



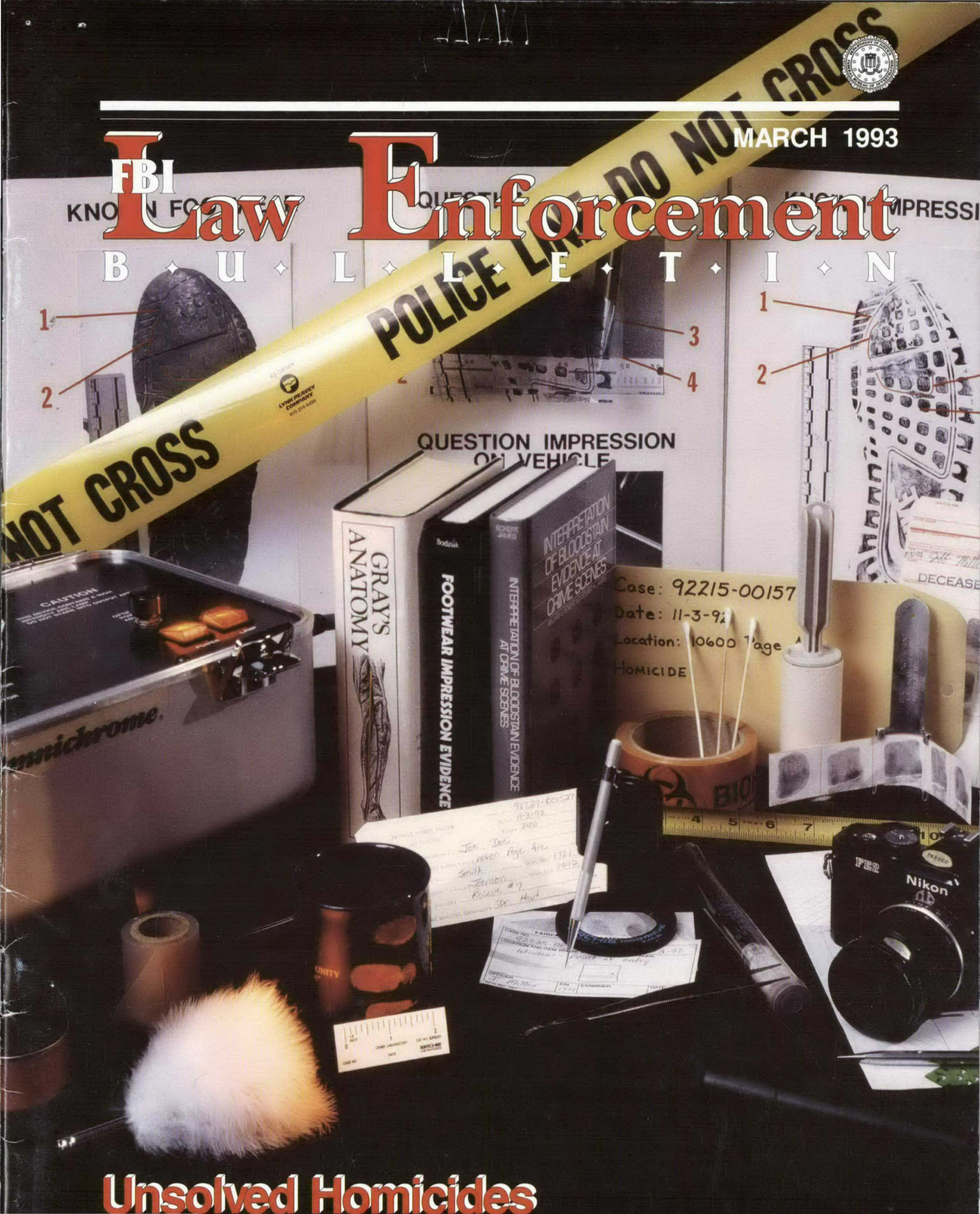
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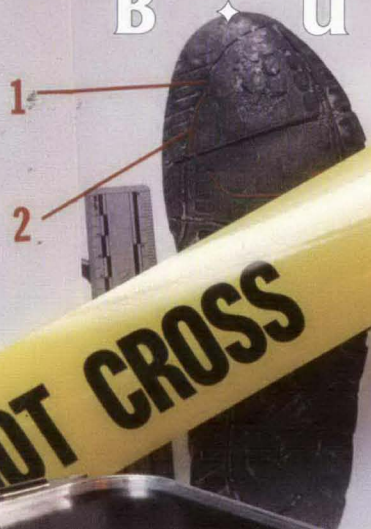
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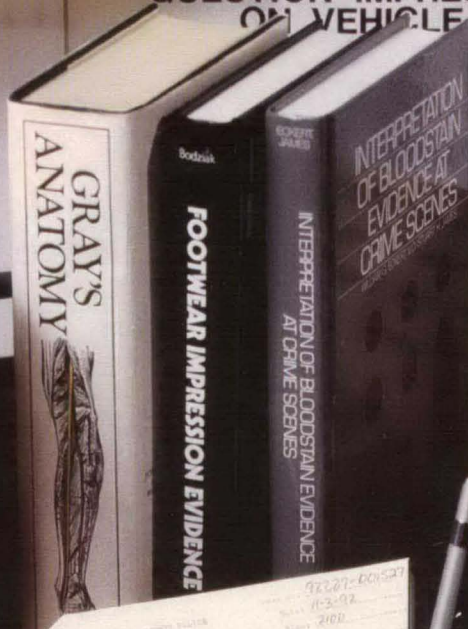
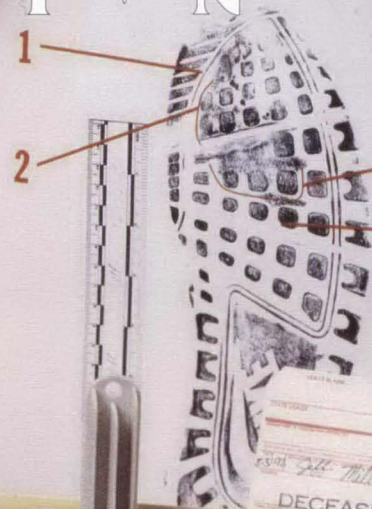
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POLICE LINE DO NOT CROSS



QUESTION IMPRESSION ON VEHICLE



Case: 92215-00157
Date: 11-3-92
Location: 10600 Page
HOMICIDE

Handwritten notes on a piece of paper, including names like 'John Doe', 'Smith', and 'Roscoe'.



Unsolved Homicides

March 1993
Volume 62
Number 3

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

William S. Sessions,
Director

Contributors' opinions and statements should not be considered as an endorsement for any policy, program, or service by the FBI.

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FBI Law Enforcement

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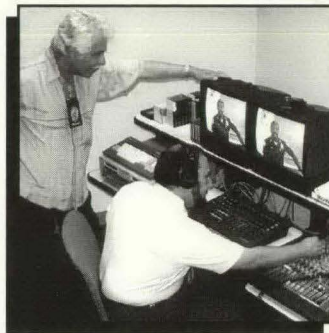
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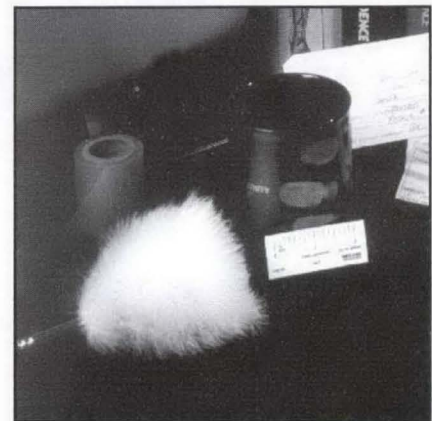
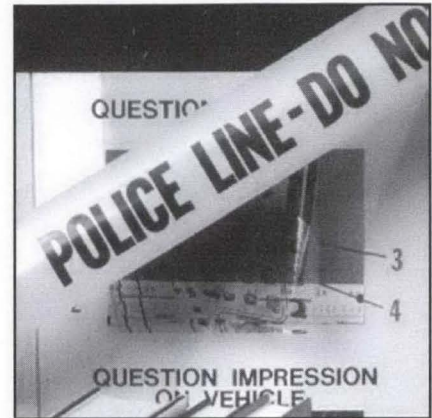
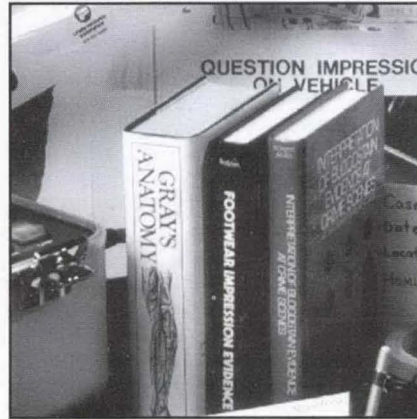
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MUST: A Team for Unsolved Homicides

By
HENRY POOLE and STEPHEN JUROVICS, Ph.D.



During the early morning hours of July 25, 1988, an intruder quietly entered a Washington, North Carolina, residence. The owners, asleep in their bed, were unaware of the armed stranger's presence. The intruder made his way to the master bedroom and violently attacked the man with a knife and a baseball bat, killing him; the woman sustained wounds to the sternum but survived.

The killer quickly left the house to join a companion, who was waiting in a car. They drove a short distance from the house, where they burned evidence of the crime—blood-stained clothing, shoes, the knife used in the crime, and other items.

The Washington Police Department asked the North Carolina State Bureau of Investigation (SBI) to assist in the investigation of this case. An SBI agent began working with the local police that same day.

Investigators found the burned material the next day, but fingerprint analysis revealed nothing of note. Within a week, the SBI agent learned that the murder victim recently inherited a large sum of money and modified his will to bequeath a substantial inheritance to his stepson.

Investigators conducted interviews with the victim's friends and associates, as well as with his family members. With no further clues from the crime scene or from the interviews, the investigation stretched into weeks. In the meantime, the local police and the SBI opened new cases.

With the rising murder rate in the United States, homicide investigators find that their workloads increase with each passing month, creating a backlog of murders that remain unsolved. The caseload of most homicide detectives today prevents them from focusing on specific cases and following these cases through to a solution.

This article discusses how the SBI established a special team of investigators, Murders Unsolved Team (MUST), to work unsolved homicides throughout the State. It also explains the organization of the team and how the team approaches the investigations of these unsolved



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murders by assigning agents only one case at a time.

The Workings of MUST

The SBI established the Murders Unsolved Team in 1986 to deal with the pervasive problem of unsolved murders. The growing number of cases often forced local investigators to move on to other investigations when they could not quickly solve a homicide. And, because investigators could not give adequate time and attention to all homicide investigations, an increasing number of murders remained unsolved.

With the formation of MUST, local law enforcement agencies in North Carolina can now request assistance in the investigation of unsolved homicide cases. In such cases, the MUST agents work cooperatively with the requesting agency. A primary benefit, however, is that MUST agents are assigned only one case at a time. This allows them the time to familiarize themselves with all aspects of the

investigation and to pursue all possible leads. And, when local investigators turn their attention to other pressing matters, MUST agents can continue to concentrate their efforts on solving the case.

For example, in the case described in the beginning of this article, local police virtually discontinued the investigation. However, a new police chief reopened the investigation and requested the assistance of MUST.

By the time MUST entered the case, the deceased's family had moved to another city. Therefore, agents from two geographical districts began to work cooperatively with the local agency.

MUST agents conducted extensive interviews, particularly with the stepson and his fellow university students. The agents soon learned that the stepson displayed an intense interest in the game "Dungeons and Dragons" and that he and two friends played it regularly. This information precipitated interviews of the two friends, whom agents hy-

pothesized murdered the victim in return for a substantial portion of the stepson's large inheritance.

Furthermore, a review of the physical evidence focused on charred paper found at the scene. The paper appeared to depict the route between the murder site and the university. The word "Lawson"—the street on which the victim lived—was also found on the map.

An agent convinced the stepson to draw a diagram of how he would drive from the university to the victim's home and to write the word "Lawson." When experts compared this diagram with the stepson's handwriting on other documents and with the writing on the charred map, they concluded that the same person wrote all three samples.

Armed with this information, the investigating team again interviewed the suspects. During this interview, one suspect confessed to his role in the murder. He also confirmed the investigators' theory that the stepson masterminded the plot.

Investigators arrested the stepson, along with the two other suspects, and charged them with murder. They were tried, convicted, and sentenced to lengthy jail terms.

