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# FBI Law Enforcement

B ♦ U ♦ L ♦ L ♦ E ♦ T ♦ I ♦ N

## *Firearms Trafficking*





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# FBI Law Enforcement

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# Sudden Infant Death Syndrome

## Police Can Make a Difference

By LINDA ESPOSITO, R.N., M.A., LARRY MINDA, and CLAIRE FORMAN, M.A.

Photo © Digital Stock



**W**hen the police dispatcher sends out the call “infant not breathing, respond to...,” many thoughts may enter officers’ minds. They may review infant cardiopulmonary resuscitation (CPR) procedures, think of their own children, or recall past experiences with infant calls. Officers also may wonder if the case involves sudden infant death syndrome (SIDS), also known as crib death.

The sudden, unexpected death of an infant to SIDS is a tragic loss that affects families for the rest of their lives. Responding officers set the tone in SIDS cases and can have a great impact on the parents and families of an infant in crisis.

Indeed, how officers respond to such calls can affect the families for years after the tragedy. By understanding the nature of SIDS and its effects on families, officers can investigate these sensitive cases with compassion and objectivity.

### ONE OFFICER’S PERSPECTIVE

I arrived at work on a cold, snowy February evening in 1982. Given the poor road conditions and worsening weather, I believed that most of my calls would involve traffic accidents. Little did I know I was about to encounter the most devastating call of my career.

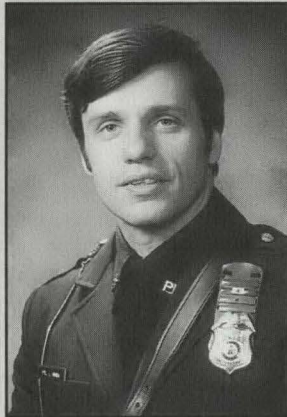
About halfway through my shift, I received an emergency call

of an infant not breathing. As I entered the home, I could hear the screams of a mother who had found her infant breathless. The infant showed no signs of rigor mortis or discoloring, and the mother stated that she had observed the baby sleeping approximately 20 minutes prior to my arrival. After performing a quick physical assessment of the baby, I immediately started CPR. The rescue personnel continued CPR while transporting the child to the hospital. There I waited with the family as the medical staff cared for the child. After a short while, the doctor appeared; the look on his face said it all. All of the efforts along with the prayers had failed. After that night, my only

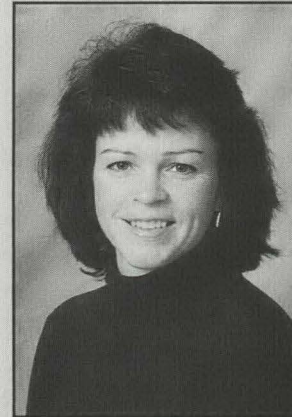




*Ms. Esposito is a registered nurse at the SIDS Center of New Jersey in New Brunswick.*



*Captain Minda serves in the Rutherford, New Jersey, Police Department and also lost a son to SIDS.*



*Ms. Forman lost a son to SIDS 5 years ago.*

contact with the family was of a personal nature; I attended the funeral and sent a sympathy card.

Years later, I can recall that night as if it happened yesterday. I often think about what I did and did not do that evening. I believe I did everything that I was trained to do for the child but failed to look beyond my initial perceptions. I never recorded my on-scene observations, and neither my superiors nor the medical professionals ever asked about them. Those observations, as well as additional information obtained from the family, should have been documented. Beyond sending a sympathy card and attending the funeral, neither I nor my department provided assistance to help the family survive this sudden, unexplainable tragedy.

### **WHAT IS SIDS?**

SIDS is the "sudden death of an infant under 1 year of age that remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene and

review of the clinical history."<sup>1</sup> Typically, in SIDS cases, death usually occurs while the baby sleeps at night and is painless, rapid, and silent.

SIDS claims the lives of 3,000 to 4,000 infants annually in the United States. Although the cause of SIDS remains uncertain, it is known that suffocation, pneumonia, choking, or the result of a neglected illness does not cause SIDS. SIDS is not contagious; it is not caused by the diphtheria, pertussis, tetanus (DPT) vaccine or other immunizations; and it is not child abuse. SIDS experts have associated specific child care practices and environmental conditions with a high rate of SIDS occurrences. Some of these include the mother's smoking or using illicit drugs during pregnancy, exposing infants to smoke-filled environments, placing infants to sleep on their stomachs, using soft bedding, and maintaining excessive room temperature.

SIDS is one of the major causes of death in infants under 12 months of age but sometimes can occur up

to 24 months. Although only qualified medical officials can diagnosis SIDS, it may aid the investigation if the on-scene officers become familiar with the facts regarding SIDS and how SIDS cases compare to child abuse.

By comparison, 1,000 to 4,000 children die of child abuse each year; 300 of these are infants. SIDS occurs most frequently from 2 to 4 months of age. However, SIDS can occur up to 2 years of age. Reports show that most abused children range in age from 1 to 3 years.

Physically, most SIDS infants exhibit no external signs of injury, whereas abused children may have distinguishable and visible signs. Still, certain bodily appearances typically occur in SIDS cases resulting from the death process. For example, officers may observe discoloration of the skin; settling of the blood (most evident in the arms and legs); frothy drainage from the nose or mouth, which may be blood tinged; small marks that look severe; and cooling rigor mortis, which takes place quickly in



### A Parent's View

**I**t was a frigid November morning, 2 days before Thanksgiving. In order to attend graduate school classes, I left my two children at the babysitter's home. My 20-month-old daughter, Abby, began playing with the other children as I sat my 6-month-old son, Lucas, in an infant seat to wait for his breakfast. As I started to leave, I realized I had almost forgotten to kiss Lucas good-bye. Little did I know, that kiss would be the last one I would ever give my son.

As I did every day, I went to the campus, which was located about 5 minutes from the babysitter's home. After classes, I left to pick up my children. On the way to the babysitter's, I felt depressed by the early fall darkness. As I turned the corner near the babysitter's home, the lights of several police cars broke the darkness. I first thought that there was a fire in the neighborhood. As I got closer, I realized the police cars were at my babysitter's house.

I started to get a little nervous, but I kept telling myself that something must have happened to one of the other children, not mine. I got out of the car and ran to the house. As I got closer, I heard the babysitter screaming, "Breathe, Lucas, please breathe!" A police officer restrained me at the entrance to the family room.

I could see in the room. My beautiful baby boy looked as blue as the little outfit he wore. Although several officers worked on him, I knew immediately when I saw him that life had left his body. I begged the officer to let me in the room, but he refused. I just wanted to hold my precious baby's hand one last time.

The officers probably thought they were doing the best thing by not letting me be with my son. They also did not allow me to ride with my son in the ambulance to the hospital. When my husband arrived, the police and emergency personnel simply offered him directions to the hospital. By the time we were permitted to see our son, he did not even resemble the baby I had kissed good-bye that morning. After 5 years, I still regret not being with him before he was pronounced dead.

infants, usually in about 3 hours depending upon environmental conditions.

