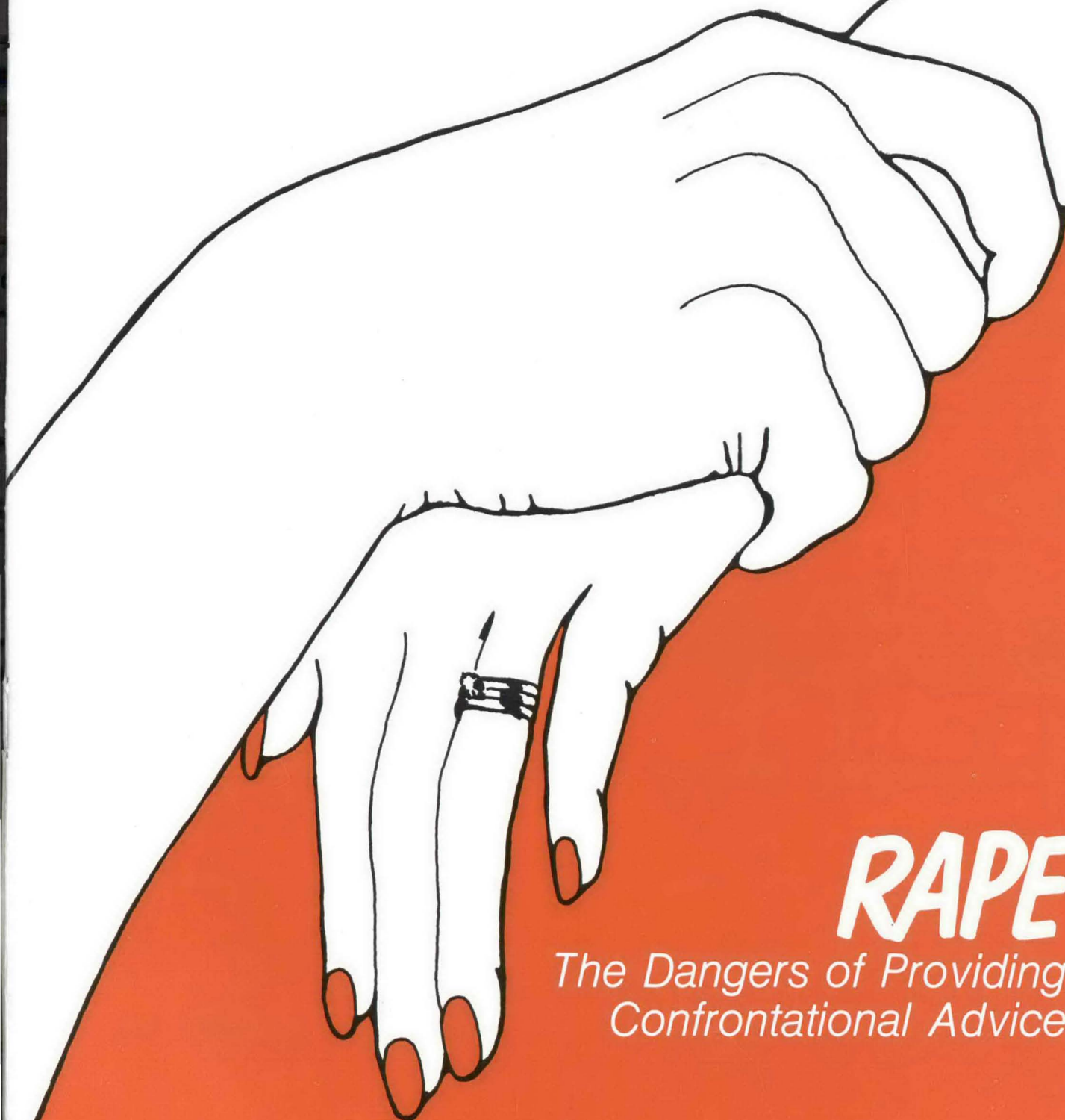




# FBI

June 1986

## **Law Enforcement Bulletin**



# **RAPE**

*The Dangers of Providing  
Confrontational Advice*

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June 1986, Volume 55, Number 6

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#### The Cover:

Confrontational advice for sexual assault situations should take into account three critical variables. See article page 1.

# FBI

## Law Enforcement Bulletin

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

**William H. Webster, Director**

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# **RAPE: The Dangers of Providing Confrontational Advice**

***“Different motives operate in different offenders and, therefore, what might be successful in dissuading one type of assailant might, in fact, only aggravate the situation with a different type of offender.”***

By  
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and  
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Recently, while addressing an audience on the topic of rape, one of the authors was asked what advice he would offer to a woman confronted with a rape situation. All too familiar with this question, he replied that he could recommend a course of action only if the person asking the question would describe to him: first, the location of the confrontation; second, the personality of the hypothetical victim; and third, the type and motivation of the particular rapist.<sup>1</sup>

This conditional response certainly disappointed the members of the audience, for they wanted an all-purpose answer that could be easily remembered and serve all situations. Unfortunately, our research and experience indicate strongly that no one piece of advice will prove valid in all or even a majority of sexual assault situations.

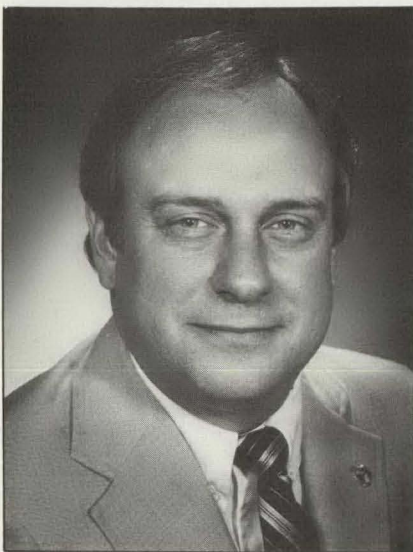
As faculty members of the Behavioral Science Unit (BSU) at the FBI Academy, we are experienced in the study of sexual violence and have worked with investigators from law enforcement communities throughout the Nation on over 1,000 rape cases. We have had the rare opportunity of personally interviewing serial rapists, and we have worked closely with professionals widely recognized for their research in, and their investigative and academic contributions to, the study of sexual violence—Dr. Ann Wolbert Burgess, University of Pennsylvania, who pioneered the identification of Rape Trauma Syndrome; Dr. Fred Berlin, Johns Hopkins Medical Center, who has led the field in treating sexual offenders with Depo-Provera; Dr. Park Elliott Dietz, University of Virginia, a recognized expert in forensic psychiatry; and Dr. A. Nicholas Groth, former director of the sex offenders' treatment program in Somers, CT, among others.

Our research and experiences indicate that there is no one specific way to deal with a rape situation. Groth and Birnbaum speak for the rapists themselves when they say, “Different motives operate in different offenders and, therefore, what might be successful in dissuading one type of assailant might, in fact, only aggravate the situation with a different type of offender.”<sup>2</sup> Consequently, we wish to first highlight the dangers of giving confrontational advice. To do so, we will report the highly conflicting advice offered by professed experts in the field and by convicted rapists, and we will analyze specific cases that demonstrate the predictability of sexual assault behavior. Second, we wish to discuss the three parameters of the sexual assault situation that might assist the potential victim in determining a reasonable course of action: 1) the confrontation environment, 2) the personality of the





Special Agent Hazelwood



Special Agent Harpold

victim, and 3) the type and motivation of the rapist. We understand that reason is necessarily clouded in unexpected confrontational situations, but we believe that consideration of these factors will yield better results for the victim than if she trusts one arbitrary response that might work or that might goad the assailant to further violence.

#### Advice from the Rapists

Occasionally, one reads an article or observes a television program in which an individual interviews one or more rapists about what a potential victim should do when confronted with a rape situation. Such a representation has great impact on its audience because the advisors are *real* rapists! Who should know better than the offender what will deter his attack? To believe the advice, however, the audience must assume that all rapists are behaviorally like the one presented to it.

As part of an ongoing research project, members of the BSU ask this same question of many rapists, men who have raped 10 or more victims, and they have elicited widely divergent answers as to what would have successfully deterred each one. Some say, "Tell them to scream, fight, claw like hell." Some, "Tell them to give in because the guy is going to rape her regardless of what he has to do." Some, "Tell her to pretend that she wants him so he will finish and leave." And others, "Tell her to bribe him with money." Which rapist should the potential victim listen to? The individual who presents rapists (and their advice) to an audience has an obligation to explain that the information provided is relevant only to the rapist providing it and should not be generalized to all rape situations.

#### Experts in the Field

Over the years, programs and techniques have mushroomed that profess to provide potential victims with the key to deterring the rapist. These programs and techniques have grown out of a variety of professions, including law enforcement, criminology, sociology, mental health, and crisis intervention. They usually advocate one or some combination of the following methods of resistance:

- Physical Resistance*: Training the individual in self-defense tactics, including knowledge of various pressure points that are sensitive to attack.
- Verbal Resistance*: Sensitizing potential victims to the effects of their tone of voice, manner, and attitude, and training them to scream, negotiate, or assertively respond to the attacker's demands.
- Noisemaking Devices*: Acquainting and equipping individuals with whistles, miniature sirens, or other such devices.
- Use of Chemicals*: Providing individuals with containers of disabling gases, such as Mace, or with repugnant odor devices.
- Use of Weapons*: Training individuals in the use of guns, keys, clubs, or stickpins in the hostile situation.
- Pretext of Pregnancy or Venereal Disease*: Advising individuals to claim pregnancy or disease to the attacker in hopes that it will appeal to his sense of humanity or to his fears.
- Vomiting, Urinating, Defecating*: Advising the individual to repel the attacker by performing disgusting physical actions.



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## ***"Victims must tailor their type of resistance to the environment in which the attack is occurring."***

---

All of these techniques certainly have their place and can be highly effective in a particular situation. But they could also be worthless or even dangerous in particular situations.

### **Case Studies**

We are certain that individuals who advocate the various methods of resistance presented above formulated them because they were employed successfully in one or more situations and present them as viable techniques with the very best of intentions. However, we are also certain that to generalize the success of one or more instances to all rape situations is not only potentially dangerous to the victim but is also irresponsible and unprofessional. The following four cases serve to illustrate the futility of providing potential victims with just one technique to deal with all rapists.

#### **CASE NO. 1**

One summer evening, a 20-year-old female was walking home after attending a movie when she noticed a car with four males inside following her. She became nervous and walked to a pay phone to call her parents. As she was explaining her fears, two of the males pulled her from the phone booth and forcibly placed her in the backseat of their car. She involuntarily defecated and urinated out of fear. This so enraged her captors that they began pummeling her and forced her to consume her own waste material. Following this, the four took turns assaulting her sexually. Finally, they tied her to the rear bumper of the car and dragged her behind the automobile before releasing her. As a result, she suffered numerous fractures and required extensive medical treatment and mental health care.

#### **CASE NO. 2**

The rapist, a white male in his late twenties or early thirties, entered the residence of a family of four. The husband and wife were out for the evening and had hired a 13-year-old girl to babysit. Brandishing a handgun, he subdued the babysitter and her young charges and forced the young girl to perform fellatio and to masturbate him. When the parents arrived home, he handcuffed the husband, forced the wife to disrobe, bound her hands behind her back, and vaginally assaulted her in the husband's presence. Up to this point, the rapist had not struck or physically harmed anyone in the home and had been emotionally calm. As the rape was occurring, the husband asked his wife if she was all right, and the wife replied, "Yes, he's being a gentleman." At this point, the rapist's attitude changed dramatically. He so brutally attacked the victim's chest with his hands that she later had to undergo a radical mastectomy of both breasts. He was later asked why he had reacted so violently to such an innocuous statement. He answered, "Who was she to tell me that I was being a gentleman? I wanted to show her who was in charge, and she found out."

#### **CASE NO. 3**

A serial murderer sexually assaulted and killed 17 women over a number of years. He had also raped and released several women during that same period. One of the released victims reported the assault to the local police department. Because she was a prostitute, little attention was given to her complaint.

Two years later, a State police agency located and interviewed the victim, and subsequently, the offender was identified, arrested, and convicted. He made a full confession, startling his interrogators when answering questions about why he did not kill all his victims. He told them that before he would kill a victim, three criteria had to be met. First, the victim must have approached him sexually (he frequented areas known for prostitutes). Second, the victim must exhibit some reluctance in performing various sexual acts, and third, the victim must make some attempt to escape. The prostitute victim mentioned earlier had met the first two criteria for death, but had made no attempt to escape even though the offender had tried to give her his weapon (unloaded). The victim had declined the weapon and stated that she didn't want to shoot anybody, she just wanted to go home.

#### **CASE NO. 4**

A 39-year-old white male sexually mistreated his wife over a number of years, even binding her and assaulting her with a hair brush. Additionally, he had raped several women and molested his two daughters, two nieces, and the daughter of a female acquaintance. During an interview about one of the rapes, he was asked what his reaction would have been had the victim resisted him either physically or verbally. He thought for several moments and replied, "I don't know, I might have left, but then again, I might have killed her. I just don't know."

These four case illustrations demonstrate dramatically that any one program on confrontational techniques would not have helped all the victims.



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***"... the success of resistance behavior depends largely on the victim's ability to apply it."***

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In Case No. 4, not even the rapist was prepared to state what his reaction to resistance would have been.

**Three Critical Variables in Confrontations**

This article opened with a statement that we would offer confrontational advice only if we had specific information about three critical variables: 1) the environment of the assault, 2) an understanding of certain personality characteristics of the victim, and 3) the type and motivation of the rapist involved. We believe that these three variables dictate the shape a confrontation will take, and we advise police, field experts, and potential victims themselves not to give or act on advice that does not take these factors into account. Below, we describe these three critical factors.

**Location of Assault**—The advice one would provide to a victim encountering a rapist in a shopping mall parking lot at 4:00 p.m. would certainly differ from the advice given for an encounter occurring at 4:00 a.m. on a deserted roadway. Use of a noise-maker would be futile in the latter situation, but may be successful in the former. To advise a person to fight, scream, defecate, or use disabling chemicals or gases is insufficient in itself. Victims must tailor their type of resistance to the environment in which the attack is occurring. Above all, potential victims should not be lulled into a false sense of security because they have a whistle or can of Mace in their pocket. Such confidence may actually increase their chance of becoming a victim.

