
FBI **Law Enforcement**
B ♦ U ♦ L ♦ L ♦ E ♦ T ♦ I ♦ N

SEPTEMBER 1996



Retirement

September 1996
Volume 65
Number 9

United States
Department of Justice
Federal Bureau of
Investigation
Washington, DC
20535-0001

Louis J. Freeh
Director

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

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

The *FBI Law Enforcement Bulletin* (ISSN-0014-5688) is published monthly by the Federal Bureau of Investigation, 935 Pennsylvania Avenue, N.W., Washington, D.C. 20535-0001. Second-Class postage paid at Washington, D.C., and additional mailing offices. Postmaster: Send address changes to *FBI Law Enforcement Bulletin*, Federal Bureau of Investigation, FBI Academy, Quantico, VA 22135.

Editor

Kathryn E. Sulewski

Art Director

John E. Ott

Associate Editors

Andrew DiRosa

Julie R. Linkins

Kimberly J. Waggoner

Assistant Art Director

Brian K. Parnell

Staff Assistant

Linda W. Szumilo

Internet Address:

leb@fbi.gov

Cover photo ©

Lawrence W. McKnight



FBI Law Enforcement

B ♦ U ♦ L ♦ L ♦ E ♦ T ♦ I ♦ N

Features

The Lethal Triad

By Kevin M. Gilmartin

1

A better understanding of isolated extremist groups can help law enforcement prevent them from lashing out against society.

Retirement

By Bill Rehm

6

Agencies can help officers prepare for an active and fulfilling retirement.

Bank Robbery

By Phillip W. Lissenden

16

Through a crime awareness course, the Suffolk County Police Department takes an active role in helping financial institutions protect themselves.

Creating Exigent Circumstances

By Edward M. Hendrie

25

Courts use three different analytical approaches when they examine the creation of exigent circumstances by police.

Departments

5 Bulletin Reports

OJP Resource Guide
BJS Online

15 Bulletin Alert

Pepper Spray Pager

12 Focus on Administration

Internal Affairs in the
Small Agency

21 Police Practice

College Interns



The Lethal Triad

Understanding the Nature of Isolated Extremist Groups

By KEVIN M. GILMARTIN, Ph.D.

Photo by James M. Yoghourjian

Law enforcement agencies increasingly are being called upon to deal with extremist groups. These groups can run the gamut from religious cults to isolated communes of political extremists. While the vast majority of these organizations do not threaten society and merely practice their constitutional freedoms, others pose significant risk to society and require law enforcement attention.

Groups that express terrorist motivations, attempt to engage in "religious acts" that violate criminal statutes, or propose outright anti-government insurgency exist across the nation. Although the causes they espouse range from a desire for religious salvation to a quest for national preservation, these groups share many striking similarities. Collectively, they have certain core features that law enforcement officers need to understand in order to resolve conflicts with members of such groups.

This article describes the nature of domestic isolationist groups in the United States, focusing on the Lethal Triad,¹ three social-psychological components that interact to nurture a given group's beliefs and behaviors. It also provides advice that law enforcement officers can use when negotiating with group members.

DYNAMICS OF DOMESTIC TERRORIST GROUPS

Unlike many international terrorist groups, the groups operating from a domestic base in the United States function more on emotional issues than on deeply entrenched political ideologies. Members of radical international groups often are born and raised in a society that supports their view of the United States, or some other outside entity, as an evil force. By contrast, members of domestic radical groups usually are loners whose beliefs garner little support from mainstream American society. In these cases, such emotional variables as fear, anger, or hatred motivate group membership and methods of operation.

The emotional responses of domestic groups are significantly less entrenched and thus more transient than the ideological beliefs of their

overseas counterparts. Still, their destructive nature remains strong.

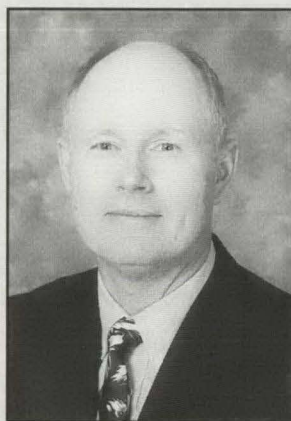
Understanding domestic extremist groups requires more attention to the group process that creates and maintains their collective behavior. This process is based on the social-psychological dynamics of the triad—isolation, projection, and pathological anger—represent the basic social forces common to radical groups, regardless of the content of their rhetoric or the nature of their practices.

Isolation

Isolation represents a key component in the restructuring or indoctrination phase of most groups, even those at the constructive end of the continuum, such as the military's bootcamps and corporate America's executive retreats. Isolation also appears to be the most powerful of the social dynamics operating in radical group processes.

The isolation process begins as members become sequestered from their previous identities or memories. Members sometimes receive new names, and any contact with family members who do not belong to the group is either forbidden or strictly monitored. Ostensibly, this practice protects members from the contaminating influences of the outside world. In reality, it preserves isolation, which bolsters group solidarity.

Radical groups isolate their members not only physically but psychologically as well. In short, they control what members think. Books, television, radio, and any other form of information challenging the tenets of the group are



“The components of the triad...represent the basic social forces common to radical groups, regardless of the content of their rhetoric or the nature of their practices.”

Formerly an officer with the Pima County, Arizona, Sheriff's Department, Dr. Gilmartin currently is a police psychologist and private consultant based in Tucson, Arizona.

strictly censored. Simultaneously, the isolated individual gets bombarded by cause-related information in the form of "literature" or lectures by the group's hierarchy. Although some groups appear to be vociferous consumers of information from such sources as public access television, shortwave radio, and even the Internet, the group's leadership censors all of the information before disseminating it to group members.

Communal living and daily meetings or prayer sessions strengthen the group's ideology. Oftentimes, these groups use extreme sleep deprivation, dietary restriction, and physical fatigue to indoctrinate members.

As isolation increases, critical thinking decreases. Without access to alternative information sources, members encode new belief systems. Group tenets never are challenged, only recited. Platitude conditioning replaces reasoning processes.

Although the isolation process itself is not pathological, the end result is. The extent of the deprivation and isolation yields an individual who responds to the group mandate with no individual thinking or decision making. Group leaders actively discourage critical, self-contained thought. Members perform such procedures as chanting and rhythmic, repetitive body movements for long periods of time. These actions create an autistic cognitive encapsulation, in other words, a closed belief system. In this cognitive vacuum, conspiratorial beliefs against mainstream society readily can develop.

Over time, the rocking, chanting, rhetoric-espousing individual becomes unable to question either

the group's tenets or its organizational authority structure. In short, new group members become isolated from past identities, family, other belief systems, information, and finally, from critical thinking.

Group members who previously lived a life defined by a lack of purpose, security, and/or direction often welcome the isolation from outside influences and the structure, identity, and purpose that group membership provides. In any case, at this point, the socially, emotionally, and

“

***As members
surrender critical
thinking, they
elevate the group
leader to the status
of absolute
authority.***

”

cognitively isolated members have become fertile ground for the seeds of the other two components of the Lethal Triad, projection and pathological anger, to take root.

Projection

Projection is a two-pronged process. First, the group projects responsibility for its decisions and direction onto the leader. Second, the group projects the cause for its perceived grievances onto some outside entity. These outside sources can be specific people or groups or merely the outside world in general.

Each group requires a single authoritarian leader, who assumes absolute control of all group functions and decision-making processes. As members surrender critical thinking, they elevate the group leader to the status of absolute authority. Thus, a group leader may assume a title such as Supreme Commander or may claim to be the group's deity incarnate. Group members may pay homage to the leader in a number of ways, including shouting "Heil Hitler," bowing, or chanting the leader's name during "religious" practices.

To remain in control of the group, the leader engages members in collectively orchestrated behavior, such as group prayer, meditation, or training sessions. Members abdicate all decision making and critical thinking to the group leader. Reality testing does not occur. Individual members who find themselves thinking critically of the group leader many times will revert to some form of isolation-producing cognitive exercise, such as chanting, exercising, or reciting organizational platitudes, to reduce the anxiety created by the mere thought of challenging the group leader.

The following dialogue presents an example of how group members abandon critical thinking as they project responsibility onto the group leader.²

Question: "If the leader asked you to shoot your mother, would you shoot her?"

Answer: "He would never ask me to do that."

Question: "What if he did ask you to shoot her?"

Answer: "She is not my 'spiritual mother,' she is only my 'flesh mother,' but he would not ask me to do it."

Question: "What if he did ask you?"

Answer: "It would have to be for a larger good than I could understand. He is my leader; it would be a bigger wrong to violate his order than it would be to shoot my mother."

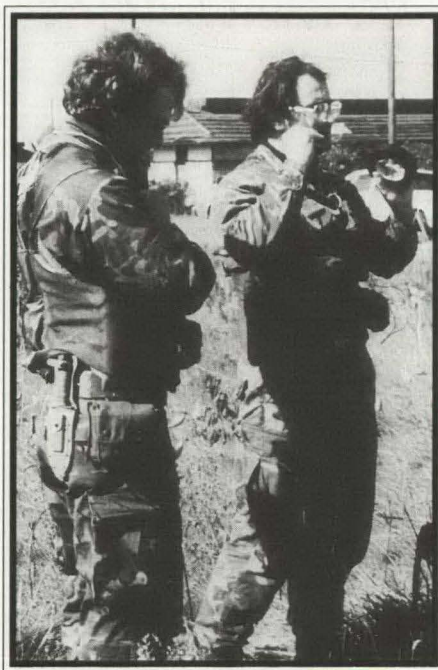
This exchange represents the typical answer provided by members of various isolationist cults when pushed to respond to the question of leader-initiated homicide. Members abdicate responsibility and accountability for their actions, which allows them to commit any act the leader requests.

Pathological Anger

The final component of the Lethal Triad, pathological anger, grows from the combination of isolation and projection. Collectively, group members see themselves as victims of an outside force. As they project blame onto this entity, they grow emotionally volatile. Their explosive anger can fuel actions that range from scapegoating ethnic minorities to bombing and gassing outsiders indiscriminately.

As their anger grows, group members believe they are in a position of "righteousness" or "justification." Because of their isolation, group members come into significant contact only with others who share their world view and emotional reaction to it. They neither test nor challenge the group hypothesis and feel no sense of individual

accountability. As a result, they can commit heinous acts without experiencing significant emotional turmoil or guilt. In essence, the group process has created situational sociopaths who suffer no remorse no matter what they do.³



NEGOTIATING STRATEGIES

During the typical barricade or hostage incident, law enforcement agencies most likely would attempt to resolve the situation by using the "rule of the 'ates'"—locate, isolate, evacuate, and negotiate. Yet, situations involving isolated radical groups are anything but typical.

Indeed, the uniqueness of the group's dynamics creates a different social context, rendering some hostage negotiation procedures ineffective. Law enforcement negotiators attempting to resolve a critical situation involving an isolated radical

group should consider alternative approaches.

Negotiators need to appreciate that they are interacting with individuals with a precreated cognitive/psychological group framework. The indoctrinated belief system and social reinforcement by other group members override the influences generated by traditional negotiation methods. For this reason, negotiators should not attempt to address issues central to the group's belief system.

Challenges to the core philosophy of the group only serve to strengthen the beliefs of members. The Lethal Triad produces a belief system that hardens to perceived persecution by law enforcement. Group members most likely would interpret such challenges as enhancing their victim or martyr-for-the-cause position.

Thus, negotiators should focus on providing specific, concrete resolutions that permit group members' belief systems to remain intact. The rapport that develops between the negotiator and the group by using this approach would allow group members to focus on finding a solution to the situation rather than defending the group's philosophy.

Additionally, negotiators need to consider the significant social influence the group leader possesses. Questioning or attacking the leader's authoritarian role in all likelihood will precipitate greater group solidarity, not fragmentation, especially if the leader is the one being negotiated with or if the interacting group member remains in communication with the leader. Group members should view decisions to

Bulletin Reports

resolve the tactical situation as decisions made by the group leader, not the negotiator.

A totalitarian group leader backed into a philosophical corner without maneuvering room can readily interpret the tactical situation for the group in apocalyptic terms. This can create a situation where group self-destruction becomes a more acceptable decision to the group than the total capitulation of its beliefs and principles.

CONCLUSION

From religious cults stockpiling weapons to militia groups advocating government overthrow, isolated extremist groups are taking root across the country. Although their motives and methods vary, they share the forces that drive their actions. The components of the Lethal Triad—isolation, projection, and pathological anger—combine to turn members of these groups against outsiders.

