging, rewarding, and frustrating!

You were probably hired because of the perceptions that you were a qualified manager who could "professionalize" the police department. However, the word "professional" is value laden, a lesson soon to be learned. You may immediately face direct and indirect organizational revolt, labor problems, or attempts at politicization by special interest groups. You may be barraged with public speaking requests and inquiries from the press.

Often, specific articulated goals and objectives will not be outlined for you, but you will still be expected to solve unidentified problems. Performance evaluation will be based upon perceptions of your management ability, rather than an objective critique of specific goal attainment. You may receive little, if any, positive feedback from the appointing authority, whose work experience may have never included managing an organization.

Conflict may occur when your leadership decisions do not always comple-

ment municipal government decisions. Few city managers or elected officials understand that your role involves leadership in a paramilitary organization and management responsibility in a municipal government.

You should take advantage of the opportunity to become more sensitive to the political environment in which your employer must successfully function, while educating your employer on the basic concepts of police administration. Too many chiefs of police purposely create a knowledge vacuum for the appointing authority and reinforce the perceived mystic of police organizations. However, you may find that support for your organization's goals and objectives will increase in direct relationship to an understanding of your policing philosophy and the problems unique to the police mission.

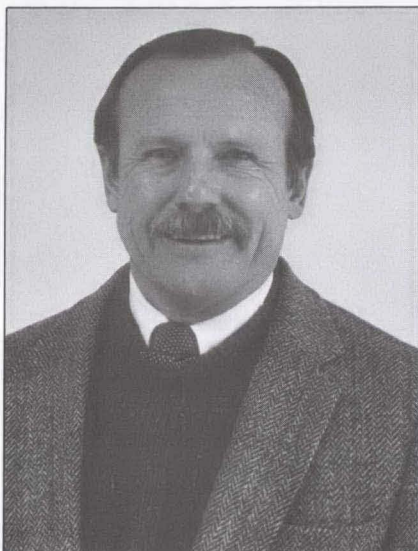
Preparing The Environment For Change

Many newly appointed chiefs of police believe that rapid change indicates their knowledge and dedication to the immediate evolution of systems, procedures, and goals. While some organizational problems require immediate attention, the majority do not.

If you adopt a Socratic method of teaching rather than a directional management style, you will begin to identify

those within the organization with creative management and technical expertise. If you adopt a coequal management approach with these formal and informal leaders, you may find that your organizational philosophy will be accepted more readily, thus enabling the organizational change process to occur with less resistance from the general population. Brilliance does not commence or end with the chief of police, but is equally disseminated throughout the organization, regardless of how stagnant it has become during the preceding years. Whenever feasible, telegraph your thoughts, ideas, and concepts to all members of the organization, but be aware of the impact your verbal statement or observation may have upon the organization. Some officers equate a casual comment by the chief of police with a departmental general order. Too few are capable of separating concepts and ideas in the formative stages from well-defined directives; the chief's verbalization becomes department policy.

Your practical experience and education have helped form the experiential base which will assist you in attaining one of your primary goals—developing solutions to unique problems in the community. Rules, regulations, and police strategies should meet the demands and expectations of the com-



Chief Franks

munity you are serving.

The Organizational Deviate

If your experience has been in a large agency, you are aware of many subtle and direct methods by which the nonteam player, rabble-rouser, hot-shot, etc., are managed. They are generally identified and transferred into oblivion. Before you systematically banish this person, determine his intellectual capacity for growth, inquiry, and improving the delivery of service to your community. Identifying and nurturing those individuals capable of intellectual risk-taking may be an asset in establishing an organizational philosophy where reasoned change becomes the expectations of status quo, rather than complacency with current performance.

Those who possess the unique intellectual capability of explorative thinking will nudge the organization into developing viable solutions to contemporary problems rather than reinforcing problem-solving methods that have continually failed. It may be necessary for you to remove this individual from the rank-and-file and provide an environment for the employee that promotes "blue sky" thinking. The employee's contributions must be intellectually fruitful, as well as productive.

A Go-Go Atmosphere and Leadership

One ingredient for organizational success is to promote a "go-go" atmosphere. A major goal of the chief executive officer is to establish an environment in which success is expected and excellence is desired. While one can acknowledge that organizational problems exist, it is not essential or desirable to continually bemoan training, minimal budget, and unqualified personnel as reasons for a nonprogressive organization. If the chief executive officer establishes a "can do," will-succeed environment, an organization that is looking forward to change will emerge—one that will be an industry leader. Continually downgrading the organization and its personnel will be counterproductive for long-term positive results.

Leadership is often confused with management techniques. While a good leader often possesses good management skills, good managers are not necessarily organizational leaders. Leaders create images of excellence and establish and reinforce the philosophical mores of the organization. Charisma and presence have often been associated with leadership. Both are important, but should be buttressed with the expansiveness of a futurist, the philosophy of an enlightened educator, and the realism of an organizational pragmatist. The chief of police's major responsibility is leadership within the organization.

The Movable Office

The office of the chief of police is with the individual, not in a chair behind a desk. Many chief executive officers apparently believe they enhance their formal authority by conducting departmental business from *their* chair, behind *their* desk, in *their* office. Formal authority may be enhanced, but oppor-

tunities for organizational changes and employee development may be diminished. To institute dialog, solve problems, and gain information, it may be beneficial to approach the individual(s) you believe possess the desired information. Do not always summon them to your office. Why create barriers which may be a detriment to communication if you can avoid them by simply walking down the hall, across the street, riding in a radio car, or somewhere else where positive communication links may be forged.

Discipline

Discipline is definitely a two-way communication that does not necessarily have to be discussed in the chief's office. Unless there are prescribed disciplines for specific offenses or a labor contract that specifies procedures, an open discussion of the offense may lead to an opportunity for positive discipline and employee growth. Oftentimes, the employee may suggest more appropriate discipline, or you may wish to try a different approach to discipline—one which may contribute to the employee's change of values and bring support to your policing philosophy. Days off or reduction in rank are simplistic approaches to police discipline, though sometimes necessary. Perhaps a holistic approach to designing a discipline process tailored to the individual may be of more benefit to the individual and the organization, if your police system permits the latitude.

External Hiring

In those organizations that require immediate reorganization, one must make the decision of whether to hire externally or develop personnel within the organization that are capable of participating in the transition phase. Recruiting and hiring command officers externally may be your best decision in

"A major goal of the chief executive officer is to establish and environment in which success is expected and excellence is desired."

the short run and may assist you in solving perceived crises. However, the total health of the organization may not be enhanced by this decision.

You may not find the "quick fix" you were anticipating by hiring seasoned command officers from other agencies. Or, the fix may be quick, but it may not be best for the organization. Ultimately, you may be more successful in developing a viable organization which complements your management philosophy by developing personnel within the organization.

Seasoned commanders are not necessarily more adaptive to change than those within the organization. Often, seasoned command officers may have developed personality and management traits which may be detrimental to the organization. If the organizational problems do not involve corruption in your senior command officers, you may consider working with the personnel within your agency in developing their potential, rather than making an often irrevocable decision to immediately seek outside assistance to complement your team-building efforts.

If you believe one of your responsibilities is as a change agent, the process of change may be better accomplished by a gradual educational process with your personnel. This process will, oftentimes, lead to a kindred philosophical agreement of goals, objectives, and responsibilities within the organization.

The Organizational Eunuch

Organizational eunuchs will be found at all levels within public and private industry. They are generally mid- or senior-level management personnel whose approach to problem solving will follow familiar lines—we need more research time, we need more money, we need more staff, it has always worked

before, etc. The comments and observations may have some validity, but their mind set is defeatism rather than a "we can" approach to management. Oftentimes, these same individuals are the ones who will fail to accept the responsibility and accountability for their decisions, but will develop elaborate defense mechanisms to protect themselves from accepting any responsibility for decisions, programs, operations, etc., which have not culminated in success.

Some management personnel who have become organizationally dysfunctional can many times be revitalized by the progressive leader who instills a "can do" attitude that permeates the entire organization. However, do not be surprised if you have limited success at revitalizing the organizational eunuch. He is often the direct result of the Peter Principle and is not capable of internalizing different problem-solving concepts which may be necessary to direct the organization to a successful future. He will continue to reinforce 19th-century decisionmaking processes to solve 20th-century problems. The processes may be packaged under different labels, but close scrutiny will reveal they are the same methods which have failed in the past and will most certainly fail in the future. The organization's health and growth may depend on your ability to create a change environment for the eunuch and the employee's ability and willingness to alter his mental processes. This may be an insurmountable task for the organization and the employee. The reasons are legion, but the employee's nonresponsiveness will soon be evident.

How many resources and how long you continue your attempts to elevate the employee's competency level depend on a host of social, economic, and organizational assessments. Most chiefs of police wait too long to take

definitive action, either removing the individual from the organization or transferring the employee to a position where his talents will complement the organizational goals. If organizations are going to be proficient in addressing the challenges of the future, creative, intuitive people must be identified and nurtured, people who will institute a holistic approach to developing potential solutions to problems which may evolve in the future. These people will be readily acceptable to "blue sky" thinking, observations, and comments.

Those in the organization who have the ability to challenge and go beyond the knowns and establish new paradigms to meet challenges of the future are those very individuals who may be capable of providing leadership for the future. You will also find that the organization will become revitalized, as challenging concepts and philosophies begin permeating the thought processes of all within the organization. To encourage the continual acceptance of the organizational eunuch will eventually result in a status quo organization which will be fractionalized with the inability to change.

Conclusion

The intent of the forgoing was to initiate the thought processes of a new, and perhaps experienced, chief of police. If the reader is agreeing, disagreeing, or mumbling some indefinable phrase, this article has accomplished its goal.

FBI

Children As Burn Victims

"Burn injuries to children are often classified as accidents when abuse was the real cause."

Each year an estimated 2 million people are burned in this country. The very young child is at greatest risk as burns are the second most frequent cause of accidental death in children 1 to 4 years.¹ As a form of child abuse, burns received little attention until 1965 when an article entirely devoted to children as burn victims was published.²

Over 70 percent of childhood burns occur in the home during the more stressful times of the day and more difficult months of the year—winter months, when the family is more indoor-oriented; late afternoon, when the child is more fatigued and hungry; and morning, when the child has just awoken.³

Early studies found the average age of the abused burn victim to be under 24 months. Boys are more frequently victimized than girls, and this type of abuse occurs more commonly in lower socio-economic, single-parent families.⁴ In general, the victim of an abusive burn-related incident will be a child under 5 years of age who will suffer searing pain, possible disfigurement, and deep psychological scarring.

Burn injuries to children are often classified as accidents when abuse was the real cause. The following indicators, or "suspicion index," are useful in determining if abuse may have been a factor in the burn incident:

- 1) Unexplained delay in treatment which exceeds 2 hours;
- 2) Injury that appears older than when the incident allegedly happened;

3) Ambivalence about seeking medical attention;

4) An account of the injury incompatible with the age and developmental characteristics of the child;

5) Caretaker's insistence there were no witnesses to the "accident";

6) Someone other than a parent or caretaker who brings the child to the emergency room;

7) Burn is blamed on the actions of a sibling or other child (which can happen);

8) The injured child is excessively withdrawn, submissive, overly polite, or does not react to painful procedures;

9) Isolated burn on the child's buttocks; and

10) History of what happened changes several times or there are discrepancies in the stories given by each parent.⁵

Various reasons have been given by caretakers for burning a child. However, the leading trigger mechanism for the abuse is toilet training, soiling, or wetting. The parent or caretaker attempts to cleanse or purify the child's skin from the repulsive nature of the child's stool or urine. The average parent who scalds his or her child usually had no idea the water would cause such an injury, although this is not always true with other forms of burning.

