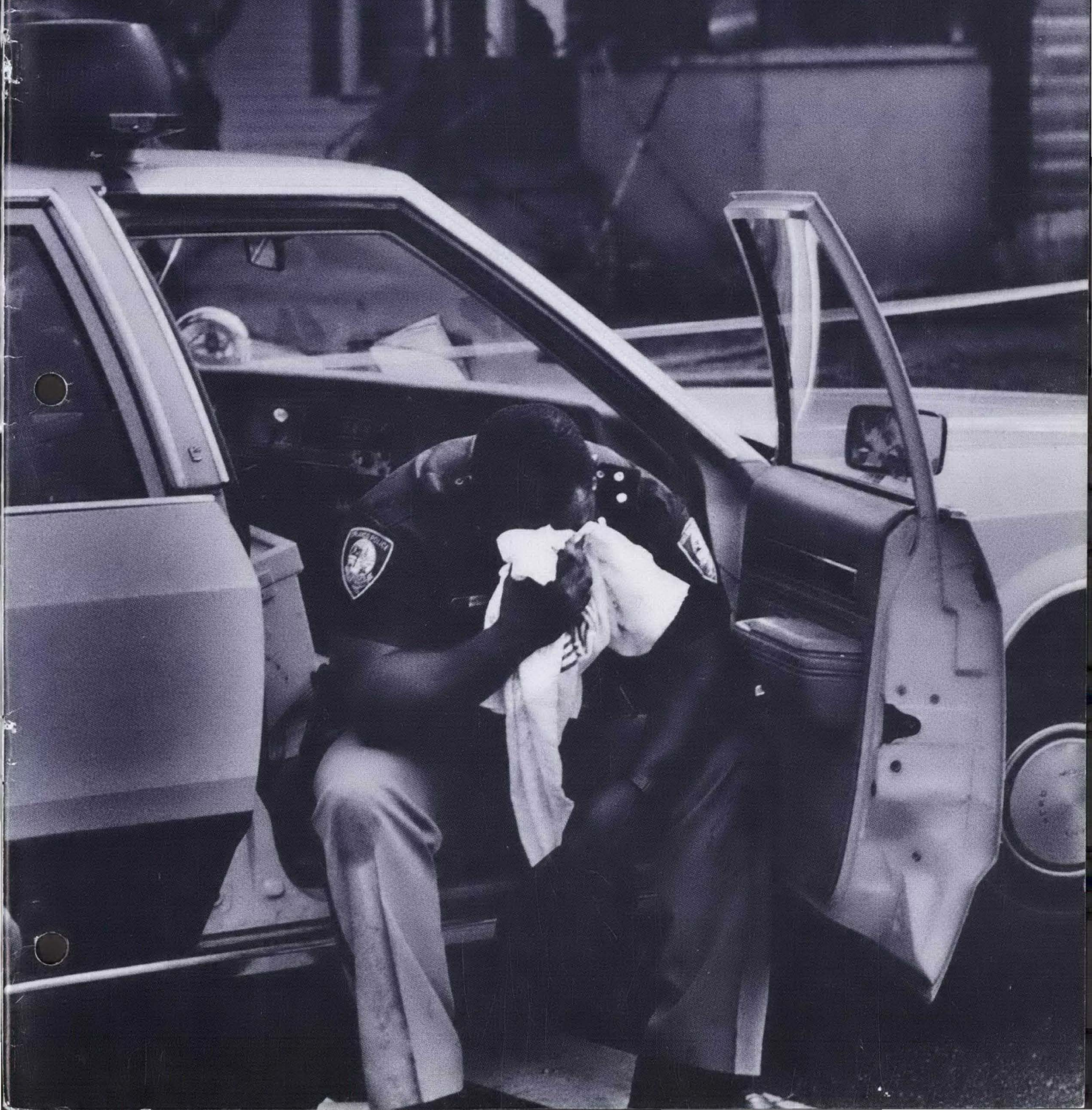




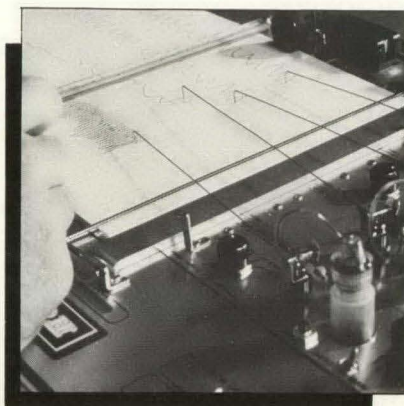
October 1989

# FBI

## ***Law Enforcement Bulletin***







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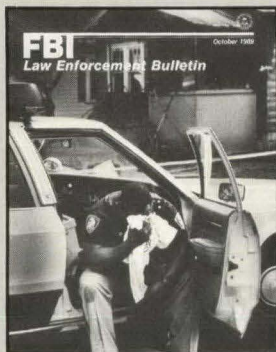
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**The Cover:** An Orlando, FL, police officer weeps after telling a mother that her child has died in a house fire. Photo courtesy of Bobby Coker/The Orlando Sentinel.

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# Police Peer Counseling Officers Helping Officers



By  
SGT. ROBIN KLEIN, Ph.D.  
*Police Department  
Long Beach, CA*

People have always relied on their fellow employees for understanding and support, especially during stressful situations, but it has not always been in the formal, supervised and constructive fashion that is now being advocated. Today, the purpose of peer counseling in law enforcement is to train police officers to help others deal with stressful situations in a more positive, structured manner. It has been said, and probably rightfully so, that no one better understands the prob-

lems of a police officer than another officer. With this built-in trust that police officers have for each other, peer counseling becomes a "natural."

However, men and women in general, and police officers in particular, are still supposed to be able to handle their own problems, i.e., "real men and women don't have problems." This damaging myth costs police officers up to 14 years of their lives—they die that much earlier than those in other occupations.<sup>1</sup> In fact, it probably

won't be the bullet that will strike down an officer, but the effects of chronic stress.

## An Historical Perspective

Police peer counseling began in the 1950s when the Boston Police Department began a stress program which focused mainly on alcohol-related problems. Five years later, the Chicago Police Department also began a peer counseling program as an approach to dealing with alcoholism within the department. Modeled



after the Alcoholics Anonymous 12-step program, officers in both police departments were helped by fellow officers who were themselves recovering alcoholics.

New York City established an alcohol program in 1966. This program's premise was that when the department helps officers recover from alcoholism, it gains a highly motivated person, a more compassionate officer, and a grateful family. In this program, both the individual and the organization benefited. However, although individuals with various problems were helped by the program, its primary emphasis was still on alcoholism.

The Los Angeles Police Department, under the direction of Dr. Martin Reiser, established an in-house behavioral science unit. This department was one of the first to develop and implement a fully department-supported peer counseling program using officers and civilians as volunteer counselors.

In 1982, Dr. Jim Linden and the author conducted the first peer

counseling training program for the Long Beach Police Department. Later that year, this program was certified by POST (The Commission on Peace Officer's Standards and Training) and has since been used by over 40 departments throughout California. In 1984, the Los Angeles County Sheriff's Department followed suit and developed its own peer counseling training program using in-house psychological services.

### **The California Peer Counseling Program**

Today, as in the past, police officers have an obvious need to distance themselves from the negative aspects of their profession before going home. Police officers operate in a unique and often unrealistic environment. They spend their days and nights being problem solvers; they typically see only a skewed view of society; and they are expected to perform their job without any fear or sense of danger. To accomplish this task it is necessary, for the maintenance of their own sanity,

to maintain a sense of detachment, yet not be cold and uncaring. However, they are then expected to be able to go home and be involved in an egalitarian relationship with their spouse and/or family and to be in touch with their feelings and emotions. Often they have trouble making this transition. In the past, many have used what Waumbaugh called "choir practice"<sup>2</sup> to make this transition. However, this "practice" of using alcohol to drown the day's negative aspects has tragically resulted in the creation of a large number of alcoholics.

The California peer counseling program attempts to address these and other problems of police officers. The California program is co-taught by a clinical psychologist in private practice and a police officer who has a Ph.D. This combination of a psychologist and a police officer allows for theory and practice to be effectively merged in a classroom setting.

The program lasts for 3 days and is divided into three parts—explanation, demonstration, and performance, thus using the basic psychological principles of the three-phase Rogerian model consisting of establishing rapport, active listening, and taking action.<sup>3</sup> During the training, psychological principles are presented to the class and later demonstrated in a counseling setting by the instructors. The class is then broken into groups to practice the skills.

The purpose of peer counseling training is to teach a group of peers to recognize problems and to counsel their fellow officers. The peer counselors are also trained to recognize those problems that are



**“... it probably won't be the bullet that will strike down an officer, but the effects of chronic stress.”**

*Sergeant Klein*



beyond their abilities, such as hallucinations, delusions, suicidal and homicidal tendencies, or chronic depression. Officers with such problems are referred to an outside professional agency or to a psychologist.

In determining whether the peer counselors have the capability of recognizing these problems and counseling their fellow officers, one must keep in mind that police officers typically deal with mentally ill individuals in their day to day work. In fact, police officers are probably in contact with more people who are mentally ill than the typical psychologist in private practice.

Even so, opposition to police peer counseling occasionally arises, primarily from two sources. First, a police chief may decide against peer counseling in the department for one reason or another. A second opposition is sometimes heard from psychologists who feel threatened that the peer counselor will "take business away from them." However, establishing a peer counseling program usually has the opposite effect; peer counselors usually generate business when they recognize serious problems in officers and refer them to psychologists for treatment.

### **Benefits of Peer Counseling**

Because peer counselors are fellow police officers, they often have more empathy for other officers than an individual who has not had similar experiences. Some police officers find it very difficult to ask for help, especially from an outside professional. And, to make an appointment with a psychologist is a big first step

which forces them to admit that they have a problem they are unable to handle. To talk casually with a peer counselor is a much smaller step, one that many police officers are more willing and able to make, and one that can either resolve the problem or lead to further assistance. The peer counselor

nate amount of time on those areas that they cannot change.

A related area that the peer counselor can provide invaluable assistance to fellow officers is in the area of post-traumatic stress disorder. Peer counselors primarily encounter this disorder in officers who have been involved

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***The peer counselor is able to provide a safe place for troubled officers to ventilate and get in touch with their feelings in a nonjudgmental environment.***

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is able to provide a safe place for troubled officers to ventilate and get in touch with their feelings in a nonjudgmental environment.

As well as being trained to recognize those areas that are beyond their ability or training, peer counselors can also be trained to handle a wide range of problems, including stress, post traumatic stress, relationship problems and chemical dependency.

Officers experiencing the adverse effects of stress is one of the areas that the peer counselor deals with frequently. The concept that stress can predispose an individual to physical illness is not new. Now, however, research has finally proven this to be true. People may not have control over the stressful event but they can control their perception and response to it. The peer counselor can assist the officer in developing constructive ways of dealing with stress, recognizing what they can change and what they cannot, and helping them learn not to spend an inordi-

in shooting incidents. However, dealing with events such as the death of a child, a fatal traffic accident—especially when an officer is involved—rape, and major disasters, such as an airplane crash, can also trigger post traumatic stress. If counseling is provided to troubled officers in a timely manner, the prognosis for a fast recovery and adequately dealing with the event is very good.

Another area that the peer counselor often deals with is relationship problems. While these problems may not be directly related to law enforcement, they can be exacerbated by the demands law enforcement places on the individual officers and their families. In the majority of these cases the problem lies in not adequately communicating one's feelings, needs or wishes to the other person. This problem can occur quite frequently in law enforcement, because those behaviors that function very well, and for which police officers are often rewarded



# Police Practices

on the job, do not make for good behavior in a relationship. For example, on the job, police officers are accustomed to being in charge. For some officers, the daily transition from being in charge on the job to going home to an egalitarian relationship can prove difficult.

One of the most difficult areas that the peer counselor will encounter is the chemically dependent individual. In the case of law enforcement officers, this usually means alcohol. Typically, with chemical dependency, there is so much denial that the person does not or will not seek treatment. However, even when such a condition exists, peer counselors can make a positive difference.

## Conclusion

Much can be done by the peer counselor to help an officer who is involved in these and many other situations. The limited research that has been done in this area indicates that if counseling is provided to troubled officers in a timely manner, the prognosis for a fast recovery and adequately dealing with the event is very good. Peer counseling for police officers is one of the very few training programs that is geared specifically toward officers helping themselves. It is a win-win situation; the officers benefit, their families benefit, the department benefits, and the citizens benefit.

FBI

## Footnotes

<sup>1</sup>Video-tape entitled, "The Silent Killer: Introduction to Stress Management," by Motorola MTI Teleprograms, Inc.

<sup>2</sup>Joseph Waumbaugh, *The New Centurions* (Boston, MA: Little, Brown and Co., 1970).

<sup>3</sup>James I. Linden, *Police Peer Counseling*, unpublished manual, California State University, Long Beach, CA.

## Criminal Investigation Response Teams

CIRT—Criminal Investigation Response Team—is an innovative development by the California Attorney General's Division of Law Enforcement. The concept of CIRT originated in 1985 when two criminalists from the State's Bureau of Forensic Services were teaching a course on crime scenes. These criminalists realized that investigative personnel view the same crime scene in different ways, according to their training. Combining personnel with different skills into an investigative team, complete with specialized training, would provide more extensive assistance to local law enforcement.

The CIRT team concept employs special agents from the State's Bureau of Investigation and criminologists and latent print analysts from the Bureau of Forensic Services. Those assigned to CIRT teams receive extensive training in a variety of fields,

including forensic odontology, forensic anthropology, forensic pathology, crime scene reconstruction, satanic cults, crime scene management, serial murders, psychological profiling, interrogation, and officer-involved shootings. Special agents culminate their CIRT training with a 2-month assignment to a major metropolitan homicide unit in a California city. To date, 2 latent print analysts, 12 special agents, and 17 criminologists have received CIRT training.