Organization

The SBI divides the State into eight geographical districts, with a MUST agent assigned to each district and one unit supervisor who oversees all MUST investigations. The agents—who generally have from 5 to 7 years of field experience—report operationally to a unit supervisor who, in turn, reports administratively to the SBI district supervisor.

When a local agency asks for help in a particular case, the MUST supervisor reviews the case to determine whether previous investigators followed all likely leads and whether they interviewed all possible witnesses and suspects. If not, and the case appears to hold some promise for a solution, the supervisor accepts the case.

The supervisor then assigns the case to two MUST agents—one from the requesting agency's geographical district and one from a neighboring district—who then begin their investigation by reading all files on the case. If all agents already have cases assigned to them, the case is put on hold until agents become available.

Next, the district SBI agent, the newly assigned MUST agents, and investigators from local law enforcement agencies previously involved in the case meet to review all aspects of the case. MUST agents work as a team with local law enforcement agencies, sharing information at joint status meetings until they exhaust all leads or the case is solved.

When investigators exhaust all possible leads, the unit supervisor decides whether to place the case in an inactive status. Unit personnel never close files. Instead, the cases remain inactive until new leads develop, at which time the unit coordinator reactivates the case.

MUST Database

MUST agents use a database to help manage complex cases that involve multiple agencies. This database allows investigators to store information gathered and to share their information with other agen-

cies involved in the case. Agents record who covers certain leads, what information they acquire, the results of the lead, and the date the lead is completed. Then, to share information, they simply transfer the information to a disk and send it to the appropriate agency.

Cooperative Efforts

Many MUST investigations require a cooperative effort on the part of law enforcement agencies and private concerns alike. For example, in 1988, the SBI solved a homicide case through the cooperative efforts of the SBI, a physics professor at a local university, and the FBI.

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The rising rate of unsolved homicides requires immediate attention from the law enforcement community.
”

The case, which occurred in 1985, involved a man who died in his home from a 12-gauge shotgun wound. Only his wife and 3-year-old son were home at the time, and his distraught wife described to investigators how her young son pulled the shotgun from a closet, dragged it down the hall to the living room, and while sitting on her lap, accidentally discharged the weapon, fatally wounding his father.

The investigating team took detailed photographs of the entire crime scene that evening but limited

their questioning to the wife, at her request. The following day, the wife refused to take a polygraph test and referred detectives to her attorney. Shortly thereafter, she burned the couch because of the extensive blood damage and discarded other potential evidence in the house.

The investigation eventually came to a standstill, and the wife moved to another State. However, relatives of the deceased wrote the State's attorney general, urging that the investigation be resumed. In 1988, after reviewing the file, the State's attorney general requested that the SBI undertake the case. SBI officials assigned the case to MUST.

To begin, MUST investigators focused on the wife's story that the 3-year-old child fired the 12-gauge shotgun, especially since the child did not complain of any recoil injury or ear discomfort from the noise of the blast. They enlisted the aid of a physics professor at a local university to determine the precise force caused by the firing of a 12-gauge shotgun.

Using detailed information about the gun and shells, the professor calculated that the force of the blast would definitely injure a 3 year old. In addition, the SBI laboratory determined that the gun was fired from a distance of 10 to 12 feet, not at close range as the wife described.

Next, investigators contacted the FBI Laboratory, which used the original 1985 photographs to reconstruct the crime scene. A comparison of the reconstruction, the wife's story, and laboratory analysis of the shell's trajectory revealed a damaging inconsistency: In order for the story to be accurate, the husband

would have had to be sitting on a couch that was 6 feet in the air.

Finally, extensive interviews with friends and neighbors of the deceased revealed that he never took a loaded weapon into his house. In addition, he kept all shells for the weapon on a high shelf in the hall closet so that his child could not reach them.

This cooperative investigative effort took approximately 8 months. In 1989, the wife was charged and convicted of her husband's murder—a murder that would have most likely remained unsolved had it not been for the efforts of MUST personnel.

This case clearly benefited from full-time investigators who could coordinate the activities of personnel from local law enforcement, the FBI, and the university. The MUST investigator focused exclusively on this particular case, bringing it to closure, while investigators from the local police department could only provide minimal attention because of their need to attend to other cases.

Conclusion

MUST has an enviable record of successful investigations. Investigators solved more than 46 percent of the cases assigned to them. Tenta-

tive plans call for doubling the number of MUST agents in each district, both because the MUST methodology has proven effective and because local agencies now tend to solicit assistance earlier in the investigation.

The rising rate of unsolved homicides requires immediate attention from the law enforcement community. With the establishment of MUST, the SBI proves its commitment to reduce the rate of unsolved homicides within the State of North Carolina, while at the same time building a cooperative spirit among the State's law enforcement agencies. ♦

Crime Data

Hate Crime Data

With the Hate Crime Statistics Act of 1990, the FBI began collecting data on these types of crimes. The first statistics released cover calendar year 1991 and were supplied by nearly 3,000 law enforcement agencies in 32 States.

In 1991, agencies reported a total of 4,558 hate crime incidents involving 4,755 offenses. Of the offenses measured, intimidation was the most frequently reported hate crime, accounting for 1 of every 3 offenses. The other offenses included destruction/damage/vandalism of property, which accounted for 27 percent of the crimes; simple assault, 17 percent; aggravated assault, 16 percent; and robbery, 3 percent. In addition, murder, forcible rape, burglary, larceny-theft, motor vehicle theft, and arson each made up 1 percent or less of the total.

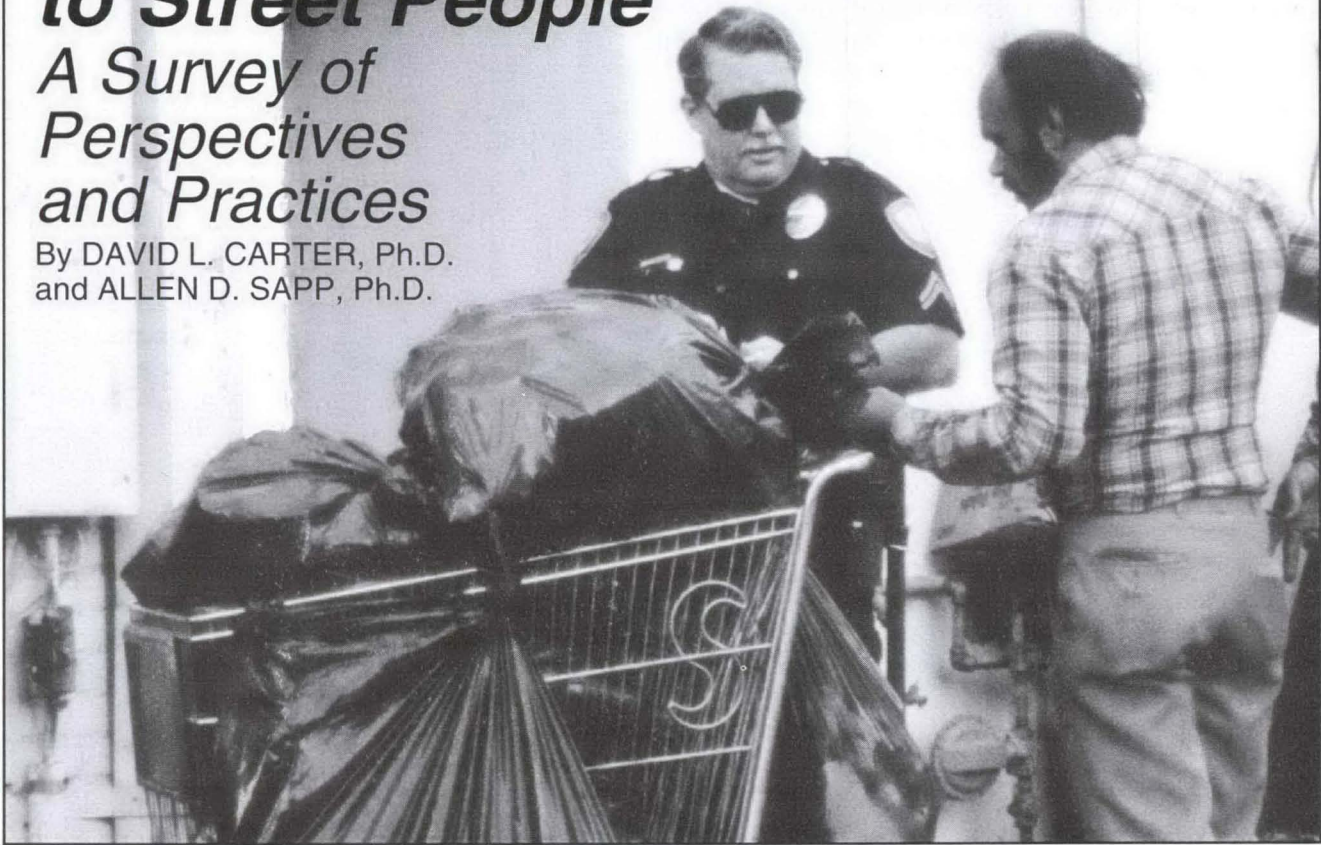
Racial bias motivated 6 of every 10 offenses reported; religious bias, 2 of 10 offenses reported, and ethnic and sexual-orientation bias each, 1 of 10 offenses reported. Among specific bias types, antiblack offenses accounted for the highest percentage, 36 percent of the total, followed by antiwhite and anti-Jewish motivations, 19 and 17 percent, respectively.

In 43 percent of the hate crimes reported, information on the offenders was unknown. However, when the race of the suspected offender was reported, 65 percent of the incidents were committed by whites, 30 percent by blacks, and 2 percent by persons of other races. The remainder of the incidents were committed by groups of offenders not all of the same race. ♦

Police Response to Street People

A Survey of Perspectives and Practices

By DAVID L. CARTER, Ph.D.
and ALLEN D. SAPP, Ph.D.



A growing awareness concerning the homeless in our society prompts questions concerning government responses to the problem. However, this quickly reveals a kind of paradox, since few jurisdictions operate government agencies with the responsibility or resources to deal adequately with the diverse needs of the homeless. These unfulfilled needs range from the obvious—food and shelter—to the more subtle but no less serious—mental and physical rehabilitation, substance abuse treatment, physical safety, child care, education, and skills training.

Yet, except for the police, many locales have no 24-hour social service agency that can provide even rudimentary assistance to the homeless. Moreover, because a police department represents the only municipal agency that spends significant time “on the streets,” it will most likely encounter the homeless on a regular basis. For these reasons, police managers should work to understand better the problem of homelessness, and departments should develop comprehensive strategies to deal with the social, economic, and constitutional issues surrounding treatment of the homeless.

EARLY RESEARCH

Previous research on homelessness addressed a wide range of issues, including one particular area of concern to criminal justice officials—the extent of criminality among the homeless.¹ On this point, most research indicates that although the homeless have higher overall arrest rates than the general population, the vast majority of their offenses do not involve violence or even threats of violence against others.² Rather, the police most often arrest the homeless for public intoxication, followed by theft/shoplifting, violation of city ordinances, and burglary.³ The

findings also suggest that criminality among the homeless varies with amount of time spent on the streets.⁴

For example, a 1988 study concluded that the *chronically* homeless were more likely to be dysfunctional and to become involved in the criminal justice system. This research further found that the chronically homeless tended to experience severe social dysfunction in early adolescence and would most likely be arrested when they appeared "...threatening in their behaviors and exhibited these behaviors in public places."⁵

Other research identifies the positive correlation between serious personal problems, such as chemical dependency, chronic bad health, or mental illness, and homelessness.⁶ Similarly, another study suggests that temporary homelessness remains predominately an economic issue, while chronic homelessness involves mental illness

and substance abuse.⁷ Therefore, responses to homelessness should take an integrated approach of mental health treatment, substance abuse counseling, social service, and employment assistance.

This brief look at previous research affirms several important issues. The pervasive problems of mental illness and substance abuse—not simply extreme poverty—underlie the conditions of the chronically homeless. For this reason, *economic* support programs alone will not resolve the problem. Therefore, when law enforcement agencies develop policies and practices to respond to the needs of the homeless, cooperation with mental health agencies and substance abuse centers is an integral key to success. Effective programs require cooperative efforts from a wide range of fields—the police cannot and should not be expected to do it all.