**Victim Personality**—The personality of the victim strongly impacts on how she will react in a confrontation. A

passive and dependent personality will have extreme difficulty implementing advice to be assertive and physically aggressive in a confrontation where a physically larger male has awakened her from sleep. Conversely, an independent and assertive individual will be hard pressed to submit to a violation of her body without a struggle, even if she has been advised that passivity is her best course.

Anyone providing advice to an audience must remember that there are as many different personalities present as there are audience members. To influence effectively the decisionmaking process of an audience, one must consider these variations and must stress that the success of resistance behavior depends largely on the victim's ability to apply it.

**Type and Motivation of Rapist**—In our opinion, the most important unknown variable to consider when giving advice to potential victims is the type of rapist they may confront and the motivation that underlies his sexual attack. Is the victim being confronted by an inadequate male who has fantasized a mutually acceptable relationship? By a sexual sadist who delights in the victim's response to physical or emotional pain? Or by an offender who desires to punish or degrade women? In each case, the motivation is different, and the rapist's reaction to the victim's resistance is correspondingly different.

The spectrum of advice offered by serial rapists earlier in this article underlines how strongly the type and motivation of the rapist colors the dynamics of the confrontation. To assume that all rapists are alike in type and motivation demonstrates a lack of knowledge and experience. As Groth and Birnbaum note, "Physical resistance will discourage one type of rapist

but excite another. If his victim screams, one assailant will flee, but another will cut her throat."<sup>3</sup>

The following case ironically illustrates the importance of recognizing and considering the different types of rapists.

**CASE NO. 5**

In a large metropolitan area, a series of rapes had plagued the police over a period of months. In each instance, the rapist had controlled his victim through threats and intimidation. One evening, a hospital orderly went off duty at midnight and happened upon a male beating a nurse in an attempt to rape her. The orderly went to her rescue and subdued the attacker until the police arrived. Predictably, he received much attention from the city. Shortly thereafter, the orderly was arrested for the series of rapes mentioned earlier. During interrogation, he was asked why he had rescued the nurse when he, in fact, was guilty of similar offenses. He became indignant and advised the officers that they were wrong. He would never "hurt" a woman.

This offender did not, clearly, consider the two offenses as similar; he equated "hurt" with nonsexual trauma and either failed to consider, or ignored, emotional and sexual trauma.<sup>4</sup> His willingness to turn in another rapist shows how powerfully the motivations of a rapist affect his way of seeing and behaving in a confrontation.



To give advice to potential victims without consideration of these critical variables can be compared to a physician who would prescribe medication or recommend surgery without the patient's medical history and documenting the signs and symptoms that would warrant such medication or surgery. Individuals who profess to have expertise in criminal sexuality have an obligation similar to a physician—to advise on a case-by-case basis, and only with complete knowledge.

### A Behaviorally Oriented Approach

Experts in the field take pains to broadcast valid crime prevention measures which individuals can take to minimize opportunities for the confrontation. They should also educate these same individuals in the variables involved in a rape confrontation so that they can prepare themselves in advance to handle the unexpected. While it may seem to be a cumbersome concept for one faced suddenly with a frightening situation, it removes the emphasis from one-dimensional techniques that may backfire and puts it where it should be—in advance preparation and training. In sports, athletes are trained to know their own strengths and weaknesses and to accustom themselves to different playing areas. On the day of their sports event, they are prepared to assess their competitors on the spot and adjust their final strategy accordingly. The same process holds true in many areas of life; to survive one must prepare himself for the unexpected. Similarly, potential victims have an excellent chance of surviving a rape confrontation if they are prepared in advance. They should be trained in assessing their personal

strengths and weaknesses. They should be taught techniques of manipulating the environment to the disadvantage of the assailant, and they should be educated about the various types of rapists, their motivations, and assaultive behavioral patterns.

To date, we know of no such comprehensive training program, but we know that one is possible and must involve the cooperative participation of law enforcement, mental health, and crisis intervention professionals. The more thoroughly researched the variables are, the better they will be understood and the more effectively they could be taught and manipulated to the victim's advantage.

### Conclusion

Field experts in the area of criminal sexuality have an enormous responsibility to the people they advise in rape resistance. Individuals tend to be fascinated by discussions of criminal sexuality, but they are almost unexceptionally naive and uninformed. Usually they are looking for an easy solution to a difficult problem and will accept at face value whatever piece of advice is offered.

Law enforcement officers who speak at workshops or seminars on rape confrontation techniques have an obligation to refuse to provide an easy solution. They have a further obligation to keep current with the research and to provide information that will help deter rapists. Confrontational advice which considers the three-variables approach may lack the simplicity and comfort that providing a whistle may offer, but it is a realistic approach to a complex situation that may help a victim understand more appropriate options in dealing with such an encounter. In light of new research, law enforcement officers who publicly ad-

vise one all-purpose solution to a rape confrontation may well be increasing the risk of injury to potential victims, and may, as a result, find themselves and their departments called by a brutalized victim as defendants in civil litigation.

We believe strongly that research of an interdisciplinary nature is necessary to develop a viable training program for victims confronted by a rapist. We foresee that such a program would provide potential victims with information about the various types of rapists and their underlying motivations, would teach potential victims to assess their abilities to resist, and would train them to control the environment to their advantage. We suggest to those who speak publicly on the subject to avoid offering single solutions to their audiences and to start laying the groundwork for a truly effective training program.

FBI

### Footnotes

<sup>1</sup>R.R. Hazelwood and A.W. Burgess, eds., *Practical Aspects of Rape Investigation: A Multidisciplinary Approach* (New York, NY: Elsevier Science Publishing Co., Inc., In Press).

<sup>2</sup>A. Nicholas Groth and H. Jean Birnbaum, *Men Who Rape* (New York, NY: Plenum Publishing Corporation, 1979).

<sup>3</sup>Ibid.

<sup>4</sup>R.R. Hazelwood, "The Behavioral-oriented Interview of Rape Victims: The Key to Profiling," *FBI Law Enforcement Bulletin*, vol. 52, No. 9, September 1983, pp. 8-15.





# Summer Beach Patrol

By  
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*Police Department  
Huntington Beach, CA*

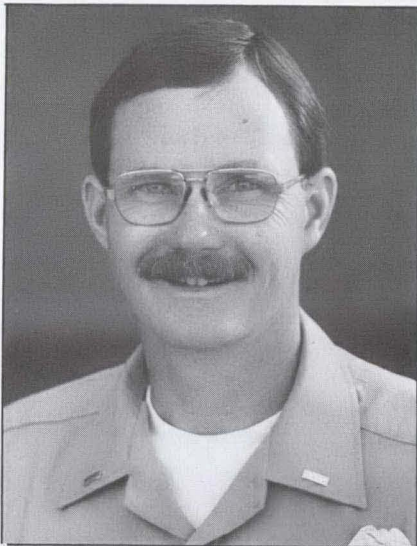
For years, the City of Huntington Beach, CA, has faced the problem of dealing with thousands of people who are attracted to its renowned beaches, water activities, and sporting events during the summer months. This article describes an economical, effective, and community relations-oriented program the Huntington Beach Police Department has developed to address this problem.

The police department has long recognized that the seasonal need for police services places a great burden on the department's budget and its 200 sworn officers. To provide these services for the city beach in a cost-effective manner and to reduce the burden on the department's resources, a pilot program was initiated in the

summer of 1973. This program featured a group of trained civilians who were hired as adjuncts to the full-time complement of police officers assigned to the summer special enforcement detail. The civilians, known as community liaison patrol officers (CLP), were supervised by a sworn officer. Although they worked a daytime foot patrol in the beach area, they were formerly considered to be a separate group from the sworn officers assigned to the beach contingent. The CLP worked with the philosophy of being very public relations-minded and used a low-key approach in dealing with violations of alcohol-related ordinances. CLP officers completed a training program which gave them limited peace officer powers, including the authority to cite and arrest for specific city ordinance violations. For example, persons drinking alcoholic beverages were requested to empty the containers of alcoholic beverages they held, and if they complied, the contact would end. This was in contrast to the high-profile enforcement efforts of the sworn officers who took more formal action in most instances of law violations.

After a successful start, the program was terminated in 1975 with the loss of Federal funding. In 1980, the program was reinstituted, using a combination of reserve officers and high school teachers to form the community liaison patrol. Changes in the program included new personnel, modifications to the old uniform, increased responsibilities, and a new title—beach liaison detail (BLD). Changes in the sworn officer special enforcement detail included more uniform assignments as opposed to plainclothes assignments, the use of three-wheel, all-terrain vehicles, a name change to the tactical enforcement squad (TAC), and a





Lieutenant Biggs



Earle W. Robitaille  
Chief of Police

merging with the beach liaison detail in the summer of 1985, which joined the two units for the first time into one coordinated unit.

#### Organization and Administration

In 1985, the beach detail consisted of six sworn officers ranging in experience from 5 to 16 years in law enforcement. Three of the officers were members of the 1984 TAC squad, one was a member of the 1980 TAC squad, and two had no previous beach experience. The sworn officers were selected for the beach detail in March after submitting a request for assignment. Factors which the selection board considered included the applicant's history of motivation, evidence of self-initiated activity, physical condition, ability to deal with the public and to present a professional appearance, and a demonstrated ability to make quick, professional decisions and apply them tactfully in crowded, pressured situations. The officers also agreed to waive vacations during their summer deployment. The unit supervisor (a patrol sergeant) and the patrol bureau commander (a lieutenant) reviewed the applicants' personnel files and memos requesting assignment. Their choices were reviewed and approved by the Uniform Division commander under whose command the beach detail functioned.

After selecting the sworn officers, the next step was to choose the civilian members of the unit. The organization chart for the detail required that civilians were to come from the faculty ranks of area schools. Only one member of the previous civilian team was available for the summer of 1985, with one other member available to assist

in the training of new civilians selected for the detail. The problems of how to select qualified people and train them adequately in a short time now had to be solved.

The recruiting and hiring of the civilians were handled by the Personnel Bureau of the Huntington Beach Police Department's Administrative Services Division. The former civilian members used their contacts with the local school districts to have a job announcement published in a teachers' publication. The announcement described the duties the candidates would be performing, their working conditions, and desirable qualifications. After this, two informational meetings were held, in which prospective applicants were able to hear a presentation on the detail given by the two previous members of the civilian team and ask questions. These meetings were also attended by the lieutenant assigned by the acting Patrol Bureau commander.

After receiving the prospects' applications, department personnel interviewed the candidates. The oral board consisted of the lieutenant under whose command the unit would function, an Administrative Services Division sergeant, and the personnel officer from the police department. The personnel officer conducted a thorough background investigation, including a polygraph examination, of each candidate. As part of the hiring process, the new civilians agreed to complete a training program on their own time, with the understanding that they would be paid for their time only if they completed it successfully.

The civilians hired for the 1985 program ranged in age from 32 to 38 years, with 5 to 12 years' teaching experience. The candidates selected included two science teachers, a wom-



en's athletic director, a special education teacher specializing in speech disorders, a social science teacher (who was also the returning experienced member), a high school basketball coach, and the athletic trainer in a high school. The police department specifically selected education system members for the program for four reasons: 1) Their availability during Easter week and the summer months, 2) their prior demonstrated ability to relate to teenagers and young people, 3) their ability to perform in the public eye and accomplish specific objectives, and 4) their ability to learn quickly and practice what they have been taught.

### Training

The training program for the beach detail combined theoretical and practical aspects for both the sworn and civilian members in the classroom and in the field. Because of logistical problems, the classroom portion of the training program required that separate sessions be held for each group.

During the first day of training for sworn officers, an overview of the detail and its mission and boundaries within which it would operate were covered, in addition to a review of applicable rules, regulations, and department procedures. The second training day entailed the familiarization, care, and use of the three-wheel, all-terrain vehicles (ATV's) the detail would use. This practical demonstration of the use of ATV's occurred on the city beach and required the officers to demonstrate riding skills at an acceptable level of timed performance under open and obstacle-course conditions. Both training days were scheduled as part of the officers' regular 40-hour work-week and required no overtime.

The training for the civilian members of the beach detail began with a 40-hour training program required by the California Commission on Peace Officer Standards and Training before receiving peace officer powers to arrest and cite. This course was conducted at the criminal justice training center of a local college and included instruction in the history of law enforcement, ethics, laws of arrest, search and seizure, firearms training, including their moral and legal use, discretionary decisionmaking, and methods of arrest. All civilian members of the liaison detail received 12 hours of arrest and control training from a member of the department who is a qualified instructor at the police academy. The trainees had to demonstrate their knowledge of the arrest and control techniques and their ability to perform them to the satisfaction of the instructor before they would be accepted by the department. Concurrent with the arrest and control training, the beach liaison members received training in the procedures, practices, and policies

of the beach detail. Some of the areas covered in detail were report writing, issuing citations, arresting and booking procedures, evidence procedures including collection, preservation and booking, philosophy of the unit and job performance expectations, and orientation to and use of the radio.

During the classroom training, each liaison member received sample reports, citations, and condensed reference materials of applicable local and State laws and engaged in several in-class exercises to become familiar with the use and completion of official reports and forms. The members had previously received radio code books, and by self-study, had acquired familiarity with the most often used codes. At the completion of the classroom training, the civilians were sworn as special officers whose powers are restricted by ordinance to enforcing laws relating to State and local ordinances relating to beaches, bicycles, and parking violations.

