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**Editor**

John E. Ott

**Associate Editors**

Glen Bartolomei  
Cynthia L. Lewis  
Bunny S. Morris

**Art Director**

Brian K. Parnell

**Assistant Art Director**

Denise Bennett Smith

**Staff Assistant**

Linda W. Szumilo

**Internet Address**

leb@fbiacademy.edu

**Cover Photo**

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Send article submissions to  
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Bulletin*, FBI Academy, Madison  
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# ***Russian Organized Crime***

## ***A Criminal Hydra***

By SCOTT O'NEAL, J.D.

**T**he breakup of the former Soviet Union in 1991 led to the precipitous introduction of capitalism and personal freedoms to the people of Russia and the 14 other newly independent states. Unfortunately, this sweeping change for a society that had lived under authoritarian rule for 70 years has had some significant negative side effects. In particular, organized crime has proliferated in Russia and now has expanded far beyond

the confines of the former Soviet borders.

Local, state, and federal criminal investigators—whether assigned to drug squads or property-, white-collar-, organized-, or violent-crime units—increasingly are encountering subjects with roots in the former Soviet Union. Russian organized crime presents unique challenges for law enforcement in the United States. Developing investigative strategies to disrupt and

dismantle these criminal enterprises requires a familiarity with group structures and an understanding of the backgrounds of the individuals who form the organizations.

### **Russian Organized Crime Defined**

Law enforcement agencies almost universally refer to crime groups consisting of members from the former Soviet states as Russian organized crime (ROC).<sup>1</sup> Numerous



Special Agent O'Neal is an instructor in the Investigative Training Unit at the FBI Academy.

**“...organized crime has proliferated in Russia and now has expanded far beyond the confines of the former Soviet borders.”**

ethnic groups—Russians, Georgians, Chechens, Ukrainians, Armenians, etc.—make up ROC. Crime groups have formed in various ethnic combinations for a variety of criminal purposes. Some groups remain ethnically exclusive, such as the Armenian groups in Los Angeles; most, particularly the large international enterprises, have multiethnic compositions.

Yet, beyond its general characteristics, ROC resists definition. Unlike the American La Cosa Nostra (LCN), the Italian Mafia, Chinese Triads, and other ethnically-oriented organized-crime groups, ROC does not fit into orderly models. Investigators cannot effectively adopt, in ROC cases, the model pyramid charts they routinely use to outline the leadership and rank and file of such groups as LCN families. In traditional organized-crime cases, identifying the leadership and chain of command of the target group contributes substantially to successful investigations and prosecutions. However, whereas traditional groups have permanent hierarchical structures

and usually operate within specific geographical areas, ROC comprises amorphous gangs that act autonomously or have loose ties to regional, national, or international networks. Therefore, contrary to the media-promoted depiction of the “Russian Mafia” as a monolithic institution, ROC groups cannot be classified as distinct, centralized entities. Moreover, ROC generally lacks the traditional membership rules and codes of honor and respect that add intrigue to Mafia stories.

A distinguishing attribute of ROC relates to the members’ common experience of having lived in a police state. In 1990, Russian economist Nikolai Shmelev wrote, “Apathy, indifference, pilfering, and a lack of respect for honest work have become rampant...” in the Soviet Union.<sup>2</sup> The government controlled and restricted the lives of the people, and for many families, basic subsistence depended on their ability to circumvent the massive bureaucracy. This experience, combined with the fact that many former Soviet citizens are well-educated, produced a unique

population. Although most former Soviet immigrants had no criminal inclinations, those individuals predisposed to criminal activity were able to “hit the ground running” as criminal entrepreneurs in the United States. More so than the members of any other ethnically oriented organized-crime group, these criminals possess skills and moral principles that pose an exceptional threat to society, both in the United States and abroad.

### **ROC in Russia**

Although little debate exists among observers—even in Russia—that the problem of organized crime in Russia has become large and broad, the actual size and scope of ROC there remains uncertain. Reports of the number, size, and activities of organized-crime groups vary greatly. Much of the information, whether from news agencies or official sources, is often speculative, anecdotal, conflicting, or a combination thereof. Official Russian reports have estimated that 3,000 to 5,000 criminal groups exist in that country.<sup>3</sup> Applying a narrower definition of organized crime, the FBI estimates that approximately 80 major organized criminal groups operate in Russia.<sup>4</sup>

Notwithstanding the lack of a reliable assessment of its constitution, ROC unquestionably causes extensive harm in Russia. This damage results partly from traditional crimes, such as extortion, drug trafficking, gambling, prostitution, and fraud schemes. More threatening, ROC, in concert with corrupt government officials and businessmen, has been plundering Russia’s assets and moving billions

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of dollars out of the country. This concerns law enforcement because many financial institutions and businesses throughout the world have become money-laundering centers for this stolen capital and other illicit profits.

The influence of ROC in Russia, for political and security reasons, significantly impacts the international community. However, the spread of ROC outside the borders of the former Soviet Union represents the main concern of law enforcement in many countries, including the United States.

### ROC in the United States

Individuals who belong to ROC groups in the United States arrived among two recent waves of immigration. The first influx began in the 1970s near the end of the Cold War as a gesture of detente on the part of the Soviet Union. The second wave began in the early 1990s after the fall of the Iron Curtain, the collapse of the Soviet Union, and the opening of its borders.

During the 1970s and 1980s, the Soviet government allowed more than 100,000 refugees to migrate to America.<sup>5</sup> Similar to other immigrant groups, the refugees settled first in New York City and other major metropolitan cities. A small number of criminals emerged from this first wave of émigrés. Dubbed “fraudsters” by law enforcement, these individuals operated independently or formed loose-knit criminal networks. Their predominant crimes included a variety of confidence and other white-collar schemes, which originally targeted mostly their own immigrant communities. From this group

emerged leaders who devised and coordinated complex, sophisticated white-collar fraud schemes.

In the first 6 years of the second wave (1991–1996), approximately 340,000 émigrés from the former Soviet Union arrived in America.<sup>6</sup> In addition, tens of thousands of individuals entering with temporary visas remained illegally. Many “professional” criminals came to the United States in this second wave.

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***...these criminals possess skills and moral principles that pose an exceptional threat to society, both in the United States and abroad.***

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Career criminals more prone to violence and less sophisticated than fraudsters, the professionals often band into gangs. These gangs vary in their criminal activity and in the degree of their affiliation with other domestic and foreign-based organized groups. Their criminal acts include providing illicit services (prostitution, gambling, extortionate credit, etc.) and committing an assortment of violent and property crimes. Some of these groups operate on their own. Others have muscled in on the schemes of fraudsters. Some coordinate with foreign-based groups to launder illicit funds from overseas operations. Still others—larger, more

established organizations—are involved in all of the above.

### ROC Fraud Schemes

Some experts predict that white-collar crime will serve as the benchmark for ROC in the United States.<sup>7</sup> Though the larger, well-connected and well-financed foreign-based ROC groups may represent the greatest potential threat for law enforcement, to date, domestic ROC groups have caused the most economic damage in the United States. White-collar fraud has caused most of that damage. The more sophisticated ROC fraud schemes include fuel scams, health care fraud, bank fraud, and stock market manipulation. In these and other schemes, ROC members have demonstrated an aptitude for circumventing or exploiting the bureaucracy, rules, and procedures of government agencies, financial institutions, insurance companies, and other businesses.

For example, fuel frauds have caused the loss of hundreds of millions of dollars in tax revenues in several states. By creating labyrinthine chains of “burn corporations”<sup>8</sup> and falsifying tax forms, ROC groups have deprived state and federal governments of substantial tax revenues. Other fuel frauds include blending fuel, rigging fuel pumps, and selling low-grade fuel as premium. The large profits derived from these schemes caught the attention of four of the five LCN families in New York City; to continue their operations, ROC groups paid a “mob tax” on every gallon of fuel sold in LCN-controlled areas.

Health care fraud represents the most costly crime in America, and

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ROC is taking its cut. ROC groups continue to innovate and perpetuate complex health care fraud schemes that defraud Medicare, Medicaid, and private insurance companies through false and inflated medical claims. ROC schemes, such as staged auto accidents and “rolling medical labs” (mobile labs that conduct unnecessary tests), often include in the conspiracies doctors, pharmacists, medical supply companies, and attorneys.

ROC also commits a variety of bank fraud schemes. In addition to standard schemes—such as check kiting, credit card fraud, and bankruptcy fraud—ROC has innovated new methods of bank fraud. For example, an Armenian ring in Los Angeles devised an automated teller machine (ATM) card fraud scheme that employed electronic surveillance equipment and computers. The subjects, who included bank and service station insiders and a computer expert formerly employed by a national research laboratory, used computer-operated decoding devices and hidden video cameras to steal the magnetic codes and personal identification numbers of thousands of cards.

In addition, ROC advanced the “pump and dump” stock fraud schemes for which LCN figures have received much of the attention. Russian fraudsters developed sophisticated schemes in which they disseminate false information to entice investors into buying a stock and to artificially inflate the value (the pump). Then, the fraudsters sell for a profit the shares they had purchased prior to the fraudulent promotion (the dump). LCN figures, sensing money as they

did in the fuel tax scams, informed the Russians they would be working as “partners” in the schemes.

#### **ROC Alliances**

LCN members may contend that they made significant contributions in the fuel tax and stock schemes by providing protection

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***Some experts predict that white-collar crime will serve as the benchmark for ROC in the United States.***

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and settling disputes. More accurately, they muscled in on ongoing, profitable schemes. Whatever the arrangement, LCN and ROC continue to cooperate in similar schemes, as well as in other crimes, such as trafficking in drugs and stolen cars.

ROC groups also have formed alliances with Colombian drug traffickers to import cocaine into Russia, possibly transshipping through the United States. The two groups have traded Colombian drugs for Russian weapons. Further, Colombian drug traffickers have acquired Soviet-designed military aircraft for their drug-running operations.

#### **ROC Investigations**

In the 1970s and 1980s, the crimes new Soviet émigrés

committed first appeared to be random acts. Investigators handled each crime reactively, case by case. As Russian crime groups organized, law enforcement investigations accordingly required more planning and resources. However, because the structures, affiliations, and methods of operation of ROC groups vary widely and, to some degree remain unknown, the resultant intelligence gaps inhibit the development of uniform investigative methods.

To disrupt ROC activity, law enforcement agencies must coordinate with one another, sharing information and conducting joint investigations. Many successful ROC investigations—such as those involving fuel tax, ATM, and other complex schemes—have included multiple agencies. Increased participation of local, state, federal, and foreign police agencies in the development of ROC profiles, joint investigations, and task forces remains fundamental. The 1996 conviction of Vyacheslav Ivankov, one of the most powerful Russian crime leaders to migrate to the United States, illustrates the effectiveness of international law enforcement cooperation. Along with five of his associates, Ivankov was charged with conspiracy for his attempt to extort \$3.5 million from Wall Street brokers. The successful resolution of the investigation depended largely on information contributed by Russian law enforcement and the Royal Canadian Mounted Police.

In addition, investigators and prosecutors must use money laundering and asset forfeiture laws to attack ROC at its economic source. Focusing on the ROC’s lifeblood,



money laundering, can disrupt the expansion of these criminal enterprises.

## Conclusion

The United States is a nation of immigrants, many arriving to seek their fortunes. While most took legitimate avenues, others followed less virtuous routes to economic success. Criminal entrepreneurs from the former Soviet Union, in particular, quickly established a reputation for the sophistication and range of their illicit operations.

Indeed, Russian organized-crime groups have a level of knowledge and experience in working the system that sets them in a criminal class by themselves. As they become more acculturated, learning more about business and govern-

ment systems in this country, the challenge they present to law enforcement will grow. Moreover, the lack of a distinct structure and the continuous change many groups undergo often make it impractical to employ traditional proactive investigative strategies to disrupt and dismantle these criminal enterprises. By combining efforts—through communication, cooperation, and coordination—local, state, federal, and international law enforcement agencies can counter the threat posed by Russian organized crime. ♦

## Endnotes

<sup>1</sup> The FBI officially refers to these groups as Eurasian Criminal Enterprises.