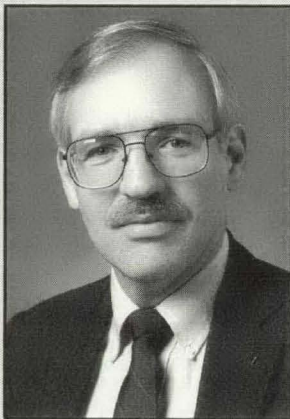
THE PERF STUDY

To provide some additional framework for law enforcement agencies in this area, the Police Executive Research Forum (PERF) recently conducted a comprehensive nationwide study of police policies concerning the homeless.⁸ Researchers mailed questionnaires to chief executives of all municipal, county, and consolidated law enforcement agencies serving populations of 50,000 or more, or having 100 or more sworn officers.⁹ Perhaps owing to the relevance and importance attached to this issue, the survey benefited from an unusually high response rate of over 80 percent, with 521 agencies returning completed survey forms.

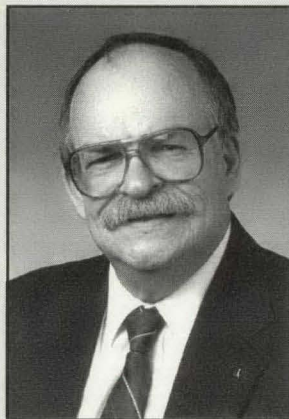
Perceived Problems

Somewhat surprisingly, data from the PERF study revealed that police executives do *not* see the presence of homeless persons as a very significant problem in their communities. When asked to rate the presence of "street people" as a *police* problem, nearly one-half of the respondents (49.8 percent) indicated that homelessness was only a cursory problem.

These findings may appear somewhat puzzling given the extent of media coverage and public discussion regarding the homeless issue. The findings are also enigmatic in light of the distinct trend in American law enforcement toward problem-oriented and community-oriented policing, both of which broaden the traditional scope of policing responsibilities into public service areas.¹⁰ Yet, these survey results suggest that these precepts have not influenced



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Dr. Sapp teaches criminal justice at Central Missouri State University in Warrensburg, Missouri.

perceptions of homelessness as a policing problem.

Referrals

While the police see the need for more general referral resources to provide social assistance to the homeless, the majority of respondents (61.2 percent) disagreed or strongly disagreed that the number of street people is too high to deal with effectively. This reinforces the findings that law enforcement executives do not perceive the presence of street people to be a problem of any magnitude. And, though respondents clearly favored establishing more social referral agencies, the police executives indicated that their departments enjoy good relationships with those agencies that already exist.

Police Concerns

Still, two areas of broad concern did emerge among the respondents. First, police executives overwhelmingly agreed (92.7 percent) that the presence of street people increases the fear of crime among citizens. Second, a majority of respondents (74.6 percent) believed that the conditions in which street people live pose a public health hazard.

While the strength of these concerns may seem to contradict the overriding belief that street people do not pose a serious police problem, one respondent's comments may provide further insight:

"[This] is not strictly a police problem and requires, like domestic abuse, a multidisciplinary approach. Police are strictly a stopgap measure dealing with immediate problems and are not equipped to deal with root causes."

This suggests that police responsibility in this area is transient. Yet, reality dictates that the police are generally the first, and many times the only, resource available to provide aid to the homeless.

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...the respondents consistently declined to rate the presence of street people as a significant problem....
”

Police Policies and Procedures

Still, respondents revealed that fewer than 10 percent of the surveyed departments established formal policies that specifically addressed the homeless. Nearly one-quarter of the departments adopted specific policies dealing with *juvenile* street people—predominately directed toward runaway and “throwaway” youths. However, police typically dealt with the other street people as a function of custom under peripherally related issues, such as substance addiction referral policies.

Given that the majority of law enforcement executives did not view the presence of street people as a major police problem, it is not surprising that one-half of the responding agencies had no training programs in place dedicated to handling the homeless. Where specific instruction did exist, the most common form was roll-call training (25 percent), followed by a training session for new officers (20 per-

cent), with 11.5 percent of departments offering inservice training concerning street people. The average length of training sessions for new officers on homelessness-related issues was 6 hours, while the average for inservice training was 4.9 hours.

For both recruit and inservice training, departments tended to use trainers from both the police department staff and other sources, such as social service providers. Training typically dealt with basic procedures and referral policies.

On a related issue, 65 percent of the departments reported that they were regularly informed concerning the availability of shelters for street people, while fewer than 30 percent of the shelters informed officers concerning *capacity*. Again, roll-call training was the most common method of informing officers about shelter availability.

Working with Other Service Agencies

Overall, the respondents expressed satisfaction with community resources available to assist street people on matters related to food, shelter, medical assistance, clothing, and related factors. Still, respondents did identify several important shortcomings, e.g., the general lack of skills training, job referral, and psychological assistance available to the homeless.

An average of 6.6 shelters existed in each responding jurisdiction, with religious organizations and charities sponsoring the majority (as opposed to governmental sponsorship). Most of these shelters provided short-term housing for 1

week or less. A number of shelters "specialized" to address unique social needs, such as battered women, runaways, and substance abusers.

Over 80 percent of the responding police departments provided transportation for individuals requiring shelter, although the circumstances under which they transported street people to shelters varied. Yet, despite their reliance on shelters, fewer than 5 percent of police departments reported having a formal agreement with these organizations to make referrals.

On a related point, 17 percent of the respondents indicated that their agencies had personnel assigned specifically to deal with the needs of street people, either on a full-time or part-time basis. Once again, the assignment of personnel to address the needs of the homeless appears to be related to the perception of homelessness as a problem. Though these numbers remain small, they represent a connection between the identification of homelessness as a problem and the decision to designate departmental resources to aid street people.

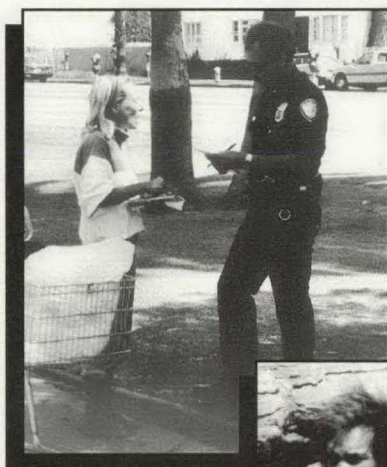
OBSERVATIONS

The respondents in this survey reflected jurisdictions in which large populations of street people could be expected. Despite this, the

respondents consistently declined to rate the presence of street people as a significant problem in comparison to all police responsibilities. Indeed, this finding was but one of many that challenged widely held beliefs about the homeless.

Impact on Community Conditions

Both the police and the public tend to view street people as a "public nuisance." Moreover, respondents indicated the presence of street people increased the fear of crime and presented a health hazard to their communities.



At the same time, however, respondents reported that the homeless rarely commit serious crimes. Rather, they generally come to the attention of police due to public intoxication, panhandling, or exhibiting behavior that is problematic—but not criminal. It appears that public fear of the homeless as a contributing factor to crime is based predominant-

ly on the mere presence and appearance of street people and not on a quantifiable link between homelessness and crime.

Social Assistance

Respondents consistently reported that with respect to services for the homeless, assistance is available in terms of food, shelter, medical assistance, and chemical dependency. In essence, this may infer that the United States does a better job of dealing with the homeless than has traditionally been thought. This is not to imply, however, that improvements cannot be made, nor is it intended to understate the magnitude of social conditions related to homelessness. Rather, it appears that from a social assistance perspective, the picture may not be as bleak as is widely believed.

Substance Abuse

The survey revealed a strong perception among the police that the homeless population consists largely of substance abusers. While this finding correlates with other research,¹¹ the possibility also exists that police simply have greater contact with those street people who abuse alcohol or drugs.

It is certainly conceivable that chemically dependent street people are more likely to draw the attention of the police and the public. Thus, if the vast majority of homeless-related police contacts are with street people who are substance abusers, the police may then generalize this behavior to all homeless people. Of course, the alternate cannot be

simply discarded: It is similarly conceivable that substance abuse is a significant problem permeating the homeless population.

Police Policies

Given the tendency of law enforcement toward comprehensive recordkeeping, this survey detected a surprisingly limited store of police data on the homeless. When agencies did keep records, the information generally was collected and maintained because homeless persons were either accused of committing or were victims of a crime, or because a report was required for referral to a shelter. Since most departments did not code their records to designate the nature or frequency of contacts with street people, their estimates of the nature of the problem were consequently more intuitive than empirical.

POLICY RECOMMENDATIONS

Given the media's coverage of homelessness, the study's findings draw attention to several important questions. Are police executives misinformed concerning the degree of homelessness in their jurisdictions? Is the magnitude of the problem on a national level less than that inferred by the media? Are regional variations in the number of street people and the availability of services significantly distinct to make homelessness a selective policy issue? Do the police lack sensitivity to the problem because of the lack of good reporting and recordkeeping on matters related to the homeless?

Based on this study, certain factors emerged that require greater

attention. The following recommendations could lead to enhanced policy development in this area. Specifically, law enforcement agencies should:

- Consider conducting a census, perhaps in cooperation with other government or social service agencies, to assess the degree of homelessness within their jurisdictions accurately
- Look closely at the extent of homelessness within their communities and conduct a strategic analysis of actual needs
- Establish detailed recordkeeping procedures regarding contacts with street people, including the outcomes of these contacts

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...police managers should work to understand better the problem of homelessness....
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- Work with shelters and social assistance agencies to create formalized policies and procedures regarding referrals and police transportation of street people
- Increase communication and coordination of efforts with social service agencies and shelters
- Instruct recruit and inservice personnel on issues, problems,

and referral resources for the homeless

- Develop record-coding systems to document contacts with street people (including subcodes concerning the nature of the contact), to allow for a more-detailed analysis of interaction with the homeless, which will result in both better service and a more accurate picture of the homeless problem.

In addition, police departments should consider working closely with social service agencies, religious organizations, and advocates for the homeless to enhance access to medical and child care services and to assist the homeless in obtaining skills training and work.

CONCLUSION

This study simply reflects the prevailing attitudes of law enforcement managers around the Nation regarding homelessness. Understanding the complex issues involved and developing policies to deal with the homeless enable law enforcement agencies to make real contributions to the quality of life in their communities. A well-planned response to the problem of homelessness allows departments to manage significant social problems, while making efficient use of police resources. ♦

Endnotes

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Police Practices

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² David A. Snow, Susan G. Baker, and Leon Anderson, "Criminality and Homeless Men: An Empirical Assessment." *Social Problems*, 36:5, 1989, 532-549.

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⁵ John R. Belcher, "Are Jails Replacing the Mental Health System for the Homeless Mentally Ill?" *Community Mental Health Journal*, 24:3, 1988, 185-195.

⁶ Martha R. Burt and Barbara E. Cohen, "Differences Among Homeless Single Women, Women with Children, and Single Men," *Social Problems*, 36:5, 1989, 508-524.

⁷ Lillian Gelberg, Lawrence S. Linn, and Barbara Leake, "Mental Health, Alcohol and Drug Use, and Criminal History Among Homeless Adults," *American Journal of Psychiatry*, 145:2, 1988, 191-196.

⁸ This project was funded by a grant from the Robert Wood Johnson Foundation to the Police Executive Research Forum (PERF). The opinions expressed in this article are those of the authors and do not necessarily reflect the views of the Robert Wood Johnson Foundation or PERF. For purposes of this study, the issues studied were somewhat broader than just the homeless. A street person is defined as an individual who spends the majority of time in public for nonjob-related reasons, regardless of whether they have a regular and adequate overnight residence. For readability, the terms "homeless" and "street people" are used synonymously in this article.

⁹ State police agencies were not included in this survey because of the relatively low rate of interaction between State police/highway patrol officers and street people. This survey data does not represent a sample. Rather, results reflect the attitudes, perceptions, and experiences of 80.2 percent of the total defined research population.

¹⁰ Robert C. Trojanowicz and David L. Carter, *The Philosophy and Role of Community Policing* (East Lansing, Michigan: National Foot Patrol Center, Michigan State University, 1988); Robert Trojanowicz and Bonnie Bucqueroux, *Community Policing* (Cincinnati: Anderson Publishing Company); James Q. Wilson and George Kelling, "Broken Windows," *The Atlantic Monthly*, March 1982, 29.

¹¹ Supra note 1.

Technical Reserve Program Community Volunteers In Action

By
William F. Brown, Jr.

In these tough economic times, police managers often question how they can maintain a high level of public service with less funding. Obviously, making use of all available resources can be advantageous for a department. Sometimes, however, police administrators overlook an excellent source of talent—the community. In fact, by using citizens in a technical reserve program, police departments gain valuable expertise with minimal cost.

