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Law Enforcement Bulletin
March 1987


# REPEAT OFFENDERS

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FBI
# *Law Enforcement Bulletin*

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**The Cover:**
The Baltimore County Repeat Offender Program is a united effort of all elements of the criminal justice system to neutralize the repeat offender. See article p. 1. (Cover by Dave Knoerlein)

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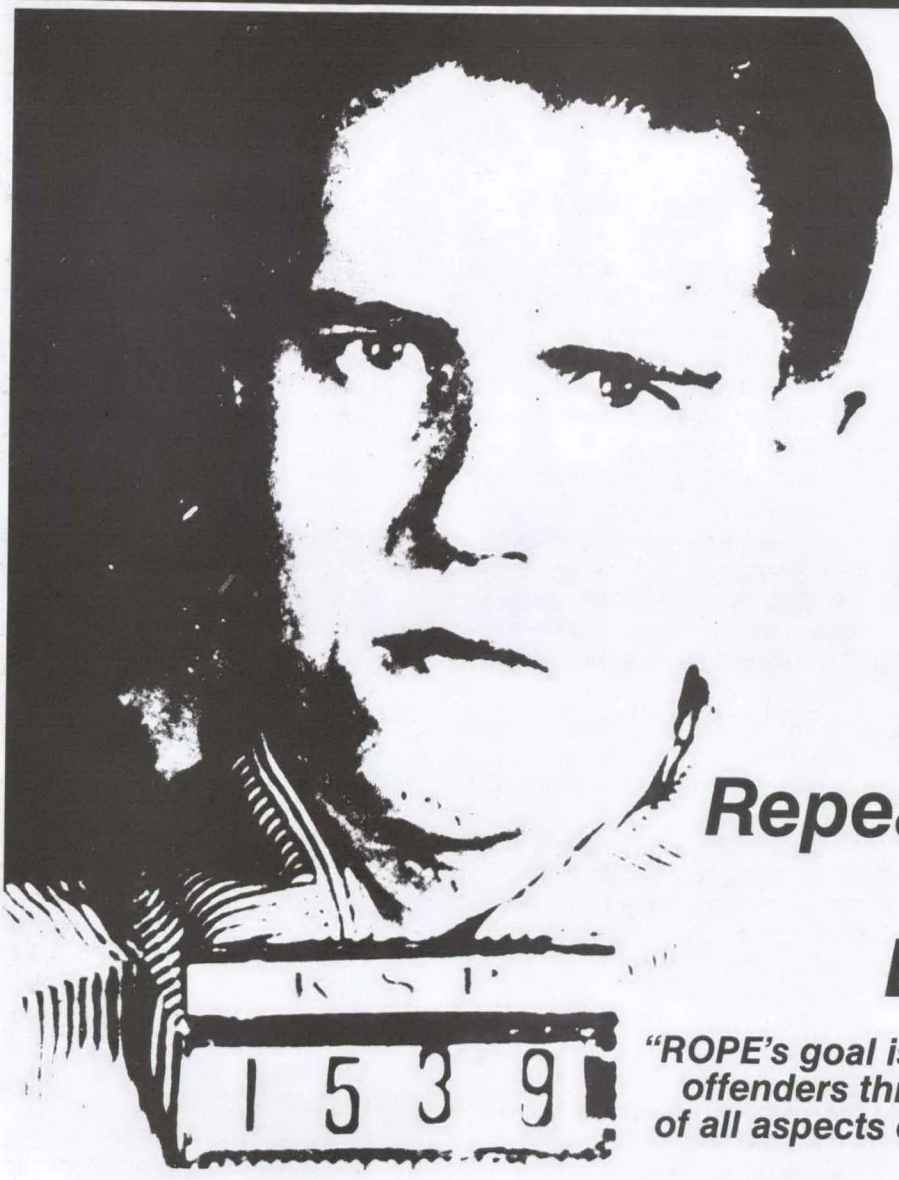


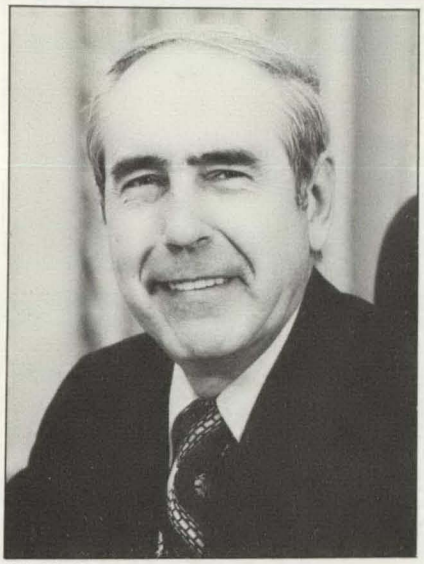

# ROPE Repeat Offender Program Experiment

***"ROPE's goal is to incapacitate repeat offenders through the improvement of all aspects of criminal and juvenile justice processing."***

By
CORNELIUS J. BEHAN
*Chief of Police*
*Baltimore County, MD*

Traditionally, resources have been applied to handling calls for service, investigating crimes, and clearing cases. Today, it is recognized that few criminals are responsible for much of our society's criminal activity. The concentration of resources against these repeat offenders has been successful within many jurisdictions. However, maximum effectiveness will only be achieved when all elements of the criminal justice system are coordinated in a united effort to neutralize repeat offenders. Also, this united effort must exist on a statewide basis, if it is to have a real impact on the crime problems rather than just chasing criminals from one jurisdiction to another.

It was with these facts in mind that the Maryland Criminal Justice Coordinating Council was originated by a Governor's Executive Order on June 30, 1967, for the purpose of developing new approaches to resolving Maryland's crime and delinquency problems. The council's functions were revised by five successive executive orders, which enabled it to administer Federal funds, renewed its leadership role in justice policy development and coordination, and gave it its correct name emphasizing its coordination function.



*Chief Behan*

In July 1980, the council adopted four crime and delinquency priorities. One of these was the repeat offender, and a task force was formed to tackle the problem. After reviewing the literature on repeat offenders, the task force concluded:

1) Nationally, a small number of offenders accounts for a substantial percentage of offenses committed;
2) Maryland's repeat offender problem appears to be similar to that of other States across the Nation; and
3) There were no conclusive findings as to the overall effectiveness of so-called "career criminal" programs.

For these reasons, the original task force developed a program called the Repeat Offender Program Experiment (ROPE), which was subsequently endorsed by the Criminal Justice Coordinating Council in January 1982. ROPE's goal is to incapacitate repeat offenders through the improvement of all aspects of criminal and juvenile justice processing. Its rationale and principal features were outlined in *Repeat Offender Program Experiment (ROPE): Guidelines and Programmatic Alternatives,* which formed the centerpiece for the First National Conference on Repeat Offenders held at College Park, MD, in October 1982. In December 1983, a second National Repeat Offender Conference was held, which focused on juvenile repeat offenders. Local ROPEs are now in place in five Maryland subdivisions—Baltimore City and Anne Arundel, Baltimore, Howard, and Montgomery Counties.

The principal features of ROPE include:

—*Systemwide Coordination*—Repeat offenders had to be a priority for all justice agencies. Systemwide and systematic coordination and collaboration among all criminal and juvenile justice agencies are essential to target and incapacitate repeat offenders.

—*Executive Support*—Top executive support is a prerequisite to achieving the changes necessary to strengthen and improve the formal and informal links among the State and local agencies who have traditionally been fragmented and not change oriented.

—*Information Sharing*—To incapacitate repeat offenders successfully, the requisite coordination among involved agencies must be supplemented by timely and accurate information sharing.

—*Reallocation of Resources*—The ROPE concept gave substantial flexibility to local subdivisions in defining their repeat offenders and designing programs to meet general ROPE objectives. This latitude in program design was necessary because no new funds accompanied the implementation of the local ROPEs.

—*Planning Time*—Sufficient planning time was allocated to ensure complete involvement by all components of the justice system. Small, one-time planning grants were awarded to five major subdivisions in the State. These subdivisions were given 6 months to a year to plan thoroughly for the implementation of their ROPEs.

## The Baltimore County ROPE Experience

In the spring of 1982, Baltimore County applied for and received a small grant from the State to support research and planning for a repeat offender program. This project had two fairly distinct phases—conducting a re-

search study of the repeat offender problem in the county and interviewing juvenile and adult justice officials to learn their perception of the repeat offender problem and their suggestions for dealing with it.

By analyzing the county's arrest data from 1980, it was determined that of the adults arrested for serious crimes (UCR's Part I Index Crimes), 70 percent had prior adult arrests, 27 percent had prior adult incarceration, and 40 percent were rearrested by July 1982. For juveniles apprehended for serious crimes, 50 percent were younger than 16 years of age, 35 percent had prior delinquency referrals, 2 percent had prior juvenile institution commitments, and 26 percent were referred again to the State juvenile services by July 1982.

The results of the research study showed that the county justice system did treat serious offenses and repeat offenders more seriously; yet, a number of repeat offenders did slip through the cracks. For example, too often the defendant was allowed to plead guilty to the second or third charge, which are lesser crimes; usually, first-time adult offenders received community supervision; and very few repeat offenders were sentenced under Maryland's Mandatory Sentence and Subsequent Offender's Statute.

The second phase of the study helped determine a definition of repeat offenders and identified a number of programmatic suggestions. The county's ROPE program was adopted in April 1983.

## Key Program Strategies

### Target violent and repeat offenders

County and State agencies agreed to focus on adults arrested for crimes of violence (as defined in Article 27, Section 643B) and on juveniles apprehended for violent felonies (Article 27, Section 441e). Initially targeted for special attention were those juveniles and adults arrested for robbery, and adult arrestees who qualify for mandatory sentences under 643B. From the 20 percent 1980 sample, about 300 robbery arrests are estimated annually, along with 30 arrestees per year who qualify for 643B mandatory sentences.

### Document prior records

The prior adult and juvenile records of targeted offenders were documented, and this information was used in decisionmaking throughout the system.

### Limited plea bargaining

A concerted effort was made for all adult crime of violence cases, and especially for targeted offenders, to obtain conviction on the most serious sustainable charge. This means better investigations and case preparation, limited plea bargaining, and avoidance of those verdicts (e.g., STET, probation before judgment) that do not qualify as convictions.

### Formal handling of serious juvenile cases

As mandated by recent State legislation, any complaint charging a 16- or 17-year-old juvenile with a violent felony under Section 441e was forwarded immediately to the State's attorney. Uniform Delinquency Treatment Standards (UDTS), implemented by Juvenile Services Administration, increased formal handling of repeat juvenile offenders.

### Tighten community supervision

Those adult or juvenile offenders on probation, parole, or other forms of community release for crimes of violence were placed under the maximum level of supervision and were held strictly accountable for any violations of the terms of their release.

## The Police ROPE Program

Early in the county's ROPE planning effort, the police department created a ROPE project team comprised of representatives from various units affected (Records, Youth Services, Operational Analysis, etc.) and headed by a senior command officer from the Field Operations Bureau. The project team's original mission was:

—To work with the county's consultant and Repeat Offender Steering Committee in the planning and research effort to design a countywide ROPE, and

—To complete the development of an in-house (police department) program that will quickly identify and remove repeat offenders from the community through apprehension, case enhancement, and incapacitation through high or denied bail.

The Repeat Offender Unit was formally placed into operation in July 1983. The specific activities of this unit include:

1) Identifying and targeting repeat offenders, flagging their cases for special attention;
2) Providing complete and timely documentation of prior criminal history records for decisionmaking throughout the criminal justice system (i.e., arrest, prosecution, sentencing, and jail and prison classification);

***"The department recognized the need for incapacitating juveniles who repeatedly commit delinquent acts."***

3) Reviewing and enhancing the pretrial investigation of the instant offense to ensure chances of attaining a conviction through such efforts as answering the questions of the prosecutor, maintaining contact with the victim/witness, obtaining physical/testimonial evidence, etc.;
4) Establishing close working relationships among all criminal justice agencies so that repeat offenders will be kept off the street through high or denied bail, will be convicted of the most serious charge (limited to plea bargaining), will be restricted from access to pre-release or minimum security program, etc.; and
5) Informing targeted offenders of the severe mandatory penalties that will be imposed if they continue to commit crimes, as a result of the county's special program directed at repeat offenders.

The first 2 year's efforts (1983 and 1984) exceeded the expectations based on the county's ROPE plan. The unit was successful in qualifying 169 offenders for repeat offender status—27 percent for prosecution under the State's mandatory sentencing statute and 73 percent under the department's broader repeat offender definition. A large percentage—51 percent—of those targeted were arrested for robbery.

Other ROPE objectives were also achieved. Targeted offenders were kept off the streets; only 15 percent gained their release before trial. The targeted offenders were prosecuted and convicted for the instant offense (limiting plea bargaining). Of those who reached trial, 78 percent were prosecuted for the instant offense and 79 percent were convicted of the instant offense. In addition, 72 percent of the offenders qualifying for mandatory sentencing received the mandatory sentence allowed by law.

**Results**

In the last 3 years, 37 subjects have been sentenced under 643B in Baltimore County—32 to a mandatory 25 years without parole and 5 to life without parole. Also, 124 subjects who fit our departmental definition of threshold offenders have been found guilty. Fifty-three have been sentenced to 10 years to life. The remaining have been sentenced from 1 year to 10 years.