In contrast, in abused child cases, officers may observe bruises, bumps, cuts, welts, scars, evidence of head trauma, or broken bones. The abused child may appear malnourished, whereas the SIDS child appears well developed. Siblings of the child in abuse cases also may show patterns of injuries, whereas in SIDS cases, other siblings appear normal and healthy. Parents of the SIDS infant typically relate stories of placing their healthy babies to sleep in the crib and later finding them lifeless. In child abuse cases, the parents' stories may sound

suspicious or may not account for all injuries to the infant.

Medical professionals classify the diagnosis of SIDS as one of exclusion. This means that a complete autopsy, death scene investigation, and review of the infant's medical history must be completed and fail to reveal a cause of death before medical professionals can diagnose SIDS as the cause.

### INVESTIGATIVE PROCEDURES

Officers' actions at the scene can greatly affect the investigation. By carefully recording their on-scene observations and noting the reactions of family members

while simultaneously providing support, responding officers can conduct a complete investigation while considering the needs of the victims.

### Making Initial Observations

The initial observations of the responding officer are an important key to the SIDS investigation. Officers should note such observations as the position of the infant when found, the condition of the crib and surrounding area, the presence of objects in the crib, any unusual or dangerous items in the room, and any medications being given to the baby, along with the room temperature and air quality.



### For More Information on SIDS

National SIDS Resource Center  
20270 Chain Bridge Road,  
Suite 450  
Vienna, VA 22182  
703-821-8955  
Extension 249

SIDS Center of New Jersey  
St. Peter's Medical Center  
254 Easton Avenue  
New Brunswick, NJ 08903  
732-249-2160 or  
800-545-7437

Hackensack University  
Medical Center  
30 Prospect Avenue  
Hackensack, NJ 07601  
201-996-5330 or  
800-996-5002

In many situations, first responders can get important information simply by being good listeners. Parents often provide many details while searching for answers as to what happened. If officers need more information, they can ask open-ended nonjudgmental questions. If officers use an interrogating style, it could create feelings of guilt for parents and thus make officers' jobs more difficult by making the family uncooperative. By being sympathetic interviewers, officers not only can obtain the information they need but can help to answer the family's questions, as well.

#### Family Members' Reactions

Each family member may react uniquely in each SIDS call that officers answer. Responding officers should carefully view reactions exhibited by the family, remembering that many factors will influence the way the family responds to the crisis. These factors may consist of a past experience with death, the age of the parents, each individual's personality, the situation and circumstances surrounding the death, and even the family's cultural background. Officers must realize that the family may react differently than they themselves would in a similar situation. The sudden death

of an infant evokes intense emotions in the family, which may include anger, guilt, hysteria, frustration, shock, denial, or withdrawal. Officers need to maintain objectivity and avoid making hasty conclusions based on the family's emotions.

#### Supporting the Family

Families rely on officers for guidance and direction. Officers should remain calm and keep the family informed of procedures involving the infant and the investigation. Officers should refer to the infant by name and avoid questioning the family in an accusing manner. If medical personnel transport the infant, officers should inform the family of the location of the hospital, help arrange transportation for the parents, ensure proper care for the other children, and verify the home is locked before departing. If officers call for the coroner or medical examiner to come to the home, they should give the family support and allow them to hold their infant one last time.

#### OFFICER SUPPORT AND TRAINING

The job of a police officer can be extremely stressful. Calls that involve an infant can greatly affect responding officers and colleagues.

Police departments should develop support systems within the department that enable officers to verbalize thoughts and feelings regarding SIDS cases. Many states and counties have debriefing agencies outside the department that will speak to officers involved in such calls.

Police training programs should include a medical overview of SIDS, the differences between SIDS and child abuse, the importance of the officer's role to the SIDS family, the proper way to conduct a SIDS investigation, the significance of appropriate communications with the family, and the support mechanisms available for officers involved. Officers provided with such training will be better equipped to handle SIDS cases by conducting investigations in a manner that provides comfort to the family while reflecting a better image of the officer and the department.

#### CONCLUSION

The death of an infant to SIDS is a traumatic event that affects a family forever. The lack of a discernible cause and the suddenness of the tragedy make SIDS deaths especially difficult, leaving both the family and the officers involved searching for logical and perhaps even profound explanations. The



impact of SIDS is far-reaching and affects a myriad of people from parents, siblings, grandparents, and even the officers responding to the initial call for help.

The police need to know the importance of their actions when dealing with SIDS cases. Their observations and attention to detail may prove valuable to SIDS death research and even prevent future

deaths. Someday researchers may find answers to the causes of SIDS, but until then, in order to have a positive effect on the families of SIDS children, first responders need further education about SIDS and training on how they should interact with those involved. In this way, law enforcement may help families cope with the sudden death of their infant, while medical

science continues to search for specific answers to their SIDS questions. ♦

#### Endnote

<sup>1</sup> M. Willinger, L.S. James, and C. Catz, "Defining the Sudden Infant Death Syndrome (SIDS): Deliberations of an Expert Panel Convened by the National Institute of Child Health and Human Development." *Pediatric Pathology* 11(1991):677-684.

## Crime Data

### *Law Enforcement Line-of-Duty Deaths and Assaults*

Nationwide in 1997, 64 law enforcement officers lost their lives due to criminal action, according to FBI Uniform Crime Reporting preliminary figures. This total is 8 higher than the 20-year low of 56 reported in 1996. Firearms continued as the weapons most frequently used in the slayings. Of the 1997 total, 61 officers were killed with these weapons, including 43 with handguns, 12 with rifles, and 6 with shotguns. Another 2 officers were stabbed, and 1 was slain with personal weapons (hands, fists, or feet). At the time of their deaths, 27 officers were wearing body armor, and 3 were killed with their own weapons.

Of the 64 deaths in 1997, 31 officers were slain in the southern states, 15 in the western states, 11 in the midwestern states, and 7 in the northeastern states. Seventeen officers were killed during arrest situations, including 6 while attempting to prevent robberies or apprehend robbery suspects, 5 while serving arrest warrants, 5 while attempting to apprehend burglary suspects, and 1 while investigating a drug-related incident. Additionally, 14 officers lost their lives

while answering disturbance calls, 12 in ambush situations, 9 while investigating suspicious persons or circumstances, 7 while enforcing traffic laws, 4 while handling prisoners, and 1 while handling a mentally deranged person. Of the 64 murders, 63 have been cleared by arrest or exceptional means, while 1 suspect remains a fugitive.

Preliminary statistics also reveal that 60 officers were killed in line-of-duty accidents in 1997. This total reflects an increase of 13 when compared with the 47 accidental deaths occurring in 1996.