Law enforcement agencies may be called upon to resolve confrontations with groups typified by the Lethal Triad. Gathering intelligence on individual groups remains invaluable, but understanding the group dynamics may be the key to resolving conflicts peacefully. ♦

Endnotes

¹ The author coined the phrase "Lethal Triad," based on over 20 years of research into isolated extremist groups.

² This dialogue was compiled by the author following interviews with various cult members.

³ The formal clinical diagnosis of this process is Atypical Dissociative Disorder. See American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, 4th ed. rev, 1994, p. 490.

OJP Resource Guide

The Office of Justice Programs (OJP) has published a booklet designed for state and local government officials, criminal justice practitioners, and others looking for resources to prevent crime, improve their criminal and juvenile justice systems, and assist crime victims. The *Office of Justice Programs Resource Guide* is a "road map" of grant programs, training, and other assistance available through OJP.

The *Resource Guide* highlights OJP's comprehensive community-based initiatives, available training and technical assistance, opportunities for financial assistance, and new programs being implemented under the Violent Crime Control and Law Enforcement Act of 1994. It provides information on publications, clearinghouses, and resource centers that can be accessed by phone or via the Internet.

The *Resource Guide* is available on the Internet at [gopher://justice2.usdoj.gov:70/00/ojp/ojprg.txt](http://justice2.usdoj.gov:70/00/ojp/ojprg.txt). Hard copies can be obtained by calling the Department of Justice Response Center at 1-800-421-6770.

BJS Online

The latest Bureau of Justice Statistics (BJS) crime data are now available free of charge on the Internet at BJS's new home page. The home page address is <http://www.ojp.usdoj.gov/bjs>.

Criminal justice reports, spreadsheets, and news releases are available electronically in a variety of formats. The BJS reports are linked to the raw data used in the report, which can be downloaded from the National Archive of Criminal Justice Data. Data users can access over 43 gigabytes of data that have been collected since the mid-1970s and that covers a range of subjects, including crimes reported to the police, criminal victimization, prison populations, federal case processing, and counts of police officers and their equipment.

Retirement

A New Chapter, Not the End of the Story

By BILL REHM

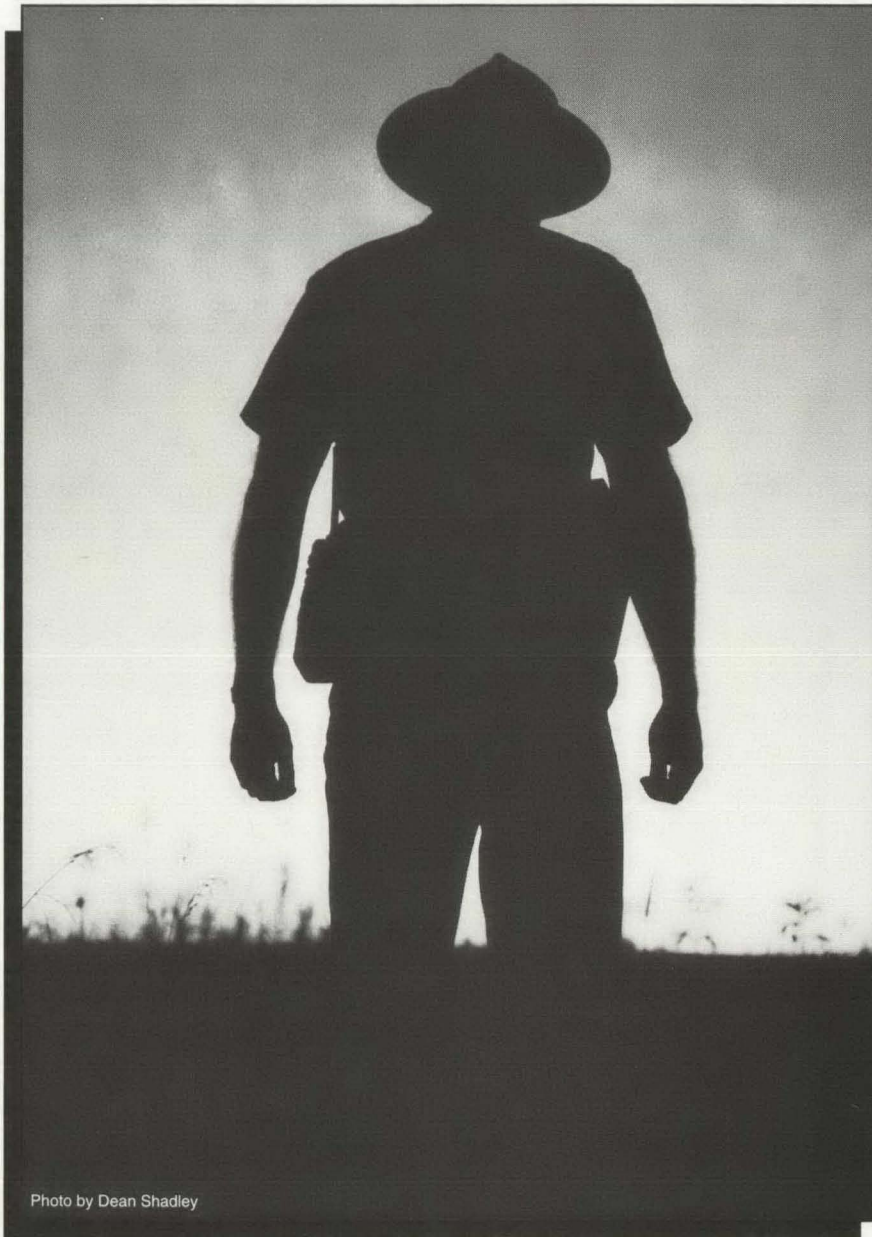


Photo by Dean Shadley

Recently, an officer whom I supervise told me that he had decided to resign from the department. I could hardly hide my surprise; the veteran officer had been an above-average employee throughout his career and was only 5 years away from retirement.

At the same time, though, I understood his restlessness. Some time before, I had left the department to work in the private sector. Five years later, I returned to the department.

A subsequent discussion with the officer revealed that he had few plans for his next career move. Through several long talks, I helped convince him to stay with the department. Today, although the officer is looking forward to retirement and exploring future career options, he continues to serve the department with distinction, and in fact, is one of my best employees.

Nearly all police managers can cite similar experiences with officers in their departments. What compels some officers nearing retirement to decide to leave early? Why do other officers continue to stay long after their commitment to service and dedication to duty have waned?

It has been my experience that three central factors—career challenges, finances, and the psychological effects of withdrawal—play a crucial role in determining an officer's relationship with the department as the prospect of retirement approaches. By understanding these factors, agency administrators will be more informed to help officers look ahead toward their retirement. Administrators also can help officers realize that with a little

planning in these areas, retirement from a law enforcement agency is not merely the end of a familiar way of life but the beginning of a new life with new challenges.

RETIREMENT ISSUES

Career Challenges

Maintaining career challenges encourages job satisfaction and prevents frustration. However, efforts to promote job satisfaction in law enforcement may have the unintended consequence of making the prospect of retirement seem unappealing by comparison. As one writer put it, "The more satisfying the career, the more difficult it is to shape a satisfactory retirement."¹

Of course, this is not to say that law enforcement agencies should not strive continually to provide new challenges to their officers. However, as officers begin to approach retirement age, agencies should encourage them to pursue opportunities outside their departments.

Unfortunately, law enforcement abounds with examples of officers who remain with their departments beyond their effective years. Often, these officers become the focus of jokes among other members of the department. Such scenarios are not only tragic endings to otherwise fine careers, but they also threaten the morale of entire departments.

For these reasons, agencies should counsel officers nearing retirement age to explore challenges outside the confines of the department. This will help them appreciate the many opportunities open to them after retirement and help them see

that there is life outside of police work.

Finances

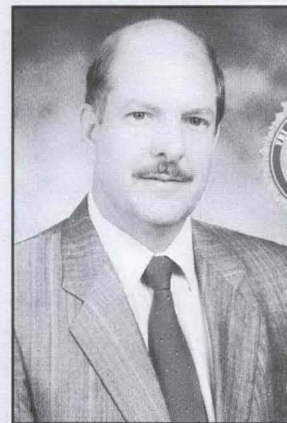
The Bureau of Labor estimates that individuals require an income equal to approximately 70 to 80 percent of their working income to maintain the same standard of living after retirement.² Undoubtedly, retirees in any field experience some anxiety about maintaining their standard of living.

A study of retiring Canadian police officers found that their concerns about retiring revolved primarily around income rather than "changed social circumstances or inactivity."³ However, some officers use money as an excuse to remain with their departments. The truth is that typical retirement packages provide ample income, especially when supplemented by income from a second career or a part-time job.

Consider, for example, the retirement-versus-working income of a typical captain in my department. Under our retirement plan, the captain's eligibility options include 70 percent of salary with 20 years of service or 80 percent of salary with 22 years and 10 months of service. The exact amount of the pension is computed from the employee's 3 highest salaried years.

Suppose that this captain has reached the higher threshold of 22 years, 10 months, making him eligible to retire with 80 percent of his salary. Now he is working on the highest 3 years of pay. The captain's gross monthly salary is \$4,324. Current deductions, including a monthly contribution to the retirement fund of \$429, lower his take-home pay to \$2,922 per month. If he retired at the conclusion of 2 years at captain's pay, he would receive \$3,023 per month. Subtracting \$512 in monthly

"...retirement from a law enforcement agency is not merely the end of a familiar way of life but the beginning of a new life with new challenges."



Lieutenant Rehms serves with the Bernalillo County, New Mexico, Sheriff's Department.

deductions leaves a take-home pay of \$2,511 per month. By remaining 1 more year with the department, he will increase his take-home pay by \$300 per month.

However, if the captain remains past this point, he actually will be working for diminishing returns. An additional year paid into the retirement fund will increase his net pay by only \$40 per month. This equates to less than minimum wage at a part-time job. An experienced police professional is worth far more than that in the open job market. Analysis of this type should demonstrate to officers that remaining with the department past their retirement eligibility often is a poor financial decision.

Psychology

Many officers who remain past retirement age are not as discouraged by the financial aspects of retirement as by the psychological aspects. As officers make the transition to retirement, they find themselves leaving a job in which they personified authority and responsibility; they were empowered to solve many of the community's problems and authorized by law to take a person's life if necessary.

The day of retirement means losing many years of identity and fraternity, as well as the right to hold the symbols of authority, including uniform, badge, and weapon. In one of life's little ironies, the officer is about to join the ranks of a population often derided by police officers—civilians.

A key psychological factor contributing to many officers' decisions to stay on the job past their

retirement eligibility revolves around unfulfilled needs described by Maslow's Theory of Self Actualization. As some officers look back on their careers, they cannot see any signs of lasting impact on the department and the community that they served for so long. The significant contributions of a career in public service seem washed away by the circular procedure of placing the same individuals in prison on multiple occasions for short periods of time.

“

...demonstrate to officers that remaining with the department past their retirement eligibility often is a poor financial decision.

”

Although this condition is not easily overcome, neither the affected officers nor their departments are served well by allowing officers to remain on the job while they attempt to resolve this need. Agencies should address the perils of self-actualization through counseling before officers reach retirement age.

Retiring officers face additional psychological pressures related to the loss of structure that their police careers gave their daily lives. Some officers leave their departments only to spend long days or

months looking for another job. A few seclude themselves in their homes and turn to alcohol to fill the void left in their lives by their retirement. Such worst-case scenarios are not only tragic but avoidable.

Retiring officers often sell themselves and their abilities short. Supervisors hear such comments as, "What could I do? All I have ever been is a cop." Officers retiring in their late 40s or 50s have many quality years left. They have made split-second decisions on a daily basis throughout their careers. They have interacted with people from all walks of life and in almost every conceivable situation. They calmly have resolved highly charged and emotional confrontations, responded to natural disasters, and tended to people with serious injuries. Administrators should ensure that retiring officers appreciate how unique and marketable these skills are.

HELPING OFFICERS PREPARE FOR RETIREMENT

Clearly, pressures relating to retirement issues can affect the psychological well-being of employees. In fact, retirement ranks as the ninth leading cause of stress in the United States.⁴ However, despite the many serious retirement issues, a 1988 survey revealed that fewer than 15 percent of law enforcement agencies in the country provided retirement counseling for their employees.⁵

Police agencies' strengths generally lie in mobilizing resources and developing contingency and operational plans for various situations. But, sadly, they often fall short at developing their most important resources—their own employees.