The field training portion of the process began once the members had

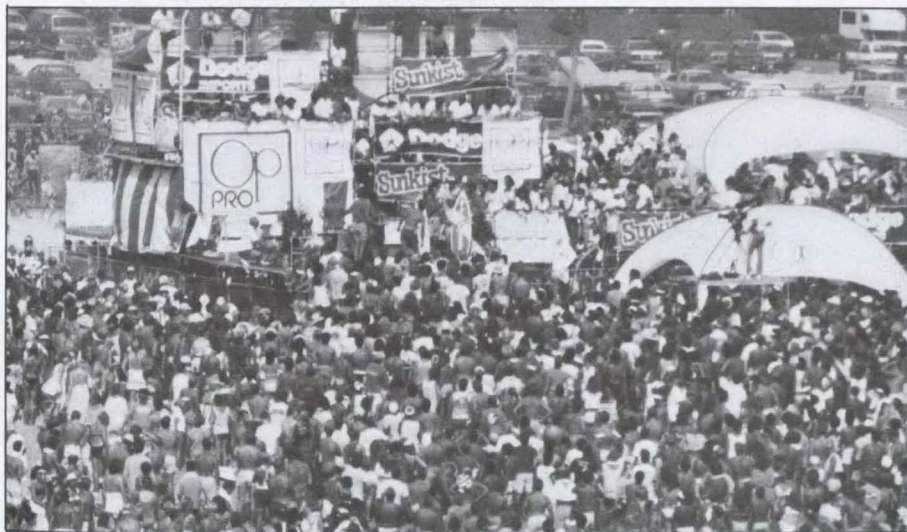




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***"The use of civilians greatly reduced the cost of operating the beach detail."***

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been sworn. Liaison members were paired with sworn officers and worked in uniform under the regular officers' supervision for 5 days, at which time two liaison members were paired and worked as a team under the supervision of a sworn officer for another week. The purpose of the 2-week, on-the-job training was to develop the trainees' practical skills to the point that they could function without constant supervision. At the completion of the 2-week training period, each member's progress and ability were evaluated by the sergeant supervising the unit, who decided whether the trainees had achieved a level of proficiency equal to the department's standards or if additional training was needed. Because of their motivation and enthusiasm, all the trainees passed the course and were given their assignments.

The mission of the beach detail was to provide a high level of police service to the beach community by enforcing a variety of laws and municipi-

pal codes pertaining to beach use. The duties of the sworn officers and liaison officers were similar in some ways, but different in others. Both were charged with the enforcement of the law and service to the community. The sworn officers were assigned to day and night shifts, working foot beats, mobile assignments on ATV's and four-wheel drive vehicles, and some plainclothes assignments. The liaison officers were assigned as support personnel handling transportation and prisoner booking assignments, along with foot patrols which included citing and arresting persons who violated the law. Liaison officers were assigned to daytime hours, working in uniform, and occasionally to a plainclothes detail working with a sworn officer.

The uniforms worn by the beach detail members were easily distinguished as police uniforms, but they were different for the sworn officers. The sworn officers wore white short-sleeved shirts embroidered with POLICE across the back and had department patches on the sleeves, navy blue hiking shorts, black leather ath-

letic shoes, and white socks. Sworn officers were fully equipped Sam Browne belts, including batons. Liaison officers wore tan wash-and-wear shirts with department patches and a cloth label reading BEACH LIAISON in place of a badge, tan hiking shorts, and white leather athletic shoes. They also wore Sam Browne belts equipped with radio holders and handcuffs. Although the liaison officers received firearms training, they were unarmed. Both sworn and liaison officers wore dark blue baseball hats with POLICE embroidered on the front.

#### **Operation**

The city beach is open all year from 5:00 a.m. to midnight, 7 days a week. Daytime crowds are normally largest from 11:00 a.m. to 4:00 p.m., while nighttime beach goers are present on any night but especially on Friday and Saturday. To provide adequate coverage, the liaison officers were assigned a 5-day, 40-hour workweek with shifts from 10:00 a.m. to 6:00 p.m. Sworn officers, who are normally on a 10-hour day, 4-day workweek, were assigned two 12-hour shifts and two 8-hour shifts. To give maximum coverage to the beach, the 8-hour shifts were 10:00 a.m. to 6:00 p.m., and on Friday and Saturday, the 12-hour shifts were either 10:00 a.m. to 10:00 p.m. or 1:00 p.m. to 1:00 a.m. Working the same hours as the liaison officers allowed all personnel to attend one briefing session and helped establish a professional bond between the two groups. Transportation and booking of prisoners on Friday and Saturday nights were conducted by reserve officers who worked 6:00 p.m. to 1:00



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## ***"The beach detail program matured into a successful, cost-effective operation which created a pool of trained liaison personnel."***

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a.m. For the liaison officers, days off were at fixed times during the mid-week. The sworn officers rotated their days off; all officers worked Friday and Saturday, which experience showed to be the busiest days of the week.

### **Citizen Contacts**

The most prevalent violations of law were possession of alcohol and drugs. These controlled substances were the basis for nearly all problems experienced by the beach detail. The use of discretion in enforcing the alcohol prohibition laws on the beach was encouraged, and guidelines for this use were covered during training. Basically, adults who were unaware of the alcohol prohibition were told of the ban and asked to comply with it. If they did so, no action was taken. Adults who showed knowledge of the law by concealing an alcoholic beverage in a separate container or with the use of camouflage were cited or arrested as needed, and in all cases involving juveniles, action was taken by the investigating officer. The alcohol in question was poured out at the scene and so documented in the reports. Action was taken in all cases of violators in possession of drugs. During the summer deployment, the beach detail was involved in more than 1,900 violator contacts. They also assisted in the location of 16 lost children.

There were few incidents in which violators were combative or uncooperative. Beach detail workers were especially careful to establish positive contacts with the public. Arresting officers routinely told violators at the beginning of the contact that they would be cited and released if no compelling reason to the contrary existed. This seemed to reduce the violators' anxiety levels greatly. The professional attitude and

demeanor of the beach detail members were commented on frequently and even drew favorable comments from some violators.

### **Program Effectiveness**

The use of civilians greatly reduced the cost of operating the beach detail. In the past, the department had relied on sworn officers working overtime to fill the need; thus, the financial aspects of the situation were a great burden to the department. Another consideration in evaluating the program was the overall well-being of the officers involved in the assignment. Having civilians as part of the program allowed excellent coverage without requiring anyone to work the long hours necessary in the past. This created high morale and improved attitudes among the officers throughout a long, busy summer. The beach detail program matured into a successful, cost-effective operation which created a pool of trained liaison personnel. The civilian component of the program is now prepared to work side by side with regular officers during special events, such as Easter week, and during the summer months, as well as other times when a dramatically increased beach-going population presents a major challenge to the Huntington Beach Police Department.

The beach detail received many favorable comments about its performance from citizens visiting the beach, as well as beach area business owners. One comment from a first-year business owner, which was sent to the chief of police, read:

"We would like to take this opportunity to congratulate you and your beach patrol for making our first summer at the beach such a pleasure. We are new in your business community and were very wary due

to all the negative feedback we received (about summertime on the beach) before opening. All our fears were proven groundless due to the excellent efforts of your beach personnel. Every time there were confrontations, your staff responded quickly and efficiently, taking immediate control of the situation."

One frequent beach goer who is a retired police officer and now an administration of justice instructor in a local community college wrote:

"The ability of the civilian members of the beach detail to handle problems and convey a positive image of the police department became obvious over the course of the summer, as did their ability to interact with the sworn officers and be team players."

The sworn officers assigned to the program also made many favorable comments about the ability and performance of the liaison officers. One officer assigned to the beach detail summed up his feelings by saying:

"I was somewhat skeptical at first about working with civilians in this type of setting, but after working with them over the summer, I would work with them anytime. They proved themselves."

As this comment reveals, the interest and involvement of sworn officers in the training process, followed by daily contact with them, gave the regular officers ample opportunity to assess the abilities of the liaison officers. Overall, the program was a success and will be continued.

**FBI**



# Confidence Schemes and Con Games

## Old Games with New Players

***"Law enforcement officials' initial challenge in combating the con artists is to learn and develop a thorough understanding of their activities."***

By

OFFICER RONALD J. HEINTZMAN

*Transit District Police*

*Tri-County Metropolitan Transportation District of Oregon  
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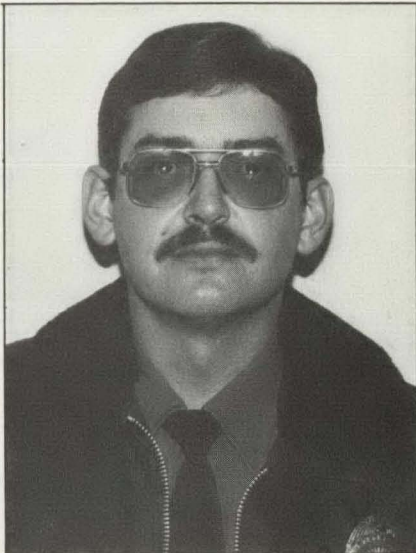


A stranger stops you on the street and asks, "Please, will you help me?" The stranger appears genuine and sincere, expressing a look of worry and concern. You ask what is wrong, and the stranger, who is holding a bulging envelope, tells you that she just found a large sum of money and doesn't

know what to do. If you continue listening to the stranger's convincing story, you may be well on your way to being "duped" by a professional con artist. The end result ... potential loss of your life savings!

Con artists and tricksters have been around as long as people them-





Officer Heintzman



Charles E. Hill  
Chief of Police

selves. With smooth talk and fast action, the con men use various deceptive means and methods to "throw off" potential victims and spectators who think they know what's going on and are capable of adapting quickly to suit any occasion or situation.

Dice and coin throwers, Three Card Monte and shell game operators, pigeon drop and Jamaican boy artists... whatever their con or confidence scheme, you're likely to find them, or at least hear about them or their activities, in almost every part of the country. Whether it be the core area of a large metropolitan city or at a bus or train station in some small rural town, the modern day con man can hit unexpectedly.

Most people have a particular crime that they believe ranks as the "worst." For some it's murder; for others, it may be selling drugs. But for many, it's the con games and confidence schemes. It may seem an odd choice for a "worst crime" list, since con games are usually nonviolent and relatively unknown to the public-at-large. However, it is a crime that ranks in heartlessness. Con artists are considered to be the most devious, the most harmful, and the most disruptive for society because they break down the major values of social order—honesty and trust.

The con games themselves are simplistic, almost infantile. But they work because a con man can win complete confidence, talk fast enough to keep the victim slightly confused, and dangle enough "temptation" to suppress any suspicion or skepticism.

Traditionally, the primary targets of these confidence men are the elderly and women. Their primary target

locations appear to be inner-city core areas, shopping centers, schools, and mass transit systems. Thus, huge masses or gatherings of people appear very attractive to the con artists.

While most of the con games are centuries old, occasionally a new scheme will surface. Law enforcement officials' initial challenge in combating the con artists is to learn and develop a thorough understanding of their activities. Gaining a working knowledge of the confidence scheme and con game mechanisms is essential to police in being able to plan and carry out a viable enforcement program.

### **The Confidence Schemes And Con Games**

Deception and misrepresentation are the survival skills of the con artist, and like any other craftsman, the con man continually strives to improve his street-smart skills. Though many of the schemes and games would appear "suspect" to a reasonable and prudent person, the con's uncanny skill and ability to deceive and fool must not be overlooked. The scams employed by con artists can be broken down into two types—confidence schemes and con games. Con games are usually the types of games or tricks associated with a carnival or circus. Confidence schemes, on the other hand, are the more-detailed, elaborate, and at times, sophisticated ploys used to defraud another.

### **Con Games**

THREE CARD MONTE is a widely known trick derived from a game known by different names, i.e., "three sea shells,"<sup>1</sup> "find the lady," or "three-card shuffle." Basically, it is a card game played with three cards, usually a picture card and two number cards. The operator picks up one number card with his left hand, using the



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thumb and second finger. In the right hand, which does the actual work and deception, the second number card is placed between the right thumb and the second finger. The operator then throws down the cards, the right hand dropping the picture card, the left hand drops its card, and the right hand drops the other number card. The three cards are then moved around, face down. The player is told to watch the picture card (bottom card) and choose where it winds up after movement.

Even working the trick honestly, many people have difficulty following the picture card. Performing the game again, the operator throws down a card from the right hand, followed by the left, and then the right. This time, however, instead of throwing the picture card down first (which is the lower of the two right hand cards), the upper card in the hand is thrown down first. The deception lies in the operator making the two movements look exactly and precisely alike. It is slight-of-hand movement of the cards. There are other methods of deception that the operator may also use, such as miscalling the card he picks up. This is done to let the player win, even though he picked the wrong card. The operator sets the player up in this way, with intent to get the player to wage bigger bets on subsequent games.

Still another ruse is worked by the operator's confederate (called a shill). The operator's attention is intentionally distracted, during which time the shill turns up the cards swiftly, showing the picture card and bending a corner on it. The shill then points out to the player and audience the kink on the corner of the picture card, winks knowingly, and then assumes an innocent composure as the operator directs his attention back to the game. But, when

the player chooses the card with the bent corner, he loses, for the one picked turns out to be a number card. The game operator, unknowing to the player, had taken out the picture card with the bent corner and replaced it with a bent-cornered "number" card. By turning over one card with another card, the game operator exchanges the two cards imperceptibly by sleight-of-hand. This move is known to conjurers as the Mexican Turnover.

The SHELL GAME is perceived by a player as a game of chance.<sup>2</sup> However, the operator has total control of the game, with no chance of the player winning. The game is played by the operator showing three shells (or bottle caps) under which an object (pea) can be concealed. The pea is made of flexible, soft, pliable material, frequently a woman's makeup sponge. The game consists of the operator placing the pea under one of the shells and moving the pea from shell to shell by quick movement of the hands. The player then wagers money, which the operator usually matches, to guess which shell conceals the pea. If the shell chosen by the player does hide the pea, the player wins; if not, the operators win.

The deception is that the operator controls (pinches) the pea between his fingers, unknown to the player. The pinch is made while the operator is moving the shells around, by slightly lifting the shell with the pea under it and rolling and pinching the pea between his fingers. When the quick movement of the operator's hands stops, the player assumes that the pea is located under one of the shells. But, in reality, the pea is pinched between the operator's fingers, concealed from the player's sight. Only when the operator is illustrating how the game works does he leave the pea under one of the shells.

If a shill is used, the operator will leave the pea under one of the shells known to the shill. The shill then wagers money, chooses the right shell, and to onlookers, appears to win big. This is a "con" to attract players, making it appear to be an easy game. The underlying principle of this game is that the operator is always in control of the pea, deceiving the player into thinking there is a chance of winning.