The Technical Reserve Program

Several southern California law enforcement agencies have developed successful technical reserve programs. For example, the Los Angeles County Sheriff's Department uses technical reserves in its Motion Picture Unit. Composed of over 100 members from the television and film industries, the unit produces high quality training films, assists with covert video taping, and films special events. In Los Alamitos, California, the police department uses technical reserves as evidence technicians. And, the Inglewood, California, Police Department has developed its own technical reserve program, successfully using volunteers in a variety of positions.

The Inglewood Program

The Inglewood Police Department (IPD) implemented its

technical reserve program on January 1, 1992. IPD's program consists of two types of specialists: Technical reserves and technical reserve associates.

Both reserves and associates donate their time and expertise in an advisory or technical work capacity. They have no enforcement authority and do not carry firearms. They do not wear uniforms, although the nature of their work may require their wearing coveralls or other clothing designed for utility or identification.

Technical reserves possess a skill or talent that the IPD needs frequently, such as computer programming or foreign language ability. They work for the department regularly and must donate at least 100 hours of service a year or risk being dropped from the program. This helps to ensure that Inglewood's volunteers are truly committed to the program—and they are. Most technical reserves work more than the required 100 hours a year.

Technical reserve associates have expertise in an area that the department uses only during an emergency or unusual event. Currently, the IPD has more than 20 reserve associates, all functioning as amateur radio operators, who could be used during a natural disaster to broadcast emergency instructions to the public. Reserve associates might also serve on search and rescue teams, where

paramedics, divers, and pilots may be needed, depending on the type of search. Pilots may also work on fugitive apprehension squads or aerial surveillance groups.

Selection Procedures

Technical reserves must complete a detailed application and pass an interview and background investigation. They must have education, training, and/or work experience commensurate with the requirements of the position for which they apply. Once approved by the chief, technical reserves report to the supervisor of the unit to which they have been assigned. They ultimately answer to the chief via the commanding officer of the Office of Administrative Services.

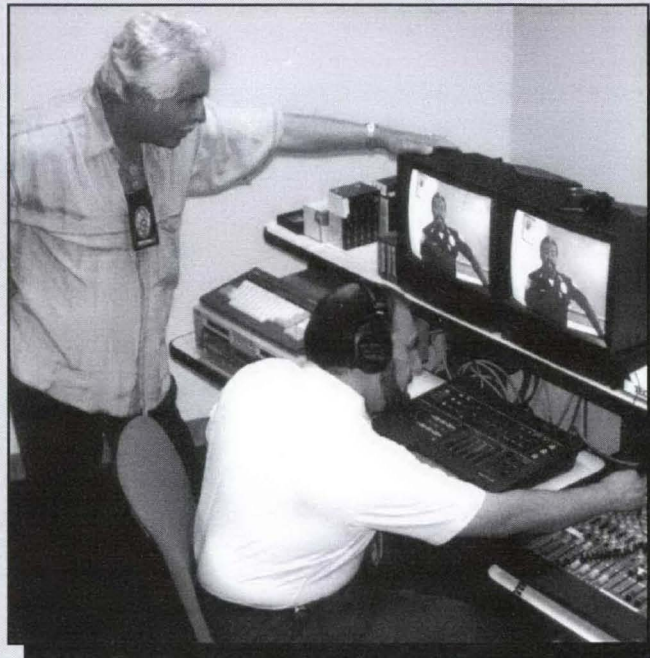
Legal Considerations

A thorough selection process is particularly important from a legal standpoint. The Inglewood Police Department accepts liability for the actions of its volunteers, as well as responsibility for their health and safety. Therefore, the department attempts to select those candidates who would best serve the interests of the department without creating undue risk of liability.

Specialist Areas

Reserves serve the department in various ways. They may function as:

- Computer specialists, working in such areas as software documentation, software training, data entry, system design and evaluation, programming, and systems maintenance and repair



- Motion picture specialists, assisting the Training Unit in producing instructional tapes, filming special events, and videotaping surveillance operations
- Translators, especially persons fluent in Spanish, Korean, and sign language
- Gunsmiths, repairing and/or refinishing departmental weapons
- Graphic artists, preparing freehand and computer-generated graphics and illustrations for the community

affairs division and other units as needed

- Radio repair specialists, installing, maintaining, and repairing radio equipment in conjunction with the city radio shop

- Amateur radio operators who, as technical reserve associates, are used only during disasters or unusual events.

Departments can add specialists to their programs as the need arises. For example, in the future, the IPD may recruit volunteer specialists with expertise in marketing, forensics, photography, and chemistry.

Conclusion

The IPD understands that the public represents a tremendous source of talent. Technical reserves recruited

from the community donate invaluable expertise that the department could not afford otherwise.

Budget cuts do not have to mean the end of comprehensive policing efforts by departments. Police administrators who recognize the benefit of using volunteers can provide outstanding service to the community while holding the line on costs. ♦

Chief Brown, formerly a lieutenant with the Inglewood, California, Police Department, currently heads the Moscow, Idaho, Police Department.

Video Review

The Center of the Search,
videotape produced by the National Center for Missing and Exploited Children, Arlington, Virginia, 1989, 1-800-843-5678.

On an average day in America, 12 children become kidnaping victims. Child abduction and exploitation cases present special problems for law enforcement agencies across the country. The National Center for Missing and Exploited Children (NCMEC) operates in conjunction with the U.S. Department of Justice as a clearinghouse for information concerning child abduction/exploitation cases. The NCMEC also works to assist law enforcement agencies with these types of investigations.

While the center began operating in 1984, many agencies remain unaware of the full range of services it offers. *The Center of the Search* video is intended to introduce the law enforcement community to the national center and to clarify its capabilities.

The 18-minute videotape focuses on the various ways in which the NCMEC can assist law enforcement in investigating missing or exploited children cases. The goal of the video is to encourage the law enforcement community to make full use of the many services offered by the center.

For example, NCMEC personnel can provide computerized age-

progression photographs of children. They can also produce reconstructions of facial images from morgue photographs of unidentified deceased juveniles. One unit within the NCMEC can search active missing child cases based on a series of identifiers. Police officers with suspicions regarding a particular child can contact the NCMEC with descriptive information and request that a database search be conducted for possible matches.

The video also discusses past cases successfully resolved through the use of NCMEC services. By reexamining these cases, the videotape presents officers with critical information on how they might pursue similar investigations.

Considering the resource-intensive nature of most child abduction/exploitation cases, the assistance provided by organizations such as the NCMEC can be of vital importance to law enforcement agencies. This video helps to clarify the services available through an often overlooked resource.

Reviewed by
Karen McCarron
Office of Public and
Congressional Affairs
Federal Bureau of Investigation
Washington, DC

Forensic Examination of Money Laundering Records

By
JAMES O. BEASLEY II

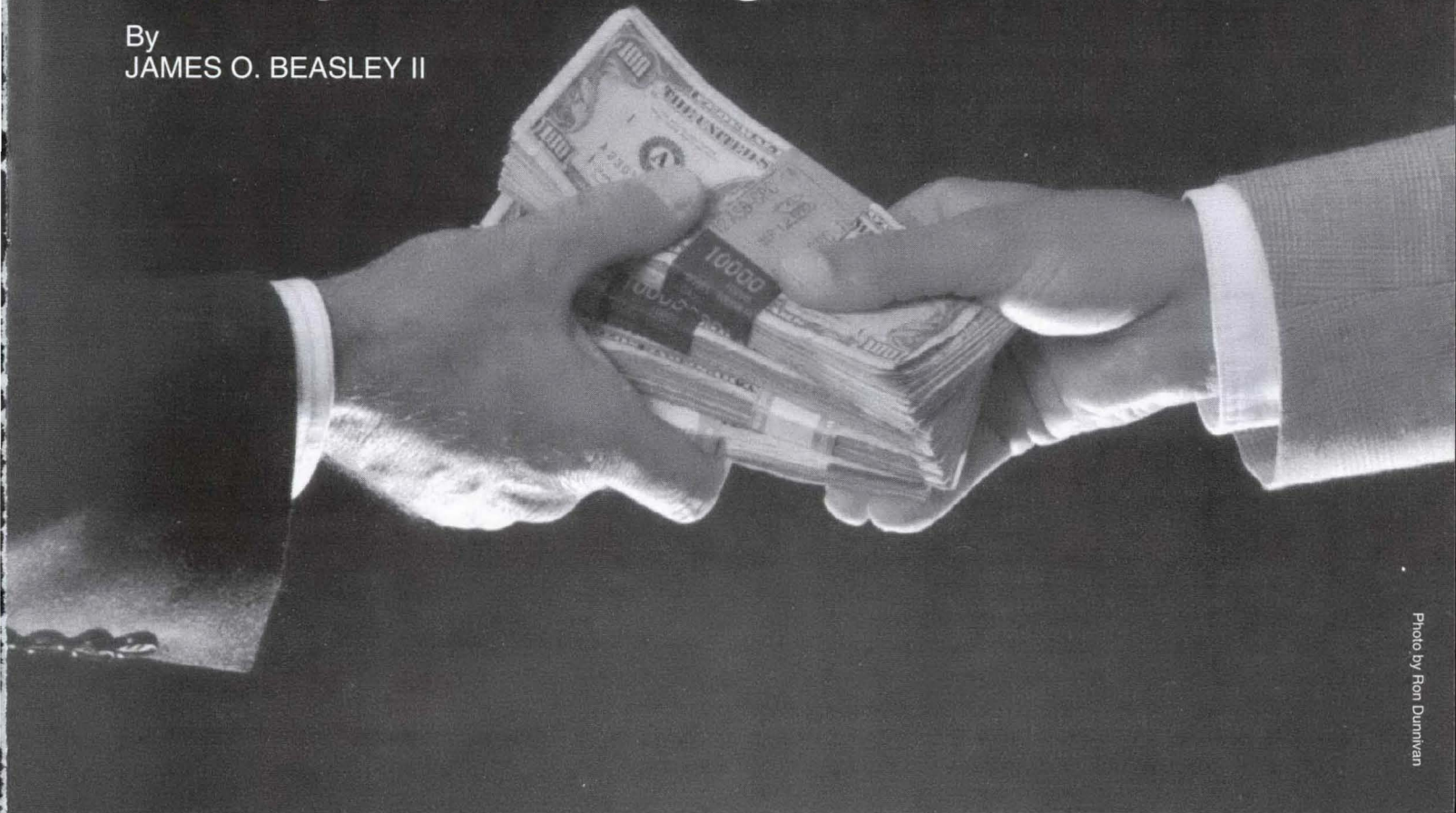


Photo by Ron Dunnivan

As criminal organizations generate money from illegal activities, they must find ways to conceal or disguise this money—a procedure known as “money laundering.” In response to this problem, Federal, State, and local law enforcement have, in recent years, aggressively investigated and prosecuted violations of money laundering statutes. This, in turn, has led to a deeper understanding of how criminals manage “dirty” money.

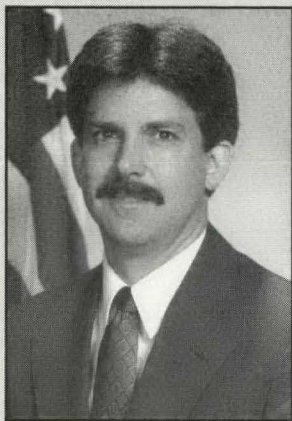
Determining where suspects’ cash originates and the means they use to conceal this cash can be exceedingly difficult for investiga-

tors, unless they have reliable informants, cooperating witnesses, or undercover agents. In addition, investigators may find it difficult to distinguish cash gained through legitimate businesses from cash gained through illegal means.

For these reasons, circumstantial evidence becomes critical in money laundering cases. It is often the only evidence available to provide a connection between the funds in question and their original source. In fact, it is this very link, the “specified unlawful activity” (SUA), that is a statutory requirement in Federal money laundering prosecutions.

Today, the Racketeering Records Analysis Unit (RRAU) of the FBI Laboratory in Washington, DC, can establish this necessary link by examining the records kept by criminals who launder money. Criminals, in order to provide proof to their superiors that they properly channeled all of the cash, document the collection and disbursement of all funds. Fortunately, these records also provide critical evidence for investigators, who must prove that the funds were acquired illegally.

This article provides information on the operations of the RRAU and how the unit can assist investi-



Special Agent Beasley, formerly assigned to the FBI Laboratory, is now the Senior Supervisory Resident Agent of the Fresno, California, Resident Agency (Sacramento Office).