However, agencies can take a number of fairly simple steps to alleviate their employees' concerns and assist them in preparing for an active and satisfying retirement.

Career Planning and Counseling

Career planning and counseling should begin in the academy and play an important role in all evaluations throughout an officer's career. Supervisors should focus heavily on career counseling with officers during their last 5 years of employment. Counseling sessions should stress that an officer is engaged in a *career* in public safety rather than a *job* with a specific police organization. Likewise, command staffs should design training paths to guide officers toward a lifetime career. Officers should be shown the utility of their chosen specialty, not only in their current capacity but also in terms of enhancing their marketability after retirement from the agency.

Academy counseling sessions should include a form that guides officers in developing a written career path. The form should help the officers identify specialties that they would like to pursue. As the officers meet career challenges, supervisors should revise and update these forms during subsequent performance reviews.

As officers approach retirement, career planning counselors should encourage those who have not decided upon their next career moves to consider returning to school. Because the retiring officers probably have not attended school on a regular basis for many years,

counselors should assist them by locating proper funding and perhaps by making the initial contacts with the learning institution. Everyone from displaced factory workers to former prison inmates takes advantage of the self-enhancement and increased marketability that continuing education provides. Retiring police officers should be no exception.



Financial Planning

Career counseling also should include an explanation of how lifestyle choices affect long-term comfort and opportunities. Young officers untrained in financial matters may not grasp the ramifications of their actions. A seemingly simple decision, such as establishing a personal savings program, could have important long-term consequences.

For example, an officer who invests \$100 a month in a savings account at an interest rate of 3.9 percent would have \$36,431 at the end of 20 years. If this officer chose to deposit the same amount of money over the same period of time but transferred the balance every 12 months to a certificate of deposit yielding 5.5 percent, the officer

would have \$45,624 at the end of 20 years.⁶

To help clarify the advantages and drawbacks of alternative savings programs, agencies could arrange to have financial planners discuss investment opportunities with officers. In fact, most investment services would offer to deliver such presentations free of charge. Likewise, agencies could arrange to have outside experts discuss how health and leisure choices also can affect long-term opportunities for officers.

When officers are 5 years from retirement, administrators should hold a special counseling session for them and their spouses. The administrators should explain projected monthly income and other retirement benefits and services. Administrators also should illustrate to the officers and their spouses that the characteristics required of a career law enforcement official are equally in demand and marketable outside the department. The rewards and disadvantages of the job should be reviewed and compared to what the world outside the department can offer.

Effective counseling will help officers face retirement with eager interest in the challenges that lay before them. Counseling also will help alleviate officers' concerns about their families' ability to cope with the financial aspects of retirement.

Psychological Support

The psychological aspects of retirement may affect officers in a wide range of ways. Agencies can

help relieve some of the psychological pressures that officers nearing retirement face simply by fostering a supportive environment.

Administrators should support establishment of a retired officers association (ROA) within the umbrella of the agency's officers association. Once established, the ROA could help show officers the benefits of retirement, assist with networking for social and employment needs, and help officers fill their self-actualization needs by showing them some of the positive changes that have taken place in the community over time as a result of the department's efforts. Just as important, the ROA can lead the retired officers in a direction that ensures their contributions to the community do not come to an end.

Employment Assistance

The ROA or counselors made available by the department also should refer officers to federal, state, local, and private agencies or organizations that offer various forms of assistance to retirees. Organizations such as the American Association of Retired Persons can provide valuable information to retirees and may be able to assist them with job placement at no charge.

Police agencies can train retiring officers in skills they will need for the job search, such as preparing resumes, writing letters to prospective employers, and developing effective job interviewing techniques. In addition, the ROA could compile lists of companies looking for employees with specific skills and recommend retiring officers to firms with positions to fill.

Agencies also should consider rehiring a limited number of retired officers as civilian employees. By doing so, departments retain a valuable resource—employees with years of experience and in-depth training. At the same time, retired officers can enter a new phase of their careers within a familiar organizational structure.

**“
Agencies should take
steps to make the
transition to
retirement as smooth
and painless as
possible.
”**

Like all civilian employees, retired officers can perform a host of clerical functions. However, agencies also can use retired officers in various specialty operations, including community policing programs, special problem assignments, and internal affairs investigations. After all, who knows more about police work than a career service officer? This cost-effective placement approach also frees active duty officers for other assignments and offers a valuable training resource to officers assigned to work with the retirees.

Honoring Retirees

Finally, agencies should help retiring officers celebrate this important life transition. Acknowledging

the officers' contributions and achievements before fellow officers, family, and friends can address many psychological needs and resolve some potential problems before they arise.

Commanders should ensure that an officer's gun and badge—important symbols of a long association with the department—are given as gifts to the retiree. It is only right that agencies take time to show their appreciation for the service rendered by retiring officers. It also is in the best interest of agencies that retiring officers leave happy, not unfulfilled to go home to torment their families and speak ill of their departments.

CONCLUSION

Retirement from a law enforcement agency can be a bitter-sweet proposition. Although logic dictates that officers should look forward to enjoying the benefits of a much less stressful lifestyle, experience shows that many retiring officers look back on their careers and feel that their lives after retirement will be considerably less fulfilling. Agencies should take steps to make the transition to retirement as smooth and painless as possible.

After all, retirement is a natural phase of the career cycle that offers benefits both to departments and officers. Departments gain opportunities to promote, which helps morale. Retirement of command officers also allows departments to place individuals with new ideas into the management force.

Retired officers can explore new opportunities to use their experience and training. They are free to find

new roles in different organizations, interact with those outside the law enforcement profession, and perhaps earn more money.

By developing a comprehensive program to prepare officers for the career, financial, and psychological challenges of retirement, agencies can help take some of the mystery out of what lies beyond. Retirement does not end the story; it merely begins a new chapter. ♦

Endnotes

¹ Leonard Harrison, "The More Satisfying the Career, the More Difficult It Is to Shape a Satisfactory Retirement," *Police Chief*, October 1981.

² John G. Stratton, "Letting Go: Retirement," *Police Passages*, (Manhattan Beach, CA: Glennon Publishing, 1984), 277-285.

³ Dennis Forcece and Joseph Cooper, "Police Retirement: Career Succession or Obsolescence?" *Canadian Police Journal*, 1985.

⁴ James T. Chandler, Ph.D., "The Transition to Retirement," *Law Enforcement Technology*, March 1991.

⁵ R.P. Delprino and C. Bahn, "National Survey of the Extent and Nature of Psychological Services in Police Departments," *Professional Psychology: Research and Practice*, August 1988.

⁶ Ms. Colette Tyler, Customer Service Representative, Sunwest Bank in Albuquerque, New Mexico, interview by author, November 1995.

Author Guidelines

Manuscript Specifications

Length: 1,000 to 3,000 words or 7 to 15 pages.

Format: All manuscripts should be double-spaced and typed on 8 1/2- by 11-inch white paper. All pages should be numbered, and three copies should be submitted for review purposes. When possible, floppy disks using WordPerfect 5.1 should accompany typed manuscripts.

Publication

Basis For Judging Manuscripts: Manuscripts are judged on the following points: Relevance to audience, factual accuracy, analysis of information, structure and logical flow, style and ease of reading, and length. Favorable consideration cannot be given to an article that has been published previously or that is being considered for publication by another magazine. Articles that are used to advertise a product or a service will be returned to the author.

Query Letters: Authors may submit a query letter, along with a detailed one- to two-page outline before writing an article. This is intended to help authors but does not guarantee publication of the article.

Author Notification: Receipt of manuscript will be confirmed. Notification of acceptance or rejection will be sent following review. Articles accepted for publication cannot be guaranteed a publication date.

Editing: *Law Enforcement* reserves the right to edit all manuscripts for length, clarity, format, and style.

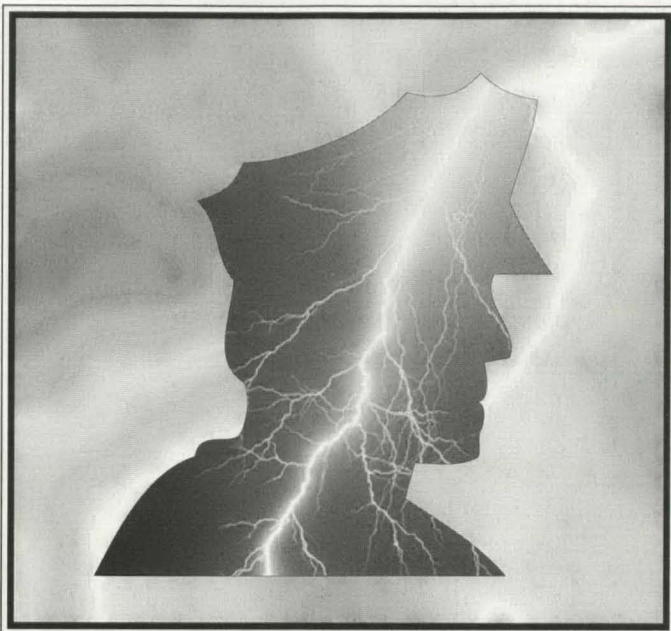
Submission

Authors may contact the special agent police training coordinator at the nearest FBI field office for help in submitting articles, or manuscripts may be forwarded directly to: Editor, *FBI Law Enforcement Bulletin*, Law Enforcement Communication Unit, FBI Academy, Quantico, VA 22135.

Focus on Administration

Internal Affairs in the Small Agency

By Kevin M. Courtney



Internal affairs cases cover a wide range of charges, from rudeness to full-blown criminal behavior. Complaints can come from citizens or from department personnel and might be made anonymously, privately, or even publicly through the media. It is the police executive's responsibility first to prevent conduct that might warrant complaints and, second, to ensure that all such complaints receive appropriate, timely attention and disposition.

Department administrators with sufficient personnel can afford to detail people to internal affairs units or divisions that, with some oversight and direction, deal solely with charges of misconduct. Smaller agencies, however, often do not have the resources to dedicate officers exclusively to internal affairs cases and must handle these delicate matters differently.

ETHICAL STANDARDS

The first and most critical step a police executive in any size department must take is to establish expectations of conduct. Every employee, both sworn and civilian, must understand that the organization will not tolerate unprofessional conduct and that appropriate action will be taken when it is uncovered.

As a positive step in this process, the agency's executive should issue a clear code of conduct accompanied by policies and procedures that articulate guidelines for conducting police business. Equally important, the executive must make sure that employees adhere to the code. It is better to prevent unprofessional conduct than to deal with it after the fact.

Even with such preventive measures in place, allegations of breaches of the code will be made from time to time. In preparation, an internal investigation policy should be in place. Departments without one can obtain a model policy from such organizations as the International Association of Chiefs of Police or the National Sheriffs Association or from another police agency.

The model then should be tailored to the department's particular needs. An internal investigation policy should address a number of key issues, including:

- Who can file complaints
- How citizens register complaints
- How anonymous complaints will be accepted
- What rights employees have
- What distinguishes criminal from administrative investigations
- How to handle complaints prior to a formal investigation
- When to notify the chief executive
- How to conduct an internal affairs investigation
- When to close an investigation
- How and when to notify the complainant of the outcome.

It is important that employees understand investigative policies and procedures, and one good way to educate them is to get input from a cross-section of employees in adapting the model policy. Getting input, however, does not make this a matter for collective bargaining; management should exercise its prerogative to establish ethical standards and professional expectations.

INVESTIGATIVE OPTIONS

When faced with accusations of inappropriate, unprofessional, or illegal conduct within the department, the executive of a small agency has several choices for how to proceed: conduct the investigation personally, assign it to the accused employee's supervisor, or ask another agency to investigate. The best choice depends on the circumstances and personnel involved.

Executive Investigates

The executive of a small agency wears many hats and might find it necessary to don the hat of an internal affairs investigator. In this case, the executive would investigate the allegations and then determine the appropriate disposition. Executives who go this route will need to focus on the investigation to the exclusion of some routine duties in order to resolve the matter in a timely fashion.

However, investigation by the executive has some drawbacks. First, the day-to-day demands of running the agency might make it impossible to devote sufficient time to the case. Second, because the agency head will determine the validity of the complaint and impose any necessary penalties, the parties to the case might question the impartiality of the process. An executive should give careful consideration to scheduling and time constraints, as well as to the perception of fairness and impartiality, before assuming personal responsibility for conducting an internal affairs investigation.

Employee's Supervisor Investigates

A second approach is to assign the accused employee's supervisor to do the investigation. This approach works best when coupled with a policy in which the first step of the complaint process involves an attempt to resolve the allegation by the complainant, the employee, and the first-line supervisor. Even if a resolution cannot be achieved informally, this approach gives the supervisor insight into the case and how the subordinate and complainant interact.