<sup>2</sup> Quoted in Hedrick Smith, "The Russian Character," *The New York Times Magazine*, October 28, 1990, 31.

<sup>3</sup> William H. Webster, *Russian Organized Crime*, Center for Strategic and International Studies, Global Organized Crime Project (Washington, DC, 1997), 24-26.

<sup>4</sup> The FBI defines an organized-crime enterprise as a self-perpetuating, structured, and disciplined association of individuals or groups combined together for the purpose of obtaining monetary or commercial gains or profits wholly or in part by illegal means, while protecting their activities through a pattern of violence and corruption.

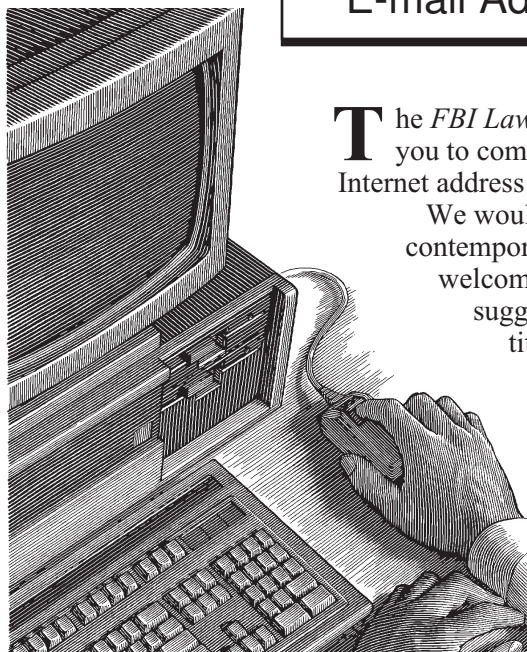
<sup>5</sup> U.S. Bureau of the Census, *Statistical Abstract of the United States: 1981*, 102d ed. (Washington, DC, 1981), 87; and U.S. Bureau of the Census, *Statistical Abstracts of the United States: 1998*, 118th ed. (Washington, DC, 1998), 11.

<sup>6</sup> *Ibid.*, vol. 1998.

<sup>7</sup> James O. Finckenauer and Elin J. Waring, *The Russian Mafia in America: Immigration, Culture, and Crime* (Boston, Northeastern University Press, 1998), 69.

<sup>8</sup> Burn corporations are shell corporations created using fictitious names and addresses for the purpose of disrupting a paper (or electronic) trail that would identify the beneficiary of an illicit financial transaction.

## The *Bulletin's* E-mail Address



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Also, the *Bulletin* is available for viewing or downloading on a number of computer services, as well as the FBI's home page. The home page address is <http://www.fbi.gov>.



## ***Working with Informants Operational Recommendations***

By James E. Hight, M.P.A.

**I**nformants can provide valuable information, but if not handled appropriately, they can create problems for agencies that use them. A properly implemented program can guide officers while holding them, and the informants, accountable for their actions.<sup>1</sup>

Once law enforcement agencies have set in place the necessary rules and regulations to govern the actions of informants, how do they actually operate them in a meaningful and productive manner? Because using informants poses certain risks, police administrators must ensure that certain safeguards exist and that officers always exhibit professional conduct when dealing with informants and their information.

No agency can predict the fallout that may result from unprofessional or inattentive conduct by police officers when dealing with informant sources. Reputations, for both the officer and the department,

can suffer irreparable damage. Agencies that use informants will always remain susceptible to litigation; however, through continued training and a high degree of professionalism, police agencies can help reduce problems for their department.

### **MAINTAINING THE RELATIONSHIP**

When working with informants, officers must maintain a strictly professional relationship at all times. Officers always must treat informants with dignity and respect, including keeping promises, telling informants the truth, and safeguarding their confidentiality.

#### **Keeping Promises**

Officers must keep the promises they make to informants. Law enforcement has a reputation to uphold, even among those informants who are known or suspected criminals. Police officers who break

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promises will find it difficult to gain the cooperation of future sources. Officers should exercise great care when making any promises to an informant, whether they concern money, protection, relocation, or other benefits. In situations where the informant will testify, officers should consult the prosecutor prior to discussing promises or offers of assistance of any type with the informant.

### **Telling the Truth**

Officers always should tell the truth to informants unless it becomes necessary to protect the integrity of a case or to safeguard the confidentiality of others involved. Officers should not underestimate the informant's ability to detect deception, no matter how well disguised. If it becomes necessary to withhold information from informants, officers should explain that they simply do not have a need for the information. The informants already may know the information and may have inquired just to test the officer's truthfulness. If informants cannot trust officers on simple matters, then they may find it difficult to trust an officer's word on matters directly related to more important issues (e.g., their safety). Once informants decide that they cannot trust an officer, they may stop or slow the amount of significant information they give that officer.

### **Safeguarding Confidentiality**

The confidential relationship of an informant with the law enforcement agency remains essential to the informant's long-term and continued use, especially with a very productive informant with unique access to information. The agency must ensure that it does not disclose the relationship. Officers should refrain from needlessly commenting around other individuals about the identity of the informant, the informant's activity, or the nature of the information provided by the informant. Also, because subjects of investigations may have the resources to access an informant's

telephone records, departments should use a "hello phone," which may further serve to protect the confidentiality of the informant.<sup>2</sup> Informants who get injured, either personally or professionally, due to an unauthorized disclosure of their identities or of the information they provided, may sue the department and create further unnecessary problems.

At the same time, officers should encourage informants to keep the relationship confidential.

Police officers, of course, cannot force informants to do so, but if the informant's identity and cooperation become known, it remains essential that the information did not come from the officer or the agency. Although a disclosure may hamper the investigation, in all likelihood, the agency will not be held responsible for the inevitable problems such a disclosure will create.

### **AVOIDING RELATIONSHIP PROBLEMS**

Officers must avoid certain circumstances that may jeopardize the officer-informant relationship. These include forming business partnerships, accepting gifts or loans, making unprofessional comments, and meeting informants in inappropriate places.

#### **Forming Business Relationships**

Officers never must use the specialized knowledge or expertise of the informant for personal profit. By entering into a business relationship with informants, police officers place both themselves and their agencies in an untenable situation. While some informants may offer such information to gain favor with the officer, others may do so in an effort to compromise the officer and gain control of the relationship. Whatever the reason, officers always must remember that the details of the relationship with an informant eventually will become public knowledge and that the department's professional reputation may suffer if officers must defend their actions either in a criminal prosecution or an internal affairs investigation.

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## Accepting Loans or Gifts

Officers never should borrow money from informants, even for incidental expenses, such as lunch. If the relationship with the informant becomes strained or otherwise difficult, the informant's story may vary from the officer's on the circumstances of the loan. The officer and police agency can suffer needlessly over such behavior, especially if the money borrowed comes from a payment from the agency to the informant.

The acceptance of gifts represents another area that, if not handled properly, can create difficulties for an officer. Though it may seem harmless at the time, receiving anything from an informant can create an atmosphere that some may perceive as improper. For similar reasons, officers never should lend money or give gifts to informants. Yet, in some cultures, the informants may perceive the refusal to accept gifts as a personal affront. In these rare situations where officers deem it best to accept gifts, they must carefully document the circumstances under which they received them, then log the items in the police property room. In cases involving jewelry or other items an informant would expect to see an officer wearing, the officer can retrieve them from the property room prior to each meeting with the informant and, after the meeting, promptly check the items back into the property room for safekeeping. By appropriately documenting the situation, officers can adequately answer any questions of propriety that may arise from their accepting gifts.

## Making Unprofessional Comments

Officers should avoid language that informants may perceive as offensive (e.g., being called snitches or squeals), which can damage an already-delicate relationship. Careless remarks or jokes made by a law enforcement officer in the presence of an informant often can boomerang with severe consequences. Off-color remarks containing sexual, racial, or other biases may result in fallout, ranging from public

embarrassment to litigation. Under questioning in a courtroom, unprofessional comments may serve to undermine the officer's credibility with a jury and the agency's credibility with the public, as well.

Additionally, officers must never assume that informants will not provide information to others. With today's technology, informants can covertly record their conversations with officers with little or no difficulty and then use these recordings to influence the professional relationship or, ultimately, the career of the officer. Therefore, police officers always must use caution in their communications with informants.

## Meeting in Inappropriate Places

Police officers should choose the best-suited locations for meeting and debriefing informants. For example, hotels help keep anonymity, provide multiple entrances and exits, and generally are conveniently located. However, officers should avoid meeting informants of the opposite sex in

hotel rooms without another officer present. The informant and the officer should feel comfortable with any meeting location. Both should dress appropriately for the debriefing, taking into account whether casual or more formal dress attire conforms with a particular meeting place.

## VERIFYING INFORMATION

Officers should make every effort to verify and substantiate through independent means all information the informant provides. Failure to do so can result in negative consequences, not only for the law enforcement agency but for innocent civilians, as well. For example, acting on information from informants, law enforcement agencies have served search warrants at the wrong addresses. Often, this error results from a miscommunication between officers and informants or occasionally from informants with alternative, more corrupt motives. Whatever the cause, officers must verify the information provided by informants through such means as utility

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**Officers must avoid certain circumstances that may jeopardize the officer-informant relationship.**

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records, commercial databases, public documents, physical surveillance, or even other informant sources.

Even when police use audio recordings to consensually monitor criminal activities, they should not solely rely on the recording without attempting to verify its authenticity. For example, if the voice on the recording is someone other than the individual specified by the informant, an agency's credibility would suffer greatly.

## CONCLUSION

Aside from the many regulations designed to control the actions of criminal informant sources, an officer's conduct can make the difference between the success and failure of a case. Officers must avoid situations and issues that others may construe as inappropriate. By doing so, they can enhance the cohesiveness of the officer-informant relationship while producing the necessary information essential to successful investigations.

Although improper officer-informant relationships rarely occur, the conduct of police officers will remain subject to greater scrutiny than that of informants. Because allegations can seriously damage the credibility of a law enforcement agency, officers who operate informants must remain aware of potentially disastrous situations and their consequences. By maintaining a strictly professional relationship with informant sources, the officer and the agency can limit those situations that could damage both personal and professional reputations, help avoid litigation, and allow law enforcement to continue the use of this vital investigative resource. ♦

## Endnote

<sup>1</sup> For information on establishing informant guidelines, see James E. Hight, "Avoiding the Informant Trap: A Blueprint for Control," *FBI Law Enforcement Bulletin*, November 1998, 1.

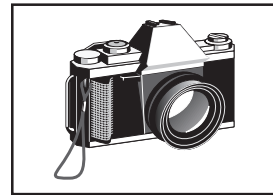
<sup>2</sup> A hello phone is a telephone line in the police department that is either unlisted or listed to a fictitious subscriber and that officers can answer without identifying themselves or their agency.

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*Special Agent Hight serves in the FBI's Tulsa, Oklahoma, resident agency.*

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## Wanted: Photographs



**T**he *Bulletin* staff is always on the lookout for dynamic, law enforcement-related photos for possible publication in the magazine. We are interested in photos that visually depict the many aspects of the law enforcement profession and illustrate the various tasks law enforcement personnel perform.

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# Establishing a Foot Pursuit Policy

## Running into Danger

By SHANNON BOHRER, M.B.A., EDWARD F. DAVIS, M.S., and THOMAS J. GARRITY, JR.



*March 8, 1997, Winter Haven, Florida: "The male allegedly fled into nearby woods, and the officer, who was wearing body armor, pursued him on foot. Backup officers arriving on the scene moments later heard gunshots and immediately began a search of the area."<sup>1</sup> They found the victim officer several yards away with a fatal gunshot wound to the face.*

*July 20, 1997, Portland, Oregon: "Recognizing the individual as the suspect they were looking for, the officers both gave chase into the overgrown backyard of the residence where they became separated by a hedge. The victim officer was shot at close range with a .380-caliber semiautomatic handgun in the hand, leg, and fatally in the sternum, just above the collar of his protective vest."<sup>2</sup>*

**B**oth of these officers died while pursuing suspects on foot. Many more have sustained serious injuries while chasing fleeing violators.<sup>3</sup> While vehicle pursuits have garnered much media attention and caused many law enforcement agencies to rethink their pursuit policies, foot chases and the resultant injuries and deaths to officers appear to have received little consideration.