Team members carry out their normal investigative or forensic responsibilities during the day-to-day operations of both Bureaus. However, they are available to provide immediate on-site investigative services—from case consultation to full investigative responsibility—to local law enforcement throughout the State. CIRT is designed to respond to homicide or violent crime scenes of a complex or multijurisdic-

## Services Available From CIRT

- Evidence collection, preservation, and analysis
- Crime scene reconstruction
- Video taping
- Crime scene supervision
- Search warrant preparation
- Suspect apprehension
- Expert testimony
- News media coordination



tional nature in those areas where investigative or forensic resources are limited.

Requests for CIRT services can either originate within the California Department of Justice or come from a Federal, State, or local law enforcement agency. Several types and levels of services are available through CIRT—case consultation, joint investigations, complete investigative responsibility, and follow-up investigations.

In *case consultations*, a CIRT team reviews either an ongoing or completed investigation to examine undeveloped leads and their possible significance to the case. With *joint investigations*, a law enforcement agency may request active support from CIRT; yet, it may wish to retain part of the responsibility and authority for the investigation. For example, in a homicide investigation in a rural county, two CIRT teams and a photographer assisted the local sheriff's office in processing the crime scene. They gathered enough evidence to obtain arrest warrants for four suspects.

A law enforcement agency can request that a CIRT team assume *complete investigative responsibility* of a violent crime or homicide scene. In one particular case, the CIRT team took command of the investigation, processed the crime scene, interviewed a number of people, and gathered enough evidence to arrest three men for murder.

### California Department of Justice Support Services

- Latent print analysis
- Polygraph
- Photography
- Missing person assistance
- Homicide analysis

A local agency may call in CIRT to conduct a *follow-up investigation* after its own efforts have been unsuccessful. The team evaluates the case to determine if there are any workable investigative leads which warrant further investigation or to concur with the results of the initial investigation.

Since CIRT was created in November 1986, teams have been requested by police departments, sheriffs' offices, grand juries, district attorneys, and State agencies for consultation and/or investigation in over 50 cases. CIRT has investigated homicides, rapes, missing persons, arsons, and mul-

tiagency serial homicides for 28 counties.

The CIRT concept combines forensic and investigative skills. By using this investigative technique, the law enforcement community in the State of California has been able to take advantage of the knowledge, experience, and talent of trained professionals throughout the State to solve crimes and apprehend criminals.

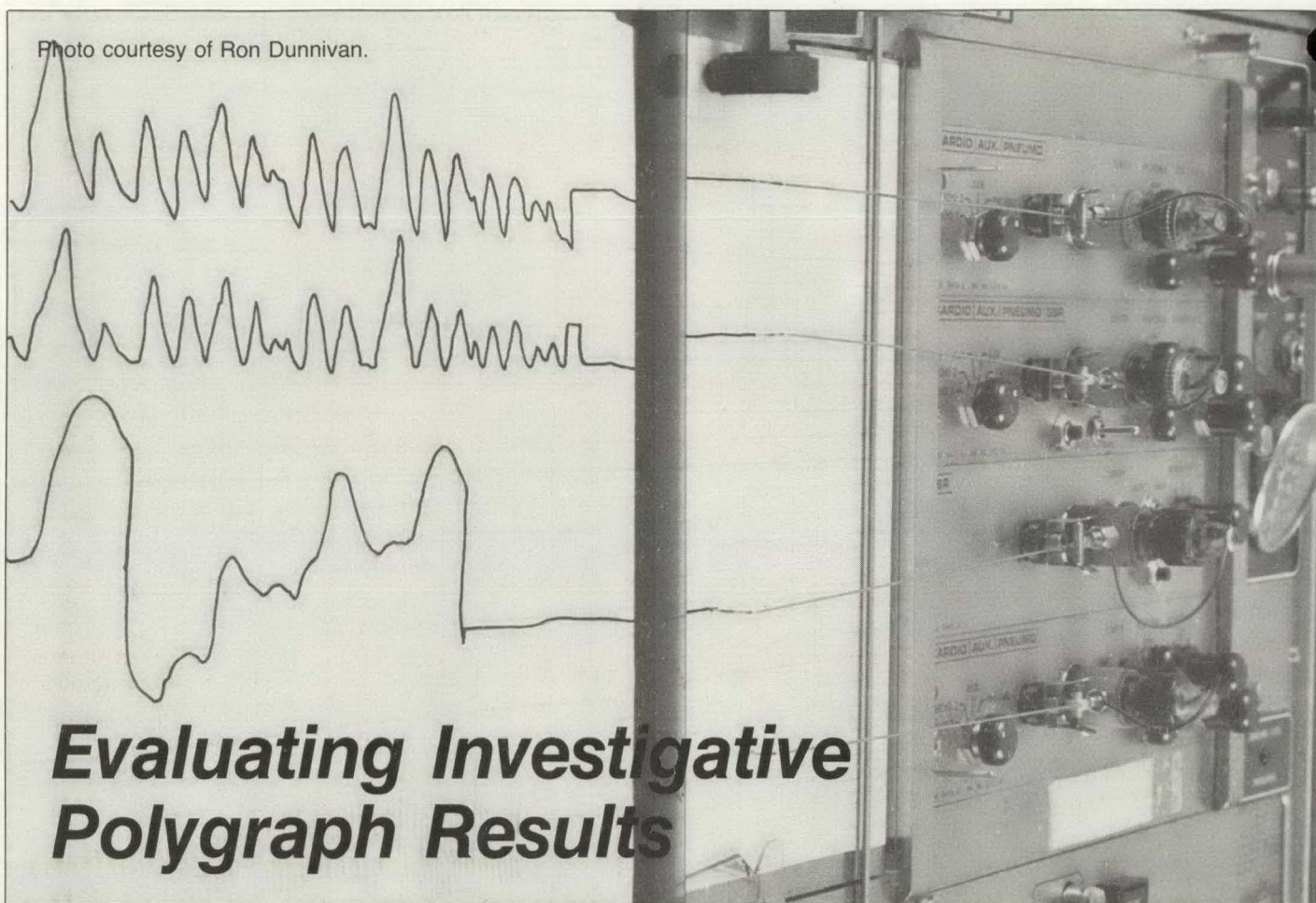
*Information for this feature was obtained from the Office of the Attorney General, State of California, Department of Justice, Sacramento, CA.*

FBI

**Police Practices** serves as an information source for unique or noteworthy methods, techniques, or operations of law enforcement agencies. Submissions should be no more than 750 words (3 pages, double spaced and typed) and should be directed to Kathy Sulewski, Managing Editor, *FBI Law Enforcement Bulletin*, Room 7262, 10th & Pennsylvania, NW, Washington, DC 20535.



Photo courtesy of Ron Dunnivan.



## **Evaluating Investigative Polygraph Results**

By  
**RONALD M. FURGERSON**  
*Special Agent  
Document Section  
Laboratory Division  
Federal Bureau of Investigation  
Washington, DC*

**S**uppose your department receives a report from an obviously distraught young mother who said she was in a neighborhood convenience store for a couple of minutes to buy milk when her one-year-old daughter was kidnaped from her car. Suppose further that the investigation confirms certain details of the mother's account, but that other aspects of the case were troublesome and just didn't "ring true." How can you "weed out" the deceptive statements from the ones that are true?

Law enforcement agencies have found the polygraph to be a highly successful and useful technique to resolve such investigative

dilemmas. Frequently, in such cases, important managerial and investigative decisions must be based primarily on the results of the polygraph examination and the examiner's evaluation of the charts, when there is no confession or other credible evidence to fully confirm the examiner's opinion.<sup>1</sup> Should the investigation continue? If so, should the focus of the investigation change or remain the same? Should additional resources be allocated to the case? While there are no clear-cut rules to govern the manager's decision, there are certain factors which may be useful in assessing the level of confidence given to an examiner's opinions on a case-by-case basis.



This article discusses the many factors which influence polygraph accuracy. It will also enable law enforcement managers and investigators to better determine the weight which should be given to polygraph examination results and examiner conclusions. Further, the information discussed may prove useful in determining whether an examination should be given at all, and if so, what might be done to improve the probability of accurate results.

### ACCURACY FACTORS

A polygraph examination is a process which consists of many variables. Credible research concerning polygraph validity indicates that accuracy levels exceed 90 percent for certain investigative polygraph methods.<sup>2</sup> However, this does not mean that 90 out of 100 examinations conducted by every examiner in every situation will be correct.

Since polygraph examinations are not infallible indicators of fact, examiner conclusions must always be viewed with a degree of caution. Policy within the Federal investigative and intelligence communities specifies that examiner conclusions, based on chart interpretation alone, should not be a determiner of investigative fact and should not be used to exclude other evidence. Examiner opinions constitute but a single element of all the information which becomes available during a complete and thorough investigation.<sup>3</sup>

Contributing factors to the accuracy level of the polygraph can be grouped into four major categories—the examiner, the examinee, the investigation, and

the examination conditions. Quality control reviews may also be useful in assessing polygraph results.

### The Examiner

Without a doubt, examiner skill contributes greatly to polygraph examination accuracy. Of course, most investigators who have worked with a number of different examiners over time realize that all examiners are not the same and do not achieve the same results from the examinations. Some examiners are far more successful and capable than others in solving cases. They are the ones who usually “get the confession” or somehow cause things to happen to clarify or to advance the investigation.

However, it is prudent to exercise caution when an examiner's opinion is based solely on the charts. The same “people skills,” or interrogation ability, which produce confessions are not necessarily the same skills which result in proper chart analysis.

A key factor when attaching weight to an examiner's opinions

behavior and body language as a sign of deception. The best examiners will be proficient in at least one and preferably in a variety of recognized polygraph techniques<sup>4</sup> which have been demonstrated, through competent research, to have a high level of validity. Further, they will have been trained in and use the “numerical analysis” method of chart interpretation, which promotes objective chart evaluation, has been validated by competent research, and which probably contributes to overall accuracy.<sup>5</sup>

In addition to their initial examiner training, the most qualified examiners will have received refresher training within the last year as an aid to retaining proficiency and adhering to recognized standards and procedures.<sup>6</sup> They should also demonstrate professionalism by showing an interest in current research, maintaining membership in professional associations, and following current developments in the polygraph field through journal articles and newsletters.

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***The most obvious factors influencing examinees are their physical and emotional conditions.***

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is the quality of their training. Generally, most qualified examiners will have been trained at a reputable polygraph school or through a course accredited by the American Polygraph Association, which does not place primary emphasis on an examinee's

Another factor which contributes to examiner competency is experience. Qualified examiners will have accumulated considerable experience in polygraph usage and may have even completed an internship under the supervision of a senior examiner.





Special Agent Furgerson

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**Polygraph  
examinations can  
only determine if  
examinees are  
reporting what they  
believe to be true....**  
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They will also be in positions to use their polygraph skills often, so that their skills will not erode through neglect or inactivity.<sup>7</sup>

An experienced examiner will also be better able to establish rapport with examinees, to determine if examinees are proper candidates for examination at that time, and to select the interview technique most likely to properly prepare examinees for examination (and subsequent interrogation if deception is indicated). Also, they should be able to detect the presence of any countermeasure an examinee may use in an attempt to thwart the examination process.

The case facts may be highly complex, requiring examiners to resolve a number of issues and sub-issues. Therefore, experience as an examiner and an investigator, or other experience involving the analysis of criminal activity and behavior, is helpful in identifying the issues to be addressed during the examination and how to best structure polygraph examinations to do so.

An examiner's personal integrity and moral courage have great significance. A professional

examiner will not be intimidated to reach popular opinions or just to substantiate opinions of previous investigators. Professional examiners will not test candidates who are unfit for examination and will not conduct examinations under unsuitable conditions, with inadequate preparation time, or with insufficient background information on the case. Their examinations will always be directed at solving the case and/or addressing all the issues under investigation. They will *not* simply try to find some question the examinee can answer truthfully, or is sure to fail. Finally, ethical examiners, whose opinions are valued, will not view the polygraph as merely an interrogation tool. Rather, they will take polygraph science seriously and will conscientiously strive to ensure that their opinions have value, even when there is no confession.

#### **The Examinee**

A second major factor bearing on the accuracy of polygraph examiner opinions is the examinee. The investigator or law enforcement manager can evaluate

the accuracy of polygraph results by discussing the examinee knowledgeably with the examiner and by evaluating the conditions affecting the examinee.

The most obvious factors influencing examinees are their physical and emotional conditions. People who have not had regular food or rest, or who are clearly under great emotional stress, are poor candidates for examination. Therefore, it is unwise to examine subjects who have just undergone an intensive or prolonged interview or interrogation, who have just been injured, who are physically fatigued, or who have just undergone significant emotional shock, such as the loss of a loved one or personal trauma. However, people who are under a relatively high level of stress normally associated with police-related interviews and interrogations *are* proper candidates for examination. This type of stress is common to examinees, does not adversely affect examination results, and can be compensated for by using various controls in well-structured examinations. However, examinees subjected to lengthy and/or intense accusatory interrogations may become sensitized to relevant questions, thereby detracting from the accuracy of the exam.

Psychological factors also greatly influence polygraph accuracy. When the intensity of the issue under investigation is personally significant to the examinee, accuracy is likely to be greatest, irrespective of whether the examinee is truthful or deceptive. This situation exists when the consequence is not advantageous to the examinee, e.g., when the results of the polygraph examination will cause investigators to



question or disbelieve the examinee's statements. Personal involvement helps to ensure that examinees are alert and psychologically "tuned in" to the examination process, and that extraneous thoughts or concerns do not interfere with the examinee's concentration on the interview.

Polygraph examinations can only determine if examinees are reporting what they believe to be true, or whether they are being intentionally deceitful. If examinees honestly believe that they are telling the truth, a properly conducted polygraph examination is likely to reflect that belief. However, examinees can be honestly mistaken about what they believe, which is why, in evaluating an examiner's opinions, investigators must assess the likelihood that examinees accept their statements as the truth.

