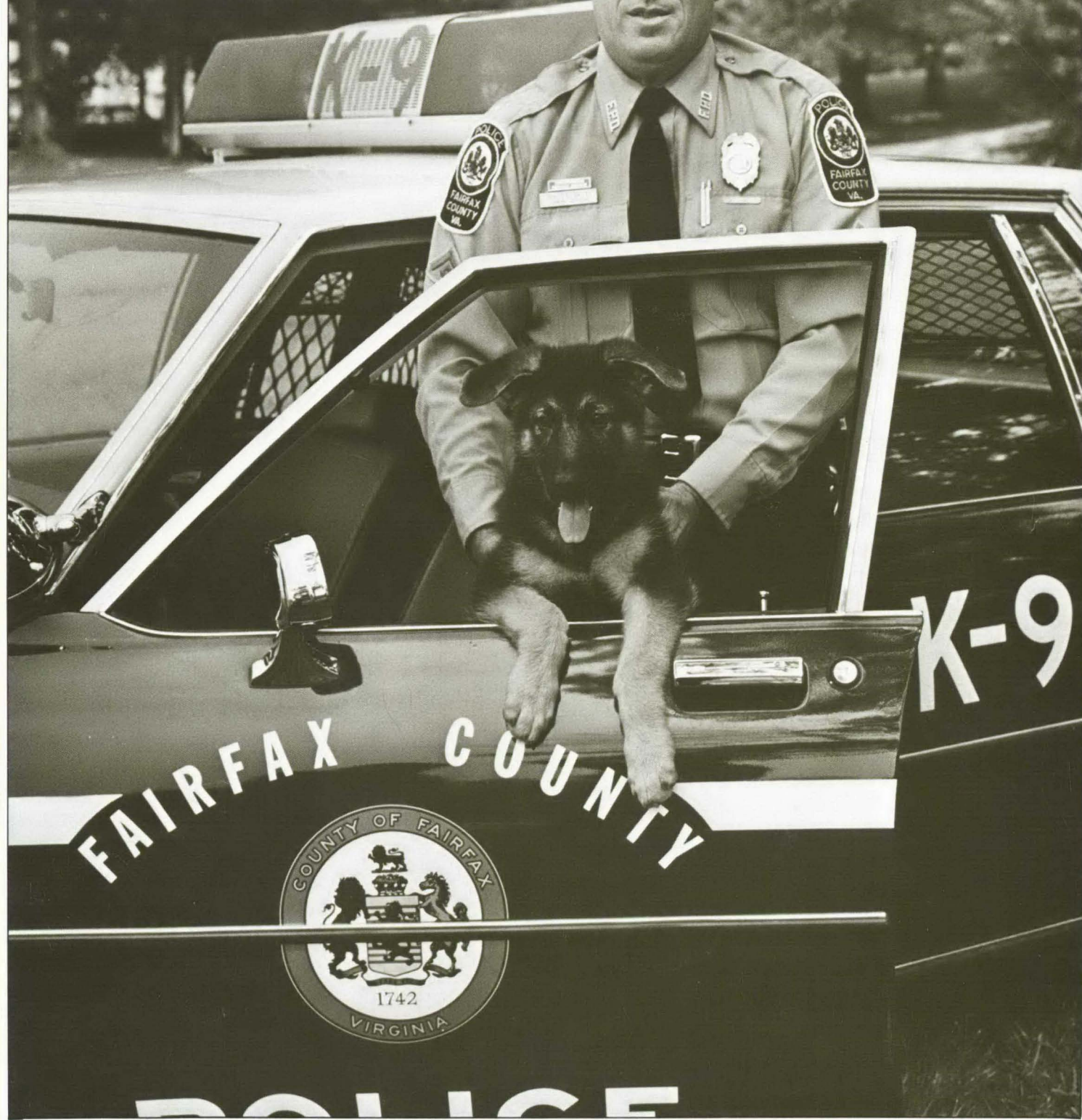




FBI

October 1986

Law Enforcement Net



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The Cover:

Fairfax County, VA, police officer Shelby Bailey with "Casey Kelly," newest member of the department's K-9 Corps. The pup, donated by a firm that breeds German shepherds from original bloodlines, is the first to be raised by the department in an effort to cut the cost of selecting a suitable adult dog.

FBI

Law Enforcement Bulletin

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

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 6, 1988.

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Director's Message

President Reagan noted in 1981 that "It is my firm belief that the answer to the drug problem comes through winning over the users to the point that we take the customer away from the drugs." The administration and Congress are today embarking on new efforts to combat the drug problem, as the demand for drugs is at an all-time high.

We must reduce this demand for illegal drugs through the education of our young people. No one is more aware of this need than the law enforcement community. Even as long ago as 1936, August Vollmer, the "father of modern police science," wrote:

"Drug addiction . . . is not (solely) a police problem; it never has been . . . education of the masses is the keynote, first to cure or alleviation, and ultimately to prevention."

Vollmer, as Chief of Police in Berkeley, CA, for almost 30 years after the turn of the century and then a professor of police administration, had experience with his era's limited drug abuse.

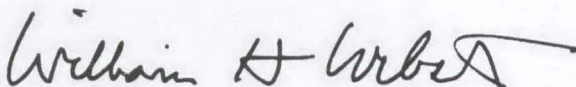
Education, I believe, is at least 50 percent of the long-term solution to this Nation's epidemic of drug abuse. Law enforcement has already begun to work with school systems in this regard. The February issue of this Bulletin featured an article on Operation SPECDA (School Program to Educate and Control Drug Abuse), which is a cooperative effort of the New York City Police Department and the Board of Education to reach elementary school children. In New York City, police and educators, working together, "provide help and support to youngsters to assist them in resisting drug involvement."

August's Bulletin article by Los Angeles Police Department's Chief Daryl Gates, described private support of crime prevention efforts in that California city. One program supported was the Drug Abuse Resistance Education (DARE) program, a joint effort of the Los Angeles police and the Los Angeles Unified School District. This effort also uses uniformed officers to teach elementary school-age children the skills needed to avoid drugs.

Today, law enforcement professionals realize that crime control must include various crime prevention programs that include cooperative efforts from the citizens law enforcement serves. The Drug Enforcement Administration embarked on a Sports Drug Awareness Program in 1984, with excellent cooperation from the professional athletic community. The FBI enthusiastically joined the Drug Enforcement Administration in this effort. And now the program has been extended to include amateur athletes in schools, where one tragedy this year underscores the need for this work.

Other law enforcement groups, such as the International Association of Chiefs of Police, are now advising on this program. Because sports figures today are the role models for so many young people, we hope that reduction of drug usage among athletes will deter youngsters from imitating their heroes in this self-destructive type of behavior.

I urge police administrators across our Nation to examine the drug control efforts of their departments and to consider, in cooperation with local school officials, taking August Vollmer's advice on the education answer to this problem. Vollmer pioneered education for police officers themselves; the whole law enforcement community is in his debt for this. This country's largest police departments and Federal agencies responsible for drug enforcement believe that the drug abuse that so afflicts our Nation can be attacked through education to substantially reduce the demand upon which it feeds.



William H. Webster
Director
October 1, 1986



"Police Beat"

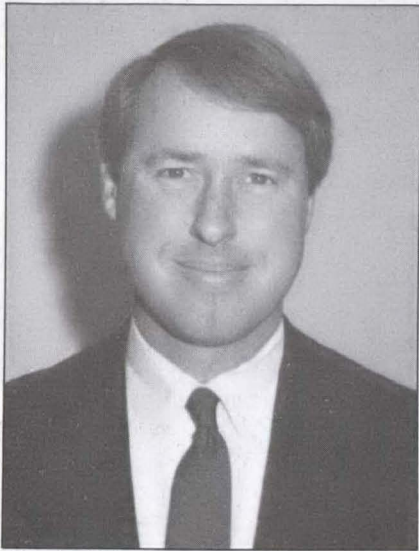
"... cable programming offers a unique opportunity for law enforcement agencies to meet the dual challenge of providing information to, and seeking the assistance of, their communities."

By
DET. TOM BELL
Media Relations
Police Department
Arlington County, VA

Cable television has brought a new dimension of entertainment and knowledge into American households. It has also enabled local governments to disseminate information as never before. School systems, libraries, consumer groups, and others are taking advantage of the vast opportunities available through cable television. These same opportunities are also available to law enforcement agencies, if they can meet the challenge of developing interesting and informative programs. All that is required for cable

television to be effective are a commitment of time, personnel, and adequate funding.

The Arlington County, VA, Police Department became interested in using cable television in 1983. At that time, Arlington County cable programming was virtually nonexistent, and funding for new projects was quite limited. Despite these difficulties, the police department's Crime Resistance Unit was determined to develop a program which would provide Neighborhood Watch groups and residents with information about crime in their areas.



Detective Bell



William K. Stover
Chief of Police

Neighborhood Watch started in Arlington in 1980, when burglaries were rising at an alarming rate. Now, 6 years later, the burglary rate has dropped substantially. The more than 200 Neighborhood Watch groups in Arlington must receive partial credit for this reduction. These groups include approximately 10,000 households or 10 percent of all homes in Arlington County.

To participate in Neighborhood Watch in Arlington, the home owner must submit to a home security survey and mark all valuables in accordance with the Operation Identification Program. At least 75 percent of all homes in a particular neighborhood must sign up before that neighborhood can be designated a Neighborhood Watch community. Then, they may purchase a Neighborhood Watch sign for \$37, which the county installs.

The smallest Neighborhood Watch group in Arlington consists of 3 homes, while the largest group has approximately 500 homes. None of these groups participate in active patrolling; rather they simply call the police whenever suspicious activity is spotted. However, they need information from the police department to be effective—this information is available on "Police Beat."

"Police Beat" is a made-for-cable television show which made its debut in March 1985. Each show is repeated on an average of 10 times during the month, at different hours, in order to reach the largest audience possible. Its primary purpose is to provide Arlington citizens with information about crimes that have been committed in their neighborhoods, pos-

sible suspects, and the methods of operation employed by these suspects. The show also provides the department with an opportunity to inform the public of its many ongoing activities and services.

"Police Beat" is based on the premise that people are concerned about crime and want to assist law enforcement officials in controlling crime in their neighborhoods. There are four segments to each program—crime reports, crime prevention tips, wanted persons, and a special feature.

Each "Police Beat" program begins with a crime report in which an officer from the department's Crime Analysis Unit describes some of the crimes that have taken place during the past 30 days. The crimes selected to be aired on the program are usually high visibility crimes that show a certain pattern or those that the police department is having difficulty solving. By relaying the facts and circumstances of particular crimes, the department is alerting citizens, while seeking additional information on unsolved cases.

During the presentation, the locations of the crimes are depicted on a map or the areas are shown on video tape. Next, an officer from the department's Crime Resistance Unit suggests ways in which some of the crimes mentioned can be prevented. For example, one crime report involved a series of burglaries in an apartment complex in which the point of entry was the same—the basement window. The detective then proceeded to recommend a crime prevention device—in this case, the installation of burglary bars—which was followed by a discussion of the advantages and disadvantages of these bars. In addition, the officer often demonstrates various locking devices, alarm systems, and other crime resistance equipment and discusses ways of in-

"With adequate support and proper management, cable television can be an effective law enforcement tool."

creasing security at home and at work.

The third segment deals with wanted persons and is similar to the nationwide "Crime Solvers" Program. It consists of pictures and descriptions of persons wanted for crimes in Arlington. The special features segment focuses on various activities of the department, such as the operational aspects of using radar for speed enforcement, conducting home security surveys, or use of the 911 emergency telephone system. The length of the show ranges from 30 to 45 minutes and also includes public service announcements pertaining to public safety issues, such as driving while intoxicated, burglary prevention, and reporting crime.

The crew of "Police Beat" includes a director, producer, executive director, video technician, audio technician, teleprompter, and camera operators who perform most of the functions that are required for a commercial television show. The title "executive producer" goes to the person tasked with hiring a crew and on-screen personnel and controlling the budget. It's imperative that this person be well-versed in television production and familiar with local on-screen personnel costs.

The major difference between this production crew and one used for commercial television is that the Arlington County Police Department uses a studio and equipment that are owned and operated by the Arlington County School System for training students for a career in broadcasting. Students are used as a crew for the police production, and the on-screen personnel consist of police department employees.