In *Law Enforcement Officers Killed and Assaulted—1997*, the FBI will present final statistics and complete details of these deaths, as well as information on officers assaulted for the year. Information on line-of-duty law enforcement deaths for the past 10 years also will be available in this publication which is due for release this fall.

Source: FBI Uniform Crime Reporting Program, "Law Enforcement Officers Killed and Assaulted—1997," press release, May 11, 1998.





# Pattern Crimes

## Firearms Trafficking Enforcement Techniques

By JOSEPH P. GRECO

**I**n 1991, in a dispute with a schoolmate, a 12-year-old student from northern New Jersey fired three rounds from a .380 semi-automatic handgun in the schoolyard during recess. The shots missed their intended target but hit and injured three other students. Upon questioning, the 12-year-old revealed that 3 days previously he had purchased the firearm on the street for \$300.

During the subsequent investigation, an agent from the Bureau of Alcohol, Tobacco and Firearms (ATF) asked the boy if, supplied with \$300 dollars and given 30 minutes, he could leave the school and return with a handgun similar to the one in his possession. The boy appeared confused. After the agent

repeated the request, the boy replied, "What do I do for the extra 15 minutes?" At that moment, the agent investigating the case realized the severity of firearms trafficking in that area.

### ILLEGAL FIREARMS TRAFFICKING

Illegal firearms trafficking is the movement of firearms from the legal to illegal marketplace through an illicit method for an unlawful purpose, usually to obtain profit, power, or prestige or to supply firearms to criminals or juveniles. At some point, every illegally trafficked firearm originates from a federal firearms licensee.

Firearms traffickers must contend with a number of laws that

attempt to thwart their illegal activities. For example, federal law prohibits individuals from purchasing handguns in a state where they do not reside. In addition, some states have more stringent laws governing the purchase of firearms than other states; therefore, firearm traffickers cannot always easily obtain handguns where they live. Thus, in interstate firearms trafficking cases, traffickers usually cannot purchase the firearm legally because they live in another state and cannot provide identification needed to establish residency and to complete the necessary ATF forms that document handgun purchases and information regarding the purchaser.

The presence, or lack of, state and local law determines whether a

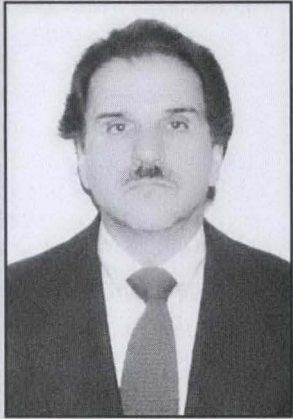


location serves as a source area or a market area in the illegal world of trafficking. A source area usually serves as a place where individuals obtain firearms, especially handguns, easier due to less stringent state or local firearm laws. By comparison, in a market area, firearms often are not readily accessible. As a result, illegally trafficked firearms remain a commodity, sought by those engaged in criminal activities. A symbiotic relationship between a market and source area exists based on the principles of supply and demand.

Firearms move from the legal to illegal marketplace in a number of ways (e.g., a theft, unlawful diversion by a corrupt licensee, and interstate and intrastate trafficking). Interstate firearms traffickers frequently use two methods to obtain firearms: falsification of the ATF Firearms Transaction Record at the time of the firearm purchase or the use of a straw purchaser, an individual who purchases a firearm and completes the required paperwork for the purpose of concealing the true identity of the intended receiver of the firearm.

When purchasing a firearm, each purchaser must complete the ATF Firearms Transaction Record, which provides the information licensees use to verify that an individual can legally buy a firearm and enables law enforcement officers to track firearm purchases. This record consists of three sections: a full description of the firearm purchased; a description of the purchaser, containing, at the very minimum, name, residence, and date of birth; and if the purchaser is

**“  
Firearm  
recoveries  
represent  
important  
pieces of the  
investigative  
puzzle.  
”**



*Special Agent Greco is assigned to the Bureau of Alcohol, Tobacco and Firearms Task Force in Newark, New Jersey.*

prohibited from purchasing a firearm (e.g., a convicted felon, an illegal alien, an individual with a documented history of mental illness, a drug user, or an individual under a court-issued restraining order). The term “lying and buying” refers to falsification of this form in order to obtain firearms.

The straw purchase serves as another method often employed by an illegal firearms trafficker who cannot legally purchase firearms. Most traffickers use a series of straw purchasers directed to various firearms licensees. A common scenario entails the firearm trafficker accompanying the straw purchaser into the firearms store to pay for the purchase while the straw purchaser completes the paperwork. Store video surveillance can verify this type of purchase.

Some firearms traffickers obtain photo identification such as a driver's license in a state where they do not reside for the sole purpose of fraudulently proving residency to purchase firearms. This form of

identification enables the trafficker to make several firearm purchases from multiple licensees over varying periods of time. This represents a pattern often seen with traffickers attempting to acquire large numbers of firearms while drawing as little attention to themselves as possible.

Deciding they can accomplish only so much through their own “lying and buying,” many firearms traffickers resort to a combination of lying and buying and straw purchases to make their undertaking more profitable. This group approach is evident in northern New Jersey where one organized, structured, monolithic organization does not supply many of the urban areas. Rather, it is suspected that numerous groups operate independently or semi-independently of one another and are the source for many of the illegally trafficked firearms.

## TRACING FIREARMS

Law enforcement officers provide essential information on traffickers by tracing recovered



firearms. Documents filed at the time of a firearm purchase provide beneficial information. The first comprehensive Gun Control Act (GCA) in 1968 required documentation of the acquisition, possession, and disposition of all firearms. The law mandated that individuals selling firearms obtain licenses and keep records on all purchases. Various crime bills of 1984, 1988, and 1994 further defined, amended, and expanded the GCA.<sup>1</sup> The GCA and subsequent amendments document the interstate transportation of firearms. With few exceptions, the GCA leaves the bulk of gun control to state and local jurisdictions.

The success of a firearm trace depends heavily on the ATF Firearms Transaction Record. Federal law requires that the firearm purchaser complete and sign this form, which remains in the dealer's possession. If the dealer goes out of business, the law requires that these forms be forwarded to the ATF for storage. After an investigator recovers and traces a firearm, a dealer consults this record for information concerning the final disposition of the firearm.

In May 1975, Congress made the reporting of multiple sales of handguns a requirement, stating that the requirement would enable ATF to monitor and deter illegal interstate commerce in pistols and revolvers by unlicensed individuals.<sup>2</sup> If a person purchases two or more handguns within 5 or fewer business days, the licensee must complete a ATF Multiple Sales or Other Disposition of Pistols and Revolvers form. Unlike the ATF Firearms Transaction Record,

which remains with the dealer, the multiple sales form is forwarded to the ATF and the designated chief law enforcement official in the specific area. Multiple sales forms remain on file locally and at the ATF National Tracing Center. Thus, if a crime gun recovery traces back to a purchaser, law enforcement officers should check with the tracing center to see if the same individual purchased other firearms.