DICE are one of the most ancient gambling instruments known to man and are commonly used by the con artist on the street, since they are small and easily concealed. There is little to skillful play in dice games other than knowing the odds in various bets and not placing bets when the odds are unfavorable. However, unknown to the player, a "slick" con man can gain a decided odds advantage in these games by using certain cheating and control techniques. With practice, these control and cheating techniques appear very natural and are difficult to detect by the unsuspecting and untrained player.

In the game of craps, for example, any number of people from two and up can play.<sup>3</sup> Players bet among themselves, and the player who starts the game (shooter) announces his bet or wager by placing it in the center circle of players. Any other player may wager any portion of the bet as they wish by placing that amount in the center with the "shooter's" bet. A player may not bet more than that wagered by the shooter. If the shooter rolls a 7 or 11 (natural) on his first roll of the dice, he wins. If he rolls a 2, 3, or 12 (craps), he loses. The shooter has a point to make



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## ***"Police and prosecutors need to coordinate plans to deal with and prosecute the culprits effectively."***

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if the roll is a 4, 5, 6, 8, 9, or 10. When the shooter makes a point, he must pick up the dice and roll them again. He rolls as often as necessary, winning (passes) if his point appears again before a 7. The shooter loses (misses) if he rolls a 7 before his point. All intervening rolls are meaningless.

When the shooter loses, all players take their winnings from the center bets. The player takes double the amount of the bet, since all bets are at even money. When the shooter wins, all the money in the center belongs to him. There are other side bets in a crap game, in addition to the center bets. Players may bet with the shooter or among themselves as to whether a point will be made on a subsequent roll or whether the shooter will win or lose on the next roll. The rules are pretty clear, and the game odds appear fairly even. But, beware of the con artist who can make the odds swing to his advantage by cheating and deception.

One technique often used is the "carpet roll." This is a dice control technique that begins with a phony dice shake by the shooter, which is done by letting the dice rest on the second and third fingers of the hand. The shooter forces the fingers back slightly, so that a pocket is formed. The fourth finger, first finger, and tip of the thumb lock the dice so that they cannot get out of this "cubelike" formation of the hand. Shaking the dice violently, the shooter gives the false impression that the dice are moving around in his hand naturally. However, the dice are loose enough that they will not shift or turn over in the hand. After the phony shake, the shooter pushes the dice out of his hand with his thumb as he makes the throw. The dice roll smoothly off the fingers together, end over end without turning sideways.

The principle behind this control is that it allows the shooter to roll only certain numbers.

The "slide host," another simple dice control, requires the shooter to pick up both die, one on top of the other. The bottom die is held tightly by curling the little finger of the hand around it. Shaking the dice, the top one rattles against the gripped bottom one, and the sound produced is quite convincing to those not accustomed to hearing the rattling sound of dice being naturally shaken. As the shooter throws the dice, the little finger gripping the bottom die brushes the surface, and the top die rolls off, tumbling freely.<sup>4</sup> The bottom die simply slides across the surface with its less natural action not noticed easily, because the natural instinct of the eye is to watch the rolling die. The principle behind this control is that the top number of the bottom die is controlled, giving the shooter a big advantage or odds.

Many other dice control techniques may be employed by the con artist. These include the use of loaded or mis-spotted dice, finger palming, and so forth. Though the street con may use the simple control or cheating techniques, one must at least be familiar with the more sophisticated and talented operator.

The COIN GAME is another form of scams employed by con artists. The object is to toss a coin against the wall, betting against your opponent. The one whose coin lands closest to the wall after landing and coming to a stop wins! The game appears to be an even-chance proposition. But, beware of the weighted coin. Weighted coins give the con man the best odds at landing his coin closest to the wall on almost every toss.

Other coin games in which the con man solicits bets include using identical-sided coins and skeleton or

hollow coins consisting of a shell and insert. The underlying principle of these games is that the con artist distracts the victim or spectator's attention by fast talk and action. He makes the switch or employs deception, unnoticeable to onlookers.

CURRENCY CONS are initiated by a victim being approached by a stranger holding a \$10 bill and asking for two \$5 bills. Only after the change is given does the victim realize that he was given a \$1 dollar bill instead of a \$10 bill.

The con artist clipped the corners from four \$10 bills and pasted them to the corners of a single dollar. Holding the bill in his hand, the con man covers the written denomination on the currency with his thumb. The con man easily exchanges the four partially mutilated \$10 bills for new ones at a bank. He now has four "fresh" bills to use in pulling another scam.

Another currency con involves the use of play or phony money. Some financial institutions and loan companies advertise by using fake money notes. The notes are usually the same size as currency and depict a certain dollar denomination on one side and business advertisement on the other side. The paper is clearly fake, simply a "play money" note. The con man, however, takes great pride in making the play money look as real as possible. He will crumble it, get it dirty, press it, and repeat the process over and over again. For the "pass," he usually chooses a store clerk or teller, for example, who is extremely busy.

The con artist will cut into a line of customers, and with fast talk and action, place a phony bill on the counter, requesting change and telling the clerk that he is in a real big hurry. With his



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hand held firmly over and covering all but a tip of the phony bill, the con talks loud and fast, slightly confusing and embarrassing the clerk. His actions are intended to get the clerk excited, so rushed and confused that she hardly knows what she is doing. If proper procedures for handling money are not adhered to, the clerk will make change just to get "rid" of the bothersome and disruptive intruder. Once the clerk counts out the change money on the counter, the con man quickly picks it up, pushes the phony bill forward and runs. Picking up the bill, the clerk immediately realizes that it is phony. However, the con man is long gone.

### Confidence Schemes

Most of the confidence schemes have been used time and time again, and you would suppose that no one would continue to be victimized. But, adding a new "wrinkle" or "twist" to the scheme makes it successful and extremely profitable in modern times. Though the same scheme may be disguised and employed in a variety of ways, depending on the acting performance and skill of the con artist, the basic plot remains essentially the same.

The PIGEON DROP is one of the oldest confidence schemes in existence, said to have originated in China more than a 1,000 years ago. The victim is approached by a con artist who initiates friendly conversation in an attempt to gain the victim's trust and confidence. A second con artist then enters the scene, claiming to have found a large sum of money. After some discussion and great acting on the part of the con artists, the victim is offered to split the found fortune. The money is to be divided later. The catch, though, is that the victim is re-

quired to put up some "good faith" money during the interim. The victim is given the money to hold for safekeeping, but not before envelopes are switched by a sleight-of-hand act. Later, the victim discovers that the envelope contains nothing more than worthless pieces of paper.

In the JAMAICAN BOY SCAM, a con artist, using a phony foreign accent, approaches a victim asking for help. He tells the victim that he is a stranger in town and doesn't know anyone he can trust. The con man displays a huge roll of money, asking the victim to hold it for him, though not until the victim puts his money together with the con's money as a "show" of real trust. The con artist then offers to demonstrate a safer way for the victim to carry the money. Wrapping the money in a handkerchief and placing it down the front waistband of his pants, the con explains that people in his country carry their valuables in this fashion, so as to thwart a potential pickpocket. The handkerchief is then given back to the victim, but not before a switch has been made. Using a ruse to separate himself from the victim, the con man disappears. Opening the handkerchief, the victim discovers that it contains play money!

The DOUBLE SHOT or PHONY COP SCAM consists of repeated hits on the same victim. After being flimflammed once by a con man, the victim is contacted by associates of the first con man. Posing as police officers, they tell the victim that he or she had been swindled by the first con, who is now attempting to get the rest of the victim's money. The phony cops tell the victim to withdraw all remaining money from the bank and turn it over to them for safekeeping, until the con artist is caught. The con men may even go as far as to drive the victim to

a real police station, while one of them goes inside to supposedly deliver the money to a superior. The victim is fleeced out of every last dime he or she owns.

With the BEGGER or SYMPATHY CON, con artists may approach victims on a busy street, in a restaurant, or wherever, giving a bad luck story and asking for help and money. Though a variety of ruses may be used, the most profitable con appears to be the "help me feed my starving children" scam. Also called the "silent con" because he rarely speaks, the con artist will prepare a cardboard sign which he holds while standing or sitting on a public sidewalk. The sign may indicate that he is not lazy, but that he can't find a job and has three children at home to feed. The con man may even go as far as to include photographs of children (not his own), along with some cleverly thought out hard-luck slogan. Putting on a great acting performance, the con man appears embarrassed and distraught by lowering his head and looking away from passersby. In the right location, this sympathy con can net hundreds of dollars in a matter of hours.

In the BANK EXAMINER PLOY, a con artist posing as a bank examiner, an auditor, or even an FBI agent, contacts the victim to solicit his or her help in apprehending a "dishonest" bank teller. The victim is asked to withdraw money from the bank and turn it over to an official from the bank who will contact him or her later. The victim is often offered a substantial reward when the "dishonest" teller is arrested and convicted and is sworn to secrecy about the "undercover" investigation. The victim turns the money over to the phony bank official and never sees it again.



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## ***"As important as the concentrated law enforcement effort is in combating the con artists, so is the need to educate the public."***

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The MERCHANDISE SWINDLE, also known as the "weighted box" scam, entails the con artist contacting a victim on the street or parking lot and offering to sell a particular item, such as a radio or television set. The con man shows boxes of the same article, all wrapped and sealed. He tells the victim that his uncle has just sold his business and is liquidating all remaining inventory at "rock bottom" prices. Too good a deal to pass up, the victim pays the con man, later realizing what he brought at "rock bottom" price. The victim is the proud owner of a box of rocks.

In the HOME REPAIR CON, the con artist poses as a home repairman, offering to perform a free inspection. The con man wears an official-looking work uniform, bearing some fictitious company logo, and often presents some form of false identification. He suggests a list of needed home repairs at a good deal, if the victim is willing to make, in advance, a "small" down payment. The victim pays, an appointment for the work is made, and the con man leaves, never to return.

The STORE CLERK CON is usually committed during the busiest shopping time of the year, when people become more and more frustrated with the long wait to reach the check-out counter. A sharply dressed man or woman wearing a store nameplate will approach customers who are waiting in line, show sympathy for the long wait, and offer to take the purchase to the cashier to speed things up. The store clerk tells the customer to remain in place and that he or she will be right back with the purchase and any change. The store clerk disappears into the crowd, and so does the money.

Because of the con artist's uncanny ability to adapt quickly to changing times and socio-economic situations, the list of con games and confidence schemes is never ending.

### **Cracking Down On The Con**

Since con artists may hit an area unexpectedly, law enforcement officials need to react quickly once their activities are uncovered. Police and prosecutors need to coordinate plans to deal with and prosecute the culprits effectively. Prosecutors and courts may need to be educated as to the con games and schemes, since those in smaller or rural cities may have seldom, if ever, been exposed to such activities. Existing and possibly outdated local ordinances may need revision since they might not survive constitutional or legal challenges.<sup>5</sup> There may even be a need to suggest new ordinances, since State or other laws may prove too vague in dealing with some or certain aspects of the con artist's activities.<sup>6</sup>

Because of the high degree of mobility of con men, the initial task of law enforcement personnel should be to identify the active operators in their area as soon as they begin to surface. Some con men work circuits, moving from city to city and State to State. Local records may be queried to identify the pattern and frequency of the con man's movements.

To begin, police should compile a photograph and modus operandi profile on all active con artists working their area. Since police, even working in undercover roles, will seldom catch the con men in the act of committing one of his cons or scams, such profiles will greatly aid in victim identification of the "rip-off" artists. Courts have generally agreed that if conducted properly, photographic lineups are a legally accepted method for suspected identifi-

cation. A department's legal adviser or local prosecutor should be consulted regarding the proper guidelines or rules for photographic lineups in each jurisdiction.

Each profile should contain a mugshot (if available) and all pertinent physical descriptive information. In addition, and most important, the profile should contain specific information about the con artist which will assist police with their investigative efforts, i.e., games/schemes, targets, equipment/instruments, dress, jewelry, mannerisms, known associates, associated vehicles, and prior records.

Each con artist is distinctly different from his or her counterpart, in perhaps very minor, but identifiable, ways. Clothing, jewelry, or certain types of equipment, for example, represent a status symbol for the con man. It may be a particular hat, a particular style of footwear, a large flashy ring, a special brand or color of cards, or dice used. These "stand-out" articles will usually be worn or carried by the con man at all times, for they help create a persona which represents what the con artist would like to have been.

A complete profile of each active con artist in an area will prove to be an invaluable tool to police in identification, arrest, and subsequent prosecution. Becoming familiar with the individual characteristics and modus operandi of each active con man in his area, the police officer may often be able to identify the suspects from the victim's verbal or written description. Narrowing the field of suspects, articulation of the identification process in written reports, and followup with presentation of photographic lineups will greatly enhance in the arrest and successful prosecution of the con artist.



Exchanging information about con artist activities with other law enforcement agencies is also a good investigative aid. Through the use of crime bulletins, police are able to disseminate information regarding the con artist's activities, alert other agencies of possible movement of the con men to their jurisdictions, and prove a valuable source in identifying and obtaining information about "newcomer" operators.

Coinciding with good innovative police methods is the necessity for specialized training of police personnel to combat the con man successfully. Departmental training units and other agency resources should be used to provide officers and investigators with the technical knowledge and expertise necessary to beat the con artists effectively at their own games. There are also trained law enforcement personnel around the country with expertise in the con and confidence schemes. These professionals should be consulted, and their knowledge and assistance sought.

### Educating The Public

As important as the concentrated law enforcement effort is in combating the con artists, so is the need to educate the public. Law enforcement officials should solicit cooperation from local television and newspaper media in alerting the public of the con men activities in their area. Police department crime prevention units might publish brochures and pamphlets containing information on fraud prevention, as well as providing film and lecture series in schools, to citizen and neighborhood groups, and to retirement communities. Cooperation and assistance should also be sought from local and national business groups and associations.

Citizens should be warned to be on guard against con artist activities. Fraud alert information bulletins and pamphlets may include the following "do's" and "don'ts":

#### THE DON'TS

- 1) Don't trust anyone who proposes a deal "too good to pass up." It probably is too good to be true.
- 2) Don't stop and talk with anyone who flashes a wad or roll of money. This is bait that con artists use to draw victims.
- 3) Don't be too good a listener with strangers, and don't fall for any extravagant hard-luck story, no matter how convincing it may sound. Some con men work hard at gaining sympathy and confidence.
- 4) Don't ever put up any "good faith" money for anything and never pay cash for any promised service or product.
- 5) Don't invest money into any business scheme or adventure without first investigating the credentials and legitimacy of the person or company representing it.