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The caretaker who commits this kind of abuse is often isolated, immature, easily frustrated, and has poor impulse controls. He or she can also be a perfectionist with unrealistic expectations for the children and may lack knowledge about child development.⁶ Often, an adult caretaker is reluctant to admit he or she burned a child because of fear of punitive legal action, feelings of guilt or remorse, a desire to shield a spouse or loved one, and a need to avoid the social stigma.⁷

Types of Burns

Burns result from the effect of thermal energy on the skin. The skin, the body's largest organ, is divided into two layers, epidermis and dermis. The epidermis is the thinner of the two and rests on the outside of the body serving as a protective cover. The dermal layer makes up the bulk of the skin and is located between the epidermal layer and a subcutaneous area of muscle and bone. The nerve endings which transmit pain, temperature, and sensation are located only within the dermal layer of skin.⁸

The most commonly used classification of burns is first, second, or third degree, which only provides for a visual characteristic of the wound and is not actually descriptive of the injury. The preferred classification of burns used by most physicians is "partial" or "full thickness" burning. With a partial thickness burn, only part of the skin has either been damaged or destroyed and is equivalent to first degree or second degree burn. *This wound will heal by itself.* By contrast, all the skin is destroyed by a full thickness burn, and this type of burn may include destruction of muscle and bone. *The wound cannot heal by itself.*⁹

The depth of a burn will be determined by the temperature and amount of time the victim is exposed to the source of heat. The age of the victim is also a factor because younger children have thinner skin than adults. As a result, a child's skin will be destroyed more rapidly and by less heat.

Only an experienced medical practitioner can make the difficult determination of how deep a burn the child has sustained. However, there are several distinguishing features of partial thickness and full thickness burns which can be observed immediately after the incident.

Patches of reddened skin that blanch with fingertip pressure and refill are shallow, partial thickness burns. Blisters usually indicate deeper, partial thickness burning, especially if the blisters increase in size just after the burn occurs.¹⁰

A leathery surface with a color of white, tan, brown, red, or black represents a full thickness burn. The child will feel no pain due to the complete destruction of nerve endings. Small blisters may be present but will not increase in size.¹¹

One reason for the increased mortality rate in children who have been burned is that the thinness of the skin on a young child increases the chances of a full thickness burn. A relatively small burn on a young child is more likely to produce a severe situation because more body surface per pound is affected than in an adult. A lower temperature and shorter duration of time in contact with the source of heat are two other factors associated with the thinner skin of young children.

Two general types of burns can occur on a child's body. They are known as wet burns and dry burns. Each type has its own set of characteristics that assist in identifying whether a wet or dry

“One reason for the increased mortality rate in children who have been burned is that the thinness of the skin ... increases the chances of a full thickness burn.”



Col. Ritchie T. Davis
Director
Michigan Department of State Police

Thicker Skinned Areas	Thinner Skinned Areas
Palms of Hands	Front Trunk
Soles of Feet	Inner Thighs
Back	Bottom of Forearms
Scalp	Inner Arm Area
Back of Neck	

source of heat caused the damage to the skin.

Wet Burns

A wet burn is characterized by a splattering effect combined with sloughing and peeling of skin. There will also be varying degrees of burns in close proximity. Conversely, a dry burn will have a well-shaped, branding type of margin around the injury. Scabbing will begin around the edges of the burn, and the odor of burnt skin is sometimes present. This type of burn will also have a general dry nature or look on the burn site.¹²

Scalding, specifically from hot tap water, is the most frequent cause of accidental injury in children.¹³ There are a number of issues the investigator needs to consider when determining whether the scald was deliberate.

The most common abusive scald burn occurs when the child is dunked or immersed into a container of hot fluid. When a child is subjected to an immersion burn, the first source of information the investigator will rely on is the caretaker's story about how the injury occurred. This account should be balanced against the age and developmental characteristics of the child who was burned. Another point to consider is the suspicion index presented earlier in this article.

The resulting injury pattern on the child's body helps the investigator reconstruct how the child was positioned in the container where the injury allegedly occurred. The investigator must first consider whether the injury pattern appears consistent with the caretaker's version of what happened. If a "line of immersion" is visible, the investigator can determine the areas of the child's body that were beneath the surface of the fluid and those areas which did not come into contact with the fluid.

The most common immersion burn occurs when the caretaker dips the child's buttocks into the liquid while holding the child in a flexed position. The child's upper torso and lower legs and feet never come into contact with the fluid.

When a child is forced to sit in a vessel of hot liquid, a "doughnut" burn frequently appears, because the buttocks make firm contact with the bottom of the container, thus sparing this area from burning. The presence of a doughnut burn indicates someone was holding the child in place, making escape impossible.

A child involved in an immersion burn incident will go into a state of flexion, the tensing of body parts in reaction to what is happening. Examples of flexion areas on a child's body include:

- 1) Folds in the stomach,
- 2) Calf against back of thigh,
- 3) Arms tightened and held firmly against body or folded against body,
- 4) Thighs against abdomen,
- 5) Head against shoulder, and
- 6) Legs crossed, held tightly together.

The flexing action will not allow burning within the body's creases, causing a striped configuration of burned and unburned zones or a "zebra" burn. The lo-

“Well-formed or sharp lines of immersion that appear symmetrical on either the ankles or wrists is suspicious.”

cation and extent of the burn are not as important as the pattern in determining the possibility of abuse.¹⁴

Other common areas for immersion burns are the feet and hands of a child. When either of these appendages is immersed in hot liquid, the resulting injury pattern is known as a “stocking” burn or a “glove” burn. Immersion burns on the hands and feet in the form of splash burns are expected if the child is unrestrained and thrashing in the fluid. A distinct absence of any glove or stocking burns, combined with the presence of well-developed or sharp lines of immersion limited only to the buttocks, back, and perineum, would indicate the child was cradled and dipping was intentional.

Well-formed or sharp lines of immersion that appear symmetrical on either the ankles or wrist areas is suspicious. Whenever both feet of a child have been burned, and there is no evidence that the child tried to remove him- or herself from the liquid, abuse should be considered. A child attempting to enter a tub of water may place one foot into the tub with no idea that the water is scalding. However, once the painful effects of the water are felt, it would not be logical to assume that the child would then place the other foot into the water.

Parents and older brothers and sisters have been known to accidentally lower a child into a scalding tub. Their reactions to the child's injuries in terms of promptness in seeking medical treatment and degree of concern over the child's welfare are factors to consider when accidental causes are alleged. Many times, the primary care provider indicates he or she was not present at the time of the “accident” and can offer no explanation as to how the injury oc-

curred. However, accidental immersion burns should include the presence of splash burns.

When a child accidentally pulls a container of hot liquid from a counter or table top, the injury pattern should appear more serious at the point of contact, with lesser degrees of burning on the areas of the body which the liquid touched while descending. Liquids such as hot tea, coffee, or water will produce injury patterns similar to those in bathtub incidents, except the head, face, and shoulder are usually the points of contact. Splash burns caused by a liquid pulled from above can be difficult to distinguish from burns made when the liquid was deliberately thrown. This is especially true if the liquid first strikes the top of the head, face, chest, or abdomen, since a child reaching for a container filled with hot liquid will usually be burned on the head, face, neck, upper chest, and arm.¹⁵ An absence of burns under the chin or within the armpit area might support the fact that the liquid was deliberately thrown.

Liquids of a thicker consistency, such as soups, sauces, oils, and gravy, will retain heat longer and will continue to damage the skin long after thinner fluids like water, tea, or coffee have cooled. The gravitational flow of the burn pattern and the position of the child at the time of the incident can be determined by closely observing the burn. Unlike an immersion burn, a splash will produce multiple depths of burns interspersed with unburned areas and tends to be less severe, due to the rapid cooling of the liquid after striking the skin.

The most frequent question asked by those involved with burn-related investigations centers on the amount of heat needed to burn a child. Secondary to this issue is the amount of time the child needs to be exposed to a certain

level of heat before the skin will be adversely affected.

Researchers have had difficulty in answering these questions because of the differences in the thickness of an adult's skin compared to a child's. It has been estimated that no household needs water temperatures that exceed 120°F. Bath water is considered comfortable between 100° and 105°F. However, hot water heater manufacturers still preset gas hot water heaters at 140°F and electric hot water heaters at 150°F.¹⁶

The likelihood of a deep partial thickness to full thickness burn increases drastically when the water temperature exceeds 127°F. At a temperature of 110°F, it would take 6 to 7 hours before a full thickness burn would occur on an adult.¹⁷ Figure 1 provides the investigator with information about the amount of temperature and length of exposure required before a full thickness burn would be produced on an adult, keeping in mind a child's skin burns more rapidly.¹⁸

A potential problem for the investigator is the presence of a bacterial infection known as “scalded skin syndrome.” As its name implies, this infection looks like scalded skin and is found on children from infancy to age 10. This infection should not be confused with burning, even though its appearance may resemble skin which has been scalded. It has also been confused with impetigo. If a parent or caretaker suggests the child is suffering from an infection, a physician should be consulted.

Contact Burns

Contact burns, also known as dry burns, are the second most frequent type of abusive burns. Devices used to cause these burns include irons,

Figure 1

FULL THICKNESS BURNS

Temperature of Liquid	Time of Exposure
111°F	6-7 hours
120°F	10 minutes
125°F	2 minutes
127°F	1 minute
130°F	30 seconds
136°F	10 seconds
140°F	5 seconds
149°F	2 seconds
158°F	1 second

stoves, heaters, grates, radiator pipes, hot plates, and curling irons, essentially any common household device capable of producing heat.

However, the most common type of abusive contact burn is caused by cigarettes deliberately placed on a child's body. These burns have certain characteristics which may assist the investigator in distinguishing them from an accidental encounter.

The first item to look for is the location of the cigarette burn. Deliberate burning will usually occur on multiple areas, including the belt line or the trunk of the child, external genitals, and the hands or feet. Cigarette burns found in multiple patterns or on parts of the body that are normally clothed are abusive and indicate intent.

The hot ash portion of the cigarette tends to break off after contact with the skin. Any subsequent attempts at burning would require relighting and maintaining the ash to produce the number of injuries found on the child. Careful observation, along with a physician's opinion about the age of the burns, will provide insight concerning whether the injuries were produced during one or several episodes over a period of time.

Deliberate burning by a cigarette will produce small circular burns approximately 1/4 inch in diameter. The wound will vary from a blister to a crater type of injury, depending on the length of contact.¹⁹ The healing process will involve the formation of a scab in the center of the wound which will then move toward the surrounding edges. Healed cigarette burns will appear similar in size, and the depth of the scar will be related to the depth of the burn. Accidental cigarette burns appear irregularly shaped, are less serious in terms of depth, and frequently occur on the face.

The greatest difficulty in determining whether a child was burned with a cigarette is the presence of impetigo, a skin disease characterized by the eruption of a blister or pimple containing pus. Investigators continue to report that medical examinations are inconclusive about the presence of cigarette burns due to impetigo setting in after the burn has taken place. Even under natural conditions, a child can develop impetigo which can look like a cigarette burn. Great caution and careful examination must be used in cigarette burn investigations.

Various other forms of contact burns leave symmetrical and deep imprints with crisp margins along the entire burn surface. This suggests a prolonged, firm contact with the hot surface. Comparatively, if the burn is a result of an accident, contact would involve a smaller area of skin and slurred margins, which would lack the full branding effect. One edge of the accidental contact burn is usually deeper and more serious in nature.²⁰

One final type of contact burn which might be overlooked involves the use of small hot objects, such as the top of a metal cigarette lighter or the heated edge of a knife. As with other suspicious burns, the location and shape of

the burn will provide some direction for the investigator.