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**Documentary evidence
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laundering violations.**

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gators and prosecutors in developing money laundering cases. It also discusses some of the methods criminals commonly use to hide illegal proceeds. Although these methods vary greatly, experts can now identify characteristics unique to these types of organizations. And, while none of these methods are new, what *is* new is that law enforcement now recognizes the value of forensic examination of these records.

RACKETEERING RECORDS ANALYSIS UNIT

The RRAU uses the clandestine business documents confiscated from organizations believed to be laundering funds to trace the history of the alleged illicit businesses. These documents reveal valuable information as to the amount of money laundered and how the suspects packaged, transported, disguised, and hid these funds. By providing a more complete picture of the roles and

behaviors of criminals and their illegal operations, the RRAU expands the scope of money laundering investigations.

In addition, this information can aid prosecutors to gain stiffer sentences for individuals found guilty of money laundering. The courts base suspects' sentences on the amounts they laundered, which is determined through their own business records. Current Federal sentencing guidelines¹ allow for these sentence adjustments, and at least one Federal appeals court upheld the use of RRAU testimony in connection with related sentencing adjustments in drug matters.²

LAUNDERING TECHNIQUES

Individuals who launder money use a variety of techniques to avoid detection by law enforcement. Therefore, it is important that law enforcement personnel understand the various techniques and the proof needed to ensure successful prosecution of these cases.

Secreting Funds

Criminals often hide ill-gotten funds until they can smuggle the money to another destination. Although hiding funds increases the risk of seizure by authorities or theft by other criminals, it eliminates the need for a professional money launderer, who typically charges a fee ranging from 3 to 5 percent to assist in transferring the money through legitimate financial institutions.

This technique was evident in a New York case, where authorities seized millions of dollars in currency, as well as business records, from an alleged furniture and appliance warehouse. Although officials kept the warehouse under surveillance for several months, the evidence acquired during that time was largely circumstantial, consisting mainly of investigators' accounts of activity in and around the warehouse.

In this case, investigators observed that the subjects frequently used telephone paging devices and made numerous attempts to elude, or otherwise mislead, surveillance units. Investigators also found cocaine residue on a piece of duct tape retrieved from a trash receptacle located outside the warehouse. Finally, they noted that although the warehouse moved little furniture, there still appeared to be a lot of activity within the building.

When investigators raided the warehouse, they discovered a collection and storage point for drug proceeds, instead of the cocaine "stash house" that they expected to find. And, although they did not confiscate drugs, they did confiscate approximately \$18 million in U.S. currency, packaged in cardboard

boxes and secreted in a concealed compartment of a truck. In addition to cash, investigators also confiscated numerous handwritten documents from both the warehouse and other search locations, which they then submitted to the RRAU for analysis.

The initial review of the records indicated that they represented transactions involving millions of dollars in cash—recorded as it came into the warehouse—followed by confirmed totals counted by denomination. The suspects assigned the totals to at least 11 accounts before combining the cash into outgoing sums that were packaged in boxes and suitcases and placed in the truck. This method typifies how money launderers hide large sums of cash until they can transport it out of the country.

However, a more detailed analysis of the warehouse documents by the RRAU revealed more damaging evidence to be used at trial. Records showed that the organization received, through at least 114 exchanges, over \$44 million in cash during a 3-month period. Individuals in the warehouse listed the amount of cash received, the date of receipt, the account relating to each transfer of funds, the *alleged* amount at the time of delivery, and the *confirmed* count of each amount. The listing of incoming and confirmed accounts, along with counting the currency by denomination and coded account designations, characterize money laundering records.

Of particular note was an outgoing amount of nearly \$7.5 million, listed on one page of the seized

documents. The same amount appeared on another page of the documents as the sum of three smaller amounts of cash that the suspects placed in boxes and a suitcase. Further examination of the documents revealed a third page, which indicated that the individuals derived the smaller amounts of money by counting it by currency denominations, i.e., \$100s, \$50s, \$20s, etc.

The amount of money seized in the warehouse closely approximated that of the currency listed on an inventory recovered from one of the search locations. By comparing documents, examiners determined



that the criminals sorted the cash according to denomination and boxed it for storage, most likely until they could smuggle the money out of the country.

Finally, the confiscated records revealed that the suspects collected the nearly \$7.5 million over a period of several days just prior to preparing it for shipment. This evidence served to further strengthen the case for prosecutors.

However, in order to prosecute the suspects under the Federal money laundering statutes, prosecu-

tors needed to provide proof that the suspects obtained the funds illegally. Therefore, an FBI examiner testified in court concerning notations on two seized documents. These notations showed the purchase/sale of 35 units at prices of \$13,500 and \$14,000, each, between 8/24 and 10/4. The examiner further testified that there appeared to be a relationship between the units and their corresponding prices: The units were consistent with kilogram prices for cocaine.

This type of bookkeeping—partial dates and an informal accounting flow—typifies drug records. It also provides another indication that the suspects obtained the funds through an illicit drug trade.

It is important to note in this case that even though investigators found the drug documents in one location and the cash documents in another, RRAU experts were still able to establish a circumstantial relationship between the two sets of records. It is this type of evidence that can be so crucial to any such case.

Disguising the Source of Illicit Funds

“Operation Polarcap,” a joint investigation conducted by the FBI, the Drug Enforcement Administration (DEA), and the U.S. Customs Service, represents an excellent example of how business records and paperwork provide critical evidence in money laundering cases. By examining seized documents, examiners gained valuable insights into how the criminals disguised the actual source of the illegal funds.

This undercover investigation, which involved months of surveillance, resulted in the seizure of thousands of documents, many of them found in trash receptacles at various businesses connected to the laundering scheme, including a jewelry store located in Los Angeles, California.

When RRAU examiners received the confiscated documents, their task was to show, based solely on an analysis of the documents, how the suspects received cash and circulated it through legitimate financial institutions in ways designed to conceal its true origin. Their analysis revealed a laundering network that acquired millions of dollars in cash from sources in New York, Los Angeles, and Houston. A large portion of this cash from these cities was delivered to the Los Angeles jewelry store.

RRAU examiners were able to show that when the suspects received the cash, they noted on bills of lading the total number of packages in a given shipment, as well as individual weights and total dollar values of each package. For example, one of the receipts indicated a delivery of five packages weighing 250 pounds and valued at \$1,568,000. A handwritten entry in a seized ledger book showed that same dollar amount under the column heading "\$ Received." Finally, a computerized summary of currency transaction reports (CTRs) filed by several Los Angeles area banks at which the jewelry store maintained accounts showed \$1,568,000 deposited to an account at one of the financial institutions. A comparison of all of these documents confirmed that the numerical notations represented amounts of cash de-

livered from New York to Los Angeles.

Other evidence that indicated the suspects attempted to disguise the illicit funds included a dated ledger entry showing that the jewelry store received \$2,800,000 on September 2. A scrap of paper bearing the same date showed that this figure was a combination of three smaller amounts labeled "L.A." One of these amounts was \$1 million. Other scraps of paper found in the trash at the jewelry store indicated that the \$1 million was counted by denomination on September 2. All of this evidence pointed toward a possible money laundering operation.

Fraudulent Documents

Money laundering organizations also produce fraudulent documents, such as sales receipts, designed to conceal the true origin of a business' cash. For example, in the Los Angeles jewelry store case, investigators found a scrap of paper, dated August 10, 1988, which indicated two amounts of collected cash totaling \$1,034,000 and designated "L.A." This corresponded with a cash deposit of \$1,034,005 made on that date to an account of the business at another Los Angeles bank.

In addition, investigators recovered two consecutively numbered receipts from trash receptacles. These receipts revealed how the suspects broke down this total in an effort to portray the source of the money as cash proceeds from the two sales of 24k gold to a gold refiner in the amounts of \$693,000 and \$341,000. Since cash sales that large would be highly unusual in any legitimate business, the sus-

Guidelines for Handling and Submitting Evidence

- Submit original evidence (Photocopies and facsimiles may be reviewed under limited circumstances, but examiners prefer to use the original documents when preparing a written forensic report.)
- Submit evidence as soon as possible following its acquisition
- Submit all documentary evidence relating to the seizure
- Contact an RRAU examiner in advance to resolve potential problems regarding large volumes of evidence (In some cases, a field examination may be in order.)
- Advise the RRAU of any requested examinations that may necessitate special handling, such as those involving handwriting or latent fingerprint comparisons
- Indicate in a brief cover letter the subject's name, the exact place and date of seizure, any trial date or other reason for expeditious handling, and the name and telephone number of the submitter.

pects produced fraudulent documents designed to conceal the true origin of the business' cash.

At trial, a RRAU examiner testified that these types of business practices are inconsistent with normal business activities. Instead, they are associated with money laundering operations.

Of tremendous importance in this case was the seizure, on an almost daily basis, of many documents from trash discarded at the business. A critical lesson learned from this analysis is that the potential value of garbage in criminal investigations cannot be overestimated.

Structuring Financial Transactions

Another method for laundering money involves structuring financial transactions. This type of activity was evident in another case uncovered through a Federal investigation in Brooklyn and Manhattan in 1990.

The case involved a residential setting—specifically four apartments—where suspects collected, counted, and prepared drug funds for conversion to negotiable instruments, such as bank money orders. When investigators raided the apartments, they recovered \$1,304,595 in cash, along with money orders worth approximately \$73,000, all in amounts of less than \$10,000. Investigators also seized hundreds of additional money order receipts and related handwritten documents, which they submitted for examination.

An RRAU analysis of the seized documents disclosed that the operation received cash totaling at least

\$13,503,441 in 26 deliveries from September 1989, to March 1990. After the suspects received the cash, they listed daily breakdowns that showed, through a series of deductions, how specific amounts were used to purchase money orders at area financial institutions. These purchases totaled a minimum of

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***The Racketeering
Records Analysis Unit
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\$11,022,141 during a 6-month period, allowing authorities to convict the main defendant for laundering over \$10 million in cash.

This evidence resulted in an increase of nine levels in the defendant's sentence under the Federal sentencing guidelines. Based partly on a previously negotiated plea agreement, the defendant received a much longer prison sentence than would have resulted had the documents not been carefully examined.

CONCLUSION

Documentary evidence can be of tremendous value when investigating and prosecuting money laundering violations. Although the methods used to move large volumes of currency generated through illicit activities vary, forensic techniques can be applied to identify characteristics unique to these types

of organizations. These same techniques can also be applied to explain how these activities are represented in the records of these operations. Such clandestine records also provide the evidence needed to show the source of the laundered funds.

The Racketeering Records Analysis Unit can assist law enforcement at all levels with money laundering cases. Without this assistance, many cases may go unprosecuted, and those cases prosecuted may not result in the maximum sentences. RRAU examiners can review the business records of specific money laundering organizations in order to provide investigators and prosecutors with the proof necessary to convict the defendants and gain stiffer sentences.

With the growth of the illicit drug trade comes a growth in money laundering organizations. Law enforcement must respond to this increasing problem not only by proving their money laundering cases but also by gaining the stiffest possible sentence for defendants. ♦

Endnotes

¹ *Federal Sentencing Guidelines Manual*, 1992 Edition (St. Paul, Minnesota: West Publishing Co.), 1991.

² See *United States v. Harris*, 903 F. 2d 770 (10th Cir. 1990.)

*Law enforcement agencies
should direct requests for RRAU
assistance to:*

Director
Federal Bureau of Investigation
Attention: Laboratory Division,
Racketeering Records Analysis Unit
10th and Pennsylvania Ave., NW
Washington, DC 20535
Telephone inquiries should be directed to:
RRAU (202) 324-2500.

Point of View

Respecting Individual And Cultural Differences

A Prescription for Effective Supervision

By Jane C. Bird

Historically, police work could be viewed as a safe haven for politically conservative white males. A typical recruit of the not-so-distant past had only a high school degree and served in the military or worked in a blue-collar or entry-level white-collar occupation for a short time before applying for the position of police officer.

In most cases, veteran officers served as teachers to those recently hired. Consequently, rookie officers internalized the norms and values of their mentors. They quickly learned the workings of the bureaucracy and how to advance within the system. Accordingly, police managers supervised other white males who, like themselves, came primarily from the working class.

SUPERVISING IN AN ERA OF CHANGE

However, during the past 25 years, the composition of the workforce in general, and law enforcement agencies in particular, changed dramatically. As a result, police supervisors now encounter a growing number of minority and female personnel. To perform their duties properly, therefore, supervisors must develop respect for the individual and cultural differences of all employees. This requires

today's police supervisors to assume roles their predecessors never imagined.