No research has been conducted which correlates age with polygraph accuracy. However, based on experience, if the examinee is unable to adequately distinguish between a truth and falsehood, or will suffer no significant consequences if discovered to be deceptive, then age becomes a critical factor.

Accurate polygraph testing demands that examinees be psychologically fit. They must be able to distinguish between reality and fantasy and must be mentally competent to comprehend and participate in meaningful dialogue with the examiner. Their ability to comprehend events during the examination process, and to respond physiologically, must not have been adversely impaired by mental illness, drugs or alcohol or, as stated previously, by physical or emotional exhaustion.

The polygraph examiner, sometimes based on consultation with a physician or psychiatrist, should determine if a person is a suitable candidate for polygraph testing. Even when the examinee's condition is far from optimum, operational exigencies and circumstances surrounding an investigation may dictate conducting an examination. When that happens, and no credible evidence is developed to support the examiner's opinions concerning the examinee's truthfulness, the examinee's condition may degrade the accuracy. By observing an examinee's behavior and analyzing case facts concerning the examinee's access to and ability to comprehend the truth about statements made, and through discussions with polygraph examiners, investigators and officials can make more informed decisions concerning the likelihood that the examiner's opinions are well founded, or conversely, may have been

The quality of the investigation that precedes a polygraph examination is critical to examination accuracy, which is why the investigation should be as thorough and as comprehensive as possible. The examiner's strategy for the entire polygraph process is designed to build upon the investigation. While the examiner's tactics may change due to events that unfold during the examination, especially new revelations from the examinee, the examiner is dependent on investigative input as a foundation for the examination. Erroneous information about the offense, the crime scene, evidence, or the examinee's role in the case could easily cause the examination process to miss the mark and produce incorrect conclusions.

All information on the offense, which can be obtained through conventional investigative methods, should be collected prior to the polygraph examination.

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***The quality of the investigation that precedes a polygraph examination is critical to examination accuracy....***

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adversely affected by the examinee's condition.

#### **The Investigation**

Polygraph examinations given in the law enforcement environment are not isolated events, but are part of an investigation. Therefore, the structure of the polygraph examination and the examiner's strategy for administering it are largely dependent on the information developed during the investigation.

This is not to say that in some situations, circumstances may dictate giving an examination while the investigation continues. In fact, there may be times when it is wise to conduct an examination early in the investigation to help determine the direction of the investigation, or to prevent the needless expenditure of resources on uncorroborated information, such as may be furnished by a source/informant of unknown reliability. However,



regardless of when the examination is conducted, all available case facts, including results of interviews, crime scene information, and forensic laboratory reports, should be furnished to the examiner in sufficient time to be thoroughly reviewed and digested prior to the test.

Information on the role or nature of the examinee's involvement in the case should be furnished to the examiner, along with details of all previous statements the examinee provided. For this reason, an investigator should interview all persons to be polygraphed prior to the examination, record the results, and furnish them to the examiner. This way, any slight variations from any previous account of events that occur during the polygraph examination will be clear.

Successful examiners will plan examinations to allow for some investigative error or imprecision. For example, in a bank

robbery investigation, the examiner should consider the possibility that the person found in possession of the "bait money" may have participated in the crime in some capacity other than that of the actual robber. It is even possible that the examinee came into possession of the money through some innocent means. Therefore, a well-qualified examiner will consider including questions concerning "knowledge of the crime," "participation in any way," and "evidence-connecting" in the examination, in addition to the obvious question, "Did you rob the bank?" Even so, accurate investigative information is mandatory to assist the examiner in focusing the examination and "asking the right questions." Those concerned about the accuracy of examiner opinions should review the quality of the investigative information available to the examiner prior to the polygraph examination.

### Examination Conditions

The final area to consider in assessing the accuracy of an examiner's opinions concerns the conditions which surrounded the actual examination. In assessing this area, the investigator or law enforcement official should review all of the conditions which existed when the examination took place, especially conditions which were not obvious in connection with other factors. Professional examiners will willingly discuss results relative to examination conditions.

Even under the best of conditions, the polygraph may produce misleading results. As with any professional procedure having an element of subjectivity, rushed, harried testing conditions may cause accuracy to deteriorate because of inadequate time for a thorough investigation and for proper briefing of the examiner. Adverse consequences also can result because of examiner stress, an unintentional shortening of the pretest interview, and relaxation of or deviation from standard procedures.

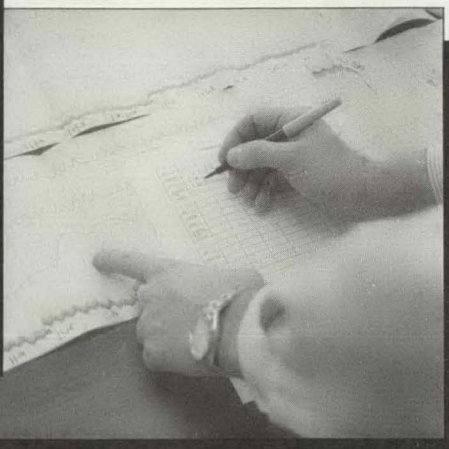
The examiner should have sufficient time to prepare for the examination without interference from departmental authorities or investigators prior to or during the examination. Also, no hint should be made by those involved in the investigation as to expected or desired results. The examiner should have the latitude to conduct the examination at a comfortable pace, free from extraneous official pressure.

Another examination condition which could affect polygraph accuracy relates to the physical surroundings of the examination site. Best results are obtained in a



**Left:** Polygraph examiners should have full access to case data and receive a thorough briefing from the investigating officer or case agent.

**Below:** Research has shown the value of the numerical analysis system of chart interpretation in enhancing polygraph accuracy.





professionally equipped, polygraph suite with good lighting, modern instrumentation, adequate ventilation, and temperature control. The polygraph suite should be designed to eliminate any distractions, such as extraneous outside noise. Once started, examinations should be interrupted for only the most compelling reasons. Examinations conducted in other than carefully controlled environments may be contaminated by the introduction of these negative influences.

It would be impossible to address in this article all the possible variables which could play an important role in polygraph accuracy. However, by carefully reviewing all the circumstances surrounding the examination, any deviations from normal conditions become apparent. Such variances should be viewed with suspicion. Examinations which take place under "crisis-like" conditions can get out of control and result in less than optimum performance by examiners, investigators, and examinees.

### Quality Control

One important element which may be useful in assessing polygraph results is the result of the quality control review of the examination, if one was conducted. Quality control should be an integral part of law enforcement polygraph usage, as experience in the Federal polygraph community has shown.

Quality control reviews consist of independent, "blind" evaluations of polygraph charts and related documentation by other senior and well-qualified examiners to ensure that the original

testing examiner's conclusion as to truth or deception are substantiated. While such reviews do not assure the examination's scientific validity, they do promote consistency in examination results, ensure that proper procedures were used, and guarantee that chart interpretation adheres to established standards.

Departments too small to have a quality control program may be able to establish such a

**“Without a doubt, examiner skill contributes greatly to polygraph examination accuracy.”**

program with another department. And, if it is impossible to obtain a quality control review locally, charts and documentation from particularly important cases may be submitted to FBI Headquarters for review.

### CONCLUSION

A large number of variables have the potential for influencing polygraph accuracy. Wise investigators and law enforcement officials will carefully assess the factors impacting on particular polygraph examinations. Knowing how these factors influence accuracy will permit better-informed judgments about the weight accorded to an examiner's opinions concerning the veracity of statements made by the examinee. This, in turn, should result in more appropriate use of polygraph results in directing subsequent, investigative proceedings. **FBI**

### Footnotes

<sup>1</sup>In polygraph examinations conducted by the FBI, between 50 and 60 percent indicated that the examinee was deceptive. Also, approximately 60 percent of those believed to be deceptive either confessed or admitted withholding or significantly falsifying information furnished to authorities. Most of the remaining "deceptive" examinations and almost all "non-deceptive" examiner conclusions are not confirmed, yet must be factored into investigative findings. About 10 percent of all examinations conducted in FBI cases are "inclusive"; about 1 percent are incomplete. "Polygraph Activities Report," Laboratory Division, Federal Bureau of Investigation, Washington DC, January 13, 1989, p. 4.

<sup>2</sup>Polygraph validity is the extent to which a polygraph method achieves correct identification of lying and truthful examinees in a specified application. See also, e.g., D.C. Taskin, G.H. Barland, and J.A. Podlesny, *Validity and reliability of detection of deception* (Grant No. 75-NI-99-0001 to the University of Utah), National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, DC, 1978, p. 8. This study indicated that accuracy rates were quite high with a combined accuracy of decisions (for both truthful and deceptive examinees) which exceeded 90 percent. Approximately 10 percent of the examinees yielded inconclusive results, and the errors were almost equally distributed between false positives and false negatives.

<sup>3</sup>Ronald M. Furgerson, "Polygraph Policy Model for Law Enforcement," *FBI Law Enforcement Bulletin*, vol. 56, No. 6, June 1987, pp 6-20, for a thorough discussion of policy considerations in polygraph usage.

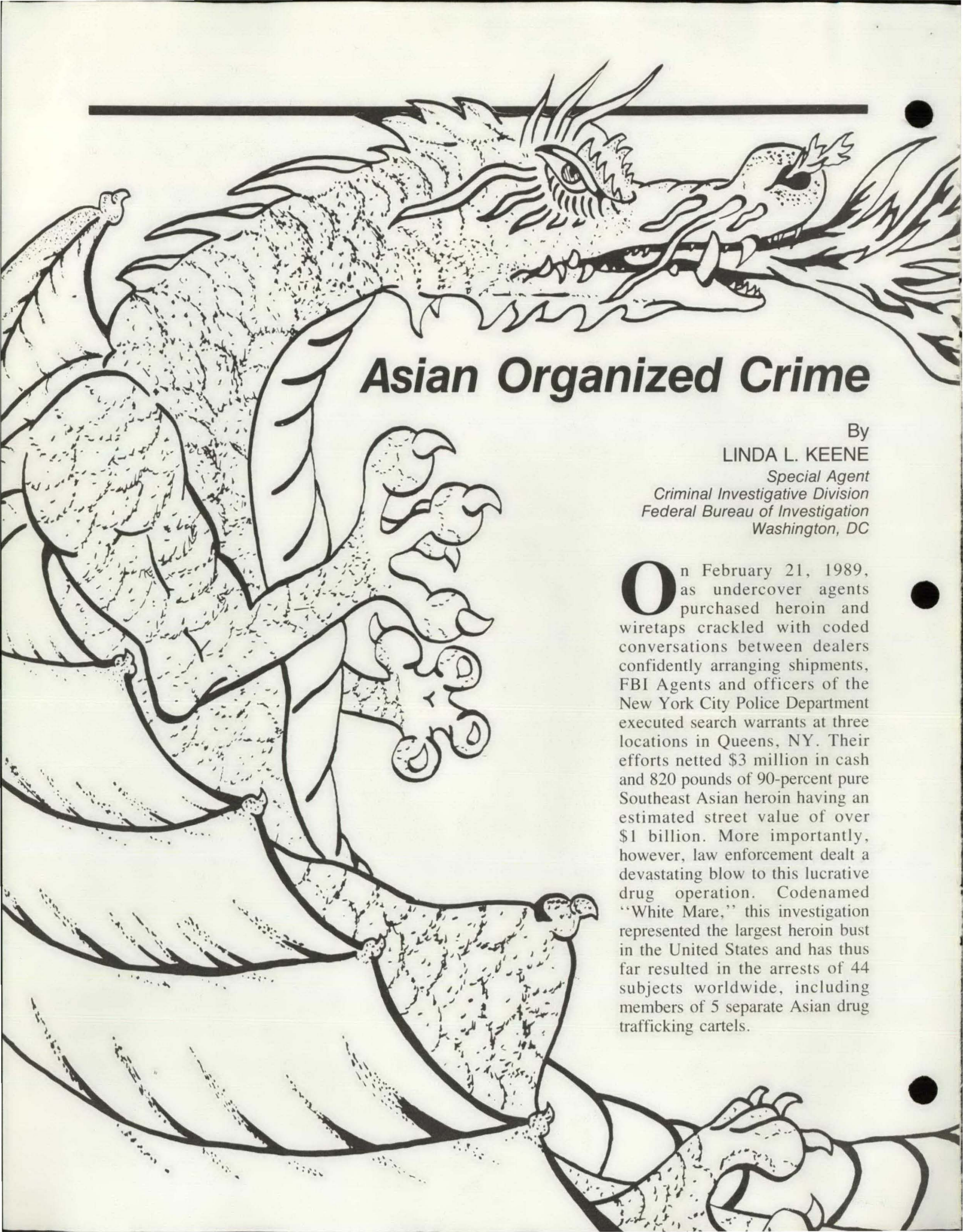
<sup>4</sup>"Polygraph techniques" is a general term referring to the various methods for conducting polygraph examinations. Each technique consists of all components of the examination process, including the procedures for pretest interviews, testing, chart evaluation and decisionmaking, and post test interviews. Key elements of various techniques include the structure of the test questions, the types and number of questions, how they are presented, and their sequencing.

<sup>5</sup>Supra note 1, at 23.

<sup>6</sup>Regulations of the Federal Bureau of Investigation specify that to retain their certification, FBI examiners must undergo refresher/in-service training at intervals not to exceed 2 years. *Manual of Investigative Operations and Guidelines*, Federal Bureau of Investigation, Washington, DC, p. 1198.05.

<sup>7</sup>E.g., FBI examiners are encouraged to conduct a minimum of 48 examinations per year. *Manual of Investigative Operations and Guidelines*, Federal Bureau of Investigation, Washington, DC, p. 1198.05.





# Asian Organized Crime

By  
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**O**n February 21, 1989, as undercover agents purchased heroin and wiretaps crackled with coded conversations between dealers confidently arranging shipments, FBI Agents and officers of the New York City Police Department executed search warrants at three locations in Queens, NY. Their efforts netted \$3 million in cash and 820 pounds of 90-percent pure Southeast Asian heroin having an estimated street value of over \$1 billion. More importantly, however, law enforcement dealt a devastating blow to this lucrative drug operation. Codenamed "White Mare," this investigation represented the largest heroin bust in the United States and has thus far resulted in the arrests of 44 subjects worldwide, including members of 5 separate Asian drug trafficking cartels.