Other kinds of burns that should be considered by the investigator are light ray burns (the result of overexposure to the sun or other radiant energy), brush burns, and chemical burns. A brush burn can be caused by the combined effects of heat and abrasion due to friction. An example would be the result of a child sliding down a metal slide with bare legs coming into contact with the sun-heated surface of the slide. Of course, this form of burn is not considered abuse. Chemical burns caused by acids or alkalies may destroy tissue for weeks after the initial incident. Chemical burns are usually sharply localized and of greater depth than other forms of burns.

Conclusion

Thorough investigation of a burn case presents the investigator with many factors to review and forms of physical evidence to gather. When a child has been scalded, for example,

ACCIDENTAL V. DELIBERATE CONTACT BURNS

Accidental	Deliberate
Brief glancing contact	Prolonged steady contact
Small area of skin affected	Symmetrical deep imprints
Slurred margins	Crisp overall margins
Deeper burn on one edge	Suspicious area on body, e.g. buttocks, perineum
Leading edges of body	Bizarre shape

"Thorough investigation of a burn case presents the investigator with many factors to review and forms of physical evidence to gather."

measurements of the container and fixtures should be made and the location of the faucets on the wall or sink and the overall dimensions of the sink, bath, or utility tub documented. Also of importance would be the number of rotations needed to turn the water on and how long it takes before hot water begins to flow from the faucet. As with any other search, it should be performed in a lawful manner and with a search warrant where required.

The investigator should also determine the height of the child and the child's ability to reach the handles of each tap. Very young children do not reach far above their heads nor do they tend to stretch onto their toes to reach for something. The child's strength should be a consideration balanced against the degree of strength and dexterity needed to turn on a faucet.

Special attention should be paid to where the parent or caretaker said he or she was at the time of the incident, in terms of how long it would reasonably take to get to the child once it was discovered the child was in danger. If the adult indicated that no screams were heard, a determination should be made if other sounds, such things as a radio, television, traffic, or other children's voices, may have caused the child's cries for help to go unheeded.

During a scald investigation, the hot water heater is of primary importance. For example, what type of heater is it, is it in good working order, and what is the temperature setting on the heater? On gas hot water heaters, the thermostat will be found near the base of the heater. Electric heaters have a thermostat located behind a panel on the upper level, as well as a lower element which should be in plain view. Information on the gallon capacity, which appears on the face of the heater, should be recorded and photographed.

Water temperatures should be

measured at the site of the incident at 1-minute intervals using a candy or meat thermometer. This process is to be repeated at 1-minute intervals with hot water and then with cold water mixed for 6 to 10 minutes each.

When a child has been burned with a dry device, if at all possible, the investigator should determine if the object is still warm to the touch, while at the same time carefully recording the distance from the floor to the site of the burning surface, pan, hot plate, or stove. The device should be seized (pursuant to a search warrant) and tested at a crime laboratory for the presence of skin which may have adhered to the burning surface. The child's clothing, if any, along with any towels, blankets, sheets, or similar coverings in which the child may have been wrapped, may be evidence and should be treated as such.

In addition, a complete series of photographs should be taken of the scene, victim, devices, water heater, or other objects that may have an important role in the course of the investigation.

FBI

Footnotes

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Military Assistance and Surplus Government Property to Law Enforcement Agencies

"State surplus property agencies ... have available a vast variety of Government surplus property for donation to State and local law enforcement activities."

Surplus Government property has been made available to non-Federal public agencies since 1949. This provision was extended to all non-Federal, State, and local public agencies in October 1977, with the requirement that the items be used for public purposes. In addition, since 1981, routine military assistance has been offered to civilian law enforcement agencies.

Nevertheless, many local and State police departments around the country have been unaware of these Federal assistance programs, as well as the procedures required to obtain personal property through them. Taking advantage of such benefits can greatly improve the efficiency and economy of many police agencies.

As a result of the 1986 Department of Defense Authorization Act, the Department of Justice (DOJ), in consultation with the Department of Defense (DOD) and the General Services Administration (GSA), implemented a program designed to inform civilian law enforcement officials throughout the country regarding information, training, technical assistance, equipment, and facilities available to police. The program takes advantage of existing "in-place" procedures used by both DOD and GSA.

MILITARY ASSISTANCE

There are a number of select areas of military assistance potentially available to civilian law enforcement agencies. These include the collection of information; use of firing ranges, storage areas, hangars, airfields, riot control equipment, night vision devices, and radar equipment; training in dog handling; aerial surveillance and reconnaissance; use of bomb detection teams, ground surveillance radar, and ground sensor operations; special forces-type training; towing of drug vessels; anti-personnel intrusion detection; and breathalyzers.

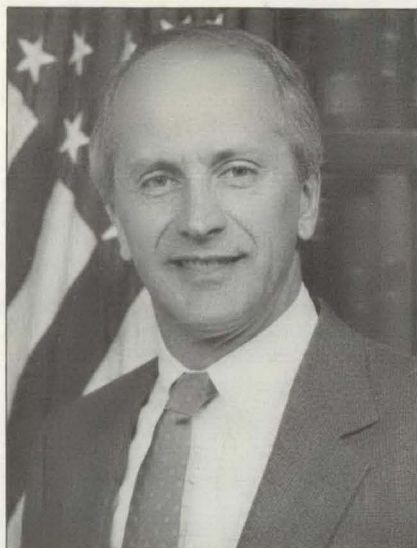
Since the enactment of the original statutes that now comprise the Posse Comitatus Act¹ over 100 years ago, military participation in civilian law enforcement activities has been limited. This historic tradition prohibiting direct military involvement is aimed at separating the powers of the military from those of civilian law enforcement. However, in 1981, this restriction was amended, providing for certain forms of military cooperation with civilian law enforcement officials.²

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Special Agent Anderson

More specifically, civilian law enforcement officials may now obtain:

- 1) Information collected during the normal course of military operations relevant to a violation of any Federal or State law within the jurisdiction of such officials;³
- 2) The use of loaned equipment, base facilities, and research facilities of the military for law enforcement purposes;⁴ and
- 3) Training in the operation and maintenance of loaned equipment, as well as providing advice relevant to these purposes.⁵

Following enactment of these provisions, the DOD established mechanisms to fulfill its responsibilities. Guidelines were established,⁶ and the primary responsibility for coordinating the effort was assigned to the Assistant Secretary of Defense, Force Management and Personnel.

Procedures For Military Assistance

The Pentagon's Task Force on Drug Enforcement, institutionalized on January 5, 1987, as the Deputy Assistant Secretary of Defense (Drug Policy and Enforcement) in the Office of the Assistant Secretary of Defense (Force Management and Personnel), has established two procedures for civilian law enforcement authorities to obtain military assistance. The first method is for the State and local law enforcement officials to make a request for assistance to one of the regional centers of the Vice President's National Narcotics Border Interdiction System (NNBIS). Each NNBIS region has a regional coordinator from either the U.S. Customs Service or U.S. Coast Guard. The NNBIS has four primary tasks:

- 1) Maximize DOD and the military

services involvement in support of drug interdiction without adversely affecting combat readiness;

- 2) Increase national intelligence community support to drug interdiction;
- 3) Mesh international interdiction efforts with United States agency efforts; and
- 4) Enhance interagency coordination and cooperation.

The NNBIS charter as a coordinating system makes it the most appropriate mechanism to obtain military assistance. Currently, 43 DOD personnel are assigned to the 7 regional centers. Their function is to perform liaison duties between DOD and Federal, State, and local civilian agencies. They are well-versed on the availability of equipment and facilities from the military bases and research facilities in their respective regions. Table 1 provides the location and telephone number of each NNBIS regional center.

The second method for obtaining military assistance is to make a request directly to a local or nearby military base or facility. While each military command is willing to provide assistance, one should bear in mind that while a specific base or facility may be convenient, it may be limited in its ability to provide the desired support due to its particular mission and resources. Such "direct" requests should be made as follows:

- Requests to an Army command should be made to the Provost Marshal;
- Requests to a Navy or Marine Corps command should be

"Requests for the use of military equipment do not involve any transfer of ownership, but are on a loan/lease basis."

Table 1

NNBIS Regional Centers

	Commercial	FTS
New York (Northeast)	(212) 466-2176	688-2176
Miami (Southeast)	(305) 536-4065	350-4065
Chicago (Northern Border)	(312) 353-9253	886-9253
New Orleans (Gulf)	(504) 589-4986	682-4986
Houston (Southwest Border)	(713) 953-9830	526-9830
Long Beach (Pacific)	(213) 514-6382	795-6382
Honolulu (Western Pacific)	(808) 514-2091	551-2091

made to the Naval Security and Investigative Command or Base Security; and

- Requests to an Air Force command should be made to the Commander of the Security Police.

Each of these local entities will be familiar with Department of Defense Directive 5525.5, as well as their own implementing directives which set forth guidelines for cooperation with civilian law enforcement officials.⁷ These military contacts should be able to authorize most requests or forward them to the Pentagon for approval.

Restrictions on Military Assistance

It is important to note that while the DOD has been given legislative permission to provide assistance to local law enforcement there are two significant restrictions—support provided must be within the framework of existing law and cannot be provided if such assistance would adversely affect national security or military preparedness. Military personnel are prohibited from any direct participation or assistance to civilian law enforcement activities. The following forms of direct assistance are specifically prohibited: Interdiction of a vehicle, vessel, aircraft, or other similar

activity; a search or seizure; an arrest, apprehension, stop and frisk, or similar activity; and the use of military personnel for surveillance or pursuit of individuals, or as undercover agents, informants, investigators, or interrogators. In short, military assistance is prohibited in situations in which there is a reasonable likelihood of a law enforcement confrontation. While there are a few exceptions to this restriction (such as civil disturbances, disasters, and protection of the President), these exceptions rarely involve activities that are pursued by local or State law enforcement agencies.⁸

Training provided to civilian law enforcement agencies usually involves the operation and maintenance of equipment made available to their agencies. Regulations do not permit large-scale or elaborate training or regularly held sessions. The training is limited to situations when the use of non-military personnel would be unfeasible or impractical from a cost or time perspective.

Considerations

Requests for the use of military equipment do not involve any transfer of ownership, but are on a loan/lease basis. In a few situations, the DOD may

require reimbursement as a condition to lending assistance, especially for consumables, such as batteries and fuel or for damaged or lost equipment. Law enforcement agencies should take into consideration the sometimes potentially expensive consequences of replacing military equipment that is damaged or lost.

While approval for most requests for the use of equipment or facilities can be made by local military commanders, major items such as weapons, ammunition, "combat vehicles," and the use of military personnel require Pentagon authorization.

Requests for assistance should allow adequate time for consideration. Requests should be generic; the military will provide the best equipment for the job. While it is possible to service a request rapidly, sufficient time should be allowed for the military to provide the best support. Two weeks is a good minimum lead time for a routine request, while a month should suffice for a major request requiring Pentagon approval. However, in a genuine emergency, the military can expedite the evaluation and approval process.

SURPLUS GOVERNMENT PROPERTY

The General Services Administration (GSA) of the Federal Government has been offering surplus Federal property to non-Federal organizations since 1949. The basic authority for these donation programs is the Federal Property and Administrative Services Act of 1949 and its amendments. This and related statutes authorize GSA to transfer surplus property for donation to non-Federal public agencies and other specifically designated recipients.