The Prejudgment Trap

The notion of "prejudgment" as typical human behavior should not be overlooked when discussing contemporary personnel management.¹ People tend to arrange, categorize, assimilate, and judge according to previously acquired knowledge and experience. Some degree of prejudgment in itself is normal and healthy. This allows the brain to process vast amounts of information quickly. However, during the process, individuals may overcategorize, and in so doing, may create irrational, rather than rational, categories. This, in turn, creates a breeding ground for discrimination, prejudice, and stereotyping.

Left unchecked, these negative thought processes lead to ethnocentrism—the tendency to view only one's own culture and customs as acceptable—and xenophobia—an irrational hatred or fear of strangers and foreigners. Neither of these *acquired* traits can be tolerated in the modern law enforcement agency. Supervisors, in particular, must understand the incompatibility of these traits and effective personnel management. Creating "second-class citizens"



Training Officer Bird is an instructor at the Ohio Peace Officer Training Academy in London, Ohio.

within the ranks is a guaranteed way to destroy department morale, erode citizen support, and invite damaging legal action.

The New Workforce

Pressures from minorities, court rulings, and a national commitment to social equity have gradually transformed the American workforce, including the law enforcement profession. Today, managers in all agencies—no matter the size—are more likely to supervise minorities and females. Departments should appreciate all employees' needs to believe they make a valuable contribution to the organization; few employees want to be patronized.

Therefore, supervisors' knowledge of cultural and individual differences, combined with good human relations skills, becomes critical. Primary supervisory responsibilities should include creating and maintaining an environment in which

employees satisfy some of their own needs while working cooperatively to accomplish the goals and mission of the agency. Supervisors must work actively to improve relations within the workplace, avoid discrimination, and help others overcome personal prejudices.

Expecting the Worst

Unfortunately, the debilitating effects of past discrimination may condition many minority workers to expect the worst. These employees may assume that harassment, hostility, isolation, prejudice, rejection, resentment, and scapegoating will be an unpleasant, but persistent, reality in the work environment.

At the same time, female and minority employees may experience heightened sensitivity to incidents and actions that other employees would either ignore or find humorous. However, the courts have awarded substantial settlements to minority employees when evidence indicated supervisory misconduct.

In *Andrews v. City of Philadelphia*, for example, the court determined that a sergeant "personally participated" in the harassment of female employees by male coworkers.² The evidence showed that a captain in the department had knowledge of the offensive behavior, which included displays of pornographic material, but made no effort to stop the activity. Indeed, he reportedly informed the plaintiff that "boys will be boys," cautioning female employees that as women, they should expect offensive behavior and attitudes. The Federal appellate court did not

agree with him, stating with regard to sexual harassment:

"We hold that the pervasive use of derogatory and insulting terms relating to women generally and addressed to female employees personally may serve as evidence of a hostile work environment. Obscene language and pornography quite possibly could be regarded as "highly offensive" to a woman who seeks to deal with her fellow employees and clients with professional dignity and without the barrier of sexual differentiation and abuse."³

"Effective supervision demands impartiality and a sense of fairness to all employees."

To avoid similar incidents, supervisors with knowledge of hostile or discriminatory behavior must make every effort to thoroughly investigate and resolve these conflicts. Effective supervision demands impartiality and a sense of fairness to all employees. This begins with a sensitivity on the part of supervisors to the individual and cultural differences between employees.

Keys to Success

Today's successful supervisors possess these characteristics:

- Empathy
- Approachability

- A willingness to listen and understand other points of view
- An ability to communicate openly and honestly in all job-related matters and practice introspection regarding relationships with minority employees.

In addition, police supervisors should expect "testing" and probing by minority employees concerning the human relations philosophy of the department, as well as the supervisory commitment to ensure equal advancement opportunities. Generally, these questions are not intended to challenge policy or inflame tensions, but merely to help establish the minority employees' role in the organization. Supervisors should use these opportunities to define equitable parameters and establish a framework for fair treatment of all personnel.

CONCLUSION

All employees need competent and supportive supervisors who use good judgment and make reasonable decisions. To remain effective, today's law enforcement supervisors must develop administrative and problemsolving abilities that reflect the changing demographics of the workplace in particular and of society in general. In doing so, they will not only establish constructive atmospheres within agencies but also help to build public confidence and trust. ♦

Endnotes

¹ Jack Holloran, *Supervision* (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1981).

² 895 F.2d 1469 (3d Cir. 1990).

³ Id.

Asset Forfeiture Units

By
ROBERT M. LOMBARDO, M.A.



For years, individuals involved in the drug trade maintained luxurious lifestyles, complete with expensive automobiles, extensive real estate holdings, valuable jewelry, and prized artworks, without the fear of asset forfeiture. This is no longer the case. Asset forfeiture statutes now allow both the Federal Government and individual States to seize property or funds acquired through illegal activity. While these statutes provide an effective weapon against major offenders, they also present new challenges to law enforcement officers throughout the Nation.

In order to meet these new challenges, many law enforcement agencies create asset forfeiture units. However, a 1990 survey conducted by the Jefferson Institute for Justice Studies revealed that most local jurisdictions do not use these units to their fullest potential. In fact, few of the units successfully tap the full potential of forfeiture statutes.¹

Recognizing forfeiture statutes as an effective tool with which to combat illegal drug trafficking, administrators of the Chicago Police Department established a specific unit designed to enhance the department's forfeiture efforts. This article discusses how officials developed the Asset Forfeiture Unit (AFU), the separate functions of the unit, and how these functions work together to achieve a common goal.

THE ASSET FORFEITURE UNIT

Initially, department administrators established the Asset Forfeiture Unit to serve as an administrative unit responsible for tracking

money, vehicles, real property, and other items of value seized in drug investigations. As the unit evolved, the department assigned investigators to the unit to provide additional support for property seizures and to conduct proactive investigations of targeted drug traffickers.

In 1988, officials reorganized the unit into five separate functions—local case management, vehicle forfeitures, real property forfeitures, Federal case management, and investigations. This division of labor allowed for more efficient management of the program by assigning specific responsibilities having to do with the forfeiture process to officers within the separate functions.

Local Case Management

The local case management function of the unit serves primarily as administrative oversight for drug seizures. For example, when officers outside the unit seize money in drug-related investigations, AFU personnel record the amount of money seized and review the case to ensure that the officers considered all aspects of forfeiture law.

If the officers failed to do this, the AFU commanding officer assigns the case to the investigative function of the unit for additional investigation. This usually occurs when the case lacks probable cause or when street officers—unfamiliar with the intricate asset forfeiture statutes—neglect to seize other valuable assets.

In addition, when local case management personnel receive copies of the property inventory reports filed by the officers who confiscated the money, they obtain the related

police reports, enter the appropriate information into the unit's computer system, and forward the reports to the State's attorney, who determines whether to prosecute. AFU personnel then take additional steps based on the State attorney's decision.

Prosecuted cases

If the State's attorney decides to prosecute, the forfeiture court adjudicates the case. At the completion of the proceeding, AFU personnel receive a copy of the final court order so that they can further update the database. They then send copies of the appropriate court orders to the evidence and recovered property section. Personnel in this section verify that the department has custody of the money and then release the money to the Illinois State Police. The director of the State police then distributes the money according to a formula set by the State legislature.

All States use forfeited monies for drug law enforcement; however,

each State has its own formula for distributing the money. For example, in Illinois, 65 percent of the money goes to the seizing law enforcement agency, 25 percent goes to the prosecutor, and 10 percent goes to the State police, who administer the program.

Cases not prosecuted

If the State's attorney declines prosecution, AFU personnel enter that information into the database. They then notify the owners of the seized money that they can claim the money at the evidence and recovered property section.

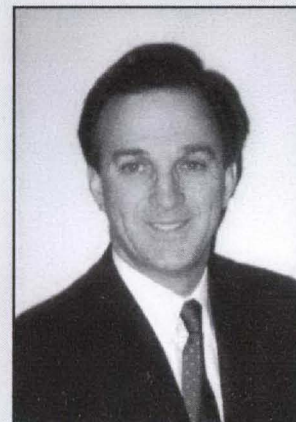
Vehicle Seizures and Forfeitures

AFU personnel take certain steps when officers *seize* vehicles. Then, when the vehicles are legally *forfeited*, AFU personnel complete the forfeiture process.

Process for seized vehicles

When officers seize vehicles, AFU vehicle officers obtain all related police reports, enter the

“**Asset forfeiture places a new role upon the law enforcement community.**”



Sergeant Lombardo serves in the Chicago, Illinois, Police Department.

necessary information into the unit's database, and ensure that the vehicles remain properly stored until either forfeited or returned to the owners. Next, AFU personnel identify the registered owners of the vehicles, determine whether the seizures were warranted, and ensure that officers followed correct procedures. Factors that impact on the final forfeiture decision include the owners' innocence, whether commercial liens exist on the vehicles,

and the age, mileage, and condition of the vehicles.

AFU personnel also forward all police reports, vehicle registrations, and a notice/inventory of seized property to the State's attorney. The Department of Motor Vehicle Registration also receives a copy of the notice/inventory of seized property.

Process for forfeited vehicles

When a case is prosecuted and a vehicle is legally forfeited, AFU

vehicle officers update the information in the unit's database. They also apply for the title to the vehicle.

Personnel in the Motor Maintenance Division make the final decision on what to do with forfeited vehicles. Typically, they trade luxurious vehicles not suitable for department use for autos more appropriate for surveillance and undercover work. However, some forfeited vehicles are sold at auctions. AFU vehicle officers also review

Forfeiture Investigation Checklist

Facilitation Criteria

Establish connection between owner of property and offense

- Was owner arrested?
- Was owner consenting participant?
- Is nominee ownership involved?

Determine whether property was used to transport, possess, or conceal drugs or to facilitate the sale and distribution of drugs

- Was delivery negotiated on property?
- Did payment for drugs occur on property?
- Was there an escort vehicle?
- Did vehicle bring offender to delivery?
- Was there a lookout or countersurveillance vehicle?

Determine whether property was used to transport or store forfeitable manufacturing and distributing paraphernalia and materials

Proceeds Criteria

Obtain license, title, and sales information by identifying owner, seller, lien holder, mortgager, etc.

Establish nexus between offender and drugs through arrest history and testimony

Establish income of offender

- Tax returns, welfare, unemployment compensation, etc.
- Did owner have sufficient income to purchase property?

Interview seller and obtain sales records, mortgage application, etc.

- What was method of payment—cash or check?
- Obtain copy of canceled check?
- Were currency transaction reports filed?

department vehicle records to ensure that all funds received from the forfeited vehicles are returned to the department's forfeiture account.

Real Estate Forfeitures

When drug trafficking offenses occur on privately owned property, investigators determine whether the property is subject to forfeiture under either State or Federal law. Some State laws restrict the forfeiture of real estate for drug violations to those instances where suspects manufacture or deliver drugs on the property or possess large amounts of drugs (more than 30 grams) with the intent to deliver. Most Federal agencies restrict the initiation of forfeiture of real property to instances where a substantial connection between the property and a felony violation can be established.

If the property is subject to forfeiture, investigators attempt to identify the owner of the property through a tax or title search. If the person arrested does, in fact, own the property, the investigators refer the case to the State's attorney for prosecution. However, if officers suspect nominee ownership of the property, they refer the case to AFU investigative personnel for further investigation.

Investigators also conduct a computerized records search of the location, by address, in order to identify past drug offenses. A history of drug offenses at the location may further indicate that the suspect used the property for drug trafficking. Finally, the AFU real property officer plans and executes all real property seizures for the department. Although civil in nature,

Steps to Overcome Nominee Ownership

Interview seller

- Who controlled purchase?
- Who chose options, if motor vehicle?
- Who paid for property?
- Do picture spread?

Review insurance and repair records

- Who is insured?
- Who controls repairs?

Determine through surveillance who actually drives vehicle or lives on the property

these seizures require the same careful planning as any other type of police raid.

Federal Case Management

Police departments can participate in the Federal forfeiture program in two ways. First, officers at the local level can conduct joint investigations with Federal agencies. Second, they can conduct independent forfeiture investigations and request that the Federal government adopt them for prosecution when they do not fit the parameters of State law on forfeitures.

Joint investigations

The Federal case management officer plays an important role in joint investigations. This officer tracks the Federal forfeiture activities of the entire department, as well as the forfeiture activities of officers assigned to Drug Enforcement Administration (DEA) task forces. The

officer also enters information on assets seized for Federal forfeiture into the AFU Federal case management database and files an application for transfer of federally forfeited property—also known as a sharing request—to the appropriate Federal agency.