Upon completing the investigation, the supervisor forwards the case information with a recommended

finding to the chief executive, who makes the final determination. Depending on the size and structure of the agency, the material can be forwarded through the chain of command or directly to the head of the agency. In most small agencies, the command structure is rather flat, allowing recommendations to go straight to the top.

In small agencies, supervisors and subordinates often work very closely. This can give the appearance of a lack of impartiality when a supervisor conducts an

investigation. Sometimes supervisors and subordinates also belong to the same union, which can place supervisors in a difficult position when investigating a fellow union member. All of these factors should be weighed when considering whether to assign a supervisor to investigate a complaint against a subordinate.

Outside Agency Investigates

At times, the best approach will be to have another law enforcement agency investigate internal affairs cases. A small department might not have the resources to dedicate to a complex investigation, or criminal charges might be so serious that the small department feels it could not reasonably conduct a fair inquiry. Often, the state police will take on criminal complaints but will not handle simple misconduct or rules violation cases. Neighboring local agencies

“

The community...must feel that the department will listen to valid concerns and police itself appropriately.

”

can make arrangements to handle one another's noncriminal complaints to fill this gap if necessary.

Calling on the assistance of an outside agency addresses some of the concerns raised by having executives or supervisors investigate complaints. The investigator is impartial, the judge (executive) does not conduct the inquiry, and the executive can attend to the day-to-day operations of the agency.

This approach, however, might be viewed as a tacit admission that the department cannot manage its own affairs. Such a perception is not healthy for a department's morale or public image. If departments plan to ask an outside agency to handle a case or a category of cases, care should be taken to prevent such negative perceptions by publicizing the department's policy and the reasons behind it long before a complaint arises.

In addition, unless the complaint involves a very serious criminal matter, the outside investigating agency will balance this case against its other demands for service and, as a result, might not provide the promptness or quality of investigation desired. These drawbacks must be weighed against the need for impartiality and timely resolution.

QUALITY CONTROL

No matter the investigative option chosen, the chief executive must maintain a high quality of internal affairs investigations. Quality investigations contain a number of components. For example, investigators should conduct complete interviews of all parties (employees, complainants, and witnesses) and document those interviews clearly and thoroughly. They also should review any physical evidence, past behavior relevant to the incident, and other documentation, such as dispatch tapes, police reports, tickets, or audio/videotapes, that might impact the investigation.

Other factors might influence the quality of internal affairs investigations. Some states have

codified an internal affairs process that law enforcement agencies must follow. In addition, some agencies are governed by contractual obligations with a police officers' union. If such legislation or contracts exist, executives should examine them carefully—preferably with the assistance of legal counsel—to ensure that the department's policies meet the applicable regulations. Moreover, the chief executive should ensure that the actual process of investigation complies with the department's policies.

Another important aspect of a high-quality internal affairs process is timely resolution of complaints.

Prompt investigation and disposition of cases maintains the integrity of the department by addressing the problem (real or perceived), helping satisfy the complainant's concerns, allowing the accused employee to return quickly to focusing on the job rather than the investigation, and boosting the department's morale.

EMPLOYEE MORALE

Executives must not overlook the impact of the internal affairs process on the morale of the department and the good will of the citizenry. Often, officers

working in small organizations have little understanding of the role and value of internal affairs or the citizen complaint process simply because they have never been named in a complaint. The intimacy of a small community and police department might magnify the strain caused when complaints are lodged against police employees.

It is important, therefore, for the chief executive to explain the internal affairs process and its value to both the department and the community to alleviate some of the mystery when complaints are filed. One way to dispel rumors and address concerns within the department is to have a general department meeting to explain the policy and process prior to their implementation. Periodic refreshers can serve to remind employees of how the internal affairs process works, what regulations govern it, and how it protects the

“

Smaller agencies...often do not have the resources to dedicate officers exclusively to internal affairs cases....

”

employees as well as the complainants. No one likes to be investigated, but employees will feel much better if they understand the process and trust the outcomes will be fair.

COMMUNITY RELATIONS

The community must have the same level of trust in the process as the employees do, for two reasons. First, they must feel that the department will listen to valid concerns and police itself appropriately. This will help maintain a constructive relationship between the department and the community. Second, community members must believe that the chief executive will be fair to the department's employees, who often are their friends and neighbors. To navigate the minefields of small town politics successfully, police executives must not be perceived as deaf to the community's concerns or biased against any group of employees.

Police executives should be open and honest with the community and government officials. They should explain that the internal affairs policy has been established to maintain a high ethical standard, describe the general provisions of the policy, and show

citizens how to access the complaint mechanism. The purpose is not to solicit complaints about the department, but to let citizens know that if problems arise, the department will take their concerns seriously.

CONCLUSION

In the final analysis, local law enforcement agencies benefit most from taking an aggressive, proactive approach to addressing the concerns of citizens and employees by having a well-written and fully enforced internal affairs policy. Chief executives of small departments have several investigative options open to them.

Whether they choose to handle cases themselves, assign them to first-line supervisors within the department, or ask for outside assistance, they must strive for fair and impartial investigation and disposition of complaints. By keeping employees and the community informed, executives can minimize confusion and misperceptions among all parties involved. ♦

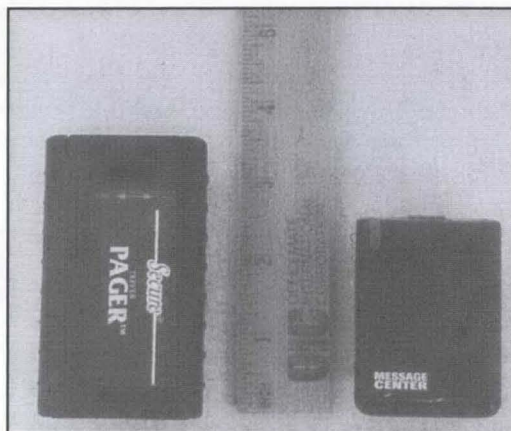
Mr. Courtney is director of the Big Rapids, Michigan, Department of Public Safety.

Bulletin Alert

Pepper Spray Pager

Things may not always be what they appear. The "pager" on the left is not a pager at all, but a cleverly disguised pepper spray device. Featuring a 10-percent pepper spray mixture, this product recently was spotted for sale at a uniform store in Connecticut. The device closely resembles an actual pager/beeper and easily could be overlooked during searches and pat downs, creating a potentially unsafe situation for law enforcement personnel. ♦

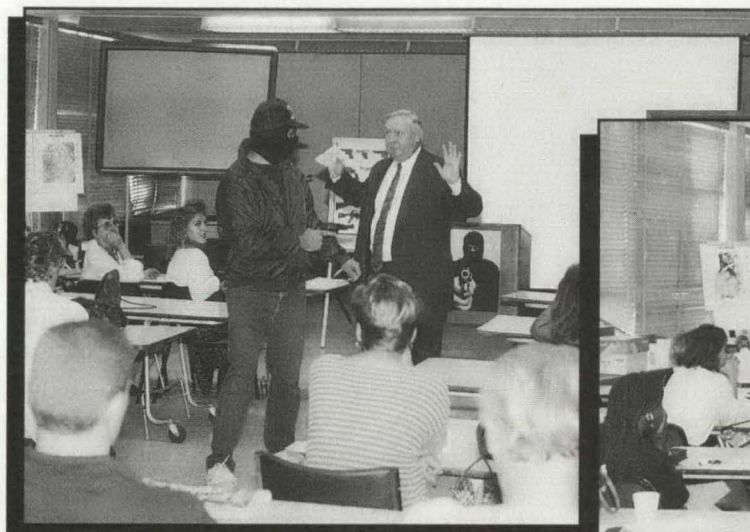
Submitted by Capt. Mark Lane of the New London, Connecticut, Sheriff's Department.



Bank Robbery

A Target for Community Policing

By PHILLIP W. LISSENDEN



*The Financial Institution
Crime Awareness Course*



As its name implies, community policing involves citizens and the police working together to help resolve community crime problems. During the past decade, the community policing approach has helped law enforcement agencies throughout the United States reestablish bonds with the communities they serve.

However, many police departments that have embraced community policing may have unintentionally excluded investigative units from participating in this program. Perhaps this stems from a perception among investigators that community policing offers them no benefits. But such thinking may serve

only to deprive investigative units from experiencing the rewards of community policing.

In Suffolk County, New York, investigators developed and implemented an innovative community policing program that provides the employees of financial institutions with formal crime awareness training. The approach has proven so successful and popular that variations of the original program have been developed to assist other potential crime victims.

Historical Perspective

From 1984 through 1989, detectives from the Suffolk County Police Department's Robbery

Section noticed several recurring problems while investigating bank robberies. They learned that in the wake of a robbery, bank employees often:

- Failed to notify police promptly and accurately
- Failed to safeguard the crime scene prior to the arrival of police personnel
- Had not activated surveillance cameras
- Were unable to provide detailed, accurate descriptions of suspects
- Exhibited a reluctance to assist in the robbery investigation

- Experienced great anxiety regarding their required participation in court proceedings.

Collectively, these problems represented a serious impediment to the successful investigation of bank robberies.

Detectives also noted a steady increase in the number of bank robberies occurring throughout the country and the region. In the New York metropolitan area, an alarming number of these robberies resulted in customers or bank employees sustaining physical injury.

The Suffolk County Police Department decided to develop and implement a plan that would reduce the possibility of injuries occurring during the commission of bank robberies. The plan also would address the reactions of bank employees that impeded investigations. After analyzing the various investigative difficulties and safety problems relating to bank robberies, detectives from the Robbery Section concluded that formal training conducted by police personnel and directed toward bank employees at all levels, from tellers to managers, would help alleviate these problems.

Program Design and Implementation

Throughout 1989, detectives contacted hundreds of financial institutions and law enforcement agencies throughout the United States to determine what, if any, training they provided for bank employees. The detectives found that while many law enforcement agencies and financial institutions conducted some type of formal training, none conducted a comprehensive

program addressing customer and employee safety, as well as investigative problems. These surveys also revealed that in addition to safety issues, the prime concerns of bank executives focused on adherence to strict policies developed by the various financial institutions.

Late in 1989, the detectives began to develop a training program that would address the bank executives' concerns and the factors that inhibited robbery investigations. Suffolk County detectives solicited input from financial institutions in the area regarding their safety and policy needs. The detectives then outlined a one-day seminar to address these issues. Representatives from the police department and several financial institutions discussed and modified the outline at a number of meetings.

Meanwhile, the police department attempted to locate training aids to accent various portions of the emerging program. Finding very little training material available, the detectives decided to design and

develop their own training aids, which eventually included video and audio tapes, posters, slides, and printed pamphlets emphasizing the important points that would be discussed during the training seminar.

The Financial Institution Crime Awareness Course

In January 1990, detectives finalized the formal plan for the one-day training seminar. The first Financial Institution Crime Awareness Course was held at the Suffolk County Police Department Training Academy in May 1990.

Program planners knew that the bank employees' acceptance of the instruction program depended largely on the credentials of, and quality of the presentations by, the instructors. Therefore, the planners hand selected department experts in robbery investigation, physical evidence, patrol procedures, basic crime prevention, court preparation and presentation, and stress counseling to present the different segments of instruction.

“ Since May 1990, the police department has conducted over 70 training sessions for more than 7,000 bank employees from the Long Island, New York, metropolitan area. ”



Detective Lissenden is assigned to the Robbery Section of the Suffolk County, New York, Police Department.

Course Description

The course consists of seven, one-hour blocks of instruction. In the first hour, entitled "Everyday Conduct," the instructor encourages employees to obey current bank policy and follow Suffolk County Police Department recommendations regarding safe and proper opening and closing procedures. The instructor also reinforces the goal of bank robbery prevention, explains the concept of "target hardening," tests employees' powers of observation and explains methods to increase these skills, and educates students on basic crime prevention techniques that are currently in use in other programs.

The second hour of instruction, "Conduct During a Robbery," concentrates on employee adherence to current bank policy and police department recommendations regarding conduct during a robbery, with an emphasis on employee and customer safety. During this hour, the instructor lectures on methods to reduce the possibility of violence and additional ways to enhance employees' powers of observation. The trainer also explains how to increase the possibility of arresting and convicting offenders, while strongly discouraging any "heroic" or "grandstanding" actions on the part of employees, which may create a dangerous situation. Instead, the instructor presents nationally recognized crime prevention techniques enhanced by the experiences of detectives investigating robberies in the Suffolk County area.