#### THE DO'S

- 1) Do take con games and confidence schemes seriously. Con men are career criminals who prey on other people's willingness to help and on their inherent nature to trust.
- 2) Do be aware of the ploys con artists use. It can be something as simple as, "You look like you can be trusted" or "Do you want to make some money?" It may be anything that could draw a person into a conversation with them.
- 3) Do trust instincts and insights. If your "inner" voice tells you that

something is "fishy," listen to it, it probably is!

- 4) Do read and watch news media reports on suspected confidence schemes being operated in your area. Familiarizing yourself with con artist activities is the best way to avoid being victimized.
- 5) Do report a scam, or an attempted scam, to the police. Your report of the incident may lead to the subsequent arrest and conviction of the con men and thus prevent others from getting "stung."

Strong public sentiment and support of law enforcement efforts against the con men tend to generate more pressure on prosecutors and courts to pursue vigorously prosecution and levy stiff penalties against the con artists for their activities. Tougher actions and sanctions will prove to force many of the con men out of an area, at least temporarily, and continued coordination with other agencies or jurisdictions concerning movement of the con artists will greatly aid police in maintaining some control over their activities.

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#### Footnotes

<sup>1</sup>Ronald J. Heintzman and Stephen J. Mirau, "Games of Deceit and Deception: Cracking down on the Con," *The Police Chief*, vol. LII, No. 6, June 1985, p. 40.

<sup>2</sup>*Ibid.*, p. 41.

<sup>3</sup>Albert H. Morehead and Geoffrey Mott-Smith, *Hoyle's Rules of Games* (New York: New American Library, Inc., 1982), p. 224.

<sup>4</sup>Nick Trost, *Gambling Tricks with Dice* (Columbus, OH: Trik Kard Specialties, 1975), p. 6.

<sup>5</sup>Title 14, Municipal Code of the City of Portland (Ord. No. 14.66.020).

<sup>6</sup>Ordinance No. 70, Code of Ordinance of the Tri-County Metropolitan Transportation District of Oregon (proposed).



## Youth Court of the Tarrytowns

***"Youth court is a serious attempt to deal with, and reverse, the alarming rate of juvenile involvement in criminal activity."***

By  
SGT. RICHARD A. PELLICCIO  
*Community Services Division*  
and  
SGT. LAWRENCE W.  
KENNEDY (RETIRED)  
*Police Department*  
*Tarrytown, NY*



There is a low murmur in the courtroom, a shuffling of feet. The defense attorney is talking to his client; the prosecutor is conferring with witnesses. As the judge enters the courtroom, the bailiff calls the court to order.

This courtroom scene describes any one of the thousands of courtrooms in this country. However, it is unique in that all officers of the court—the judge, the attorneys, the court clerk, and the bailiff—are under the age of 19, and the defendant is under 16 years of age. Sentencing here does not run into years, nor does the punishment include incarceration in a juvenile detention facility. Those found guilty serve for a period of hours, generally 1 to 50 hours, and the punish-

ment is performing a community service, such as cleaning debris from park areas, cleaning police vehicles, or being assigned to assist local senior citizen groups.

The youth court concept was first introduced in California in the 1930's, but didn't gain popularity until the mid-1970's. The City of Oneida, NY, instituted a program designed along these lines in 1975, and other municipalities soon followed suit. The model for Tarrytown's youth court was taken from the Clarkstown, NY, program, which was formulated in 1981.

Youth court is a serious attempt to deal with, and reverse, the alarming rate of juvenile involvement in criminal activity. The objectives of the youth court are to reduce the incidence of





Sergeant Pelliccio



Sergeant Kennedy

juvenile-related offenses, to divert youths from the juvenile justice system, and to provide an alternative to the family court process, as well as to reduce further contact with the police. In youth court, transgressions of juveniles are dealt with by their peers. It is also a means by which respect for authority, as well as for the property of others, could be reinforced.

Financing for this project was received from the Federal Juvenile Justice and Delinquency Prevention Fund (JJDP) through the Westchester County Office of Criminal Justice Planning and the New York State Division of Criminal Justice Services. In addition to the \$15,000 of Federal funding, monetary assistance was solicited from the community's public sector.

The participants in youth court—judges, attorneys, court clerks, and bailiffs—are between the ages of 12 and 19. Each receives 10 weeks of basic training in the law and the functions of the judicial system. The training, which is conducted by one of the authors and volunteer attorneys who reside in the community, takes place in the municipal courtroom and consists of demonstrations, lectures, and mock trials. Training manuals on basic courtroom procedure, the New York State Penal Law, vehicle and traffic law, the Alcohol Beverage Control Law, and village ordinances are issued to participants, since these laws are most often addressed by the court. Prospective candidates are trained in all facets of the judicial system so they may be conversant with any situation with which they may be confronted.

Even after new members complete their initial training, and after a court session has adjourned for the evening, all participants in the court

are critiqued by youth court observers, who are other members of the program not participating in that evening's proceedings. Both positive and negative comments are solicited and addressed.

The youth court training is recognized by the local high school, which allows a social studies elective credit to those students who successfully complete the training and participate in the program.

The "defendants" in this voluntary program are youths between the ages of 7 and 15 who are accused of violations and nonviolent misdemeanors. They are given the choice of appearing before this peer court or having their cases heard in family court. The parents must also agree to this forum and sign a consent form that outlines procedures and rights. The types of offenses committed generally involve village ordinance violations, possession of small quantities of marijuana, petit larceny (shoplifting), trespassing, criminal mischief, and alcohol-related violations. Those juveniles accused of felonies or violent misdemeanors are excluded from participation in youth court.

One of the advantages for youthful offenders is that there is no permanent record of the offense. All court records are released to the offender on his or her 16th birthday. Family court does seal the records of an offender, but they can be opened by court order.

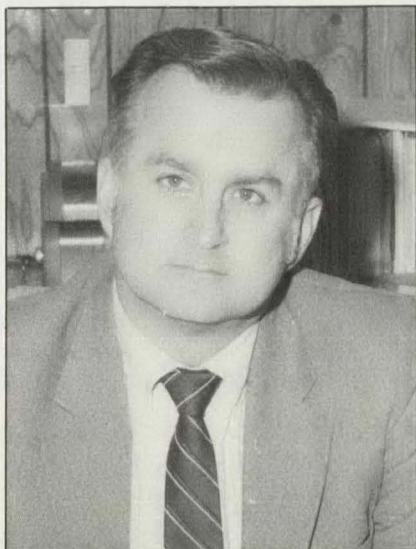
Juvenile offenders are being judged by their peers, other juveniles with whom they attend school and socialize. They are not being judged by a "common enemy"—the adult world. They no longer appear as "heroes" to their friends who may have looked up to them in the past as someone to emulate. Now, these same friends are the judge, defense attorney, and prosecutor dealing with their offense. In effect,



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***"Since 1983, the youth court has handled 145 offenders, only 3 of which are recidivists."***

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James W. Weaver  
Chief of Police

the offender is being introduced into a social order where deviant behavior is not tolerated. It is no longer fashionable to get into trouble.

A typical case in that of a 14-year-old boy who was apprehended for shoplifting cassette tapes worth \$8 from a local drugstore. He was given the option of having this case heard before his peers in youth court or having it heard in family court. The youth chose to have his case adjudicated in youth court and was issued an appearance ticket and a consent form for his parents' signatures. The youth was told that if he had no further conflict with the law, he would get his juvenile arrest records back at age 16.

The youth was assigned a defense team consisting of a 15-year-old defense attorney and his 14-year-old assistant. Accompanied by his parents, he appeared in court on the following Wednesday evening. (Cases in youth court normally are heard within 10 days of arrest.)

The youth pleaded guilty of charges of petit larceny and criminal possession of stolen property. The defense asked the court of leniency as this was the youth's first arrest. The prosecutor asked for the maximum penalty because the youth had participated in a juvenile shoplifting lecture given by the Tarrytown Police Department at his school the previous week.

The judge sentenced the youth to 37 hours of community service work and a 500-word essay on "honesty." The youth has completed his sentence and is now a youth court trainee.

Does the program work? In 1983, 20 juveniles were diverted from the already-overburdened family court, and another 25 juveniles who had committed an offense not normally heard by family court were also brought before the youth court. These

latter 25 juveniles would normally have been overlooked and would give the appearance of "beating the system" and "getting away with it." They would have gotten lost in the cracks of the juvenile justice system, and possibly, would have committed other offenses, thinking that they were "untouchable."

Since 1983, the youth court has handled 145 offenders, only 3 of which were recidivists. Normally, family court has a 50-percent recidivism rate. Also, juvenile-related offenses in the Village of Tarrytown has declined 40-percent from 1983 to 1985, which can be attributed to peer group pressure. Recognizing the success of Tarrytown's youth court, the sister village of North Tarrytown, which continued to experience an annual increase in juvenile incidents, joined in the program.

The Tarrytown Youth Court Program has been featured in local and national media. Numerous requests for information have been received from areas throughout the country (Hilo, HI, Fort Myers, FL, and the U.S. Army base at Fort Ord, CA) and abroad. Recently, a video tape of the program was aired nationally in Japan. Independence, MO, and Cornwall, NY, have formally approved the concept and will soon have youths presiding in a youth court.

The Tarrytown Youth Court has been able to chart an enviable record of success. Those communities who are considering such a juvenile legal process or would like additional information, should contact Sergeant Pelliccio at the following address:

Tarrytown Police Department  
150 W. Franklin Street  
Tarrytown, NY 10591

**FBI**



## Career Integrity Workshop

**"The career integrity workshop is designed to enhance awareness of the importance of values, standards, and integrity in law enforcement."**

Each year, tragedy strikes. The Los Angeles County Sheriff's Department loses 25 valuable employees who fail to survive in a dangerous, demanding occupation. Two of the 25 may die in the line of duty, making the ultimate sacrifice protecting their fellow man. The remainder are discharged, primarily as a result of misconduct.

In terms of threats to careers, misconduct causes 10 to 15 times as many law enforcement officers to lose their livelihood than do attacks by criminals. As many are injured financially because of suspension, demotion, and other discipline as those injured physically in arrest situations.

Law enforcement agencies in Southern California direct considerable resources toward assuring that the officer on the street has the philosophy, capability, and training to survive in an environment where a life-threatening situation can develop without warning. Academy and inservice training programs focus attention on the need for law enforcement officers to plan their responses to the danger they encounter so as to avoid injury or death.

Despite the emphasis on officer survival, we continue to lose law enforcement officers to another insidious, less-publicized threat—the erosion of professional ethics. The result of inappropriate decisions relating to issues of integrity can be the suspension, termination, or even criminal prosecution of an individual sworn to uphold the law.

Police misconduct and lapses of standards, values, and integrity in law

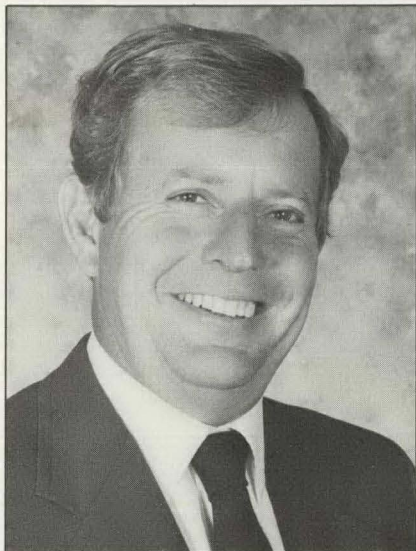
enforcement are not likely to vanish by themselves. They require the attention of everyone in the organization—from the chief administrator on down the ranks—and a commitment to a standard of performance in which inappropriate conduct, whether on or off duty, is countercultural. Reaching that point is not an easy task for any law enforcement agency.

The Los Angeles County Sheriff's Department began a search for an approach to heighten its members' level of consciousness about law enforcement integrity which would be effective, believable, accepted, and practiced. Surveys of university and college programs around the country were conducted, and evaluations of ideas in the fields of sociology, psychology, philosophy, religion, and management were made. Outside experts were consulted and other law enforcement agencies were contacted to identify potential programs. Although many thought-provoking ideas came to attention, neither an appropriate treatment nor a solution to the problem was identified. Finally, a solution was sought from the most obvious but frequently overlooked resource—the department's own line personnel. Volunteers were solicited to address the idea of creating a new technique for enhancing the ethical quality of decisions made by sheriff's department personnel. One lieutenant and five sergeants emerged as an effective grassroots cadre interested in the challenge.

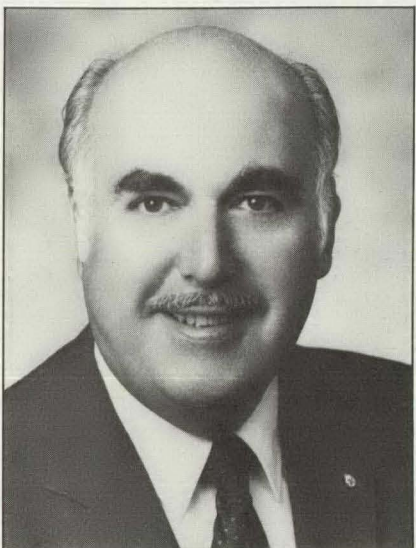
By  
DUANE PREIMSBERGER

*Commander  
Administrative Division  
Los Angeles County  
Sheriff's Department  
Los Angeles, CA*





Commander Preimsberger



Sheriff Sherman Block

The involvement of street-level supervisors proved to be a tremendous asset in the development of a program. They clearly understood the problem, had identified causes, saw opportunities for results, and were interested in seeking solutions. They were enthusiastic about being included as resources in a new, untried, and different approach. Additionally, they knew their future audience.

The group was given general instructions, which amounted to: "It's broken; fix it; talk to anybody you want; let us know when you've got it working." Thus arose the "career integrity workshop," a blueprint for a peer-oriented, consciousness-raising session designed to encourage individual thought about integrity, values, and standards.