This case serves as a striking example of the extent to which Asian underworld groups have staked a claim in the criminal marketplace. Indeed, Asian organized crime (AOC) groups are becoming involved at an increasing rate in murder, kidnaping, extortion, gambling, drugs and money laundering. It has been suggested that AOC has the potential to become the future number-one law enforcement problem in the United States.

In order for law enforcement to effectively deal with AOC factions, it is extremely important to acquire an understanding and a working knowledge of these organizations. This article provides an overview of the Chinese and Japanese criminal organizations, in addition to summarizing the unique problems law enforcement encounters with AOC. It also explains the similarities between the La Cosa Nostra (LCN) and AOC, indicating that investigative and prosecutive techniques used against the LCN can be similarly employed to combat AOC.

The President's Commission on Organized Crime has recog-

nized that a working relationship presently exists between the Chinese criminal groups and the LCN. It is speculated that these Chinese groups have provided heroin to the LCN on occasion and that the LCN, in exchange, has furnished the Chinese with loan-sharking capital and untraceable weapons. In addition, there are indications that both groups have performed contract killings on the other's behalf and have jointly cooperated in the operation of illegal gambling establishments.

#### **NONTRADITIONAL ORGANIZED CRIME GROUPS**

The successful prosecution of numerous high-ranking members of the LCN and the LCN "commission" in November 1986, has enabled Federal, State and local law enforcement to redirect a portion of its resources to the inves-

pelled the LCN into prominence in the 1920s and 1930s, the illegal drug trade appears to be the vehicle which will move Asian criminals into the mainstream of America today.<sup>1</sup>

#### **Chinese Triads**

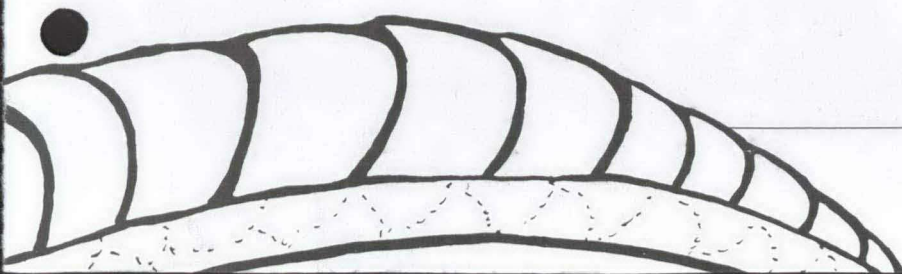
Secret, Chinese criminal societies, known as triads, were originally formed as resistance groups to the Ching Dynasty that ruled China from the early 17th century until 1912. The word "triad" is an English term derived from the societies' sacred emblem — a triangle whose sides represent three basic powers: heaven, earth and man.<sup>2</sup> The triads continued to flourish in Hong Kong and Taiwan throughout the 1950s and 1960s and even controlled many important police posts in Hong Kong until the early 1970s.<sup>3</sup>

While the structure of the triads today varies somewhat, all

“***'White Mare' ... represented the largest heroin bust in the United States and has thus far resulted in the arrests of 44 subjects worldwide....***”

tigation of nontraditional organized criminal activity. The groups presently appearing to warrant such investigative attention are the Chinese and Japanese criminal organizations. While there is always room for debate about the degree of organization within these Asian groups, their potential to develop into LCN-type organizations certainly exists. And, much as the illegal trade of alcohol during the Prohibition Era pro-

are based roughly on models and traditions from the past. For example, the initiation ceremony, known as "hanging the blue lantern," still requires recruits to repeat 36 oaths of loyalty, secrecy and brotherhood. The integrity of the organization's secrets is also strictly and brutally enforced by the triad's "Red Pole," an individual trained in the martial arts who, along with other henchmen, is charged with the responsibility





of internal and external security. Triads still heavily rely on fear within the organization, among competitive criminal groups and within the community. The practice of dispatching "hitmen" internationally to reinforce this fear is not uncommon.

The origin, evolution, rituals, practices and even modern activities of the triads are remarkably similar to those of the Sicilian Mafia. In Sicily, loyalty and solidarity are recognized by "omerta," more commonly known as the code of silence. A Chinese proverb, which similarly upholds silence in the face of authority, is, "When alive, don't go to authorities, when dead, don't go to hell." Similar initia-

enable them to operate within the territory of a particular gang. While the first group seldom becomes actively involved in criminal activities, they generally "run with the pack," adding to the belief that the gangs possess a greater power base than they actually have.

Currently, there is no concrete information to indicate that triad organizations exist as distinct entities in the United States. However, triad members, who have emigrated to the United States, can be found in street gangs, such as the Ghost Shadows, Flying Dragons, Wah Ching, United Bamboo, and Ping On. While street gangs more closely resemble triads in that they are entirely

nese immigrants and Chinese Americans. And, while the economic mainstay of the criminally involved tongs is illegal gambling, some members have been known to direct gang enterprises that include extortion, drug trafficking, robbery and "protection" schemes for prostitution and pornography.

The internal structure of the tongs is also very similar to that of the LCN. The head of the tong, known as the chairman, can be compared to the LCN boss, while the next position in the hierarchy is that of the vice chairman, similar to the underboss. Next in the chain of command is the English-speaking secretary, comparable to the LCN consigliere, followed by secretaries whose responsibilities resemble those of LCN capos. Stationed below the officials are "first grade" tong members and the "look-see" or soldiers.

#### **The Japanese Yakuza**

The Japanese organized crime syndicate, known as Yakuza (YAHK-ZA), consists of 2,500 groups with a total membership of approximately 110,000 individuals. The Japanese National Police Agency (NPA) applies the term "Boryokudan," which means "violent ones," to these groups, largely because of their involvement in drugs.<sup>5</sup>

In the past, the Yakuza was accepted in Japanese society, and even though they were primarily involved in prostitution and gambling, they maintained an almost "Robin Hood" image. This reputation has since been transformed as ordinary citizens became the targets of the Yakuza through robberies and street shakedowns.

The general appearance of the Yakuza also changed. After World

**“  
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tion rites are also present in both organizations, including the commingling of blood and the burning of paper. Last, aside from the fact that both the Mafia and triads are engaged in criminal activity, they also have the ability to generate varying degrees of fear and respect among the general population.<sup>4</sup>

Today, triads are basically comprised of two groups of individuals. The first group, and most likely the largest in number, is made up of individuals who join to avoid harassment. The second group consists of individuals who join to achieve recognition or financial gain, because of a desire to enter the criminal world, or in the case of freelance criminals, to

criminal in nature, the tongs (meaning "meeting hall" or "meeting place") maintain a membership largely composed of noncriminals. However, there does appear to be a growing trend for upper-echelon street gang leaders to belong to both tongs and gangs.

#### **Chinese Tongs**

Many of the tongs in the United States are national organizations with chapters in cities that have large Chinese communities. While the tongs serve primarily as "merchant associations," several of the tongs are used as fronts for vicious Chinese organized crime groups that prey mainly on Chi-



### Badges of Major Asian Organized Crime Groups



Inagawa Kai



Yamaguchi Gumi



Sumiyoshi Rengo



Toa Yuai Jigyo Kumiai



Nippon Kokusui Kai

War II, they assumed some of the characteristics of their American gangster counterparts, such as dressing in dark suits, dark ties and wearing sunglasses.

Today, due to their openly recognized existence and status in Japanese society, the Yakuza constitutes a separate class with its wealth, members, culture and political ties. In addition, Yakuza members are known to boast outwardly about their affiliation, and each group has its own distinctive lapel pin that the members proudly wear. Gang insignias and flags are also openly displayed on their meeting places and buildings.<sup>6</sup>

Yakuza members undergo almost continuous tattoo operations, displaying snakes, dragons,

waves and mythical figures which symbolize their ancestral or adopted organization and demonstrate their permanent commitment. Tattoos, worn by approximately 75 percent of the Yakuza members, are used to intimidate people outside the organization, even though they are usually concealed by the individual's apparel.

The internal structure of the Yakuza society is arranged in such a manner that all authority and wealth are concentrated in the "oyabun" or boss. A member's status is determined by his efficiency as an "earner," who is required to pass profits to those at levels above him. This is a highly competitive system and is designed to maintain pressure for

production. The Yakuza members, particularly those at the lower levels, are encouraged to find new enterprises with which to satisfy the constant demand from above.<sup>7</sup>

Until 1974, Yakuza interest in the United States was thought to be relatively limited. However, since then, Yakuza activity in the United States has expanded principally for three reasons. First, the United States serves as a source of weapons, since the possession of handguns by private citizens in Japan has been prohibited since World War II. As a result, illegal handguns can be sold to the Japanese for as much as \$5,000-\$7,000 each. Second, the United States serves as a place to invest excess capital. Finally, and per-





*Pictured are the tattooed back and arms of an AOC gang member.*

haps the most significant, the United States is prime territory for their tourist business. Since Japanese tourists, upon arrival in the United States, are generally confined by language to their own countrymen, they have little choice but to go where the tour operators direct them. Naturally, the tourists are subsequently directed to Yakuza-run bars, restaurants and entertainment as a result of previously made arrangements by the proprietors with the tour operators.

As with the triad societies, the Yakuza organizations bear a striking resemblance to the LCN, particularly with regard to the unwritten laws which govern their activities. For example, Yakuza members are instructed never to reveal the secrets of the organization, never to violate the wife or children of another member, never become personally involved with

drugs, never withhold money from the gang, never appeal to the police or law and never to disobey superiors. One major difference is evident, however. Unlike the Yakuza, the LCN has little or no public standing and must remain an underground organization.<sup>8</sup>

#### **PROBLEMS AOC PRESENTS TO LAW ENFORCEMENT**

The problems encountered by law enforcement with regard to investigating AOC are somewhat unique, primarily due to cultural and social factors. Since the overwhelming majority of Asian crime is confined to the Asian communities or to individuals of Asian extraction, language differences have a tendency to inhibit victims or witnesses from reporting criminal offenses or interacting with non-Asians. Also, as a result of past experiences in their homelands, many Asians are suspicious

of the police, whom they often view as being corrupt or brutal. Furthermore, in the case of victimized Asian tourists, many return home long before judicial proceedings have commenced.

Asian crime is also more difficult to investigate and prosecute because Asian citizens are reluctant to deal with the U.S. criminal justice system. Many do not understand the system and when, for example, a suspect is released on bail, it may appear as though the suspect did not actually commit a crime or paid off the police to secure a release. In fact, leaders of a tong in one area of the United States undertook a campaign to have themselves photographed with high-ranking police and/or city officials, thereby attempting to send out a message to the Asian community that the tong controls these officials. As one would expect, this lack of understanding impedes citizens from reporting crime and/or cooperating with the police.

In addition, many Asian ethnic groups, in particular the Vietnamese, are highly mobile and have family or associates in various parts of the United States. This mobility supplies those involved in criminal activity with convenient "hide outs" in the homes of unsuspecting relatives or associates. Those seeking to escape from law enforcement may also take advantage of unknowing religious or nationalistic organizations legitimately chartered to provide assistance to Asian immigrants seeking to settle in the United States.

In an effort to predict future trends, the relinquishment of Hong Kong by Great Britain pursuant to



the mandate of 1997 should be of fundamental interest to law enforcement. Intelligence indicates, to some extent, that although the Peoples Republic of China has agreed to allow indigenous government operations to continue for at least 50 years, the criminal organizations, or at least high-ranking individuals affiliated with these groups, may flee Hong Kong prior to the colony changing hands and reverting to communist rule.

The United States is likely to be the location of choice for these criminal elements. An intense, concerted effort on the part of U.S. authorities will be required to prevent the mass immigration of

Chinese criminals, particularly since a ready-made criminal infrastructure already exists in the United States in the form of gangs.

## CONCLUSION

In the United States, Chinese and Japanese enterprises are involved in a multitude of illegal activities. Law enforcement must be prepared to face this unique challenge created by these criminal groups. The threats they pose continue to increase and must be dealt with accordingly so that law enforcement and the Nation are not suddenly overwhelmed by this new wave of criminal activity. **FBI**

## Footnotes

<sup>1</sup>"Asian Organized Crime in the Middle Atlantic-Great Lakes Region," Mid-Atlantic-Great Lakes Region Analytical Unit, President's Commission on Organized Crime of Asian Origin, September 1985.

<sup>2</sup>*Triad Societies in Hong Kong*, Government Press, Hong Kong, China, 1960.

<sup>3</sup>President's Commission on Organized Crime of Asian Origin, Record of Hearing III, October 23-25, 1984, New York, NY.

<sup>4</sup>*Ibid.*

<sup>5</sup>"The Asian Report," Special Investigations Bureau, Los Angeles County Sheriff's Department, Los Angeles, CA, January 1986.

<sup>6</sup>David E. Kaplan and Alec Dubro, *Yakuza: The Explosive Account of Japan's Criminal Underground* (New York: MacMillan Publishing Co., 1986).

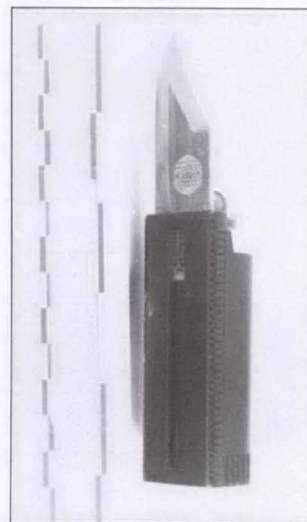
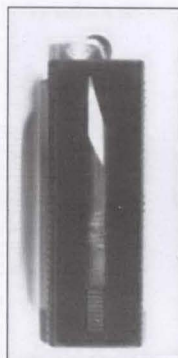
<sup>7</sup>*Supra* note 3.