In the third block, entitled "Conduct Immediately After a Robbery," the instructor explains techniques to

reduce the possibility of injury due to violence or emotional trauma, such as heart attacks, strokes, and other disorders. Also covered during this hour are basic safety measures and how to deal with physical and emotional injuries immediately after a robbery. Emphasis is placed on specific tasks that should be accomplished by employees, such as activating silent alarms and surveillance cameras, notifying the police department via telephone, locking the doors to the bank, etc. The instructor then demonstrates how employee conduct can assist police during the critical time period immediately after a robbery and shows attendees the proper way to identify and secure physical evidence.

**“
...the training
benefits the police
department...by
preparing potential
victims and
witnesses to react
properly in a crisis
situation.
”**

The fourth hour of instruction, presented by a patrol officer, is entitled "The Role of the Uniformed Police Officer." In this hour, participants learn more about the police department's response policies. The officer stresses the police department's concern for employee and customer safety, explains police response procedures, and gives

reasons for certain police actions at the crime scene, such as treating the physically injured and emotionally traumatized, identifying witnesses, conducting preliminary questioning, etc. The officer emphasizes safety and crime prevention, as well as crime scene security, and explores the possibility of hostage takings and pursuit situations.

During the fifth hour, "The Role of the Detective," a police detective explains the need for certain procedures performed by detectives at the crime scene, such as conducting interviews, taking written statements, photographing and collecting evidence, searching for latent fingerprints, obtaining inked elimination prints, etc. The detective also explains to seminar participants the reasons for the various requests that detectives make of witnesses during the follow-up investigation, such as viewing mug photos, assisting in the preparation of composite sketch drawings, identifying possible subjects from photospreads, and viewing lineups. Most important, though, the detective stresses the importance of witness cooperation to investigations.

"The Court Process" covers each phase of the judicial process in which a victim or witness may become involved. During this hour, the instructor talks about the importance of honestly presenting facts to the district attorney and grand jury and addresses the role of the district attorney, judge, jurors, defense attorney, defendant(s), victims, witnesses, police officers, and detectives in each phase of the court process. The instructor then tells participants how evidence, such as

witness statements or positive lineup identifications, will be used in court.

A police stress counselor presents the final hour of instruction, entitled "Post-Robbery Trauma." At this time, the counselor defines Critical Incident Stress Syndrome and discusses its causes and effects. The counselor tells participants how to identify the symptoms, informs them of recognized methods for dealing with this health hazard, such as counseling, gives them information about emotional trauma, and offers referral options.

Program Evaluation

Since May 1990, the police department has conducted over 70 training sessions for more than 7,000 bank employees from the Long Island, New York, metropolitan area. Each participant who completes the seminar receives a certificate. Attendees also complete evaluations of the seminar, which instructors and program managers use to make changes in the structure and content of the course.

In an effort to measure the long-term success of the program, the police department monitored the number of bank robberies, arrests, and convictions in the region. Despite a steady rise in bank robberies nationwide, the number of bank robberies in the Long Island metropolitan area has leveled off since the inception of the training program. In recent history, Suffolk County experienced 30 to 50 bank robberies per year. Only 12 financial institutions in the county were robbed in 1995. The conviction rate for robberies that do occur continues to increase.

It is generally difficult to cite tangible results, such as statistics, to prove the effectiveness of a crime prevention program because most criminals do not indicate what crime prevention techniques discouraged them from committing a crime. However, one indication of success,



particularly for a training program of this type, would be an increase in reports of suspicious persons, vehicles, or circumstances relating to a target. Since the inception of the training program, the Robbery Section of the Suffolk County Police Department has recorded a dramatic increase in such reports from financial institutions.

The police department also has received testimonial letters from bank employees who attended the seminar and subsequently became victims of bank robberies. The employees reported that they felt less anxiety during the robberies and also felt confident performing the tasks necessary to assist the police in the identification and apprehension of suspects.

Investigators verify that the information given by employees who have completed the training program is more detailed and given in a

more timely manner than information received from employees who have not attended the class. As a result, robbery detectives have made several immediate apprehensions based on information supplied by bank employees using the techniques they learned in the program.

In addition, most employees who receive the training do not hesitate to testify at criminal proceedings. Further, since the inception of this training program, no customer or employee has sustained physical injury during the commission of a bank robbery in Suffolk County.

Expanding the Program

As the success of the Financial Institution Crime Awareness Course became known to other law enforcement agencies in the New York metropolitan area and beyond, the Suffolk County Police Department began receiving numerous requests to provide training to police personnel from other agencies interested in adopting a similar program. To date, the Suffolk County Police Department has trained more than 300 law enforcement officers from more than 100 law enforcement agencies in 6 states, as well as security personnel from retail department stores, supermarkets, and private corporations.

The Suffolk County Police Department also has modified the course curriculum for use in robbery prevention programs targeting other community businesses. Thus far, department personnel have provided crime awareness training to employees of fast-food and family restaurants and convenience

stores, as well as to senior citizen groups.

Today, more than 6 years after the inception of the program, financial institutions throughout the New York metropolitan area eagerly participate in the training seminars. So that as many citizens as possible can benefit, the department provides the training to financial institutions, as well as to other groups, at no cost.

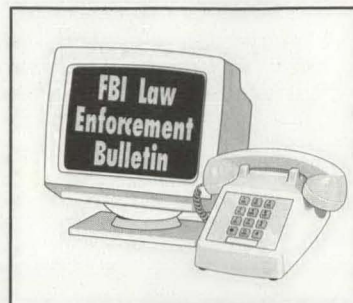
Conclusion

The Financial Institution Crime Awareness Course provides a tangible way for the Suffolk County Police Department to demonstrate its concern for the safety of community residents. The program also strengthens the department's relationship with the community and promotes citizen participation in the criminal justice process.

Likewise, the training benefits the police department—especially robbery investigators—by preparing potential victims and witnesses to react properly in a crisis situation. This training not only teaches bank employees, and others, the proper procedures to follow during and after a robbery, but it also increases the likelihood that they will participate in the prosecution of the offenders.

Community policing offers opportunities for law enforcement agencies to explore innovative approaches to crime prevention. Through the Financial Institution Crime Awareness Course, the Suffolk County Police Department takes an active role in helping the community protect itself. ♦

Law Enforcement's New Internet Address



The *FBI Law Enforcement Bulletin's* Internet address has changed. We invite you to communicate with us via e-mail. Our new Internet address is:

leb@fbi.gov

We would like to know your thoughts on contemporary law enforcement issues. We welcome your comments, questions, and suggestions. Please include your name, title, and agency on all e-mail messages.

Also, *Law Enforcement* is still available for viewing or downloading on a number of computer services, including the FBI's home page. The home page address is:

<http://www.fbi.gov>

College Internship Program

Prospective Recruits Get Hands-On Experience

By Kevin W. Dale



Recruiting and selecting qualified entry-level law enforcement officers represent two of the most critical issues facing law enforcement agencies. The public continues to place increasing demands on the police, while looking to the police for immediate solutions to both real and perceived threats of violent crime. When the ever-changing technology being used to commit and combat crimes is added to the public's demands, it becomes clear that police administrators need to be very careful in selecting qualified police officer candidates.

Today's police officers require a wider base of knowledge than that of their predecessors in order to handle the diverse calls for service, investigate crimes, and act as first responders to the many misfortunes of the public. Increasingly, there is a demand for entry-level police officers to possess post-secondary education and as much practical training and exposure to law enforcement as possible.

For several years the state of Minnesota has required that its peace officers be licensed through the Peace Officers Standards and Training (POST) board. Recruits are required to complete at least 2 years of college with a degree or concentration in law enforcement science, complete an 8-week police officer skills program, and pass a state licensing examination. All of these elements qualify candidates to be licensed. However, candidates do not actually receive their licenses until they secure employment as sworn officers with a law enforcement agency.

Largely as a result of these requirements, the majority of new hires in the state are better educated and more formally trained coming into the profession than their counterparts of 20 years ago. However, these requirements do not ensure that candidates have benefited from one of the best forms of education available—experience.

Unfortunately, some well-educated police officer candidates discover that they are not “cut out” for police work only after they have been hired and are well into the field training process. Nothing in their education or skills training exposed them to actual field incidents or afforded them the opportunity to deal with the wide array of emotions and behaviors demonstrated by the citizens with whom they must come into contact. Agencies that hire such candidates face the difficult, and often costly, task of terminating a probationary officer who looked so qualified on paper, yet failed to live up to minimum expectations on the street.

To a large degree, such problems spring from the age-old dilemma facing young job seekers and potential employers. How does a prospective employee gain experience to get hired without getting hired to get experience? Where does a candidate obtain actual police experience, and how can an agency know in advance if their “qualified” candidate will be successful on the job?

To address many of these concerns, the Spring Lake Park, Minnesota, Police Department developed an internship program for college students interested in law enforcement careers. The program provides a

way for prospective police candidates to serve the agency and community while gaining valuable on-the-job training. In turn, the experience gained can help the interns decide whether they wish to pursue a career in law enforcement after graduating from college.

The Program

The Spring Lake Park Police Department internship program grew from humble beginnings in 1988. A college senior majoring in criminal justice became the first candidate. The student's program advisor recommended him to the police department and arranged for him to receive college credit for his experiences with the department. Without the benefit of any formalized policy or procedure, department administrators worked to develop a program to make the intern's 200 hours of voluntary participation an enriching learning process.

From these very unstructured beginnings, the internship program grew to become a mutually rewarding experience for the candidates and the police department. The cooperative educational venture evolved into what could be aptly described as a "win-win" situation.

The college students who participate are exposed to all facets of municipal police work and gain experience that is difficult to obtain anywhere else. The agency benefits from the voluntary assistance of well-educated, enthusiastic candidates who can perform specialized, as well as routine, duties.

The program generally spans 10 weeks, or the length of a college quarter, but can be tailored to meet the needs of individual candidates. To ensure that each candidate receives the most from the experience, the police department accepts only one student per quarter for the internship program.

The Candidates

In keeping with the original objective of the program—to provide a hands-on learning environment for law enforcement candidates—prospective interns are selected for consideration from the following populations: 1) students currently enrolled in law enforcement or criminal justice degree programs at Minnesota universities, colleges, or vocational/technical schools, or 2) students who have completed their academic requirements for POST licensing but have yet to be hired as sworn officers. Each group gains similar benefits from the internship program.

Active students enrolled in a school with an accredited internship elective can earn college credit-hours for the successful completion of an internship. Generally, each educational institution has a prescribed course of study that gives the student—and the agency—broad guidelines to

direct the student's participation during the internship. These guidelines suggest specific areas of law enforcement that the intern should experience. Additionally, the students may be given specific course requirements that often include the minimum number of participating hours (generally 200-400) and a research project or paper to be completed on a topic approved by the institution and the police department.

For candidates who have completed the academic requirements for licensing but have yet to be hired as sworn officers, the benefits of an internship remain the same. Although the interns do not receive college credit, they still gain valuable experience. Both the active student and the graduate must participate to the same degree within the agency to successfully complete the internship.

Goals and Objectives

In an effort to provide students participating in the internship program with as much hands-on experience

“

...administrators drew up a list of goals and objectives to provide direction to both the interns and the program.

”

as possible in the relatively short amount of time they spend with the police department, administrators drew up a list of goals and objectives to provide direction to both the interns and the program. These goals and objectives give structure to the program; assist the interns in scheduling their duty time; and aid the agency in training, supervising, and evaluating the interns' performance.

Written objectives become particularly useful when an intern undertakes a specific project, such as a bicycle safety clinic or crime prevention program for the elderly. In fact, with the assistance of a supervisor, each intern identifies and completes at least two projects that encompass the following goals:

- Understanding and demonstrating professional values, ethics, and principles
- Improving written and verbal communication skills
- Identifying community resources
- Learning community policing concepts and their applications
- Developing decision-making skills
- Developing a practical knowledge of criminal procedures
- Identifying law enforcement support services and understanding their respective functions
- Understanding the functions of the agency's divisions and bureaus.

In addition, determining goals and objectives helps the agency identify the vocational skills and knowledge the interns bring with them to the program. It also gives the interns the opportunity to identify any shortcomings they may have (e.g., inadequate verbal communication skills) and to set their objectives for improving them. At the completion of the program,

supervisors use the goals and objectives as a basis for evaluating each intern's overall progress and performance.