"Police Beat" has endured despite a number of adversities. There has been an endless turnover of "behind-the-scenes" technicians (the good ones always graduate), guests have arrived at the last minute wearing white shirts, which is not conducive for filming, and one segment showed the host rolling his chair backwards off the stage during taping.

Costs

Cable programming can be very expensive. Unless properly managed, the cost can escalate rapidly with less than desirable results. Many local governments have started to film a show only to have it stop short of completion due to escalating costs.

Production costs deserve a great deal of attention prior to any filming. As local government operates with somewhat limited revenue, it is paramount that innovative approaches to cable programming are sought. As mentioned previously, students and police employees make up the cast and crew of "Police Beat"; the only remaining cost for our department is for the director to shoot and edit the final tape. Even so, a single show of a low-cost production such as this can cost several hundreds of dollars.

"Police Beat" is funded by the Department of Community Affairs, which oversees the cable television office. When allocating funds for such a public service message, it must be remembered that local cable television shows are competing with commercial television. Unfortunately, the cheaper the show appears, the fewer viewers it is likely to attract. To be competitive, something interesting and unique must be added to the viewer's regular television schedule, while making the show as professional as possible with limited funding.

It is difficult to measure the effectiveness of local cable programming as it does not fall under commercial television's rating system. Even when viewers are asked to offer comments, only a limited insight into the concerns and opinions of the audience will be obtained. This technique does not give the complete picture of audience size, composition, age, and location of residence. While cable television experts estimate that 3 percent of cable viewers watch local government channels on a regular basis, an effective system of viewer surveys is needed to keep the program relevant to the interests and needs of the audience.

In spite of these shortcomings, cable programming offers a unique opportunity for law enforcement agencies to meet the dual challenge of providing information to, and seeking the assistance of, their communities. With adequate support and proper management, cable television can be an effective law enforcement tool.

FBI

Ensuring Computer Security

"The main problem ... with computer crime prosecution has been lack of clear legal definitions and the resultant difficulty in convincing a judge or jury of the crime."

EDITOR'S NOTE: This article addresses the laws enacted in the State of Washington to prosecute computer criminals. Law enforcement personnel should consult their legal advisers regarding existing and proposed individual State and Federal statutes governing the investigation of computer crimes and the subsequent prosecution of these offenders.

Computing security is the discipline by which computing systems, information, and services are protected from accidental and deliberate threats to confidentiality, integrity, or availability. As with any discipline, this demands a dedication to the fundamentals which promote appropriate application of the discipline. Private enterprise appreciates that the confidentiality, integrity, and service required for both business survival and customer loyalty must now be achieved in large part through a secure business computing environment. Yet, while private enterprise must fill the leadership role in computing security and remain on the leading edge of progress in developing technologies which prevent unauthorized system use, the private sector must be aggressively involved in creating legislation which deters and corrects such misuse.

This article describes a set of security fundamentals and their application within the framework of a structured computing security program. Also addressed is the recent Washington State legislation which provides the supporting legal basis for security control of computing resources.

Fundamentals

As the framework for the application of the computing security discipline is discussed, the following security fundamentals serve a dual role. They act as a reminder as to why various security measures are invoked and they highlight the interplay between these measures. These fundamental concepts, which are basic to security management in protecting assets, also characterize computing security. They are awareness, activity, monitoring, access control, authorization, accountability, configuration control, and recovery capability.

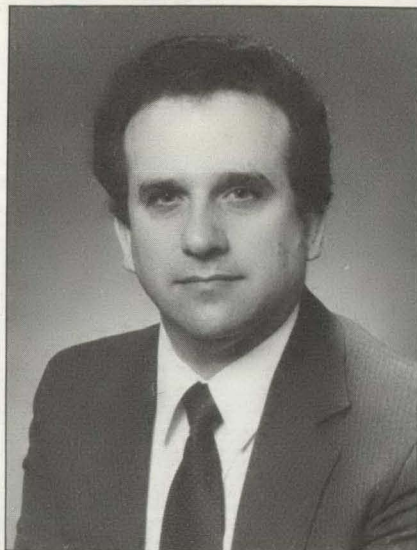
Framework

Prevention, detection, containment, investigation, and correction are the elements which comprise the framework of a disciplined and balanced computing security program. Specifically implemented measures of the program, to be effective, must be directly responsive to these elements.

Prevention

Prevention of computer misuse is the overall focus of all computing security measures. Those measures aimed

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Mr. Carkeek

at detection, containment, investigation, and correction have the secondary objective of deterrence, which contributes to prevention.

Asset protection is the goal of all security management. Assets to be protected include computing facilities hardware/software, services, and information. Prevention measures must ensure a safe environment from which computing services can originate. Information must be protected from unauthorized change, in order to provide for its continued integrity and value. Some information may also require protection from unauthorized disclosure to preserve confidentiality and an enterprise's competitive position. It is a fortunate coincidence that the controls which must be invoked to provide protection from change and to preserve integrity can also provide, with almost no additional cost, the needed protection from disclosure. This fact nullifies contentions that information protection is costly. Where computing information is concerned, there is no alternative but to provide for its integrity. Information costs a great deal to gather and make useful in the management of an enterprise. Information without integrity and reliability is not information at all; it is uncertainty, the antithesis of information. Therefore, private enterprise cannot afford to fail in protecting the integrity of the information on which it relies.

Employee awareness of computing security requirements is vital to the success of the firm. All employees, regardless of their authority, must understand the reasons behind each computing security requirement so they may effectively comply with the program. In particular, each employee must be sufficiently informed in order

to support prevention measures. Only by being an involved participant in the computing security program can an employee recognize as trouble indicators those circumstances which the less-informed and less-aware individual fails to note, attributes to the system's complexity, or simply accepts as normal.

Activity monitoring by management of each subordinate's actions, and by each user of his own account, is essential to a computing security program. Such monitoring must be of sufficient detail to detect when an employee is departing from established authority limits for system use or when other system behavior indicates a need for further investigation. It is important that the visibility for such monitoring be made available at the appropriate user/management levels. If an individual authorized to use a given account is provided with the time that account was last used, it is quite possible to detect unauthorized use. On the other hand, if the same visibility or some condensed form of it is presented for review only at a level above the authorized individual (where there is no first-hand knowledge of the actual behavior of the account), the opportunity to detect misuse is greatly reduced. The most effective monitoring of activity must be at two levels: The direct computing users reviewing access records for their computer accounts (data and service), and user management reviewing overall activity and resource usage of their subordinates.

Access control refers to the mechanism used to ensure that access to service and data is granted only to authorized individuals and only according to the limits (e.g., time-of-day, location, read-only) of that authorization. The automated process to verify an individual's authority is based on

"Detection of computer misuse is a capability which an enterprise achieves if prevention measures have been implemented in a disciplined manner."

identification through something known to (password), possessed by (coded card), or characteristic of (signature) an individual. Passwords are the most common form of access control and are quite safe when properly selected to be random, not obvious, and of sufficient length to confound any methodical attempts at guessing. The access control facility must include adequate provision for review, at the appropriate level, of the "access-granted" feedback, discussed previously under activity monitoring, for both service/account usage and information usage. The access control facility performs its function by referring the authorization structure established by management. It must scrutinize each access request based on that structure and record its access verification/authorization actions with adequate accountability to feed the activity monitoring function. Thus, we have a management control loop for assessing access control effectiveness. Without such a control loop, management would, in effect, be negligent in its responsibility for control of the enterprise.

Authorization is the fundamental process by which an individual is permitted to access computing service or information for which management is responsible. This is the responsibility of an individual empowered to make the necessary permission decisions. Each permission must be carefully structured as to limit the authority based on type (e.g., read-only, change, etc.), location (e.g., terminal ID or call-back phone number), and time of access. A control loop is necessary to ensure that authority is revoked or changed in a timely manner, whenever the need for access by an individual changes.

Accountability for all activities within a computing system to the individuals responsible for them must be recorded in an audit trail. The audit trail must be of sufficient detail to allow the management control loop to function effectively, both in permitting management control over authorized activity and in detecting unauthorized activity. Each fundamental element in this control loop (authorization, access control, accountability, and activity monitoring) also contributes to an overall misuse prevention capability by deterring, through its presence, the unauthorized use of computing assets.

Configuration control contributes to computing security by controlling the environment to ensure the integrity of management control loops required to achieve computing security. Through configuration control, each change in hardware and software is carefully evaluated to isolate and consider its security implications, so that the chance for adverse change to the security posture of the computer system is minimized.

Recovery capability is a valuable fundamental which, even if unauthorized system alteration were not a management concern, is necessary to preserve system availability and integrity in the face of the malfunctions which can befall a complex system. A properly functioning computing security program can indicate when intentional or accidental changes, so subtle as not to normally trigger recovery action, have occurred, which require invoking some facet of the established recovery capability.

Detection

Detection of computer misuse is a capability which an enterprise achieves if prevention measures have been implemented in a disciplined manner. But, without proper prevention

measures, misuse is unlikely to be detected and can result in totally unrealized loss. Sound detection capability can serve to deter misuse in the first place, as well as prevent any misuse from further adverse impact on a system's integrity.

A detection capability is achieved only through correct application of the fundamentals to prevention, as discussed above. An enterprise must ensure that (1) *assets* are properly identified, (2) *configuration control* stabilizes and defines normality, (3) an *authorization* structure defines access privilege, (4) rigorous *access controls* enforce the authorization structure, (5) individual *accountability* for activities is preserved and recorded, (6) *activity monitoring* is responsibly conducted, (7) there is acute *awareness* of the need for computing security measures, and (8) *recovery capability* has been provided. If all these fundamentals have been implemented, an enterprise may be confident that misuse is detectable and damage may be contained.

It has been stated that "no matter how thorough the prevention measures are, there is still a weakness which can be exploited." This is a useful perspective to stimulate management in their application of the computing security discipline. However, this cliché should not be seen as justification for less than adequate prevention and detection capability.

By definition, a system misuse violates the authorization structure. This fact serves to emphasize the importance of management's responsibility to conscientiously define the authorization structure. Management must realize that this authorization structure sets the very limits of their ability to detect misuse. This authorization struc-

"... the care and professionalism which management exercises to prevent or detect system misuse provide the foundation for containing the damage and investigating the incident."

ture must be comprehensive and current. Through the capacity to detect unauthorized use quickly, change, or the denial/destruction of service, data, or software, an enterprise preserves its opportunities to (1) contain, minimize, and hopefully reverse a security breach, (2) capture and organize evidence to understand a security breach, (3) correct the circumstances which allowed the breach, and (4) prosecute individuals responsible, when appropriate, to the full extent of the law.

Containment and Investigation

From the discussion above, it is obvious that the care and professionalism which management exercises to prevent or detect system misuse provide the foundation for containing the damage and investigating the incident. Thought must be given to appropriate precoordination with local law enforcement agencies and communications service providers. Preparations must be made for the extended safe containment of an offender's system activity so that efforts to trace and gain evidence on the activity can then be completed. Readiness to display audit trails or make visible real-time activity in the most useful format must be provided.

Correction

Correction is the element by which we adjust our ability to prevent and deter. The technical and management changes which constitute this adjustment will be unique to each specific investigated problem. Where part of the corrective action involves legal remedies, recent revisions to the Revised Code of Washington provide improved opportunities to prosecute offenders.

The difficulties with successfully addressing computer crime through previously existing laws are attributable to differences in the nature of crimes involving computers when compared to other crimes. Crimes perpetrated by remote access to a computer create the need for unique forms of evidence and definition of offenses which allow an investigator to prove that there was a crime committed, as well as how and by whom. Some reasons for this are: The criminal is not physically present at the crime scene, valuable assets (information) can be taken (copied) without denying them to the legitimate owner, value of stolen computer time may not be determined, and the adverse effect of unauthorized access may not be readily apparent or demonstrated. The main problem, however, with computer crime prosecution has been lack of clear legal definitions and the resultant difficulty in convincing a judge or jury of the crime.