In fact, today's law enforcement officers have manuals and policies and procedures that cover virtually everything—wearing uniforms, testifying in court, parking police cruisers, qualifying with firearms, supervising employees, and even pursuing suspects in vehicles. However, when it comes to foot chases, officers seem to lack not

only policies and procedures but also training.<sup>4</sup> Why?

### DEFINING THE PROBLEM

First and foremost, pursuing fleeing suspects constitutes a basic function of law enforcement officers. Because officers do this activity every day, they often become complacent about the dangers inherent in chasing suspects on foot and develop a false sense of security.<sup>5</sup> For example, officers make arrests, break up fights, and chase and catch suspects on a daily basis and rarely get hurt. This can blur their vision to the threats that actually can occur in their everyday work.

Moreover, FBI research has shown that a significant number of officers assaulted during foot pursuits had no plan of action other

than arresting the suspect.<sup>6</sup> The research also revealed that officers giving chase often do not recognize that suspects can turn threatening or that suspects could lead them into prearranged traps. None of the officers in the study had received any training or guidance from their departments about when to chase a suspect on foot or what action to take during the chase or after catching the suspect.

Additionally, few statistics exist on the number of officers killed or injured while pursuing suspects on foot. For example, the FBI's annual *Law Enforcement Officers Killed and Assaulted* publication presents numerous statistics—such as type of weapon, time of day, type of assignment, and circumstances at the scene of the incident<sup>7</sup>—relative to line-of-duty officer deaths and assaults. However, the publication contains no statistics on the number of officers killed or injured in foot pursuits. Because the FBI does not

compile this information, readers must examine the individual summaries of officers killed to determine how many officers died during foot pursuits. For example, in the two incidents at the beginning of this article, one of the officers died after responding to a disturbance call and the other after making a traffic stop, but both also were involved in foot pursuits that ultimately resulted in their deaths. Law enforcement agencies and researchers would benefit from knowing not only the circumstances or calls for service during which officers lost their lives or sustained injuries but also if these violations led to foot chases that subsequently resulted in these deaths or injuries.

Finally, both officer complacency and the lack of accurate statistics on the number of officers killed or injured in foot chases reveal the need for law enforcement agencies to consider developing and implementing foot pursuit

policies and procedures. While officers may instinctively pursue and attempt to overtake fleeing suspects, they need to realize that specific guidelines and procedures may not only improve their success rate but also save their lives.<sup>8</sup>

## ONE DEPARTMENT'S EXPERIENCE

The Collingswood, New Jersey, Police Department developed a foot pursuit policy as a result of an annual safety committee review in 1997. While examining the types of injuries sustained by its officers, the department discovered that several had occurred during foot pursuits. This prompted the department to look at previous years' injuries, which revealed similar patterns. About the same time, investigators learned that area drug dealers had booby-trapped many vacant residences in the city so they could lure officers into these specific buildings and not only evade capture but



*Mr. Bohrer is the range master and a firearms instructor with the Maryland Police and Correctional Training Commissions in Sykesville, Maryland.*



*Mr. Davis serves as an instructor in the Behavioral Science Unit at the FBI Academy.*



*Chief Garrity leads the Collingswood, New Jersey, Police Department.*



## Officer Injured During a Foot Pursuit

While on vehicle patrol, the victim officer and his partner saw two individuals in an automobile. After determining that the pair matched the description of two suspects wanted for possessing a handgun, the officers stopped the vehicle. The passenger immediately fled on foot, and the victim officer chased him for several blocks. After the victim officer lost sight of the suspect, he began searching an area in front of a building. The suspect, hiding in nearby bushes, opened fire with a small-caliber handgun and wounded the officer in the head and legs, causing extensive injury. The assailant escaped from the scene but surrendered to authorities 2 days later. The victim officer survived the attack but could not resume his duties and retired from the department.<sup>9</sup>

also injure officers. For example, suspects had cut holes in the floors or placed wires or ropes in various locations throughout the buildings to cause officers to trip and fall onto broken glass, nails, or other injury-producing items. The department began to realize that it needed to find alternatives to “running down the suspect.”

### Developing the Policy

The Collingswood Police Department wanted to develop a foot pursuit policy that would secure a balance between protecting the lives of its officers and the public and upholding its duty to enforce the law and apprehend violators. To this end, the department based its policy on the many factors that officers must consider when they initiate foot pursuits. These include the nature of the offense or call for service, the location and surrounding area involved, the type and availability of communication, the presence of physical danger, the physical condition and abilities of the officers involved, and the safety

of the officers and the general public. Because unique situations arise in law enforcement, the policy could not address all possible circumstances. Therefore, the department intended that the policy would guide its officers’ decisions about initiating, continuing, or ending foot pursuits.

### Defining the Terms

After developing the primary purpose of the foot pursuit policy, the department set out to define the concepts and individuals involved in foot chases. The department determined that—

- a *foot pursuit* means the physical attempt by an officer(s), without the aid of a vehicle or other motorized device, to detain, arrest, or otherwise take physical custody of an individual who attempts to flee on foot;
- a *law enforcement officer* defines any individual sworn to uphold the law, certified by the Police Training

Commission, and currently employed by a public safety agency;

- a *supervisor* is a law enforcement officer who, by virtue of rank or assignment, directs or supervises the activities of other officers;
- a *violation* includes any individual who a police officer reasonably believes has committed an offense or poses an immediate threat to the safety of the public or other officers;
- the *team concept* describes the practice of having two or more officers work together during a foot pursuit. The officers work in unison via direct or indirect communication to coordinate their efforts, remain aware of the location of officers and suspects, and keep abreast of the status of the pursuit.

### Establishing the Procedures

The Collingswood Police Department clearly understood that a police officer has the authority, at all times, to attempt to stop any individual suspected of committing any criminal offense, violation, or traffic infraction. However, the department also realized that while the officer initiates the stop, the violator provokes the pursuit by fleeing. Therefore, the department wanted its officers to base their decisions on whether to pursue a fleeing suspect on the degree of risk to themselves or others.

To aid officers in making such decisions, the department developed five criteria that restrict the

use of foot pursuits. While the department did not want to stop its officers from capturing fleeing suspects, it did want them to consider the possible consequences of such actions. Therefore, the department determined that its officers should *not* conduct foot pursuits—

- 1) into vacant or occupied buildings, structures, confined spaces, or wooded/isolated locations without using the team concept or without supervisory authorization, except in the event of extreme urgency, such as the immediate threat to the safety of the general public or other officers;
- 2) if they believe that the danger to pursuing officers or the public outweighs the necessity for immediate apprehension;
- 3) if they get disarmed or lose possession of their service weapons;
- 4) if they lose contact with their fellow officers or the department's communication center; or
- 5) if they lose visual contact with the violator and become unsure of the suspect's whereabouts or continued direction of travel.

Along with these restrictions, the department established procedures for reinstating pursuits and conducting interjurisdictional pursuits. Accordingly, officers should reinstate any previously terminated foot pursuit consistent with the authorization criteria for initiating a new pursuit. In interjurisdictional

pursuits, the original pursuing jurisdiction should provide timely notification of a foot pursuit in progress to any other jurisdiction that the pursuit enters.

Finally, the department set out procedures for primary officers, supervisors, and communication personnel. Primary officers should advise communication personnel as soon as possible about the situation. If other officers are on the scene or arrive shortly afterward, primary officers should communicate with them to set up a perimeter in the area to contain the violator. If supervisors receive prompt notification of foot pursuits from communication personnel or officers at the scene, they should decide as quickly as possible whether to continue or terminate the pursuit.

#### **Reviewing the Incidents**

The department reviews foot pursuits for compliance with applicable policy and operating procedures. It also examines these incidents to identify the need for

remedial training of individual officers or specific areas of emphasis in agencywide training on foot pursuits.

#### **Conducting Training**

Twice a year, all of the department's officers attend foot-pursuit training in conjunction with use-of-force training and the firearms requalification process. These in-services cover applicable legal statutes, department policies and procedures, and decision-making skills, while providing an opportunity for officers to ask questions, air their concerns, and offer suggestions for improving the policy and procedures.

#### **Results**

Although the Collingswood Police Department has had its foot pursuit policy in effect for only 2 years, it has seen several notable changes in how its officers handle foot pursuits and fewer injuries to its officers. For example, since the policy's inception, officers contact

### **Officer Killed During a Foot Pursuit**

After responding to a domestic abuse call, the victim officer saw a man fitting the suspect's description run into a field. The officer exited his patrol vehicle and chased the man through some tall weeds. During the pursuit, the suspect turned and fired a .380-caliber semiautomatic handgun, striking the officer in the wrist, twice in his protective vest, and once just above the vest. The victim officer returned gunfire, striking the suspect twice in the torso. The pursuit continued until the suspect fatally wounded himself in the chest. The officer died later at a local hospital.<sup>10</sup>

the communication center more often before engaging suspects in foot pursuits. They also maintain communication with the center and request backup assistance more frequently. Further, officers generally use the team concept of setting up a perimeter around the pursuit area rather than just chasing after fleeing suspects.

Moreover, the department suspected that many of its veteran officers might resist the policy because they had chased and caught suspects for years and received few serious injuries. However, because the department solicited feedback from its officers and included their input in policy revisions, even veteran officers have begun to embrace the concept of following an established procedure when chasing fleeing suspects. Overall, the department has accomplished its main

objective of encouraging its officers to consider the risks and benefits of foot pursuits when circumstances indicate a high probability of injury.

### CONCLUSION

Law enforcement officers risk their lives every day in the performance of their duties. The daily struggle to safeguard their fellow citizens exacts a heavy toll in officer deaths and injuries every year. Chasing fleeing suspects on foot represents an instinctive but inherently dangerous activity for law enforcement officers. Whether because veteran officers become complacent after many years of injury-free pursuits or because no national repository exists to compile statistics on these incidents, the law enforcement community has not focused on this important officer safety issue.

Collecting statistics that accurately reveal the number of officers killed and injured during foot pursuits would raise officer awareness and encourage agencies to train their officers in effective and safe methods of chasing fleeing suspects. Law enforcement professionals should work together to compile, analyze, and publish such information on a national level and determine policies and procedures that would help officers enforce the law without unduly endangering themselves.

To this end, the Collingswood, New Jersey, Police Department developed and implemented a foot pursuit policy. While not an attempt to eliminate foot pursuits, the policy sets forth basic elements that officers should consider when faced with fleeing suspects. The policy has brought the hazards of foot

### Tips for Surviving Foot Pursuits

To minimize the risk of injury or death, officers should heed some time-proven techniques that veteran officers have used to safely capture fleeing suspects. During foot pursuits, officers should—

- always radio their dispatchers to advise of their location, the reason for pursuing the suspect, and the direction of the chase;
- always ensure that suspects who flee from vehicles do not have accomplices in the car who may attack from behind;
- always take their vehicle keys with them to avoid having suspects return to the scene and flee in police units;
- always wait for backup if they believe that the suspect is armed;
- always try to follow the same general path as the suspects so that the suspects discover any hidden obstacles—such as clotheslines, wires, cables, holes, and sprinkler heads—first; and
- always remain cautious, in control, and alert for additional threats and other changes in the situation.

*Source: Gerald W. Garner, *Surviving the Street: Officer Safety and Survival Techniques* (Springfield, IL: Charles C. Thomas, 1998), 57-61.*

pursuits to the surface and shown officers that they must temper their instinctive reaction of chasing fleeing suspects and consider the potentially life-threatening consequences of rashly running into danger. ♦

#### Endnotes

<sup>1</sup> Department of Justice, Federal Bureau of Investigation, *Law Enforcement Officers Killed and Assaulted*, 1997 (Washington, DC, 1998) 46.