**Juvenile ROPE Program**

In 1983, the project team mounted an effort to develop a juvenile ROPE program (JROPE), which became fully operational on October 1,1984. The police department's criteria for a juvenile repeat offender is that any juvenile taken into custody will be treated as a repeat offender when:

1) The juvenile's instant (present) delinquent act is a violent offense as defined by Article 27, Sections 643B or 441e, and the juvenile has previously been charged with four or more delinquent acts that are felony offenses, or
2) The juvenile is presently being charged with five or more separate delinquent acts that are felony offenses, of which at least one is a violent offense as defined by Article 27, Sections 643B or 441e.

The department recognized the need for incapacitating juveniles who repeatedly commit delinquent acts. It is imperative that the department work closely with the Juvenile Services Administration (JSA) and the State's attorney's office (SAO) to carry out the following general objectives:

—To ensure that the police department, JSA, and SAO identify and give maximum attention to those juveniles who have become a danger to themselves and the general public as defined by the juvenile ROPE definition;
—To remove juvenile repeat offenders from the community as soon as possible after being taken into custody for a delinquent offense and detail them in a strictly governed environment (e.g., the Maryland Training School or Montrose School) until the detention hearing the next court day;
—To seek continued detention until the time of adjudicatory or waiver hearings through the authorization of the juvenile court;
—To obtain waivers to adult court on repeat offender juveniles who are taken into custody for a violent offense (i.e., offense listed under Article 27, Sections 643B/441e, for the purpose of obtaining a conviction for the instant offense and incapacitation); and
—To ensure that all cases involving juvenile repeat offenders are complete and legally sufficient, in order to obtain a conviction if waived to adult court or a finding of delinquency by the juvenile court.

The procedures require that when handling juvenile repeat offender cases, the department must identify and target juvenile repeat offenders and flag their cases and histories for special attention. These juvenile records are searched whenever a juvenile is taken into custody for a delinquent act and a request for detention from

JSA for all verified juvenile repeat offenders is made. Every effort is made to ensure that the juvenile court has all the juvenile's prior delinquent/criminal history records to justify continued detention of each juvenile. The department also works with JSA and SAO and seeks waivers to adult court on each juvenile identified as a repeat offender. Accurate records are kept on juvenile repeat offenders, including records with other juvenile justice agencies, in order to ensure that each juvenile repeat offender case has been thoroughly investigated and is ready for prosecution.

**Results**

During the initial tracking period, the juvenile ROPE unit identified 63 juveniles who fulfilled the juvenile repeat offender definition. Of the 913 juvenile contacts made by the police department for felony delinquent acts during the 14-month tracking period ending in 1984, 80 (9 percent) involved juveniles who fulfilled the criteria of the department's JROPE definition. This finding supports the premise that only a small percentage of the juvenile population committing serious crimes are repeat offenders.

While small in number, juvenile repeat offenders are responsible for a disproportionate amount of crime. Of the 1,462 felony charges placed against all juveniles during the tracking period, 281 (19 percent) were filed against the 63 juveniles identified as repeat offenders. Furthermore, delinquency history records indicate that these 63 juveniles have a combined total of 723 prior police contacts or charges, of which 336 (46 percent) were for violent delinquent acts included under Article 27, Section 643B or 441e.

Nearly two-thirds of the repeat offenders identified were less than 14 years of age upon their first contact with the juvenile justice system. Fourteen (22 percent) were less than 12 years of age. The young age at which repeat offenders become active in crime makes early identification, record building, and effective treatment essential when dealing with the repeat offender problem.

During the development stages of JROPE, it was found that prior criminal/delinquency history records were often missing, incomplete, or of questionable accuracy. For example, the type of treatment or sentence imposed for prior adjudications of delinquency were indeterminable for nine (14 percent) of the juveniles identified. Records indicating the current status of offenders within the criminal justice system were incomplete or unavailable for 44 (70 percent) of the 63 juveniles identified. Whether a juvenile repeat offender was able to secure his release before trial/adjudication hearing could not be determined for 24 (38 percent) of the juveniles identified.

Other ROPE objectives achieved were:

—Keeping targeted offenders off the street; in 38.8 percent of the cases, the juvenile was initially detained by JSA and detention was continued at the review hearing.

—Prosecuting the targeted offenders for the instant offense (limiting informal disposition); in 46 percent of the cases, petitions were filed and 31 percent of the cases were waived to adult court.

—Convicting the targeted offenders for the instant offense; of those who reached trial (petition cases) in juvenile court, 94 percent were found delinquent, and 72 percent of the cases waived to adult court were prosecuted. The most frequent sentence was supervised probation.

**Updated Results**

As of April 1986, 102 juveniles have been identified and tracked as repeat offenders. Of the 102 identified, 71 have reached their 18th birthday. Tracking continues, and should they be rearrested, the information is used at adult hearings. Thirty-one (31) remain in the juvenile system.

Detectives present records at hearings, and both judges and court commissioners use these records when making decisions regarding juvenile repeat offenders. All juvenile repeat offenders have been entered into the computerized juvenile records keeping and tracking system to eliminate them from slipping through any cracks and to provide field officers with accurate up-to-date information.

During 1985, of the 40 separate waivers requested on 25 juvenile repeat offenders, 28 resulted in the juvenile being waived to adult status, 8 were withdrawn by the State's attorney, 3 were denied by the juvenile court, and 1 was reversed by the adult court.

**Summary**

Baltimore County's Repeat Offender Program is unique in that it has been operationalized within the police department. This is an important aspect of the program as it provides 24-hour availability of information on repeat offenders, which enables police officers to identify them at the earliest, initial contact with the justice system. The earlier repeat offenders are identified, the less chance there is for them to slip through a crack in the justice system.

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# Mandated Training for Private Security

***"Mandated training worked for law enforcement, and as such, law enforcement believes that it will work for private industry."***

By
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*General Supervisor*
*Loss Prevention*
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*Baltimore, MD*

*Mr. Deegan*

Should training be mandated for the private security industry? This was the question addressed at the third annual Maryland Chiefs of Police Association/Baltimore Chapter of the American Society for Industrial Security Symposium sponsored by the Johns Hopkins University, which was attended by 118 representatives of local law enforcement, private security, and the educational community. The agenda addressed the issue of mandated training from three perspectives — the interface of law enforcement with private security, the users of private security, and the private security industry itself.

Public law enforcement was represented by the chiefs of police of Montgomery County and Howard County, the commissioner of the Baltimore, MD, Police Department, and a Maryland State Police lieutenant. The opinions collectively stated by law enforcement can be categorized into one word — training. It was noted that from a professionalism perspective, private security is in the same position as was law enforcement 35 years ago. A recent edition of the *FBI Law Enforcement Bulletin* demonstrated this position by reporting that many years ago, a city mayor was asked why he appointed an individual to be the chief of police. The mayor replied, "The new chief has been my personal tailor for many years, and because he was such a good tailor, I knew he would be a good chief of police."

Law enforcement executives attribute the significant strides made in eliminating this attitude and professionalizing law enforcement to effective training and education. The growth of police academies, the encouragement of police officers to attend college, and the recruitment of candidates from college campuses have been three factors that have upgraded law enforcement. No longer is the idea of pairing off a rookie police officer with a seasoned veteran considered to be the only effective method of training. Mandated training worked for law enforcement, and as such, law enforcement believes that it will work for private security.

The law enforcement representatives also noted the following factors as they apply to private security:

—Police manpower is being reduced because of fiscal factors, and as manpower is being reduced, so are the functions performed by the police. Private security may have to begin performing these functions.

—Private security and law enforcement must work together in the common objective of preventing crime. This would include sharing information and developing mutually beneficial training programs.

—Upgraded security training, improved communications, and a better understanding of roles are needed for the police and private security to work together more effectively.

—Business and industry prefer to hire moonlighting police officers rather than contract security officers. The police are considered to be professional, while the private security officer is not. Training is the key to professionalism.

—Governmental contracts with security firms to provide security services now contain very stringent and certifiable training programs. The training requirements and associated costs have prevented many private security companies from bidding on the contracts.

—Public law enforcement and private security are sharing jurisdiction through memorandums of agreement at colleges, universities, shopping malls/centers, business complexes, and industrial parks. With the decrease in law enforcement personnel, the trend will continue.

Representatives of the private security industry presented differing opinions regarding the training issue.

The chief executive officer of the Federal Armored Express Company suggested that while he is not opposed to training, a mandate to train will not be beneficial to the private security industry. He noted that jurisdictions where mandated training legislation has been enacted have not experienced an upgrading in private security personnel. In one State where mandated training legislation was enacted, the State, after the fact, came to the private security industry to determine the type and quantity of training that should be required. Additionally, after examining the training issue, it was determined that the training required by the State was already being provided by the individual private security companies. It was his contention that the function to be performed should determine the type of training provided and that the requirement for training should be left in the hands of the individual security company, since the private security industry in general, and the armored car industry in particular, is one of the most heavily regulated sectors of the American economy. This regulatory force is not governmental or industry based; it is the insurance industry, the most stringent of all regulative forces. Without insurance, the private security industry cannot operate, and before an insurance company issues a policy accepting the liability for literally millions of dollars, they ensure the employees are trained to the highest possible standards.

In lieu of mandating training, the public sector can best assist the private security industry by authorizing extensive background checks on potential employees. It has been verified that 80 percent of all armored car losses are thefts committed by employees. The private security industry does not need help from the public sector in training, but in screening employees before training begins.

The executive vice president of the American Society for Industrial Security (ASIS) and the security director of the American Can Company cited a series of examples in their presentations that essentially encourage upgrading training requirements for private security. It was noted that standards of performance are, in fact, regulated by governmental agencies, municipal ordinances, insurance rates, and generally accepted practices by security professionals. Additionally, it was noted that guards lacking security training can create legal problems if a serious incident occurs and improper or inappropriate actions follow that can be traced to the lack of training. The difficulty is determining how much training is enough. One recommendation of the ASIS standards committee was the formation of a national committee that would include the Department of Justice and law enforcement representatives to establish realistic standards for the private security industry.

The manager of the Facilities Management Department, Baltimore Gas and Electric Company, presented the user perspective of the program, whose responsibilities cover the overall security operation at the Baltimore Gas and Electric Company, including both contract and proprietary security forces. He cited several examples of guard force failure to perform that can be traced to the lack of training. In one specific incident, an individual attempted to enter an area without showing proper identification. When stopped by a security officer, the individual became very aggressive and physically attacked the officer who happened to be a female. A second security officer observed the situation from less than 10 feet away but offered no assistance whatsoever. When questioned about his lack of action, the guard responded, "I didn't know what to do." Appropriate training and retraining could have made the difference in this situation. He also cited examples of positive and appropriate action by security personnel that included a recent incident involving an employee having a heart attack in the main lobby of the corporate headquarters. A security officer initiated CPR, which he had learned in company training, and other security personnel performed crowd and traffic control functions. His summary included comments that businesses hiring security personnel assume incorrectly they are well-trained. The private security industry should establish stringent standards for itself, and if the industry does not, the government will.

## Conclusion

The issue of mandated training is being researched nationally by such groups as the International Association of Chiefs of Police, the American Society for Industrial Security, and other related organizations. The Maryland Chiefs of Police Association and the Baltimore Chapter of ASIS will continue to develop meaningful and relevant programs at the State level aimed at solving problems associated with training and private security industry.

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# Establishing a Foreign Language Bank

By
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*Deputy Superintendent*
and
SGT. JAMES DEVEREAUX
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*Police Department*
*Chicago, IL*

Even though the America of 200 years ago was not completely homogenous, our founding fathers could not have envisioned how cosmopolitan it would become. The recent, large influx of immigrant groups from other than Europe and China is a current phenomenon; Vietnamese, Thais, Cambodians, Haitians, Cubans, and other nationalities of every race and nation have flocked to our shores. While these people have brought color and vitality to our society, there have been inevitable problems in assimilating people of such diverse backgrounds.

Many of these problems are based on failures to communicate, not only in speaking but also with gestures and facial expressions. There is no such thing as a universal gesture or expression. Even common facial expressions, such as a smile, can have varied connotations. For example, American troops in Vietnam would become enraged when Vietnamese civilians would smile in the presence of American casualties. However, in the Vietnamese culture, a smile in such circumstances reflects sympathy or uncertainty, while the Americans assumed it was an expression of joy or pleasure at their expense. Because of such misinterpretations, several ugly incidents were reported.

Governments and societies are formed for the benefit of their citizens. People living within a given society are entitled to its protection as well as subject to its laws. Those of us in the United States have come to expect certain goods and services from the various administrative organizations under whose authority we reside.

The government's provision of these services and the citizens' dependence upon them, engendered by the expectation of their delivery, create a bond between the citizen and government. If these goods and services are not forthcoming and the individual's expectations are not met, the process of identifying with a given society and becoming a useful, productive citizen becomes much more difficult.

In the 1960's, police in the United States became aware of the need for community interaction and especially the necessity for minority participation in maintaining order and public peace. This interaction, preferably personal or one-on-one communication, promotes a feeling of security and belonging in members of minority groups. Without it, police agencies may fail to obtain needed information on which to base sound courses of action.