“

***A firearms trafficking investigation begins with the recovery of the firearm.***

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### **The Recovery**

A firearms trafficking investigation begins with the recovery of the firearm. Firearms recovered pursuant to some type of suspected or actual criminal activity include those discovered by uniformed officers on patrol, uncovered by investigators during the course of an inquiry, bought during undercover buys, and recovered during the execution of various warrants. Other times, officers find abandoned firearms with no known owner or possessor.

Similar to a homicide investigation where identifying the body becomes the first order of business, identifying the firearm comes first in a firearm trafficking

investigation. Complete identification of the firearm requires three pieces of information—the recovery or incident report detailing the recovery, the trace request, and the trace results. This information can determine the types of firearms used, by which individuals, and for what criminal activity, as well as the source of the firearm.

Investigative experience in the Newark, New Jersey, area shows that having a firearms coordinator at the state or local department level provides an effective method of tracing a recovered firearm. The coordinator has responsibility for receiving all recovery information and forwarding the information within a 24-hour period to the nearest ATF field office for tracing. Upon completion of the trace, the firearms coordinator receives the information. Also, approximately once a month, the local coordinator receives a printout of the month's previous recoveries and their trace results.

To obtain a clearer picture of firearm trafficking after receiving initial trace results, investigators should locate any possible multiple purchases of firearms and possible suspect guns. Suspect guns, firearms purchased by a suspected trafficker but not yet recovered, usually are trafficked illegally. Recovery of the firearm confirms this suspicion. Investigators should maintain a separate file for each recovery, including the recovery report, trace request, trace results, multiple firearms purchase information, suspect gun information, as well as identification and background information for all individuals involved.



The file should begin with the description of the recovered firearm. This initial part of the investigation focuses on the firearm, not the person. Firearm recoveries represent important pieces of the investigative puzzle. The study or analysis of these recoveries, or pieces, identifies the trafficker's pattern. A trafficking investigation begins with the recovery of the firearm; therefore, the investigator must

back-track from the recovered firearm, via tracing, to identify a suspect. Each recovered firearm should be viewed as a potential confidential informant.

### **Pattern Analysis**

Like most people, firearms traffickers are creatures of habit, and they often establish specific patterns in their activities. They might prefer a certain type of straw

purchaser, a specific source location or licensee, or a favorite method of distribution. They change their pattern of activity only when forced or when they no longer feel comfortable. Firearms trafficking becomes vulnerable to certain law enforcement techniques when an analysis of the recoveries identifies patterns.

When receiving trace results and multiple sales and suspect gun

## **The Birth of Firearms Tracing**

**O**n January 16, 1920, the 18th Amendment became the law of the land. Thus, alcohol, a product that had substantial influence on American social life for hundreds of years, became illegal. Congress attempted to prohibit the product and its demand but accomplished neither. In fact, an enormously profitable illegal market emerged instead. As in any society, some individuals rush to take advantage of demand in a lucrative market. Further, when a market is profitable and illegal, it becomes highly competitive and violent. Competitiveness and violence require more innovative ways of protecting individuals and their newly acquired wealth, particularly in the field of armaments.

In 1921, a patent was granted to retired U.S. Army general John Thompson, who designed a concealable, lightweight, fully automatic firearm that one individual could operate. This firearm appeared on the street just as competition for the illegal alcohol market became fierce and violent. General Thompson's submachine gun initiated a category of firearms that became known as "gangster weapons."

On December 5, 1933, the 18th Amendment was repealed. The American public soon

forgot prohibition, but the gangster weapons remained. Due to the backlash from the American public regarding these weapons, particularly in urban areas, Congress decided to exercise some degree of control over these firearms.

In 1934, Congress passed the National Firearms Registration and Transfer Act, requiring individuals to register all gangster weapons and pay taxes on the weapons to the U.S. Department of Treasury. As defined by the act, "gangster weapons" also included shotguns shortened to a specified length at the barrel and stock for easy concealment, silencers, and various destructive devices, especially grenades known as "pineapples." The Thompson, however, remained the primary target of the backlash, perhaps due to its lethal-looking, dramatic appearance, which after a substantial amount of publicity both in the newspapers and the movies, made it possibly the most recognized firearm in the world. The National Firearms Registration and Transfer Act imposed documentation requirements to lawfully possess, acquire, dispose of, or manufacture these types of weapons. This probably represents the first attempt in history by the U.S. government to trace firearms.



information, investigators should examine several factors. First, they should attempt to identify the individuals involved in acquiring the firearms. Second, they should consider the types of firearms purchased. For example, are the firearms inexpensive, semiautomatic handguns? Finally, investigators should note the number of firearms purchased and the frequency of the purchases.<sup>3</sup>

Analysis of the information begins with a review of the incident report and trace results. After a period of review, a profile emerges of the most frequently recovered firearms in an area. For instance, in many urban inner cities, a preference for inexpensive, easily concealed, high-powered, semiautomatic pistols in .380, 9 mm, and .25 calibers emerges. Activities frequently associated with these weapons include drug- or gang-related crimes. Depending on the type of firearm recovered, profiles of criminal groups can emerge.

A study of firearm recoveries in the Newark, New Jersey, area under Project LISA<sup>4</sup> indicated that the less expensive and sophisticated the firearm used by the criminal group, the less organized, affluent, and sophisticated the group. Some street gangs and the corner drug dealer represent examples of this type of group, which remain vulnerable to better-armed groups. As the criminal group moves farther up the economic ladder, so does the type of weaponry involved. Large-scale interstate and international criminal organizations prefer the more high-powered, expensive handguns. Those groups wishing to make

a statement to society and their criminal competition prefer to use such firearms as machine guns. The more expensive and sophisticated the firearm, the better-structured, -organized, and -insulated the group associated with that firearm. The more sophisticated the firearm, the easier to determine the trafficking pattern because these firearms are more specific and used by fewer criminals.<sup>5</sup>

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***Firearms move  
from the legal  
to illegal  
marketplace  
in a number  
of ways....***

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Although trafficking groups have little involvement with the individuals arrested in possession of trafficked firearms, these groups require points of acquisition and distribution for the firearm. In the Newark, New Jersey, area, crime gun analysis indicates that these groups normally distribute in the same areas or neighborhoods. To establish trafficking patterns, investigators should document individuals arrested with recovered firearms and the locations where they were arrested.<sup>6</sup>

The types and number of firearms purchased, the method of purchase (e.g., lying and buying or straw purchase), individuals involved in the purchases and

recoveries, and the source areas or states where the purchases took place provide essential information revealing trafficking patterns. The number of recoveries determines the chances of a successful investigation. The more recoveries, the more information and, in turn, the clearer and more accurate the pattern. Accuracy provides the best chance for securing evidence.