<sup>2</sup> Ibid, 57-58.

<sup>3</sup> For a detailed examination of assaults on law enforcement officers, see Anthony J. Pinizzotto, Edward F. Davis, and Charles E. Miller III, U.S. Department of Justice, Federal Bureau of Investigation, *In the Line of Fire: A Study of Selected Felonious Assaults on Law Enforcement Officers* (Washington, DC, 1997).

<sup>4</sup> For 2 years, Mr. Bohrer taught a course on the use of deadly force for FBI National Academy students. During this time, he asked over 250 officers from around the country if their departments had a policy on foot pursuits. While most of these officers agreed that such a policy could reduce injuries and possibly deaths to police personnel, to date, only Chief Garrity has said that his agency has a policy on foot chases.

<sup>5</sup> For a general discussion of overcoming officer complacency, see Samuel G. Chapman, *Cops, Killers and Staying Alive* (Springfield, IL: Charles C. Thomas, 1986), 58-60.

<sup>6</sup> Supra note 3.

<sup>7</sup> These circumstances include responding to disturbance calls, making arrests, quelling civil disorders, handling prisoners, investigating suspicious persons or circumstances, confronting ambushes, dealing with individuals with mental illness, and pursuing or stopping traffic violators.

<sup>8</sup> For additional information on foot pursuit tactics, see Gerald W. Garner, *Surviving the Street: Officer Safety and Survival Techniques* (Springfield, IL: Charles C. Thomas, 1998), 57-61; Donovan Jacobs, *Street Cop: Innovative Tactics for Taking Back the Streets* (Boulder, CO: Paladin Press, 1993) 47-58; Jason Harney, "Control 3 Mary 1, Foot Pursuit!!! Surviving and Having Success in a Foot Pursuit Comes Down to Defensive Tactics and Physical Fitness"; available from [http://geocities.com/~halbrown/foot\\_pursuit.html](http://geocities.com/~halbrown/foot_pursuit.html); accessed September 29, 1999; *Foot Pursuit* produced by the Los Angeles, California, Sheriff's Department, 16 min., Coronet/MTI, videocassette; and *The Calibre Press Street Survival Newsline* located on the Calibre Press Web site at <http://www.calibrepress.com>.

<sup>9</sup> Supra note 3, 59.

<sup>10</sup> Supra note 1, 43-44.

## Unusual Weapon

### Flashlight Gun

An officer with the Indianapolis, Indiana, Police Department advised that this concealed gun is currently manufactured in the United States. The weapon, a single shot .380, resembles a mini-mag flashlight. The gun is unscrewed near the center where the round is inserted. The end cap serves as the safety. Once the end cap is unscrewed, the gun can be fired by pulling the trigger, which is a small peg at the base of the weapon.

The weapon retails for approximately \$300. A lens can be added to cover the muzzle of the gun to further give the illusion that the gun is a flashlight.

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*Submitted by the Indianapolis, Indiana, Police Department.*

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# *The Citizen Police Academy Success Through Community Partnerships*

By GIANT ABUTALEBI ARYANI,  
TERRY D. GARRETT, and  
CARL L. ALSABROOK



*"Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being the only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence."*

—Sir Robert Peel, 1829

**T**hrough Citizen Police Academies (CPA), police officers can maintain this relationship with the public by involving citizens in crime prevention efforts. CPAs provide the public with a working knowledge of their law enforcement agency's mission, operation, policies, and personnel. They also create mutual trust and cooperation between the police and residents. An increasing number of law enforcement agencies have realized the enormous benefits of CPAs to their communities and have incorporated them into their

community-oriented policing strategies. Further, the President has committed approximately \$1.3 billion for a new 21st Century Policing Initiative that includes funding for community-based partnerships, such as CPAs. Law enforcement agencies can obtain information regarding CPAs from a variety of sources.<sup>2</sup> However, establishing a successful CPA remains a substantial task.

## **HISTORY OF THE CPA**

The concept of a CPA evolved from efforts of the Devon and



*Mr. Aryani is a Vibhooti Shukla Fellow at the University of Texas' School of Social Sciences in Dallas.*



*Sergeant Garrett serves as commander of the Community Services Division for the Rockwall, Texas, Police Department.*



*Officer Alsabrook serves as the ombudsman for the Rockwall, Texas, Police Department.*

Cornwall Constabulary in Great Britain to acquaint citizens with local law enforcement and its organizational structure. "Police Night School," which began in 1977, met once a week for 10 weeks. The classes quickly revealed that most citizens knew little about the operations and organizational structures of law enforcement agencies.<sup>3</sup>

In 1985, the Orlando, Florida, Police Department became the first law enforcement agency in the United States to organize a CPA.<sup>4</sup> Classes met one night each week for 10 weeks. Participants discussed local police organizational structure, and citizens received a hands-on look at law enforcement operations.<sup>5</sup> Due to the overwhelming success of the program, the CPA concept spread throughout the nation.

The Missouri City, Texas, Police Department brought the CPA concept to Texas in 1986, eventually extending it to an 11-week course format.<sup>6</sup> The Rockwall, Texas, Police Department adopted

the concept in 1987. Initially designed as a 5-week course, due to its success, this program expanded to 12 weeks. The success of the initial CPA classes in Rockwall resulted in the CPA Alumni Association and the Citizens On Patrol programs, which provide continued training in emergency services.

## **PROGRAM IMPLEMENTATION**

CPAs represent a shortened version of law enforcement academies. Like the police academy, success of the CPA depends on the administrative support, the strength of the curriculum and staff members, and the selection of students.

### **Administrative Support**

Members of a law enforcement agency seeking to initiate a successful CPA program must obtain the support of their administration.<sup>7</sup> Law enforcement administrators should actively participate in their agency's program.<sup>8</sup> The agency member proposing the implementa-

tion of a CPA should present the program's concept to the chief and the command staff. Ideally, that member also should provide administrators with information about programs from other agencies. When a department implements a CPA, the chief and the administrative staff should stay involved in the program, and agencies should keep them informed of CPA activities and progress.

Further, CPAs need support from the community.<sup>9</sup> Through contacts with citizens, police officers can provide residents' feedback about the CPA to the agency's administration.

### **Strength of the Curriculum**

CPA programs should cover diverse police topics, and agencies should provide a basic overview of each subject. Course topics should present information appropriate to the particular community. For example, curriculums can include such topics as professional standards, legal issues, and information

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regarding patrol procedures and radar operations. In conjunction with lectures, instructors should use demonstrations, facility tours, and hands-on activities (e.g., role-plays, ride-alongs) when possible—as well as additional aids, such as videos, slides, audio cassettes, overheads, and posters.<sup>10</sup>

Instructors should develop lesson plans based on the overall CPA curriculum and share experiences with citizen-students. Additionally, instructors should allow time for an interactive learning environment based on citizen-student questions. They should emphasize the patrol division—considered the backbone of most law enforcement agencies—because officers in this division have the most contact with community residents. Additionally, this emphasis helps to ensure continued citizen interest.

### **Strength of the Staff**

Proper selection of a CPA program coordinator and instructors helps ensure agency acceptance and community support. After deciding to implement a CPA, the agency administrator should appoint a coordinator who maintains direct contact with residents and represents the department.

Generally, a senior police officer serves as the coordinator. This officer has established a good rapport with the public and fellow officers and has experience in media relations.<sup>11</sup> Coordinators must have the authority to effectively operate the program, recruit or assign instructors, and make decisions as to curriculum and scheduling. Another responsibility includes selecting a suitable location for the

class—such as a school, civic center, department training facility, or academy. The size of the location—neither too big or too small—and its convenience to the community and officers should accommodate students, staff, and activities.

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***...departments can limit CPA program costs to fit within their budgets.***

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Law enforcement agencies should recruit CPA instructors from a variety of backgrounds, depending on the subject. For example, agencies should use employees from within their department, a co-operating agency, or from a specialized task force for law enforcement matters. District attorney representatives, city attorneys, and probation and correction officers can present legal issues. Specially trained citizen volunteers, CPA alumni, individuals from emergency services, and employees from federal and state agencies can serve as an additional resource pool for instruction. Instructors should be motivated, willing to share related experiences, and maintain a professional appearance. CPAs introduce citizens to the law enforcement agency; therefore, the majority of the instructors should work for the particular agency.

### **Selection of Citizen-Students**

The inaugural CPA class sets the tone for future classes. Citizen-

students will represent the police department and form the nucleus of the CPA alumni program. Therefore, to minimize potential risks and liabilities, agencies should carefully select the first class. Members of this class should include community and religious leaders, media representatives, and citizens involved in crime prevention programs. Such members maximize publicity, resulting in future CPA recruitment. The class should include men and women from various ethnic backgrounds, age groups, and professions in order to reflect a cross section of the community.<sup>12</sup> In general, applicants should be at least 21, live or work in the community, and pass a background check. CPAs should exclude applicants with a prior criminal record. Prior to conducting a background check, departments should obtain signed waivers from the citizens for their criminal history. Additionally, when organizing a CPA, agencies should consider the citizens' needs with regard to time and day of classes to accommodate students with family, career, and community obligations. A positive educational experience for the citizen-students will allow the agency to reap the long-term benefits of the program. Educated citizens can serve as a source for new ideas to better educate the public, resulting in a safer community.<sup>13</sup>

### **BENEFITS**

Citizen police academies benefit agencies and participants. In the short term, they provide a better understanding of the mission and operation of the law enforcement agency through informed

## Typical Agenda of a 12- to 13-Week CPA

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| <p><b>I. Administration and Professional Standards</b></p> <ul style="list-style-type: none"> <li>• Introduction and welcome from the chief</li> <li>• Administrative information and department overview</li> <li>• Officer selection</li> <li>• Ethics</li> <li>• Internal affairs</li> <li>• History of policing</li> </ul> <p><b>II. Operations</b></p> <ul style="list-style-type: none"> <li>• Field training</li> <li>• Patrol procedures</li> <li>• Communications</li> <li>• Ride-alongs</li> <li>• Traffic law and radar operation</li> <li>• Accident investigations</li> <li>• Officer safety/use of force</li> <li>• Driving while intoxicated enforcement</li> <li>• K-9 operations</li> <li>• Firearms</li> <li>• Tactical demonstrations</li> </ul> <p><b>III. Investigations</b></p> <ul style="list-style-type: none"> <li>• Child abuse/family violence</li> <li>• Narcotics</li> <li>• Criminal investigations</li> </ul> | <p><b>IV. Legal Issues</b></p> <ul style="list-style-type: none"> <li>• Criminal justice system</li> <li>• Juvenile law</li> <li>• Probation/parole</li> <li>• Corrections</li> </ul> <p><b>V. Crime Prevention</b></p> <ul style="list-style-type: none"> <li>• Drug Awareness Resistance Education/Gang Resistance Education and Training Program</li> <li>• Neighborhood Crime Watch</li> <li>• Citizens on Patrol</li> <li>• Auto theft prevention</li> <li>• Target hardening/insurance reduction surveys</li> </ul> <p><b>VI. Special Topics</b></p> <ul style="list-style-type: none"> <li>• Federal and state criminal justice system and agencies</li> <li>• Economics of crime</li> <li>• Criminology</li> <li>• Citizen police academy alumni association information</li> <li>• Forensic hypnosis</li> <li>• Emergency medical services</li> <li>• Special weapons and tactics</li> </ul> |
|---|---|

CPA graduates. This understanding reduces suspicions and misconceptions about the agency, creating cooperation and mutual trust between citizens and police officers. Subsequently, the number of citizen complaints against officers decreases almost immediately. Further, agencies can reap benefits by encouraging graduates to join CPA alumni associations, which keep graduates in touch with the department and give them opportunities for continued education in emergency services.<sup>14</sup> These benefits materialize because trained alumni

can pool resources to form volunteer organizations (e.g., crime watch groups), which reduce demands on the agency<sup>15</sup> and can increase the number of reported offenses. Overall, graduates can serve as the nucleus for establishing enhanced community ties, leading to a safer environment.