How, then, are we to handle this vital function of communication? We are all familiar with the comedy sketch in which an American and his wife traveling in Europe attempt to make themselves understood by speaking English louder and slower, the longer they are unable to communicate. The inference is everyone in the world can be made to understand and respond to a message in English, if it is spoken loudly and slowly enough. Today, police officers still rely on this ethnocentric technique with the same results our American tourists experienced in Europe.

*Deputy Superintendant Rodriguez*

*Sergeant Devereaux*

The next method, and probably the most prevalent, is to wait until the need for an interpreter has become acute, such as at the scene of a homicide involving non-English-speaking persons and then attempting to find one by searching among bilingual citizens in the area. This results not only in long delays when time is of the essence but cannot guarantee the accuracy or the objectivity of the translator, if one can be found.

The third method in general use is to hire an interpreter. This can be very costly, especially in an area with several minority groups speaking different languages. Considering that the nature of police work demands interpreters be available 24 hours a day, 7 days a week, the cost of establishing and staffing an office of interpreters can be prohibitive.

The most practical method of solving the problem is to have a pool of volunteer interpreters who will make themselves available on a 24-hour basis. Most bilingual persons harbor a special feeling toward others of their culture who are attempting to integrate into American society and are having linguistic difficulties doing so. These persons often volunteer their services, which will provide police agencies with interpreters for every linguistic group in their area on a 24-hour basis, at virtually no cost.

This, however, does not solve the problem of initial contact. How can a person who cannot speak English, especially in an emergency situation, make his need known to the police? This problem was a major concern of the Chicago Police Department. The residents of Chicago, a city of over 3 million people, come from a multitude of ethnic and cultural backgrounds. In some cases, recent arrivals/immigrants from some foreign countries equal the populations of sizeable cities.

Chicago police began receiving periodic inquiries from community groups regarding the number of bilingual officers answering emergency calls. Spanish-speaking residents comprise the largest non-English-speaking group in Chicago. Since the communications center had a number of Spanish-speaking officers and civilians assigned, the department did not realize a major problem existed. With the advent of numerous inquiries regarding the department's bilingual capabilities, however, concern and speculation arose as to how many non-English-speaking citizens were discouraged from using the police emergency 911 communications network because of a language barrier.

It was becoming apparent that those individuals who were unable to communicate adequately their needs for service would probably lack the knowledge and inclination to register a complaint. Because of the difficulties in determining the number of non-English-speaking potential callers who were discouraged from using police services, the department assumed that the increased comments from community groups indicated that there was indeed a problem. Compounding this was the fact that in addition to its many non-English-speaking residents, Chicago, along with being a major center of tourism, is a transportation hub with thousands of non-English-speaking persons either passing through or pausing only to stay overnight.

To address this newly recognized need, the department developed a pilot program to test a concept in providing service to non-English-speaking requesters. The City of Chicago is divided into 13 police radio zones. A person placing a 911 call for the police in any

*Superintendent Fred Rice*

one of these zones is automatically connected to a communication console at police headquarters, which is dedicated to receiving calls from that zone. Accordingly, there are 13 zone consoles serving the city, each staffed by a 3-person crew each shift, 24 hours a day.

It was determined that the pilot program should concern itself with Spanish-speaking persons, who constituted the largest block of non-English-speaking potential users. Since the communications center had only 22 employees fluent in the Spanish language, and service requests from Spanish-speaking persons might be expected on any radio zone, it would be impossible to staff each zone continually with someone who spoke Spanish.

While the department had additional personnel fluent in Spanish, their services were in demand in other units, e.g., assigned to patrol duties in areas with a high density of Hispanic citizens, narcotics enforcement, and other functions where their language expertise could be used on a face-to-face encounter. Therefore, the most sound approach was to centralize the communications center's bilingual expertise, so that it might be accessed by all zones responding to emergency calls.

Since the communications center is equipped with four auxiliary positions or consoles which are put into service to handle calls from any zone too busy to answer 911 calls within a reasonable amount of time, it was decided that one of these positions would be manned 24 hours a day, 7 days a week, by a Spanish-speaking person. All calls through the 911 system, in which the caller spoke only Spanish, would be fast forwarded to this position. Each 911 answering position or console can transfer a call, thereby allowing a three-way conversation between the original dispatcher (who is in control of the squad cars in the area from which the call is placed), the foreign-speaking caller, and the interpreter.

Phase I was implemented on March 31, 1982, after staffing and training communications center personnel in the new program was completed. This initial phase lasted 3 months, during which 465 calls were received from Spanish speakers. Forty calls were able to be serviced by the original dispatcher; of the remaining calls, 395 resulted in the dispatch of police units — 65 were of an emergency nature (crimes in progress, fires, or injured persons), 283 were of an urgent nature (disturbance, crime reporting), and 49 were calls of an informational nature. Because the initial statistical data warranted a continuation of the program, preparations were begun to expand to Phase II, which included other language needs.

In order to determine the department's need for this next phase, the Altrusa Language Bank, a renowned source of language expertise in the Chicago area, was contacted. The Altrusa Language Bank, funded by the Altrusa Club of Chicago (a service club of executive and professional women), provides volunteer interpreters to foreign-speaking persons who are ill or troubled and cannot make their needs known because of a language barrier.

Altrusa indicated interpreters were most frequently requested for the following languages, excluding Spanish, in descending order — Polish, Cambodian, Vietnamese, Croatian, Serbian, Korean, Laotian, Chinese, Greek, Russian, Italian, Arabic, French, German, Hungarian, Rumanian, and Japanese. Seven other languages, including Navajo Indian and Turkish, were requested only a few times.

The department then contacted other than Spanish-speaking consulates, ethnic social and business organizations, and individual citizens and requested their assistance and cooperation in developing a language bank resource. Because of the overwhelming positive response, the department was able to establish a language bank consisting of 29 different languages. Telephone number listings were compiled of volunteers in these languages who could be contacted on a 24-hour basis.

The latest in telephone technology, which made the system possible at a minimum of cost, was installed. Since the great majority of calls were, and continue to be, placed by Spanish speakers, the auxiliary positions manned by personnel fluent in Spanish, which were activated in Phase I, were continued.

***"The department now [has] the capability of conferencing a three-party call including the dispatcher, the foreign language requester, and the interpreter in a matter of seconds 24 hours a day...."***

The system was enhanced by installing warning lights at these auxiliary positions which serve to alert the Spanish-speaking dispatcher or dispatcher aide that an incoming call from a specific zone required an interpreter. Telephone speed dialers, which can dial 30 numbers placed in their computer memory, were installed at 2 auxiliary positions, and the languages were listed on the speed call directories in descending order of use. The department now had the capability of conferencing a three-party call including the dispatcher, the foreign language requester, and the interpreter in a matter of seconds 24 hours a day, in instances where time is of the essence.

Personnel manning the auxiliary positions were trained to recognize key words and phrases in a variety of languages to facilitate the process. Conversely, foreign language consulates and organizations were provided bilingual cards on which English words and phrases requesting various types of assistance were printed out phonetically. The consulates and organizations were encouraged to distribute these cards to their constituents.

Proper management of this new resource dictated that in order to ensure efficient and effective performance, the system should be routinely tested. The Chicago police calendar year is divided into 13 28-day periods. One-third of all numbers on the automatic dialer are tested each period. These tests not only determine if the equipment is functioning properly but also if the interpreters listed still wish to participate in the program. Additionally, one zone or console is tested each period for compliance with procedures.

Since the inception of the program, 5,803 calls requiring interpreters have been received. The majority of callers spoke Spanish or Polish, the predominant non-English-speaking groups needing assistance in the area. However, interpreters have also been used in 16 other languages.

During the first 6 months of 1986, the language bank has been used in 572 instances. Of these, 72 have been calls of an emergency nature (crimes in progress, fires, etc.)( 341 were of an urgent nature (crime reporting, missing person, disturbance, etc.) and 159 were of an informational nature (parking violation, recovered property, intelligence information, etc.). Not only was the department better able to provide emergency and other services to the non-English-speaking callers, but the ability to communicate effectively with the police encouraged others to come forward with valuable information as to crime conditions and potential criminal enterprises.

One of the main benefits was in the area of officer safety. In the past, police officers had been dispatched to locations and incidents with very little knowledge of the conditions or what to expect. The dispatcher, not being able to communicate effectively with a caller, but sensing the police were needed, dispatched a squad car with instructions to try to ascertain the problem upon arrival. With the onset of the program, the dispatcher could determine, through a three-party hookup, if there was any danger to the responding officers, i.e., was a weapon on the scene, was a person with a history of violence involved, or other information needed to prepare responding officers to conditions at the scene.

In order to keep the program functioning efficiently, a continuing program of public awareness is required. For the system to work, people must know it exists and they must be encouraged to use it. The fact that the police are making a positive effort to reach out and make contact with the minority groups in order to provide better public service enhances the image of the police not only with the groups involved but in the eyes of the community as a whole. By better serving a portion of the community, the police protect the entire community. Having access to information in a timely manner enables the police to act effectively.

**Conclusion**

While most municipalities may not have as diverse an ethnic composition as Chicago, it is a rare city or town in today's cosmopolitan America that does not have at least one non-English-speaking minority group. These groups, for the most part, consist of permanent residents desiring to attain U.S. citizenship, who are undergoing the gradual process of assimilation that all immigrants have undergone since the founding of our country. Their temporary inability to communicate fluently in English hampers their Americanization.

Since governments are instituted to protect and serve the governed, citizens have a right to expect, and governments have a duty to provide, those services needed for individuals to feel secure in their persons, property, and the exercise of their freedoms. The extension of government services to newly arrived residents hastens and facilitates their assimilation into American society by making them viable members of the community.

The resources necessary to develop a language bank program similar to Chicago's, but tailored to local needs, exists in all communities. Modern technology and voluntary citizen participation make the costs of such a program negligible. With the large number of non-English-speaking residents in our midst, our communities would do well to aid in assuring their identification with American ideals.

FBI

# The Employee Council

By
JAMES W. SKIDMORE
*Chief of Police*
*West Bend, WI*

One of the greatest difficulties in administering a police department is ensuring that there is a two-way flow of necessary information within the organizational structure. Police departments, and police officers in general, seem to be affected by rumors or false information much more than other organizations. Therefore, it is critical that correct information be disseminated *and* understood. In many departments, this problem is magnified by the administration, the working unit, or both. Thus, finding a better way to communicate within the organization will make attaining departmental objectives and goals more likely.

In talking with various officers within the department, it became apparent that there also was a lack of communication among the various units. Patrol officers complained that detectives took information given the officers and were seldom informed as to the value of that information or the status of the case. If the information was used to clear up various offenses, the investigators failed to give the patrol officers what they regarded as "just dues." In addition, there was a lack of communication between patrol shifts, which was fostered by the fact that there was no shift rotation and officers were unaware of the other shift's problems or respon-

*Chief Skidmore*

sibilities.

Unfortunately, this lack of intimate communication is prevalent in a majority of police departments, if we look at the issue honestly. And, the problems cited previously exist within other units of a police department—records, communications, evidence, detective, patrol, and management.

The West Bend Police Department, in order to ensure a free flow of information within its organization, carefully reviewed its internal information system, seeking ways to increase understanding, cooperation, and feedback. We considered concepts not necessarily tied to law enforcement, but which had a successful impact on the organization. As a result, a concept called the "employee council" was adopted and implemented within our department.

The employee council consists of employees representing each division within the police department. Members rotate quarterly among those interested in serving on the council, and meetings are held monthly.

The purpose of the employee council is to promote intradepartmental cooperation and to open the lines of communication throughout the department. Awareness of, and appreciation for, each other's concerns, problems, and expectations are vital in establishing and maintaining positive relationships essential in achieving goals and objectives.

The council consists of eight members, including four patrol officers, one from each shift and relief shift, one Support Services technician, one investigator, and two staff members. The members are selected from those officers and employees willing to be a part of this council. Each of the three shifts of the Patrol Division and the relief shift elects its own representative, as do the Support Services and Investigative Units. The two staff members are appointed by the chief from first-line supervisors and commanders and provide input from the supervisory and administrative perspective. Because they attend monthly staff meetings, these staff members know why decisions were made, and many times, this information is valuable at the employee council meetings to defuse potential problems and rumors.

Once employees are selected for the council, an election is held to select a presiding chairperson for that quarter and a secretary. The only restriction placed on the council by the chief was that no staff member could be elected as chairperson or secretary. Council members are encouraged to make every effort possible to attend scheduled meetings; however, if a member is unable to do so, he/she can select an alternate from his/her respective division or unit.

Minutes taken at all meetings are typed, copied, and distributed in order that all department employees are kept informed of council activities and discussions. Copies are sent to the chief of police, command staff, patrol officers roll call board, records and communications roll call board, and the Investigative Unit's office.

After each employee council meeting, the chairperson meets with the chief of police to provide an overview of council concerns and topics of discussion. Either the chief and/or the appropriate division commander responds to the issues raised in writing, usually within 30 days.