Patterns provide focus to the investigation. Inquiries now can begin at each end of the pattern—in the recovery area and in the source area. Other sources of information, especially confidential informants, may verify emerging patterns. In turn, patterns can corroborate information provided by informants.

Deviations from pattern crimes reinforce the pattern because they make pattern activity stand out more and these deviations might spin off into other patterns of criminal activity. For example, if firearms recovered in a particular place were purchased by young, single mothers living on public assistance in a high-crime, source area, a pattern emerges after a number of traced recoveries. Further trace results indicating that middle-aged males purchased the same type of firearms from the same source areas validate the first pattern and also provide the investigator with another emerging pattern. The investigation relies on identifying pattern activity, and these identification techniques must remain flexible, focused, and disciplined.

In order to handle the influx of firearms information, investigators should establish a central location or clearinghouse consisting of one



or several individuals who organize and systematize firearms recovery data. These individuals enter, file, and track trace requests and incident reports upon receipt.

### Firearm Serial Numbers

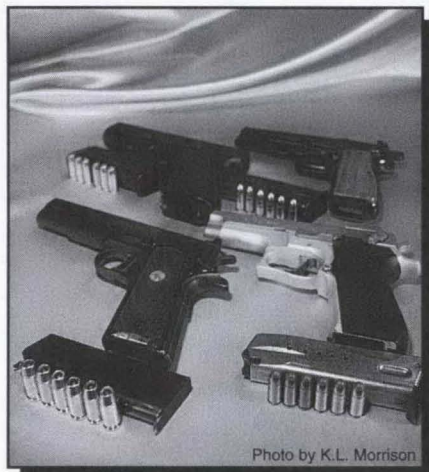
Firearm serial numbers enable law enforcement officers to trace firearms to purchasers. Considered a firearm's fingerprint, the series of numbers imprinted on the frame identifies the firearm as an individual weapon, the same way fingerprints identify a person. Firearms with obliterated serial numbers depict an increasing problem. Traffickers usually obliterate serial numbers to disguise or sever any connection of firearms to their source.

Investigators should make an extra effort to identify firearms with obliterated serial numbers. If the serial number cannot be restored, they should attempt to determine the firearm's origin and trafficking patterns using information acquired from its recovery and from the suspect arrested in possession of the firearm.

#### *Serial Number Restoration*

As a matter of course, investigators should forward all firearms recovered with obliterated serial numbers to a state or local forensic laboratory for serial number restoration. If the laboratory has the Integrated Ballistics Identification System (IBIS),<sup>7</sup> test-firing the firearm and then entering the rounds into the IBIS will assist in comparing the rounds and also expand the IBIS database. The laboratory also should attempt to ascertain the method of obliteration. Were the

numbers filed, gouged, or drilled from the weapon? Traffickers usually employ the same technique for removal, and the method of obliteration becomes noteworthy in establishing a pattern. If the number is restored, the investigator should trace the firearm. A restored serial number helps strengthen a trafficking investigation, especially if it involves a suspect gun.



#### *Unrestored Serial Numbers*

If the serial number cannot be restored, the firearm still can provide important information. For identification purposes, the investigator should assign the firearm a specific number and open a file with this number for that particular firearm. Each file should contain the following information, if available:

- the incident report containing the details of the firearm recovery;
- the type of activity associated with the firearm (e.g., drugs, illegal possession, robbery, assault, etc.);
- the types of firearms recovered and any similarities (e.g.,

inexpensive, high-powered, 9 mm, .380, .25, 5-to-9-shot capacity, semi-automatic pistols);

- computerized criminal histories of all individuals involved in the recovery. If the criminal histories reflect previous firearms arrests, investigators should trace those firearms and pursue the information;
- the method of serial number removal (e.g., filed, gouged, drilled);
- a map of all recovery locations; and
- a copy of all associated multiple sale purchases identified and a list of all associated suspect guns.

By including this information in each file and examining these files when tracing firearms with unrestored serial numbers, investigators can denote any similarities that might lead to a recovery.

### TASK FORCE OPERATIONS

Because illegal firearms trafficking requires more than one individual, it often takes a group effort to combat it. A task force effectively accomplishes this group effort. The primary advantages of the task force concept, in addition to the obvious pooling of funds, resources, and personnel, are the centralization of information or intelligence and the combining of different areas of expertise.

Centralization of intelligence remains an important aspect when investigating illegal firearm trafficking. To operate on recovery intelligence, the task force must



collect, organize, systematize, analyze, and profile that intelligence at one location. This requires individuals from various jurisdictions constantly communicating with one another. Instead of spreading intelligence over various local, state, and federal agencies or jurisdictions, the task force can maintain a central location for all recovery information, making it readily accessible.

Recovery information originates on the street and must return to the investigator on the street as an investigative tool. This has four objectives: it supplies statistical data identifying the trafficking problem; it supplies information for analytical purposes; it provides leads for investigations; and finally, its use enables the task force to become operational.

Task forces allow federal, state, and local law enforcement to conduct investigations while working from the same location.<sup>8</sup> Better liaison among the various agencies and more effective communication result, reducing duplication and friction among the agencies.

The centralization of intelligence remains essential in any task force operation involving firearms trafficking. This knowledge ranges from firearm-related criminal activities (e.g., drug dealing, homicide, robbery, etc.) to the psychology of individual and criminal group behavior. Personnel assigned to the task force might consist of National Guard members, federal agents, state and local law enforcement officers, and consultants.<sup>9</sup> The task force needs a flexible structure to conduct long-term,

complex investigations of a multifaceted problem—illegal firearms trafficking.

## CONCLUSION

Firearms trafficking investigations constitute more than paper cases. In addition to documenting a paper trail, investigators must perform intelligent, attentive, and disciplined analyses of trafficking patterns, interview individuals associated with recoveries, and cultivate informants and undercover contacts. In short, investigators should use every available resource when investigating firearms trafficking organizations.

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***Law enforcement officers provide essential information on traffickers by tracing recovered firearms.***

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Several vulnerabilities are inherent in firearms trafficking. A criminal organization provides greater opportunity for law enforcement officers to cultivate informants. Another vulnerability stems from the repetitive acts, which lead to evidence of identifiable patterns.

Illegal firearms trafficking organizations must be investigated and prosecuted as a group. Investigating and arresting individuals often only causes a mere

inconvenience to the trafficking organization. After disrupting and dismantling the group as a whole, organization members and firearms are not replaced easily. A task force approach can effectively combat firearms trafficking groups.