#### The Career Integrity Workshop

The nature of the career integrity workshop is clarified by a statement as to what it is *not*. It is *not* a one-sided lecture or a presentation. It is a group discussion, the success of which depends on the level of participation and candor exhibited by the 10-15 personnel who attend each session.

Two trained facilitators (sworn sheriff's personnel of various ranks) monitor and guide the 4-hour discussions according to the established format. Their mission is to assist the workshop session in achieving the following objectives, as stated in the format introduction:

- To encourage self-examination,
- To enhance awareness of one's own values,
- To seek valid standards for honestly evaluating one's own decisions,
- To encourage accepting responsibility for our actions,

- To plan future decisionmaking according to our own values and standards and those of the sheriff's department, and
- To highlight common feelings of what's right.

#### Outline of Format

Each discussion group begins with a short introduction by one of the facilitators, who explains the background and objectives of the workshop and emphasizes the importance of participation and candor. (The 10-15 members of any given session are peers of uniform rank, so as to favor open, honest discussion among them.) The facilitator also stresses the confidential nature of the workshop, making clear that the expressed attitudes and past actions or decisions of each individual are not noted, discussed, or divulged afterwards by either facilitator.

In the first phase, an examination of specific law enforcement integrity issues begins with a discussion of pre-written scenarios which point up commonly used double standards and rationalizations. The issues reviewed in each workshop are the very essence of law enforcement ethics and range through gratuities, alcohol abuse, minor-to-major law violations, use of excessive force, verbal abuse, sexism, racism, perjury (including on police reports), overtime abuse, personal business during work hours, sleeping on duty, etc.

In a discussion group comprised of supervisors, managers, and executives, additional issues more uniquely related to their positions as role models for subordinates are also discussed, such as inconsistent discipline, negligent supervision, favoritism in evaluation, assignment or promotion, and intimidation.



In the next phase, an analysis of standards is encouraged. Participants discuss the practical application of police work of various existing written standards, such as the law enforcement code of ethics or sheriff's department policy. They are asked to articulate the standard(s) that they adhere to in making day-to-day law enforcement decisions.

The consideration of standards is followed by an examination of rationalization processes. The participants are encouraged to discuss honestly deviations from their own concept of what is right as expressed in the previous phases of the workshop. "Catch" phrases (e.g., "We've always done it that way," "Everyone else does it," or "They owe it to me") are discussed to highlight the role rationalization plays in eroding professional integrity.

Following a review of the objectives by the facilitators, the workshop is concluded with completion of an anonymous critique form by each participant.

#### **Facilitator Selection and Functions**

The two sworn personnel who monitor each discussion group are crucial to the achievement of the workshop's objectives. Thus, the 24 facilitators currently involved in the discussion series were carefully selected according to the following criteria:

- Credibility, based on the perception among discussion group participants that the facilitator is honest, has a strong experience base, and sets a good example.
- Genuine appreciation of (1) the importance of integrity and (2) the discussion group approach as a means to enhance it.
- Sophistication in leading discussions without appearing

judgmental or "pious," or conversely, inadvertently validating poor decisionmaking.

- Demonstrated loyalty to the sheriff's department and to law enforcement.

The facilitators' functions in the workshop setting are four-fold and must be accomplished without slipping into a "lecture mode" and without engaging in one-on-one arguments with participants or sounding defensive. First, the facilitator must keep the discussions going—keep them vibrant, educational, and goal-oriented. Second, he/she must elicit total participation by keeping the quiet people involved and by preventing the enthusiastic talkers from monopolizing the conversation. Third, the facilitator must keep the discussion on track by continually focusing on the personal values and standards of those in the group, not their supervisors or subordinates. And fourth, the facilitator serves as a knowledge and experience resource concerning department policy, statutory law, and case law.

#### **Administering the Workshop**

The Los Angeles County Sheriff's Department initiated the career integrity workshop as a "grassroots" pilot program at its Lennox Station in 1984. Since then, the department has focused its initial effort on two large categories of deputy sheriffs in its 6,300-person contingent of sworn personnel.

First, workshops are being conducted in an ongoing fashion for sworn personnel at the department's 19 other patrol stations. Second, the department's captains, commanders, and chiefs are simultaneously being scheduled for the sessions. It is anticipated that as top executives are introduced

to the career integrity workshop, their genuine awareness and support of its techniques and objectives will facilitate the future plans for the program. These include expansion to the other five divisions of the sheriff's department (custody, detective, court services, administrative, and technical services) and scheduling the workshops departmentwide as permanent, recurrent experiences for all sworn personnel.

#### **Conclusion**

The career integrity workshop is designed to enhance awareness of the importance of values, standards, and integrity in law enforcement. It is *not* designed to instill ethics in peace officers or to preach to them about right and wrong. It is *not* intended to serve as a substitute for supervision. It is simply a forum for exchanging honest views in a professional, organized manner about one of the most crucial topics which faces law enforcement. Without the distraction of the "locker room talk" syndrome, deputy sheriffs can express their opinions and ideas and hear those of their peers, evaluating discrepancies and similarities and more precisely formulating the parameters of their own value system.

When a deputy humorously begins relating the circumstances of an arrest to his supervisor with the phrase, "Hey Sarge, this is an ethical arrest," we have cause to believe that we have at least raised the level of consciousness about standards, values, integrity, and decisionmaking. That is the beginning of a culturalization process that will continue throughout the Los Angeles County Sheriff's Department.

**FBI**



# Raiding the Computer Room

## Fourth Amendment Considerations

### (Conclusion)

**"... the legal standard by which ... searches and seizures [of computers and computerized information] will be measured is the same as is applied to searches less concerned with modern technology."**

By  
JOHN GALES SAULS

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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.*

Part I of this article examined the fourth amendment's requirements of establishing probable cause and particularly describing the items to be seized in affidavits which support warrants to search and seize computers and computer-processed information. Part I concluded with the particular description of computer equipment. Part II continues with a consideration of the particularity requirement as applied to computerized information and a discussion of fourth amendment standards regarding execution of search warrants on computer facilities.

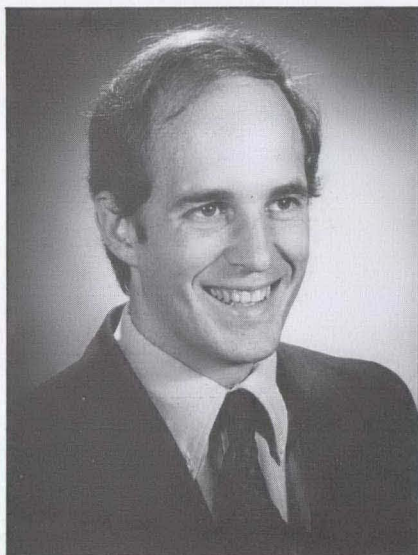
#### *Describing Computer-Processed Information*

Officers seeking to describe particularly information that has been processed by a computer face two significant obstacles. The first obstacle is explaining in an affidavit for a search warrant that records being sought may be contained in sophisticated technological equipment. For example, digital computer systems store and process information in the form of electronic impulses.<sup>47</sup> For these purposes, this information is encoded into the binary number system, a "language" comprised only of the characters zero and one.<sup>48</sup> Since, for the officer seeking

authority to search and seize and the court reviewing his application, "information (either numbers or text) in binary form is useless unless it can be decoded,"<sup>49</sup> describing computerized information in its encoded form is not meaningful. Fortunately, therefore, for officers drafting search warrant applications, this first obstacle is easily overcome, since officers are not required to confront the technological realities of what occurs when information is transformed into an electronic record. They can simply state that the information sought may be in electronic or written form.

It is the information itself that must be described with particularity, rather than the form in which the information may be found. Thus, if what is sought is "a letter from John Jones to Bill Smith dated November 9, 1985, and concerning the ownership of 200 shares of IBM stock," the letter should be described in those specific terms. The descriptive problem regarding whether the letter should be found in the form of paper with writing on it or magnetic tape electronically inscribed with binary code is solved by using more general terms. Concluding the description of the letter and similar items with the statement that "the records sought are 'written or electronic'" should be sufficient to permit lawful





Special Agent Sauls

seizures of the documents in either form, if the *information* sought is itself (as in the letter example) described with sufficient detail.<sup>50</sup> As previously noted, the storage media (magnetic discs, etc.) which could contain the information in electronic form should also be described as concisely as the facts known will allow.

The more-difficult obstacle then is particularly describing the information which is the object of the search. Information, whether recorded in written or electronic form, is generally collected into documents. Documents are what officers usually describe in warrants authorizing the seizure of information. Because the particularity requirement is strictly applied where documents are concerned,<sup>51</sup> the descriptive task is often a demanding one. Nonetheless, courts reviewing applications for search warrants evaluate the particularity of the description of a document in light of the degree of precision the facts of a case will allow.<sup>52</sup> The officer must be as precise as possible in describing a document, consistent with the facts that are available to him. The detailed description is required whether the information is computerized or not.

For example, in the *United States v. Timpani*,<sup>53</sup> a search warrant authorizing the seizure of "... any and all records relating to extortionate credit transactions (loansharking) ..." <sup>54</sup> was challenged as being insufficiently particular. In reviewing the warrant, the court noted that the warrant included a lengthy list of types of records (including "... lists of loan customers, loan accounts, telephone numbers, address books ..." <sup>55</sup>) and that the warrant "... provide[d] a standard

for segregating the 'innocent' from the 'culpable' in the form of requiring a connection with [the] specific, identifiable crime [of loansharking]."<sup>56</sup> Approving the particularity of the warrant, the court stated, "... most important, it is difficult to see how the search warrant could have been made more precise."<sup>57</sup>

The task of the officer is to describe the information sought with sufficient particularity to avoid a forbidden "general" warrant. If he is aware of specific documents sought, he should designate them by type (letter, memo, etc.), date, subject, author, addressee, providing as much detail as possible. The earlier description of the letter regarding ownership of IBM stock is an example of this technique.

Where only the general nature of the information sought is known, a highly detailed description is impossible. In such cases, officers must use great care to give a description that includes the information sought but limits the search as narrowly as possible. This is accomplished by use of a general description that is qualified by some standard that will enable the executing officers to separate the information to be seized from innocent information that may also be present. This qualifying standard is known as a limiting phrase.

The limiting phrase must be crafted based on the facts establishing probable cause to search. If the facts establish that the information sought comes from a particular time period, the phrase should limit the warrant to information of that time period. If the information sought is known to have been produced by a particular individual, the phrase should limit the description to material authored by that person. If the phrase combines several such factors, it is even more ef-



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**"... it is often desirable to incorporate the affidavit into the warrant by appropriate language and to attach the affidavit to the warrant."**

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fective. As in *United States v. Timpani*, the phrase may restrict the description to particular criminal conduct. In that case, the limiting phrase was "... records relating to extortionate credit transactions (loansharking)..."<sup>58</sup> It is most important that the limiting phrase restrict the scope of the search so that it remains within the bounds of the probable cause set out in the affidavit. The warrant may not authorize the seizure of items for which probable cause to search has not been established. In upholding the description of items in the warrant in the *Timpani* case, the court noted that "[e]ach item is plausibly related to the crime—loansharking or gambling—that is specifically set out [in the affidavit]." <sup>59</sup> The description, even though the items to be seized were described in generic terms, did not exceed the probable cause because of the use of an appropriately narrow limiting phrase.

In *Application of Lafayette Academy, Inc.*,<sup>60</sup> a case involving a search for computerized information, the information sought was described in general terms with the inclusion of a limiting phrase, but the phrase was not made sufficiently narrow. Lafayette Academy, Inc., was being investigated for fraudulent activities in connection with their participation in the Federally Insured Student Loan Program (FISLP). The warrant authorized seizure of "books, papers, rosters of students, letters, correspondence, documents, memoranda, contracts, agreements, ledgers, worksheets, books of account, student files, file jackets and contents, computer tapes/discs, computer operation manuals, computer tape logs, computer tape

layouts, computer tape printouts, Office of Education (HEW) documents and forms ... which constitute evidence of the commission of violations of the laws of the United States, that is violations of 18 U.S.C. Sections 286, 287, 371, 1001, and 1014..."<sup>61</sup> The probable cause in this case related to frauds pertaining to the FISLP. The court, in invalidating the search warrant, criticized the limiting phrase because it allowed seizure of items for crimes beyond the scope of the probable cause established. The court stated, "[t]he warrant is framed to allow seizure of most every sort of book or paper at the described premises, limited only by the qualification that the seized item by evidence of violations of 'the laws of the United States, that is violations of 18 U.S.C. Sections 286, 287, 371, 1001, and 1014.' The cited statutes, however, penalize a very wide range of frauds and conspiracies. They are not limited to frauds pertaining to FISLP, and there is no indication from the warrant that the violations of federal law as to which evidence is being sought stem only or indeed at all from Lafayette's participation in FISLP. Thus, the warrant purports to authorize not just a search and seizure of FISLP-related records as the government contends but a general rummaging for evidence of any type of federal conspiracy or fraud."<sup>62</sup> The court continued that "... the precise nature of the fraud and conspiracy offenses for evidence of which the search was authorized—fraud and conspiracy in the FISLP—needed to be stated in order to delimit the broad categories of documentary material and thus meet the particularity requirement..."<sup>63</sup>

Occasionally, the nature of the probable cause will allow a very broad description. In *United States v. Brien*,<sup>64</sup> a search warrant was issued

for the premises of Lloyd, Carr & Company, a commodities brokerage firm. The warrant authorized the seizure of "Lloyd, Carr's bank statements, cash receipt books, option purchase records, sales material distributed to customers, employee compensation records, customer account records, sales training material and customer lists."<sup>65</sup> Noting that the described items constituted most of the business records of the company, the court nonetheless upheld the warrant's particularity, since the affidavit's facts "... warranted a strong belief that Lloyd, Carr's operation was, solely and entirely, a scheme to defraud..."<sup>66</sup> Since the facts in the affidavit established that *all* of the records of the business probably were evidence of the crime being investigated, the scope of the description was sufficiently particular. In upholding the validity of the warrant, the court stated, "... where there is probable cause to find that there exists a pervasive scheme to defraud, all the business records of an enterprise may be seized, if they are, as here, accurately described so that the executing officers have no need to exercise their own judgment as to what should be seized."<sup>67</sup>

The items to be seized should be described as precisely as the facts will allow, and items for which probable cause to search has not been established should not be included. An innovative means of limiting the items described to those for which probable cause to search has been established is found in the case *In Re Search Warrant Dated July 4, 1977, Etc.*<sup>68</sup> Here, the scope of the description of items to be seized was limited to documents related to "the crimes ... which facts recited in the accompanying affidavit



make out..."<sup>69</sup> The court, in upholding the warrant, noted with approval the limiting phrase. As was done in this case, it is often desirable to incorporate the affidavit into the warrant by appropriate language and to attach the affidavit to the warrant. Officers preparing search warrants for computerized information should consider the use of this procedure.