Training

All members of the agency take an active role in the training process and provide each intern's department supervisor with feedback on the individual's progress. Initially, the interns work closely with clerical and administrative personnel to gain an

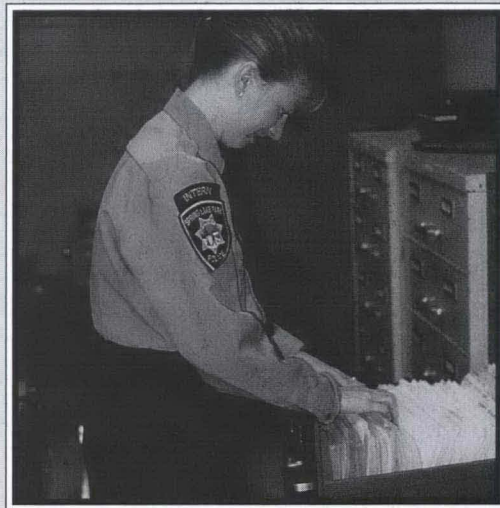
understanding of the organization and to become familiar with police documents, forms, records, databases, and available support services. During this introductory phase, interns are given the opportunity to answer phones, observe interaction between the public and department personnel, review the agency's manuals, and become familiar with its law library.

With the cooperation of patrol officers, the interns receive field training on a ride-along basis. The department issues the interns a uniform that clearly distinguishes them from

patrol officers. Under the direct supervision of patrol officers, the interns are encouraged to handle routine calls for service.

As the interns' knowledge and experience grow, they are given greater latitude in the scope of duties and areas of responsibility handled. Interns eventually will go out on proactive patrol in a semimarked squad car and assist patrol officers with routine matters. Then, they can handle calls for motorist assists, complaints about animals, and vehicle lock outs on their own.

The department makes arrangements for interns to work with investigators, tour jails and crime labs, and spend a shift at the communication center. In addition, the interns are encouraged to observe district and municipal court proceedings. To track activities and record duties performed, each intern makes daily



entries in a personal log book. On a weekly basis, the intern meets with the program supervisor to critique the past week and discuss future assignments. The supervisor also provides guidance to help meet individual goals and objectives.

Evaluation

Supervisors use a final evaluation form to assess intern performance and participation in the program. Each intern receives a copy of this written evaluation during the exit interview. The evaluation uses a Likert scale (5=well above standard through 1=well below standard) and assesses the intern's performance or comprehension in the areas of:

- Communication
- Community relations
- Human relations
- Decision making/judgment
- Work analysis
- Ethics/values
- Self-image.

The supervisor conducting the interview uses this opportunity to recognize the intern's accomplishments and performance. More important, the supervisor advises the intern of skill areas that could be improved and directs the individual toward additional training resources. Supervisors also are encouraged to write a narrative summary assessing performance and critiquing the intern's major project(s) or research initiatives. All of this material becomes part of the intern's personnel file and may be released to prospective employers at the intern's request. All interns who fulfill the program's requirements receive a certificate of completion.

Results

Since 1988, 10 students have completed the Spring Lake Park Police Department internship program. Nearly all have sought employment as law enforcement officers upon graduation. One former

intern became an officer with the Nashville, Tennessee, Police Department, while two others joined departments in Minnesota. Another former intern, who completed the program in 1991, recently returned to the Spring Lake Park Police Department as an officer.

Conclusion

Although debate over whether police officer applicants should be required to possess a college degree probably will continue for many years to

come, few would question the value of a program that offers practical experience to potential police recruits. The Spring Lake Park Police Department internship program provides interested students with experience, as well as a structured environment, to serve the police department and the community.

In addition, by providing students with hands-on experience, the internship program gives them a more realistic picture of the policing profession. Participants who do not like what they see can refocus

their career plans without devoting a great deal of time and energy to a career in which they ultimately would not be happy. Those interns who choose to pursue a career in law enforcement will possess a much clearer understanding of what that decision involves.

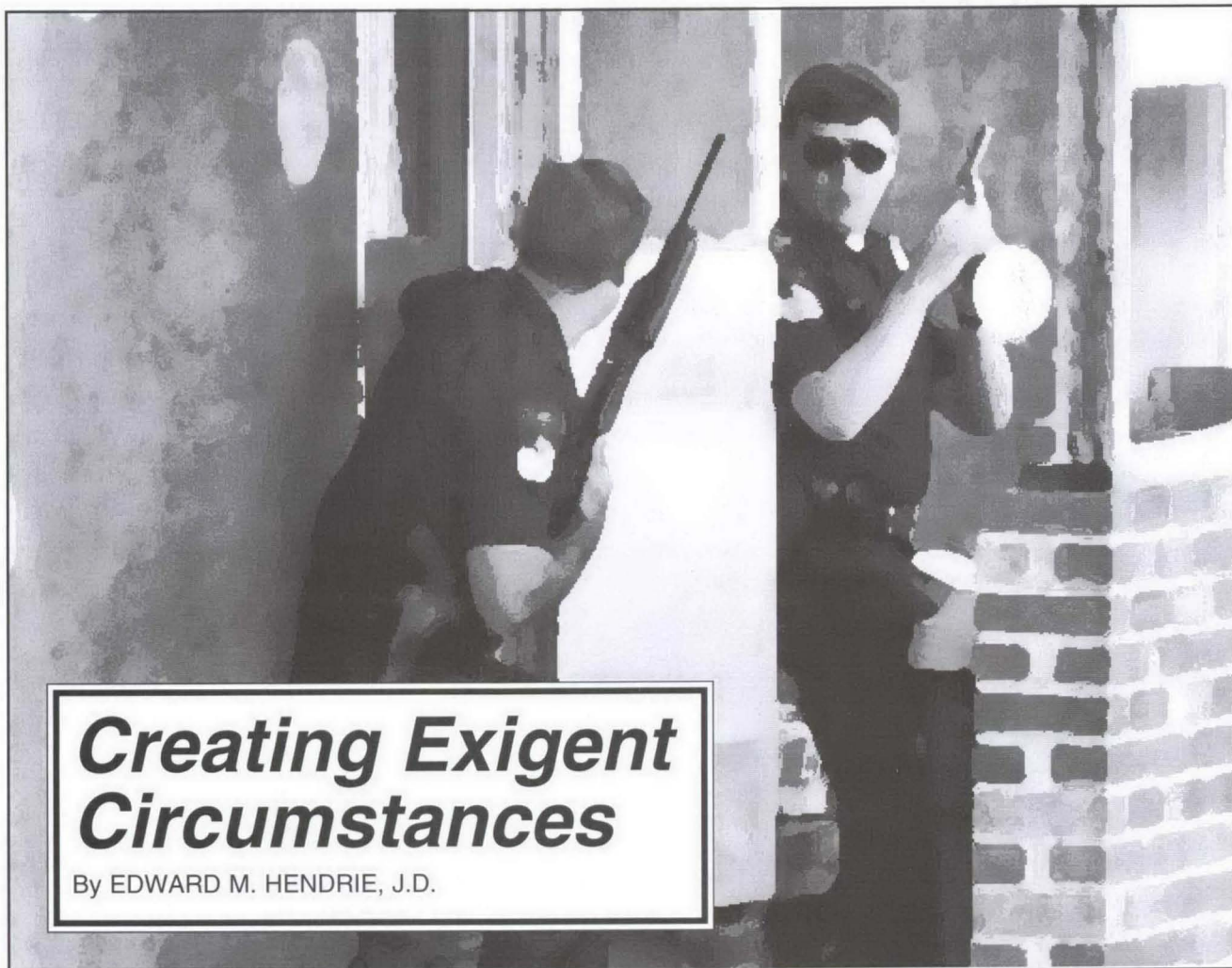
At the same time, by working with area colleges and universities to incorporate an internship program into the learning process, law enforcement agencies can help assure themselves of a better-prepared, more-qualified workforce for the future. As the Spring Lake Park Police Department has discovered, developing an internship program is a smart thing to do. ♦

“

As the interns' knowledge and experience grow, they are given greater latitude in the scope of duties and areas of responsibility handled.

”

Mr. Dale, formerly a sergeant with the Spring Lake Park, Minnesota, Police Department, now works in private industry.



Creating Exigent Circumstances

By EDWARD M. HENDRIE, J.D.

A police informant arranges to purchase one kilogram of cocaine from a suspected trafficker. After being shown the cocaine at the suspect's apartment, the informant tells the suspect he must leave to get the money to complete the transaction. Once outside, the informant notifies the surveillance team that the cocaine and the suspect are in the apartment. Within minutes, the surveillance team makes a warrantless entry to arrest the suspect and seize the cocaine. Given that searches conducted without a warrant are presumed to be unreasonable,¹ subject

to a few exceptions, was the warrantless entry and search of the apartment lawful?

A warrantless entry into premises is constitutionally permissible if there are exigent circumstances. Such circumstances include:

- 1) An officer's reasonable belief that the evidence may be imminently destroyed²
- 2) Hot pursuit of a suspect whom officers reasonably believe is in the area to be searched³
- 3) A search where there is an immediate need to protect or preserve life;⁴ or

- 4) A threat to the safety of officers conducting a protective sweep of premises.⁵

One argument that the defendant could raise in the above case is that the police had an opportunity to obtain a warrant but failed to do so. Instead, when the exigency presented itself, they took advantage of it and searched without the warrant.⁶

However, a suspect does not have a constitutional right to be searched or arrested at the earliest moment after probable cause is established.⁷ Officers may delay obtaining a warrant until the events have "...proceeded to a point where

[they] could be reasonably certain that the evidence would ultimately support a conviction.”⁸ Moreover, “...even if the [officers] might have been able to obtain a warrant earlier in the day, their failure to do so at the first opportunity does not bar them from acting on an exigency that arises later.”⁹

Particularly with drug cases, the fluidity of an ongoing investigation makes obtaining an adequate search warrant difficult to time in the flow of events.¹⁰ Furthermore, there are instances when the opportunity to obtain a warrant presents itself, but the police must delay acquiring it until they develop a more comprehensive picture of the illegal operation.

If a warrant is executed prematurely, yet-undiscovered suspects may realize the police are on their trail and take steps to avoid arrest and hide evidence. If the police, on

the other hand, concentrate their limited resources on investigating the criminal enterprise, they could expand the scope and effectiveness of the operation. Granted, officers may face an exigency at some point, requiring them to act immediately without a warrant, but the additional evidence and suspects that they ultimately discover could have been irretrievably lost if they had acted prematurely and executed a search warrant earlier.

This article addresses constitutional issues that arise when, instead of the exigency developing spontaneously during the investigation, the police create the exigency. Because good, proactive police work often creates exigencies, the legal issue is not simply whether the police created the exigency, but whether the police impermissibly created the exigency. If the police impermissibly create an exigency, it is likely

that the seized evidence will be suppressed.

ANALYTICAL APPROACHES OF THE COURTS

The courts use three different analytical approaches to determine if police impermissibly created an exigency. Some courts look to whether the police deliberately created the exigency. Other courts examine the appropriateness of the investigative tactics to see if those tactics unreasonably caused the exigency, even though the police did not deliberately create the exigency. Still other courts look to whether the police acted lawfully, regardless of whether they deliberately intended to create the exigency.

Deliberately Creating an Exigency

One approach used by courts involves an examination of whether the police deliberately created the exigency that resulted in the warrantless search. For example, in *United States v. Thompson*,¹¹ a DEA special agent working undercover drove a confidential informant (CI) to the suspect's house. The CI then went inside to make a drug purchase, while the agent waited in the car. As surveillance agents watched, the defendant went out to the car and, at some point, recognized the undercover agent as a DEA agent.

The agents then immediately arrested the defendant and entered the house to ensure the CI's safety and prevent the destruction of evidence. The agents also arrested a co-defendant and seized a substantial amount of cocaine and marijuana from inside the defendant's house.



Special Agent Hendrie, Drug Enforcement Administration, is a legal instructor at the FBI Academy.

“The courts use three different analytical approaches to determine if police impermissibly created an exigency.”

The defendant appealed his conviction arguing, among other things, that the agent deliberately created the exigency that resulted in the seizure of the illegal drugs. The U.S. Court of Appeals for the Fifth Circuit agreed with the defendant that the agents had probable cause and an opportunity to obtain both an arrest warrant and a search warrant the night before the undercover operation. The court, however, decided that the agents' failure to obtain the warrants at the first opportunity was only one factor to consider in determining whether they deliberately created the exigency, and that factor was not dispositive.