The investigation and tracing of illegally trafficked firearms recovered in criminal activities have resulted in the development of these successful proactive techniques. Law enforcement can accomplish much using these methods to deter illegal firearms traffickers. Successfully tracing recovered firearms and disrupting firearms trafficking organizations decrease the chances of firearms falling into the wrong hands, including those of 12-year-old students. ♦

## Endnotes

<sup>1</sup> The National Firearms Act of 1934 identified a select group of firearms favored by the criminal element. Thirty-four years later, the Gun Control Act of 1968, put restrictions on other firearms, especially handguns. The GCA of 1968 resulted directly from two high-profile criminal acts that year—the assassinations of Sen. Robert Kennedy and Rev. Martin Luther King, Jr. The National Firearms Act of 1934 was adopted almost in total as Title II of the GCA. Later, crime bills in 1984, 1988, and 1994 increased penalties for existing violations, created new laws against the use of firearms in violent and drug trafficking crimes, mandated licensing and record-keeping requirements for individuals engaged in the business of dealing in firearms (federal firearms licensees), and defined new classes of firearms such as assault weapons.

<sup>2</sup> 27 Code of Federal Regulations, Section 178.126A.

<sup>3</sup> The use of a time line to document the recoveries, purchases, and individuals involved in a trafficking investigation serves as an effective investigative technique. The time line shows all dates of recoveries and purchases and brings clarity, continuity, and focus to the information.



<sup>4</sup> Project LISA focused on Locating firearms, Identifying traffickers, Seizing contraband, and Apprehending violators.

<sup>5</sup> Under Project LISA, BATF agents traced approximately 11,000 firearms between 1993 and 1996.

<sup>6</sup> A study released by Northeastern University, in Boston, Massachusetts, concluded that criminals residing in cities with a high availability of firearms receive a greater demand for firearms for self-protection than those criminals living in low availability cities who do not feel the need to have firearms for self-protection.

<sup>7</sup> The IBIS computer system scans ammunition from a recovered firearm and then compares it to a database that contains information on ammunition from other recovered firearms.

<sup>8</sup> In addition to deputizing and swearing state and local officers as deputy U.S. marshals

with federal authority, agents receive the benefit of working investigations in state and local jurisdictions, a necessity in perfecting federal cases. For example, firearms trafficking is not a predicate crime under the Racketeer Influenced and Corrupt Organizations Act (RICO); thus, a group or organization trafficking in firearms would not fall under the RICO statutes (18 U.S.C. §1961-1968). However, when that group uses firearms for other criminal acts, these probably would be predicate criminal acts under the RICO statutes.

A major problem in conducting RICO investigations is not so much proving the predicate crime but establishing the group organizational structure. Groups dealing in firearms and other criminal activities do not appear as rigidly organized and structured as a traditional organized crime family or outlaw

motorcycle gang. These groups appear to constantly combine, disband, and recombine, not necessarily with the same individuals, which causes difficulty in determining group structure and personnel.

<sup>9</sup> Civilian experts found at local universities and colleges in fields such as psychology, sociology, and linguistics represent an underused source. The profiling of the firearm deserves further research and investigation to understand why traffickers and other criminal groups prefer particular types of firearms and use certain firearms in specific activities. Experience has shown the importance of profiling the firearm first, then the individual or group associated with the firearm. An investigator can build and analyze the profile of a firearm from its documentation.

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### **The Model Precinct Issues Involving Police Training**

By Martin A. Greenberg, M.A., J.D.

**T**he U.S. Attorney General recently stated that since President Clinton signed the Violent Crime Control and Law Enforcement Act of 1994, crime has declined significantly.<sup>1</sup> This landmark crime-fighting legislation included funding for thousands of additional police officers. According to Attorney General Reno, "These officers are walking the beat and working with citizens, community leaders, and young people to fight crime and, indeed, to prevent it."<sup>2</sup>

However, a controversy over how to best train and qualify these new police officers exists. In parts of the United States, some smaller communities sponsor academies that barely meet state minimum police training standards, while others cannot even afford to sponsor their own police officers' basic training.

By comparison, many larger departments may have adequate resources to devote to their police academies and therefore can greatly exceed minimum standards. These jurisdictions often have academies that may triple or even quadruple the minimum length requirements established by state standards. Furthermore, those larger jurisdictions may require a college degree as a preliminary requirement for merely taking a police officer civil service exam, whereas smaller departments may not have this prerequisite.

Additionally, agency administrators nationwide are searching for a method to monitor and uplift the integrity and professionalism of their police officers. The Model Precinct may provide a creative solution to these dilemmas. By working with area colleges and universities, police agencies can provide a more meaningful way to educate future law enforcement officers.

#### **The Structure of the Model Precinct**

The Model Precinct involves harnessing the energies and talents of experienced law enforcement officers, as well as college educators, in order to prepare candidates for police officer work. In this

preservice approach to police training, local police facilities serve as an extension of the college campus, and police personnel and college faculty collaborate on the implementation and design of the program.

The Model Precinct would combine intensive fieldwork experience, a college degree course of study, and the completion of basic police school requirements into a single program. It also would permit a unique collaboration between police officials and college professors for the purpose of designing an appropriate curriculum that fulfills these objectives.

Although no agency is known to specifically use the Model Precinct concept in its entirety, it was inspired by the achievements of the Sheriff's Academy in Chautauqua County, New York, which "has saved the taxpayers of western New York hundreds of thousands dollars in training costs."<sup>3</sup> The Model Precinct would begin with those students pursuing a degree at a local college in a field related to law enforcement. College administrators would assign students to a cooperating precinct as police interns during the entire length of their study. The precinct would consist of a department's physical buildings but also the surrounding public streets and parks of its jurisdiction. It also may include special assignments at certain social control agencies, such as departments of social services and family courts. Departments would carefully screen each intern to ensure they

*Mr. Greenberg is an assistant professor of criminal justice at the Ulster County Community College in Stone Ridge, New York.*





satisfy any requirements for a local police officer appointment. The Model Precinct program is especially suited for areas that currently lack the resources to conduct recruit training or offer academies that only satisfy minimum standards. Additionally, the program is viable for those jurisdictions that lack a preliminary college degree requirement for officers. The program also concurs with the views of those police education experts who advocate that police officer candidates should acquire a sound educational background prior to beginning their police service.<sup>4</sup> However, it differs from the general type of criminal justice degree programs commonly offered because it would require students to involve themselves in day-to-day law enforcement operations as police interns and includes or exceeds all mandated training requirements.

The Model Precinct not only would fill a distinct void in the field of police training found in many parts of the country, but it also would overcome the limitations of police training regulations in some states, which allow only police departments to offer basic police academies. However, unlike some police academies where completion of a college degree merely represents an option for participants, the Model Precinct program would *require* the completion of a college degree as well as significant periods of fieldwork spread out during the length of this educational experience.

Most classroom instruction would take place at the campus of a local college by state-certified police training instructors. Members of sponsoring police agencies would serve as the lead instructors on the college campus along with regular college professors. Local police and college instructors would develop the academy's curriculum, which must be approved by college and state authorities. College officials would select an advisory council of knowledgeable community members for oversight purposes. The program would require students to work as police interns from 4 to 35 hours a week, depending upon

the nature of the overall curriculum. All students would need to stay in good standing throughout their course of study in order to remain eligible for police training and to serve as police interns.