The passage of the recent code revisions has significantly enhanced the legal situation in the State of Washington regarding the above difficulties. The new law defines the gross misdemeanor crime of computer trespass to be simply intentional unauthorized gaining of access to a computer system. It is not necessary to show that theft or malicious mischief coincided with the access. If any other crime, or the intent to commit another crime, can be shown during access, or access was to a system maintained by a government agency, the trespass becomes a class C felony. If, during commission of computer trespass, any other crime is committed, that crime can be prosecuted separately or along with the trespass offense. The revision also alters the definition of physical damage to include computing data and services in a more-comprehensive manner than before and adds defini-

tions for data, computer program, and access to clarify these terms. Taken as a whole, the revisions should improve the ability of enterprises to seek legal redress for attempted and actual breaches of their computing security. Only test cases will confirm how beneficial these code refinements really are in providing sufficient legal deterrent and remedy for computer crime.

Summary

Private enterprise has taken the lead in efforts to establish legislation defining the fundamental elements of computer crime and describing a framework of offenses for understanding by the courts of computer crime as an extension of traditional legal concerns. In this article, computing security has been related to a set of traditionally understood security and management fundamentals. The fundamentals have been structured into an overall framework for disciplined application. It is hoped that this discussion allows computing security to be understood and applied in terms of traditional security management.

FBI

An Alternative Approach to Investigations

By
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Inverness, FL*



“Under [the unit investigative method] individual investigators [are assigned] specific investigative tasks rather than having the responsibility for the entire case.”

During the first half of 1985, the Citrus County, FL, Sheriff's Department, Criminal Investigation Division, experienced a steady decline in the “clearance rate,” as compared to the previous 4 years which had each produced continued increases. In an effort to address the problem, an assess-

ment was made of the entire divisional structure, methods, and techniques.

Background

The Citrus County Sheriff's Department employs 92 sworn personnel. Its Criminal Investigation Division is organized into three sections—General



Captain Lacasse



Charles S. Dean
Sheriff

Investigations, Special Investigations, and Identification/Evidence. The General Investigations Section consists of one sergeant and six investigators and is responsible for followup investigations of Part One crimes and selected misdemeanor cases. One sergeant and three investigators are assigned to Special Investigations, which handles narcotics and vice investigations, along with other "special investigations" that may be needed. The Identification/Evidence Section is staffed by one sergeant and two investigators, who are responsible for handling crime scene investigations, evidence processing, and latent print examination. This article will specifically address the General Investigations Section, as this unit's activities most directly affect the Uniform Crime Reports clearance rate.

As is probably the case with most law enforcement agencies across the country, the General Investigations Section was organized and structured under the "traditional method" of case assignment, i.e., one case/one investigator. Under this system, the divisional commander would review all incoming cases on a daily basis, and using an informal system of "probability of solvability,"¹ would decide which cases were to be assigned for followup investigation. Those cases would then be assigned to specific investigators, usually according to geographical boundaries. The investigator was assigned a 10-day "due date," meaning that he had 10 days to conduct his investigation and submit his followup reports.

The investigative sergeant performed the daily first-line supervisory functions of reviewing investigative reports. Productivity was measured by

maintaining both unit and individual statistics based on the number of cases assigned and the number of cases cleared. Quality was assessed on the basis of the written reports submitted by the investigators.

Assessment

A critical analysis of this method of case assignment and standard of measurement of productivity indicated that most investigators had developed an "assembly-line" approach to their cases. The individual clearance rate statistic appeared to promote a strong competitive atmosphere; investigators chose to work independently, which in some cases even inhibited the exchange of vital information.

Unfortunately, the actual mechanics of this system often created a 2- or 3-day delay between the time the patrol officer initiated a case and the investigator actually commenced a followup investigation. Further, except for the case assignment and report review functions, supervisors had little contact with the individual investigators or control over their investigative methods and techniques.

In short, our analysis indicated that there had to be a better way. Through researching alternatives, we became aware of the concept of "unit assignment monitoring."² In fact, this method had already been used on a limited number of major case investigations with excellent results.

This approach involves assigning cases to an entire unit, not individual investigators. Under this concept, after the supervisor decides which cases are to be investigated, he then assigns individual investigators to specific investigative tasks rather than having the responsibility for the entire case.

Thus, in effect, each case is investigated by all of the investigators, and the overall progress of an investi-

"... this method fostered a team spirit among the investigators and encouraged and promoted communication, cooperation, and productive interaction...."

gation is continually monitored by a supervisor. As individual tasks are completed, the supervisor makes reassignments and adjustments as necessary.

Implementation

After discussing the feasibility of adapting this concept to the everyday case load, we ultimately customized and tailored the basic concept to meet our organizational needs. The General Investigations Section was reorganized to include one sergeant, four investigators assigned to general investigation, one investigator assigned to sex crimes (due to the specialized nature of the offense), and one investigator assigned as the "duty investigator." The entire unit now reviews all cases each morning at a roll call-type briefing. Those cases to be investigated are collectively screened by the unit using the aforementioned informal system of probability of solvability, with the supervisor assuming the final authority.

Once the cases are screened, they are collectively reviewed and evaluated, with each investigator offering input to possible leads, methods, and avenues of investigation. A member of the Identification/Evidence Section also attends these daily briefings to provide information pertaining to physical evidence, etc.

After the cases are reviewed, the supervisor then assigns specific investigative activity to individual investigators, e.g., one to interview a witness, one to do a neighborhood canvas, etc. As these tasks are completed, the supervisor reviews any new information and makes new assignments accordingly. Thus, the supervisor is constantly monitoring case progress and individual performance.

Those cases that do not meet the necessary criteria for unit followup are assigned to the duty investigator. These are dead end cases that under a formal system of probability of solvability, would be placed in "file 13." The duty investigator is required to make a primarily "P.R." contact on these unassigned felony and select misdemeanor cases. Should new information develop, the sergeant may elect to assign the case to either the unit or the duty investigator. The duty investigator is also available to perform vital office functions for field investigators, e.g., record searches, etc., and to handle any incoming investigative leads. This position is assigned on a monthly rotational basis.

After this investigative concept was implemented, it became obvious that not all cases lend themselves to a full unit investigation, i.e., the investigative tasks necessary to complete followup required the attention of only one or two investigators. Assignments are therefore adjusted accordingly.

Implementation also revealed that a major factor in the success of the program is the first-line supervisor. This method of investigation requires a great deal of supervisory involvement. In effect, the sergeant is the "lead investigator" on each case. Successful implementation of this type of program requires an above-average, aggressive, enthusiastic first-line supervisor.

A disadvantage to this method that should be mentioned is court time. As more than one investigator is involved in each case, those cases that do go to trial will necessitate court appearances by all involved investigators. We have not experienced any difficulty with this aspect during our pilot program, but this area may be of concern to some agencies.

However, a distinct advantage to this is the timeliness of investigation.

Whereas, under the traditional method, a 2- or 3-day delay may occur between the initial report and commencement of followup, under the unit method, followup investigations are initiated no later than 8:00 a.m. the following morning.

Results

The "unit investigative method," as we dubbed it, was implemented on a 6-month trial basis (November 1985, through April 1986). An indepth analysis revealed that as an investigative tool, this method fostered a team spirit among the investigators and encouraged and promoted communication, cooperation, and productive interaction, while taking full advantage of the collective approach to problem solving.

As a public relations tool, the effect of assigning a "group of investigators" to single cases, with resulting visible group activities, has only enhanced the public image of this department. Further, the duty investigator position has promoted unmeasurable "P.R.," since victims of cases that normally would have no followup are now being contacted. In addition, the duty investigator has averaged an almost 12-percent clearance rate on those cases that would never have been investigated.

Although the traditional standard of measurement of individual performance (to wit, the individual clearance rate) was eliminated, the supervisor is now able to control investigative techniques and methods directly, while actively monitoring individual performance and productivity on a daily basis.

The 6-month evaluation of this program revealed a marked increase in both the quantity and quality of the

"The 6-month evaluation of this program revealed a marked increase in both the quantity and quality of the clearance rate...."

Figure 1

Statistical Analysis							
Program Period							
	Assigned	Unfounded	Actual	Ex. Cleared	Arrests	Total	%
Nov. 85	83	10	73	13	13	26	35.6
Dec. 85	62	4	58	26	11	37	63.8
Jan. 86	81	7	74	12	6	18	24.3
Feb. 86	73	8	65	28	8	36	55.4
Mar. 86	88	7	81	35	14	49	60.5
Apr. 86	100	2	98	27	11	38	38.8
Totals	487	38 (7.8%)	449	141 (69.1%)	63 (30.8%)	204	45.4%
Same Period Previous Year							
Nov. 84	57	7	50	11	4	15	30
Dec. 84	73	8	65	13	1	14	21.5
Jan. 85	86	5	81	14	10	24	29.6
Feb. 85	91	4	87	17	4	21	24.1
Mar. 85	77	14	63	10	4	14	22.2
Apr. 85	69	12	57	12	8	20	35.1
Totals	453	50 (11%)	403	77 (71.3%)	31 (28.7%)	108	26.8%

clearance rate, while developing a visual rise in esprit de corps. The overall UCR clearance rate for the unit increased 18.6 percentage points over the same reporting period for the previous year, notwithstanding an 11-percent increase in the actual case load. The number of cases being unfounded decreased 3.2 percentage points, while the number of exceptionally cleared decreased 2.2 percentage points and the number of cases cleared by arrest increased 2.1 percentage points. The actual number of cases cleared by arrest more than

doubled (from 31 to 63) and the total number of cases cleared almost doubled (from 108 to 204). (See fig. 1.)

Conclusion

We have opted to continue the use of this alternative approach to case assignment and management. Should the reader consider adopting this method, the author would recommend a careful analysis of your agency's needs and modification of the basic concept to meet those needs.

FBI

Footnotes

¹John E. Eck, "Managing Case Assignments: The Burglary Investigation Decision Model Replication," Police Executive Research Forum, 1979.

²John E. Eck, "Solving Crimes: The Investigation of Burglary and Robbery," Police Executive Research Forum.

Job-Specific Training for Police

An Airport Example

"Given the current trend toward specialization and professionalism in law enforcement ... training in new, specific areas has taken on increasing importance."

In today's law enforcement community, police training has taken on an increasingly important role. Given the complex, sometimes perilous and litigious state of contemporary criminal justice systems, mandated, up-to-date training is no longer a luxury, but a necessity. In answer to the demands placed upon it, police training has met the challenge admirably, and it is perhaps not too optimistic to state that modern training programs have advanced in quantum leaps over the past 2 decades.

However, advances in training methodology and techniques have yet another challenge to face. Police departments are also finding themselves tasked with increasingly esoteric functions; more and more police officers, trained primarily in general police tasks, are assigned to specialized police units. In recent years, units with unique functions have proliferated as police departments have attempted to keep up with constantly changing societal demands. SWAT and hostage negotiation teams, airport and seaport details, aviation units, crime prevention details, etc., are staffed by police officers, most of whom receive (at least on the mandated training level) regular training only in general police subjects.

Job-specific training is usually gained on the job or through the occasional seminar or school made available by other departments or organiza-

tions. This situation contains some obvious shortfalls. First, scheduling for specialized training programs is irregular, at best. Second, the seminar or school, while more specifically addressed to the unit's duties, may not be as comprehensive as desired and cannot, by its nature, cover all aspects of a particular unit member's duties. Lastly, unless all unit members attend the same schools, information gained as a result of this training may conflict or even contradict.

The problems implicit in these shortfalls may result in a lack of training, or more to the point, a lack of consistent, organized, job-specific training for the specialized unit. Such a shortfall may, at best, result in a general decline of professionalism and expertise; at worst, it could result in liability attaching to the unit that is unable to demonstrate a well-designed and functional training plan which specifically addresses the duties of its members.

This article suggests methods which will circumvent these problems and increase the level of expertise of the specialized unit member. In evaluating this model, the reader should consider three major theories upon which is based:

- 1) That specialized units require, apart from general police sub-

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jects, specialized training. The more unique the unit, the more specialized the training needs become.

- 2) That no one knows the training needs of such a unit better than the unit members themselves, and
- 3) That such a program may (and should) be instituted in-house, based on input by unit members.

The Airport Example

A practical example is the Maryland State Police Airport Division located at Baltimore-Washington International Airport (BWI), MD. In 1977, the Maryland State Police assumed law enforcement at the airport. No one in the original unit had received any training in airport security/enforcement duties prior to the takeover. It was an example, as most specialized units are at their inception, of starting with a "clean slate."