Every employee of the department is encouraged to make suggestions that will improve performance, efficiency, effectiveness, and safety. Their input is valuable in terms of providing different perspectives to problems that

***"The employee council opens lines of communication within the department and is another vehicle to improve operations and to meet departmental goals and objectives."***

may not be readily identifiable at the management level. The mere criticism of a particular method, procedure, or piece of equipment is not sufficient to initiate change in a rational and responsible manner. All facts and circumstances as they affect the overall organization must be taken into consideration to ensure that the suggestion achieves the objective of actually causing improvement. Therefore, certain procedures were initiated so that each suggestion would be evaluated objectively.

All suggestions have to be submitted in the form of completed staff work, so that nothing remains to be done except for approval or disapproval by the final authority. To satisfy the criteria of completed staff work, a suggestion must include the following:

1) Introduction: A statement of the circumstances prompting the suggestion.

2) Problem Statement: An accurate definition of what the problem is and the effect it has on the department. This should be a factual statement substantiated by adequate research and not assumption.

3) Alternative Solutions: Statement of the available solutions that will remedy the problem and the identification of the best solution that is the most cost effective and practical. This also includes a statement of how the suggestion will affect the department as a whole, which should be substantiated by adequate research.

4) Cost Analysis: A breakdown of any cost involved for equipment or personnel.

5) Method of Implementation: A statement of what the means of implementing this suggestion would be, i.e., new procedure, purchasing request, directive, etc.

6) Summary: A statement of all the facts that support the recommendation.

Only those suggestions submitted in the prescribed format will be given further consideration, since planning and research personnel are not available to do the necessary followup work. If the suggestion is not acceptable in total, but still has some merit, that part of the suggestion will be responded to in writing.

The West Bend Police Department has been using this concept for the past several years and has found it to be highly effective in improving communications, both among the various units within the department and between shifts and the working unit and management. However, for this program to be successful, there must be a firm commitment from the administration, the supervisors, and the employees themselves.

The commitment of the administration is such that a police department facility is used for the meetings. Those officers off duty when the meeting is scheduled are paid overtime to attend the meeting; those on duty are excused from their station to attend. Clerical personnel are available to type minutes and other paperwork necessary to submit a suggestion properly. Also, all resources of the department are available for research and development of the possible suggestions.

Commitment of the employees is another essential element. Employees must be willing to serve as members of the council working to improve the efficiency and effectiveness of the department. They must be willing to offer suggestions and to evaluate those submitted to the council for consideration. Rejecting suggestions and informing other employees of the rejections is another responsibility they must be willing to assume. If employees perceive this council as a valuable concept, they will use it. If suggestions for improvement are not generated, it is because the commitment from the employees is not there.

Many of the suggestions that have come from the employee council have dealt with minor issues that cause morale problems, simply because the administration was not given proper feedback by either the staff or first-line supervisors. Changes have been made in certain procedures or orders that have alleviated the concerns of employees. The members of the council have also rejected suggestions because they were not in the best interests of the entire department. Through this concept of the employee council, the employees have a legitimate recourse to initiate change within the department, instead of the informal system that usually brings about change but with a negative manner and most times outside the guidelines of the department.

**Summary**

Everyone benefits from a more-efficient and effective police department. However, for the employee council to be successful, it takes a total commitment on the part of the administration and the employees. The employee council opens lines of communication within a department and is another vehicle to improve operations and to meet departmental goals and objectives. The council allows employees to have the opportunity to provide input into the decisionmaking process and institute change when appropriate.

FBI

# Book Review

*Ambush—Related Assaults on Police: Violence at the Street Level,* by C. Kenneth Meyer, Thomas C. Magedanz, Steven H. Feimer, Samuel G. Chapman, and William J. Pammer, Jr. Charles C. Thomas, Springfield, IL, $20.50, 94 pp.

This work is a careful, thorough analysis of ambush-type of attacks on police in the period 1962–1984. The authors note that while "ambush killings represent a low percentage of police deaths," these attacks have an "immediate and drastic" impact on police morale because they appear to be without justification.

This study resulted from the public attention aroused by these attacks, particularly during their height in the late 1960's and 1970's. Based first on FBI statistics in the Uniform Crime Reports, which show the overall height of police killings also to be in the late 1960's and early 1970's, the authors analyze these ambush-type attacks in terms of environmental, officer, and assailant characteristics, plus the dynamics of the assault.

Ambush attacks, in this study, are defined as entrapment or spontaneous ambush, sharing the characteristics of 1) surprise, 2) concealment of assailant and/or weapon, 3) suddenness, and 4) excessive use of force. Part of the definition came from the International Association of Chiefs of Police (IACP) 1974 study "Ambush Attacks."

The authors, who teach at the University of Oklahoma and have done prior research and publication on the subject of assaults on police, explain the relative lack of data on assailants who are successful in these attacks—they get away. The IACP study found possible motives to be personal revenge, mental disorders, or political beliefs. In the last category, the Black Liberation Army, the violent off-shoot of the Black Panther Party, was the only organization identified in these attacks. The publicity this "army" engendered through action and rhetoric led to much of the public attention given this subject in the early 1970's, when this writer was researching these attacks.

Studies of environmental factors indicated that over half of the ambushes occurred in California, New York, and Pennsylvania, in cities of over 500,000 population. Winter months accounted for almost half the ambush attacks, which puzzled the authors, since summer sees more violent crimes. That rifles, shotguns, or automatic weapons were used in 57 percent of the ambushes, as opposed to under 14 percent of the weapons used in overall police killings, answers this "puzzle"; long arms are easier to conceal under long outer garments worn in the winter.

These authors recognize that this study needs to be supplemented by more research, particularly in the area of assailant characteristics. But some conclusions can be reached and recommendations made. Particularly important, according to this work, is the careful screening of calls by dispatchers; "effective dispatcher performance is a critically important ambush countermeasure."

The second countermeasure recommended is patience and timing on the part of officers—be suspicious, do not hesitate to call for backup units, do not leave the police vehicle until you have assessed the situation, and wear body armor. This work is an important contribution to an area of violence that has been little studied.

SA Thomas J. Deakin, J.D.

# In and Out of a Question-And-Answer Period—SUCCESSFULLY

By
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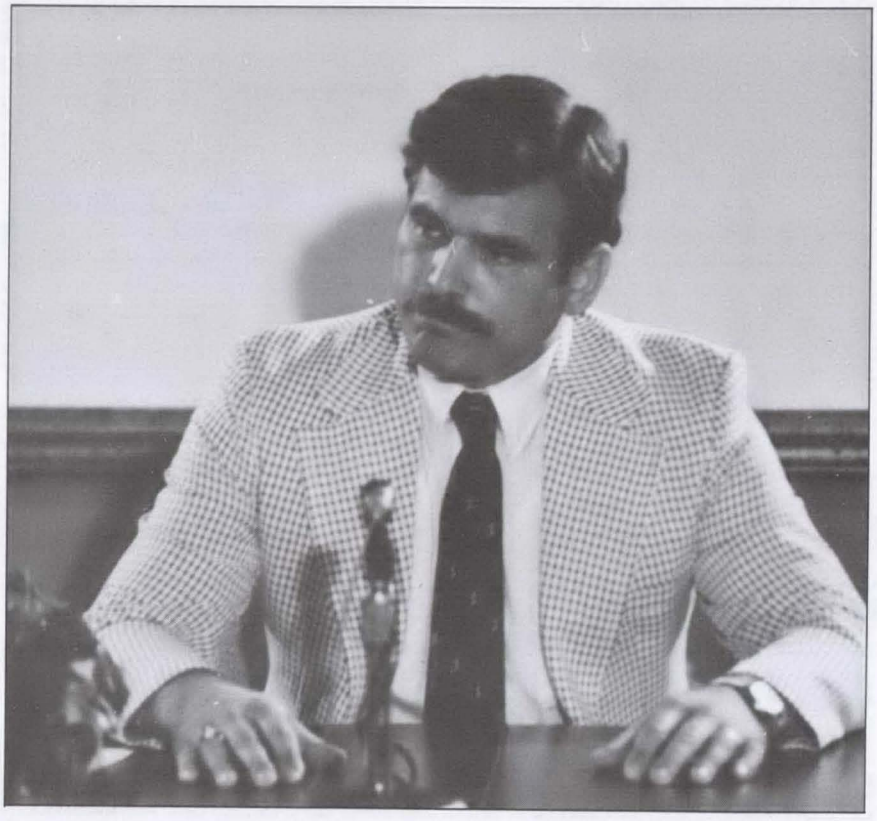

***"...it becomes vital to handle questions and answers from the press in a way that satisfies their needs and our responsibilities."***

*Above: Police officers attending the FBI's National Academy receive training in how to address the media.*

If you have ever conducted a press conference or briefed journalists, you've probably experienced fear. And when the floor is opened to reporters for questions and answers, that fear can sometimes be amplified to incipient panic. No one can eliminate the tension engendered when facing reporters, but you can bolster your professional image if you address that audience with the confidence born of preparation, knowledge of your goals, and concrete expectations of the media's behavior.

The reporters, with notepads, microphones, and television cameras in hand, sometimes take exceptional pleasure in asking embarrassing questions, ones which they know cannot be answered for investigative reasons. "Ambush journalism," especially as practiced by television's investigative reporters, has intimidated more than one police officer, knowing that statements made in the heat of today's battle will glow hotly in the cooled-down atmosphere of tomorrow.

*Special Agent Mount*

Those of us who have had to make announcements concerning major news events have learned that the most dangerous time, the time when we're most apt to offer opinions where facts should be, is during the question-and-answer period of a news conference or briefing. Departing from carefully scripted news releases and guided by nothing more than common sense and hard-earned experience, we risk our cases and our reputations by allowing anyone with press credentials to ask questions. Journalists film, record, or make note of the sensitive, important responses that we give to questions we consider awkward and sometimes even arrogant.

That the press has a right to know how we handle our investigative duties is a foregone conclusion. Often, newsmen performing their jobs have contributed to informing the public about incidents that otherwise might not have come to light and should have.

Rather than have an important investigation jeopardized by a spoken error or to have an off-the-cuff statement haunt us at a trial, it becomes vital to handle questions and answers from the press in a way that satisfies their needs and our responsibilities. Experienced public information officers know that we must have some limitations on the amount of information that we release for "... excessive pretrial publicity can make it very difficult to impanel a jury of intelligent, responsible jurors, untainted by prior knowledge of facts or allegations in the case."[1] Conversely, the press must realize that they have been given all the information we can release without risking the investigation, sources, or a subject's legal rights.

While law enforcement agencies are not working at cross-purposes with the news media, they do have different perceptions as to what should be released. Quoting David Brinkley, "When a reporter asks questions, he is not working for the person being questioned, whether businessman, politician, or bureaucrat, but he is working for the readers and listeners."[2] You, on the other hand, have a need to protect an ongoing investigation, your agency, and the legal rights of the people involved in the case.

These two positions are not mutually exclusive. By following a few simple precepts, both the law enforcement agency and the individual news medium can leave a press conference and a question-and-answer period sufficiently satisfied.

Often, extensive preparation is given to writing and polishing a press release. A senior manager or public information officer then releases the finished product. It's critical to remember that the person presenting the information to the press is very rarely the investigator handling the problem. Thus, the primary law enforcement official who has the "best," most complete knowledge of the case is not the person who is briefing the press. This does not constitute a real problem, providing that the preparation for a conference consists of more than "rehearsing" by reading a copy of the release 2 minutes before presentation.

Reading a prepared statement is not your only obligation when addressing a press conference. The people to whom you are speaking, the reporters, see the question-and-answer period as their chance to get to the real facts. Many believe that they are duty-bound to dig for more information than you are willing to give, because "... the journalist knows that he is not simply an amplifier for the press releases of institutions

and individuals that believe they have something to say."[3]

After delivering your press release to the audience, you cannot relax because you believe the "major" job has been handled. Nor can you try to rush because you want to get the question-and-answer period over, nor can you get scared because the "hardest" part of your assignment is facing you.

What follows is a list of things to do and attitudes to adopt to help you to face the most nerve-wracking part of the press conference—the question-and-answer period.

### Prepare

Highly visible politicians ask aides to prepare "briefing books" containing the latest and most important information about "hot" topics. Top business executives facing stockholder meetings also have them prepared. And so should you! The product that you, the person who actually faces the hot lights and banks of microphones, deliver is representative of your department's professionalism, and you have to be fully informed in order to know what issues to comment on and what to avoid. That knowledge should come from every section of your agency that is actively involved in examining the problem or case. As a general rule, accept only written information from those divisions that are "working" the case. The final product doesn't have to be grammatically accurate, typewritten, or even free of coffee stains and erasures. It does have to be the most accurate and most recent information available about the topic under discussion. Demand this written product with as much authority as your position allows.

After receiving all of the pertinent information, rough draft your press release. Be sure to mention the other agencies that participated in the investigation or event which resulted in the press conference. Prior consultation with prosecutive authorities will insure the release will not adversely affect any potential prosecution.

### Brainstorm

Once you've received the written report of the happenings, assemble subordinates and peers who you trust to be objective and knowledgeable (and who are not necessarily friends) in a quiet room, free of telephone calls and disturbances. Give them copies of the briefing book. Allow them time to read the report (including a copy of the actual press release that you are going to present) and then "brainstorm."

This article is not the place to discuss the ground rules for "brainstorming." Suffice it to say that no idea is to be laughed at, no comment to be summarily dismissed. Essentially, the session should produce a list of questions that reporters attending the conference will probably ask.