Federal adoption cases

When cases do not fit the parameters of State law, the department forwards the cases to either the FBI or the DEA to handle as Federal adoption cases. For example, Illinois law does not provide for the forfeiture of real property used in marijuana violations. Therefore, when violations of this type occur and the State's attorney declines to prosecute, AFU personnel conduct the investigation and forward the information to the appropriate Federal agency. This agency then presents the case to the U.S. attorney for prosecution. This cooperative

Recommendations for Major Investigations

Identify targets

- Members of drug organization
- "Family" tree (parents, relatives, wives, children, girlfriends, etc.)

Establish nexus between target and drug trafficking through arrest history and testimony

Establish sources of income using tax returns, welfare payments, unemployment compensation, etc.

Identify assets (money, vehicles, real property etc.)

- Department of Motor Vehicles
- County Recorder of Deeds (real property)
- Documentary search warrants
- Informants
- Defendants (recent arrestees and those incarcerated)
- Surveillance
- Garbage pickup
- Mail cover
- Telephone record analysis
- Pen register
- Wire tap
- State Department of Revenue (income tax, occupational sales tax, etc.)
- Grand jury testimony, court transcripts
- Clerk of Court (liens, judgments, and lawsuits)
- Banks (safe deposit boxes and checking and savings accounts)
- Polygraph (as part of plea bargain)
- Credit history

Draw up seizure warrant

effort between local law enforcement and government agencies results in forfeitures that would be impossible without the adoption program.

Investigations

Personnel in the investigative function of the AFU handle cases that fall within four categories—drug money, vehicles, real property, and narcotic racketeering. Assigning responsibility for specific types of investigations facilitates training and allows the AFU supervisor to manage investigative activities more efficiently.

Drug money investigations

In some States, such as Illinois, money found in close proximity to drugs, to manufacturing and distribution paraphernalia, or to drug records is presumed to be connected to drug trafficking offenses. In these cases, drug officers seize the money, and personnel in the AFU local case management function of the unit handle the case administratively.

However, if the money is seized without the presence of drugs, drug records, or drug paraphernalia, AFU investigative personnel are assigned the case for further investigation. In these cases, AFU investigative personnel review certain circumstantial evidence in drug money prosecutions, such as:

- A prior drug record by whomsoever possessed the money
- A suspect's connection to others involved in drug trafficking
- A positive alert on the currency by a drug detector dog

- A positive laboratory analysis of the currency and/or its container for drug traces
- The use of false or multiple identities by the suspect
- Employment record of suspect
- Evasive or incomplete answers by suspect concerning who owns the money
- A suspect's possession of an unusually large sum of money
- The location of the money (Money hidden in an unusual place.)

This type of evidence helps to further substantiate the case.

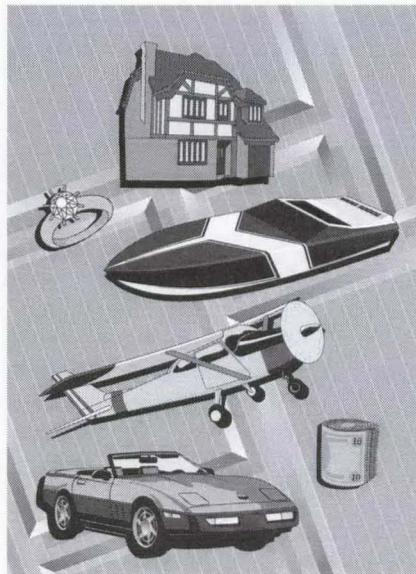
Vehicle investigations

Officers initiate vehicle investigations in drug cases based on two factors—facilitation and proceeds. Officers can seize any vehicle used to facilitate drug transactions or any vehicle purchased with the proceeds of drug dealing.

Most vehicles are seized because suspects actually use the vehicles to facilitate drug dealing. For example, officers seize vehicles used to deliver, transport, possess, or conceal controlled substances. If officers discover drugs in a vehicle, AFU vehicle forfeiture officers handle the case unless they suspect nominee ownership.

When officers suspect nominee ownership, AFU investigative personnel interview both the nominee and the person from whom the vehicle was purchased. During the interview, investigators ask the seller to identify the purchaser of the vehicle from a number of photographs. Even though both the drug dealer

and the nominee owner may have been present when the vehicle was purchased, AFU investigators must determine the identity of the person who actually controlled the purchase. That is, they determine who chose the options and the color of the vehicle and who paid for the vehicle.



If AFU investigators can establish a strong connection between the owner of a vehicle and the drug trade, they can target the vehicle for seizure, based on the premise that the vehicle was probably purchased with drug proceeds. They establish this connection or “nexus” through a previous arrest for a serious drug offense or a lengthy arrest record for drug-related crimes.

In addition to establishing the nexus between suspects and the drug trade, AFU investigators also establish the income of the suspects to determine whether they can afford such vehicles. They do this by

reviewing court-ordered State tax returns or through welfare and employment records.

Once AFU investigators establish the nexus to the drug trade and the income of the offender, the bulk of a proceeds investigation is complete. Armed with this information and the facts of the particular case, AFU personnel meet with prosecutors to review the investigation and determine whether sufficient probable cause exists to seize the vehicle in question.

Real property investigations

As with automobiles, AFU officers seize real property under both the facilitation and proceeds criteria. Routine facilitation investigations, cases involving nominee ownership, and proceeds cases are all assigned to AFU investigative personnel.

Investigators take the same steps to conduct both nominee and proceeds investigations of real property as they do to conduct vehicle investigations of this type. One difference, however, is that in nominee real property investigations, AFU personnel meet with attorneys and bank closing officers to determine the identity of the person who actually controlled the purchase of the property, as well as the manner of payment. And, as in vehicle proceeds investigations, real property investigations require that officers establish both the nexus to drug trafficking and the income of the offender.

Racketeering investigations

AFU investigative personnel also conduct proactive investiga-

tions of large-scale drug traffickers who fit the drug racketeering profile established by State law. In some States, all property acquired between the dates of two or more felony violations of the Controlled Substance Act or the Cannabis Control Act, committed within 5 years of each other, is presumed to have been obtained with the proceeds of the drug trade, if there was no other likely source for such property other than a violation of the above acts. Racketeering investigations target drug traffickers who either fit these parameters or have an extensive drug record and have amassed significant assets.

Identifying a suspect's assets is the key to successful investigations in this type of case. Investigators use informants, surveillance, search warrants, garbage pickups, mail covers, telephone record analysis, financial investigations, etc., to identify property owned by drug traffickers.

Once AFU investigators determine what property the suspect owns, they investigate each asset separately to determine whether it was purchased with drug proceeds. Racketeering investigations involve a series of individual currency, vehicle, and real property investigations combined into one case.

To prove such cases, AFU personnel use the modified net worth theory of proof. Using this method, they compare individuals' total expenditures to their legitimate sources of available funds. For example, in a recent investigation, Chicago police officers recovered 3 kilograms of cocaine during the execution of a search warrant. At the

same time, investigators found tax returns for 3 years that totaled approximately \$58,000. Further investigation by the AFU uncovered expenditures for a custom home and a number of luxury automobiles totaling over \$300,000 during the same 3-year period. Total expenditures exceeded funds available to the offender from legitimate sources by over \$243,000, creating a strong inference that the money used to buy the assets was derived from drug sales.

CONCLUSION

Asset forfeiture places a new role upon the law enforcement community. Police officers now seize bank accounts, automobiles, and real property—all of which require well-planned programs and procedures.

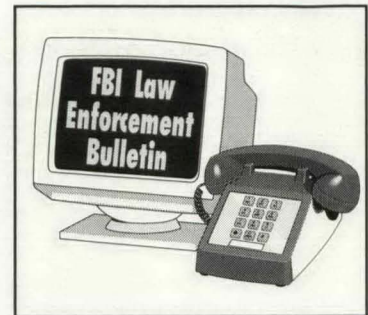
The Chicago Police Department's Asset Forfeiture Unit exemplifies an effective, comprehensive forfeiture program that taps the full potential of both State and Federal forfeiture law. As a result of the unit's work, the department's forfeiture revenue has increased significantly.

Most importantly, the full potential of this new law enforcement tool has been brought to bear upon the drug trafficking problem in the City of Chicago. The city now uses the funds acquired from drug traffickers themselves to continue the battle against this insidious crime. ♦

Endnote

Asset Forfeiture Programs: Policy and Program Choices (Washington, DC: Jefferson Publishing Co.), 1990.

Dial-the-Bulletin



The *Bulletin* is now available via three computer dial-up services. Authorized law enforcement practitioners and related professionals who have a personal computer and a modem can access, download, or print current issues of the *Bulletin* in their own home or offices by contacting these services. These computer bulletin board services can be reached by dialing the following telephone numbers directly:

- SEARCH Group, Inc.
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- CompuServe
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Pregnancy and Maternity Leave Policies

The Legal Aspects

By
JEFFREY HIGGINBOTHAM, J.D.

As more women join the ranks of law enforcement, administrators must ensure that policies concerning assignment, promotion, leave, and benefits adequately address the possibility of pregnancy. Many women choose to have both a family and career, and policies should be in place to accommodate both. This article discusses the legal aspects of pregnancy and maternity leave policies.

Pregnancy Discrimination Under Federal Law

In 1978, the U.S. Congress amended Title VII of the Civil Rights Act of 1964 expressly to provide protection against pregnancy discrimination.¹ In a piece of legislation known as the Pregnancy Discrimination Act, the amendment expanded the existing prohibition against discrimination "because of sex" or "on the basis of sex" to also bar discrimination "because of or on the basis of pregnancy, childbirth, or related medical conditions."² Congress explained that the "entire thrust...behind this legislation is to guarantee women the basic right to participate fully and equally in the workforce, without denying them

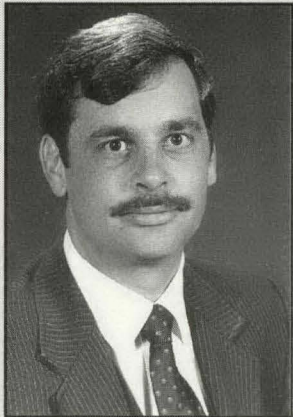


the fundamental right to full participation in family life."³

The Pregnancy Discrimination Act guarantees that "women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work...."⁴ In other

words, no provision in Federal law requires pregnant women to be treated more favorably than other employees.⁵ Rather, an employer is obligated only to ensure that employees who are not pregnant and who possess similar abilities or disabilities are not treated more favorably.

Since passage of the Pregnancy Discrimination Act, courts have addressed various issues relating to



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

“
...a law enforcement employer is obligated by Federal law not to discriminate against female employees based on pregnancy, childbirth, or related medical conditions.
”

its implementation. These issues include the scope of the protection against discrimination, inequitable treatment of pregnant workers and those who are not pregnant, and specific employment practices.

Scope of the Pregnancy Discrimination Act

Several cases have been litigated where the issue concerned the female employee's desire to take or extend leave for post-childbirth reasons. For example, in *Wallace v. Pyro Mining Co.*,⁶ a female employee requested that she be granted personal leave after exhausting maternity leave because she could not wean her child from breastfeeding. When her employer denied her the requested personal leave, the employee sued, claiming that the Pregnancy Discrimination Act's proscription against discrimination on the basis of pregnancy, childbirth, or related medical conditions included her need to continue breastfeeding her infant. The court

disagreed, however, finding that “[w]hile it may be that breastfeeding and weaning are natural concomitants of pregnancy and childbirth, they are not ‘medical conditions’ related thereto...[R]elated medical conditions [must] be limited to incapacitating conditions for which medical care or treatment is usual and normal.”⁷

Similarly, courts have held that child-rearing needs are not within the protection of the law. In *Fleming v. Ayers and Associates*,⁸ the court noted that the scope of the act was limited to “medical conditions of the pregnant woman, not conditions of the resulting offspring”⁹ because an offspring's medical condition affects both men and women. As such, adverse employment actions based on child-rearing needs would not be discrimination based on or because of one's sex.¹⁰

This rule is expressly incorporated in guidance provided by the Equal Employment Opportunity Commission (EEOC) in its regula-

tions, with one additional caution. According to the regulations, although the Pregnancy Discrimination Act does not cover childcare, “leave for childcare purposes [must] be granted on the same basis as leave which is granted to employees for other non-medical reasons.”¹¹ Thus, where employees are allowed to take accrued annual, sick, or personal leave, or leave without pay for reasons that are not job-related, the same type of leave must be granted to employees who wish to remain on leave for child-rearing purposes, even if that employee is medically able to return to work.