The original group, made up of troopers, corporals, and sergeants, was given a preliminary week-long training course by a cadre of supervisors who had preceded the larger group at the airport. The instruction concentrated on job-specific tasks and was designed to assist the unit in beginning its new duties. Once the initial training period had ended, the Airport Division was initiated as a functional unit. Further training consisted of the normal, State-mandated police schooling received by all Maryland State Police members, regardless of job duties.¹

It soon became obvious, however, that more was needed in the way of training than meeting minimal State standards. Police work at an airport, as

in many specialized units, is a unique type of law enforcement, which requires specialized knowledge in areas seldom encountered by other police officers. Subjects such as search and seizure guidelines at airport pier security points, airline ticket fraud, organized criminal activity in airport theft and fraud cases, and narcotics interdiction efforts, to name but a few, are unique to airport police activities. They are, in fact, sub-sets of more generalized criminal and legal areas, which are never specifically addressed in the larger law enforcement-oriented training given to most police officers.

This problem was initially addressed by sending chosen unit members, primarily from supervisory ranks, to more-specific training courses held by other agencies. Although these programs were of some assistance, and generally raised the level of expertise of the unit, they suffered from three major drawbacks: 1) They addressed only some of the areas in which training was necessary; 2) only individual members benefited from the programs; and 3) it was not always easy for the people who had been trained to communicate what they had learned to the enforcement level.

Once these problems became clear, it was apparent that some further, job-specific type of training was necessary to raise the level of expertise of the Airport Unit.

The Training Model

As a necessary prerequisite to the development of a functional training program, a job-specific analysis of the airport trooper's duties was required. Although this was accomplished on an informal, *ad hoc* basis at BWI, it is suggested that to be maximally effective, a more-formal task analysis must be prepared. As stated earlier, no one knows more about what training is

needed than the trainees and their supervisors. Along these same lines, the specific, job-related tasks intrinsic to any particular unit are best identified by in-house personnel, and input from the line and supervisory unit levels is necessary to compile a realistic list of tasks. At this point, the unit head should appoint a "training council" comprised of unit members. The composition and rank structure for such a council will, of necessity, be governed by factors unique to the unit. However, it is suggested that such a group be small enough to be manageable, yet large enough to be effective, and should contain a cadre of experienced, trained personnel. The council acts throughout the development of the training program as the central repository of training needs and will be responsible for the program's implementation.

Once a list of tasks is in place, it remains to prioritize training needs. Certain tasks are more important than others and may be characterized as "critical tasks," i.e., of the job-specific tasks listed, which are essential for the officer to do his job properly?

Tasks will fall into four major categories. First, there are the "common" tasks, applicable to all law enforcement personnel. Then there are tasks "critical" to all law enforcement officers, i.e., skills they must possess to do the job properly and in accordance with stated guidelines. Next come the common tasks intrinsic to the unit, followed by tasks "critical" to that unit. For purposes of in-house training, the latter category should be given primary emphasis, followed by the job-specific common tasks. Inasmuch as general police training may cover the former tasks, they should not be emphasized for purposes of this model, unless di-

rectly related to the unit's mission. As training develops, contact should also be maintained with the agency's training academy for purposes of review and assistance.

Once the relative importance of the tasks has been determined, it is then necessary to decide which of the job-related critical tasks should take priority for training. Again, the collective expertise of the training council should be relied upon in making this determination. As an example, Maryland State Police Airport Division members were given training on searches at pier security points. Although this task might be characterized as merely a subset of searches generally, and therefore, fall under the category of overall police training, these types of searches were of critical importance to the Airport Unit and were emphasized accordingly.

After the training needs have been established and prioritized, the actual training program should be instituted. Again, using BWI as a format, it was discovered during this phase that most of the training aids (as well as training needs) could be obtained from in-house sources. Searches at pier security points, as an example, were best carried out at the pier itself during off-use hours. This training was further enhanced by a video tape made by an airport sergeant who used his own video equipment to make the film. (Expenditures—which were minimal—were paid out of a unit working fund).

Throughout the program, every effort was made to include the in-house expertise of unit supervisors and members in the training itself. Along with this, emphasis was placed on developing a permanent training course. (Examples of such a course might in-

clude slide presentations, written lesson plans, video presentations, and appointing instructors to teach areas in which they possess special expertise.) In the BWI example, time for instruction was set aside during off-duty hours.² Troopers were assigned training by leave group, which eased scheduling difficulties, and as a side benefit, had a tendency to create a greater sense of group cohesiveness.

In order for such a program to be truly effective, followup is mandatory. In this respect, the training council serves a dual role. In the initial phases, for example, the Airport Division council functioned as a focal point for identifying training needs and subsequently formed these needs into a program. Later, the council met at regularly scheduled intervals. The purpose of these meetings was twofold. First, the council members reviewed suggestions from unit members of areas in which new, or additional, training was requested. Once these areas were identified, they were incorporated into the already-existing program. Second, council representatives kept in touch with unit members and recent court and case developments in order to encourage and develop new training areas. Thus, training needs were easily updated, modified, or added to the already-established program.

Using these methods, the Airport Division was able to generate an up-to-date, job-specific training program for its members and troopers who transferred into the unit.

Conclusion

It should be emphasized that this model, and the example provided, are meant only to serve as guidelines. Such a program, by its very nature, is readily adaptable to any unit, airport or otherwise, which has unique functions beyond those normally made the sub-

ject of general police training courses. The program can be made as formal or informal as a particular unit's situation dictates, given the historical constraints under which police agencies must operate. From a cost-analysis perspective, the use of in-house talent and resources renders the program amenable to even the smallest, most cost-conscious group.

This model is designed for the smaller, job-specific unit with unique functions not routinely covered in agency-wide training programs. It is meant to be easily adaptable to the needs of the particular unit and to be cost-effective. The benefits it incurs are a greater amount of individual training and a concurrent rise in the unit's level of expertise, hopefully followed by a greater sense of unit cohesiveness and morale. Although the example cited here involved the Maryland State Police, Airport Division, there is little reason why other unique units could not adapt such a program to their specific needs. Given the current trend toward specialization and professionalism in law enforcement today, together with a keen public interest in such activities, training in new, specific areas has taken on increasing importance.

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Footnotes

¹The Maryland Police Training Commission, as an example, promulgates minimum training requirements for entry-level, in-service, and first-line supervisor police ranks. In order to maintain proficiency, a set number of hours of instruction on various police skills is required on a yearly basis.

²Although this necessarily entailed the use of overtime, options might include (in an airport scenario) payment via the airlines, S.A.A., F.A.A., or others, who could conceivably benefit from such instruction. Another justification for such expenditures relates to the liability aspects incurred through a lack of specific training, as against the liability protection afforded by such instruction.



The McGruff Mobile

"The McGruff Mobile is an educational project that targets reducing unhealthy conditions and deaths of children and adolescents...."

By
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- One child in five is sexually abused before the age of 16, and 80 percent of the molesters are "trusted adults," people known to the children, such as relatives, teachers, or neighbors.¹
- An estimated 73 percent of teenagers experiment with or use drugs or alcohol at least occasionally.²
- Last year, an estimated 500,000 Americans were hurt in accidents while riding a bike, mini-bike, skateboard, or tricycle.³

Many adults working with children find it difficult to discuss substance abuse or molestation, and some believe they are inadequately informed to address these issues. Materials must be carefully screened for objectivity, sensitivity, and fact.

The Santa Barbara County Sheriff's Department realized the need to communicate more directly with youngsters at the elementary school level regarding child safety, substance abuse, and molestation. Since law enforcement agencies often deal with the final results of these major areas of concern, it appeared highly appropriate that the sheriff's department would spearhead a community effort to sponsor a primary prevention program. This led to the development of the McGruff Mobile.

The McGruff Mobile is an educational project that targets reducing unhealthy conditions and deaths of children and adolescents, giving them a healthier foundation for adulthood. Specific priority areas addressed by the McGruff Mobile are reduction of accidents and injuries, smoking and health issues, misuse of drugs and alcohol, control of stress and violent behavior, as well as a reduction of injury through being a "victim."

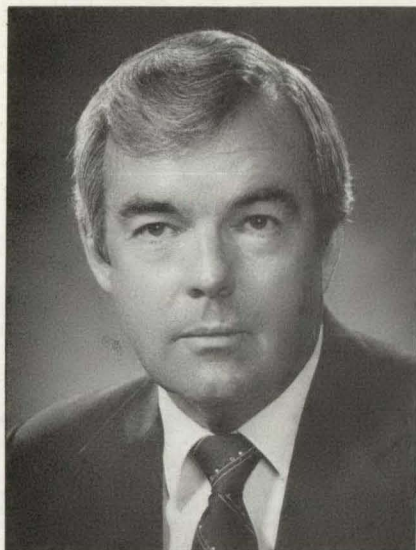
METHOD

The McGruff Mobile is a converted trailer that houses a VCR monitor, puppets, a puppet stage, tape recorders, videos, posters, coloring books, junior deputy badges, a sound system, and followup curriculum materials. It is towed by "Barney, the Talking Patrol Car" which, as if by "magic," gives advice to inquiring young minds. It is totally self-contained, including a generator for electricity, and a fire alarm for lessons on the dangers of fire.

In 1984, the Santa Barbara County Deputy Sheriff's Association donated the travel trailer and the first \$1,000 needed to begin the conversion to a classroom. The trailer was given

to the deputy sheriff's association by the estate of a murder victim whose family had the hope that somehow the trailer could be used for crime prevention or education purposes. The Santa Barbara Foundation awarded a \$7,000 grant to complete the materials and properties acquisition and physical reconstruction.

Crime prevention officers consulted educational, substance abuse prevention, and crime prevention groups, as well as other law enforcement agencies, to detail the plans for the curriculum and formulate exactly how the program would be used by the schools in order to reach a maximum number of children. During this preparation time, the Crime Prevention Unit worked with over 100 community service groups and individuals and received donations toward the purchase of miniature McGruff puppets and age-appropriate safety lesson tapes for each school in the county. (In several cases, donations were received to supply each classroom.) Teachers use these puppets for ongoing lessons and followup to the McGruff Mobile visit. On June 6, 1985, the completed McGruff Mobile classroom was unveiled during a ceremony at an elementary school in Goleta, CA. Since then, more than 6,000 children have gone through the program.



Sheriff Carpenter

With all the planning and preparation in line and a growing excitement over the expected visits from the McGruff Mobile, it was apparent that an active partner would be needed to assist the sheriff's department in facilitating the visit throughout the county schools and to work with school personnel. Scheduling and previsit preparation at a receiving school was seen as an ongoing commitment. The Office of the County Superintendent of Schools became this active partner, when the McGruff Mobile was assigned to the Center for Community Education, which also coordinates school health education services. In addition to scheduling meetings with school principals and nurses, drafting instruction letters, arranging previsit instructions, and compiling brochures and suggestion and evaluation forms, the center continues to serve as the partner agency to schedule the mobile presentations in area schools, as well as consult on curriculum ideas, community resources, and changing needs.

There is no charge to any school or group wishing to use this educational service. Deputies and the McGruff Mobile go to a school on the appointed day and will stay from 1 to 5 days, depending on the number of children participating in the program.

On the first day of a scheduled visit to a school, the life-size McGruff goes to the classroom, introduces the lesson activities that will take place, and then leads the children to the mobile classroom, where they are greeted by another deputy. Using puppets (behind the stage in the trailer wall), tape lessons, and wall charts, he discusses

one of three previously designated subjects—general safety and crime prevention, molestation prevention, or substance abuse/smoking prevention. Teachers attend the 30–35 minute sessions, and parents and citizens are always welcome to take part.

The children are encouraged to interact with the officer and McGruff with the intention of minimizing the "authority figure" image. Officers do not wear their weapons when working with the youngest children, as this has proven to be a distraction from the lessons. Emphasis is placed on the fact that law enforcement officers are "friends" and trusted adults a child can go to for help in time of need.

In addition to the films, songs, and puppet shows that are used to reinforce the day's lesson, video tapes directed toward specific age groups and subject matter are shown to the children. During these showings, the deputy will ask the children to relate their own ideas as to what is happening and ask how they would react if such a thing happened to them.

The educational videos are carefully screened by individuals from the Crime Prevention Unit, county drug program, and parent groups and are tactful in subject presentation, culturally sensitive, and factually correct in the information given. The deputy assigned to the McGruff Mobile is bilingual and converses with the children in English and Spanish.