What would I want to know if I were a citizen hearing about this event? That's the information that reporters are trying to gather, and that's what you should determine in the brainstorming session. Reporters may look for a "hook," a novel way of covering a routine story, but essentially they are trying to tell their readers/viewers interesting and informative details about fast-breaking news. They will make every conscious effort to develop "sidebar" material (interesting sidelights about the people and events taking place) on their own. Essentially, they simply want you to release all of the facts that you can.

After the brainstorming session, write your final release, have it duplicated for distribution to the reporters after your oral delivery, rehearse your presentation of the release, and prepare to face the press.

### Intelligently Refuse To Answer Questions

Without a doubt, you are going to be asked questions that you cannot answer, so be ready. After assembling your list of projected questions, eliminate those that you don't believe will be asked and then make absolutely sure that you have answers for each of the remaining ones. That does not mean that you have to answer every question put to you with concrete information. A suspect's rights must be protected. Investigative methods and sensitive sources of information must be concealed. Physical and circumstantial evidence and witness' statements cannot be released to the press. But, for every question that you believe might be asked and to which you cannot respond ethically, have a reason for refusing. Prepare logical reasons and be ready to explain why you cannot respond. As Vernon J. Geberth said in his book, *Practical Homicide Investigation,* "... there needs to be a thoughtful policy of police-media relationships which provides for the integrity of the investigation and the proper dissemination of information to the public."[4] Reporters are reasonable; they recognize that some questions can't be answered, but they would be remiss if they didn't try to obtain all the information available. They will accept rational reasons for refusing to answer certain questions; they will not gracefully accept "no comment" answers.

### Use Your Experts

Remember that you don't have to have all the answers. There are experts in your department who should be able to provide relevant information to you and sometimes even to the press itself.

***" '...there needs to be a thoughtful policy of police-media relationships which provides for the integrity of the investigation and the proper dissemination of information to the public.' "***

Keep a current list of who is in charge of each unit in your organization, and know who is considered to be the most knowledgeable member in each of those units. Reach out for people who can help you prepare for the press conference. Extract specifics and reject "I can't tell you that" responses. Like the reporter, demand to know why privileged information has been so designated and by whom. Remember, you are the person facing those bright lights and the barrage of questions from the media. Look at how television networks and news organizations use experts and "color" commentators to add informative, sometimes even contradictory, information to basic news stories. You have the same kind of experts available to you. Use them.

Thus far, this article has addressed assembling information and trying to anticipate the questions that you can be asked, because preparation will have a major impact on your presentation. Now let's move on to offering some tips on presentational aspects of the question-and-answer period.

**Prepare For The Emotional Stress**

If you are the person who normally deals with the press, you will probably know most of the faces appearing at a news conference and will be able to prepare psychologically for both the friendly and the antagonistic personalities. You can reduce part of the stress that you'll experience simply by being yourself. Too many people conclude they have to establish a contrived media personality in order to meet the press; what often results is a "Ted Baxter" type of facade. The textbook *On Television* even advises you to laugh at preposterous questions, if they strike you as funny.[5] (This doesn't mean that you should treat questions lightly; it simply means that you respond to press conference questions with human candor.) President John F. Kennedy often used his innate wit and sense of humor to respond to questions from the press.

If you anticipate that your story will have a regional or national impact, prepare yourself emotionally to face a bigger crowd, partially composed of personalities unfamiliar to you. Don't try to "play" to local reporters because you know them well and also don't ignore them because a "big name" television or print media personality is on the scene. Local reporters can and do ask the same type of penetrating, often awkward, questions as the "top guns."

**Focus Your Listening Skills**

Listen actively to the questions put to you and examine each question for hidden as well as obvious meanings. What "loaded words" did you hear? What emotional overtones implicit in the question call for a corresponding attitude in your response? Most of the skills associated with active listening come down to forgetting about yourself and then concentrating on the person to whom you are speaking. When anxiety is present, you tend to focus on what you're doing and neglect listening and watching your questioner. You become aware of the tremble in your voice, the sweat on your brow, and the difficulty that you're having in breathing. Consequently, you miss hearing the question that you are being asked.

No magical tricks exist to help you to become a better listener. Simply be aware that good listening requires you to want to know exactly what is being asked. Your desire to simply end the press conference when confronted with awkward questions may interfere with your listening skills.

**Maintain Eye Contact**

Look at the people in the audience. Remember that you are under pressure and that stress may limit your ability to think through all of the ramifications of a question from the floor. To help you control nervousness, focus your concentration where it belongs—on the person who is asking the question. If you are able to do this, you will be more capable of framing your responses. Maintain eye contact on the questioner. This will help you "read" the nonverbal communication that the reporter is emitting, pick up on any "hidden agendas" he might have, and force you to use your conscious mind for interpreting incoming stimuli. It also has the added benefit of telling the reporter that you are interested in his question. Finally, sustained eye contact will help you to avoid distractions—a major deterrent to smooth, efficient handling of a question-and-answer session.

**Restate All Questions**

Consider repeating questions to the person who asked them. If you do, you accomplish three things. First, you insure that you understand what is being asked, so that you can give a specific answer. Second, you insure that every person in the room understands what you've been asked and what you are responding to. Third, you give yourself time to begin to formulate a response. (Normally, the person who asks the question will give a head nod or other nonverbal sign that you have correctly understood his query.) If you are unsure of what information is being requested, preface the restated question with a phrase like, "As I understood your question ...," "Are you asking me if ...," or "What I believe you're asking me is...."

### Define And Defuse Words

Always define controversial terms used by either a member of the press or by you. Defuse confrontational or argumentative encounters by selecting less highly emotional words. (You must also recognize that a person determined to generate an emotional reaction from you will object to your doing this.) To succeed in controlling the situation, you must maintain your poise. Remember that this is your press conference. There are always less sensational, less emotive words to choose from. Semantics are important, so be as selective as possible when changing words.

Do not use semantics to avoid answering a specific question. You will be on much firmer ground citing legal or ethical reasons for refusing to answer than on "waffling." If you have a reason for saying "death" instead of "murder," or of saying "unusual" instead of "suspicious," say so. Explain why you're changing the word, because you generally have an articulable reason for the alteration.

### Answer One Question At A Time

Never answer multiple questions. If a reporter asks you one question composed of four or five different parts, point out its complexity to the audience and then either choose to answer the part of the question that you like best or ask for the question to be rephrased to require only one response. You don't want to get confused nor do you want the audience to be confused. Additionally, you want to ensure that no individual reporter dominates the session. By answering a multiple question, assuming that you remember it in its entirety, you give too much time and attention to one individual. This perception of favoritism or of having been manipulated will cause resentment in the rest of the assembly.

### Look For "Traps"

Be prepared to face loaded questions. It may not happen often, because most members of the press are not nearly as confrontational or as rude as some investigative journalists appear. The normal responses to be expected from being asked an unfair and emotion-laden question are nervousness or anger. Try to avoid either emotion. If you think a question is unfair or loaded, say so and explain with as much detail as you think appropriate (which will generally be less than is actually required) as to why. If you perceive an underlying legitimate question, point out the essential elements that you disagree with, state the "real" question, and then respond to that point.

### Deal Only With Facts

Support any opinions that you offer with facts and evidence. If you can't do that, either because of insufficient information or because there are legal, moral, or investigative reasons for not revealing it, don't offer opinions at all. Ego is your main enemy at a press conference. If you respond to an opinion question, you are allowing yourself to be flattered into stepping into a trap. You will often answer it, because you have strong beliefs in your basic investigative abilities, not because you have documentation or facts to prove your point. If you can offer a guess and then substantiate that with the word "because" followed by hard evidence, you may be able to avoid immediate or future embarrassment. Otherwise, don't speculate in front of a group of people who are recording your responses.

### Avoid Disputes

Don't argue with anyone at the conference. There is an implicit "contract" between a speaker and an audience. That contract calls for you to control yourself and to refrain from misusing the inherent power that goes with being in the speaker's position. You may be tempted to wield your positional power to silence a person who is disputing or embarrassing you. Misuse that prerogative just once and you will find individual audience members beginning to sympathize and support that person who, like them, is in a subordinate position. Remember that journalists generally do avoid provoking you because they realize that an experienced agency spokesperson can overcome the aggravation caused by an antagonistic reporter.[6] When confronted with rising tempers, admit to your emotional state and offer to personally "discuss" the matter further at the conclusion of the conference. By admitting to a "weakness" and then showing your objectivity, you will generally defuse the situation and also obviate the need to have a personal meeting.

### Admit Ignorance

If you're asked something that you don't know, don't bluff. If you can't or won't answer a specific question, explain why. If you don't know, don't be baited by the reporter who intimates that you should know. You are not conducting the investigation yourself, and there is no logical or practical way for you to know every piece of information being gathered by the investigators who are pounding on doors. If the question you've been asked is valid and the information is or will be available in the future, tell the questioner that you will call him back as soon as you can to

***"Involve as many of the reporters as the time and situation allow."***

supply the information. Then, get back to him—always. Even if you cannot provide the requested information, call back.

To help you to accomplish this, have a peer or subordinate in the audience make a list of those points that you've promised to respond to and the names of those who asked. You, who are under the stress of conducting that press conference, will not remember who asked what and whom you promised to contact. You need someone to perform this task, so make sure that a dependable person from your agency is there and assigned this important job. The most common complaint that reporters voice deals with the person who refuses to return calls after saying that he will do so.

**Be Fair**

Involve as many of the reporters as the time and situation allow. Select from different parts of the room and from small and large news organizations. To help you do this and avoid any one person monopolizing the conference, try the following technique. As explained previously, maintain direct, concentrated eye contact with the person while he is asking you a question. Sustain that contact when repeating the question, and then start responding to that individual. *Then* switch your focus to others. Scan the assembly and pinpoint others as you respond to the point which has been raised. Most importantly, make sure that when you finish your response, you are looking at someone other than the person who asked the question. This technique also allows you to forestall the "followup" question, so beloved of the press corps. Look closely at presidential news conferences and note how many times the recognized reporter has a multiple, complex, or series of inquiries. You can at least partially handle the problem of more aggressive reporters getting all of the questions by ending your answers with eye contact focused away from the questioner.

**Be Brief**

John Dryden, the English poet and writer, once said, "But far more numerous was the herd of such, Who thought too little and said too much." Don't ramble on; be concise. Remember the old saw, "If you can't be good, be brief. If you can't be brief, be quiet." Limit the conference to a preset time period. Stay within that stricture. Take time to think about what you're saying and then limit your response to the necessary facts. Have someone else on your staff ready to terminate the conference. You can always decide to continue, but by having a substitute, through prior strategy, terminate the conference for you, it is more effective and makes it look less like you are running away.

**Summary**

As police officers, you've testified in court. You've been cross-examined by defense attorneys who have tried to confuse you and to discredit your testimony. That courtroom experience has forced you to face one of the most trying experiences that a human being can undergo. Talking to a press conference, briefing people who are working against tough time deadlines, but who have the same kind of basic curiosity that you have, should not be an overbearing task. You can't avoid tough questions for "good investigative reporters take great pride in their persistence."[7] So, don't try to sidestep hard questions because you don't have to. Your trial experience, honesty, and conference preparation will allow you to explain, where necessary, and to refuse to answer when the situation demands it.

If you can remember to concentrate on the task at hand, to listen acutely to the questions asked, to understand the overt and hidden meanings of the words directed at you, to emphasize with the reporter's needs, and to keep your focus on the audience and away from your own nervousness, you should be able to satisfy the basic requirements demanded of a spokesperson.

When the pressures begin to weigh heavily as you are mentally preparing to enter a roomful of reporters and you are tempted to view the reporters as cynical critics, remember Edmund Burke's 1770 maxim, "To complain of the age we live in, to murmur at the present possessor of power, to lament the past, to conceive extravagant hopes of the future are the common disposition of the greatest part of mankind." The audience you are facing is merely responding to the needs of the reading or viewing public. The curiosity that feeds on details, the "need" to know intimate secrets, and the refusal to accept the necessity of confidentiality are not inherent in the news media, but are engraved in the nature of man.

FBI

**Footnotes**

[1]Paul F. Fuqua and Jerry V. Wilson, *The Police & the Media* (Little, Brown and Company, 1975), p. 35.

[2]Chester Burger, "How To Meet The Press," *Harvard Business Review*, July-August 1975, p. 62.

[3]Joseph A. Califano and Howard Simons, *The Media and the Law* (New York: Praeger Publishers, 1976), p. 19.

[4]Vernon J. Geberth, *Practical Homicide Investigation* (New York: Elsevier Science Publishing Co., Inc., 1983), p. 321.

[5]Jack Hilton and Mary Knoblauch, *On Television!* (New York: AMACON, 1980), p. 68.

[6]Ibid, p. 39.

[7]Clarence Jones, *How To Speak TV* (Marathon, FL: Video Consultants, Inc., 1983), p. 99.