In the long run, citizen cooperation with police officers can benefit the agency in lawsuits, jury trials, witness canvasses, public perception, and in city council meetings, as well in upcoming bond issues furthering the agency's goals

and needs. Additionally, an actual reduction in offense rates in the long term provide measurable benefits of such community cooperation.

### **COSTS**

With appropriate implementation, departments can limit CPA program costs to fit within their budgets. Departments should cover material costs, such as binders, handouts, and T-shirts, if not fully recovered through tuition and application fees, which some CPAs may charge. Materials costs remain



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minimal compared to labor costs. Labor costs represent hours necessary to organize and teach classes, as well as to perform background checks on applicants. Ideally, officers should volunteer their time for course instruction, or a department must decide whether to offer compensatory time or overtime. To alleviate advertising costs from local newspapers, departments should use city newsletters or press releases through their public information office. One of the most effective and least expensive advertising tools remains word of mouth.

Further, agencies might incur potential liability costs from accidents during ride-alongs, equipment demonstrations, and firing range segments of the class, despite liability waivers signed by applicants. Providing participants with extensive classroom instruction prior to allowing them to perform practical exercises can minimize such potential accidents before they happen.

## EVALUATION

Law enforcement agencies should evaluate their CPA programs. This review helps to determine whether the CPA successfully benefits the community and the department, or if the program needs improvement.

### City of Rockwall CPA

The Rockwall Police Department continuously evaluates its CPA program through feedback from its police officers and citizen-graduates. Initially, officers had negative comments toward the implementation of the CPA; however, these doubts quickly faded

when the officers experienced the positive citizen-police interaction in the teaching environment. At the beginning of the program, agency administrators “volunteered” most of the instructors to teach CPA classes. For subsequent CPA classes, officers enthusiastically volunteered to teach. In fact, the positive teaching experience and the sharing of common concerns between officers and citizens has helped the department to curtail the “us-versus-them” mentality often found embedded in the police culture.

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***CPAs provide the public with a working knowledge of their law enforcement agency’s mission, operation, policies, and personnel.***  
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The Rockwall Police Department asks citizen graduates to complete a course evaluation form at the end of the CPA program. These evaluations reveal that the participants’ overall impression of the course remains extremely positive. Citizens relay that they have a much greater appreciation for police officers and that the CPA eliminated many misconceptions. The CPA stimulated citizen interest in emergency services and provided a better awareness for the concerns of police officers and the department.

The continued interest in emergency services in Rockwall resulted in the formation of the Citizen Police Academy Alumni Association, Crime Watch groups, and the Citizens On Patrol. These programs provide valuable resources to the department. Departments can use these trained volunteers to assist during holiday season patrols and parade and special events traffic controls, as well as to operate security for athletic events. CPA volunteers have sharpened observation skills from their academy training and use cellular telephones to report suspicious activities to law enforcement officers. The patrol and observation efforts from these volunteers have resulted in a number of arrests, from outstanding warrants to narcotics and intoxication offenses. For example, CPA graduates provided patrol support in neighboring districts during a recent search for an alleged sex abuser.

The successful fund-raising drive to create a canine unit and the community support for a successful pay referendum and bond issue for better equipment and more personnel during budget hearings of the city council reflect the greater awareness for the concerns of law enforcement in Rockwall. Overall, Rockwall’s CPA and its resulting programs have been a great success. The strict emphasis on education has helped Rockwall avoid negative circumstances, such as accidents or injuries. The benefits gained by the department and the community far outweigh the costs.

### State of Texas Survey

In 1995, the Dumass, Texas, Police Department conducted a

survey of 106 selected law enforcement agencies in Texas to study their experiences with CPAs.<sup>16</sup> Of the agencies surveyed, 63 percent returned the mailed questionnaire. Fifty-eight percent of the responding agencies conduct a CPA in their community.

This study identified that, on average, CPAs last 11 weeks, include 3 hours of training per week, and contain an average of 24 students. Most agencies hold academy sessions twice a year. Depending on the program, total costs range from \$0 to \$2,000. Agencies budget for the programs under department training, special account, crime prevention, or administration, or obtain funds from such sources as alumni, citizen and business donations, or seized drug funds. Expenses range from a low of \$10 per student for smaller agencies to a high of \$150 per student for larger police departments. Most agency costs fall between \$25 and \$30 per person. Overtime for officers serving as instructors represents the highest expenditure. Some agencies use combinations of compensatory and volunteer time to meet expenses. In general, the survey found that officers from smaller agencies can more easily volunteer their time as instructors for community programs.

All agencies reported improved relations with citizens, leading to the realization that the benefits outweigh the costs. According to the survey, each agency felt that the CPA strengthened relations with the citizens and the community. Student evaluations at the beginning and end of the academy provided results for the overall

experience of these agencies. Additional results came from indirect public opinion feedback; an increase in the number of volunteers for the agencies; the formation of alumni associations; and an increased participation of citizens, alumni, and volunteers at budget hearings. CPAs help police officers communicate with their communities and residents. CPAs represent a partnership between officers and citizens and the agency and community.



## CONCLUSION

Citizen police academies represent a vital part of community-oriented policing. CPAs keep the public involved by making them part of the police family. The nontraditional setting of a teaching environment curtails the us-versus-them attitude. CPAs provide a productive outlet for the mutual sharing of information and concerns in order to further common goals of communities and law enforcement agencies.

Thoroughly implementing the key pillars of a CPA will help avoid potential pitfalls. A strict emphasis

on education and training ensures that the long-term benefits of citizen police academies will materialize for both the community and the law enforcement agency. These academies bring law enforcement agencies and communities together. ♦

## Endnotes

<sup>1</sup> See "New Westminster Police Service—Sir Robert Peel's Nine Principles of Policing"; available from <http://www.newwestpolice.org/peel.html>; accessed November 3, 1999.

<sup>2</sup> Such sources include state and local crime prevention association journals and symposiums as well as law enforcement agency home pages on the Internet. Additionally, agencies can contact directly other law enforcement agencies that conduct CPAs.

<sup>3</sup> Ronald E. Ferguson, "The Citizen Police Academy," *FBI Law Enforcement Bulletin*, September 1985, 6.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Martin Alan Greenberg, "Citizen Police Academies," *FBI Law Enforcement Bulletin*, August 1991, 11.

<sup>7</sup> Buck Tatum, *How to Start a CPA* (City of Gainesville, Texas, Police Department, fall 1993); and Steve Wallach, "NTCPA and Duncanville Police Department Host First Annual Texas CPA Symposium," *Crime Prevention* (Texas Crime Prevention Association Magazine) 5, no. 4 (Winter 1993): 65-67.

<sup>8</sup> Terry D. Garrett, *Theory and Application of the Citizen Police Academy Concept in Texas Law Enforcement* (City of Rockwall, Texas, Police Department, fall 1990).

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Supra note 7, Wallach, 66.

<sup>12</sup> Supra note 7, Tatum, 10.

<sup>13</sup> Supra note 6.

<sup>14</sup> Kankakee, Illinois, Police Department, *The Citizen Police Academy—Progress Through Community Involvement*; available from <http://www.keynet.net/~patrol>; accessed February 1999.

<sup>15</sup> Robert J. Lidell, "Volunteers Help Shoulder the Load," *FBI Law Enforcement Bulletin*, August 1995, 25.

<sup>16</sup> The discussion of the survey results is based fully on Russell Don Fuggett, *Texas CPA Survey Results* (City of Dumas, Texas, Police Department, October 11, 1995).

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## **Operation Clean Sweep Curbing Street-Level Drug Trafficking**

By Michael A. Meyers, M.P.A.



**R**ialto, California, a city of 90,000 residents located in San Bernardino County, sits approximately 60 miles east of Los Angeles. A working-class city from which many residents commute to nearby Los Angeles and Orange Counties, it has experienced phenomenal population growth. Over the last 30 years, the population has nearly tripled. Many of the new residents came in search of affordable housing and a better quality of life, which they found in Rialto, a diverse community with significant African American, Hispanic, Caucasian, and Native American populations. Still, Rialto faces the same problems as other cities. Illegal drugs, gangs, and violent crime threaten to undermine public safety and erode the quality of life of the city's residents.

Traditional methods for combating street-level drug trafficking focus on three basic strategies: high-profile, proactive patrols, which emphasize aggressively stopping and detaining pedestrians and motorists; buy-bust operations, in which officers promptly arrest suspects who sell narcotics to undercover officers; and demand reduction and prevention

programs, such as Drug Awareness and Resistance Education and Gang Resistance Education and Training. Recognizing that one strategy alone cannot eradicate street-level drug trafficking, the Rialto Police Department consistently has employed all three. While this unified response had worked in the past, in April 1999, the department noted a significant rise in gang activity and street-level drug trafficking. The department needed a new drug suppression strategy. Operation Clean Sweep filled that need.

Using the SARA model (scanning, analysis, response, assessment) advocated by problem-oriented policing,<sup>1</sup> the department's Street Crime Attack Team (SCAT)<sup>2</sup> determined that Operation Clean Sweep should aim at achieving a major reduction in street-level dealing by developing such strong prosecution cases that, once arrested, as many dealers as possible would receive certain incarceration. To achieve these goals, the team would need to ensure the following essential elements: a target list of dealers; creative use of technology to gather evidence; close liaison with the district attorney's office; cooperation with other

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law enforcement agencies; strategic use of the media; and an assessment of the results.

### **Developing a Target List**

First, SCAT had to identify the drug hot spots and dealers. Members of the team compiled and analyzed information on drug-related calls for service from the department's computer-assisted dispatch database and from citizen calls to a drug hot line. Meeting with patrol officers, detectives, and Neighborhood Watch groups provided valuable, up-to-the-minute insight into activity on the street. The community's involvement via these methods proved critically important. Neighborhood residents often know even more information than the best beat officers do; they can provide important intelligence.

### **Using New Technology**

To enhance the operation, the team relied on an invaluable piece of new technology, a small video camera capable of filming the participants in a drug transaction and recording their voices at the same time.<sup>3</sup> After installing the camera in an unmarked police car, the team designed a sting operation to maximize the results obtained from the new camera. When the drug dealers approached the undercover vehicle (a late-model car not known on the street) to sell their wares, a team member activated the hidden camera, which filmed the entire illicit transaction. After each sale, the undercover vehicle departed, and a uniformed officer in a marked police car made a "routine" stop or detention to establish the dealer's identity. During the detention, the officer took an instant photograph of the suspect, later showing the photo to the undercover officer to confirm the suspect's identity. The uniformed officer released the dealers after establishing their identities; typically, they sauntered back to their neighborhoods thinking they had again beat the system. Meanwhile, the undercover officer was submitting the drugs to the crime lab for evidentiary analysis and completing the appropriate crime reports.

### **Establishing Liaison with the District Attorney**

The district attorney's (DA's) office is the gatekeeper of criminal prosecutions. Thus, any successful prosecution necessarily requires satisfying the DA's requirements. Beyond that, experience shows that members of the DA's office, law enforcement officers, and members of the community need to work together. To achieve the successful prosecutions Operation Clean Sweep required, the department teamed with a deputy DA (DDA) from the outset, to familiarize him with the details of the operation and so that he could

offer advice to enhance the prosecution of the suspects. The same DDA would handle all of the operation's cases.

After undercover officers had completed buys from all identified dealers, processed the evidence, and completed all reports, the cases went to the DA's office for prosecution. The DDA decided to employ the complaint warrant process, obtaining an arrest warrant for each and every suspect.<sup>4</sup>

### **Cooperating with Other Agencies**

Long before the DA's office issued the arrest warrants, the department knew that arresting the offenders who participated in 89 separate hand-to-hand narcotic buys would require a multiagency effort. The arrest plans included 15 other agencies, and for 3 days during September 1999, teams of law enforcement personnel from police departments throughout the region, as well as the San Bernardino County Sheriff's Department, the California Department of Justice, the Probation and Parole Departments, and the California Highway Patrol, helped serve the arrest warrants.