After the videos are played, questions are answered, and tips for followup are given. The children are encouraged to talk about which adults they can go to with a problem, for help, or advice. The deputy uses a reassuring tone, a supportive approach that is spiced with pertinent information on "what to do." The deputy does not use scare tactics, horror stories, "threats" with incrimination or be-



Deputy II Sam Gross, as McGruff, stands with the McGruff Mobile and Barney the Talking Patrol Car.

ing a "bad person." Teachers are given brochures and curriculum materials on smoking, drug abuse, and molestation, coloring books on drug abuse, and the McGruff coloring book to use later in the classroom for followup reinforce-

ment. At the conclusion of the series of sessions, the children are presented junior deputy badges which they wear with pride.

Although the sheriff's department is a tax-supported agency, the Crime Prevention Unit relies heavily on alter-

native funding and receives no public funds other than salaries and officer equipment. Local service groups and the schools, while in agreement that the safety program is of great benefit,

"The program is receiving highest praise from administrators, teachers, parents, and community health agencies as a valuable addition to the efforts to increase health and safety awareness in the youth of Santa Barbara County."

are not capable of funding such a large scale program as the McGruff Mobile independently. Therefore, the sheriff's department entered into a collaborative effort with the community to support the McGruff Mobile classroom concept. To date, support has been received from local law enforcement, educational groups, other local government agencies, and private concerns.

EVALUATION

Evaluation of the McGruff Mobile program, presentation, and curriculum is based upon teacher/school principal input as to effectiveness, carry over, and followup lessons, allowing for ongoing change in the presentations. Evaluation forms are given to participating adults at each session, and the Office of County Superintendent of Schools compiles the results and suggestions for the sheriff's department. Staff members responsible for the McGruff Mobile in both agencies meet to discuss the findings, incorporate changes, or explore methods to expand curriculum.

An informal means of evaluation is also done according to the demand for the McGruff Mobile in the schools. The program was fully scheduled for the 1985-1986 school year, and there is a waiting list due to high demand for the presentations.

Formal, statistical evaluation cannot be completed at this time, since we are involved in a primary prevention program that will begin to show its effect in 2, 3, or more years when the youths exposed to the McGruff lessons reach adolescence, OR there can be a formal collection of statistics by the law enforcement agencies and child protective agencies as to how many chil-

dren were involved in accidents or abuse reports. (It should be noted that while it may be possible to chart reductions in accidents, molestations, etc., there is no way to gather data on accidents that didn't happen or molestation situations that were averted.)

However, preliminary evaluation results show that the McGruff Mobile program is highly successful in reaching/teaching children, who respond with enthusiasm and rapid learning of the lessons. The program is receiving highest praise from administrators, teachers, parents, and community health agencies as a valuable addition to the efforts to increase health and safety awareness in the youth of Santa Barbara County. The approach of using a network of support agencies or partners insures that the program will grow and constantly change with the educational needs of the communities served.

It is the desire of the Santa Barbara County Sheriff's Department and the Office of the Superintendent of Schools to use the mobile unit to its maximum potential, reaching children through schools, community centers, day care centers, fairs, and public places. The message of safety, crime prevention, and a heightened awareness of a child's ability and right to make decisions along healthy and moral lines will eventually be taken to every elementary school in Santa Barbara County. Those involved are committed to the continuation of the McGruff Mobile program. Plans are already being made through the schools, the Crime Prevention Unit, and allied community support agencies to add to the curriculum and to further develop the program for followup visits. As the children grow in knowledge about their own health and well-being and the role they can play in that well-being, more

information and more sophisticated materials will be introduced.

The McGruff Mobile is the first of its kind in the State of California and is the result of the innovative and hard working efforts of the Santa Barbara County Sheriff's Department in identifying a need and then gathering support from the entire county. A sheriff's deputy, who conceived the McGruff Mobile ideas, has outlined in detail the procedures of securing funds, gaining permission to use materials, reconstruction of the trailer, and physical installation of the equipment. The process, in this outlined form, can be duplicated by other communities. The sheriff's department not only offers to share the plans but encourages others to call for information in order to duplicate our success with this effective educational program.

FBI

Footnotes

¹"No More Secrets," ODN Educational Film Corp, New York, NY, 1982.

²Survey taken of senior and junior high school students, The Santa Barbara County Office of Substance Abuse, 1982.

³National Electronic Injury Surveillance System, Consumer Product Safety Commission, Washington, DC.

Organized Crime and Medical Fraud[®]

"The most common targets of today's organized crime entrepreneur are the health clinic and health laboratories."

By

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Is organized crime involved in medical fraud? This is a valid question; however, a more relevant question would ask how extensive is organized crime's involvement in medical fraud. If there is a way for an illegal dollar to be made, organized crime will find it, refine it, launder it, and lend it back at exorbitant interest rates. As accurately as can be determined, medical fraud is the "new wave" for organized crime today.

Although the public attributes ethnic boundaries to organized crime, it is by definition any group having some organizational structure whose primary objective is to obtain money through illegal activities. The vehicles for accomplishing this task include the use of violence or threat of violence, corruption of public officials, graft, or extortion.

Insurance Fraud

Based on the intelligence at hand, organized crime's involvement in medical fraud ranges from one or two "ghost employees" making false claims, to attempts to corrupt hospital board directors and doctors, to actual control and operation of clinics, pharmacies, and other medical facilities.

The most common targets of today's organized crime entrepreneur are the health clinic and health laboratories.

The problem is twofold. One is to extract as much money as possible from the underwriter insurance company over a prolonged period of time; the second, to undercut legitimate underwriters or third-party administrators so that businesses owned and operated as third-party administrators by organized crime can have a larger share of the market. The following details a carefully orchestrated scenario for controlling a clinic or laboratory:

A clinic or lab is formed by either purchasing or infiltrating an existing clinic or incorporating an entirely new business staffed by employees associated with organized crime. In establishing a clinic, organized crime is able "to clean" some of its illegally obtained funds acquired most notably through gambling, extortion, or narcotics, which are then channeled from a "friendly" bank through a dummy corporation that is now the new client.

Existing clinics are also vulnerable, inasmuch as doctors seeking to increase their profits and volume will all too often welcome accreditation from anyone who has the backing of unions or groups. This way, the clinic would have sole responsibility for that partic-

ular group or union. Unfortunately, that "anyone" is all too frequently organized crime.

Another underlying reason for infiltrating existing clinics or creating new clinics is greed and human vulnerability. Organized crime will choose their mark, identify the individual's weakness, and exploit it to meet their needs. For instance, a reputable businessman in the medical field or a doctor may have a compulsive weakness toward gambling. This individual will then be set up in a "rigged" game in which large amounts of money would be lent to him by organized crime figures or associates. The exorbitant interest rates will keep this individual on the hook for an indefinite period of time. One way offered to him to alleviate the debt would be to do a favor for the lenders, such as allowing them to infiltrate or use that particular businessman's or doctor's enterprise.

The next step is credibility. Credibility could be established through a reputable businessman or doctor who has been compromised or by soliciting doctors who are looking to cut costs and extend their profits. Unions friendly to organized crime will instruct their members to use only certain ac-



SAC Walton

credited clinics or labs which have been established, thus giving them credibility.

Initially, costs and volume will remain competitive and somewhat lower. Slowly, more claims are added and handled per clinic, and doctors' referrals will begin to increase. It may come to the point where anyone entering a particular lab or clinic will automatically be given a blood test, urinalysis, and blood pressure check which, of course, is charged to the insurance company or underwriter. This work is done routinely, regardless if the patient needs it or not.

Coupled with this are false claims which clinic administrators attempt to submit with legitimate claims over a period of time. Claims submitted increase to the point that when carefully scrutinized, the volume of patients treated would simply not be feasible during a 24-hour period. Unfortunately, this procedure is not unique to medical clinics. Many dental and optical clinics operate in similar fashion. All costs incurred are transferred back to the initial carrier and the insurance company and ultimately to those who pay medical insurance premiums.

The false claims are covered up through the "ghost employee" scheme. In this way, companies that are solely owned by organized crime list employees who either do not exist or do not work for that particular company. At the same time, all of their medical claims are written through that particular company, thus making that business qualify for group rates through the insurance company or underwriter whose companies pay for most of the investment.

In order to reduce operating expenses, organized crime has entered the insurance business as third-party administrators who are either owned or operated by organized crime. The third-party administrator and its accompanying health and welfare plan is established through a large underwriter insurance company. Normal business is generated by using an experienced insurance broker. With organized crime-controlled labor unions, for example, the idea is to enroll as many participants into the health and welfare plan and operate on volume. There is nothing illegal about this; however, in due time, cost per coverage per individual begins to vary from locale to locale. The third-party administrator delays payment of claims by 3 to 6 months, thus allowing the money provided by the underwriting company or insurance corporation to be put to personal use. Through organized crime ties, a substantial membership in a particular health and welfare plan is enrolled, thus giving credibility to health and welfare plans and to organized crime's hand-picked, third-party administrator.

In the course of securing other groups into this health and welfare plan, information concerning specific details and bids are provided to the illegal third-party administrator, who will have the edge on negotiating the contract since he has prior knowledge of the complete package offered by a legitimate company.

The organized crime third-party administrator and the organized crime-controlled health and welfare plan are every bit as sophisticated as any other legal business in this field. They are completely computerized, competitive in pricing and packaging, and can also market their product in a very professional manner. Their operations are nationwide and their reputation has

"... organized crime has entered the insurance business as third-party administrators..."

been cultivated over a period of time so as not to appear as a "fly-by-night operation" that comes into the community with grandiose plans for saving groups substantial amounts of money. The main difference is that these controlled third-party administrators have inside information into the groups they are pitching or already have the bids secured, making competition in the field extremely limited.

Once the majority of the competition is eliminated, the third-party administrator is free to charge prices that would most complement the enterprise in making money. Members are now sent to their own certified clinics and laboratories which were referred to previously. What is now in effect is a "closed shop." A group is channeled through designated clinics or labs, paid by a third-party administrator that is underwritten by an insurance company.

In each instance, a percentage is taken from every claim filed during each step of the process. It may be as low as \$1 or \$2 per member. However, when multiplied on a scale of approximately 10,000 per group, per visit, per test, the amounts are considerable, the profit substantial, the detection difficult.

To complete the cycle, organized crime has also become involved in supplying clinics with such items as syringes, IVs, and pharmaceuticals. The rationalization behind this type of venture is that if the clinic can be supplied by their own people, overhead is considerably diminished. For example, a clinic or lab dispenses certain pharmaceuticals and prescription drugs. A person knowledgeable in the pharmaceutical field can go to a wholesaler to purchase many of the drugs that will be dispensed by the clinic. This person may contract for generic drugs on the pretense that the drugs will be

shipped to a third-world country, thus purchasing a bulk amount of drugs at a substantially reduced rate. The shipment is then diverted through another hospital supply house, and in turn, sold to the clinic or laboratory controlled by organized crime. The clinic or lab then dispenses the drugs to the members, and a claim is written to the underwriter in which the drug is listed as a brand name pharmaceutical and charged full price. Because the wholesaler, clinic, and the third-party administrator are all controlled by organized crime, all expenses are passed on to the insurance company or underwriter.

Again, at each particular stop along this chain, a percentage is taken or "skimmed" in order to provide further compensation. In some instances, the supply house through which the pharmaceuticals are channeled may be controlled by organized crime; however, due to the volume of business, most records are not scrutinized. In essence, organized crime has its own underwriters, certifying its own clinics and labs, with its own chain of doctors using supplies that have been diverted. Eventually, the cost is passed on to the insurance company resulting in rate increases, unfavorable competition, and increased medical care costs.

This sudden explosion in medical fraud can be attributed to the ever-increasing number of health maintenance organizations (HMO) and preferred provider organizations (PPO) within the last 5 years, where unions negotiate contracts with the large manufacturing firms. With the saturation of new third-party administrators under a HMO or PPO type of plan, and a voluminous listing of members, the traceability of fraud becomes practically impossible. When the team approach to medicine takes place, the individual care and scrutiny is no longer

prevalent; therefore, many claims can "slip through the cracks" and be passed along to the insurance company.

Prescription Fraud

The prescription mill industry as seen in Detroit in the 1980's was clearly one of the major crime problems in this metropolitan area of some 2.5 million people. At one time, 40 percent of all the Nation's abused controlled substances were dispensed in Detroit by pharmacies and physicians. This was clearly a crime problem peculiar to Detroit, but also prevalent in many other areas of the country.