# Emergency Searches of Premises
## (Part I)

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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 questionable legality under State law or are not permitted at all.*

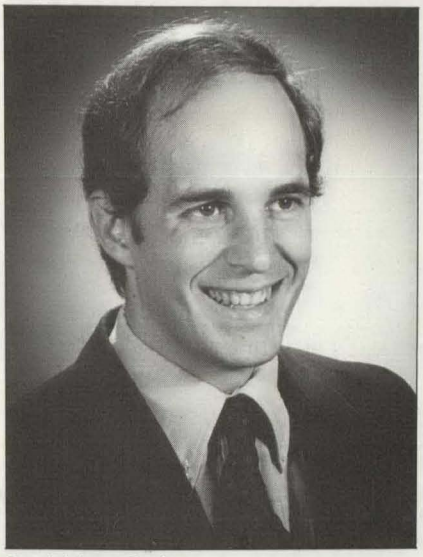
A bank robbery by two men armed with handguns is reported to the police. Within minutes, the first patrolmen on the scene have obtained descriptions of the robbers and caused this information to be broadcast to fellow officers. A suspect matching the description of one of the robbers is detained[1] on a sidewalk at the door to a residence less than a mile from the bank. The detainee is frisked, but no weapons are located. Suspecting that the second robber is inside the residence, officers kick open the door and search the house for additional suspects. The bank robbery loot is found stacked on a table in the living room.

A police officer, in the excitement of a fast-breaking investigation, has made a quick decision to perform a search. Since the money taken from the bank was found, other events will logically follow. The detainee will be arrested and a prosecution will begin, during which the government will seek to prove that this man was one of the robbers. Also as part of the judicial process, a hearing where the legality of the officer's search is challenged will be held to determine the admissibility of the money. Because the search was performed without a warrant, the burden of establishing its legality will fall upon the government.

The officers who searched the house know why they entered without waiting for a warrant. They needed to determine whether an armed bank robber was inside, and in the absence of any reasonable alternative, common sense commanded an immediate search. The officers are not so sure, however, that the court will allow the use of the evidence they have found.

What emergency circumstances justify an officer searching premises, without a warrant, based on his own evaluation of the facts at hand? This article seeks to answer that crucial question through an exploration of the "emergency" or "exigent circumstances" exception to the fourth amendment warrant requirement. What constitutes a sufficient emergency to justify a warrantless search or seizure is a judicial determination based upon the facts of a particular case. The U.S. Circuit Court of Appeals for the D.C. Circuit has described the process for evaluating "exigent circumstances searches." They note that "[t]he term 'exigent' has become the legal designation for a set of emergency law enforcement situations excepted from the warrant requirement. These situations, in turn, are generally analyzed in terms of the various component circumstances which contribute to the need for emergency action."[2]

Courts commonly recognize three threats as providing justification for emergency warrantless action—danger to life, danger of escape, and danger of destruction or removal of evidence. Presence of any one of these threats may provide justification for a warrantless search of premises. Because there



*Special Agent Sauls*

is one legal standard for emergency action based upon danger to life and a different one where the threat is risk of escape or destruction of evidence, awareness of the threat present in a particular situation is the key to correct on-the-spot decisions that avoid violations of citizens' fourth amendment rights and result in the judicial admissibility of evidence located.

Part one of this article will examine U.S. Supreme Court and lower court decisions considering the legality of warrantless searches of premises based upon perceived threats to life. It will set forth the legal standard for such emergency searches and seizures and examine application of the standard by courts. In doing so, it will focus on the circumstances courts commonly deem sufficient for establishing a threat to life and the allowable scope of action for dealing with the threat. Part two will similarly examine warrantless searches of premises based upon perceived emergency threats of escape and destruction of evidence.

## THE EMERGENCY EXCEPTION TO THE WARRANT REQUIREMENT

The fourth amendment protects persons in the United States from "unreasonable" intrusions by government into their privacy and property.[3] The U.S. Supreme Court, in determining what government intrusions are reasonable under the fourth amendment, has expressed an emphatic preference for searches and seizures made pursuant to a judicially issued search warrant.[4] As the Court has stated, the "Constitution requires that the deliberate, impartial judgment of a judicial officer be interposed between the citizen and the police ... [and] searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment—subject to a few specifically established and well-delineated exceptions."[5]

In most situations then, a "reasonable" search is one performed with a valid search warrant. Consequently, for fourth amendment purposes, "reasonable" is a legal term with a meaning different from that attached to the word as it is commonly used. Thus, even though the fourth amendment prohibits only "unreasonable" searches, the Court has stated "[t]he mere reasonableness of a search, assessed in the light of the surrounding circumstances, is not a substitute for the judicial warrant required under the Fourth Amendment."[6] There are exceptions to the warrant requirement, "reasonable" warrantless searches, but these exceptions are created not by what a police officer might believe to be reasonable but by a court's assessment of necessity. The "exceptions are 'jealously and carefully drawn,' and there must be 'a showing by those who seek exemption [from the warrant requirement] ... that the exigencies of the situation made that course imperative'" [citations omitted].[7] The Court has recognized the need to provide for emergency situations "...where the societal costs of obtaining a warrant, such as danger to law officers or the risk of loss or destruction of evidence, outweigh the reasons for prior recourse to a neutral magistrate,"[8] but the government bears the burden of showing necessity.[9]

## DANGER TO LIFE EMERGENCY

The fourth amendment gives substantial protection to persons in this country against government intrusion into the privacy of their homes and

***"Courts commonly recognize three threats as providing justification for emergency warrantless action—danger to life, danger of escape, and danger of destruction or removal of evidence."***

other premises.[10] The U.S. Supreme Court has stated that the "physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed."[11] Nonetheless, courts have approved warrantless entries into and searches of premises where the government was able to show that such action was necessary to neutralize a perceived threat to life and that the action taken was no more extensive than what was necessary to eliminate the threat to life.

Because of the high value our society places on life, a circumstance that has a profound impact on the reasonableness of a warrantless search is whether such action was taken to neutralize a suspected threat to human life. The U.S. Supreme Court has stated that "[t]he Fourth Amendment does not require police officers to delay in the course of an investigation if to do so would gravely endanger their lives or the lives of others."[12] The Court has approved warrantless searches of premises where there was a showing that such actions were taken to protect the lives of police officers or others. In fact, the Court has approved a lowered standard of proof—reasonable suspicion—for justifying warrantless searches based upon a perceived danger to life, so long as the action taken is no greater than necessary to eliminate the danger. Thus, "...where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity *may* be afoot and that the persons with whom he is dealing *may* be armed and presently dangerous ... he is entitled for the protection of himself and others in the area to conduct a carefully limited search ... of such persons in an attempt to discover weapons which might be used to assault him" [emphasis added].[13] Therefore, where a warrantless search or seizure is made in response to a perceived threat to life, the government must be prepared to show that at the time of the action: (1) Facts were known that would cause a reasonable person to suspect that quick action was necessary to protect human life, and (2) that the action taken was no greater than was necessary to eliminate the suspected threat.[14]

**Suspected Presence of Armed and Dangerous Persons**

Not unexpectedly, many warrantless searches and seizures of premises based upon perceived danger to life involve the suspected presence of armed and dangerous persons. The universe of facts that would cause a reasonable officer to suspect the presence of armed and dangerous persons defies easy categorization. Common elements, however, are serious crimes and facts suggesting the presence of deadly weapons. For example, in *Warden* v. *Hayden,*[15] the U.S. Supreme Court approved a warrantless search of a residence based upon reports of an armed robber recently having fled into a house. Not knowing whether the house was that of the robber or an innocent citizen who might be in danger, officers entered the house and searched for the robber and his weapons. In approving these warrantless actions, the Court noted that "[s]peed here was essential, and only a thorough search of the house for persons and weapons could have insured that Hayden was the only man present and that the police had control of all weapons which could be used against them or to effect an escape."[16] In describing the allowable scope of such a search, the Court noted that it should "at the least, be as broad as may reasonably be necessary to prevent the dangers that the suspect at large in the house may resist or escape."[17]

Subsequent decisions have more precisely limited the scope of such emergency searches.[18] In *Mincey* v. *Arizona,*[19] the Court stated, "[w]e do not question the right of the police to respond to emergency situations...."[20] In *Mincey,* officers entered an apartment where they had reason to believe a fellow officer, who was working undercover in a narcotics investigation, was in danger as a result of his true identity having been discovered. After a shootout that was contemporaneous with the entry, the officers performed a search to determine whether additional dangerous or wounded persons were present. Since it was a "prompt ... search of the area to see if there ... [were] other victims or ... a killer ... still on the premises," [21] this limited sweep search for persons was approved,[22] even though a later much more intensive search for evidence was invalidated.[23] Once all persons present were located and controlled, the threat to life was at an end, and before additional searches and seizures could be reasonably performed, a search warrant was required.[24]

Lower courts have also examined the necessary justification for and the allowable scope of a search of premises based upon suspected danger to life. In *United States* v. *Tabor,*[25] the U.S. Court of Appeals for the 10th Circuit stated that a sweep search could be justified by a danger to an officer's life or the lives of those around him, but

***"Officers acting without a warrant to neutralize a suspected threat to human life must limit that action to what is necessary to eliminate the danger."***

required that "the suspicion of danger must be clear and reasonable in light of all surrounding circumstances."[26] The court cautioned that police "are not given free reign to conduct sweep searches on the pretense that a dangerous situation might be imminent."[27]

In *Tabor,* a search warrant authorizing the search of Tabor's residence for evidence of illegal gambling activity was executed. At the outset of the search, Tabor told the agents performing the search that there were no other persons or weapons in the house. Upon discovery of four guns in the house, three agents began a security sweep of the area and buildings surrounding the house. Upon hearing a noise in a nearby barn, the loft area was checked and 150 pounds of marijuana were discovered. In approving the sweep of the barn loft, the court noted that the barn was not covered by the warrant but that the officers had reasonable suspicion that they were in danger "based on the following factors: (1) the confidential informant [who had supplied facts supporting issuance of the search warrant] had allegedly provided information which led the agents to believe [Tabor] was frequently in possession of a .357 Magnum revolver. A box of .357 Magnum ammunition was found on the premises lending support to this allegation, but no weapon of that type was found; (2) vehicles were present in the area which were not identified as belonging to [Tabor]; (3) [Tabor's] dog was behaving in an agitated manner; and (4) [Tabor] had lied about the existence of other weapons on the premises and had at the same time told the agents that no other persons were on the premises."[28] Those factors, "together with the experience and training of the agents"[29] and the noise in the barn, justified the entry.[30]

The government also successfully established facts amounting to a suspected danger to life in *United States* v. *Dowell.*[31] In *Dowell*, an informant was in the process of making a controlled purchase of cocaine in a hotel room. In accord with his instructions, the informant went to the drug dealer's room, saw the cocaine, and left on a pretense of having to consult with his own buyer. Contrary to instructions, he sampled the product before leaving. While consulting with agents in the lobby, he was observed to be agitated and fearful and expressed his concern that further absence would be interpreted by the drug dealers as betrayal. The informant was instructed to return to the room and immediately telephone the agents for further instruction. After waiting 15 to 20 minutes for this call, the DEA agents entered the hotel room where they arrested Dowell and his accomplice.

The Court of Appeals for the Seventh Circuit cited the following facts in approving the emergency entry: "First, Platts' role as undercover informant was potentially subject to exposure. Second, Platts failed to follow his instruction to telephone immediately after returning to room 248. Third, Platts was under the influence of cocaine. Fourth, it was likely that there were guns in the room."[32] The court stated "the first three facts taken alone would lead a man of reasonable caution to conclude that entry without delay was essential. This was a drug deal involving several hundred grams of cocaine and tens of thousands of dollars. The results of betrayal were severe and the consequences of Platt's exposure potentially gruesome. The position of Platts was inherently dangerous, and his failure to telephone [the agents] together with his state of impaired mental agility gave [the agents] sufficient reason to fear for Platts' immediate safety."[33]

The government must bring all relevant facts creating suspicion of danger to life to the court's attention. In *United States* v. *Spetz,*[34] the U.S. Court of Appeals for the Ninth Circuit found the factual justification for a protective sweep of the home of a person arrested for a drug violation inadequate. There the Court observed, "The DEA Agents made arrests outside the residence. There were no known confederates of the individuals arrested. Before they entered the residence, the agents were able to observe that all of the doors were open and presumably could keep the means of egress under surveillance. Most significantly, the agents knew of no weapons connected with any of the individuals arrested or the residence, nor had they any other articulable basis for a conclusion that a potential for violence existed."[35] The court emphasized the burden the government bears in bringing out the facts supporting warrantless action and noted "[t]he government does not satisfy [its] burden by leading a court to speculate about what 'may' or 'might' have been the circumstances surrounding the warrantless search."[36]

Officers acting without a warrant to neutralize a suspected threat to human life must limit that action to what is necessary to eliminate the danger. With facts suggesting armed and dangerous persons may be present, "a very quick and limited pass through the premises to check for ... persons who may ... pose a threat to the officers"[37] is reasonable, since "the intrusion on ... privacy is slight; the search is cursory in

nature and is intended to uncover only 'persons, not things.'"[38] Once the dangerous persons have been located and controlled or their absence determined, "no further search—be it extended or limited—is permitted until a warrant is obtained."[39]