When required by state law, the sponsoring police agency would register its recruit school and members of the recruit class with appropriate state authorities, such as each state's Peace Officer Standards and Training (POST) bureau. Furthermore, if available, police departments should give interns auxiliary or reserve police status.

Implementing a Model Precinct would allow colleges flexibility in developing their curricula. For example, the model would not depend on any change in local, state, or national laws. Administrators could freely adjust their curricula as needed, as long as they ensured that it continued to exceed minimum statewide standards.

#### **Advantages of the Model Precinct**

Students would gain vital police experience by participating in the Model Precinct program and have the opportunity to earn a variety of police training certifications during their academic years. By obtaining first-hand knowledge of police work, students would better determine whether they wish to embark on a career in law enforcement. Upon graduation, students would not only possess a college degree in a criminal justice field but also would have the appropriate qualifications to begin working as police officers in many communities without the need for additional formal training. However, students seeking full-time careers would be required to take civil service exams. This significant requirement distinguishes this program from other police cadet programs that often waive such exams. Students' participation in the Model Precinct would better prepare them for exams, which historically have been an obstacle for some police candidates. Moreover, police departments often pay the cadets for their precinct work, but students in the proposed program would not get paid. The students

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**...some smaller communities...barely meet state minimum police training standards....**

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still would have the benefit of liability insurance protection provided by the college.

During the course of the students' enrollment in the program, local police and other participating agencies would monitor the progress of each intern. When openings became available, the agencies would have the advantage of being familiar with the candidates, and the students would possess a great deal of the knowledge required for the job. The sponsoring departments also would benefit from the program by having the additional personnel available throughout the year. Also, by supervising and instructing the interns, agency personnel would gain useful leadership experience. Some employees who serve as intern mentors and field supervisors may receive tuition credits for their efforts from the participating college. Colleges typically use this benefit to reward agency field personnel who volunteer to supervise student interns.

The community would benefit from the services of the additional uniformed personnel for crime deterrence. Moreover, because of the availability of these police interns, departments could establish a variety of community policing programs. One of the most unique features of the Model Precinct program is that it can result in a substantial savings in police training costs, which become a shared undertaking with a local college.

Finally, police corruption can seriously undermine the public's faith in its police force and weaken the bonds necessary for successful community policing initiatives. Numerous police experts believe that a well-developed academy curriculum dealing with ethics and character building can reduce corruption. The cooperation of police and college instructors could lead to an adequate treatment of this issue.

## Conclusion

Ultimately, all participants benefit from the Model Precinct program. Agencies would gain a pool of applicants who have successfully completed all police training requirements. Governments would

benefit from the financial relief that comes from reducing the cost of training prospective police officers. The participating college would profit from increased enrollment. The students themselves would benefit by becoming precertified and thus more marketable.

The Model Precinct program would do more than merely take an existing training program and link it with an existing college program. The relationship envisioned between police agencies and colleges in the Model Precinct program demands more than a

typical cooperative agreement might require. The personnel within the colleges and the police agencies must commit to the goals of the model program. On a continuing basis, college leaders must be prepared to acknowledge the major role performed by local law enforcement professionals in the program, and likewise, police chiefs must be willing to accept input from the college community.

A quarter of a century ago, the President's Commission on Law Enforcement and Administration

of Justice declared that higher education was an appropriate standard for police professionalism. The adoption of a Model Precinct approach for the delivery of such an education can make a well-educated police force a reality for many agencies. ♦

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**Students would gain vital police experience by participating in the Model Precinct program....**

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## Endnotes

<sup>1</sup>“Reno Credits Legislation for Crime Rate Decline,” *The Daily Gazette* (Schenectady, NY), September 12, 1997, A6.

<sup>2</sup>*Ibid.*

<sup>3</sup>Robert Dymant, “A Successful Training Program: Police Academy Thrives in Cooperation with Local College,” *Law and Order*, July 1997, 93-97.

<sup>4</sup>Arthur J. Bilek, “Winning Back the Support of the Public by Stopping Police Corruption and Misconduct Before It Starts with Pre-Service Police Education,” paper presented to the Conference on Criminal Justice Education, John Jay College of Criminal Justice, New York City, NY, October 20, 1995, 11.

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*Chief James Riggins, former commander of the Kingston, New York, Police Department, who passed away in May 1998 after a long illness, contributed to this article.*

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# Drawing on Federal Resources to Restore Communities

By ALBERT PEROTTI, JR., and C.B. EISENBERG, M.A.



**J**ust north of the city limits of Tampa, Florida, lies the 10-square-mile University Area Community (UAC). Unaffectionately referred to as "Suitcase City" due to the transient nature of its residents, the UAC has seen dramatic changes in the last decade. This area once offered an affordable rental community for blue-collar workers and students attending the nearby University of South Florida. During the mid-1980s, the demographic makeup of the residential population began to

change, and many of the apartment complexes converted to government-subsidized housing. Additionally, the area became a major street-level distribution point for crack cocaine.

Into the early 1990s, virtually all categories of crime in the area registered marked increases. The Hillsborough County Sheriff's Office (HCSO), which patrols the area, found itself tasked with stemming the steadily increasing crime rate and providing safety for the residents. The HCSO sought help

from several federal agencies and, most important, from the community itself to address the area's growing problems. The federal agencies provided alternate sources of funding and some enforcement assistance, while community groups helped to identify trouble spots, prioritize problems, and acquire additional resources.

## Weed and Seed Grant

In 1992, the Hillsborough County Anti-Drug Alliance—whose members include county law



enforcement officers, local government officials, as well as representatives from the FBI and the U.S. Attorney's Office—applied to the U.S. Department of Justice, requesting that it designate several locations in the county as Weed and Seed sites. Two years later, the Department of Justice officially selected the UAC as one of the Weed and Seed sites in Florida's Federal Middle District and approved funding for 3 years.

The Weed and Seed program extends beyond the law enforcement community. According to the U.S. Attorney General, "Weed and Seed has the comprehensive objective of weeding out crime from designated neighborhoods, moving in with a wide range of crime and drug prevention programs, and then seeding these neighborhoods with a comprehensive range of human service programs that stimulate revitalization."<sup>1</sup> In this program, law enforcement agencies focus on enforcing violence- and drug-related

laws and establishing a community-based policing environment in the target area, while other agencies focus on educational, recreational, social, and economic development.