<sup>8</sup>*Supra* note 3.

# Unusual Weapon

## Disguised Dagger

While investigating a suspicious vehicle incident, a Seaside Heights, NJ, patrolman discovered a cigarette lighter on a juvenile suspect. Hidden within this ordinary lighter was a knife with a 2-inch blade that extends and retracts by pressing a small button on the casing. With the blade extended, the weapon is 5 inches long.





# The Bulletin Reports

## Sexual Abuse Investigation Text

The National Sheriff's Association (NSA) has published a comprehensive text, ***Child Sexual Assault: Confronting the Crisis***, designed for trainers and practitioners involved in investigating or prosecuting cases of child sexual assault in out-of-home child care settings (CSA/OHCCS). In addition, NSA has developed corresponding training curricula aimed at assisting agencies and communities in establishing model guidelines and multidisciplinary teams (MDTs) to investigate and prosecute such cases.

Volume one of the two-volume text is designed to help professionals to respond appropriately and effectively to alleged child sexual assault, abuse, molestation, or exploitation in out-of-home child care settings. The second volume is a manual for trainers of professionals involved in investigations of CSA/OHCCS.

The training program focuses on such issues as investigation procedures, interviewing strategies, the law and its application, community resources and referral, stress management, medical

issues, and news media relations. It is applicable for practitioners and trainers from all agencies involved in investigating/prosecuting cases of CSA/OHCCS, including law enforcement, child protective services, prosecutors' and State attorneys' offices, mental health and victim services.

*To order the two-volume text or for further information on the training program, contact NSA's Research and Development Division at 1-800-424-7827 (toll free) or 1-703-836-7827.*

## Federal Criminal Cases

The number of offenders convicted of Federal crimes in U.S. district courts grew by almost 50 percent from 1980 to 1987, according to the report, ***Federal Criminal Cases, 1980-87***, released by the Bureau of Justice Statistics (BJS). During this same period, Federal drug convictions increased by 161 percent.

U.S. attorneys prosecuted 74 percent more people in U.S. district courts in 1987 than they did in 1980, and the number of offenders sentenced to a prison term increased by 71 percent.

Also, Federal drug prosecutions increased by 153 percent, and the number of drug offenders sentenced to prison grew by 177 percent.

By 1987 drug offenders constituted 30 percent of all men and women convicted in U.S. district courts and 43 percent of all offenders sentenced to prison by Federal judges. Drug offenders also accounted for just over one-half of all prison time imposed during 1987.

The average prison sentence for a Federal crime grew by 11 months—from 3 years and 8

months to 4 years and 7 months during the period. The largest increases were for drug offenses (up by 21 months) and weapons offenses (up by 16 months). The average prison sentence received by drug offenders grew from almost 4 years in 1980 to 5 years and 8 months in 1987.

*Single copies of the special report, **Federal Criminal Cases, 1980-87**, can be obtained from the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850, or call 1-301-251-5500.*



## Drug Resource Information

A *Drugs and Crime Resource Package* has been compiled by the National Institute of Justice/National Criminal Justice Reference Service (NIJ/NCJRS). It contains available information on research, statistics, and theories, which is critical to successful anti-drug strategies.

The package was developed in response to the increasing demand for quick, convenient access to drug-related research, program evaluations, and statistical analyses. The materials examine innovations in drug enforcement, treatment, prevention, education, and control policies; explore methods in use by other agencies dealing with the Nation's drug crisis; and provide drug-testing policy guidelines and crime and drug-use statistics.

To obtain the **Drugs and Crime Resource Package**, call NCJRS toll free at 1-800-851-3420 to obtain ordering information. For callers in Maryland and the Washington, DC, metropolitan area, the number is 1-301-251-5500.

## Capital Punishment 1988

Six States executed 11 prisoners in 1988, bringing the total number of executions to 104 since 1976, the year in which the U.S. Supreme Court reinstated the death penalty. Those executed during 1988 had spent an average of 6 years and 8 months awaiting execution. *Capital Punishment 1988*, published by the Bureau of Justice Statistics, provides detailed information on prisoners under death sentences.

As of December 31, 1988, 34 of the 37 States that authorize capital punishment held 2,124 prisoners who had been sentenced to death—8 percent more than a year earlier. All but one prisoner under a death sentence had been convicted of murder.

Prisons in Southern States held 59 percent of those sentenced to death, 19 percent were in the Western States, 16 percent in the Midwest, and almost 6 percent were held in the Northeastern States of Pennsylvania, New Jersey, and Connecticut.

The median age of those on death row was almost 33 years;

one-half of 1 percent were under 20 years old; and 2 percent were 55 years old or more. In addition, from available information on death row prisoners:

- About 10 percent had not gone beyond 7th grade
- About 10 percent had some college education
- The median level of schooling was almost 11 years
- Less than one-third were married and almost 45 percent had never been married
- 68 percent had a prior felony conviction and 9 percent had a prior homicide conviction.

*Single copies of the bulletin, Capital Punishment 1988, can be obtained from the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850. The toll-free number is 1-800-732-3277. For callers in Maryland and the Washington, DC, metropolitan area, the number is 1-301-251-5500.*

**The Bulletin Reports**, a collection of criminal justice studies, reports, and project findings, is written by Kathy Sulewski. Send your material for consideration to: *FBI Law Enforcement Bulletin*, Room 7262, J. Edgar Hoover Building, 10th & Pennsylvania Ave., NW, Washington DC 20535.

(NOTE: The material presented in this section is intended to be strictly an information source and should not be considered as an endorsement by the FBI for any product or service.)



# A New Investigative Approach to Youth Gangs

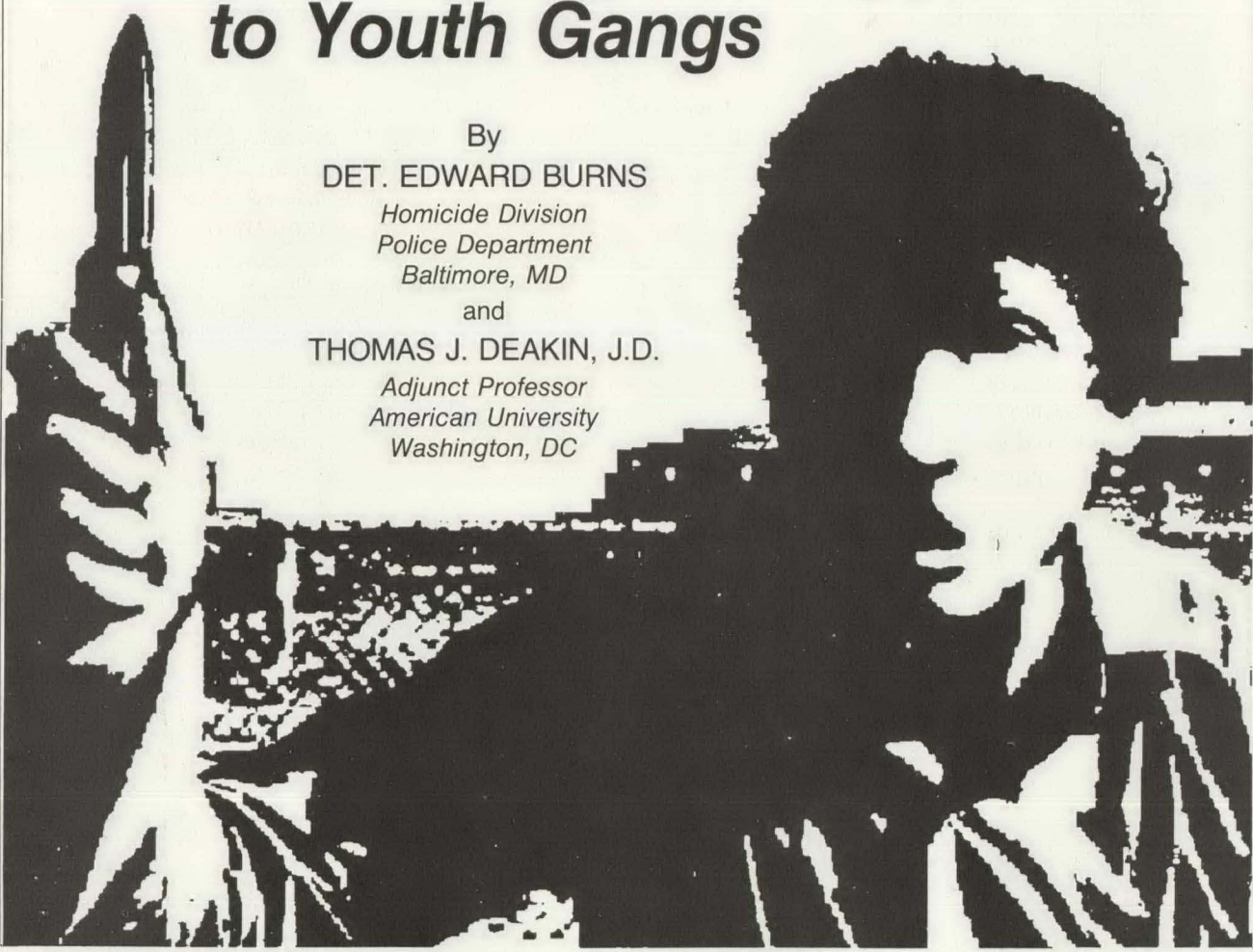
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**Y**outh gangs reign supreme in many inner-city neighborhoods. They generate an atmosphere of terror to maintain their dominance, and at times, their impact is so devastating that the youth of the neighborhood, their main targets, view atrocious assaults to petty offenses as the "normal" response.

Traditionally, local law enforcement has investigated

gangs in the context of a drug organization, using standard techniques consistent with drug cases. However, the Baltimore, MD, Police Department realized that youth gangs are distinct in their structure, objective, and methods of operations from the typical drug organization and must be dealt with accordingly. This article demonstrates that the evolution of gangs—coupled with the dramatic

increase of the drug problem—has made many standard investigative approaches ineffective.

## Gang Structure

To understand why many standard policing methods are unsuccessful, it is essential to understand the organizational structure of gangs and the methods they use to control their territories. Baltimore's gangs are organiza-



tions of tightly bonded youths controlled by a single personality who uses the group as the primary vehicle to gain and maintain a position of power. Surfacing in his late teens or early twenties, the group leader is manipulative, has a talent for leadership and organization, and is motivated by an egotistical desire to control others.

Those recruited by the leader to join the group are selected for their muscles, not their brains. Under the direction of the gang leader, the hardcore gang members secure stash houses and recruit expendable associates, such as runners, lookouts, and other personnel needed for a successful operation.

In contrast, the drug organization is a small, loose confederation of individuals, usually in their late twenties or older. While leaders of drug organizations are similar to those of youth gangs, their main objective differs. The drug leader wants to cash in on the lucrative drug market solely to accumulate wealth and expand his operation. The gang leader, on the other hand, seeks to control territory and generate terror. In both groups, however, drug distribution and support of the drug world dominate their activities.

### Use of Violence

For the youth gang leader, profits generated by drug dealings are used primarily to increase the gang's size and expand its influence. As the gang grows, the leader maintains dominance over other members through rewards and violence, with the emphasis on violence. As a result of the leader's thirst for power, the gang is driven to generate terror. The

systematic use of violence creates a reign of terror that stifles opposition and increases the gang's influence. Whereas a drug organization usually uses violence as a defense mechanism, a reaction to a perceived crisis, gang members commit violent acts to lay claim to a neighborhood and make citizens fearful of them. Potential witnesses against the gang are dealt with in violent ways. In turn, potential witnesses or actual victims are reluctant to cooperate with the police, fearing retribution from the gang.

### Ineffectiveness of Conventional Methods

The Baltimore Police Department last used conventional methods for investigating youth gangs in 1982. One of the reasons was the influx of cocaine into the city in the early 1980's. Primarily, the barriers confining hard drugs in the inner city crashed. Drug dealers began plying their trade to a new group of addicts—the mid-

dle class. This epidemic necessitated a redesigned response by law enforcement.

Another reason for the failure of traditional methods lies in a gang's resistance to encroachment. Little or no information can be developed to adequately assess a gang's size and the scope of its influence. Also, gang members are unrelenting in their efforts to thwart an investigation. They tamper with evidence, intimidate witnesses, and even accept prohibitive sentences rather than provide information on other members. Because of the organizational structure, only the leader knows of every involvement of the gang. In addition, large quantities of money or drugs are not allowed to accumulate, denying the investigator the fruits recognized in a successful investigation.

### Prosecuting Gang Members

While prosecuting crimes of violence individually is a deterrent, several factors argue against



Detective Burns



Mr. Deakin



successfully prosecuting a gang member. First, the homicide investigator's workload is so arduous that it is difficult to devote adequate time to a drug homicide. Homicide units in many cities operate under MASH-like conditions, patching cases together

understanding the gang, its leader, and the fact that his ambition requires violence to carry out his will. The investigative goal must be to develop conspiracy cases from evidence obtained through turning the gang's violence inward toward vulnerable gang members.

“

***The success of this investigative process lies in understanding how the individual member is bonded to the gang.***

”

before the onslaught of new murders diverts attention to the latest crisis.

Second, gang-related cases are often investigated in a vacuum. The detective does not see the crime as part of a pattern, but as a single act, and as a single act, the crime appears illogical. Further, information cannot be obtained from gang members, and time constraints and lack of funds curtail the use of informants needed to target members of the group.

Even if detectives overcome these obstacles, the likelihood of conviction still remains slight. Between arrest and trial, the gang members, through the use of the discovery process in the law, move to dismantle the case. Witnesses and their families are often bribed, intimidated, or physically threatened. If those methods fail, gang members appear in court during the trial, and by their very presence, attempt to intimidate the jury.

#### **A New Investigative Approach**

A successful approach to counteract gang activities lies in

Senseless violence repels many, even the most ardent gang member. This approach takes advantage of the tension violence creates within the gang and uses this tension against the gang's leadership.