An example of a court imposing this limitation is found in *United States* v. *Irizarry*.[40] In *Irizarry,* officers seeking to execute an arrest warrant for narcotics violations learned that the person named in the warrant was in a motel room. They knocked on the door, identified themselves, and looking through a window, saw an occupant of the room pull a revolver from a handbag. Taking cover, the officers demanded that the occupants come out and surrender. After a few minutes, three persons emerged and were placed in custody. One officer then quickly examined the room and adjoining bathroom to make sure no other persons were present and discovered a small quantity of marijuana in plain view during this process. A second agent followed and saw a ceiling panel ajar in the bath. This agent "looked into the space in the ceiling and saw an object. He reached into the ceiling and removed the object, which turned out to be a package of marijuana and a gun. He then asked for a flashlight, looked in again, and found four packages: two more guns, a package of cocaine, and a second package of marijuana."[41]

The U.S. Court of Appeals for the First Circuit held that the government had produced sufficient facts to justify the initial protective sweep, stating "we believe that [the agent's] search was not motivated by mere curiosity, but rather by a legitimate concern for the safety of his fellow officers. It was late at night. They had come to the hotel to arrest one person. Three people had emerged from the room after a five-to-seven minute delay. Most significantly, one of the three had produced a gun inside the room. [The agent] was entirely reasonable in suspecting that a fourth person, also armed, remained within [citation omitted]. His entry was necessary to ensure that the potential fourth person did not attempt to surprise the agents in the hallway and thereby secure the escape of the other three."[42] The government failed to factually establish, however, that the search of the bathroom ceiling was in response to a suspected danger to life. No facts were produced to indicate a dangerous person might be hiding there, and even if such evidence had been produced, the scope of the search performed was greater than necessary to eliminate that possibility. As a result, the evidence found in the ceiling was suppressed, since at the time the search was performed, there was no emergency present to excuse not obtaining a search warrant.[43]

A somewhat similar fact situation was present in *United States* v. *Young*.[44] In that case, police were investigating an armed robbery of a bank by at least three persons. Officers went to the residence of one suspect where a gun battle ensued. The suspect eventually came out of the house and surrendered, after which officers demanded that any other occupants surrender. Receiving no response, the officers fired tear gas into the house, entered, and searched for other persons. They found no one, but saw large quantities of money in plain view. A thorough warrantless search followed which located more money in a hole in a bedroom wall, as well as other evidence. The U.S. Court of Appeals for the Eighth Circuit held the "original warrantless entry by police to search for other occupants and weapons was proper under the exigent circumstances present at that time."[45] The money found in plain view during that search was admissible. The money in the bedroom wall should have been excluded from evidence though, since it was located "at a time when the house had already been secured and after [the robber] had been arrested. A search warrant should have been obtained before proceeding further."[46] Once the suspected danger to life is controlled, officers must stop their search until a warrant is obtained (unless some other exception to the warrant requirement justifies continuing the search[47]).

In summary, officers having facts that cause them to reasonably suspect that persons are present in premises and that those persons are armed and presently presenting a danger to the lives of the officers or others may enter the premises and locate and control those persons. Their search, however, should be no more intrusive than necessary to locate the persons present. Search of areas where a person could not be concealed will require a search warrant or the factual establishment of the applicability of some other exception to the warrant requirement.

### Suspected Need to Rescue

The presence of armed and dangerous persons is not the only circumstance that will justify an emergency search or seizure based upon a threat to human life. Suspicion that a life-threatening emergency is present in premises will also legally support warrantless entry and search. For example, in *Thompson* v. *Louisiana,*[48] the U.S. Supreme Court approved a limited "vic-

tim or suspect" search in a house where a homicide and attempted suicide had been reported. Similarly, as the Court noted in *Michigan* v. *Tyler*,[49] "[a] burning building clearly presents an exigency of sufficient proportions to render a warrantless entry 'reasonable.'"[50] In *Tyler*, the Court stated, "[o]ur decisions have recognized that a warrantless entry by criminal law enforcement officials may be legal when there is compelling need for official action and no time to secure a warrant [citation omitted]. Similarly, in the regulatory field, our cases have recognized the importance of 'prompt inspections, even without a warrant ... in emergency situations.'"[51] The presence of explosives in a home in a crowded residential area is also a sufficient danger to life to justify a warrantless search and seizure.[52] Other situations involving threats to public safety, such as a search in response to a bomb threat, fall within the bounds of this warrant requirement exception.

Even where officers are responding to emergencies where no criminal conduct is suspected, they must limit their actions to resolving the emergency. For example, in *United States* v. *Parr*,[53] firefighters went to Parr's home to extinguish a fire in his laundry room. After the fire was extinguished and since no persons were present in the home, the firemen searched the house to determine the identity of the owner and to salvage valuables. During the course of this search, 16 counterfeit $10 bills were located in a sugar bowl stored on a shelf above the sink in the kitchen. Because the search of the sugar bowl was not necessary to put out the fire or determine its origin, Parr's conviction for possession of the counterfeit bills was reversed.[54]

### Suspected Presence of Information Crucial to Preserving Life

Under certain circumstances, officers may find it necessary to search one place so that a rescue may be performed elsewhere. For example, in *Chaney* v. *State*,[55] officers investigating a kidnapping, in which the abductor had threatened to kill the two victims unless $500,000 in ransom was paid, searched the home of the suspect after his arrest for the victims (who were found dead elsewhere at a later time) or for clues to the victims' whereabouts. During the search, a paper linking the defendant to the crime was found in a wastebasket. In evaluating the legality of the warrantless search of the residence, the Court of Criminal Appeals of Oklahoma noted that where "the time required to secure a warrant could result in the loss of evidence, the escape of the suspect, or above all the death of a victim, then law enforcement officers may act without a warrant...."[56] The Oklahoma court, lumping together danger to evidence, danger of escape, and danger to human life, imposed a requirement of probable cause to search as a prerequisite to the warrantless search.[57] There were few if any facts present, however, indicating that it was *probable* that the victims were at the suspect's residence or that clues to their location would be found there. The simple reality is that police officers are not going to ignore suspected sources of information that will save a fellow human from grave peril because the facts known to them do not amount to probable cause. Where the life of an innocent victim hangs in the balance, courts are likely to impose a reasonable factual standard. There is judicial support for the reasonable suspicion standard of justification for even a highly intrusive search of a residence for information where that information is necessary to allow the police to preserve human life.[58] As with other emergency searches, the intrusion must be limited by its justification and can be no greater than necessary to obtain the needed information.

### During Search Warrant Execution

The U.S. Supreme Court has held that certain other law enforcement situations embody sufficient dangers to life to justify limited intrusions into premises. In *Michigan* v. *Summers*,[59] the Court approved the detention of the occupant of a residence while it was being searched pursuant to a valid search warrant authorizing the seizure of narcotics. In discussing warrant execution circumstances, the Court noted "the execution of a warrant to search for narcotics is the kind of transaction that may give rise to sudden violence or frantic efforts to conceal or destroy evidence. The risk of harm to both the police and the occupants is minimized if the officers routinely exercise unquestioned command of the situation."[60] This exercise of command presumably includes a sweep of the premises to be searched for persons at the commencement of the warrant execution. Officers following this procedure should use caution not to perform actions that the warrant does not authorize unless separate factual justification for those actions is present (for example, persons detained during the execution of a search warrant authorizing the search of premises may be frisked for weapons only if facts are present supporting reasonable suspicion that they are armed and dangerous).[61]

***"'...it is not "unreasonable" under the Fourth Amendment for a police officer, as a matter of routine, to monitor the movements of an arrested person, as his judgment dictates, following the arrest.'"***

**Monitoring Arrestees**

Another special situation sufficiently dangerous to life to justify a limited intrusion into premises is monitoring the activities of a person under arrest. In *Washington* v. *Chrisman,*[62] the Court stated that "[e]very arrest must be presumed to present a risk of danger to the arresting officer [citation omitted]. There is no way for an officer to predict reliably how a particular subject will react to arrest or the degree of potential danger."[63] In *Chrisman,* a college student was arrested for illegal possession of an alcoholic beverage. The arresting officer accompanied the student to his dorm room so he could get items of identification, and while supervising his actions therein, observed a marijuana pipe and seeds in the room. The student, as well as his roommate, Chrisman, were charged with possession of marijuana. In evaluating the actions of the officer, the Court held "that it is not 'unreasonable' under the Fourth Amendment for a police officer, as a matter of routine, to monitor the movements of an arrested person, as his judgment dictates, following the arrest. The officer's need to ensure his own safety—as well as the integrity of the arrest—is compelling."[64]

**Suspected Threat to Nonhuman Life**

Finally, danger to nonhuman life may justify warrantless searches of premises. In *Tuck* v. *United States,*[65] the District of Columbia Court of Appeals approved the warrantless seizure of a rabbit from an unventilated pet store window based upon the danger that the animal would expire as a result of the extreme summer heat before a warrant could be obtained. Again, the action must be limited to that necessary to resolve the emergency. The court in *Tuck* noted that the "scope of the entry was carefully limited to that which was necessary to render assistance to the suffering animals."[66]

**SUMMARY**

Having considered a variety of circumstances justifying a warrantless search of premises in response to a perceived threat to life, a return to the opening hypothetical is in order. Officers have detained one of two suspected armed bank robbers on the doorstep of a residence. They suspect his accomplice is in the house and immediately search it, locating the bank loot in the process. For the search to be a legal one, the officers must show that at the time of their search: (1) Facts were known that would cause a reasonable person to suspect that quick action was necessary to protect human life, and (2) the action taken was no greater than necessary to eliminate the suspected threat.

In order to prevail, the officers must show that when they searched, they knew facts that caused them to reasonably suspect that the second robber (or another person presenting a danger to the arrest team) was inside. The fact that they are investigating an armed bank robbery, a crime of violence, is of assistance. Robbers who threatened victims with handguns are likely to use those same guns against police seeking to effect arrest. The fact that it is a short time after the robbery makes it likely that the robbers still have their guns in possession. The only fact, however, suggesting that the robber sought is inside the house is that his accomplice is outside its door. Unless other facts exist suggesting the presence of someone inside (a witness' statement saying a man went inside just before the police arrived, a sound from within, suspicious conduct by the detainee regarding the house, etc.), the officers' suspicions are likely not objectively reasonable. It does not appear that facts were known causing reasonable suspicion that an immediate search of the house was necessary to protect the officers' lives.

It is possible that the warrantless search of the residence was necessary to neutralize a threat of escape or destruction or removal of evidence. The legal requirements of a proper warrantless search in response to these threats will be considered in part two.

FBI

**Footnotes**

[1]For an excellent discussion of investigative detention, see John C. Hall, "Investigative Detention: An Intermediate Response," *FBI Law Enforcement Bulletin,* vol. 54, No. 11, Part I, November 1985, pp. 25-31; No. 12, Part II, December 1985, pp. 18-23; vol. 55, No. 1, Conclusion, January 1986, pp. 23-29.

[2]*United States* v. *Robinson,* 533 F.2d 578, 580 (D.C. Cir. 1976), *cert. denied,* 96 S.Ct. 432 (1976).

[3]*See Katz* v. *United States,* 389 U.S. 347 (1967).

[4]*Id.*

[5]*Id.* at 357.

[6]*Arkansas* v. *Sanders,* 442 U.S. 753, 758 ((1979).

[7]*Coolidge* v. *New Hampshire,* 403 U.S. 443, 455 (1971).

[8]*Supra* note 6, at 759.

[9]*McDonald* v. *United States,* 335 U.S. 451 (1948).

[10]*See Michigan* v. *Tyler,* 436 U.S. 499 (1978).

[11]*United States* v. *United States District Court,* 407 U.S. 297, 313 (1972).

[12]*Warden* v. *Hayden,* 387 U.S. 294, 298-299 (1967).

[13]*Terry* v. *Ohio,* 392 U.S. 1, 30-31 (1968).

[14]*Id. See also, Warden* v. *Hayden, supra* note 12, *Mincey* v. *Arizona,* 437 U.S. 385 (1978). The U.S. Supreme Court has yet to decide whether reasonable suspicion that an entry into premises is necessary to eliminate a threat to life is a sufficient justification to make that entry reasonable under the fourth amendment. The Court has stated, however, that probable cause is not always the standard by which the legality of a search should be measured, even where the search constitutes a substantial intrusion into a person's privacy. "Ordinarily, a search—even one that may permissibly be carried out without a warrant—must be based upon 'probable cause' to believe that a violation of the law has occurred. See, *e.g. Almeida-Sanchez v. United States,* 413 U.S. 266, 273 (1973); *Sibron v. New York,* 392 U.S. 40, 62-66 (1968). However, 'probable cause' is not an irreducible requirement of a valid search. The fundamental command of the Fourth Amendment is that searches and seizures be reasonable, and although 'both the concept of probable cause and the requirement of a warrant bear on the reasonableness of a search, ... in certain limited circum-

stances neither is required.' *Almeida-Sanchez v. United States, supra,* at 277 (Powell, J., concurring). Thus, we have in a number of cases recognized the legality of searches and seizures based on suspicions that, although 'reasonable,' do not rise to the level of probable cause. See, *e.g., Terry v. Ohio,* 392 U.S. 1 (1968); *United States v. Brignoni-Ponce,* 422 U.S. 873, 881 (1975); *Delaware v. Prouse,* 440 U.S. 648, 654-665 (1979); *United States v. Martinez-Fuerte,* 428 U.S. 543 (1976); cf. *Camara v. Municipal Court, supra* [387 U.S.] at 534-539. Where a careful balancing of governmental and private interests suggests that the public interest is best served by a Fourth Amendment standard that stops short of probable cause, we have not hesitated to adopt such a standard." *New Jersey v. T.L.O.*, 469 U.S. 325, at 340-341 (1984).