The tactical team assessed the level of risk at each of the planned arrest or search warrant locations, determining whether the SWAT team would be needed. Each arrest team held the appropriate warrants and information files. In addition to serving the warrants, the teams took advantage of the extra personnel and conducted simultaneous compliance

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**The media can play an important role in a department's crime prevention efforts.**

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checks on 400 probationers in Rialto and surrounding communities.

### Using the Media

The media can play an important role in a department's crime prevention efforts. The Rialto Police Department worked with the media in several different ways during Operation Clean Sweep. First, the department invited the media to accompany officers during the arrests (members of the press did not enter the suspects' residences). Next, the department held a press conference to announce the arrests. The media received video clips of several of the arrests, as well as some of the drug buys, so they could air them (taking appropriate precautions to conceal the identities of the suspects and the undercover officers) on the news. Watching individuals get arrested on the nightly news might deter others from committing similar crimes. Finally, the department asked community residents to talk to the media during the press conference. During the interviews, the residents could speak firsthand about how Operation Clean Sweep had given them the freedom to enjoy their homes, let their children play outside, and walk to the store without being accosted by drug dealers.

### Assessing the Results

Operation Clean Sweep resulted in the arrest and prosecution of more than 100 felons. Officers took 70 drug dealers into custody; another 22 fled town or went underground. The department recovered significant amounts of drugs, weapons, cash, and stolen property and also discovered a clandestine methamphetamine laboratory. Based on the evidence obtained during the roundup, the department obtained 12 additional search warrants, with the follow-up investigations yielding even more contraband. Several offenders—including a serial rapist who recently had been released from prison—face three-strike enhancements and long prison sentences.

The videotapes that documented the drug buys greatly enhanced and expedited the prosecution of the suspects. The camera's high-quality video and sound

left little doubt as to the suspects' culpability, and most pleaded guilty when confronted with the evidence. The camera's \$1,200 cost seemed little to pay for such worthwhile results.

### Conclusion

The techniques Operation Clean Sweep employed seem simple. Yet, simple solutions are often the most overlooked. First, the department realized it had a problem—street-level drug trafficking. Next, it established a strategy to solve the problem: arrest the offenders and develop iron-clad cases to get and keep them off the streets. To achieve these objectives, the department worked closely with the community, the district attorney's office, other area law enforcement agencies, and the media. The technology it used—a miniature video camera—helped build strong cases against the offenders and more than paid for

itself by allowing the department to seize large amounts of contraband and interrupt the activities of a multitude of drug offenders.

Successful undercover operations come in all shapes and sizes, but they don't have to be complex, unwieldy, or demand huge amounts of resources. Indeed, Operation Clean Sweep proves that with proper planning and the right tools, law enforcement agencies can develop effective strategies to keep their communities safe. ♦

### Endnotes

<sup>1</sup> See H. Goldstein, *Problem-Oriented Policing* (New York: McGraw-Hill, 1990).

<sup>2</sup> A seven- or eight-person team initiated in the early 1990s, SCAT uses a proactive, problem-solving approach to preventing crime. The team can tackle crime problems without pulling patrol officers from calls for service.

<sup>3</sup> Agencies should check with their legal advisors or local prosecutors before employing this technique. The law in some states prohibits the use of surreptitious voice recording without a court order or the consent of all of the parties.

<sup>4</sup> The DDA chose this method over the grand jury process, in which all of the suspects get indicted at the same time, then proceed to trial without a preliminary hearing.

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*Chief Meyers leads the Rialto, California, Police Department.*

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**Operation Clean Sweep resulted in the arrest and prosecution of more than 100 felons.**  
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## Book Review



**Police Supervision** by Ronald W. Glensor, Kenneth J. Peak, and Larry K. Gaines, published by McGraw-Hill College, Boston Massachusetts, 1999.

Many authors have written books on how to lead people and manage organizations. Most have centered on various techniques for top-level managers. Unfortunately, law enforcement administration has not received the focus it should in this area. Of particular concern is the lack of scholarly literature on first-line police managers, such as sergeants and lieutenants.

*Police Supervision* addresses this void with a well-written text that focuses on the problems and concerns of the modern police supervisor. In preparing this book, the authors have drawn on their extensive academic backgrounds and collective experience, ranging from line officer to deputy chief of a large metropolitan police force. Although their text covers supervisory theory, its primary focus remains on the practical aspects of a supervisor's job.

The authors not only focus on the practical elements of being a police line supervisor but also cover the legal responsibilities and issues of a newly promoted supervisor. The book contains chapters on such topics as ethics, training/professional development, and employee evaluations and performance appraisals. A progressive chapter on stress and employee wellness also addresses the need for full-service employee assistance programs that help officers with real-life issues such as marital, psychological, and substance abuse problems. The authors suggest that the benefits of providing assistance for veteran employees to resolve their problems far outweigh the cost of continually hiring new employees to replace those veteran employees. The authors also devote significant time discussing community-oriented policing and problem solving and future trends and challenges, such as team policing and the use of new technologies.

The authors write in an easy-to-follow manner and include case studies in each chapter that compel line supervisors to think through particular issues, such as the endless balancing of work quality and quantity. The book serves as an excellent primer for all new supervisors and a good refresher for experienced supervisors, as well.

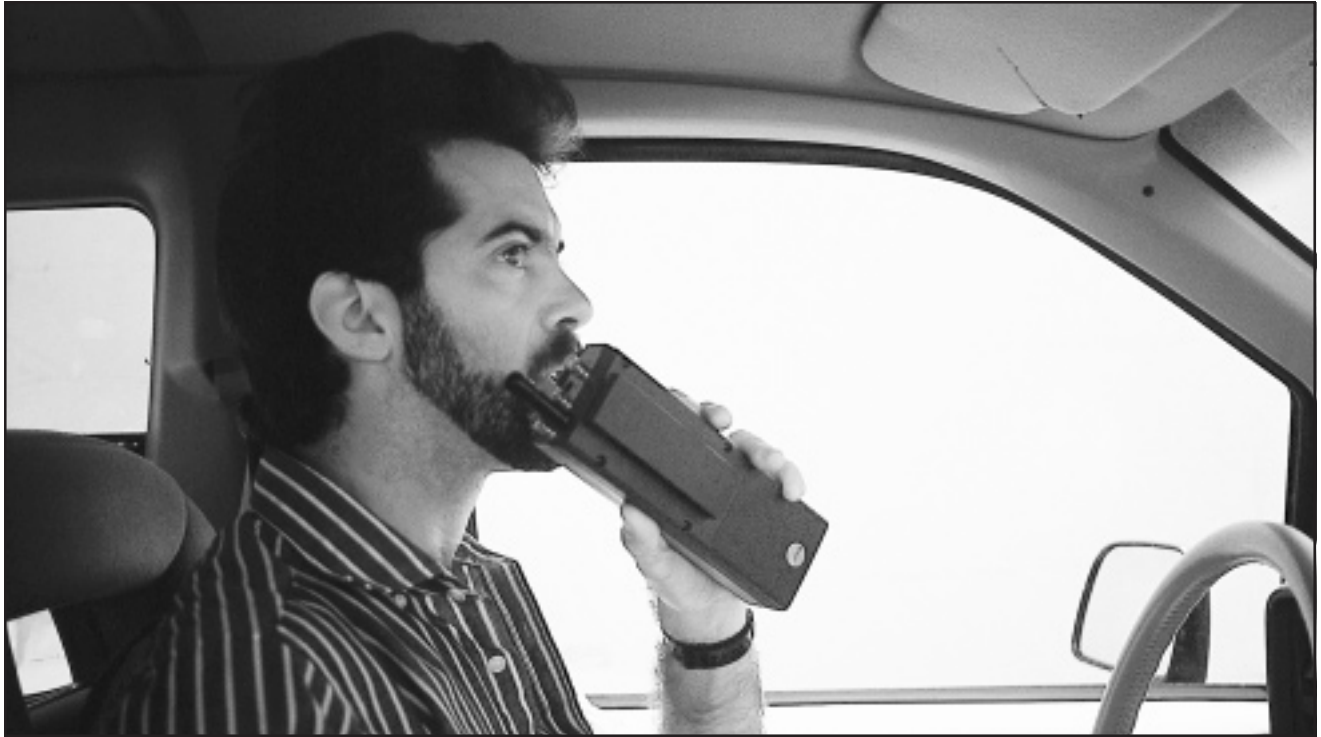
Reviewed by  
Arthur Bowker  
U.S. Probation Officer  
Northern District of Ohio



# *The Qualified Privilege to Protect Sensitive Investigative Techniques from Disclosure*

By Jayme S. Walker, J.D.

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Law enforcement officers use many different techniques in conducting criminal investigations. The public is familiar with the most common techniques. In certain investigations, however, the government may seek to protect information regarding particularly sensitive equipment, surveillance locations, listening posts, or investigative techniques (all hereinafter referred to as sensitive investigative techniques) from disclosure during suppression hearings or at trial. In

such cases, the government may seek to assert a legal privilege to not disclose the sensitive investigative technique.

Courts addressing the issue of protecting sensitive investigative techniques from disclosure have generally recognized the existence of a qualified privilege. This article discusses the rationale behind the privilege in the context of various court decisions recognizing the privilege<sup>1</sup> and one that rejected it.<sup>2</sup> The article also addresses some

practical considerations on how law enforcement can effectively use this privilege.

## **Privilege Recognized**

Courts that recognize a sensitive investigative techniques privilege treat it as a qualified privilege based on the following rationales: 1) revealing the technique may endanger the lives of law enforcement officers;<sup>3</sup> 2) revealing the technique may endanger the lives of those who allow their property to be used

for such activity;<sup>4</sup> 3) once a technique is revealed it will be of no value in future cases;<sup>5</sup> 4) disclosure of such information will educate criminals on how to employ such techniques themselves;<sup>6</sup> 5) law enforcement officers may have limited surveillance options in certain high-crime areas;<sup>7</sup> 6) law enforcement officers may be too well known in an area to conduct open surveillance;<sup>8</sup> 7) if the location of the surveillance post is revealed, citizens who previously allowed their property to be used for surveillance purposes may no longer consent to such use in the future;<sup>9</sup> 8) nondisclosure of surveillance posts avoids compromising ongoing surveillances;<sup>10</sup> and 9) the disclosure of surveillance posts may encourage criminal offenders to relocate to an area that cannot be observed from the existing post.<sup>11</sup>

Courts facing the issue decide cases under existing rules of evidence relating to privileges.<sup>12</sup> Consequently, the requirements for asserting or opposing the application of the privilege vary between jurisdictions. The differing approaches taken by courts include: balancing the defense's need for disclosure against the government's need for confidentiality,<sup>13</sup> requiring that the government first demonstrate why the privilege should be recognized,<sup>14</sup> requiring that the defense demonstrate the necessity of obtaining the information,<sup>15</sup> and requiring that the defense show why the information is both necessary and material.<sup>16</sup>

Many courts recognizing the privilege analogize the protection of sensitive investigative

techniques from disclosure to the privilege to protect the identity of confidential informants from disclosure.<sup>17</sup> Courts making this comparison cite the U.S. Supreme Court decision in *Roviaro v. United States*,<sup>18</sup> in which the Court concluded that the disclosure of the identity of an informant

calls for balancing the public interest in protecting the flow of information against the individual's right to prepare his defense. Whether a proper balance renders nondisclosure erroneous must depend on the particular circumstance of each case, taking into consideration the crime charged, the possible defenses, the possible significance of the informer's testimony, and other relevant factors.<sup>19</sup>

The applicability of the privilege is determined on a case-by-case basis and is, therefore, highly

factual in nature. One of the earlier federal cases to recognize the privilege provides a good example of this. In *United States v. Van Horn*,<sup>20</sup> during the prosecution of a large marijuana conspiracy case, the government used information obtained via electronic interception of oral communications in an office. The defendants argued on appeal that the trial court erred in denying their request to discover the type of microphone used and where it was hidden. The U.S. Court of Appeals for the 11th Circuit recognized the privilege but stated that the "privilege will give way if the defendant can show need for the information."<sup>21</sup> The defendants argued that they needed the information to demonstrate that the voices on the tapes could have been distorted.