Since 1982, the Detroit Division of the FBI has focused its attention in the medical fraud area on clinics and pharmacies dispensing drugs illegally. During an investigation of nursing homes, laboratories, and others engaged in kickback activity, FBI Agents noted long lines of patients outside medical clinics. Some clinics saw as many as 200 to 300 patients a day—the majority of whom were requesting specific controlled substance prescriptions.

Medication such as talwin, dilaudid, demerol, percodan, desoxyn, and preludin were among those substances which were prescribed by doctors, podiatrists, and dentists. Physicians and pharmacies quickly found that they could make large amounts of money by issuing prescriptions for these drugs. The drugs were being requested by health care recipients not for any legitimate medical purpose, but for resale and illicit trafficking. Dilaudid, a synthetic heroin substitute manufactured and sold for 17 cents per tablet, was being sold on the streets of Detroit for \$25 per tablet and in other areas of the country for as much as \$90 a tab-

"The goal [is] always the same; obtain the insurance card, which thereafter [becomes] a license to defraud."

let. Because the insurance carriers were paying for it, dilaudid became a much easier way to traffic in narcotics than trafficking in heroin or cocaine. The reason for this was simple; someone else was paying for it, namely, the insurance industry.

Dilaudid was not the only drug that was being supplied to narcotics addicts unwittingly by the insurance companies. Desoxyn and preludin, both amphetamine or "speed" substitutes, were being sold in substantial quantities on the streets of Detroit. Preludin sold for \$10 a tablet, while desoxyn cost about \$6 a tablet. Prescriptions were not issued on an individual basis, but were given to "patients" (pill dealers) who would often purchase as many as 20 to 30 prescriptions at the same time, all for the same drug and for fictitious "patients."

The scheme was simple. The physicians and pharmacies held out the carrot—the controlled substance—so that the recipients would provide them with their insurance cards. After this happened, it was open season on the health insurance and government-funded insurance companies.

Over and above the controlled substances, other "carrots" were used, such as disability certifications for fraudulent billing. The disability certifications included workmen's compensation payments and excused absences in Detroit's automotive manufacturing plants.

In some cases, the "carrot" was cash. One Detroit-area chiropractic clinic obtained insurance cards from recipients after offering them money to come to their clinic. Recipients received \$50 for submitting themselves to unneeded x-rays and other medical treatments. Another \$50 was given to patients for referrals of other patients,

who were given \$1,000 worth of unnecessary x-rays on each clinic visit.

The number of "carrots" is restricted only by the imagination of corrupt medical card providers. The goal was always the same; obtain the insurance card, which thereafter became a license to defraud.

Investigation

Agencies tasked with investigating medical fraud and uncovering organized crime enterprises practicing that fraud must be ready to become involved in cases which may well take 2 to 3 years to resolve. The cases are not like the simple property crimes or some of the highly visible and publicized personal crimes. The commitment of manpower must be constant, and the investigators must patiently search for witnesses and physical evidence.

There are steps that individual insurance carriers can take to diminish the amount of medical fraud or at least make it less profitable for organized crime. The first is to work closely with, and bring to the attention of, the FBI matters which do not seem feasible regarding amounts paid per capita business. Second, the insurance carriers should be acquainted with the HMO, PPO, and clinics operating in their areas.

Insurance carriers should also be cognizant of third-party administrators that are trying to undercut basic coverage when it is apparent such coverage can not realistically be offered. Comparative studies over a 3-month period would be appropriate in order to determine the amount paid to clinics or doctors for a particular benefit. Also, the volume that a particular health organization is reporting may also provide a clue to a potential fraud scheme. Finally, as a preventive measure, know the competition as to the type of people behind the organization and who

they represent. Does a particular union have a reputation of being affiliated with organized crime? If so, where are the loyalties of its leaders?

In the past 5 years, 400 defendants in FBI cases have been prosecuted in the Detroit area relating to medical fraud. The sentences these "professional" people have received have gradually increased as the public became increasingly aware of the problem. Recently, one clinic owner was sentenced to serve 25 years, and another podiatrist was sentenced to 15 years' incarceration.

Jail sentences, however, are not enough. Recently, the FBI has initiated a program designed to identify, and through forfeiture proceedings, seize clinics, pharmacies, and other health care entities which have engaged in fraudulent activity. In one investigation, the FBI was instrumental in the forfeiture of five pharmacies which are now the property of the U.S. Government.

These efforts have had a substantial impact on a crime problem that, while not indigenous to Detroit, was unfortunately representative of that community. We have had the fortune of recognizing the problem, and through the commitment of resources, aggressive prosecution, and substantial sentences and forfeiture, were able to take tremendous strides in combatting this crime.

FBI

Urinalysis Drug Testing Programs for Law Enforcement

(Part I)

"Drug testing through urinalysis furthers the goal of preventing the loss of public trust and confidence due to drug abuse by law enforcement officers."

The menace that drug abuse poses for today's society is beyond question. Its adverse effects are many and substantial, and the death of a University of Maryland athlete on June 19, 1986, from cocaine ingestion is but one tragic illustration of the consequences facing drug abusers. But society is also the victim of drug abuse. Drug abuse is causing economic damage of staggering proportions. Some estimates place the economic damage caused by chemical dependency in terms of lost productivity and medical expenditures alone to be in excess of \$100 billion annually.¹ Since 1975, about 50 railroad accidents or mishaps have been attributed to drug or alcohol impairment, resulting in the death of 37 people, the injury of at least 80 more people, and property damage of more than \$34 million.² Crime statistics seem to bear a direct relationship to drug abuse as well. The District of Columbia government announced that a preliminary study in that city showed that over 61 percent of all arrested persons between the ages of 18 to 25 years tested positive for the ingestion of one or more drugs.³

The effect that this drug abuse problem poses for law enforcement is obvious, yet at the same time hidden. On the one hand, the problems of investigating, detecting, and

prosecuting drug traffickers are obvious. On the other hand, the adverse consequences of drug abuse in the workplace are much more of a hidden menace.

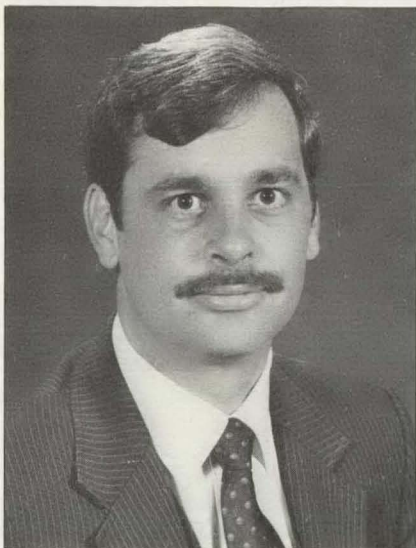
Because of the special place held by the law enforcement community in our society, the effects of drug abuse by any officer or official are magnified. In addition to the obvious physical injuries which might stem from drug abuse, illegal drug use by law enforcement officers would create a disrespect for law enforcement and diminish public trust in our system of government. Just as everyone would object to an airline pilot flying under the influence of drugs, so too will they refuse to tolerate drug abuse by police officers. The challenge for law enforcement is to prevent the disintegration of public trust and respect for law enforcement and to develop a viable mechanism to identify and deal with those officers who abuse drugs.

One mechanism for dealing with this potential problem is the establishment of a comprehensive mandatory drug testing program to identify drug abusers. The purpose of this article is to consider the legal issues in developing and implementing such a mandatory urinalysis drug testing program for law enforcement officers.⁴ Part I of this article will discuss the basis for

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



Special Agent Higginbotham

such a program and the necessary balancing of the competing interests of the individual officer and the officer's department under a traditional fourth amendment analysis. Parts II and III will address the legal basis of drug testing in a law enforcement context, legal issues that arise during implementation of the program, and the use of positive test results in personnel actions.

THE BASIS FOR A DRUG TESTING PROGRAM

Initially, each law enforcement agency or department must determine if it has the need for a comprehensive, mandatory drug testing program. Though the focus of this article is on legal issues related to the development and implementation of such a program, it is not meant to suggest that all agencies must adopt a comprehensive drug testing program. Any department which is considering a mandatory drug testing program should consider two interrelated questions, the answers to which will determine the type of program best suited to the needs of that agency and form the foundation for the defense of the program if it is subsequently challenged in court.

The two questions that should be asked at the outset are: 1) Why should this department adopt a urinalysis drug testing program? and 2) What does this department hope to accomplish with such a program? By analyzing those questions, a law enforcement agency may find that it can simply rely on traditional methods of securing evidence, such as search warrants,⁵ court orders,⁶ or consent,⁷ to deal with the problem of drug abuse by law enforce-

ment officers. However, the analysis might also disclose that a comprehensive urinalysis drug testing program is required to prevent the loss of public trust and to insure the ability of the agency to fulfill its investigatory and enforcement responsibilities.

CONSTITUTIONAL ISSUES IMPLICATED BY A DRUG TESTING PROGRAM

If an agency concludes that a comprehensive urinalysis drug testing program may be required, its next consideration is the legality of the program. Since it will necessarily involve the law enforcement agency or department in inquiries concerning the privacy of its employees' activities and bodily functions and require personnel decisions to be made, certain constitutional considerations immediately appear. They include the law of search and seizure under the 4th amendment, as well as due process notions under the 5th and 14th amendments. For example, is mandatory participation in a urinalysis drug testing program a reasonable search and seizure? Might the program be conducted or the results be used in such an unfair manner as to offend the concept of due process? The answers to those questions will determine whether and how a law enforcement agency or department could constitutionally mandate participation in a urinalysis drug testing program over an individual officer's objection. They will be addressed as they might arise—first in the development of a drug testing program, and second, in implementing the program.

CONSTITUTIONAL ISSUES IN DEVELOPING A DRUG TESTING PROGRAM

The first constitutional issue certain to arise when a mandatory drug

“... a urinalysis drug testing program is not an attempt by law enforcement executives to test officers for drug abuse out of distrust, but rather to provide a better working climate within the law enforcement department and the community it serves.”

testing program is being developed involves the fourth amendment's proscription against unreasonable searches and seizures.⁸ Is mandatory drug testing even a search within the meaning of the fourth amendment?

The Supreme Court has said that “[a] ‘search’ occurs when an expectation of privacy that society is prepared to consider reasonable is infringed”⁹ by governmental action. Does a person, therefore, have a reasonable expectation of privacy in urine sufficient to prohibit the government's warrantless inspection of it for the presence of an illegal drug? That question could be debated at length, but without practical effect, since there is another aspect of urinalysis which almost certainly implicates fourth amendment concerns.¹⁰

That aspect is the act of urination which is considered by American society to be a private bodily function. The expectation of privacy which one possesses in the act of urination is almost certain to be recognized by the courts as reasonable. Since the fourth amendment “protects people, not places”¹¹ and is concerned with “those intimate activities that the Amendment is intended to shelter from government interference or surveillance,”¹² a mandatory urinalysis drug testing program which must concern itself with both compelled urination and inspection of a urine sample will implicate the fourth amendment.¹³

Concluding that a mandatory urinalysis drug testing program by a law enforcement agency is a fourth amendment search does not mean that it cannot legally be implemented. The fourth amendment proscribes only unreasonable searches. The challenge to law enforcement, then, is to adopt a urinalysis drug testing program that can pass the reasonableness test.

Fourth Amendment Reasonableness—A Balancing of Interests

What constitutes a reasonable or unreasonable search is not always easy to determine.

“The test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application. In each case it requires a balancing of the need for the particular search against the invasion of personal rights that the search entails. Courts must consider the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted.”¹⁴

This balancing test of reasonableness under the Fourth Amendment requires a twofold analysis. “[F]irst, one must consider ‘whether the ... action was justified at its inception,’ [S]econd, one must determine whether the search as actually conducted ‘was reasonably related in scope to the circumstances which justified the interference in the first place.’”¹⁵ [citations omitted] In brief, every search must be reasonable at its inception and in its execution. Whether any search, including a urinalysis drug testing program, is reasonable “depends on the context within which a search takes place,”¹⁶ and “the greater the intrusion, the greater must be the reason for conducting a search.”¹⁷

In terms of a urinalysis drug testing program, the balancing test for fourth amendment reasonableness at the inception of the search requires the weighing of three factors: 1) The interests of the law enforcement officer who will be required to participate in the urinalysis program; 2) the interests of the law enforcement agency seeking to implement the program; and 3) the situations or circumstances

under which the actual testing procedures will be implemented. Only if the interests of the law enforcement agency, in the context of the situation in which testing is proposed, outweigh the interests of the individual officers affected will the program be able to pass constitutional muster.