Numerous lower courts have determined that reasonable suspicion is the standard by which searches of premises in response to a threat to life should be measured. For example, a security search is allowed where police possess "reasonable apprehension" of violence from within a dwelling as they execute an arrest outside. *See United States* v. *Baker,* 577 F.2d 1147 (4th Cir. 1978), *cert. denied sub nom. Weinstein* v. *United States,* 439 U.S. 850 (1978); *United States* v. *Bowdach,* 561 F.2d 1160 (5th Cir. 1977); *Hopkins* v. *Alabama,* 524 F.2d 473 (5th Cir. 1975).

Other courts have approved as reasonable entries based upon less than probable cause that persons within the premises were endangered. *See, e.g., Duquette* v. *Godbout,* 471 A.2d 1359 (R.I. 1984); *State* v. *Boggess,* 340 N.W.2d 516 (WI 1983); *State* v. *Beede,* 406 A.2d 125 (N.H. 1979), *cert. denied,* 445 U.S 967 (1980), *reh. denied,* 446 U.S. 993 (1980).

[15]*Supra* note 12.
[16]*Id.* at 299.
[17]*Id.*
[18]*See Thompson v. Louisiana,* 469 U.S. 17 (1984).
[19]437 U.S. 385 (1978).
[20]*Id.* at 392.
[21]*Id.*
[22]*Id.* at 393.
[23]*Id.*
[24]*Id.*
[25]722 F.2d 596 (10th Cir. 1983).
[26]*Id.* at 598.
[27]*Id.*
[28]*Id.*
[29]*Id.*
[30]*Id.*
[31]724 F.2d 599 (7th Cir. 1984), *cert. denied,* 104 S.Ct. 1683 (1984).
[32]*Id.* at 602.
[33]*Id.*
[34]721 F.2d 1457 (9th Cir. 1983).
[35]*Id.* at 1467.
[36]*Id.* at 1466, quoting *United States* v. *Hoffman,* 607 F.2d 280, 284 (9th Cir. 1979).
[37]*United States* v. *Agapito,* 620 F.2d 324, 335 (2d Cir.1980), *cert. denied,* 449 U.S. 834 (1980).
[38]*Id.* at 336.
[39]*Id.*
[40]673 F.2d 554 (1st Cir. 1982).
[41]*Id.* at 556.
[42]*Id.* at 558.
[43]*Id.* at 559.
[44]553 F.2d 1132 (8th Cir. 1977), *cert. denied,* 431 U.S. 959 (1977).
[45]*Id.* at 1134.
[46]*Id.*
[47]Allowable actions to prevent escape or the destruction or removal of evidence are presented in part two.
[48]*Supra* note 18.
[49]*Supra* note 10.
[50]*Id.* at 509.
[51]*Id.*
[52]*See United States* v. *Urban,* 710 F.2d 276 (6th Cir. 1983).
[53]716 F.2d 796 (11th Cir. 1983).
[54]*Id.* at 817.
[55]612 P.2d 269 (Okla. Cr. 1980), *cert. denied,* 450 U.S. 1025 (1981), *modified* on other grounds, *sub nom. Chaney* v. *Brown,* 730 F.2d 1334 (10th Cir. 1984), *cert. denied,* 83 L.Ed.2d 710 (1984).
[56]*Id.* at 277.
[57]*Id.*
[58]*See People* v. *Sirhan,* 497 P.2d 1121 (Calif. 1972), *cert. denied,* 410 U.S. 947 (1973).
[59]452 U.S. 692 (1981).
[60]*Id.* at 702, 703.
[61]*See, e.g., Ybarra* v. *Illinois,* 444 U.S. 85 (1979).
[62]455 U.S. 1 (1982).
[63]*Id.* at 7.
[64]*Id.*
[65]477 A.2d 1119 (D.C. App. 1984).
[66]*Id.* at 1121. (Despite the best efforts of the police and the Humane Society, the hapless animal met an untimely end. In the cooler confines of the animal shelter, it was attacked by a larger rabbit and sustained injuries so serious that its destruction was required.)

# *Lip-Stick*

The arrest and subsequent search of a suspect by the Camillus, NY, Police Department revealed a weapon with which law enforcement personnel should be familiar. The weapon, a 1-inch knife, is contained within what looks like an ordinary tube of women's lipstick. The base of the tube is twisted, as in a regular lipstick, to produce a blade.

# WANTED BY THE FBI

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

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

*Photographs taken 1981 and 1982*

**Donna Borup,**
W; born 8-5-52; South Amboy, NJ; 5′4″–5′5″; 145–155 lbs; med-heavy build; brn hair; bl eyes; fair comp; occ-artist;
remarks: Borup may have lost weight and dyed hair in an attempt to elude detection. Reportedly may have homosexual tendencies.
Wanted by FBI for INTERSTATE FLIGHT-ASSAULT OF POLICE OFFICER.

NCIC Classification:
161211PI07141408PI08

Fingerprint Classification:

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|---|---|---|---|---|---|---|---|---|
| 16 | M | 9 | U | OOI | 7 | Ref: | 10 | |
| | M | 2 | U | OII | | | 2 | |

I.O. 4963

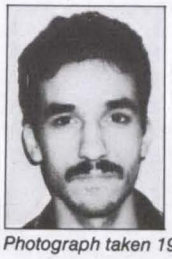
Social Security Number Used:
138-46-9375

FBI No. 66 446 V1

**Caution**

Borup is being sought by the FBI in connection with the assault of a police officer. She is known to associate with revolutionary organizations which have a great propensity for criminal activity and violence against law enforcement. She has made statements indicating a willingness to use violence to avoid capture. Consider armed and dangerous.

*Right little fingerprint*



*Photograph taken 1985*

**Jorge Luis Garcia,**
also known as Rustin K. Denner, David Garcia, Jorge Garcia, Jorge Garcia, Jr., Lewis Rivera, Lewis Paul Rivera, Lewis Raul Rivera, Louis Rivera.
W; born 2-20-63 (not supported by birth records) or 8-24-55; places of birth used: Havana, Cuba and New York, NY; 5′8″–5′11″; 145–160 lbs; sldr bld; brn hair; brn eyes; olive comp; occ-carpenter's helper, laborer, and salesman;
remarks: Reportedly speaks English with little or no accent, in addition to Spanish.
Wanted by the FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:
PMPIPIPM10PI72POPI12

Fingerprint Classification:

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|---|---|---|---|---|---|---|---|---|
| 22 | M | 31 | W | IIM | 10 | | | |
| | I | 26 | R | OOI | | | | |

I.O 5014

Social Security Number Used: 453-37-2635

FBI No. 603 898 CA7

**Caution**

Garcia is being sought in connection with an execution-style shotgun murder, wherein the victim was bound and then shot in the head during the apparent burglary of her residence. Consider Garcia armed and dangerous.

*Right thumbprint*

*Photographs taken 1985*

**Lal Singh,**
also known as Lal Singh Lally, Ashok Sethi, Lally Singh, "Lally."
W; born 2-25-60 (birth data not supported by birth records), Jamshed Pur, India; 5′11″–6′; 160 lbs; med bld; blk hair; brn eyes; med comp; occ-busboy, dishwasher, seaman;
remarks: Known to wear silver bracelet on left wrist, reportedly speaks English in addition to Hindu and Punjabi.
Wanted by FBI for CONSPIRACY TO ASSASSINATE A FOREIGN OFFICIAL, TO POSSESS AND RECEIVE EXPLOSIVES, TO POSSESS AND RECEIVE MACHINE GUNS.

NCIC Classification:
060205CO04TT09091109

Fingerprint Classification:

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| 6 | 9 | U | IIO | 4 | Ref: | 1 | | |
| | 1 | tU | III | | | 1 | | |

I.O. 5005

FBI No. 659 543 DA6

**Caution**

Singh, a reported member of a Sikh extremist terrorist group in the United States, has received mercenary training and may be in possession of firearms and explosives. He may be accompanied by co-conspirator Dalbir Singh, Identification Order 5004. Both individuals should be considered armed and dangerous.

*Right ring fingerprint*

# WANTED BY THE FBI

*Photographs taken 1985*

**Dalbir Singh,**
also known as Dalbir Singh Khalsa, Amar Nath, Ammand Singh, Delbir Singh, Delvir Singh, Johnnie Singh.
W; born 3-12-51; 12-13-51, 12-13-52 (birth data not supported by birth records); Siligura, India; 6′½″; 200 lbs.; hvy bld; blk hair, brn eyes; med comp.; occ-seaman;
scars and marks: ½″ scar above right eye, tattoo on web on right hand;
remarks: He may be wearing a full beard and mustache, reportedly speaks fluent English, in addition to Hindu and Punjabi.
Wanted by FBI for CONSPIRACY TO ASSASSINATE A FOREIGN OFFICIAL, TO POSSESS AND RECEIVE EXPLOSIVES, TO POSSESS AND RECEIVE MACHINE GUNS.

NCIC Classification:

POPM16POPOPOPM14PICI

Fingerprint Classification:

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 16 | 0 | 30 | W | MOO | Ref: | 29 | 31 | 32 |
| | 0 | 24 | W | MOI | | 24 | 24 | 24 |

I.O. 5004

FBI No. 659 553 DA2

**Caution**

Singh, a reported member of a Sikh extremist terrorist group in the United States, has received mercenary training and may be in possession of firearms and explosives. He may be accompanied by co-conspirator Lal Singh, Identification Order 5005. Both individuals should be considered armed and dangerous.

*Right index fingerprint*

*Photograph taken 1985*

**Robert Alan Litchfield,**
also known as Martin Carroll, A. Litchfield, Bob Litchfield, R. Litchfield, R.A. Litchfield, Robert A. Litchfield, Robert Allan Litchfield, Robert Allen Litchfield.
W; born; 4–8–48 (True date of birth), 5–10–50; Quincy, MA; 6′; 190–205 lbs.; med bld; blk hair; brn eyes; med comp; occ-truck driver;
scars and marks: 3″ scar back of upper right leg;
remarks: Uses last name Williamson, first name unknown. Prefers driving Porsche and Corvette automobiles. Litchfield may be accompanied by his wife, Donna June Litchfield, also known as Donna Stuut, Donna June Stutt, white female, born 3–1–51, Cullman, AL, 5′5″, 115 lbs., brn hair, brn eyes, Social Security Number Used: 383–60–0272. DONNA LITCHFIELD is also wanted by law enforcement authorities.
Wanted by FBI for BANK ROBBERY.

NCIC Classification

24CO0857042009111605

Fingerprint Classification:

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|---|---|---|---|---|---|---|
| 24 | L | 17 | W–r | 4 | Ref: | 25 |
| | L | 1 | U | | | 1 |

I.O. 5018

Social Security Number Used: 021–36–6070

FBI No. 162 590 L9

**Caution**

Litchfield, who is being sought as a prison escapee, was at the time of escape serving a lengthy sentence for bank robbery. He has used various handguns and bombs as a hoax during the commission of bank robberies in the past and should be considered armed, dangerous, and an escape risk.

*Right index fingerprint*

*Photographs taken 1973 and 1975*

**James Nelson Worthey,**
also known as Willie Cunningham, Willie Lyman, William S. Scott, Willie Wadler, Carmen Wadley, Willie F. Wadley, Willie Fred Wadley, Willey F. Wadley, James Nepolean Worthey, James Nelson Worothy, "Pretty Willie," and others.
B; born 11–14–48; Akron, OH; 6′1″; 170 lbs; med bld; blk hair; brn eyes; med comp; occ-laborer, machinery operator, pimp;
scars and marks: Small scars on one hand, wrist and outer palm, small scars around right eye, deformed left foot (hammer toe).
Wanted by the FBI for INTERSTATE FLIGHT–MURDER.

NCIC Classification:

231308PO161110082016

Fingerprint Classification:

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 23 | L | 9 | U | OIO | 16 | Ref: | 25 | 9 | 25 |
| | S | 1 | U | OIO | | | 1 | 2 | 2 |

I.O. 4952

Social Security Numbers Used: 473–14–8822; 296–48–1704; 396–48–7504

FBI No. 761 426 H

**Caution**

Worthey is being sought in connection with the murder of a female victim who was shot in the head with a .32-caliber semi-automatic gun. Worthey reportedly possesses a number of handguns and should be considered armed and dangerous.

*Right index fingerprint*

# Questionable Pattern

This pattern is classified as a double loop whorl with a meeting tracing. The recurve of the smaller loop is questionable, thereby necessitating that this pattern be referenced to a six count loop.

## Change of Address

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FBI
***Law Enforcement Bulletin***

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# *The Bulletin Notes*

Officer Mark Moore, Hillsboro, TX, Police Department, responded to a radio report of a medical emergency during February 1986, and saved the life of a man who suffered a severe seizure. Officer Moore, seeing that the man's airway was obstructed, quickly cleared the passageway and maintained the man's breathing until an ambulance arrived. The Bulletin is very pleased to join Officer Moore's chief in commending this officer's lifesaving action.

*Officer Moore*