In rejecting the defendants' argument and finding that the defendants had failed to show the necessity for disclosure, the court of

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*Ms. Walker serves as a legal instructor and attorney for the DEA at the FBI Academy.*



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appeals noted that the trial court had conducted an *in camera* hearing regarding the matter, heard testimony that the voices on the tape could have been distorted by the way the microphone was hidden, and listened to the agent's actual voice and his voice on the tape to determine the accuracy of the recording. The defendants also were allowed to examine the tapes and were told that the transmission was by air and not wire. The defendants were allowed to argue the possibility of misidentification, and therefore, the jury had the opportunity to address the question of voice identification on the tape.

Courts recognizing the privilege have reached varying conclusions as to disclosure based not merely on the particular test used but also on the specific facts presented in the case. For example, applying the same test, the U.S. Court of Appeals for the District of Columbia Circuit recognized the government's position to not disclose a technique in one case while ordering the disclosure of a technique in another. In *United States v. Harley*,<sup>22</sup> the court addressed the issue of whether the privilege applied in revealing the location of a police surveillance post in a heroin distribution investigation. In *Harley*, an undercover detective drove to a house in an attempt to buy heroin. As the detective approached the house, the defendant came down the steps, walked up to the detective, and asked him what he wanted. The detective gave the defendant \$50 for some heroin. The defendant went back to the house, went inside, came back to the detective, and

gave him a small plastic bag containing white powder. Three law enforcement officers watched the transaction from a surveillance post. The officers at the surveillance post filmed the transaction with a zoom lens-equipped camera. The undercover detective returned to the station after the transaction. Investigators obtained a positive result from a field test on the white powder. Additionally, the detective identified the defendant from among the 10 to 12 photos shown to him of individuals known to frequent the area near the house.

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***The trial court ruled that the location of the surveillance post did not have to be disclosed.***

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During the cross-examination of the investigator who performed the field test, the defense asked the location of the apartment used for police surveillance. The trial court ruled that the location of the surveillance post did not have to be disclosed, stating that

A defendant seeking to learn the location of a police surveillance post should ordinarily show that he needs the evidence to conduct his defense and that there are no adequate alternative means of getting at the same point. The degree of

the handicap he establishes must then be weighed by the trial judge against the policies underlying the privilege. This is necessarily a somewhat ad hoc balancing process so that, as *Roviaro* said, “no fixed rule with respect to disclosure is justifiable.”<sup>23</sup>

In balancing the interests in this case, the court stated that the defense made no attempt to demonstrate either a need for the information or that alternative methods to obtain the information were unavailable. The court noted that even if the police no longer used the surveillance post, the safety of the owner of the apartment and the willingness of others to cooperate with law enforcement in the future were “weighty considerations supporting the privilege.”<sup>24</sup>

The court found identification to be the only issue in question at trial. The detective who purchased the heroin from the defendant positively identified him. While the investigator who conducted the field test had never been in the apartment used as the surveillance post, he was familiar with the area. During cross-examination, the investigator testified that the surveillance post was between 20 and 30 yards from the courtyard where the transaction occurred and was approximately 10 to 12 feet above street level. The trial court sustained the government's objection to the defense's obtaining the exact location of the apartment. The *Harley* court stated that this testimony was sufficient information for the defense and did not require disclosure of the exact location.<sup>25</sup> The

government's videotape of the transaction made from the surveillance post, while not essential to the privilege, also indisputably showed the officer's unobstructed view of the transaction.

In *United States v. Foster*,<sup>26</sup> the U.S. Court of Appeals for the District of Columbia Circuit considered whether the trial court properly sustained the prosecution's objections to cross-examination questions into the location of a police observation post. In *Foster*, an officer observed the defendant sitting in the front seat of a car in a parking lot. The officer watched the defendant leave the car after giving something to a person in the back seat. The officer then observed the defendant go over to a basketball court, obtain money from a person, count the money, and hand over a small white object. The defendant walked away, taking two plastic bags from his pocket, putting them into a paper bag, and dropping the bag over a chain-link fence. The defendant proceeded to pick up the bag again, go over to a building, and drop the bag near another fence. The officer radioed other officers who arrested the defendant. On cross-examination, the defense asked the officer the location of his observation post.

The government cited *United States v. Green*<sup>27</sup> and *United States v. Harley*<sup>28</sup> in support of its position that the location of the observation post should not be disclosed. The court stated that none "of the considerations mentioned in *Harley* in favor of the privilege is present in this case."<sup>29</sup> Unlike *Harley*, the *Foster* case turned exclusively on the

testimony of the observing officer, prompting the court to note that "[t]he more important the witness to the government's case, the more important the defendant's right, derived from the Confrontation Clause of the Sixth Amendment, to cross-examine the witness."<sup>30</sup> Additionally, the defense in *Foster* challenged the officer's observations at trial. Fifteen people were in the vicinity of the transaction, and one of the responding officers initially arrested the wrong person. The court stated that

[w]ithout knowing the location of the observation post, the defense could not effectively probe the officer's memory or veracity about these subjects. The right of the defense to engage in such lines of inquiry is at the heart of our system of criminal justice. The videotape in *Harley* preserved the right. No comparable substitute was available in this case.<sup>31</sup>

In concluding the discussion regarding this issue, the court likened the crucial nature of the officer's testimony in this case to the situation involving the informant in *Roviaro v. United States*,<sup>32</sup> who was the sole participant in the transaction with the defendant in that case and whose identity, the Supreme Court ruled, was essential to the defense.

### Privilege Not Recognized

The only decision to date in which the privilege has been rejected is *Weaver v. Commonwealth*.<sup>33</sup> In *Weaver*, an informant made a purchase of \$30 worth of cocaine from the defendant. Just prior to the purchase, a detective met with the informant, searched both him and his vehicle, placed a tape recorder on his person, and gave him \$40 to buy the drugs. The informant met with the detective after the purchase and gave him the drugs, a statement, the tape recorder



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and \$10. At the trial, the informant denied he had ever been involved in any other drug sting operations. The detective contradicted this testimony and stated that the informant had been involved in other drug investigations for which he had been paid approximately \$500.

During the cross-examination of the defendant, the defense sought to obtain information regarding the type of recording device used even though the tape was inaudible. The defense argued that a thorough cross-examination regarding the tape recorder was essential to show that the recorder could have been manipulated by the informant. This would support the defendant's argument that the transaction never occurred and that the informant manufactured the case in order to receive \$50 from the detective for informing.

The Kentucky Supreme Court refused to recognize the "police surveillance privilege" because under Kentucky law, recognition of the privilege would require an amendment to the Kentucky Rules of Evidence.<sup>34</sup>

### Practical Considerations

In jurisdictions where the privilege has been recognized, a number of practical issues should be taken into consideration. Because the privilege is qualified and not absolute, the trial court has a great deal of discretion in determining the scope of the privilege.<sup>35</sup> In reviewing the decision of the trial court as to the extent of the privilege, appellate courts will examine whether the defense had adequate opportunity to cross-examine and confront

witnesses on the particular issue in question. As illustrated by the *Harvey* case, for example, the defense still should be able to thoroughly cross-examine witnesses in surveillance-post cases regarding weather or other viewing obstructions without learning the actual location.

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***The use of a sensitive investigative technique in a case should be coordinated in advance with the prosecutor***  
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A trial court making the determination of whether the privilege applies may hold some form of *in camera* hearing regarding the defense's need for the information or an *ex parte* hearing on the government's need to protect the information.<sup>36</sup> An *ex parte in camera* review may even include a viewing of the sensitive investigative technique in question.<sup>37</sup>

After considering the applicability of the privilege, the trial court may reach a number of possible conclusions, including that the sensitive investigative technique must be fully disclosed, that some information regarding the technique must be disclosed and the defense can ask certain cross-examination questions regarding the technique,

or that no information need be disclosed. If the court orders disclosure, the prosecutor should argue that the disclosure be made under a protective order limiting the persons with whom the defense may share the information and directing that all materials the prosecution provides to the defense during the case be returned at the end of the trial.<sup>38</sup> In the event that disclosure is ordered, the prosecutor may even consider the possibility of dismissing the case based upon the nature of the offense, the nature of the technique, and the harm that would result should the technique be disclosed.<sup>39</sup>

### Conclusion

Law enforcement officers should ensure that they are familiar with the law in their jurisdictions and consider the following prior to using a sensitive investigative technique:

- any department policies that exist regarding the use of sensitive investigative techniques;
- any policies or positions of the prosecutor's office regarding the use of sensitive investigative techniques. The use of a sensitive investigative technique in a case should be coordinated in advance with the prosecutor;
- the likelihood that the sensitive investigative technique will be disclosed;
- informing citizens that may be affected by disclosure;
- if the sole or substantial evidence to be used in the

prosecution comes from the use of a sensitive investigative technique, it is likely that the technique will have to be disclosed;

- if a sensitive investigative technique is used and the prosecutor decides to argue that it is privileged, officers should work closely with the prosecutor to more effectively articulate why the technique is sensitive;
- if the court allows limited cross examination regarding a sensitive investigative technique, officers should work closely with the prosecutor to understand the parameters of the court's orders;
- if the court orders that a sensitive investigative technique be disclosed, officers should work closely with the prosecutor, who may file a motion for a protective order or have to decide whether to proceed with the case.

Many courts have never addressed the issue of whether a privilege exists to protect sensitive investigative techniques from disclosure. Of the courts that have addressed the issue, all but one have determined that there is a qualified privilege to protect the information. ♦

#### Endnotes

<sup>1</sup> See, e.g., *United States v. Grier*, 866 F.2d 908 (7th Cir. 1989); *United States v. Cintolo*, 818 F.2d 980 (1st Cir. 1987); *United States v. Fernandez*, 797 F.2d 943 (11th Cir. 1986); *United States v. Gazie*, 786 F.2d 1166 (6th Cir. 1986) (unpublished); *United States v. Porter*, 701 F.2d 1158 (6th Cir. 1983); *United States v.*

*Green*, 670 F.2d 1148 (D.C. Cir. 1981); *United States v. Chimurenga*, 609 F. Supp. 1066 (S.D.N.Y. 1985); *Hines v. Superior Ct.*, 203 Cal. App. 3d c1231 (1988); *Anderson v. United States*, 607 A.2d 490 (D.C. 1992); *State v. Moss*, 648 So. 2d 206 (Fla. Dist. Ct. App. 1994); *People v. Criss*, 689 N.E.2d 645 (Ill. App. Ct. 1998); *Commonwealth v. Lugo*, 548 N.E.2d 1263 (Mass. 1990); *In the Matter of Chris C.*, 658 N.Y.S.2d 929 (1997); *State v. Garcia*, 618 A.2d 326 (N.J. 1993); *Commonwealth v. Jennings*, 630 A.2d 1257 (Pa. Super. Ct. 1993); *Hollins v. Commonwealth*, 450 S.E.2d 397 (Va. Ct. App. 1994).  
<sup>2</sup> *Weaver v. Commonwealth*, 955 S.W.2d 722 (Ky. 1997).

<sup>3</sup> See, e.g., *Hicks v. United States*, 431 A.2d 18, 21 (D.C. 1981); *People v. Criss*, 689 N.E.2d 645, 649 (Ill. App. Ct. 1998); *State v. Laws*, 621 A.2d 526, 530 (N.J. Sup. Ct. App. Div. 1993); *Commonwealth v. Jennings*, 630 A.2d 1257, 1261 (Pa. Super. Ct. 1993).