The court, more concerned about whether the agent drove to the suspect's home knowing that the suspect would recognize him, remanded the case to the district court to determine that issue. On remand, the district court ruled that the agent did not know the defendant's identity ahead of time and, therefore, could not have predicted that the suspect would recognize him. Consequently, the court held that the agent did not deliberately create the exigency.¹²

A similar approach was used in *United States v. Socey*,¹³ where a District of Columbia Metropolitan Police detective obtained information from a confidential informant that Robert Socey would be receiving a shipment of illegal drugs at his house. The detective corroborated many of the details given regarding the travel of Socey and Vincent Soper.

Several days later, the detective spotted a brown Datsun, the suspected delivery vehicle, parked

outside Socey's house. The detective maintained surveillance of the vehicle until other officers arrived; he then left to obtain a search warrant.

Approximately 5 hours later, the surveillance team saw Soper enter the house. A short time later, he loaded three large trash bags into the brown Datsun and drove off. The police stopped the car after it was out of sight of the house and arrested Soper. They found 24 pounds of marijuana in the Datsun.

“

...a suspect does not have a constitutional right to be searched or arrested at the earliest moment after probable cause is established.

”

Another vehicle then left the house, and it too was stopped by two marked police units, but within view of the house. This caused neighbors to congregate to see what was happening.

Fearing the commotion would alert the occupants of the target house, the police immediately entered the house to secure it until the search warrant could be obtained.¹⁴ They arrested Robert Socey inside, as he was shaving marijuana off a large bale and bagging it.

A federal district court suppressed the evidence that officers

found in plain view upon entering the house. The U.S. Court of Appeals for the District of Columbia reversed that ruling because there was no indication that the officers deliberately stopped the second car close to the house to purposely create the exigency.

The court stated that the police could have pursued a different course of conduct that would not have resulted in the exigency, but it would not second-guess the police from the vantage point of hindsight. Because the police did not deliberately create the exigency, it was irrelevant that another investigative tactic might have been more prudent.¹⁵

Reasonableness of Investigative Tactics that Create an Exigency

Not all courts have deferred to the judgment of the officer on the street regarding investigative tactics. Some have engaged in the very second-guessing that the *Socey* court found inappropriate. For example, in *United States v. Duchi*,¹⁶ the U.S. Court of Appeals for the Eighth Circuit held that while deliberate creation of the exigency by the police is unacceptable, it is not necessary that the police act in bad faith for them to impermissibly create an exigency.

In *Duchi*, officers altered a package containing two bricks of cocaine by substituting a book for one of the bricks. When a female suspect picked up this package from the local UPS office, the police followed her to her residence. Fearing that the suspects would destroy the remaining brick of cocaine when they opened the package and

discovered the alteration, the officers entered the residence without a search warrant and seized the unopened package.

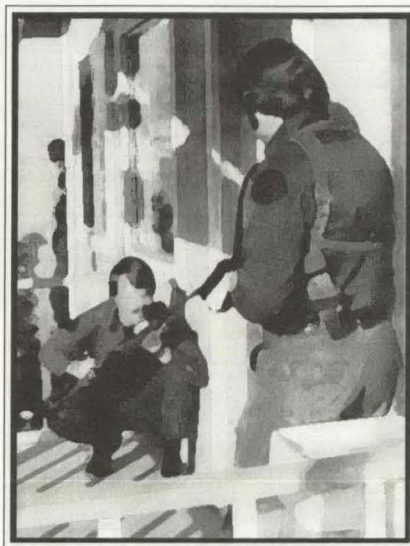
The *Duchi* court observed that in a sense, "the police always create the exigent circumstances that justify warrantless entries and arrests. Their discovery of the criminal causes him to flee; their discovery of contraband causes the criminal's attempt to destroy or divert the evidence."¹⁷ The court then scrutinized the investigative tactics of the officers and found that while the officers did not deliberately create the exigency, their investigative tactics impermissibly caused it.

The court acknowledged that the police did not have probable cause to search the suspect's residence before she brought the UPS package home and, therefore, could not have obtained a warrant earlier. The court, however, felt that the process of obtaining a warrant could have been started before the package was picked up, with the warrant being completed telephonically after the suspect arrived home.¹⁸ Concluding that the entry without a warrant was not justified because the danger of the evidence being destroyed was a foreseeable consequence of altering the contents of the package, the court suppressed all evidence derived from the entry.

In *United States v. Rico*,¹⁹ the Court of Appeals for the Fifth Circuit also focused on "the reasonableness and propriety of the investigative tactics that generated the exigency." The *Rico* court's first concern was whether the agents in that case could have obtained a warrant before the exigency developed.

The court found that the agents did not have sufficient time to obtain a warrant because the events began to unfold almost immediately upon their arrival at the residence.

Next, the *Rico* court looked into whether the agents created the exigency by using unreasonable law enforcement tactics. The agents already had seized approximately 113 kilograms of cocaine that day from a house and from cars that had driven away from the house. The agents



had information linking this house to another house and had just begun surveillance of the second house when they saw a suspect leaving the residence. They believed the suspect was loading a vehicle with cocaine and preparing to depart. The court found that it was reasonable for the agents to leave their covert surveillance position and arrest the suspect in front of the residence, even though it created the exigency that required an immediate sweep of the residence.

The initial inquiry of both the *Duchi* and *Rico* courts, when examining the investigative tactics of the police, was whether the officers had time to obtain a warrant before the exigency arose. The *Duchi* court disapproved of the enforcement tactics, primarily because the court felt that the officers foresaw the exigency and had a prior opportunity to at least begin the process of obtaining a warrant. On the other hand, in *Rico*, the court saw no prior opportunity to obtain a warrant.

Lawful Acts that Create an Exigency

Some courts view investigative tactics, such as knocking on the door and waiting for the exigency to erupt, as "too easy a by-pass of the constitutional requirement that probable cause should generally be assessed by a neutral and detached magistrate before the citizen's privacy is invaded."²⁰ However, not all courts share that view. For instance, in *United States v. McDonald*,²¹ the full bench of the U.S. Court of Appeals for the Second Circuit upheld an exigent circumstances entry after agents, without a warrant, knocked on the door of a known illegal retail drug operation and announced themselves.

The *McDonald* case developed as follows. Shortly before 10 p.m. on September 8, 1988, an undercover agent was admitted into a one-room efficiency apartment on the first floor of an apartment building. The agent encountered a suspect sitting in a chair pointing a cocked 9mm semiautomatic pistol at the floor but in his direction. Another suspect, Errol McDonald, was

sitting on a couch, counting a stack of money within easy reach of a .357 magnum revolver. Four other men were in the apartment.

The agent bought a small amount of marijuana and left the apartment, only to return a short time later with reinforcements. The agents knocked on the door, and as soon as they identified themselves, they heard the sound of scuffling feet. Simultaneously, they received a radio communication from the perimeter team informing them that the occupants were attempting to escape through a bathroom window.

The agents then used a battering ram to force entry into the apartment. They arrested the suspects and found large quantities of cocaine and marijuana, along with two loaded weapons, drug paraphernalia, packaging materials, and several thousand dollars in cash.

The *McDonald* court decided that the exigency existed as soon as the undercover agent made the drug purchase. The court went on to find that even if the exigency had not existed at that point, the agents did not impermissibly create the emergency because they acted lawfully by knocking on the door and announcing their presence.²²

The court held that it was irrelevant whether the police intended to create the exigency. The fact that the agents fully expected the occupants to attempt to escape or destroy evidence did not render unlawful the otherwise lawful acts of knocking on the door and identifying themselves.

The *McDonald* court was guided by the U.S. Supreme Court's rejection of inadvertence as a requirement for a valid plain view

seizure.²³ The Supreme Court held that even if an officer fully expects to find an item that is ultimately found in plain view, the seizure of the item is authorized provided that the conduct of the officer is lawful.²⁴

The *McDonald* court based its determination of exigent circumstances on an objective view of the totality of the circumstances, not on the subjective state of mind of the law enforcement agents. The court concluded, "When law enforcement agents act in an entirely lawful manner, they do not impermissibly create exigent circumstances."²⁵ The

“

While proactive law enforcement will inevitably result in exigencies, it is necessary to avoid impermissibly creating them.

”

court thought it was not significant that the agents brought along a battering ram when approaching the door. The essence of the court's decision is that "[l]aw enforcement agents are required to be innocent but not naive."²⁶

The defendant also argued that drug-related crimes so frequently involve exigent circumstances that the exception to the warrant requirement threatens to become the rule. In response, the court stated:

If it is true that ongoing retail narcotics operations often

confront law enforcement agents with exigent circumstances, we fail to see how such a sad reality constitutes a ground for declaring that the exigencies do not, in fact, exist. To disallow the exigent circumstances exception in these cases would be to tie the hands of law enforcement agents who are entrusted with the responsibility of combating grave, ongoing crimes in a manner fully consistent with the constitutional protection afforded to all citizens.²⁷

The U.S. Court of Appeals for the Third Circuit, in *United States v. Acosta*,²⁸ relied on the *McDonald* decision in focusing on officers' conduct to decide if they acted lawfully. In *Acosta*, several state and federal law enforcement agencies joined forces to arrest 63 suspected drug traffickers.

One target was a suspect named Carlos Santiago. A five-person arrest team was given three possible addresses for Santiago. When the arrest team arrived at the first address, they found it to be a three-story, multi-unit apartment building. The agents went to the first-floor apartment, knocked, announced that they were the police with a warrant, and ordered the occupants to open the door. The agents then heard scuffling of feet, some commotion, and a toilet flushing.

A member of the perimeter team yelled that the occupants were throwing items out the windows. The arrest team then broke down the door and arrested three suspects. They also seized drugs and paraphernalia found in plain

view. The district court suppressed the evidence, and the government appealed.

One argument made by the defendants was that the agents ordered them to open the door without legal authority and, therefore, were trying to unlawfully gain entrance through involuntary consent. However, the court pointed out that the occupants did not open the door in response to the demand of the officers; the officers, instead, forced the door open because of the exigency. It could not be said that the agents obtained involuntary consent to enter, because no consent was given.

The defendants also claimed that the agents who knocked on the door acted in bad faith by intentionally creating the exigency. The court answered that charge by quoting from the U.S. Supreme Court case of *Scott v. United States*,²⁹ "...subjective intent alone...does not make otherwise lawful conduct illegal or unconstitutional."³⁰

The *Acosta* court found that the conduct of the agents at the door was objectively lawful; the court would not go further and explore the subjective intent of the agents. The court held that police conduct is not unlawful merely because an exigency arises from it, even if the police intend to cause that exigency. If the conduct of the police is lawful, the exigency is not impermissibly created. The court noted, "Exigent circumstances are not to be disregarded simply because the suspects chose to respond to the agents' lawful conduct by attempting to escape, destroy evidence or engage in any other unlawful activity."³¹

In *United States v. Tobin*,³² DEA and U.S. Customs agents, while on surveillance in an unrelated case, saw Ronald Tobin back into the driveway of a house and place three clear plastic tubular bags approximately 4 feet long in the garage. The agents reasonably believed the bags contained cocaine.

The agents then approached the house and knocked for 3 or 4 minutes. One agent announced in English and Spanish, "I'm a police officer, I would like to talk to you, I need for you to come here."³³ When Roger Ackerman finally answered the door, the agents could smell marijuana emanating from inside the house.

**“
‘When law
enforcement agents
act in an entirely
lawful manner, they
do not impermissibly
create exigent
circumstances.’
”**

Ackerman called Tobin to the door, and both denied that Tobin had recently backed into the driveway of the house. The agents then directed the defendants to the garage where they discovered that the tubular bags, in fact, contained large quantities of cocaine.

While in the garage, one of the agents noticed that some screws had been removed from the floorplate over the wheel well of one of the

cars. Upon lifting the wheel well cover, he discovered \$775,000 in cash. During a subsequent security sweep, the agents also found three bales of marijuana in a shower stall.

The district court denied the defendants' motions to suppress the evidence, and the defendants appealed the decision. The full bench of the U.S. Court of Appeals for the 11th Circuit found that the agents legally approached the house and that the defendant consensually opened the door. Therefore, the exigency that surfaced once the defendant opened the door was not impermissibly created by the agents. The court stated:

There is no rule of private or public conduct which makes it illegal per se, or a condemned invasion of the person's right of privacy, for anyone openly and peaceably, at high noon, to walk up the steps and knock on the front door of any man's 'castle' with the honest intent of asking questions of the occupant thereof—whether the questioner be a pollster, a salesman or an officer of the law.³⁴

CONCLUSION

Whenever practicable, it is best to obtain a warrant before conducting a search because a search conducted with a warrant is presumed to be reasonable. A search conducted without a warrant, on the other hand, is presumed to be unreasonable. It is necessary for the government to rebut that presumption by establishing one of the exceptions to the warrant requirement. Yet, it is not always feasible to obtain a

warrant prior to conducting a search. Under such exigent circumstances, an officer may legally search without a warrant.