Initially, this type of investigation requires identifying the gang's membership and its acts of violence and victims, learning the gang's folklore, and developing informants. The investigation then targets gang members outside the gang's nucleus. The targets are placed in real or imagined jeopardy in order to bring them into highly stylized interview situations, designed to change the member's allegiance from the gang to the investigative team.

#### **Methods Used**

Creating the desired vulnerable posture in a gang member can be accomplished in three ways: 1) Controlled arrest situations, 2) interviews of randomly arrested gang members, or 3) use of the grand jury. While all three methods produce the desired effects, the use of the grand jury

in many ways is the most productive approach. It places gang members in a vulnerable position without expending a great deal of investigative energy. This method creates added tension for the gang member by threatening perjury, or contempt for noncompliance, juxtaposed with a chance to escape a losing proposition, a promise of immunity—an ideal situation for the interviewer.

When the gang member is confronted in a pre-grand jury interview, the interviewer concentrates on two areas. The first step is to determine if the gang member's sentiments are set against the gang's use of violence, which is usually the desire of the leader. This violence draws attention to the gang, thus endangering its very existence. By suggesting the gang leader has broken a covenant with the gang, the interviewer causes the member to question continuing loyalty.

The second area to exploit is self-interest. Leniency can be considered in exchange for cooperating against the gang's leadership. This offers the gang member a way of escaping full exposure for crimes which are not realistically prosecutable due to lack of evidence. Since this member is not the target of the investigation, and there has been no attempt to gather evidence against the member, there is nothing lost in a grant of immunity. The primary focus is to induce cooperation.

While stressing the gang member's self-interest and opposition to violence, the interviewer introduces other ideas—knowledge of the gang, inevitability of prosecution, scope of the investigation, etc.—all designed to convince the gang member to change



allegiance. Attention should be drawn to the specialized nature of the investigative team and its prior successful track record. Details of the investigator's methods are shared. The gang member is advised that those not targeted are being interviewed and that others are cooperating with the investigation. It should be pointed out that there is no neutral ground—either the member cooperates, falls afoul of the grand jury, or becomes a target of the investigation.

In the overt grand jury phase of the investigation, active street-level informants in the gang's territory are harnessed to pinpoint witnesses, identify nicknames, and report feedback concerning the gang member's interview. This type of informant is invaluable, and because of the nature of information sought, is easily developed and maintained with a minimum expenditure of funds.

In one particular homicide investigation involving a drug gang of over 50 members, the State's attorney authorized the use of a special grand jury to investigate. Approximately 40 gang members and civilian witnesses appeared before the panel. Within 5 months, 4 cases were prepared for trial, with 15 gang members prepared to testify. Three of the cases were prosecuted and convictions were secured against the nucleus of the gang. The fourth case was not prosecuted in light of the multiple life sentences given to the same gang members by the presiding judge.

This investigative process was modified and used on a larger scale in another gang investigation, with equally impressive results. Three gang members con-

trolled a vast drug distribution network, which employed four full-time gunmen and used eight other contract gunmen. The scope of this investigation was broader in that it employed the RICO statute, using murder, drug trafficking, and money laundering as the predicated crimes for the grand jury. The results were similar, with several members turning against the gang's nucleus.

### **Success of the Strategy**

The success of this investigative process lies in understanding how the individual member is bonded to the gang. In a world where gangs flourish, joining a gang is accepted as a way of achieving status and money, as opposed to the alternatives of an

“  
***The unit should have the specific mission of attacking gangs that use any type of violence.***  
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education, job, or sports. Youths with minimal or no criminal tendencies are drawn to the gang and fall under the tutelage of the gang's leadership. However, most members do not comprehend the scope of the gang's lawlessness and are not prepared for the type of crime imposed on them. The degree of adaptation, or corruption, depends on the individual's proclivity to crime. Criminal acts occur before the new member is able to make an intelligent choice, thus the member is committed to the gang despite reservations.

From evidence gathered in investigations, it appears that only a few succumb to the violent mentality of the core group. The majority appear to be trapped between their essentially good upbringing and fear of the gang's violence. It is within this group that the dichotomy creates tension and confusion, which this investigative process exploits. This process proposes a resolution to the conflict by offering a gang member a safe alternative to the gang.

### **Organizational Response**

If the significance of the gang problem is understood within the bureaucracy, it argues for the creation of a unit to deal specifically with gangs. If such a unit is established, certain components are essential.

The unit should have the specific mission of attacking gangs that use any type of violence. It should be small and self-contained and operate closely with the Homicide Unit, for that is where patterns of violence will be evident. However, the two units should not be combined because of the Homicide Unit's constantly shifting demands, created by the reactive nature of the crime.

The unit must be wed to a prosecution team, so that its most effective tool, the grand jury, can be fully used. This is critical to the process because the thrust of the investigation to convert potentially alienated gang members and guaranteed specific arrangements are only within the purview of the prosecutor.

Because considerable investigative time is spent on a gang's street activities, the unit should



## Focus on Crime in the United States

have liaison with designated district or precinct units. Once targets are identified, the district/precinct should be advised and officers instructed to develop and record information. These data allow the department to assess problems and initiate solutions.

In Baltimore, the unit dealing with gang problems is under the Inspectional Service Division, since it offers an existing command structure that could absorb a new unit without a significant change to the organizational structure.

### Conclusion

Law enforcement is not charged with making needed changes in society, but in coping with the resultant symptoms. Thus, law enforcement has had to deal with the symptoms of youth gangs and their involvement in the drug culture during the past two generations, but has had little impact on the epidemic.

This investigative strategy in dealing with inner-city gangs achieves primary goals. It demystifies the gang leader, disrupts the integrity of the gang, and generates evidence to prosecute the gang's leadership. It significantly impacts on both the gang members who cooperate and those who are targeted and prosecuted.

Gangs use violence to continue their activities in their territories. While this investigative approach deals only with certain symptoms of the overall drug problem, it concentrates on the power of a unique criminal, the gang leader. What must be realized is that these leaders are vulnerable, and the source of their strength, their own gang members, can be used against them.

In 1988, the number of Index crimes reported to law enforcement rose 3 percent from the 1987 total. This figure was 17 percent higher than in 1984 and 14 percent above the 1979 level. The 1988 total represents an average of 5,664 offenses per 100,000 persons residing in the United States.

Both violent crime and property crime increased during 1988. Violent crime overall was up 6 percent from the previous year's total, while property crime increased 3 percent during the same time period.

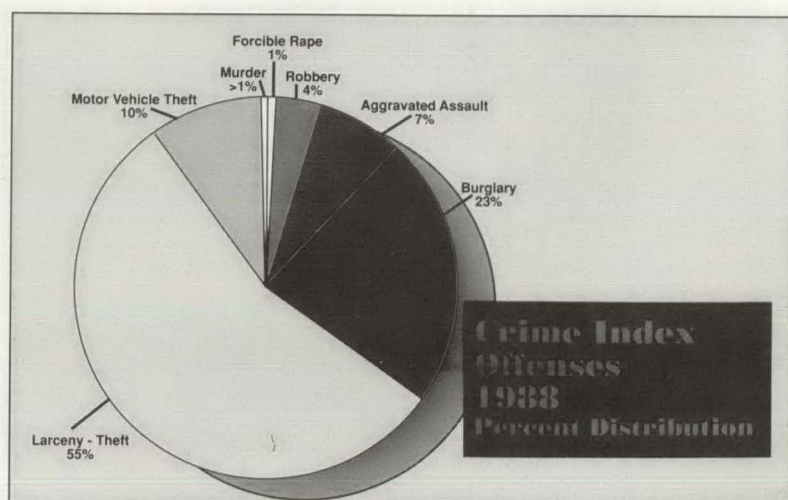
### Violent Crime

Each of the violent crimes registered higher volumes in 1988—murder rose 3 percent; forcible rape, 2 percent; robbery, 5 percent; and aggravated assault, 6 percent.

- While the **murder** count rose nationally, the number of murders committed decreased 4 percent from the 1979 figures. Of the 20,675 murder victims in 1988, 75 percent were male, 91 percent were 18 years of age or older, and 50 of every 100 were white. Over one-half of the murder victims were related to or acquainted with their assailants. Firearms were the weapons used in approximately 3 of every 5 murders.

- In 1988, an estimated 73 of every 100,000 females in the country were reported **rape** victims. Forcible rape trends for 5 and 10 years show the 1988 total of 92,486 victims was 10 percent over the 1984 figures and 21 percent above 1979.

- Over 500,000 **robbery** offenses occurred in 1988. This figure is 12 percent higher than





in 1984 and 13 percent above the 1979 level. The estimated national loss due to robberies was \$343 million. In 1988, 43 percent of all robberies were committed through the use of strong-arm tactics, and firearms were used in 33 percent of the incidents.

- The 1988 **aggravated assault** total, 910,092, was up 33 percent above the 1984 level and 45 percent over that of 1979. Aggravated assaults accounted for more than one-half of all reported violent crimes; the highest totals were recorded during July and August.

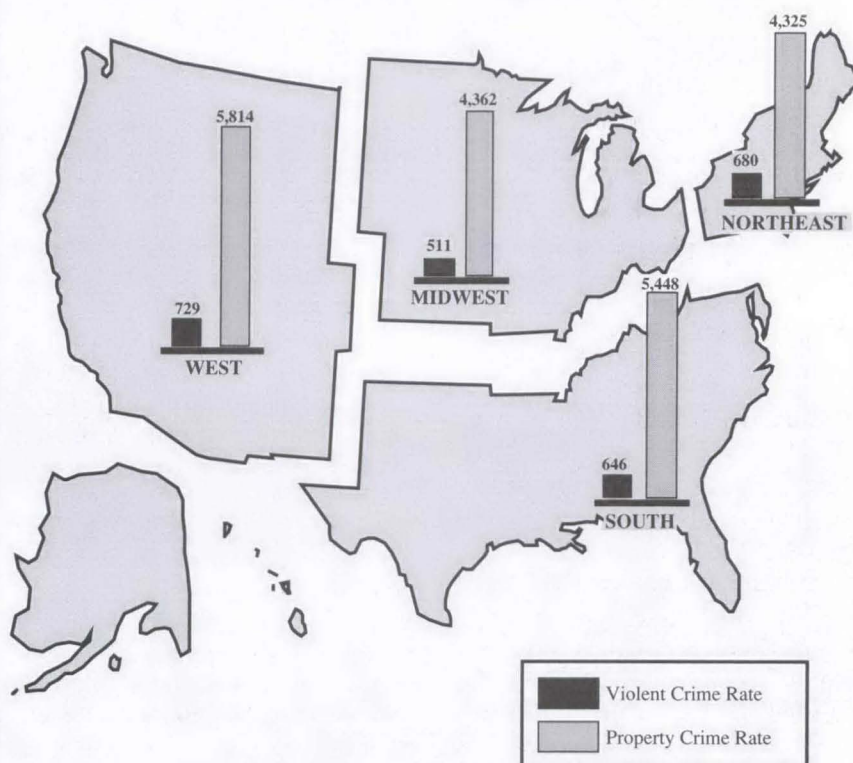
### Property Crime

Of the property crimes reported in 1988, larceny-theft rose 3 percent; motor vehicle theft, 11 percent; and arson, 1 percent. Burglary showed the only decline, down 1 percent from 1987.

- Over 3.2 million **burglary** offenses occurred during 1988. Two of every 3 were residential offenses, and 70 percent involved forcible entry. The total estimated loss due to this property crime was \$3.3 billion. Of the arrestees, 92 percent were males and 67 percent were under 25 years of age.

- Accounting for 55 percent of the Crime Index total and 62 percent of the property crimes, **larceny-thefts** were estimated at 7.7 million offenses during 1988. This total was 17 percent above both the 1984 and 1979 levels. The loss to victims due to larcenies was an estimated \$3.3 billion in 1988. As in previous years, more females were arrested for this Index crime than for any other, and in 1988, this single offense accounted for 78 percent of

## Regional Violent and Property Crime Rates 1988 (per 100,000 inhabitants)



arrests for Index crimes and 20 percent of all female arrests.

- An estimated average of 1 of every 128 registered motor vehicles was stolen nationwide during 1988, accounting for an estimated loss of over \$7 billion. The 1988 **motor vehicle theft** total increased 39 percent over the 1984 volume and 29 percent over the 1979 experience. Of the persons arrested for this offense, 90 percent were males, 59 percent were white, and 58 percent were under 21 years of age.

- Over 100,000 incidents of **arson** were reported in 1988, which accounted for a national estimated loss of over \$1 bil-

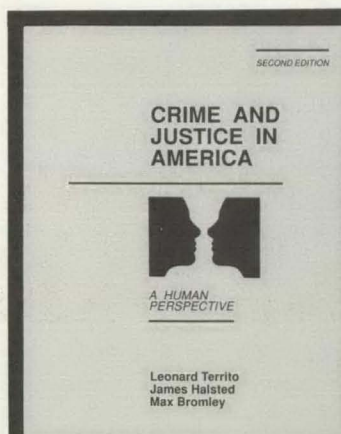
lion. Structures were the most frequent targets of arsonists, comprising 55 percent of the incidents reported, of which 62 percent involved residential property. Arson had the highest percentage of juvenile involvement than any other Index crime; 39 percent involved only young people under age 18. Sixty-three percent of the persons arrested for arson were under 25 years of age, 87 percent were males, and 73 percent were white.

(Source: *Crime in the United States—1988*, Uniform Crime Reporting Program, Federal Bureau of Investigation, Washington, DC.)

FBI



## Book Review



*Crime and Justice in America: A Human Perspective*, by Leonard Territo, James Halsted and Max Bromley, West Publishing Company, St. Paul, MN, 1989.

A need exists for a comprehensive look at crime and justice in American society. The authors of *Crime and Justice in America: A Human Perspective* have responded to that need. This well-written, easy-to-read book covers topics of interest to anyone working in the criminal justice system. *Crime and Justice in America* also takes a frank look at the myths, weaknesses, and

strengths of the men, women and processes that make up our criminal justice system.