Table 2 State Agencies For Surplus Property

Alabama P.O. Box 210487 Montgomery, AL 36121-0487 (205) 277-5866	Guam P.O. Box 884 Agana, GU 96910 (671) 472-2271	Massachusetts Room 1010 1 Ashburton Place Boston, MA 02108 (617) 727-5774	New York Bldg. 18-State Office Building Campus Albany, NY 12226 (518) 457-3264	South Dakota 20 Colorado Avenue, SW Huron, SD 57350 (605) 353-7150
Alaska 2400 Viking Drive Anchorage, AK 99501 (907) 279-0596	Hawaii 729 Kakoi Street Honolulu, HI 96819 (808) 548-6946	Michigan P.O. Box 30026 Lansing, MI 48909 (517) 335-9105	North Carolina P.O. box 26567 Raleigh, NC 27611 (919) 733-3885	Tennessee 6500 Centennial Boulevard Nashville, TN 37209 (615) 741-1711
Arizona 312 South 15th Avenue Phoenix, AZ 85007 (602) 255-5701	Idaho P.O. Box 7414 Boise, ID 83707 (208) 334-3477	Minnesota 5420 Highway 8, Arden Hills New Brighton, MN 55112 (612) 633-1644	North Dakota 1812 Lee Avenue Bismarck, ND 58501 (701) 224-2273	Texas P.O. Box 8120 Wainwright Station San Antonio, TX 78208-0120 (512) 661-2381
Arkansas 8700 Remount Road North Little Rock, AR 72118 (501) 835-3111	Illinois 3550 Great Northern Avenue Rural Route 4 Springfield, IL 62707 (217) 793-1813	Mississippi Box 5778 Whitfield Road Jackson, MS 39208 (601) 939-2050	Northern Mariana Islands Saipan, CM 96950 Telephone No. 9768	Utah 522 South 700 West Salt Lake City, UT 84104 (801) 533-5885
California 140 Commerce Circle Sacramento, CA 95815 (916) 924-4838	Indiana 601 Kentucky Avenue Indianapolis, IN 46225 (317) 232-1384	Missouri P.O. Drawer 1310 Jefferson City, MO 65102 (314) 751-3415	Ohio 226 North Fifth Street Columbus, OH 43215 (614) 466-4485	Vermont 87 1/2 Barre Street Montpelier, VT 05602 (802) 828-3394
Colorado 4700 Leetsdale Drive Denver, CO 80222-1397 (303) 388-5953	Iowa State Capitol Complex Des Moines, IA 50319 (515) 281-5391	Montana 930 Lyndale Avenue Capitol Station Helena, MT 59620 (406) 444-4514	Oklahoma P.O. Box 11355 Cimarron Station Oklahoma City, OK 73111 (405) 521-2135	Virginia 1910 Darbytown Road Richmond, VA 23231 (804) 786-7268
Connecticut P.O. Box 170 Wethersfield, CT 06109 (203) 566-7190	Kansas Rural Route 4, Box 36A Topeka, KS 66607 (913) 296-2351	Nebraska 2700 Van Dorn Street P.O. Box 94661 Lincoln, NE 68509 (402) 471-2677	Oregon 1655 Salem Industrial Drive, N.E. Salem, OR 97310 (503) 378-4714	Virgin Islands P.O. Box 1437 St. Thomas, VI 00801 (809) 774-0414
Delaware P.O. Box 299 Delaware City, DE 19706 (302) 834-4512	Kentucky 514 Barrett Avenue Frankfort, KY 40601 (502) 564-4836	Nevada Blasdel Bldg., Room 104 Capitol Complex Carson City, NV 89710 (702) 885-4094	Pennsylvania P.O. Box 1365 Harrisburg, PA 17105 (717) 787-5940	Washington P.O. Box 1529 Auburn, WA 98071-1529 (206) 931-3931
District of Columbia No. 5, DC Village Lane, SW Washington, DC 20032 (202) 767-7830	Louisiana Box 44351, Capitol Station Baton Rouge, LA 70804 (504) 342-7860	New Hampshire 12 Hills Avenue Concord, NH 03301 (603) 271-2602	Puerto Rico Stop 6 1/2 P.O. Box 4112 San Juan, PR 00905 (809) 723-4685	West Virginia 2700 Charles Avenue Dunbar, WV 25064 (304) 768-7303
Florida 560 Larson Building Tallahassee, FL 32301 (904) 488-3524	Maine State Office Building Station 95 Augusta, ME 04333 (207) 289-3521	New Jersey 82 Executive Avenue Edison, NJ 08817 (201) 287-9256	Rhode Island 301 Promenade Street Providence, RI 02908 (401) 277-2113	Wisconsin P.O. Box 1585 Madison, WI 53701 (608) 266-8024
Georgia 1050 Murphy Avenue, SW Building 1A Atlanta, GA 30310 (404) 656-2681	Maryland P.O. Box 122 Jessup, MD 20794 (301) 596-1080	New Mexico 1990 Siringo Road Santa Fe, NM 87502 (505) 827-9420	South Carolina 1441 Boston Avenue West Columbia, SC 29169 (803) 734-4335	Wyoming 2045 Westland Road Cheyenne, WY 82002-0060 (307) 777-7669

State surplus property agencies have been established by each State, the District of Columbia, Puerto Rico, Virgin Islands, the Northern Mariana Islands, and Guam to distribute property designated as surplus by the Federal Government. These agencies have available a vast variety of Government surplus property for donation to State

and local law enforcement activities. The surplus property can afford unlimited possibilities for law enforcement units to acquire needed property at a minimal cost.

Procedures For Obtaining Surplus Government Property

Information concerning the availability of surplus property can be ob-

tained by contacting the respective State agency. (See table 2.) These agencies advise applicants of eligibility requirements and procedures to be followed in acquiring Federal surplus property and of the conditions and restrictions placed on the property.

"The General Services Administration ... has been offering surplus Federal property to non-Federal organizations since 1949."

Table 3

GSA Regional Offices

For additional information on acquiring Federal surplus property in the GSA region serving your area contact:

Director
Federal Supply Service Bureau
General Services Administration
Region _____

National Capital Region

(Washington, DC, and nearby Maryland and Virginia)
7th and D Sts., SW
Washington, DC 20407
(202) 472-5000

Region 2

(New Jersey, New York, Puerto Rico, and Virgin Islands)
26 Federal Plaza
New York, NY 10278
(212) 264-3930

Region 4

(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee)
75 Spring Street, SW
Atlanta, GA 30303
(404) 331-2949

Region 6

(Iowa, Kansas, Missouri, and Nebraska)
9001 State Line Road
Kansas City, MO 64114
(816) 523-7050

Region 8

(Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming)
Bldg. 41-Denver Fed. Ctr.
Denver, CO 80225
(303) 236-7547

Region 10

Alaska, Idaho, Oregon, and Washington)
GSA Center
Auburn, WA 98002
(206) 931-7563

Region 1

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)
Boston Federal Office Building
10 Causeway Street, 9th floor
Boston, MA 02222
(617) 565-7300

Region 3

(Delaware, Maryland, and Virginia (except Washington DC, metropolitan area), Pennsylvania and West Virginia)
Ninth and Market Sts.
Philadelphia, PA 19107
(215) 597-7000

Region 5

(Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin)
230 S. Dearborn Street
Chicago, IL 60604
(312) 353-5504

Region 7

(Arkansas, Louisiana, New Mexico, Oklahoma, and Texas)
819 Taylor Street
Fort Worth, TX 76102
(817) 334-4824

Region 9

(Arizona, California, Commonwealth of the Northern Mariana Islands, Guam, Hawaii, and Nevada)
525 Market Street
San Francisco, CA 94105
(415) 974-9234

State agencies obtain property by screening for it at military bases and other Government installations within their territories, and screening efforts vary significantly. While screening is done by State agency personnel, individual agencies may request to be allowed to screen for property. Screening by prospective recipients has a distinct advantage in that items can be viewed at their respective locations and decisions made whether they are suitable for use before expenses are incurred for shipping the items to recipients' locations.

If particular items desired by a department are not available, each State agency may transmit individual requests to regional GSA offices (see table 3), so that a nationwide search can be made in an attempt to locate equipment. If the equipment is not located as a result of the search, a "wish list" is maintained, and the requester will be notified by the State agency when suitable items are available.

FBI

Footnotes

¹18 U.S.C. sec. 1385, entitled "Use of Army and Air Force as Posse Comitatus"; previously cited as 10 U.S.C. sec. 15.

²10 U.S.C. sec. 371-378 (Public Law 97-86, effective 12/1/81).

³10 U.S.C. sec. 371.

⁴10 U.S.C. sec. 372.

⁵10 U.S.C. sec. 373(a).

⁶Department of Defense Directive 5525.5 (revised 1/15/86), entitled "DOD Cooperation with Civilian Law Enforcement Officials."

⁷The military services implementing directives referred to are as follows: Army regulation 500-51, entitled "Support to Civilian Law Enforcement"; Secretary of the Navy Instruction 5820.7A, entitled "Cooperation with Civilian Law Enforcement Officials"; Air Force Regulation 55-35, entitled "Operations Support to Civilian Law Enforcement Officials."

⁸For a more complete listing of the types of permissible direct assistance to civilian law enforcement, see enclosure 4 of the Department of Defense Directive 5525.5.

The process for obtaining surplus property varies from State to State. Most agencies operate on a self-sustaining basis by assessing recipients a modest service charge to cover handling, transportation, and administrative expenses. In all cases, requesting

agencies must establish eligibility. This requires the completion of certain forms by the requesting police agency, which are submitted to the appropriate State agency and retained as a matter of record.

Benevolent Interrogation

"... the best techniques for obtaining a confession are the time-honored principles of persuasion."

By

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and

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EDITOR'S NOTE:

This article does not advocate the use of threats or promises; instead, it discusses techniques of persuasion. It does not address the legal requirements for obtaining an admissible confession. Law enforcement officers should consult their legal advisers concerning legal requirements and permissible persuasive techniques.

"There's no use talking to that guy anymore. Even though we know he robbed that store, he'll never admit to anything." How often have we heard some version of this statement made about a recently arrested subject? Often enough to convince us of the futility of trying, in most cases, to obtain a confession. Fortunately, many law enforcement agencies have at least one officer who responds, "Well, let me

talk to him anyway, and I'll see what I can do." He later emerges from the interview room with a signed statement in which the subject not only admits his own guilt but also identifies his accomplices. Fellow officers often attribute this consistent success to unteachable, intuitive powers that few officers are able to develop, even after years of experience.

Before accepting this theory, let's examine that officer's interrogation techniques. Then we can determine if his methods substantiate the idea that he possesses magical powers or refute it by showing that his tactics can be duplicated.

The Successful Interview

The handcuffed subject is sitting in the interview room when the officer enters, identifies himself, and says, "Let me take those cuffs off. You've been here for some time. Do you need to go to the restroom, get a drink of water, or

something?" If the subject has such a request, the officer ensures that it is granted.

Next, the officer states, "We've got a problem here, and we need to talk about it, but we both know we can't until I'm sure you understand your situation. I have an advice of rights form which I'm going to read to you, but I'll bet you know as well as I do what it says, don't you? How about showing me what you know?"

The subject responds by paraphrasing the *Miranda* warning. The officer then reads the form aloud, compliments the subject on his knowledge, confirms that he understands his rights, and requests that he sign the form. The subject says he has nothing to hide and is willing to talk. However, he says he will not sign anything.

The officer explains the circumstances of the subject's arrest, noting his denial. He requests details of the

subject's activities beginning well before the time of the robbery and ending with his arrest. The officer listens intently to the subject's account, intervening only to encourage him to continue.

After the subject has told his story, the officer reviews it step by step and asks for elaborations on each point. He repeats this process many times, occasionally requesting that the subject start at the arrest and tell his story in reverse. The officer continually asks for more details, but at no time during this lengthy process does he accuse the subject of being involved in the robbery.