Moreover, the Pregnancy Discrimination Act limits protection to conditions actually associated with pregnancy and childbirth to the exclusion of conditions unique to females. In *Jirak v. Federal Express Corp.*,¹² a court held that an employee dismissed for absences associated with menstrual cramps was not the victim of illegal discrimination, because the scope of the act was expressly limited to pregnancy, childbirth, and related medical conditions.

As these cases demonstrate, a law enforcement employer is obligated by Federal law not to discriminate against female employees based on pregnancy, childbirth, or related medical conditions. However, needs or medical conditions that arise prior to or after the pregnancy or childbirth may be beyond the scope of the act's protection.

Equal Treatment of All Employees

As noted earlier, the Pregnancy Discrimination Act requires that

women affected by pregnancy, childbirth, or related medical conditions be treated the same in all aspects of employment as other employees with similar abilities to work. This requirement of equal treatment has resulted in several court cases raising claims of both intentional and unintentional discrimination.

For example, in *E.E.O.C. v. Ackerman, Hood and McQueen, Inc.*,¹³ an advertising firm hired a woman, who was told that her job would require frequent overtime. Sometime later, when she became pregnant, the employee presented her employer with a doctor's certificate recommending that she not work overtime because of the condition of her pregnancy. When the employee refused to work the overtime demanded by the employer, she was fired.

The employee's dismissal was held to be in violation of the Pregnancy Discrimination Act when it was proved that although the employer had no formal policy regarding medical or personal leave, the employer historically accommodated such requests when similar situations arose that involved employees who were not pregnant. The court held that the act requires the employer to treat all workers equally, pregnant or not, who are similar in their ability or inability to work. Because the employer previously accommodated the personal medical needs of other employees who were not pregnant, its failure to do so here violated the Federal requirement of equal treatment of pregnant women.¹⁴

Similarly, courts have held that it is a violation of the Pregnancy

Discrimination Act for an employer to do the following:

- 1) Refuse to hold a job open while an employee is on maternity leave when it protects the jobs of other employees who are temporarily disabled¹⁵
- 2) Deny an employee seniority upon return from pregnancy leave when others are not similarly treated upon return from disability leave,¹⁶ or
- 3) Refuse retirement credit for time spent on maternity leave when service time is credited for nonpregnancy disabilities.¹⁷

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This is not to say, however, that an employee's job must be protected simply based on her pregnancy. In fact, an employee may be terminated while on maternity leave for documented performance deficiencies, or her job may be filled by another employee, if other similarly disabled workers are treated in the same fashion.¹⁸

While the above discussion demonstrates the legal peril of an employer who intentionally treats pregnant employees differently from those who are not pregnant, an employer is also legally vulnerable

for using leave and benefit plans that have an inadvertent adverse impact on pregnant women. *E.E.O.C. v. Warshawsky & Co.*¹⁹ is illustrative.

Here, the employer had a policy that required all employees to work for 1 year prior to earning any sick leave. When a pregnant employee was fired for violating that sick leave policy, she sued, claiming a violation of the Pregnancy Discrimination Act. The employer defended by arguing that the policy was in place to ensure an efficient operation, to reward long-term employees, and to discourage turnover, but not to discriminate against pregnant employees.

The court rejected this argument, finding that in a “disparate impact suit, proof of discriminatory intent is not required. The focus is on the consequences of the employment practice, not the motivation.”²⁰

The court then examined the consequences of the policy, which denied sick leave during the first year of employment, and found that it resulted in the discharge of pregnant women at a significantly higher rate than first-year workers who were not pregnant. The court concluded that this policy did not treat pregnant employees and those who were not pregnant equally.

Commenting on the inequitable dismissal rate of pregnant employees, the court stated:

“This occurs *because* pregnant employees need more time off from work than non-pregnant employees. Because only women can get pregnant, if an employer denied adequate disability leave across the board, women will be disproportionately affected.”²¹

It then offered a statistical model to be used to determine whether employment practices adversely impact on pregnant employees. First, divide the number of female employees affected by the employment practice by the total number of female employees; then, divide the number of male employees similarly affected by the total number of male employees; finally, compare the ratios. If the women's ratio is not at least 80% of that of the men, prima facie proof of disparate impact exists.

Law enforcement employers must recognize that it is illegal to either intentionally or unintentionally apply leave or benefit plans to women in a fashion that treats or impacts them differently based on pregnancy, childbirth, or related medical conditions. Existing and proposed policies should be reviewed to eliminate any such illegal effect.

Specific Employment Practices

Just as the courts have addressed issues concerning the scope of the Pregnancy Discrimination Act and its equitable application to similarly situated employees, they have also decided cases in which specific employment practices have been challenged. Two such issues of particular interest to law enforcement are forced leave/termination and light duty.

Because the duties of law enforcement officers require them to be prepared to confront dangerous situations that may demand strenuous physical exertion, the question arises whether female officers, particularly in their latter months of pregnancy, can be forced to take

leave or be terminated when that necessary physical exertion may be impossible or poses a threat to the safety of the pregnant officer or unborn child. *O'Loughlin v. Pinchback*²² is instructive.



Pinchback, a female correctional officer who was responsible for booking and releasing male and female inmates, taking mug shots, obtaining fingerprints, delivering food and mail, and providing general security, was dismissed after she became pregnant. Despite her physician's opinion that she could continue working until the time of birth, Pinchback was notified that she was being discharged because her work assignments endangered her health and that of her unborn child and because she could no longer perform her duties and responsibilities.

The court found her termination to be in violation of the law because there was inadequate proof that her pregnancy rendered her less able to respond to security threats to any greater degree than other non-pregnant employees who did not possess the strength or prowess to cope with such situations. Additionally, the court rejected concerns for the safety of the fetus as a basis for the discharge because the employer did not present any medical or scientific evidence to justify such a policy or show the absence of a less discriminatory alternative.

Though not a law enforcement case, a similar result can be found in *Carney v. Martin Luther Home*.²³ There, the plaintiff was a nurse who was placed on unpaid leave because it was believed her pregnancy would prevent her from lifting patients or heavy objects, thereby interfering with the performance of her duties. The court referred to the legislative history of the act and quoted the Senate Report:

"Pregnant women who are able to work must be permitted to work on the same conditions as other employees; and when they are not able to work for medical reasons, they must be accorded the same rights, leave privileges and other benefits, as other workers who are disabled from working."²⁴

The court concluded that the employer violated the Pregnancy Discrimination Act, which the court said "was enacted to ensure that pregnant women are judged on their actual ability to work..."²⁵

In short, the Pregnancy Discrimination Act "prohibits employers from forcing pregnant women

who remain able to work to take leave unless the employer can show that the leave is necessary because the condition of pregnancy is incompatible with continued employment."²⁶ Moreover, this approach has been endorsed by the EEOC, which stated that "[a]n employee must be permitted to work at all times during pregnancy when she is able to perform her job."²⁷

The second issue of particular concern to law enforcement employers—light-duty assignments—centers on two issues. Can a police agency force a pregnant officer to take a light-duty assignment? Is a pregnant officer entitled to be placed in a light-duty position based solely on her pregnancy or related condition? The answer to both questions focuses on the officer's ability to perform the essential functions of her job.

In *Fields v. Bolger*,²⁸ it was held that a policy that forced employees not capable of performing their normal functions to apply for light-duty assignments was lawful, so long as that policy was applied equally to all disabilities, whether related to pregnancy or not.²⁹ More importantly, however, the court upheld the policy because it was applied only when an employee was incapable of performing normal job functions. Therefore, if a pregnant employee is not disabled from performing her duties and responsibilities, the employer cannot force that employee into a light-duty assignment.

Fields also addressed the question of whether a pregnant employee is entitled to a light-duty assignment. The court in *Fields* held that nothing in the Pregnancy Discrimination Act "compels an employer to prefer for alternative employment

an employee, who because of pregnancy, is unable to perform her full range of duties."³⁰

The guidance provided by the EEOC echoes this approach. In response to the question of whether an employer must provide an alternative job to a pregnant employee unable to perform the functions of her job, the EEOC responded:

"An employer is required to treat an employee temporarily unable to perform the functions of her job because of her pregnancy-related condition in the same manner as it treats other temporarily disabled employees, whether by providing modified tasks, alternative assignments, disability leaves, leaves without pay...."³¹

**“
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”**

Thus, the answer to the question lies in the normal practice of the employer. Where the employer permits temporarily disabled employees to take light-duty assignments, it must also offer similar accommodation to employees temporarily disabled by pregnancy, childbirth, or related conditions.³² Conversely, an agency that does not permit officers to work in light-duty assignments during periods of disability has no legal obligation to provide such an assignment based on preg-

nancy, childbirth, or related medical conditions.³³

Conclusion

To provide women the right to work in law enforcement and have children, law enforcement administrators must ensure their policies embody three basic protections. First, no policy may discriminate against an employee because of or based on her pregnancy, childbirth, or related medical conditions. Second, women are entitled to equal treatment in the conditions, benefits, and privileges of employment, including the use of leave for pregnancy or related conditions. Third, pregnant women who can perform the essential functions of their jobs must be allowed to continue in employment, and when disabled from performing those functions, must be treated the same as other temporarily disabled employees. A law enforcement agency's policies that accomplish these objectives will be legally sound and will provide a fairer workplace. ♦

Endnotes

¹ 42 U.S.C. §2000e(k).

² *Id.*

³ 123 Cong. Rec. 29658 (1977), cited in *California Federal Savings and Loan Association v. Guerra*, 479 U.S. 272, 289 (1987).

⁴ 42 U.S.C. §2000e(k). The statute does permit the denial of health benefits in the case of elective abortion. *Id.*

⁵ There are, however, certain State law provisions that may grant pregnant women expanded legal protection and which do not violate the Federal Pregnancy Discrimination Act. See, *California Federal Savings and Loan Association v. Guerra*, 479 U.S. 272 (1987); *Harness v. Hartz Mountain Corp.*, 877 F.2d 1307 (6th Cir. 1989), *cert. denied*, 493 U.S. 1024 (1990). However, favored treatment of pregnant employees by a public employer could be subject to a constitutional attack on equal protection grounds. *United States v. City of*

The Bulletin Notes

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



Detective Hurley

Detective Rodney Paul Hurley, Jr., of the Dorchester County, Maryland, Sheriff's Office responded to the report of a fire at a housing complex for elderly residents. Without breathing apparatus or protective clothing, Detective Hurley entered the building and brought an elderly resident to safety. After briefly administering first aid to the victim, Detective Hurley reentered the burning structure to search for a resident who remained unaccounted for. He found her in the apartment where the fire originated. Detective Hurley carried the woman from the fire-engulfed room to arriving emergency personnel. Both victims were then treated at an area hospital and released.



Deputy Bandemer

Deputy Terry Bandemer of the Todd County, Minnesota, Sheriff's Office overheard a 911 call reporting that a woman was being pursued and fired upon just blocks from the sheriff's office. Although off duty and out of uniform, Deputy Bandemer responded in his squad car to the scene. There, the deputy confronted the victim's estranged husband, who had already wounded her and was now firing at the residence where she took refuge. When Deputy Bandemer ordered the assailant to drop his weapon, the man fired at the deputy, wounding him slightly. The man then took his own life. Deputy Bandemer's actions prevented further harm to the victim and to the two individuals who took her into their home.



Officer Rubealcaba



Officer Smith

While on routine patrol, Officers Harvey Rubealcaba and Stephen Smith of the Irving, Texas, Police Department stopped a pickup truck for a traffic violation. Alerted by the suspicious behavior and questionable information given by the two male occupants, Officers Rubealcaba and Smith proceeded with an investigation of the vehicle. The officers placed the subjects under arrest after discovering ski masks, gloves, a handgun, and a paper sack containing money in the passenger compartment of the truck. The men were charged with capital murder after investigators determined that they had killed four people during the robbery of a restaurant just prior to being stopped by the officers.

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Patch Call

The Kansas Highway Patrol patch features elements from the State seal of Kansas. Commerce is depicted by a river and a steamboat. A man plowing with a pair of horses represents agriculture. The patch also shows the sun rising in the east, an ox wagon going west, and a cluster of stars. The stars represent the State's motto, "Ad astra per aspera," which means "To the stars through difficulties."



The *Bulletin* is looking for a variety of colorful and distinctive patches from law enforcement agencies around the United States and the world. Please send your patch and a brief heraldry to the Assistant Art Director, *FBI Law Enforcement Bulletin*, Room 7262, 10th and Pennsylvania Ave., NW, Washington, DC 20535.