Traditionally, books of this type tend to bore readers with mundane facts and statistics which do little to bridge the gap between the academic and the realistic approaches to criminal justice. The authors diverted from that approach and wrote a factual and interesting book that is also enjoyable to read. The use of case studies, newspaper articles, and real-life experiences entertain the reader while emphasizing the points made throughout the chapters. In addition, the issue papers presented at the conclusion of each chapter complement the authors' work and set forth intriguing concepts and situations found in the criminal justice system.

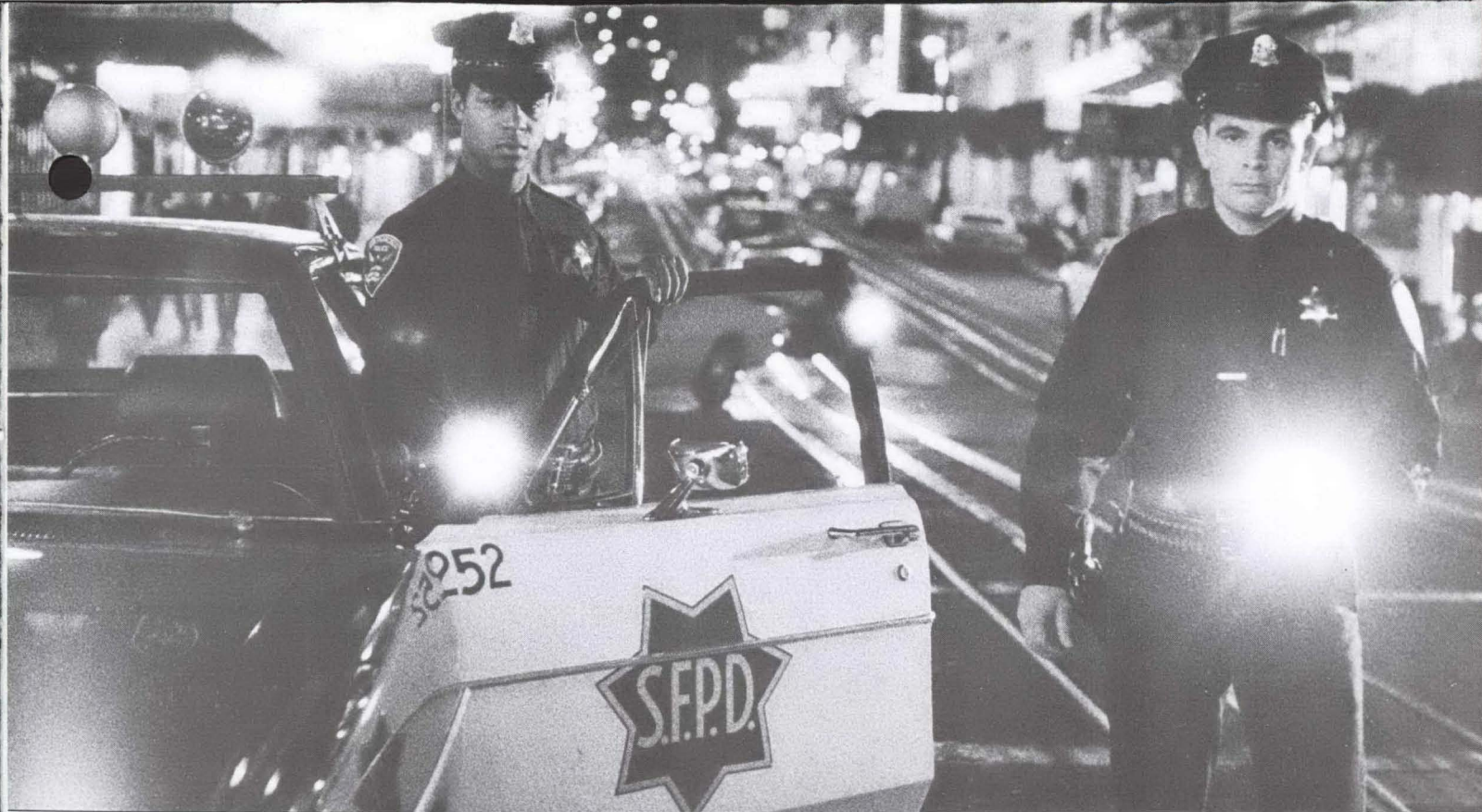
New topics in the field of law enforcement, such as victim's rights, juvenile justice and crime control, deal with the dynamics inside the criminal justice system and direct concern toward today's issues and tomorrow's trends. These topics and others, including higher education in law enforce-

ment and the control of AIDS in the prison environment, are explored with documented thought and reason. For example, the authors' look at the juvenile justice system reveals that as is the case in many of the problems facing crime and justice, there are no easy answers. The book closes with an examination of the history of crime control and the future trends of community involvement as critical elements needed in successful crime prevention.

*Crime and Justice in America* defines crime and crime's impact on society in clear, easy-to-read language and deals with complex issues in a straightforward manner. The authors' approach to the analysis of the criminal justice system tells a well-documented, interesting, and entertaining story of the past, the present, and the future of crime and justice in America.

Reviewed by  
SA Marguerite A. Bennet  
Education/Communication  
Arts Unit  
FBI Academy  
Quantico, VA





# **Traffic Stops**

## *Police Powers Under The Fourth Amendment*

By  
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*Special Agent  
FBI Academy  
Legal Counsel Division  
Quantico, VA*

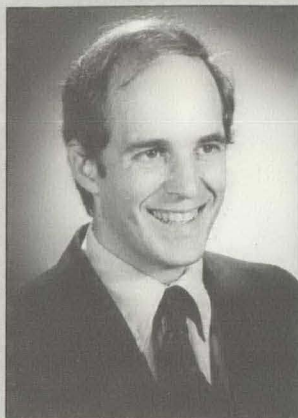
**T**raffic stops take place thousands of times each day in the United States. Such stops frequently lead to the discovery of criminal conduct considerably more serious than traffic violations. As was discussed in the first part of this article, officers stopping a car have authorization to take certain investigative and protective steps without having to show any facts other than that the initial stop of the car was lawful. The taking of additional steps such

as search or arrest of the occupants of a stopped car or a search of the car itself require specific factual justification in order to comply with constitutional requirements. Consequently, it is essential for the officer making a traffic stop to know which investigative actions require a factual predicate if constitutional compliance is to be achieved, and what specific types of facts must be present in order to justify such actions.

### **APPLICATION OF THE FOURTH AMENDMENT**

As was noted in the first part of this article, the fourth amendment to the U.S. Constitution limits the powers of the police to perform searches and seizures, requiring that any such search or seizure performed be "reasonable."<sup>36</sup> Generally, satisfaction of this "reasonableness" requirement necessitates that police officers obtain prior judicial approval in the form of an arrest or search





Special Agent Sauls

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... officers must have  
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knowledge to keep  
their actions within  
constitutional limits.  
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warrant before a search or seizure is performed.<sup>37</sup> Particularly where vehicles are concerned, the U.S. Supreme Court has recognized a number of exceptions to the warrant requirement that allow under certain circumstances searches and seizures to be reasonably performed without prior judicial approval.<sup>38</sup>

Each of these recognized exceptions has its own set of requirements, necessary factual predicates that must be present before the exception applies, and specific limits on the scope of action allowed where no warrant is obtained.<sup>39</sup> Because where officers act without a warrant the government bears the burden of proving that an exception to the warrant requirement justified their action,<sup>40</sup> it is especially important that officers know the standards for these exceptions. The officer who has stopped a car and is contemplating taking actions beyond those discussed in part one of this article should consider a series of questions to insure his actions do not stray beyond constitutional limits. First, he should decide whether the contemplated action

constitutes a search or seizure for fourth amendment purposes. All of the actions that are the subject of subsequent discussion in this article constitute searches or seizures. Second, the officer needs to decide whether one of the exceptions to the warrant requirement potentially applies in his situation. Third, where a recognized exception potentially applies, the officer must determine whether the required factual predicates are present. Finally, he must determine whether the contemplated action is within the scope allowed under the particular exception that is being applied.

#### Pat-Down Searches of Detained Suspects

In *Pennsylvania v. Mimms*,<sup>41</sup> officers of the Philadelphia Police Department stopped a car because the license plate displayed on it had expired. The officers ordered the driver from the car and noticed a bulge under his sport coat when he emerged. One of the officers immediately patted the outside of the man's coat with his hand, felt what he believed to be a revolver, and reached under the coat to

remove it. The object the officer had felt was a .38 caliber revolver. This type of pat-down or frisk search was first approved by the U.S. Supreme Court in the case *Terry v. Ohio*.<sup>42</sup> In order for such a search to be lawfully performed, the officer making the search must know facts that would cause a reasonable person to suspect that the person to be searched is armed and consequently posing a threat to the officer or others.<sup>43</sup>

In *Mimms* the peculiar appearance of the driver's outer clothing provided the factual justification for a pat-down search. Other facts that might cause an officer to reasonably suspect that a person he has stopped is armed are almost too numerous to catalog. Officers should weigh the facts in a specific instance and make a quick common sense determination of the legality of a pat-down.<sup>44</sup> They should be prepared at a later time to recount the specific facts that caused them to suspect that the person searched was armed.

It is important also that officers performing a pat-down search restrict their actions to those allowed by this exception to the warrant requirement. The search begins with a pat-down of the person's outer clothing.<sup>45</sup> It may proceed to an entry into the clothing or removal of the clothing only where the pat-down reveals some item reasonably suspected to be a deadly weapon, or where outer clothing is of a thickness or nature that a pat-down cannot determine whether a weapon may be present.<sup>46</sup> The entry into the clothing can be no more extensive than necessary to locate and remove the suspected weapon for



examination.<sup>47</sup> As will be discussed in detail hereafter, an officer who has developed probable cause to arrest a person has much greater latitude in performing a lawful search of that person.

### The Vehicular Pat-Down

In *Michigan v. Long*,<sup>48</sup> two officers patrolling a country road in a squad car late at night saw a car being operated at an excessive speed and in an erratic manner. Before they could stop the car it turned off the road onto a side road and swerved into a ditch. Long, the sole occupant of the car, met the officers at its rear. The driver's door remained open. Long, after two requests, produced his driver's license, and after a second request for the vehicle registration, started walking toward the open driver's door. The officers went along with him and before Long could enter the car they saw a large hunting knife on the vehicle's floorboard. They halted Long's motion, and suspecting that he might also have a weapon on his person, performed a pat-down search. They found no weapons. Suspecting that there might be other weapons in the car, one officer shined his flashlight into the interior, saw a pouch protruding from beneath the car's center armrest, and entered the car and raised the armrest to examine it. The pouch was open and was found to contain marijuana. This discovery prompted Long's arrest.

In assessing the reasonableness of this warrantless entry and the limited search of Long's car, the Supreme Court approved the officers' actions by noting both the factual justification for suspecting the presence of weapons and the circumscribed nature of their

search of the car's interior.<sup>49</sup> The Court held that where officers reasonably suspect the presence of readily accessible deadly weapons in a lawfully stopped vehicle, they may make a limited search of the vehicle's interior for the purpose of locating and controlling the weapons.<sup>50</sup> In performing such a search, an officer must restrict his examination to those places where readily accessible weapons might be concealed.<sup>51</sup> This authorization presumably would not allow an examination of portions of the car beyond the passenger compartment.

### Extending the Duration of the Stop

An investigative detention is different from an arrest in numerous ways, including the permissible duration of the seizure. Since the investigative detention is supported by a factual justification less than probable cause, it must be temporary in nature.<sup>52</sup> For example, suppose an officer holds

be expected to be accomplished without substantial additional delay.<sup>53</sup> As the Supreme Court has stated, "In assessing whether a detention is too long in duration to be justified as an investigative stop, we consider it appropriate to examine whether the police diligently pursued a means of investigation that was likely to confirm or dispel their suspicions quickly, during which time it was necessary to detain the [suspect]."<sup>54</sup> Clearly this statement sets no specific time limit on temporary detentions. It does, however, emphasize the burden on the officer to demonstrate with facts the reasonableness of his actions.

### Arrest of Occupants

Where persons who have been detained are in fact engaged in criminal behavior, the goal of the detention is to gather sufficient facts to justify an arrest. Presuming that the officer has statutory authority to arrest, a legal arrest requires that the officer possess

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... it is essential for the officer making a traffic stop to know which investigative actions require a factual predicate....  
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a car and its occupants in an investigative detention for a period extending beyond a few minutes and has not yet gathered facts amounting to probable cause to arrest or search; the officer must be prepared to show that the extension of time was necessary for legitimate safety reasons or for the completion of logical investigative steps that could reasonably

facts at the time of the arrest that would cause a reasonable person to conclude that a crime probably has been committed and that the person arrested probably committed that crime.<sup>55</sup> Once an officer has acquired probable cause to arrest, he may lawfully exercise much greater dominion over the person he has detained.<sup>56</sup> The time limitation associated with investigative detention is no



longer applicable so that the officer may hold the person a substantial period of time without concern for constitutional limitations.<sup>57</sup> The officer may also use restraining devices, such as handcuffs, without a need for a specific showing of necessity, and may also relocate the arrestee with no particular showing of need.<sup>58</sup> A full search of the arrestee's person is also authorized.<sup>59</sup> These expanded powers are available to an officer at the commencement of a stop in the circumstances where an officer already has probable cause to arrest. As a result, a stop for the purpose of making an arrest can be very different at the outset than one that is performed to effect merely an investigative detention. Obviously, it is beneficial for an officer to know at the outset the purpose and justification for a particular stop.