<sup>4</sup> See, e.g., *Hicks v. United States*, 431 A.2d 18, 21 (D.C. 1981); *People v. Criss*, 689 N.E.2d 645, 649 (Ill. App. Ct. 1998); *Commonwealth v. Santiago*, 631 A.2d 1323, 1327 (Pa. Super. Ct. 1993); *Commonwealth v. Jennings*, 630 A.2d 1257, 1261 (Pa. Super. Ct. 1993).

<sup>5</sup> See, e.g., *Hicks v. United States*, 431 A.2d 18, 21 (D.C. 1981); *People v. Criss*, 689 N.E.2d 645, 649 (Ill. App. Ct. 1998); *Commonwealth v. Santiago*, 631 A.2d 1323, 1327 (Pa. Super. Ct. 1993).

<sup>6</sup> See, e.g., *United States v. Van Horn*, 789 F.2d 1492, 1508 (11th Cir. 1986).

<sup>7</sup> See, e.g., *State v. Williams*, 571 A.2d 1358, 1366 (N.J. Super. Ct. App. Div. 1990).

<sup>8</sup> See, e.g., *State v. Garcia*, 618 A.2d 326, 330 (N.J. 1993).

<sup>9</sup> See, e.g., *United States v. Foster*, 986 F.2d 541, 543 (D.C. Cir. 1993); *People v. Criss*, 689 N.E.2d 645, 649 (Ill. App. Ct. 1998); *Commonwealth v. Santiago*, 631 A.2d 1323, 1327-28 (Pa. Super. Ct. 1993).

<sup>10</sup> See, e.g., *State v. Laws*, 621 A.2d 526, 530 (N.J. Sup. Ct. App. Div. 1993); *State v. Garcia*, 618 A.2d 326, 330 (N.J. 1993).

<sup>11</sup> *Id.*

<sup>12</sup> See, e.g., *United States v. Cintolo*, 818 F.2d 980, 1002 (1st Cir. 1987); *United States v. Foster*, 986 F.2d 541, 542 (D.C. Cir. 1993); *Haider v. Director of Corrections*, 992 F. Supp. 1192, 1196 (C.D. Cal. 1998); *State v. Garcia*, 618 A.2d 326, 328 (N.J. 1993); *Commonwealth v. Jennings*, 630 A.2d 1257, 1258 (Pa. Super. Ct. 1993). The constitutionality of the privilege to protect sensitive investigative techniques has yet to be addressed. *Haider v. Director of Corrections*, 992 F. Supp. 1192, 1196 (C.D. Cal. 1998).

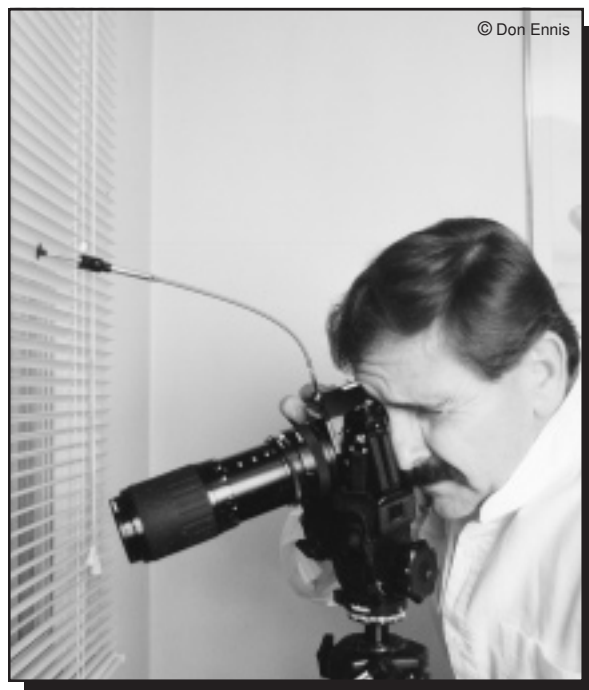
<sup>13</sup> See, e.g., *Haider v. Director of Corrections*, 992 F. Supp. 1192, 1197 (C.D. Cal. 1998). See also Zana E. Holley, Annotation, *Police Surveillance Privilege*, 67 A.L.R. 5th 149 (1999) (provides an extensive list of cases using a balancing approach and an excellent, detailed discussion of cases specifically addressing the police surveillance privilege).

<sup>14</sup> *State v. Garcia*, 618 A.2d 326, 332 (N.J. 1993).

<sup>15</sup> See, e.g., *United States v. Harley*, 682 F.2d 1018, 1020 (D.C. Cir. 1982); *State v. Moss*, 648 So. 2d 206, 208 (Fla. Dist. Ct. App. 1994); *People v. Criss*, 689 N.E.2d 645, 649 (Ill. App. Ct. 1998); *Commonwealth v. Rodriguez*, 674 A.2d 225, 229 (Pa. 1996).

<sup>16</sup> See, e.g., *Commonwealth v. Grace*, 681 N.E.2d 1265, 1267 (Mass. App. Ct. 1997).

<sup>17</sup> See, e.g., *United States v. Cintolo*, 818 F.2d 980, 1002 n.13 (1st Cir. 1987); *United*





*States v. Foster*, 986 F.2d 541, 543 (D.C. Cir. 1993); *United States v. Green*, 670 F.2d 1148, 1155 (D.C. Cir. 1981); *Hicks v. United States*, 431 A.2d 18, 21 (D.C. 1981); *State v. Moss*, 648 So.2d 206, 207-08 (Fla. Dist. Ct. App. 1994); *Commonwealth v. Lugo*, 548 N.E.2d 1263, 1268 (Mass. 1990); *Commonwealth v. Rodriguez*, 674 A.2d 225, 228 (Pa. 1996); *Hollins v. Commonwealth*, 450 S.E.2d 397, 399 (Va. Ct. App. 1994).

<sup>18</sup> 353 U.S. 53 (1957).

<sup>19</sup> *Id.* at 62.

<sup>20</sup> 789 F.2d 1492 (11th Cir. 1986).

<sup>21</sup> *Id.* at 1508.

<sup>22</sup> 682 F.2d 1018 (D.C. Cir. 1982).

<sup>23</sup> *Id.* at 1020.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 1021.

<sup>26</sup> 986 F.2d 541 (D.C. Cir. 1993).

<sup>27</sup> 670 F.2d 1148 (D.C. Cir. 1981).

<sup>28</sup> 682 F.2d 1018 (D.C. Cir. 1982).

<sup>29</sup> 986 F.2d 541, 543 (D.C. Cir. 1993).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 543-44.

<sup>32</sup> 353 U.S. 53 (1957).

<sup>33</sup> 955 S.W.2d 722 (Ky. 1997). In *Weaver*, the Kentucky Supreme Court overruled the Kentucky Court of Appeals' decision in *Jett v. Commonwealth*, 862 S.W.2d 908 (Ky. Ct. App. 1993), to the extent it recognized the existence of a "police surveillance privilege."

<sup>34</sup> Even though the Kentucky Supreme Court refused to recognize the privilege, the court ruled that any error occurring in not disclosing evidence further identifying the type of recording device was harmless because the detective admitted that the informant could have tampered with the recorder to prevent it from producing an audible recording of the transaction and that this was the information the defense sought to prove.

<sup>35</sup> See *People v. Criss*, 689 N.E.2d 645, 649 (Ill. App. Ct. 1998).

<sup>36</sup> See, e.g., *United States v. Fernandez*, 797 F.2d 943, 952 (11th Cir. 1986); *Haider v. Director of Corrections*, 992 F. Supp. 1192,

1195 (C.D. Cal. 1998); *State v. Garcia*, 618 A.2d 326, 332 (N.J. 1993).

<sup>37</sup> See, e.g., *Commonwealth v. Lugo*, 548 N.E.2d 1263, 1265 (Mass. 1990).

<sup>38</sup> See, e.g., *United States v. Jenkins*, 530 F. Supp. 8 (D.C. Cir. 1981) (the court ordered the government to identify a surveillance location to the defendant's attorney, subject to the condition that counsel could not disclose the location to anyone, including his client, absent a court order).

<sup>39</sup> See, e.g., *State v. Williams*, 571 A.2d 1358, 1366 n.3 (N.J. Super. Ct. App. Div. 1990).

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

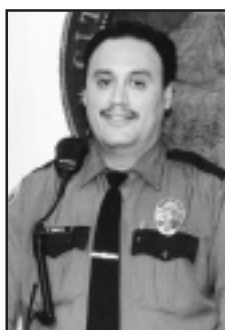
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Sergeant Hogman



Officer Millard



Officer Zapata

Sergeant Craig Hogman of the Clark County, Washington, Sheriff's Office and Officers Adam Millard and Lawrence Zapata of the Vancouver, Washington, Police Department responded to the report of a bank robbery and attempted to locate the get-away vehicle. Sergeant Hogman located the vehicle and began pursuit. The three subjects in the vehicle began firing out the

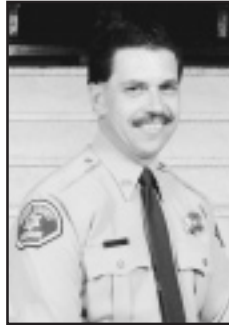
windows, hitting Sergeant Hogman's car several times. Twice during the pursuit, the subjects set up an ambush as Sergeant Hogman turned a corner in a residential neighborhood. During pursuit, the subjects also opened fire on Officers Millard and Zapata, striking their patrol car and throwing a hand grenade at the officers. The subjects crashed their vehicle while attempting another ambush, fled on foot through a heavily wooded area, and continued to fire at the officers. The officers returned fire, fatally wounding two of the subjects. Officers apprehended the third suspect a short time later as he ran through the ball field of a local school. Investigation revealed that, prior to the bank robbery, the subjects had planted three bombs at a department store near the bank, which exploded approximately 45 minutes before the bank robbery occurred. Investigation at the crime scene discovered another bomb and several weapons in the vehicle. Due to the selfless dedication of these officers, innocent lives were saved in this residential neighborhood with several schools nearby.

# The Bulletin Notes

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



Officer Shoemaker



Officer Bledsoe

Officers Steve Shoemaker and Jerry Bledsoe of the Scott County, Missouri, Sheriff's Office were dispatched to a report of a man attempting to hang himself from a railroad trestle bridge. When the officers arrived at the scene, they located a man standing on the bridge with a rope tied around his neck. The man said his wife left him and took his children; therefore, he felt he had no reason to live. Officers Shoemaker and Bledsoe spent over an hour talking to the man. When it was obvious that he intended to jump, the officers began to maneuver themselves closer, in different directions, making it difficult for the man to watch them. As Officer Shoemaker

attracted his attention, Officer Bledsoe leaped to the edge of the bridge, grabbed the man by the arm and held him until Officer Shoemaker could assist him. The officers struggled with the man as they hung from the edge of the bridge and removed the rope from the man's neck. Officer Bledsoe received minor injuries during the incident. Later, the man later told Officer Shoemaker that he fully intended to kill himself. Heroic actions by Officers Shoemaker and Bledsoe saved the man's life.



Captain Goode

Early one morning, Captain Norman H. Goode, Jr., of the Mecklenburg County, North Carolina, Sheriff's Office observed a smoking tractor trailer lying on its left side on the highway. Captain Goode radioed for the fire department and ambulance service. Two men at the scene advised Captain Goode that the driver was inside the smoke-filled cab. Captain Goode climbed onto the cab's right side and opened the door. Thick smoke poured out, which prevented him from seeing the driver. Captain Goode shouted for the driver to raise his arms toward the door. He

grabbed one of his arms and lifted him out of the cab to safety. Moments later, the entire cab became engulfed in flames. Captain Goode's quick thinking, fast action, and extraordinary strength undoubtedly saved the man's life.

Nominations for the *Bulletin Notes* should be based on either the rescue of one or more citizens or arrest(s) made at unusual risk to an officer's safety. Submissions should include a short write-up (maximum of 250 words), a separate photograph of each nominee, and a letter from the department's ranking officer endorsing the nomination. Submissions should be sent to the Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Madison Building, Room 209, Quantico, VA 22135.

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