Individual Privacy Interests

The first factor in the balancing test is the interest of the officers and officials who will be tested for drug abuse through urinalysis. That interest can be characterized simply as the fundamental right of “privacy and security of individuals against arbitrary invasions by government officials.”¹⁸ Though law enforcement officers must expect the loss of some rights and freedoms simply by reason of their chosen profession, it is clear that persons who choose careers in law enforcement retain the basic constitutional rights guaranteed to all citizens. “[P]olicemen ... are not related to a watered-down version of constitutional rights.”¹⁹

The right of privacy is the core value of the fourth amendment, encompassing both bodily integrity and private bodily functions. As such, it is directly implicated by a mandatory urinalysis program. In the words of one court:

“Urine, unlike blood, is routinely discharged from the body, so no governmental intrusion into the body is required to seize urine. However, urine is discharged and disposed of under circumstances where the person has a reasonable and legitimate expectation of privacy. One does not reasonably expect to discharge urine under circumstances making it available to others to collect and analyze in order to discover the personal physiological secrets it

"... the threat to public safety posed by government employees who are drug abusers is a legitimate factor in determining the fourth amendment reasonableness of a mandatory urinalysis drug testing program."

holds.... One clearly has a reasonable and legitimate expectation of privacy in such personal information contained in his body fluids."²⁰

An officer's privacy interest does not disappear even though the purpose of the search is to detect drug abuse for employment reasons and not to secure evidence for use in a criminal prosecution. "It is surely anomalous to say that the individual and his property are fully protected by the Fourth Amendment only when the individual is suspected of criminal behavior."²¹ "All of us are protected by the Fourth Amendment all of the time, not just when the state suspects us of criminal conduct."²²

Governmental Interests

The second factor to weigh in judging whether a urinalysis drug testing program can meet the fourth amendment test of reasonableness is the governmental need to adopt such a program. Though this article discusses these needs in terms of governmental interests, a close examination will reveal that the interests are, for the most part, of equal importance and value to an individual law enforcement officer. The reasons upon which a law enforcement agency would rely to implement a drug abuse testing program will further valid societal, governmental, and organizational objectives. At the same time, they also advance health and welfare interests important to individual officers as well. Recognizing the dual benefits in these "governmental" interests demonstrates that a urinalysis drug testing program is not an attempt by law enforcement executives to test officers for drug abuse out of distrust, but rather to provide a better working climate within the law enforcement department and the community it serves.

The interests of the "government"

that must be weighed against the individual officer's right to privacy may be summarized as follows: 1) Public safety, 2) public trust and integrity, 3) corruption, 4) presentation of credible testimony, 5) morale and safety in the workplace, 6) loss of productivity, and 7) civil liability. Each will be discussed in turn.

Public Safety

The impairing characteristics of drug abuse are well known. The use of illegal drugs, such as marijuana, are known to adversely affect a person's judgment and response capabilities almost immediately and for extended periods of time thereafter.²³ Yet judgment and response are perhaps the two most important attributes which a law enforcement officer, who seeks to safely and effectively discharge his/her assigned duties, can possess. The need for unimpaired exercise of these two attributes is further heightened by the officer's possession and use of his/her two principal items of equipment—a weapon and the police vehicle.

The possession and use of a deadly weapon is an enormous responsibility entrusted to nearly every law enforcement officer in America. One can easily foresee the tragic consequences of diminished judgment or skill in discharging a weapon as a result of drug abuse. The same is true of accidents caused by an officer driving a vehicle in a hot pursuit or emergency response situation while under the influence of drugs. It is clear that drug abuse by law enforcement officers constitutes a direct threat to the physical safety of the community.

The courts have recognized that the threat to public safety posed by government employees who are drug abusers is a legitimate factor in determining the fourth amendment reasona-

bleness of a mandatory urinalysis drug testing program. In *Turner v. Fraternal Order of Police*,²⁴ the court described the peril:

"Without a doubt, drug abuse can have an adverse impact upon a police officer's ability to execute his duties. Given the nature of the work and the fact that not only his life, but the lives of the public rest upon his alertness, the necessity of rational action and a clear head unbefuddled by narcotics becomes self-evident. Thus, the use of controlled substances by police officers creates a situation fraught with serious consequences to the public."²⁵

Moreover, this rule applies not just to on-duty use or use immediately prior to on-duty status which results in the impairment of an officer, but also to drug abuse by law enforcement officers in an off-duty status. Most departments require law enforcement officers to be subject to, and available for, immediate call to duty at any time. In addition, many require officers, even while off duty, to intervene or respond to criminal activity they observe taking place. As such, there is a potential threat posed to public safety by an officer's drug abuse, even when the officer may technically be off duty. This risk was recognized in *City of Palm Bay v. Bauman*.²⁶

"The City has the right to adopt a policy which prohibits police officers and fire fighters from using controlled substances at any time while they are so employed, whether such use is on or off the job. The nature of a police officer's or fire fighter's duties involves so much potential danger to both the employee and the general public as to give the City legitimate concern that these em-

ployees not be users of controlled substances. Their work requires and the safety of the public demands complete mental and physical functioning of these officers."²⁷

Accordingly, because of the threat to public safety posed by a law enforcement officer who abuses drugs, on or off duty, a law enforcement agency or department has a legitimate interest in determining, through a urinalysis drug testing program, those officers who are illegally using drugs.

Public Trust

The second "governmental" interest to be weighed against an officer's right of privacy is that of public trust. All experienced law enforcement professionals quickly realize that the job of serving and protecting the community is made easier when the community trusts and supports its police agency. Winning the support and trust of the community is an ongoing endeavor and is undermined if police officers themselves are breaking the law.

Drug abuse by a police officer, in most jurisdictions, constitutes three separate offenses—purchase, possession, and use. Officers sworn to enforce the law cannot be above it. "[P]olice officers who are sworn to enforce the laws lose . . . public confidence if they violate the very laws they are sworn to enforce. [A department] therefore has a right to insist that its law enforcers not be lawbreakers."²⁸ Drug testing through urinalysis furthers the goal of preventing the loss of public trust and confidence caused by drug abuse by law enforcement officers.

Potential for Corruption

The third factor to be weighed against the individual officer's right to privacy is the potential for corruption,

either of, or by, the officer. The very nature of today's police work, i.e., the daily struggle against drug trafficking and use, often brings officers into direct contact with illegal drugs and people associated with them. That exposure provides an officer who is a drug abuser with easier access to drugs through the abuse of his/her powers of office. The temptation to misappropriate the fruits of a drug arrest or search may be irresistible for the drug abusing officer. In addition, an officer who is a drug abuser must acquire his/her drugs from someone. Often, if not always, this act of obtaining an illegal drug requires the association with criminals. If the criminal learns of his buyer's status as a law enforcement officer, that knowledge can be exploited to extort the officer for money, information, or protection.

The potential for corruption and its far-reaching consequences was the basis for a Federal district court's decision to uphold the FBI's determination to require an Agent to submit to urinalysis. In *Mack v. United States*,²⁹ the court stated:

"... the FBI has a compelling interest in assuring that its agents are not involved in drugs. While all private employers may have a generalized desire to know of their employee's drug use which could decrease efficiency, the FBI has far more urgent and compelling needs for such information. FBI agents are privy to highly classified information. Any involvement of an FBI agent with drugs, no matter how small, exposes him to risks of extortion that could jeopardize national security. Also, since the FBI is charged with responsibility for enforcement of the federal drug laws, illegal drug use by agents risks to corrupt and compromise the agency's discharge of those duties."³⁰

Although *Mack* spoke, in part, in terms of national security, an area not within the purview of most law enforcement agencies, the message is still clear. The government, in serving and protecting the public, has a legitimate interest in detecting and deterring drug abuse among its personnel to prevent the corruption of its law enforcement employees to the detriment of both the organization and society.³¹

Presentation of Credible Testimony

The next "government" interest in the fourth amendment balancing test of reasonableness lies in the obligation of law enforcement to serve and protect the community it serves. That obligation includes the presentation of competent, professional, and credible testimony by law enforcement officers in the courtroom. An officer who illegally abuses drugs would be subject to impeachment through proof or an admission that he/she is, in fact, a law violator. "[P]olice officers who are sworn to enforce the laws lose credibility . . . if they violate the very laws they are sworn to enforce."³² Drug testing through urinalysis diminishes the prospect that testimony susceptible to impeachment will be offered by law enforcement officers, and therefore, furthers a legitimate governmental interest.

Morale and Safety in the Workplace

A fifth interest of the government to be balanced against the individual officer's right of privacy is the need to provide a safe and effective work environment. The nature of police work frequently places police officers in life-threatening jeopardy. The resolution of such perilous situations often depends heavily upon the reactions of fellow officers. Every law enforcement officer has the right to be secure in the knowledge that his/her partner, back-up offi-

"The government ... has a legitimate interest in detecting and deterring drug abuse among its personnel to prevent the corruption of its law enforcement employees to the detriment of both the organization and society."

cers, and all responding fellow officers are capable of reacting in a safe and effective manner. This requires all law enforcement officers to be free from the physical effects of drugs, and free from the restraints which drug abuse forces upon officers in terms of desire and willingness to enforce the laws. The moral and legal obligation to insure that will happen must be shared by both police management and individual officers. "[D]rug use by [a law enforcement officer] could affect the success of an operation implicating important ... law enforcement objectives and could pose risk of injury to other [law enforcement officers] working with him."³³ Urinalysis drug testing is a method by which this interest can be protected.³⁴

Loss of Productivity

The sixth factor to be balanced against the individual's right to privacy is the loss of productivity and financial cost attributable to drug abuse. Much has been written about the decline in productivity and the rise in health benefit costs as a result of drug abuse by private sector workers.³⁵ Even conceding that drug abuse by law enforcement may not be of the same magnitude as drug abuse in private sector employment, one must readily admit that drug abuse, to any degree, will adversely affect productivity and health benefit costs.

The efficient expenditure of budgeted funds has, perhaps, never been more important than today in times of fiscal restraint. Additionally, since the budgets of law enforcement are funded from taxpayers' funds, the obligation of fiscal responsibility may even be greater than the responsibility facing private sector's management of investment dollars. Though no court has addressed the legality of drug testing by law enforcement in these terms,

concern for productivity and prudent expenditure of funds must be recognized as a legitimate "governmental" interest in determining the fourth amendment reasonableness of urinalysis drug testing.

Civil Liability

The last of the "governmental" interests is that of civil liability. Members of the public who suffer injuries at the hands of law enforcement officers may bring lawsuits against the officers³⁶ and the city they represent.³⁷ If a drug abuse problem exists within a law enforcement organization, liability could attach if it were established that an officer's conduct which injured a citizen was directly linked to the failure of the department to detect and resolve the drug abuse problem.³⁸ While it is not suggested that fear of civil liability to be the driving force behind the implementation of a urinalysis drug testing program, it is a legitimate interest to be considered in the fourth amendment's balancing test.

(continued next month)

FBI

Footnotes

¹T. Schneider Denenberg, *Alcohol and Drugs: Issues in the Workplace* (Bureau of National Affairs, Inc., 1984), p. v., combining economic damage attributable to both alcohol and drug dependency.

²J. Castro, "Battling the Enemy Within," *Time Magazine*, March 17, 1986.

³*Washington Post*, p. B3, June 28, 1986.

⁴Any law enforcement department or agency which is contemplating the adoption of a urinalysis drug testing program should give serious consideration to a broader policy which would encompass the issue of substance abuse. That is, of equal and perhaps even greater importance to law enforcement are the issues of alcohol abuse and the use and abuse of legal, prescription drugs. Those issues are beyond the scope of this article but are matters which should be considered as part of a comprehensive policy dealing with substance abuse and chemical dependency.

⁵See, e.g., *State v. Magnuson*, 308 N.W. 2d 83 (Iowa 1981) (upholding search warrant compelling production of blood and urine samples).

⁶See, e.g., *In re Fingerprinting of M.B.*, 309 A.2d 3 (N.J. Super. 1973) (compelling suspects to submit to fingerprinting based on a reasonable suspicion standard).