When the subject is finished, the officer begins a virtual monolog about robbery. He states that although he does not condone it, he does understand how people in desperate circumstances might regard robbery as the only available recourse. A lack of opportunity due to social injustices, combined with a need to support themselves and their families, can cause people to take desperate actions. The subject makes no comment but nods his head in agreement.

Next, the officer suggests that no one initially chooses armed robbery as a career. Usually, he arrives at that point via a gradual process, beginning with minor violations committed more for the thrill of the acts than for profit. However, like the heroine addict who requires an ever-increasing dosage to obtain the same effect, the petty criminal graduates to where nothing short of using a gun and wielding power over others will furnish the thrill once provided by lesser crimes.

The officer then says, "But you already knew everything I've just said, just as you already knew about your *Miranda* rights. Now let me tell you a few things you don't know." He then de-

scribes robbery as a career that is very limited in duration and profit, disputing the rationalization that robbery is a solution to one's problems. "Sometime soon, you're going to walk into a store and point your gun at a clerk who, instead of doing as you tell him, is going to reach for that gun under the counter. You are now in the position of kill or be killed. Either way, you lose." The officer concludes by emphasizing the inevitable result of this pattern of crime—life in prison or death. The subject, suggests the officer, can avoid this fate only by breaking this pattern of behavior. The first step must be to admit that it exists. The officer adds that a man's life should not be judged on one mistake, nor should his life be wasted by a refusal to admit that mistake.

Next, the officer confronts the subject with the fact that a second subject in the robbery is still free, probably enjoying the fruits of the crime while the subject pays the penalty. The officer notes that the accomplice has done nothing to help the subject. He further points out that loyalty must be a two-way process; otherwise, it is not loyalty but just another example of the subject being victimized by those around him.

After pausing for a few minutes to allow the subject to think about what he had been told, the officer resumes his monolog by noting that the subject had dealt previously with the justice system. The officer wonders if the subject believes he had been treated unfairly, that perhaps his sentences for minor offenses were harsher than those received by others for similar crimes. He then points out that the subject pled "not guilty" each time he had been arrested. The officer suggests that judges base their decisions on many factors, one of which is the attitude of the person convicted. Although there are no guarantees, one can hardly expect a judge to be understanding and lenient

unless the subject has shown remorse. This is impossible unless the subject admits his mistake. The officer warns the subject not to allow fear to dictate his thinking. "Fear prompts irrational behavior and causes people to do stupid things. An intelligent man would recognize when it is in his own best interest to admit a mistake."

Throughout the interview, which lasts for several hours, the officer responds to the physical and emotional needs of the subject. Although he uses an empathetic approach, he demonstrates an absolute resolve to overcome any defense the subject might use. This benevolent dominance by the officer, combined with the ever-dwindling list of viable alternatives for the subject, eventually results in the subject's confession.

Analyzing the Interview

Before examining what the officer said or did that resulted in the subject's confession, we should note the things he did *not* do. Certainly, his tactics would have disappointed most of the general public, as well as many people in law enforcement, who base their concept of the ideal interrogator on models provided by television. The officer was no Jack Webb demanding "nothing but the facts," nor was he Perry Mason using cleverly constructed questions to trap the unwary culprit. And a Kojak threatening to "scatter your brains from here to White Plains," he definitely was not. The officer had learned that in the absence of strong evidence, none of these tactics generally produces a confession.

Instead, the officer has learned that the best techniques for obtaining a confession are the time-honored principles of persuasion. Beginning with the

"Credibility is a critical element of both persuasion and interrogation...."

incident in the garden, when the serpent convinced Eve to taste the forbidden fruit, man has been influenced more by persuasion than by tricks or threats.

Although there are many subtleties and variations of persuasion as it applies to interrogation, its basic principles are readily understood when we view them in a familiar context, such as the medium of advertising. By examining the various ploys used by advertisers, and then comparing these techniques with those used by the interrogator, we will see how the same principles of persuasion apply in each. This comparison, we hope, will dispel the idea that successful interrogation is a magical process.

Establish Credibility

This technique can be observed regularly via astronauts selling cold remedies, models endorsing beauty products, etc. The interrogator approaches the interview with a degree of credibility based on his position, badge, and uniform, but he avoids the mistake of relying on these trappings, and instead, recognizes that credibility is a quality which must be enhanced through professional behavior. The interrogator's demeanor and knowledge of the subject's background and facts of the case contribute to this enhancement. Credibility is a critical element of both persuasion and interrogation, and without it, all other attributes and techniques are meaningless.¹

Create A Feeling of Reciprocity

Salesmen take clients to lunch and obtain signed contracts beyond that which the client intended. Car dealers give children fifty-cent balloons and the

parents purchase \$14,000 automobiles. These salesmen know that people respond to gifts by returning, not in kind, but far in excess of the initial gift.² The interrogator, by providing the token gifts of coffee, water, and other minor comforts, puts the subject in his debt. Though this alone will not produce a confession, it increases the chance that the subject, at least, will feel obligated to listen to the interrogator.

Provide Compliments

Ads often appeal to "those with discriminating taste" to sell products priced far beyond others that would fulfill the same needs. The ads succeed because they make the buyers feel good about themselves, and they associate this good feeling with the products.³ The officer's technique of complimenting the subject on his initial knowledge of the *Miranda* warning and his references to the subject's intelligence were designed to do just that.

Know Your Audience

Vast sums of money are spent in marketing research to determine the tastes of various segments of society, in terms of both desired products and methods of appeal. The results indicate which new products to market, the characteristics of potential buyers, and the sales techniques most likely to achieve results. The officer conducted his "marketing research" during the initial phase of the interrogation by repeatedly asking the subject for minute details of his story. He was ensuring himself of the subject's guilt and determining the tactics most likely to lead to a confession.⁴

Convey A Sense of Urgency

"Sale Ends Tomorrow," "Limited Offer," and "Get Them While They Last" are all statements aimed at overcoming a buyer's inertia. They use the

principle that anything becoming scarce has a higher perceived value.⁵ The officer introduces a feeling of urgency by saying that this interview is the subject's last opportunity to avoid a life in prison or death.

Cast Doubts On Current Beliefs

To introduce successfully new products into competition against established brands, ad agencies not only sound the virtues of the new products but they also subtly raise some doubts about the quality of existing products. These doubts cause the buyer discomfort and he seeks relief by the most convenient means—by trying the new product.⁶ Thus, the officer raises doubts about the loyalty of the subject's associate. He then exploits the doubts by giving evidence that the loyalty does not exist, while redefining what loyalty is.

Rearrange Values

Ads aimed at convincing people to invest in long-term programs deliberately try to rearrange values by appealing to the buyer's higher ideals. If the appeal sounds genuine, the buyer's behavior may be modified.⁷ "Buying your grandson a bicycle would be nice, but let's compare that to the benefits of starting a college fund for him." Offering a future of respect and self-worth is the officer's method of attempting to supplant the subject's immediate goal of avoiding punishment.

Provide Acceptable Reasons

Few, if any, commercials advocate purchasing luxury items or taking extravagant vacations at the expense of food, clothing, shelter, or a child's education, even though some buyers may be required to make these kinds of decisions. Instead, ads will be steeped

in terms like "enhancing one's lifestyle" and "you owe it to yourself." These, and similar phrases, help minimize guilt and maintain the buyer's self-respect.⁸ The interrogator recognizes the subject's need for self-respect and addresses it by using moderate language to seemingly reduce the severity of the crime. He uses the word "mistake" instead of crime. He also attempts to give some logical, ostensibly justifiable reasons for the subject's actions.

Conclusion

The above interrogation techniques are not new or mysterious strategies known only to a select few. They

are nothing more than the practical application of a few fundamental principles. Whether it be a merchant selling his products, a politician winning votes, or an interrogator obtaining a confession, the same basic principles of persuasion apply. These principles have been studied and the findings set forth in works from Aristotle to Dale Carnegie. The interrogators who fail to take advantage of this readily available information, choosing instead to adhere to the premise that success is based on some inherent magical power, perpetuate the myth of the "chosen few."

FBI

Footnotes

¹L. Cooper, *Rhetoric* (Aristotle trans.) (New York: Appleton-Century, 1932).

²B. Cialdini, *Influence* (New York: Quill, 1984).

³Ibid.

⁴W. Holmes, "Interviewing and Interrogation," (lecture) FBI Academy, Quantico, VA.

⁵Supra note 2.

⁶L. Festinger, *A Theory of Cognitive Dissonance* (Stanford, CA: Stanford University Press, 1957).

⁷M. Rokeach, *Beliefs, Attitudes and Values: A Theory of Organization and Change* (San Francisco, CA: Jossey-Bass, 1969).

⁸A.H. Maslow, *Motivation and Personality*, 2d ed. (New York: Harper and Row, 1970).

Crime Index Shows Crime on the Rise

Preliminary data released by the FBI's Uniform Crime Reporting (UCR) program show that serious crime rose 6 percent from 1985 to 1986, as measured by the FBI's Crime Index. Unlike the Department of Justice's Bureau of Justice Statistics, which attempts to measure both reported and unreported crime, UCR statistics gauge changes in the volume of crime *reported* to law enforcement agencies throughout the Nation.

The 1986 Crime Index increase was the largest since 1980, and all offenses comprising the Index showed upswings, as compared to the previous year's totals. Violent crime was up 12 percent, while the property crimes rose 6 percent. Among violent crimes, murder and robbery each increased 9

percent; forcible rape, 5 percent; and aggravated assault, 15 percent. Of the property crimes, burglary and larceny-theft were both up by 5 percent, motor vehicle theft increased 11 percent, and arson rose 3 percent.

All regions of the country experienced increases in the Crime Index in 1986. The biggest upward trend was in the South, which registered a 10-percent rise. Elsewhere, the Index rose 6 percent in the West, 4 percent in the Midwest, and 3 percent in the Northeast.

Nationwide, cities with populations over 50,000 averaged a 7-percent increase in the Crime Index, while suburban areas averaged a 6-percent rise. The Nation's rural areas experienced an Index increase of 3 percent.

Fourth Amendment Rights of Law Enforcement Employees Against Searches of Their Workspace

By

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

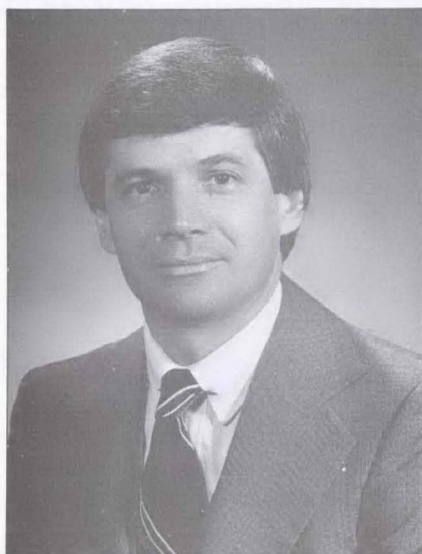
Public employees are not, by virtue of their employment, deprived of the protection of the U.S. Constitution, and the Supreme Court has ruled that police officers "are not relegated to a watered-down version of constitutional rights."¹

However, the government has an interest in the integrity of its law enforcement officers which may justify some intrusions on the privacy of officers which the fourth amendment would not otherwise tolerate.² Recently, in the case of *O'Connor v. Ortega*,³ the Court examined the constitutionality of workplace searches of a public employee's office, desk, and file cabinet and concluded that public employers must be given wide latitude to search employee workspace for work-related reasons. Lower courts have also addressed that issue in the context of law enforcement employment. These decisions set forth the legal principles that govern such searches and are of obvious interest to administrators and employees in law enforcement organizations. This article examines those decisions and offers some recommendations to assist in the development of organizational policy and procedures that are consistent with fourth amendment requirements and also meet legitimate law enforcement objectives.