### EXECUTING THE SEARCH WARRANT

The protection of the fourth amendment does not end when an officer obtains a valid search warrant. The right of citizens to be free of "unreasonable searches and seizures" extends to the manner in which a search warrant is executed.<sup>70</sup> For the search to be lawful, it must be done in a reasonable manner.<sup>71</sup> The U.S. Supreme Court has recognized the flexibility of this standard, stating "[t]here is no formula for the determination of reasonableness. Each case is to be decided on its own facts and circumstances."<sup>72</sup> Perhaps because of the vagueness of this standard, certain statutes also regulate the action of officers executing search warrants.<sup>73</sup>

Generally, officers must give notice of their authority and purpose prior to entering premises to execute a search warrant.<sup>74</sup> Once inside, the actions taken to secure control of the premises and prevent destruction of evidence must be reasonable under the circumstances.<sup>75</sup> The search itself must be performed within the scope of the warrant,<sup>76</sup> and care must be taken to cause no unnecessary damage during the search.<sup>77</sup> Finally, only items named in the search warrant may be seized, subject to a limited exception, the "plain view" doctrine.<sup>78</sup> These aspects of execution will be examined as they relate to computer searches.

### The Announcement Requirement

To protect the privacy interests of citizens and the safety of both occupants of premises and the officers making entry to execute a warrant, officers are generally required to knock and announce their identity and purpose before forcibly entering premises to perform a search.<sup>79</sup> This requirement is subject to certain exceptions which allow entry without notice under some circumstances.<sup>80</sup> The exceptions include situations where the announcement would jeopardize the safety of the officers or others and where it would likely result in the destruction of evidence.<sup>81</sup> This latter exception, destruction of evidence, becomes relevant in searching for computer-processed information.

Due to the manner in which it is processed and stored, computerized information is easily and quickly destroyed. As previously discussed, information is encoded into the binary number system for processing purposes. This encoded information may then be stored in the computer's internal memory or on magnetic or other external storage media.<sup>82</sup> Generally, the internal memory is used to store data that must be immediately accessible to perform the tasks for which the computer is presently being used. Because any power interruption will result in the loss of information stored in the computer's internal memory, important information is usually duplicated and stored on an external storage device, such as a magnetic tape or disc. Information that is in the computer's internal memory that has not been "backed-up" by more permanent external storage may be destroyed in the instant it takes to flip a power interruption switch. Depending on the memory

capacity of the computer, a considerable amount of information may be lost in this manner. Personal computers with internal storage capacities equal to 200 double-spaced typewritten pages are now common, and larger computers have much greater internal memory capacity. Information stored externally, especially if a magnetic storage medium is used, is likewise subject to rapid destruction. A device known as a degausser can instantly erase millions of data characters from a tape or disc.<sup>83</sup>

A pre-entry announcement is not required where officers know facts that cause them to reasonably believe that the making of an announcement will result in the destruction of evidence.<sup>84</sup> The ease and rapidity of destruction of the evidence sought is a factor courts will consider in determining whether a "no-knock" entry was reasonable.<sup>85</sup> Consequently, where officers know prior to execution of a warrant that information sought has been stored by computer and that persons with a motive to destroy the information are likely present at the place to be searched, an unannounced entry is likely reasonable.<sup>86</sup>

The announcement requirement is less stringently applied where warrants are executed against business premises.<sup>87</sup> Since computers are often located at businesses, this fact should also be considered in determining whether a pre-entry announcement is required.

Another alternative to the announced entry may exist when searching for processed data. Where computerized information is the target of the search, technology may allow the execution of the search without any physical entry. If the computer is one where access is available to persons with remote terminals via telephone lines, it is possible that the information sought



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***"Investigators executing a search warrant must use care to insure that the search is restricted to places where the items to be seized may be concealed."***

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may be obtained by an expert who "breaks in" the system remotely, using his own terminal and telephone.<sup>88</sup> Also, the electronic operations of some computer systems may be observed from as far away as one-half mile if the proper equipment is used.<sup>89</sup> Presumably, where no physical entry takes place, no announcement is required. Such searches do, however, fall within the application of the fourth amendment and its attendant requirements,<sup>90</sup> and in most cases, a search warrant will be required for performing such a search.<sup>91</sup> Additionally, some sort of notice to the operator of the computer that a search has been performed is likely required.<sup>92</sup>

#### **Controlling The Premises**

The U.S. Supreme Court has noted the utility of officers who are executing a search warrant exercising "unquestioned command of the situation."<sup>93</sup> Consequently, officers executing a search warrant have the power to control access to the premises being searched and to control the movements of persons present to facilitate the search and to prevent the removal or destruction of evidence. Due to the previously noted ease of destruction of computerized information and the size and complexity of some computer facilities, the need likely will exist to quickly take control of a computer facility being searched. Actions taken to control the premises and prevent the destruction of evidence will be evaluated based upon the reasonableness of the actions under the circumstances.

An example of this analysis is found in *United States v. Offices Known as 50 State Distrib.*,<sup>94</sup> where a search warrant was executed on a building housing a large "boiler room"

sales operation that was engaged in fraud and misrepresentation in selling its promotional merchandise. About 50 local and Federal officers entered the premises to perform the search. At least 300 employees were present. The warrant authorized the seizure of almost all business records present. Upon entry, the officers required all persons present to remain at desks or in their assigned work areas. No one was permitted to go to the restroom without an escort. The court, in upholding the validity of the execution of the warrant, noted, "[t]he breadth of the warrant . . . rendered the execution of the warrant a most difficult task at best. Some control over the 300 . . . employees was necessary for an orderly search."<sup>95</sup>

#### **Searching Within The Scope Of The Warrant**

The requirement of a particular description of the items to be seized limits the allowable scope of a search in two ways. First, it restricts the places where an officer may look. An officer may look only in places where the item sought might reasonably be concealed.<sup>96</sup> Second, it restricts the time of execution. An officer may only search under the authority of the warrant until all named items have been located or seized or until all possible places of concealment have been explored.<sup>97</sup> Failure to comply with either of these restrictions can result in an illegal, general search that violates the fourth amendment.

Investigators executing a search warrant must use care to insure that the search is restricted to places where the items to be seized may be concealed. This can be quite difficult where records are sought and a great number of files are present. Regardless of the difficulty, reasonable steps must be taken to ensure that the

search is no broader than authorized by the warrant.

A sensible first step is to make sure that all searching officers are aware of what items are listed in the warrant. In upholding the execution of the warrant in *In Re Search Warrant dated July 4, 1977 Etc.*, the court noted the procedure followed in that case, saying, "[i]n preparation for the search the agents attended several meetings to discuss and familiarize themselves with the areas and documents described in the search warrant and accompanying affidavit. They were instructed to confine themselves to these areas and documents in their search. During the search each agent carried with him a copy of the search warrant and its 'Description of Property' and could contact one of three persons on the scene who carried the supporting affidavit."<sup>98</sup> In upholding a warrant execution in *United States v. Slocum*,<sup>99</sup> the court also noted a pre-execution meeting.<sup>100</sup> Familiarizing the search team with the language of the warrant will increase the likelihood that a search will be performed in a manner a court will deem reasonable.

Once on the scene, the officers should continue to use care to restrict the search to the items listed in the warrant. A problem that frequently arises is that of sorting the items subject to seizure from those that are innocently possessed. This problem is especially common in cases where business records are the target of the search. In all cases, officers must restrict their search to places where the items named in the warrant are likely to be found and to limit the examination of innocent items to an extent no greater than that necessary to deter-



mine whether the item being examined is one of the items named in the warrant.<sup>101</sup> Again, the yardstick is reasonableness.

In many cases, a simple sorting process will be upheld as reasonable.<sup>102</sup> In *United States v. Slocum*, a warrant authorizing the seizure of business records related to illegal importation of tropical birds was executed. The U.S. Court of Appeals for the 11th Circuit described the execution process as follows: "... [T]he offices were a shambles and ... there was no apparent filing system; it was therefore concluded that it would be necessary to view each document to determine if it fell within the warrant. When an agent discovered a document that he or she believed covered by the warrant, the document was taken to one of four supervising agents who made the ultimate decision whether to seize the document."<sup>103</sup> The court approved use of "a common sense standard"<sup>104</sup> in evaluating the reasonableness of the search method and noted that where a warrant authorizes the seizure of documents, "some perusal, generally fairly brief, was necessary in order for police to perceive the relevance of the documents to the crime."<sup>105</sup> The court cautioned, however, that "the perusal must cease at the point of which the warrant's inapplicability to each document is clear."<sup>106</sup>

In *Re Search Warrant Dated July 4, 1977, Etc.* also concerned the execution of a search warrant requiring the examination of a multitude of documents. Fifteen agents conducted a search which lasted 9½ hours, during which they examined the contents of 93 file drawers, 14 desks, 3 bookshelves, and numerous boxes and piles of loose documents. The court described a systematic search

where each document encountered was evaluated by search personnel to determine whether it fell within the description of items to be seized contained in the warrant. The U.S. Circuit Court of Appeals for the District of Columbia Circuit, in upholding the reasonableness of the search, noted that nothing in the record indicated a "general rummaging operation"<sup>107</sup> had taken place and that the agents involved in the search had been "... extensively briefed, instructed and supervised."<sup>108</sup>

Search for documents stored in electronic form by a computer will require use of the computer to view documents on a display screen or to print them by means of a printer. A sorting process similar to that employed in a search for "ink on paper" documents would seem reasonable under the circumstances. Such a sorting process was employed in *United States v. Harvey*.<sup>109</sup> There, an agent seeking, pursuant to a search warrant, an electronic device that produced telephone switching tones discovered some cassette audio tapes. He played about 12 of the tapes on a cassette player on the scene and determined that 2 contained recorded telephone switching tones. These tapes were seized. The U.S. Court of Appeals for the Eighth Circuit held these tapes were "properly seized as within the limitations of the warrant."<sup>110</sup> Use of computer equipment to examine computerized records should likewise be reasonable, since the records are otherwise incomprehensible to the searchers. Obviously, certain operational knowledge regarding the computer equipment will be required to perform this type of search. Under these circumstances, expert assistance during the search may be essential.<sup>111</sup>

The sorting process, performed at the scene of the search, serves to pre-

vent the seizure, and thus the denial of access and use by the owner, of innocent records. The mere fact that the sorting process is time consuming will not make a wholesale seizure of records reasonable. Obviously, where a valid warrant authorizes the seizure of all business records, no sorting is required other than the elimination of nonbusiness records.<sup>112</sup> Otherwise, the reasonableness standard may require an arduous sorting process. Thus, where agents seized 11 cardboard boxes of computer printouts which were bound in 2000-page volumes, 34 file drawers of vouchers bound in 2000-page volumes, and 17 drawers of cancelled checks and hauled these records to another location where they sifted through them to extract the relevant documents (that were described in the search warrant) as a consequence of their determination that sorting at the site of the search would take a very long time, the seizure was held to be an unreasonable one.<sup>113</sup> Sorting at the scene of the search is generally required.

Certain characteristics of computerized recordkeeping may result in different treatment for computerized records.<sup>114</sup> First, the storage capacity of some computerized systems is such that review of all documents stored in the system could take a very long time. Second, unlike with paper files, the number of investigators who may assist in the search is limited by the number of computer terminals available for document display. Finally, where the records are stored magnetically, they may be quickly duplicated in their computerized form. Based on these considerations, it may be reasonable in some cases to duplicate the records quickly, leave copies for the use of the owner of the records, and seize the original records for later examination.



The likely legal concern in this situation is that the innocent documents included in the records would be available for unrestrained viewing by investigators resulting in a postponed "general search." A potential control for this problem would be continuing judicial supervision of the sorting process.<sup>115</sup>

Finally, when all items named in a warrant have been located and seized, the warrant provides no authority to continue the search.<sup>116</sup> Absent other legal justification, the search must terminate.

### Avoiding Damage During a Search

A further requirement for the reasonable execution of a warrant is that the officers take care to avoid unnecessary damage to the property being searched and seized. Since computers are complex and fragile,<sup>117</sup> considerable care must be exercised where one is seized. Expert assistance may be necessary to ensure a damage-free seizure.

### The "Plain View" Doctrine

As previously noted, an officer executing a search warrant will frequently need to sort through information to determine what portion of it may be seized pursuant to the warrant. If, during the course of the process, the allowed limited perusal of information is sufficient to cause the officer to conclude that the information is probable evidence of a crime, he is not required to leave the document behind, even though it is not described in the warrant. He may seize it under the "plain view" exception to the warrant requirement provided that he is lawfully present (searching reasonably within the scope of the warrant), it is readily apparent that the document is evidence, and the discovery of the document is "inadvertent" (that is, the officer did not

possess probable cause to search for the document prior to beginning the search he is presently engaged in).<sup>118</sup>

### CONCLUSION

Since judicial guidance is still limited in the area, investigators seeking and executing search warrants authorizing the seizure of computers and computerized information are on untested ground. However, the legal standard by which such searches and seizures will be measured is the same as is applied to searches less concerned with modern technology. Careful adherence to established fourth amendment principles, coupled with the use of expert assistance where needed, will enhance the likelihood of obtaining computerized evidence that is judicially admissible.