⁷See, e.g., *Schneekloth v. Bustamonte*, 412 U.S. 218 (1973).

⁸The fourth amendment of the U.S. Constitution provides: "The right of the people to be secure in their per-

sons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized."

⁹*United States v. Jacobsen*, 104 S.Ct. 1652, 1656 (1984).

¹⁰See, *Turner v. Fraternal Order of Police*, 500 A.2d 1005, 1009-1011 (D.C. App. 1985), J. Nebeker, concurring.

¹¹*United States v. Katz*, 389 U.S. 347, 351 (1967).

¹²*Oliver v. United States*, 104 S. Ct. 1735, 1741 (1984).

¹³See, *McDonnell v. Hunter*, 612 F. Supp. 1122 (D. Iowa 1985); cf., *Turner v. Fraternal Order of Police*, 500 A.2d 1005 (D.C. App. 1985), J. Nebeker, concurring.

¹⁴*Bell v. Wolfish*, 441 U.S. 520, 559 (1979).

¹⁵*New Jersey v. T.L.O.*, 105 S.Ct. 733, 744 (1985).

¹⁶*Id.* at 741.

¹⁷*Blackburn v. Snow*, 771 F.2d 556, 565 (1st Cir. 1985).

¹⁸*New Jersey v. T.L.O.*, *supra* note 15, at 736.

¹⁹*Garrity v. New Jersey*, 385 U.S. 493, 500 (1967).

But see, Turner v. Fraternal Order of Police, 500 A.2d 1005, 1008 (D.C. App. 1985): "... the police force is a paramilitary organization dealing hourly with the general public in delicate and often dangerous situations. So we recognize that, as is expected and accepted in the military, police officers may in circumstances enjoy less constitutional protection than the ordinary citizen."

²⁰*McDonnell v. Hunter*, 612 F.Supp. 1122, 1127 (D. Iowa 1985).

²¹*Camara v. Municipal Court*, 387 U.S. 523, 530 (1967).

²²*Shoemaker v. Handel*, 619 F.Supp. 1089, 1098 (D. New Jersey 1985), *aff'd* ___ F.2d ___ (3d Cir. 1986). *But see, Allen v. City of Marietta*, 601 F.Supp. 482, 489-91 (N.D. Georgia 1985).

²³See, e.g., P. Mann, *Marijuana Alert* (McGraw-Hill, 1985).

²⁴*Supra* note 10.

²⁵500 A.2d at 1008. See also, *Allen v. City of Marietta*, 601 F.Supp. 482, 491 (N.D. Georgia 1985).

²⁶475 So.2d 1322 (Fla. App. 5th Dist. 1985).

²⁷*Id.* at 1326 (emphasis in original).

²⁸*Id.*

²⁹83 Civ. 5764, Southern District of New York, April 24, 1986.

³⁰*Id.*, slip opinion at 8.

³¹For a compilation of instances of the corruption induced by illegal drugs, see 1 Drug Law Report 229-237, March-April, 1986.

³²*City of Palm Bay v. Bauman*, *supra* note 26, at 1326.

³³*Mack v. United States*, *supra* note 29, slip opinion at 8.

³⁴See also, *Egger v. Phillips*, 710 F.2d 292 (7th Cir.), *cert. denied*, 464 U.S. 918 (1983), concerning the need and ability of law enforcement management to take those measures necessary to ensure *esprit de corps* and prevent disruption in the workplace.

³⁵See, e.g., P. Mann, *Marijuana Alert*, *supra* note 23, pp. 35-47.

³⁶See, e.g., 42 U.S.C. §1983.

³⁷*Monell v. Department of Social Services*, *supra* 436 U.S. 658 (1978); *Pembaur v. City of Cincinnati*, 106 S.Ct. 1292 (1986).

³⁸See, *Bonsignore v. City of New York*, 521 F. Supp. 394 (S.D.N.Y. 1981), *aff'd*, 683 F.2d 635 (2d Cir. 1982) (liability for failure to identify officers psychologically unfit to carry weapons); *Marchese v. Lucas*, 758 F.2d 181 (4th Cir. 1985) (liability for failure to investigate allegations of excessive force and impose appropriate discipline). Compare *Daniels v. Williams*, 106 S.Ct. 662 (1986), requiring proof above simple negligence to support a claim under 42 U.S.C. §1983.

WANTED BY THE FBI

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

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



Photographs taken 1976

Richard Rodriguez,

also known as "Richie" Rodriguez, Richard Rodriguez, Fredrico Sanchez, Jesus Vallamon, Jesus Vallanon, "Bug," "Indio." W (Puerto Rican descent); born 10-31-49, New York, NY; 5'8"; 140 lbs; med bld; blk hair; brn (dyslexia, rt. eye "wanders") eyes; med olive comp; occ-electrician, laborer-warehouseman, plane mechanic, sheet metal worker; scars and marks: scar on left ankle; remarks: likes horseback riding and camping, reportedly an expert with a bow and arrow. Wanted by FBI for INTER-STATE FLIGHT-ESCAPE.

NCIC Classification:

1705071114160506PM14

Fingerprint Classification:

17 L1 U III 14
M 2 U IIM

I.O. 4882

Social Security

Number Used: 562-80-2796

FBI No. 2 639 K3

Caution

Rodriguez, a convicted assassin who may be associated with and receiving aid from extremist revolutionary groups, is being sought as an escapee from prison where he was serving a life sentence for an execution-style murder. Consider Rodriguez armed, extremely dangerous, and an escape risk.



Right index fingerprint



Photograph taken unknown.

Charles Allen Atkins,

also known as Charles Allen Atkin, Robert D. Gordon, Arthur Johnson, Arthur J. Johnson, Jeffery Leroy Loveday, Jeffrey Leroy Loveday, James Kevin McGuire, Charles William Rice, Charles William Rice, Jr., Ronald Carl White, "Charlie." W; born 3-2-54, Trinidad, CO, 6'2"; 175 lbs; thin bld; brn hair; brn eyes; fair with pock mark comp; occ-carpet layer, laborer, merchant marine, mine worker, security guard; scars and marks: scars on calf of right and left legs.

Wanted by FBI for BANK LARCENY.

NCIC Classification:

23AA0105081754TT0710

Fingerprint Classification:

23 L1 A8 Ref: A
L 1 Rt T

I.O. 4880

Social Security

Numbers Used: 291-58-8306; 376-86-5124;

291-58-5494; 271-56-8613;

292-54-5173; 441-60-5135;

564-80-7139

FBI No. 758 660 H

Caution

Atkins, who is knowledgeable in the use of handguns, may be armed with a .357 magnum revolver. Atkins is being sought in connection with the theft of over \$1 million from the Purolator Armored, Incorporated Company in Denver, CO. He should be considered armed and dangerous.



Right thumbprint



Photograph taken 1980

William Claybourne Taylor,

also known as Michael A. Cauley, Michael Ferris Cauley, Michael Ferris Cawley, Clay Taylor, Wm. C. Taylor, William Clay Taylor, William Claybourne Taylor VII. W; born 7-2-49, Jacksonville, FL; 6'4"; 200 lbs; med bld; bld hair (has been dyed red in the past); bl eyes; fair-ruddy comp; occ-advertising, convenience store clerk, dance instructor, key punch operator, painter, trumpet player; scars and marks: scar at base of right index finger and right middle finger, burn scar on right forearm, scar on left side, halfmoon scar on one knee; remarks: reportedly bisexual, sometimes wears a mustache, frequents adult bookstores, heavy drinker.

Wanted by FBI for INTERSTATE FLIGHT-MURDER, AGGRAVATED BATTERY.

NCIC Classification:

POPMTTTCO18040309CI15

Fingerprint Classification:

4 O 25 Wt 18
S 18 U

I.O. 4886

Social Security

Numbers Used: 411-27-5151; 414-80-2662

FBI No. 554 560 G

Caution

Taylor, an alleged hired assassin, is being sought in connection with the shotgun slaying of a former Immigration and Naturalization Service official and the aggravated battery of another victim who survived three .32-caliber pistol wounds. Consider Taylor armed and dangerous.



Right little fingerprint

WANTED BY THE FBI



Photographs taken 1977 and 1978



Photographs taken 1972



Photograph taken unknown

David Franklin Cantrell,

also known as Dave Cantrell, David F. Cantrell, David Cantrell, Davie Cantrell, Dave Howdeshell, James Howdeshell, David Woods, "Dave," "Davie."

W; born 9-25-39, Washington County, MO; 5'9"; 132 lbs; med bld; brn (may be dyed blk, brn, or auburn) hair; bl eyes; med comp; occ-carpet layer, laborer; scars and marks: diagonal scar center of forehead; tattoos: "DAVID" and a dagger on right arm, eagle's head on left hand; remarks: reportedly a heavy drinker, frequents bars.

Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:

21TT0402071602TT0413

Fingerprint Classification:

$\frac{21}{M} \frac{L}{1} \frac{T}{U} \frac{7}{T}$ Ref: $\frac{T}{T} \frac{U}{U} \frac{U}{U}$

I.O. 4888

Social Security

Numbers Used: 490-38-1611; 490-38-4611

FBI No. 309 969 C

Caution

Cantrell, who is believed to carry a handgun at all times, is being sought in connection with a murder wherein the victim was shot twice in the chest. Consider Cantrell armed and dangerous.



Right ring fingerprint

Carl Alfred Eder,

also known as Charles Eder, Charles Harrison, John Wehee. W; born 6-30-42, Rochester, NY; 6'2"; 165-175 lbs; slm bld; bld (receding) hair; bl eye; fair comp; occ-(in prison) cabinet maker, lab technician, leather worker, machinist, mechanic (boat engines);

scars and marks: scar on left hand between thumb and forefinger, scar from gall bladder surgery;

remarks: follower of Zen Buddhism, a loner, recluse, and an outdoor-type.

Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:

185408050819TT081007

Fingerprint Classification:

$\frac{18}{L} \frac{M}{1} \frac{R}{T} \frac{III}{II} \frac{8}{8}$ Ref: $\frac{T}{T} \frac{T}{R} \frac{U}{U}$

I.O. 4878

Social Security

Number Used: 557-92-5576

FBI No. 144 932 D

Caution

Eder, who is being sought as an escapee from custody, was at the time of escape serving a life sentence for the shooting and stabbing murders of a woman and her four children. Eder has stated he will go to any length to avoid recapture. Consider Eder armed, extremely dangerous, and an escape risk.



Left middle fingerprint

Arturo Leroy Martinez,

also known as Art Martinez, Art Leroy Martinez, Arthur Martinez, Arthur Leroy Martinez, Arturo L. Matrinez.

W (Spanish descent); 1-26-48, Salt Lake City, UT (not supported by birth records); 5'8"; 150-170 lbs; med bld; blk hair; brn eyes, med comp; occ-cab driver, farm laborer, machine shop helper, maintenance man, truck driver;

scars and marks: scar on outer right arm, round brown mole left side of upper back; tattoo: cartoon of Speedy Gonzales with Mexican sombrero on upper right arm; remarks: wears prescription glasses for nearsightedness.

Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:

PO731221152266TT1813

Fingerprint Classification:

$\frac{23}{L17} \frac{O}{1} \frac{R}{R} \frac{15}{15}$

I.O. 4891

Social Security

Number Used: 585-22-0811

FBI No. 644 567 G

Caution

Martinez is being sought in connection with a slaying in which the victim was allegedly shot with a handgun. Consider Martinez armed and dangerous.



Left index fingerprint

Referenced Pattern

The pattern presented possesses two ending ridges on or about the same plane, plus a delta formation, and is classified as a tented arch. At one point in the history of the Identification Division such patterns were classified as plain arches. Because of this change in definition, the pattern type is automatically referenced to a plain arch.



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FBI

Law Enforcement Bulletin

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The Bulletin Notes

Officer Emiliano Sepulveda, Jr., of the Port Authority of NY and NJ police, while off duty in October 1984, and accompanied by his family, saw a large gang of youths pursuing one or two youths in the Bronx, NY. After seeing to the safety of his family, Officer Sepulveda was able to stop a knife attack on the two youths, render first aid to both, and according to hospital personnel, saved their lives. The Bulletin is pleased to join Officer Sepulveda's superiors and the Carnegie Hero Fund in recognizing his heroism.



Officer Sepulveda