FOURTH AMENDMENT PROTECTION IN THE WORKPLACE

The fourth amendment protects "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures," and searches and seizures by government employers or supervisors of the private property of their employees are subject to the restraints of the fourth amendment.⁴ The strictures of the fourth amendment have been applied to the conduct of government officials in various civil activities, including searches of employee workspace by government employers for the purpose of determining whether any administrative or personnel action is warranted or for other reasons. Fourth amendment protection is not limited to only investigations of criminal behavior but can also protect public employees when a workplace search infringes their reasonable expectation of privacy.

For definitional purposes, the terms "workplace" or "workspace" in this article include those areas and items related to work and generally within the employer's control, such as offices, desks, file cabinets, and lockers. These areas remain part of the "workplace" even if an employee places personal items in them. However, an item does not necessarily become part of the "workplace" merely because it passes through the confines



Special Agent Schofield

of a government facility. For example, an employee may bring closed luggage, a handbag, or a briefcase to the office. Such items do not necessarily become part of the "workplace" for purposes of determining whether the employee has a reasonable expectation of privacy in their contents.

Supreme Court Decision

On March 31, 1987, the Supreme Court announced its decision in *O'Connor v. Ortega*, which addresses two issues of importance to public employers and employees. First, under what circumstances do public employees have a reasonable expectation of privacy in their workspace? Second, where an expectation of privacy exists in a particular workspace area, when and under what conditions may public employers search such areas? A proper understanding of the *O'Connor* decision and its implications for law enforcement organizations requires a careful review of the facts.

Facts and Procedural History

Dr. Ortega was an employee of a State hospital and had primary responsibility for training physicians in the psychiatric residency program. Hospital officials became concerned about possible improprieties in his management of the program, particularly with respect to his acquisition of a computer and charges against him concerning sexual harassment of female hospital employees and inappropriate disciplinary action against a resident. While he was on administrative leave pending investigation of the charges, hospital officials, allegedly in order to inventory and secure State property, searched his office and seized personal items from his desk and file cabinets that were used in

administrative proceedings resulting in his discharge. No formal inventory of the property in the office was ever made, and all other papers in the office were merely placed in boxes for storage. In a subsequent civil suit against hospital officials, Dr. Ortega alleged that the search of his office violated the fourth amendment. The U.S. Court of Appeals for the Ninth Circuit concluded that the search unconstitutionally intruded on his reasonable expectation of privacy because the office had a locked door, contained confidential and personal files, and had been occupied by Dr. Ortega for 17 years.⁵

The Supreme Court unanimously concluded that Dr. Ortega had a reasonable expectation of privacy in his desk and file cabinets, and five Justices agreed he had a similar expectation in his office. Disagreement on the Court centered on the appropriate standard of reasonableness that should govern workplace searches. A plurality of four Justices, in an opinion authored by Justice O'Connor, voted to remand the case to the district court to determine whether hospital officials were justified by legitimate work-related reasons to enter Dr. Ortega's office and also to evaluate the reasonableness of both the inception of the search and its scope.⁶ Justice Scalia concurred, but disagreed with the plurality's reasonableness analysis. Four dissenting Justices concluded that the search of Dr. Ortega's office violated the fourth amendment because there was no justification to dispense with the warrant and probable cause requirements.⁷

Expectation of Privacy Analysis

The Court unanimously rejected the argument that public employees lose their fourth amendment rights as a condition of public employment and can never have a reasonable expectation of

"The great variety of work environments requires a case-by-case analysis to determine whether an expectation of privacy in workspace is reasonable in light of a particular employment relationship."

privacy in workspace.⁸ An employee's expectation of privacy in workspace may be reduced by actual business practices and procedures or be so open to fellow employees or the public that no expectation of privacy is reasonable.⁹ The great variety of work environments requires a case-by-case analysis to determine whether an expectation of privacy in workspace is reasonable in light of a particular employment relationship. The Court concluded that Dr. Ortega has a reasonable expectation of privacy because he had occupied his office for 17 years, did not share his desk or file cabinets with any other employee, and the hospital had not established any reasonable regulation or policy discouraging employees from storing personal papers and effects in their desks or file cabinets.¹⁰

Reasonableness Determination

The warrantless search of Dr. Ortega's office must meet the reasonableness test of the fourth amendment. The appropriate standard of reasonableness depends on the context within which a search takes place and is determined by balancing "... the invasion of the employees' legitimate expectations of privacy against the government's need for supervision, control and the efficient operation of the workplace."¹¹ In that regard, a majority of the Court concluded that "... requiring an employer to obtain a warrant whenever the employer wished to enter an employee's office, desk, or file cabinets for a work-related purpose would seriously disrupt the routine conduct of business and would be unduly burdensome."¹² A probable cause requirement for such work-related searches was also rejected as an inappropriate standard be-

cause it "... would impose intolerable burdens on public employers."¹³ Instead, the plurality adopted the lesser standard of reasonableness (also referred to as reasonable suspicion)¹⁴ to regulate employer workspace searches:

"Ordinarily, a search of an employee's office by a supervisor will be justified at its inception when there are reasonable grounds for suspecting that the search will turn up evidence that the employee is guilty of work-related misconduct, or that the search is necessary for a noninvestigatory work-related purpose such as to retrieve a needed file."¹⁵

Justice Scalia expressed somewhat differently his understanding of the appropriate standard to govern such searches:

"Government searches to retrieve work-related materials or to investigate violations of workplace rules—searches of the sort that are regarded as reasonable and normal in the private-employer context—do not violate the Fourth Amendment."¹⁶

Despite these differing formulations of the appropriate standard of reasonableness, a majority of the Court would probably reach the same result in most cases and uphold employer workspace searches that are reasonably employment-related.

It is important to note that the Court's determination of a reasonableness standard in *O'Connor* is limited to certain types of employer searches. The Court acknowledges "... the plethora of contexts in which employers will have an occasion to intrude to some extent on an employee's expectation of privacy"¹⁷ and restricts the precedential value of its reasonableness determination in *O'Connor* to "... either a nonin-

vestigatory work-related intrusion or an investigatory search for evidence of suspected work-related employee misfeasance. ..."¹⁸ In that regard, the Court offered the following three examples of legitimate work-related reasons for employers to search employee workspace: (1) The need for correspondence or a file or report available only in an employee's office while the employee is away from the office; (2) the need to safeguard or identify State property or records in an office in connection with a pending investigation into suspected employee misfeasance; and (3) a routine inventory conducted for the purpose of securing government property. Finally, it is important to note that the Court in *O'Connor* declined to address the appropriate reasonableness standards for situations where "... an employee is being investigated for criminal misconduct or breaches of other nonwork-related statutory or regulatory standards."¹⁹

Lower Court Decisions Involving Law Enforcement

While there is surprisingly little case law on the appropriate fourth amendment standard of reasonableness for a law enforcement employer's work-related search of employee workspace, courts that have addressed the issue are consistent with the holding in *O'Connor* in three respects. First, law enforcement employees, like other public employees, can acquire a reasonable expectation of privacy in their offices, desks, lockers, and other workspace areas. Second, the existence of a legitimate inspection policy may defeat an employee's expectation of privacy. Third, workplace searches that implicate an employee's reasonable expectation of privacy must meet the fourth amendment's test of reasonableness.

It should be noted that while the lower court decisions discussed below were decided prior to *O'Connor*, the holdings retain precedential significance to the extent they are compatible with the Court's constitutional analysis. Not surprisingly, some of these decisions reveal analytical disagreement similar in kind to that which emerged from the Court in *O'Connor*. To be consistent with the decisional methodology used by the Court, this discussion examines lower court decisions by addressing as separate issues the following two questions that are pertinent to any workplace search: (1) What factors determine whether a law enforcement employee has a reasonable expectation of privacy? and (2) what constitutes a reasonable search?

Factors that Determine Privacy in Workspace

The Court in *O'Connor* unanimously rejected the argument that public employees never have a reasonable expectation of privacy in their workspace. As a general rule, courts determine on a case-by-case basis whether employees have a reasonable expectation of privacy by focusing on the operational realities of the workplace, including the area's openness to others, the existence of an inspection policy, and the nature of a particular employee's responsibilities. Courts also seem influenced by the fact a particular workplace search was aimed at gathering evidence of criminal misconduct as opposed to purely administrative work-related intrusions which employees should reasonably expect to occur.

In *United States v. Speights*,²⁰ the U.S. Court of Appeals for the Third Circuit ruled unconstitutional the warrantless search and seizure of a sawed-off

shotgun from a police department locker which was assigned to Officer Speights. The court recited the lengthy facts of the case as follows:

"In the course of an investigation into a breaking and entering ring, the police chief, at the request of the prosecutor, consented to having a sergeant open eight lockers, including Officer Speights' which was secured by both a police-issued lock and a personal lock. The sergeant opened the issued lock with a master key and he sawed off the personal lock with bolt cutters. Of the 113 police lockers, forty or fifty percent were secured by personal locks. In fact, seven of the eight lockers opened by the sergeant had personal locks which had to be sawed off. The eleven most recently purchased police lockers did not have issued locks and could only be secured with personal locks. There was no regulation concerning the use of private locks on the lockers. No officer had been given permission to put a personal lock on the locker, nor had any officer been told that such locks were impermissible or been required to provide the department with a duplicate key (or combination). A master key to the issued locks was available to those police officers who might have misplaced their key and this was common knowledge. In fact, Speights admitted he was aware of the existence of the master key. There was no regulation as to what officers might keep in their lockers. The lockers were often utilized for safekeeping personal belongings as well as police equipment. No officer was ever forbidden from keeping personal items in the locker. There was no regulation or notice to the ranks that the lockers might be searched. However, on one occa-

sion three years earlier, a search was conducted of an officer's locker who another officer had claimed was in possession of the latter's weapon. In addition, in the past twelve years there were three or four routine inspections of the lockers to check on cleanliness."

The court ruled that Speights had a reasonable expectation of privacy in his locker by virtue of the police department's acquiescence in his attempt to secure privacy by permitting the use of personal locks and by not requiring that duplicate keys or combinations be made available to the department.²¹ The court rejected the government's claim that the following operational realities of the department negated Speights' expectation of privacy: (1) The need to search for confiscated property or contraband; (2) some lockers could be opened with a master key; (3) lockers were primarily used for the storage of police equipment; and (4) the locker was owned by the government, not Speights.²² The court ordered suppression of the sawed-off shotgun because the locker search for evidence of criminal misconduct violated a constitutionally justified expectation of privacy.²³ The court did not determine, however, the appropriate standard of reasonableness to govern employer searches for evidence of criminal misconduct and whether a lesser standard would apply to noncriminal work-related intrusions.