While proactive law enforcement will inevitably result in exigencies, it is necessary to avoid impermissibly creating them. The courts use one of the following three tests to determine if the police have impermissibly created an exigency:

- 1) Whether the police *deliberately created* the exigency
- 2) Whether the *investigative tactics* used by the police caused the exigency, even though the police did not deliberately intend to create the exigency; or
- 3) Whether the police *acted lawfully*, regardless of whether they deliberately intended to create the exigency.

Courts that scrutinize the investigative tactics will likely disprove if the officers have probable cause and an opportunity to obtain a warrant but, instead, search without a warrant based upon a foreseeable exigency that arises from something the police put into motion. On the other hand, those courts that focus on the intent of the officers to determine if they deliberately created the exigency will not view the prior opportunity to obtain a warrant as dispositive, but only as one factor to consider in determining whether the officers deliberately created the exigency.

Some courts do not consider it improper to deliberately create an exigency, regardless of a prior opportunity to obtain a warrant, as long as the police conduct is

objectively lawful. Because the legal landscape is not yet settled in this area of the law, it is advisable to consult in advance with legal counsel to determine the prevailing precedent in one's jurisdiction and conduct investigations in accordance with that standard. ♦



Endnotes

¹ *Katz v. United States*, 389 U.S. 347, 357 (1967). See also *Vale v. Louisiana*, 399 U.S. 30, 34 (1969) and *Jones v. United States*, 357 U.S. 493, 499 (1958).

² *Schmerber v. California*, 384 U.S. 757 (1966).

³ *Warden v. Hayden*, 387 U.S. 294 (1967).

⁴ See *Mincey v. Arizona*, 437 U.S. 385, 392-393 (1978), citing *Michigan v. Tyler*, 436 U.S. 499, 509-510 (1978). See also *United States v. Mayes*, 670 F.2d 126 (9th Cir. 1982).

⁵ *Maryland v. Buie*, 494 U.S. 325 (1990).

⁶ See, e.g., *United States v. Miles*, 889 F.2d 382, 383 (2d Cir. 1989) (per curiam).

⁷ See *Hoffa v. United States*, 385 U.S. 293, 310 (1966). See also *United States v. Tobin*, *infra*.

⁸ *Miles*, 889 F.2d at 383 (quoting *United States v. Montiel*, 526 F.2d 1008, 1010 n. 1 (2d Cir. 1975)).

⁹ 889 F.2d at 383 (quoting *United States v. Cattouse*, 846 F.2d 144 (2d Cir. 1988), *cert. denied*, 109 S. Ct. 316 (1988)), citing *Cardwell*

v. Lewis, 417 U.S. 583, 595-596 (1974) (plurality opinion). See also *United States v. McEachin*, 670 F.2d 1139, 1145 (D.C. Cir. 1981); *United States v. Webster*, 750 F.2d 307 (5th Cir. 1984), *cert. denied sub nom.*, 471 U.S. 1106 (1985); *United States v. Hultgren*, 713 F.2d 79, 88 (5th Cir. 1983), citing *United States v. Mitchell*, 538 F.2d 1230, 1233 (5th Cir. 1976) (en banc), *cert. denied*, 430 U.S. 945 (1977).

¹⁰ See, e.g., *United States v. Hultgren*, 713 F.2d 79, 87 (5th Cir. 1983).

¹¹ 700 F.2d 944 (5th Cir. 1983).

¹² *United States v. Thompson*, 720 F.2d 385 (5th Cir. 1983).

¹³ 846 F.2d 1439 (D.C. Cir. 1988), *cert. denied*, 488 U.S. 858 (1988).

¹⁴ Preparation of the affidavit in support of the search warrant was delayed because the officer preparing it and other officers at headquarters became preoccupied by a tragic shooting of other unit officers in another part of the city. 846 F.2d at 1443 n.3.

¹⁵ See also *Minnesota v. Alyon*, 459 N.W.2d 325, 330 (Minn. 1990), *cert. denied*, 498 U.S. 1049 (1991).

¹⁶ 906 F.2d 1278 (8th Cir. 1990).

¹⁷ *Id.* at 1284.

¹⁸ Rule 41(c)(2) of the Federal Rules of Criminal Procedure provides for telephonic search warrants in circumstances where it is reasonable to dispense with a written affidavit.

¹⁹ 51 F.3d 495 (5th Cir. 1995), *cert. denied*, 116 S.Ct. 220 (1995).

²⁰ *United States v. Rosselli*, 506 F.2d 627, 630 (7th Cir. 1974). In *Rosselli*, federal agents knocked on the suspect's door and said: "It's the police, we want to talk to you." The agents then heard the door chain being engaged, scuffling of feet, someone running to the rear of the apartment, and a voice saying, "Don't open the door for anybody." The agents then kicked down the door and arrested the suspect. Marijuana was found in plain view and seized. The court ruled that the agents did not knock on the door as a contrivance to create the exigency, and that it was proper for the agents to pursue their investigation by seeking voluntary cooperation. Despite these findings, the court still ruled that the emergency that arose from the knock on the door was foreseeable, and therefore, the emergency was impermissibly created by the agents.

²¹ 916 F.2d 766 (2d Cir. 1990) (en banc), *cert. denied*, 111 S. Ct. 1071 (1991).

²² See also *Pennsylvania v. Govens*, 632 A.2d 1316 (Pa. Super. 1993), *appeal denied*, 652 A.2d 1321 (Pa. 1994) (police acted lawfully

when knocking on a door and announcing "police" within 15 or 20 minutes of an undercover purchase of crack cocaine. They entered the apartment after hearing scuffling and moving about). *But see Pennsylvania v. Peterson*, 596 A.2d 173 (Pa. Super 1991) *aff'd*, 636 A.2d 615 (Pa. 1993) (police did not deliberately create the exigency by putting perspiration reactive powder on a bill passed through a slot in a door to purchase cocaine, even though the police knew that it would become visible almost immediately. This exigency required the police to immediately knock on the door, announce themselves, and ultimately break down the door).

²³ *Horton v. California*, 110 S. Ct. 2301 (1990).

²⁴ *Id.* at 2309. *See also Whren v. United States*, ___ U.S. ___, No. 95-5841, 1996 WL 305735 (U.S.) (1996), where a unanimous U.S. Supreme Court reaffirmed its long-standing position of applying an objective standard and

"flatly dismissed the idea that an ulterior motive might serve to strip the agents of their legal justification." No. 95-5841 slip op. at 6, *citing United States v. Villamonte-Marquez*, 462 U.S. 579, 584 n. 3 (1983).

²⁵ 916 F.2d at 772.

²⁶ *Id.* at 772.

²⁷ *Id.* at 772-73.

²⁸ 965 F.2d 1248 (3d Cir. 1992).

²⁹ 436 U.S. 128 (1978).

³⁰ 965 F.2d 1254 (*quoting Scott v. United States*, 436 U.S. 128, 136 (1978)). The U.S. Supreme Court consistently has ruled that in determining whether there has been a fourth amendment violation, the facts must be viewed by an objective standard, without regard to the subjective intentions of the officer. That is, "...would the facts available to the officer at the moment of the seizure or the search 'warrant a man of reasonable caution in the belief' that the action taken was appropriate?" *Terry v. Ohio*,

392 U.S. 1, 22 (1968), *citing Carroll v. United States*, 267 U.S. 132 (1989).

³¹ 965 F.2d at 1255 (*quoting United States v. McDonald*, 916 F.2d 766, 771 (2d Cir. 1990), *cert. denied*, 111 S. Ct. 1071 (1991)).

³² 923 F.2d 1506 (11th Cir. 1991) (en banc), *cert. denied*, 502 U.S. 907 (1991).

³³ *Id.* at 1508 n. 1.

³⁴ *Id.* at 1511 (*quoting Davis v. United States*, 327 F.2d 301, 303 (9th Cir. 1964)).

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

Subscribe Now



Order Processing Code:

* 5699

☐ **YES**, send me _____ subscriptions to **FBI Law Enforcement Bulletin** (FBIEB), at \$19 each (\$23.75 foreign) per year.

The total cost of my order is \$_____. Price includes regular shipping and handling and is subject to change.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, Zip code

Daytime phone including area code

Purchase order number (optional)

Charge your order.
It's easy!



Fax your orders (202) 512-2250
Phone your orders (202) 512-1800

For privacy protection, check the box below:

☐ Do not make my name available to other mailers

Check method of payment:

☐ Check payable to Superintendent of Documents

☐ GPO Deposit Account ☐

☐ VISA ☐ MasterCard

☐

☐ (expiration date) **Thank you for your order!**

Authorizing signature

1/96

Mail to: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Important: Please include this completed order form with your remittance.

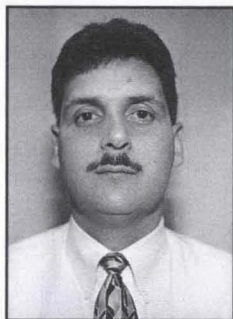
The Bulletin Notes

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. *Law Enforcement* also wants to recognize their exemplary service to the law enforcement profession.



Officer Raab

As Reserve Officer John Raab of the Oceanside, California, Police Department and his wife were driving through a neighboring city, they were passed by a vehicle traveling at a high speed. A few moments later, the vehicle swerved toward the center median, rolled over several times, then struck the cement median divider. Although not on duty, Officer Raab stopped to render assistance to the driver, who was slumped over the steering wheel. Smelling a strong odor of gasoline, Officer Raab rushed to the vehicle, unfastened the seatbelt, and removed the semiconscious driver. As several bystanders helped Officer Raab carry the injured man away, the overturned vehicle exploded and became totally engulfed in flames. Were it not for the decisive and selfless action of Officer Raab, the driver would have been trapped in the blaze.



Detective Yeomans

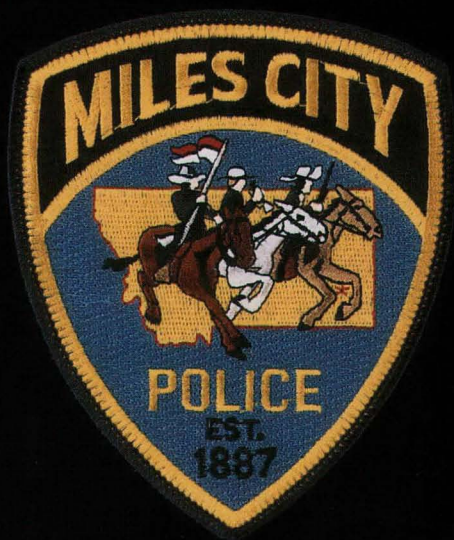
While working a late-night security assignment at an area condominium complex, Detective Richard S. Yeomans of the Stratford, Connecticut, Police Department observed dense smoke pouring out of one of the units. Detective Yeomans quickly notified the fire department and then proceeded to alert the sleeping occupants in the burning unit. He was able to wake the lone occupant, finding him dazed and confused in the heavy black smoke. As Detective Yeomans stood at the threshold, he could see the paint on the walls bubbling from the heat and could hear the fire crackling its way across the ceiling. Inexplicably, the man fled back into the unit and attempted to take refuge on the second floor. Detective Yeomans pursued him and brought him back outside to safety. As flames quickly spread across the roof, Detective Yeomans alerted the family in the adjoining unit. A man answered the door and told the detective that his wife and son were still asleep inside. Detective Yeomans then entered the smoke-filled unit and brought the man's wife down from the second floor and the son up from the basement to safety. Just moments later, an explosion blew out the windows and collapsed the roof of the unit.

U.S. Department of Justice
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, DC 20535-0001

Periodical
Postage and Fees Paid
Federal Bureau of Investigation
ISSN 0014-5688

Official Business
Penalty for Private Use \$300

Patch Call



The Miles City, Montana, Police Department patch features three U.S. Cavalry riders to symbolize the city's heritage. The city sprang up from Fort Keough, an army post built on the banks of the Yellowstone River in 1886. The red star between the forelegs of the tan horse indicates the city's location in southeast Montana.



The patch of the Belvedere, California, Police Department emphasizes the city's scenic beauty by depicting the nearby Golden Gate Bridge, a sailboat on San Francisco Bay, and the cliffs of the Marin County shoreline.