FBI

#### Footnotes

- <sup>47</sup>14 Am. Jur. Proof of Facts 2d 183 (1977).
- <sup>48</sup>*Id.* See also *King v. State ex rel Murdock Acceptance Corporation*, 222 So.2d 393, 398 (1969).
- <sup>49</sup>*Id.* at 184.
- <sup>50</sup>See *United States v. Truglio*, 731 F.2d 1123 (4th Cir. 1984), cert. denied, 83 L.Ed.2d 130 (1984). See also *United States v. Offices Known as 50 State Distrib.*, 708 F.2d 1371 (9th Cir. 1983), cert. denied, 79 L.Ed.2d 677 (1984).
- <sup>51</sup>See *Andresen v. Maryland*, 427 U.S. 463 (1976).
- <sup>52</sup>For a thorough discussion, see Rissler, "Documentary Search Warrants," *FBI Law Enforcement Bulletin*, vol. 49, No. 7, July 1980, pp. 27-31.
- <sup>53</sup>665 F.2d 1 (1st Cir. 1981).
- <sup>54</sup>*Id.* at 4.
- <sup>55</sup>*Id.*
- <sup>56</sup>*Id.* at 5.
- <sup>57</sup>*Id.*
- <sup>58</sup>*Id.* at 4.
- <sup>59</sup>*Id.* at 5.
- <sup>60</sup>610 F.2d 117 (1st Cir. 1979).
- <sup>61</sup>*Id.* at 3.
- <sup>62</sup>*Id.*
- <sup>63</sup>*Id.* at 3, 4.
- <sup>64</sup>617 F.2d 299 (1st Cir. 1980), cert. denied, 446 U.S. 919 (1980).
- <sup>65</sup>*Id.* at 306.
- <sup>66</sup>*Id.* at 308.
- <sup>67</sup>*Id.* at 309, contra *Voss v. Bergsgaard*, 774 F.2d 402 (10th Cir. 1985).
- <sup>68</sup>667 F.2d 117 (D.C. Cir. 1981), cert. denied, 102 S.Ct. 1971 (1982).
- <sup>69</sup>*Id.* at 141.
- <sup>70</sup>*Go-Bart Importing Company v. United States*, 75 L.Ed. 374 (1931).
- <sup>71</sup>*Id.*
- <sup>58</sup>*Id.* at 382.

- <sup>73</sup>An example is 18 U.S.C. §3109.
- <sup>74</sup>*Cf. Ker v. California*, 374 U.S. 23 (1963) (concerning an entry to arrest). For a thorough discussion, see 2 W. LaFave, *Search and Seizure*, 122-140 (1978).
- <sup>75</sup>See *United States v. Offices Known as 50 State Distrib.*, supra note 50.
- <sup>76</sup>*Cf. Harris v. United States*, 331 U.S. 145 (1947). For a thorough discussion, see 2 W. LaFave, *Search and Seizure* 160-163 (1978).
- <sup>77</sup>See 2 W. LaFave, *Search and Seizure* 161 (1978).
- <sup>78</sup>See *Coolidge v. New Hampshire*, 403 U.S. 443 (1971). For a thorough discussion, see 2 W. LaFave, *Search and Seizure* 163-184 (1978).
- <sup>79</sup>Supra note 74.
- <sup>80</sup>*Id.*
- <sup>81</sup>*Id.*
- <sup>82</sup>See generally 16 Am Jur. Proof of Facts 285-291 (1965).
- <sup>83</sup>D. Parker, *Fighting Computer Crime*, page 42 (Charles Scribner's Sons, 1983).
- <sup>84</sup>Supra note 74.
- <sup>85</sup>*Id.*
- <sup>86</sup>*Id.*
- <sup>87</sup>See *United States v. Francis*, 646 F.2d 251, 258 (6th Cir. 1981), cert. denied, 70 L.Ed.2d 616 (1981).
- <sup>88</sup>For a discussion of the ease with which an expert can gain access to a supposedly secure system, see T. Whiteside, *Computer Capers*, pp. 117-121 (1978).
- <sup>89</sup>T. Schaback, *Computer Crime Investigation Manual*, section 9.2.9 (Assets Protection, 1980).
- <sup>90</sup>See *Katz v. United States*, 389 U.S. 347 (1967).
- <sup>91</sup>*Id.*
- <sup>92</sup>See *Berger v. New York*, 388 U.S. 41 (1967).
- <sup>93</sup>*Michigan v. Summers*, 452 U.S. 692, 703 (1981), citing 2 W. LaFave, *Search and Seizure* 150-151 (1978).
- <sup>94</sup>See *United States v. Offices Known as 50 State Distrib.*, supra note 50.
- <sup>95</sup>*Id.* at 1376.
- <sup>96</sup>Supra note 76.
- <sup>97</sup>*Id.*
- <sup>98</sup>Supra note 68, at 123.
- <sup>99</sup>708 F.2d 587 (11th Cir. 1983).
- <sup>100</sup>*Id.* at 601.
- <sup>101</sup>See generally 2 W. LaFave, *Search and Seizure* 173-178 (1978).
- <sup>102</sup>See, e.g., *In Re Search Warrant Dated July 4, 1977, Etc.*, supra note 68. See also *United States v. Tamura*, 694 F.2d 591 (9th Cir. 1982).
- <sup>103</sup>708 F.2d 587, 602 (11th Cir. 1983).
- <sup>104</sup>*Id.* at 604.
- <sup>105</sup>*Id.*
- <sup>106</sup>*Id.*
- <sup>107</sup>Supra note 68, at 124.
- <sup>108</sup>*Id.*
- <sup>109</sup>*United States v. Harvey*, 540 F.2d 1345 (8th Cir. 1976).
- <sup>110</sup>*Id.* at 1354.
- <sup>111</sup>An expert accompanied officers executing the search warrant in *Ottensmeyer v. Chesapeake & Potomac Telephone Co.*, 756 F.2d 986 (4th Cir. 1985). Another case considering the role of an expert accompanying officers executing a search warrant is *Forro Precision, Inc. v. International Business Machines Corp.*, 673 F.2d 1045 (9th Cir. 1982).
- <sup>112</sup>See *United States v. Brien*, supra note 64.
- <sup>113</sup>*United States v. Tamura*, supra note 102.
- <sup>114</sup>See e.g., *United States v. Tamura*, supra note 102.
- <sup>115</sup>*Id.* See also *DeMassa v. Nunez*, 747 F.2d 1283 (9th Cir. 1984) (special master appointed to supervise sorting of documents during search of attorney's office).
- <sup>116</sup>In addition to suppression of evidence, civil liability may result when a search continues after all items named in warrant have been seized. See *Creamer v. Porter*, 754 F.2d 1311 (5th Cir. 1985).
- <sup>117</sup>For a discussion of the ways a computer may be physically damaged, see *Fighting Computer Crime*, supra note 82, pages 41-42.
- <sup>118</sup>Supra note 78.

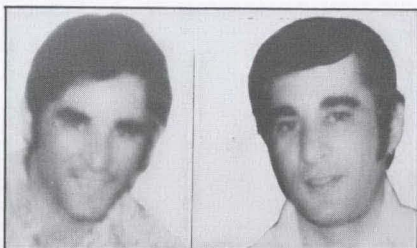


# WANTED BY THE FBI

## Notify 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, D.C. 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 1973



Right ring fingerprint

### Robert Ralph Moret,

also known as Robert Ralph Benliza, Robert Ralph Moret Benliza, Ralph Mantelli, Benliza Moret, Benliza Moret, Bobby Moretti. W; born 12-29-36, Brooklyn, NY (not supported by birth records); 5'8"; 146 lbs; sldr bld; brn hair; brn eyes; ruddy comp; occ-aircraft mechanic; scars and marks: scars on forehead, left wrist, and right bicep, mole on back. Wanted by FBI for INTERSTATE FLIGHT—ARMED ROBBERY.

NCIC Classification:  
12590857PM1557090913

Fingerprint Classification:

12 M 1 R-r  
M 5 R 13

Ref: 17  
5

I.O. 4746

FBI No. 157 773 F

### Caution

Moret, who has been convicted of armed robbery and murder, is being sought as an escapee from custody. He is reportedly a narcotics addict with suicidal tendencies. Moret should be considered armed and dangerous and an escape risk.



Photographs taken 1972



Right index fingerprint

### Jasper Jackson,

also known as James Jackson, James J. Jackson, James Jasper Jackson, James P. Jackson, Jimmy Jackson, Joseph Robinson, James Sutton. N; born 4-22-34, Columbia, SC; 5'7"; 160-180 lbs; med-stocky bld; blk hair (may be wearing Afro wig); brn eyes; drk comp; occ-farmer, gas station attendant, handyman, laborer; scars and marks: scars on bridge of nose, left eyelid, and right forearm; pierced left ear; tattoos: J.J.J. on right forearm and J.J. on left forearm; remarks: ambidextrous. Wanted by FBI for BANK ROBBERY; THEFT FROM INTERSTATE SHIPMENT—ARMED HIJACKING.

NCIC Classification:  
PIPIPIPO18PIPOPOPI17

Fingerprint Classification:

131 W 110 18  
128 W OOI

I.O. 4792

Social Security

Numbers Used: 131-26-7159; 131-26-5971

FBI No. 575 595 B

### Caution

Jackson, who is wanted in connection with an armed truck hijacking and abduction and for armed bank robbery, is also being sought by local authorities for the shotgun murder of an associate. Consider Jackson armed and dangerous.



# WANTED BY THE FBI



Photographs taken 1974 and 1975



Right index fingerprint

## Roy Clinton Sieg,

also known as Roy Clinton Sieb. W; born 1-22-47, Kentfield, CA; 6'; 170 lbs; med bld; brn hair; hzl eyes; med comp; occ-carpenter, chimney sweep, hod carrier; scars and marks: scar left knee; remarks: is a motorcycle enthusiast and reportedly associates with motorcycle gang members; allegedly has suffered shock damage to the left eye, causing poor vision. Wanted by FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:

POPI15PO161713141816

I.O. 4796

Fingerprint Classification:

15 O 25 W IOO 16  
L 17 U OOO

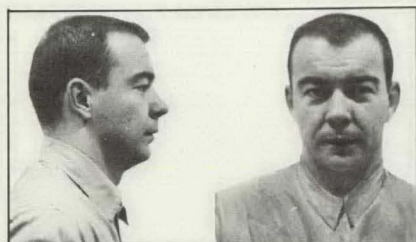
Social Security

Numbers Used: 555-72-1263; 555-73-1263

FBI No. 516 057 L10

## Caution

Sieg, who reportedly trains attack dogs and who may be armed with an automatic pistol, is wanted for the murder of an individual who after being beaten was shot through the head at point-blank range. Consider Sieg armed and dangerous.



Photographs taken 1967



Right index fingerprint

## Richard N. Nickl,

also known as Richard Gleason, Brandon A. Hanck, Jack Johnson, Richard M. Nickel, Richard M. Nickl, Richard Michael Nickl, Richard Nicholas Nickl. W; born 8-6-34, Chicago, IL; 5'9"; 160 lbs; med bld; drk brn hair (balding); brn eyes; med comp; occ-bartender, construction worker, dog kennel operator, dog trainer, laborer, salesman; scars and marks: scar left forehead to scalp, scar over left eyebrow, brown mole right side of face, vaccination scar upper left arm, scar left hand; remarks: may have mustache, beard, or longer hair, may wear wig or have hair transplant, reportedly suffers from arthritis and may walk with a slight limp. Wanted by FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:

PO67161816DIPO171717

I.O. 4770

Fingerprint Classification:

17 O 5 R OOO 16  
I 19 W OOO

FBI No. 849 635 A

## Caution

Nickl, who is believed to be armed, is being sought as an escapee from custody. At the time of his escape, Nickl was serving a life sentence for the murder of one police officer and the wounding of another. Consider Nickl armed, dangerous, and an escape risk.



Photograph taken unknown

## William Thomas Smith,

also known as William Thomas Smith, Jr., William Thomas, William Tee, Smitty. W; born 10-15-24, Cincinnati, OH; 5'4"; 135 lbs; sm bld; gray hair; bl eyes; med comp; occ-bus driver, private security guard, sales, shipping and receiving clerk, vacuum cleaner repairman; remarks: reportedly an avid square dancer and bridge player. Wanted by FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:

PMDOPMPO1713PM161917

I.O. 4776

Fingerprint Classification:

13 M 25 W OMO 17  
M 27 W MOO

Social Security

Number Used: 293-14-2197

FBI No. 846 350 A

## Caution

Smith, who may be armed with a .32-caliber handgun, is being sought in connection with the abduction-shooting murder of his estranged wife. Consider Smith armed and dangerous.



Right ring fingerprint



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## Referenced Pattern

A combination of a loop appearing over a tented arch formation is classified as an accidental whorl. The pattern presented falls into this category. The tracing is outer. The pattern is referenced to a loop with 12 ridge counts, inasmuch as the tented arch formation is referenced to a plain arch formation. A combination of a loop appearing over a plain arch formation is classified as a loop.



### 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

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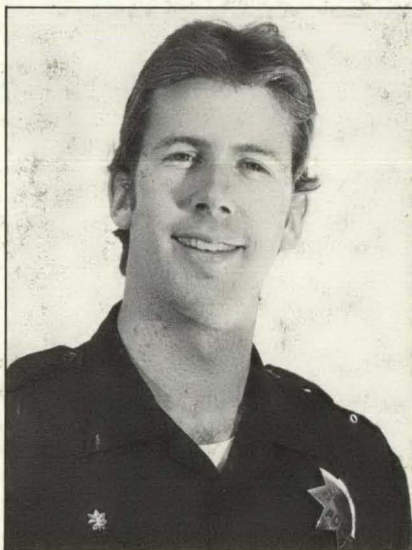
*Washington, DC 20535*

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

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## ***The Bulletin Notes***

Officer Francis A. Mangan, Daly City, CA, Police Department, spotted smoke pouring from an apartment building while on patrol early in the morning of March 21, 1985. Officer Mangan notified the dispatcher of the fire, then entered the building and evacuated 15 residents, crawling on his knees with a wet towel wrapping his face. The *FBI Law Enforcement Bulletin* joins the chief of the Daly City Police in commending Officer Mangan for his lifesaving bravery.



*Officer Mangan*

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