In *United States v. McIntyre*,²⁴ the U.S. Court of Appeals for the Ninth Circuit ruled that an assistant chief of police had a reasonable expectation of privacy in his office which was violated when the chief of police approved the bugging of the office with a briefcase equipped with a microphone and transmitter. The court considered the follow-

"In law enforcement organizations, the reasonableness of workplace searches depends on the nature of law enforcement and the responsibilities of the employee involved."

ing factors relevant in finding a reasonable expectation of privacy in the office: (1) Normal conversations in the office could not be overheard, even when the doors were open; (2) there was no regulatory scheme or specific office procedure which would have alerted the assistant chief to expect random monitoring of his conversations; and (3) the "bugging" was not part of an "internal affairs investigation" or a search for lost government property, but part of a criminal investigation.²⁵

The most important factor in this reasonable expectation of privacy analysis is the existence of a valid inspection policy. Lower courts have consistently held that a valid inspection policy may diminish or defeat an employee's claim of privacy in workspace.²⁶ The constitutional legitimacy of such policies for law enforcement organizations is premised on the heightened need for discipline, integrity, and credibility. In that regard, a Federal district court ruled in *Los Angeles Police Protective League v. Gates*²⁷ that a police officer had no reasonable expectation of privacy in his locker because of the existence of a valid government regulation providing that police lockers could be searched in an officer's presence, with his consent, or where he has been notified that a search will be conducted.²⁸

In *Shaffer v. Field*,²⁹ a Federal district court concluded that a deputy sheriff had no reasonable expectation of privacy in his locker. The court considered the following factors in determining the deputy's expectations were not reasonable: (1) The nature of the allegations prompting the locker search related to a matter of serious official misconduct; (2) the search was to determine whether he had any unauthorized service revolvers; (3) lockers were owned

by the department; (4) the locks given deputies had both keys and combinations and the commander kept a master key and the combination to all locks; (5) lockers and locks could be changed at the discretion of the sheriff; and (6) lockers had been searched by commanders without the deputies' permission on at least three prior occasions. The court emphasized that law enforcement organizations have a substantial interest in assuring not only the appearance but the actuality of police integrity, and that it is not unreasonable that they have the right to inspect lockers so that the public may have confidence in law enforcement employees.³⁰

What Constitutes a Reasonable Search?

The fourth amendment guarantees freedom from unreasonable searches and seizures. It does not protect against all governmental intrusions but only those that are unreasonable. If a particular intrusion into employee workspace does not invade an employee's reasonable expectation of privacy, the fourth amendment is not implicated. The preceding discussion illustrates how an inspection policy and other workplace realities can defeat an employee's privacy claim. However, where employees retain a reasonable expectation of privacy—albeit diminished—in a particular workspace area, the fourth amendment requires that employer intrusions meet the test of reasonableness.

A reasonableness analysis determines whether probable cause or some lesser standard should govern a particular workplace search. Determining the appropriate standard of reasonableness depends on the context within which a search takes place and requires a case-by-case balancing of competing interests. With respect to

workplace searches, courts balance the invasion of an employee's legitimate expectations of privacy against the government's need for supervision, control, and the efficient operation of the workplace. The nature of the employment is a relevant factor in this balancing process.³¹

In law enforcement organizations, the reasonableness of workplace searches depends on the nature of law enforcement and the responsibilities of the employee involved.³² In that regard, employee discipline and obedience to rules and regulations is essential in the quasi-military environs of a law enforcement organization; supervisors must have the flexibility to move swiftly and decisively to search employee workspace to prevent and/or detect any transgressions. Law enforcement employees are also given access, by virtue of their employment, to classified and confidential information, and supervisors need wide latitude to search employee workspace to uncover any breaches of security and to retrieve pertinent files and papers. Government also has a heightened interest in police integrity. Law enforcement officers interact with the public in ways that require a high degree of trust and confidence. The public rightly expects that officers who work to enforce the law will also obey the law, and the ability of law enforcement officers to offer credible testimony is dependent on their integrity which must be above reproach.

The purpose or reason for a particular workspace search is another relevant factor in determining reasonableness. Workplace searches in law enforcement organizations occur for a variety of reasons, including: (1) The need to secure government property, such as a gun or badge; (2) the need to retrieve a file or government documents

believed to be in an officer's locker or desk; (3) the need to seize evidence of work-related misconduct or improper performance; and (4) the need to gather evidence of criminal misconduct. A majority of the Court in *O'Connor* recognized that "... employers most frequently need to enter the offices and desks of their employees for legitimate work-related reasons wholly unrelated to illegal conduct."³³ By implication, the Court suggests that a different standard of reasonableness might govern workplace searches for evidence of criminal activity unrelated to employment.

Lower courts have also suggested that the appropriate standard of reasonableness depends on whether a particular workplace search was administrative in nature and work-related or aimed at uncovering evidence of criminal misconduct unrelated to public employment.³⁴ That distinction has less significance for workspace searches in law enforcement organizations where suspected criminal activity by employees frequently constitutes a legitimate work-related reason for conducting a search. Workspace searches in law enforcement organizations, even for the sole purpose of discovering evidence of criminal activity, may be related to law enforcement employment because of a heightened governmental need for officer integrity and credibility. The U.S. Court of Appeals for the Fifth Circuit held that the search of a Federal employee's office and desk was reasonable because the employer's investigation of suspected employee misconduct "... was within the outer perimeter of ..." the employer's line of duty.³⁵ Suspected criminal activity by a law enforcement employee is arguably always related to and within the outer perimeter of law enforcement responsibilities.

Courts have applied a similar rationale to justify strip searches of law enforcement employees on a reasonable suspicion standard, even though such searches would probably not be reasonable for public employees whose employment responsibilities did not involve a heightened need for integrity and credibility.³⁶

Developing a Valid Inspection Policy

Workplace searches conducted without a valid inspection policy are likely to implicate an employee's reasonable expectation of privacy and must meet the appropriate standard of reasonableness. A valid organizational policy providing for the reasonable inspection of employee workspace offers the best protection against legal problems emanating from workplace searches. Courts have consistently ruled that a reasonable organizational inspection policy will reduce or defeat an employee's privacy expectations and provide a legal basis for subsequent workspace searches conducted pursuant to that policy.³⁷ However, governmental policies providing for inspections or searches of workspace are only enforceable by employers if they are reasonable under the fourth amendment. Governmental employers do not have the power through the adoption of inspection policies "... to refashion the contours of the Fourth Amendment merely by proclamation."³⁸

The reasonableness of a particular policy depends on the nature of the employer's responsibilities and should be carefully tied to organizational goals and objectives. In this regard, a Federal district court upheld a regulation providing for the random spot checking of bags, packages, and large parcels carried by employees leaving the workplace. Concluding that the package control system adopted by the employer was a reasonable method of

coping with a serious pilferage problem, the court ruled that the reasonableness of a particular inspection policy is dependent on "... the strength of the public necessity for the search; the efficacy of the search; and the degree and nature of the intrusion upon the individual."³⁹ The court noted with approval that the policy provided employees with an alternative procedure to check their personal effects upon entering the workplace, thereby avoiding "... all risk of a random spot check."⁴⁰

Governmental interests in the integrity and credibility of law enforcement personnel and the need to protect confidential information establish a compelling justification for the adoption of a reasonable workspace inspection policy that may be broader in scope than would be constitutionally permissible for other public employees.⁴¹ In *Lederman v. New York City Transit Authority*,⁴² the court held that the employer's authority to inspect the locker it provided a patrolman reasonably extended to all its contents, including a locked box found therein. Some jurisdictions have adopted more-limited inspection policies that provide for the warrantless search of workspace only in the employee's presence, or with his consent, or after he has been notified that a search will be conducted.⁴³ In some cases, it may be appropriate to limit an inspection policy to government-owned property.

Law enforcement organizations that choose to adopt a workspace inspection policy should do so in writing and carefully tailor the scope of the inspection authority to documented institutional needs and objectives. Workspace searches should be no more intrusive than reasonably necessary to accomplish those goals. The policy should include a statement regarding the personal effects that employees bring into the workplace and the extent

"A valid organizational policy providing for the reasonable inspection of employee workspace offers the best protection against legal problems emanating from workplace searches."

to which such items are subject to search. Finally, records should be maintained documenting the fact that all employees have been given fair notice of the policy and its implications for workspace privacy.

CONCLUSION

The divided vote of the Court in *O'Connor* complicates the task of interpreting the decision and offering advice to law enforcement organizations regarding the constitutionality of workplace searches. Language in the opinions regarding the appropriate fourth amendment standard of reasonableness to govern workplace searches is specifically limited to "... either a noninvestigatory work-related intrusion or an investigatory search for evidence of suspected work-related employee misfeasance..."⁴⁴ While the Court did not address the fourth amendment standards governing searches for evidence of criminal misconduct or the validity of inspection policies, lower court decisions discussed in this article establish several general principles that are applicable to workspace searches in law enforcement organizations. First, law enforcement employees can acquire a reasonable expectation of privacy in their workspace areas. Second, workspace searches that invade an employee's reasonable expectation of privacy are constitutionally reasonable if based on a reasonable work-related justification. Third, workspace searches conducted pursuant to a valid organizational inspection policy are constitutionally reasonable. In that regard, law enforcement organizations should promulgate a written policy that clearly forewarns employees of the possibility of workplace searches and provides

clear notice of their privacy rights regarding personal effects carried into the workplace and in workspace such as offices, desks, lockers, and file cabinets. A valid inspection policy provides necessary guidance to administrators, promotes consistent treatment, and helps insure that workplace searches are based on legitimate governmental interests that are consistent with the reasonableness requirements of the fourth amendment.

FBI

Footnotes

- ¹*Garrity v. New Jersey*, 87 S.Ct. 616, 620 (1967).
- ²*Kirkpatrick v. City of Los Angeles*, 803 F.2d 485 (9th Cir. 1986).
- ³107 S.Ct. 1492 (1987).
- ⁴*Id.* at 1497.
- ⁵*Ortega v. O'Connor*, 764 F.2d 703 (9th Cir. 1985).
- ⁶Joining Justice O'Connor were the Chief Justice and Justices White and Powell.
- ⁷Justice Blackmun wrote the dissenting opinion and was joined by Justices Brennan, Marshall, and Stevens.
- ⁸107 S.Ct. at 1498.
- ⁹*Id.* ...
- ¹⁰*Id.* at 1499.
- ¹¹*Id.*
- ¹²*Id.* at 1502.
- ¹³*Id.* at 1501.
- ¹⁴The plurality used interchangeably the terms "reasonable grounds" and "reasonable suspicion." In that regard, Justice O'Connor wrote that "... the delay in correcting the employee misconduct caused by the need for probable cause rather than reasonable suspicion will be translated into tangible and often irreparable damage to the agency's work, and ultimately to the public interest." *Id.* at 1502.
- ¹⁵*Id.* at 1503.
- ¹⁶*Id.* at 1506 (Justice Scalia concurring).
- ¹⁷*Id.* at 1501.
- ¹⁸*Id.*
- ¹⁹*Id.* at 1504.
- ²⁰557 F.2d 362 (3d Cir. 1977).
- ²¹*Id.* at 364.
- ²²*Id.*
- ²³*Id.* at 365.
- ²⁴582 F.2d 1221 (9th Cir. 1978).
- ²⁵*Id.* at 1224.
- ²⁶See, e.g., *Gillard v. Schmidt*, 579 F.2d 825 (3d Cir. 1978) where the court ruled that "... an employer may conduct a search in accordance with a regulation or practice that would dispel in advance any expectations of privacy." *Id.* at 829. In *United States v. Donato*, 269 F. Supp. 921 (E.D. Pa. 1967), aff'd, 379 F.2d 288 (3d Cir. 1967), the court upheld the search of a mint employee's locker based on a regulation that provided: "No mint lockers in mint institutions shall be considered to be private lockers ... an employee who wishes to put his own lock on a locker assigned to him may do so only if he provides the superintendent of the institution with a duplicate key so that if necessary an inspection may be made of the contents of the locker." *Id.* at 923.
- ²⁷579 F. Supp. 36 (C.D. Calif. 1984).
- ²⁸*Id.* at 44.
- ²⁹339 F. Supp. 997 (C.D. Calif. 1972), aff'd, 484 F.2d 1196 (9th Cir. 1973).

³⁰*Id.* at 1003. In *People v. Neal*, 486 N.E.2d 898 (Sup. Ct. Ill. 1985), the court used a similar rationale to uphold the search of a State-owned raincoat pouch assigned to a particular officer. The court considered the following factors in rejecting the officer's reasonable expectation of privacy claim: The pouch was State-owned and was subject to periodic inspections by the officer's superiors under the policy and practice of the Illinois State Police; the inspections conducted were both with or without notice to the officer concerned and were within or without his presence; the officer was aware of such inspections and the manner in which they were conducted; and the inspection, as well as the search here, was limited to State-owned property related to the defendant's employment and duties.