#### Search Incident to Arrest

In addition to searching the person of an arrestee, officers may perform a search of the passenger compartment of the car as an incident to the arrest of an occupant so long as certain conditions are satisfied.<sup>60</sup> First, the occupant's arrest must be a lawful, custodial arrest.<sup>61</sup> Second, the search must be contemporaneous with the arrest, commencing no later than the time the arrestee has been placed safely under control.<sup>62</sup> Third, the search must be conducted before the car is moved.<sup>63</sup> Finally, the search must not exceed the scope allowed under this exception to the warrant requirement.<sup>64</sup>

The U.S. Supreme Court marked the boundaries of such a search in *New York v. Belton*.<sup>65</sup> In *Belton*, an officer stopped a car

because it was being operated in excess of the speed limit. The car was occupied by four men, including Belton. The officer asked the driver for his driver's license and the car's registration, and through questioning, learned that none of the occupants were the owner or were related to the owner of the car. During this time the officer smelled the odor of burning marijuana and saw on the floorboard of the car an envelope marked "Supergold," a term he associated with marijuana. He arrested all four men at this point for possession of marijuana and removed them from the car. He then removed the envelope from the floor of the car and found that it indeed contained marijuana. At this point he searched each of the men he had arrested, and then

**“Officers should weigh the facts ... and make a quick common sense determination of the legality of a pat-down.”**

searched the passenger compartment of the car where he found a black leather jacket on the rear seat. In the pocket of the jacket he found cocaine.

In passing on the reasonableness of this search, the Court denoted a "bright line" rule regarding the permissible scope of a search incident to arrest under these circumstances; the Court ruled that officers are constitutionally authorized to perform a full search of the car's passenger compartment, including a search of any containers found therein

whether they are open or closed.<sup>66</sup> Searches of areas beyond the passenger compartment, such as the trunk,<sup>67</sup> and perhaps searches of locked containers located in the passenger compartment require some other justification if the search is to be lawful.<sup>68</sup>

This search authorization is a powerful tool for law enforcement. Its requirements are rigid, however, and delay of the search so that it is not contemporaneous with the arrest, or relocation of the car before the search is performed, will prevent its valid application.<sup>69</sup>

#### Vehicle Exception Search

Under certain circumstances, officers may make an extensive search of a vehicle located in a public place without a search warrant.<sup>70</sup> The first requirement for making such a search is that the officer possess facts that would cause a reasonable person to conclude that evidence of a crime or contraband is probably concealed in a vehicle.<sup>71</sup> Second, the vehicle must be located in a place to which the officers have lawful access.<sup>72</sup> Finally, the search must be restricted in scope to places where the evidence sought might be concealed (for example, an officer would not be justified in searching a small jewelry box where the item being sought is a shotgun).<sup>73</sup>

An example of such a vehicle exception search is found in *United States v. Ross*,<sup>74</sup> where officers developed information from a reliable informant that a person named Bandit was selling narcotics kept in the trunk of a car parked at a specific address. The source stated that Bandit had just completed a sale out of the car and had told the source that he had



additional narcotics in the trunk. The car was described as a "purplish maroon" Chevrolet Malibu with District of Columbia license plates. Officers immediately drove to the address they had been given, saw a Malibu that matched the description they had been given, but saw no one nearby. To avoid alerting persons on the street, the officers then left the area. Five minutes later they returned and saw the Malibu being driven on the street, saw that the driver matched the description they had been given of Bandit, and stopped the car. The driver was ordered from the car and searched (incident to his arrest), and the interior of the car was searched resulting in the discovery of a pistol in the glove compartment. At this point the trunk of the car was opened, one of the officers located a paper bag, opened it and discovered glassine envelopes containing white powder. The bag was left in the trunk which was then closed, and the car was driven to the police station. There the car was thoroughly searched, and \$3200 in cash was located in a zippered leather case. The search of the trunk of the car, the paper bag and the leather case were approved by the Supreme Court as components of a valid vehicle exception search.<sup>75</sup> The search of the bag and pouch were proper because they were both items that could contain narcotics.<sup>76</sup>

Two other aspects of the *Ross* facts are noteworthy. First, because the officers had probable cause to arrest the driver of the car before the stop began, they had immediate authorization to lawfully take full control of the man

from the outset, and to conduct the contemporaneous full search of the passenger compartment incident to the man's arrest. Second, because the officers had probable cause to believe evidence of a crime was present in the car before the stop commenced, they also had immediate authority to search any place in the car where the evidence

interests of the owner of a car, it is necessary for an officer to impound a car he has stopped. For example, where the car is stopped so that it is obstructing traffic or stopped in a place where it may not be safely parked and the driver has been arrested, the officer must take custody of the vehicle.<sup>78</sup> Under such circumstances, an

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**... officers performing a pat-down [should] restrict their actions to those allowed by this exception to the warrant requirement.**  
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sought might be concealed. This search authority is not circumscribed by the rigid contemporaneousness requirement of the search incident to arrest exception so that under the vehicle exception a later search of the passenger compartment (as well as other places where the evidence might be concealed) conducted at a place other than where the stop occurred is still lawful.<sup>77</sup>

Officers are cautioned, however, that possession of probable cause to arrest is no guarantee of probable cause to search. Not infrequently an officer will possess probable cause to arrest an occupant of a car without having any facts indicating that there is evidence of a crime in the car. Under these circumstances, the officer's search authority will be limited to the contemporaneous search of the passenger compartment incident to the arrest, unless facts amounting to probable cause to search later come to light.

#### **Impoundment Inventory**

Frequently, for reasons of public safety and to protect the

officer may legally examine the car and its contents so long as certain requirements are satisfied.<sup>79</sup> The justifications for this examination include the need to protect the owner's property as well as the officer's interest in locating hazardous items, and also his need to verify what items are present so as to avoid later false claims.<sup>80</sup>

A lawful impoundment inventory requires first that the officer lawfully acquire custody of the vehicle. Consequently, both the legality of the stop and the necessity of taking control of the vehicle must be shown.<sup>81</sup> Second, the officer must show that the inventory was conducted pursuant to a standard, uniformly applied inventory policy.<sup>82</sup> Finally, the officer must show that his examination was within the scope of search allowed, that he restricted his examination to places where valuables or hazardous items might likely be concealed.<sup>83</sup> This logically includes the passenger compartment, glove compartment, trunk, and the contents of any containers found therein.<sup>84</sup>



## Plain View Seizures

If during the scope of a lawful search of the types previously discussed an officer comes upon items that he has probable cause to believe are evidence, he may seize these items without a warrant.<sup>85</sup> The officer must be prepared to show that when the item was observed, the officer was lawfully present in a place where he could make the seizure, and that upon observing the item, he had probable cause to believe that the item was subject to seizure.<sup>86</sup>

## CONCLUSION

Officers making traffic stops are confronted with substantial challenges and also with substantial opportunities to lawfully further investigative objectives. To meet these challenges and benefit from the opportunities, officers must have the necessary knowledge to keep their actions within constitutional limits. Such informed restraint will insure the admissibility of any evidence acquired, as well as protect citizens' legitimate privacy interests.

**FBI**

## Footnotes

- <sup>36</sup>U.S. Const. amend. IV.  
<sup>37</sup>See *Katz v. United States*, 389 U.S. 347 (1967).  
<sup>38</sup>See *Carroll v. United States*, 267 U.S. 132 (1925); *South Dakota v. Opperman*, 428 U.S. 364 (1976); *California v. Carney*, 471 U.S. 386 (1985); *New York v. Belton*, 453 U.S. 454 (1981).  
<sup>39</sup>*Id.*  
<sup>40</sup>See *Katz v. United States*, 389 U.S. 347 (1967).  
<sup>41</sup>434 U.S. 106 (1977).  
<sup>42</sup>392 U.S. 1 (1968).  
<sup>43</sup>*Id.*  
<sup>44</sup>*Id.* See also *United States v. Sokolow*, 195 S. Ct. 1581 (1989).  
<sup>45</sup>*Supra* note 42.  
<sup>46</sup>*Id.*  
<sup>47</sup>*Id.*  
<sup>48</sup>463 U.S. 1032 (1983).  
<sup>49</sup>*Id.* at 1051.  
<sup>50</sup>*Id.*

- <sup>51</sup>*Id.*  
<sup>52</sup>See *United States v. Sharpe*, 470 U.S. 675 (1985).  
<sup>53</sup>*Id.*  
<sup>54</sup>*Id.* at 686.  
<sup>55</sup>*Draper v. United States*, 358 U.S. 307 (1959).  
<sup>56</sup>See *Washington v. Chrisman*, 455 U.S. 1 (1982).  
<sup>57</sup>*Id.* See also *Dunaway v. New York*, 442 U.S. 200 (1979).  
<sup>58</sup>*Id.*  
<sup>59</sup>*United States v. Robinson*, 414 U.S. 218 (1973).  
<sup>60</sup>*New York v. Belton*, *supra* note 38.  
<sup>61</sup>*Id.*  
<sup>62</sup>*Id.*  
<sup>63</sup>*Id.* See also *Preston v. United States*, 376 U.S. 364 (1964).  
<sup>64</sup>*Id.*  
<sup>65</sup>*Supra* note 38.  
<sup>66</sup>*Id.*  
<sup>67</sup>*Id.*  
<sup>68</sup>But see *United States v. McCrady*, 774 F.2d 868 (8th Cir. 1985).  
<sup>69</sup>See, e.g., *State v. Badgett*, 512 A.2d 160 (Conn. 1986).  
<sup>70</sup>*Carroll v. United States*, *supra* note 38; *United States v. Ross*, 456 U.S. 798 (1982); *California v. Carney*, *supra* note 38.  
<sup>71</sup>*Chambers v. Maroney*, 399 U.S. 42 (1970).  
<sup>72</sup>*Cardwell v. Lewis*, 417 U.S. 583 (1974); *Coolidge v. New Hampshire*, 403 U.S. 443 (1971); *California v. Carney*, *supra* note 38.  
<sup>73</sup>*United States v. Ross*, *supra* note 70.  
<sup>74</sup>456 U.S. 798 (1982).  
<sup>75</sup>*Id.*  
<sup>76</sup>*Id.* at 821.  
<sup>77</sup>See *Chambers v. Maroney*, *supra* note 71.  
<sup>78</sup>See *Michigan v. Thomas*, 458 U.S. 259 (1982).  
<sup>79</sup>*South Dakota v. Opperman*, *supra* note 38.  
<sup>80</sup>*Id.*  
<sup>81</sup>*Supra* note 78.  
<sup>82</sup>*Supra* note 79.  
<sup>83</sup>*Id.*  
<sup>84</sup>*Colorado v. Bertine*, 107 S.Ct. 738 (1987).  
<sup>85</sup>*Coolidge v. New Hampshire*, *supra* note 72; *Texas v. Brown*, 460 U.S. 730 (1983).  
<sup>86</sup>*Id.*

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.

# Wanted by the FBI



Retouched photographs taken 1986

## Phung Vuong,

also known as Phung Voung.  
W; born 3-16-63 (not supported by birth records); Saigon, Vietnam; 5'5"; 130 lbs; slender bld; blk hair; brn eyes; med comp; occ-fisherman, machine operator, beef processor, sheet metal worker; remarks: Vuong may be traveling with Hung Huu Nguyen, FBI Identification Order 5974, who is also wanted by law enforcement authorities.

Wanted by FBI for INTERSTATE FLIGHT-MURDER; AGGRAVATED ROBBERY; AGGRAVATED BATTERY; AGGRAVATED BURGLARY

NCIC Classification:

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Fingerprint Classification:

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I.O. 5075

Social Security Number Used: 550-59-4002

FBI No. 348 000 FA5

## Caution

Vuong is being sought in connection with the shooting murder of two male victims and the robbery of others during a robbery/burglary of a residence. Consider armed and dangerous.



Right ring fingerprint



## The Bulletin Notes

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



*Officer Rimer*

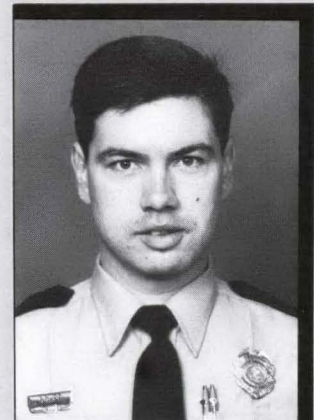
Officer Charles Rimer of the Greenville, SC, Police Department was off-duty and enjoying an evening of fishing when he noticed a nearby boat make a sharp turn and begin to circle in the water. While maneuvering his boat toward the troubled craft, Officer Rimer and his companion saw a man struggle briefly to stay afloat and then disappear below the surface of the water. Officer Rimer dove in and pulled the man to another boat which had approached the scene. There, Officer Rimer administered first aid to the unconscious victim until medical assistance arrived.



*Sergeant Kuehl*

While attempting to take a suspect into custody, Sgt. Gary Kuehl of the Clatskanie, OR, Police Department became involved in a tense hostage situation. The suspect pulled out a concealed gun and took the police chief, who was assisting in the arrest, as a hostage. Eventually, Officer Kuehl distracted the suspect, thereby giving the chief an opportunity to overpower and subdue the subject.

Trooper Harry McKinley Coker of the South Carolina Highway Patrol lost his life in the line of duty while saving another's. Trooper Coker and the driver of a jack-knifed truck were replacing a fallen stop sign to avoid any further accidents. While they worked on the sign, a car passing on the highway lost control and veered toward them. Trooper Coker, seeing what was about to happen, had time to jump out of the way. He chose, however, to push the truck driver out of the path of the oncoming vehicle. Subsequently, Trooper Coker received the full blow of the impact and was killed instantly.



*Trooper Coker*



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## ***Major Art Theft***

The two pictured paintings by Perillo, as well as many other valuable paintings featuring American Indian themes, were stolen during a Staten Island, New York, burglary in 1983.

Any information concerning this theft should be directed to the FBI's Brooklyn-Queens, New York Office at (718) 459-3140. Refer to their file number 87A-85287. You may also contact the National Stolen Art File, FBI Laboratory, Washington, DC, at (202) 324-4434.

**Top:** The Courtship by Perillo, 24" x 30"  
**Right:** Mother and Child by Perillo, 24" x 30"