³¹See, e.g., *Commonwealth v. Gabrielle*, 409 A.2d 1173 (Pa. Super 1979).

³²The U.S. Courts of Appeals for the Fifth and Ninth Circuits have suggested that searches of postal employees' lockers by postal inspectors based on a suspicion of theft are reasonable because of the heightened governmental interest in protecting the safety of the mail and the need to prevent and discover theft of the mails. *United States v. Sanders*, 568 F.2d 1175 (5th Cir. 1978); *United States v. Bunkers*, 521 F.2d 1217 (9th Cir. 1975), cert. denied, 96 S.Ct. 400 (1975).

³³107 S.Ct. at 1500.

³⁴In *United States v. Collins*, 349 F.2d 863 (2d Cir. 1985), cert. denied, 86 S.Ct. 1228 (1966), the court upheld the search of a work jacket belonging to a clerical employee of the Customs Service that hung in the supervisor's outer office; the court concluded the employer was not investigating a crime unconnected with the performance of a Customs employee whose job included handling valuable mail. See also, *State v. Ferrari*, 357 A.2d 286 (N.J. Super. 1976) where the court ruled that the warrantless search of the locked desk of the deputy chief of police was unreasonable because it was not necessary to the day-to-day business but part of a criminal investigation.

³⁵*Williams v. Collins*, 728 F.2d 721, 728 (5th Cir. 1984).

³⁶In *Kirkpatrick v. City of Los Angeles*, 803 F.2d 485 (9th Cir. 1986), the court held that "... in spite of the government's interest in police integrity, strip searches of police officers for investigative purposes must be supported by a reasonable suspicion that evidence will be uncovered." *Id.* at 488. The court did not decide whether evidence uncovered in an investigative search without a warrant or probable cause would later be admissible against an officer in a criminal proceeding. See also, *Security and Law Enforcement Employees v. Carey*, 737 F.2d 187 (2d Cir. 1984).

³⁷In this regard, the Court in *O'Connor* noted that an employee's expectation of privacy in workspace "... may be reduced by virtue of actual office practices and procedures, or by legitimate regulation." 107 S.Ct. at 1498.

³⁸*Chenkin v. Belleville Hospital Center*, 479 F. Supp. 207, 213 (S.D.N.Y. 1979).

³⁹*Id.* at 213.

⁴⁰*Id.* at 215.

⁴¹See, e.g., *United States v. Blok*, 188 F.2d 1019 (D.C. Cir. 1951).

⁴²317 N.Y.S.2d 976 (Sup. Ct. N.Y. 1970).

⁴³See, California Government Code §3309 and discussion of same in *Los Angeles Police Protective League v. Gates*, 579 F. Supp. 36, 44 (C.D. Calif. 1984).

⁴⁴107 S.Ct. at 1501.

WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on the fugitives' status.



Photographs taken 1971 and 1968

Ronald Stanley Bridgeforth,

also known as Benjamin Matthew Bryant. B; born 8-23-44; Berkeley, CA; 6'; 185-205 lbs; hvy bld; blk hair; brn eyes; med comp; occ-teacher; scars and marks: 3" scar left wrist and forearm, scar right heel. Wanted by FBI for INTERSTATE FLIGHT-ASSAULT ON A POLICE OFFICER.

NCIC Classification:

PMDM08POCM080611CI11

Fingerprint Classification:

8	M	25	W	MIO	Ref: 29
S	22	U	IOI	11	22

I.O. 4515

Social Security Numbers Used:

568-92-3698, 547-64-2939

FBI No. 568 064 G

Caution

Bridgeforth allegedly engaged police officers in gun battle. Consider armed and dangerous.



Right index fingerprint



Date photographs taken unknown

William Bradford Bishop, Jr.,

also known as Bradford Bishop, Bradford Bishop, Jr. W; born 8-1-36; Pasadena, CA; 6'1"; 180 lbs; med bld; brn hair; brn eyes; med comp; occ-U.S. Government Foreign Service officer; remarks: Is proficient in several languages, including Italian and Serbo-Croatian. Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:

23PI1719161913DIP116

Fingerprint Classification:

23	L	19	W	IOO	16
L	2	U	OII		

I.O. 4696

Social Security Number Used: 556-48-3489

FBI No. 497 002 L7

Caution

Bishop is being sought in connection with the bludgeon slayings of five members of his immediate family. Bishop reportedly is under psychiatric care and uses medication for depression. Consider extremely dangerous and having possible suicidal tendencies.



Right index fingerprint



Photograph taken 1976

Gary Zane Partlow,

also known as Gary Zene Partlow, Gary Z. Partlow. W; born 1-24-45; Santa Cruz, CA; 5'10"; 165 lbs; med bld; brn hair; bl eyes; ruddy comp; occ-clerk, construction laborer, hod carrier; remarks: Has worn beard and shoulder-length hair in a ponytail in the past, motorcyclist/biker.

Wanted by the FBI for INTERSTATE FLIGHT-MURDER, ASSAULT WITH INTENT TO MURDER.

NCIC Classification:

205108212112TT032918

Fingerprint Classification:

20	L	1	R	IIO	21	Ref: TTR
M	1	T	IO			TUU

I.O. 4937

Social Security Number Used: 563-60-1457

FBI No. 562 874 E

Caution

Partlow, a reported drug user, is being sought in connection with a murder in which the victim was allegedly shot with a .38-caliber weapon and assault with intent to murder another. Consider Partlow armed and extremely dangerous.



Right index fingerprint

WANTED BY THE FBI



Photographs taken 1980 and 1982

Joseph Jesse Espinoza,

also known as Joseph Espinosa, Joseph Jesse Espinosa, Joe Espinosa, Joe Espinoza, Joseph E. Espinoza, Joseph J. Espinoza, Joseph Jessie Espinoza, Joseph Espinoza, Joey Espinoza. W; born 10-29-43; Los Angeles, CA; 5' 10"; 200 lbs; lge (muscular) bld; blk hair; brn eyes; dark comp; occ-manager of pornographic book and materials stores and warehouses, operator of massage parlors; scars and marks: Scar on left forearm; tattoos: Rose and woman's face in center of chest, words "LOVE" on right shoulder, "MADRE" on right upper arm, "LOCO" on right hand between thumb and forefinger, "JOE" on inside left forearm, a devil with words "U.S. Paratrooper" on left shoulder, obliterated tattoo scar on left forefinger; remarks: Usually has mustache, sometimes has chin whiskers or goatee, reportedly uses narcotics.

Wanted by FBI for ITAR-EXTORTION; ESCAPED FEDERAL PRISONER.

NCIC Classification:

DODO151418PIPMPIPIPI

Fingerprint Classification:

15	O	24	W	OOO	18	Ref:	24
I	20	W	MII				28

I.O. 4950

Social Security Number Used: 558-56-2837
FBI No. 479 082 P2

Caution

Espinoza, a prison escapee, is being sought in connection with extortion and attempted murder wherein he directed the shooting of the victim with a .357 magnum pistol. Consider Espinoza armed, dangerous, and an escape risk.



Right ring fingerprint



Photographs taken 1974

Stephen Allen Maser,

also known as "Sam," and "Steve." W; born 7-20-49; Raleigh, NC; 5'10"; 165-175 lbs; med bld; sandy bld hair; bl eyes; med comp; occ-automobile salesman, operator boutique store; scars and marks: Surgical scar across abdomen from side to side. Wanted by FBI for BANK ROBBERY; ESCAPED FEDERAL PRISONER.

NCIC Classification:

210506141117CO071212

Fingerprint Classification:

21	M	1	U	IIO	11
L	3	W	OII		

I.O. 4669

Social Security Numbers Used:
246-78-8485, 267-82-4929

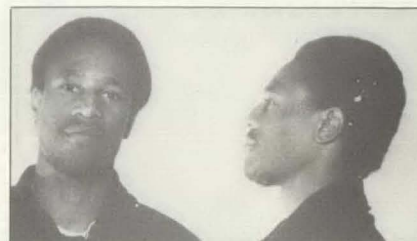
FBI No. 990 344 G

Caution

Maser, who is being sought for escape, shot at a bank manager and police during commission of a bank robbery. Consider armed, dangerous, and an escape risk.



Right thumbprint



Photographs taken 1983

Bernardo Coles,

also known as Bernard Coles, Nardo Coles, Benjamin Harris. B; born 6-15-59, Richmond, VA; 6'3", 175 lbs; med bld; blk hair; brn eyes; lt comp; occ-delivery service, gas station attendant, laborer; remarks: May have slight goatee and pierced left ear. Wanted by the FBI for INTERSTATE FLIGHT-ARMED ROBBERY; ATTEMPTED MURDER.

NCIC Classification:

13091117121209131813

Fingerprint Classification:

13	M	1	U	IOO	12
M	1	U	IOO		

I.O. 5024

Social Security Number Used: 230-90-3132
FBI No. 910 360 R6

Caution

Coles, a reported drug user, is being sought for a series of armed robberies and one attempted murder. In addition, he is wanted by local Pennsylvania authorities for armed robbery, attempted murder, and use of firearms in the commission of felonies. Coles has been known to carry a .357 magnum revolver in the past and has vowed not to be taken alive. Consider armed and extremely dangerous.



Right thumbprint

Unusual Pattern

A double loop whorl consists of two separate loop formations, with two separate and distinct sets of shoulders and two deltas. The pattern presented this month conforms to that definition; however, this particular impression, contrarily, is classified as a loop with 20 ridge counts and is referenced to a double loop whorl, inner tracing. Since the upper loop formation appears at the extreme edge of the impression, it is probable that it will not appear in a majority of subsequent printings; thus, it is discounted in determining the preferred classification. The double loop whorl reference interpretation is imperative.



Change of Address

Not an order form

FBI

Law Enforcement Bulletin

Complete this form and return to:

Director
Federal Bureau of
Investigation
Washington, DC 20535

Name _____

Title _____

Address _____

City _____

State _____

Zip _____

Washington, D.C. 20535

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

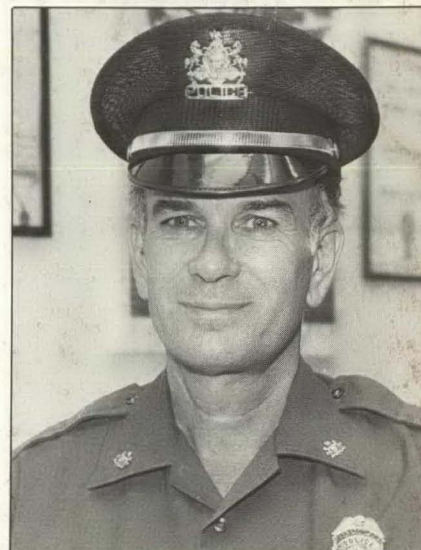
The Bulletin Notes

On July 21, 1986, Lt. Charles Tennant and Officer William Chomas of the Elizabeth Township Police Department, Clairton, PA, responded to an automobile accident. They observed a demolished Oldsmobile on fire, with its interior about to ignite. Onlookers shouted to the officers that there was a little girl trapped inside.

Lieutenant Tennant tried to free the unconscious child, whose foot was caught in the smashed interior of the car, while Officer Chomas extinguished the encroaching flames. Both officers worked in the flaming car until they pried the seat apart and rescued the 9-year-old girl. Moments later the entire car burst into flames. The Bulletin joins these officers' superiors in commending their heroic actions.



Lieutenant Tennant



Officer Chomas