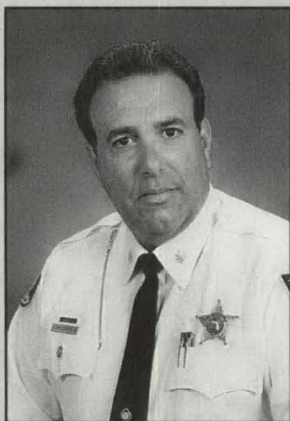
In 1995, the grant to Hillsborough County provided \$681,000 for the Weed and Seed program. Of these funds, approximately \$455,000 was designated for the seed portion of the grant, which the community used for social and human services. The remaining \$226,000 went to the sheriff's office for law enforcement equipment and expenses. The sheriff immediately assigned two full-time community resource deputies to work on the Weed and Seed objectives in the UAC. These deputies came to play a unique role within the agency because they had been empowered to address law enforcement and social issues without direct supervision.

As one of their first projects, the community resource deputies became part of a Safe Haven funded

by the Weed and Seed grant. The Safe Haven, located in several modular buildings within the UAC, provides neighborhood residents with a variety of services, including job training, medical referrals, and legal and emergency assistance. The deputies use the office in the Safe Haven complex as a base station on a part-time basis, as do county truancy and code enforcement officers. From this base, the deputies established an area business watch and assisted local residents in staging antidrug marches by providing security and identifying likely locations where drug dealers might gather.

In addition, the community resource deputies helped to establish a community policing consortium, named the University Area Law Enforcement Advisory Council. Members include activists from the residential and business communities who volunteer their time to exchange ideas, raise concerns, and alert the authorities to relevant issues. The council helps to identify law enforcement and public safety problems and works directly with local and federal law enforcement authorities.

Even though the UAC had become the focus of HCSO's most aggressive efforts, the sheriff decided the agency needed to take a more holistic approach. So, for several years, the HCSO steadily hired more deputies in its two patrol districts in preparation for creating two new districts to serve the county's rapidly growing population. The sheriff selected the UAC as the location for one of the planned new districts, but the plans hinged on obtaining funding for a building.



*Major Perotti serves in District One of the Hillsborough County Sheriff's Office in Tampa, Florida.*



*Sergeant Eisenberg serves in District One of the Hillsborough County Sheriff's Office in Tampa, Florida.*



## COMMUNITY DEVELOPMENT BLOCK GRANT

As part of the original commitment to provide UAC residents easier access to a fully staffed district office, the sheriff's office obtained a \$1 million Community Development Block grant from the U.S. Department of Housing and Urban Development (HUD). This grant funded an 8,500-square-foot district office constructed on 5 acres of land previously occupied by a condemned apartment complex. The site situated the new district building in the center of the highest reported crime grid in the community. The sheriff's office broke ground for the new district building in July 1995, and upon its completion in April 1996, it was fully staffed with 143 sworn deputies and 7 civilian personnel. The new district enabled deputies to get right to the heart of the UAC's problems.

### Local-federal Task Force Partnerships

Since 1994, two task forces that combine the resources of both local and federal law enforcement agencies have worked in the UAC. At first, only one or two deputies worked with the FBI's Violent Fugitive Task Force. Then, from 1995 through 1996, the entire HCSO Street Crimes Unit, which provides undercover and special operations enforcement in the area, worked with the VFTF for up to 2 weeks at a time. These joint efforts focused on apprehending fugitives wanted for serious felony charges. The FBI provided both manpower and technical resources and coordinated

UAC Crime Comparisons 1995-1996			
Crime	1995	1996	Percent Change
Murder	1	3	200
Robbery	156	206	32
Sex Offenses	95	95	0
Assault	905	962	6
Theft	1958	2188	12
Burglary	1321	1268	-4
Vehicle Theft	494	380	-23
<b>Totals</b>	<b>4930</b>	<b>5102</b>	<b>3</b>

and supervised the task force. The U.S. Attorney's Office worked directly with the task force to provide effective and appropriate prosecutorial resources. Together, task force members apprehended 371 fugitives from justice.

After the district office opened in the UAC in 1996, a new joint local-federal task force adopted a different strategy. Rather than merely searching for criminals already wanted, the agencies took a proactive crime-fighting approach in the form of a Weed and Seed Task Force.

Prosecutors from the U.S. Attorney's Office and agents of the FBI, DEA, and Bureau of Alcohol, Tobacco and Firearms formed a partnership with HCSO deputies and detectives. The newly formed task force focused on three objectives—targeting upper-level drug dealers who supplied the street dealers in the Weed and Seed area, making criminal cases that met federal prosecutorial guidelines, and targeting firearms violations. The task force only pursued criminal subjects who lived in the Weed and

Seed area, committed crimes there, or were indirectly responsible for crime in the area (for example, by supplying drugs or weapons sold illegally in the area).

In the past, local prosecution of serious and repeat offenders had shown little effect on the criminal element operating in the UAC. However, the mutual cooperation among the HCSO, the FBI, and other federal agencies reduced crime because federal prosecutors could obtain longer and more stringent sentences that kept repeat offenders off the streets.

As of December 1997, task force investigations resulted in the arrests of 170 subjects, 25 of whom were prosecuted at the federal level. The task force also seized illegal drugs, firearms, and stolen property.

An initial surge of federal prosecutions removed the worst offenders from the area. Since then, few offenses have met the federal prosecutorial guidelines, so the number of such cases has declined. The task force, however, continues to hold federal prosecution as an option.



**UAC Crime Comparisons  
1996-1997**

Crime	1996	1997	Percent Change
Murder	3	5	67
Robbery	206	173	-16
Sex Offenses	95	71	-25
Assault	962	999	4
Theft	2188	1894	-13
Burglary	1268	989	-22
Vehicle Theft	380	363	-4
<b>Totals</b>	<b>5102</b>	<b>4494</b>	<b>-12</b>

### Making the Difference

Initially, it was hard to detect the impact of the agencies' efforts to revitalize the University Area Community. For the first year, reported crimes in the community showed no significant change. However, in the second year, the number of reported crimes dropped nearly 12 percent, with the greatest declines in the numbers of sex offenses, burglaries, robberies, and thefts. Continued positive results have inspired deputies and residents alike.

HCSO administrators attribute the decrease in reported crime to the significant increase in arrests, a figure influenced by several factors. First, HCSO used Cops Ahead and universal hiring grants funded by the U.S. Department of Justice to hire and deploy more deputies in the area. Second, in addition to the Weed and Seed Task Force, a street crimes squad—consisting of one sergeant, one corporal, and 10 deputies—devotes its attention exclusively to the UAC. Further, the deputies who work in the UAC do so by choice. When the new

district opened in 1996, deputies could bid for the district in which they wished to work. The UAC's reputation as the busiest area within the agency's jurisdiction attracted many of the most productive deputies in the sheriff's office.

This increase in arrests, in conjunction with the combined efforts of other area agencies in the seed portion of the program, dramatically changed the way the residents feel about their community and the law enforcement officers who serve them. Residents have indicated that they feel more comfortable reporting crime to the HCSO and are impressed with the way deputies and task force members respond to complaints of criminal activity.

### Conclusion

Law enforcement administrators should take note of the strategy used by the HCSO in confronting the problems within the University Area Community. The critical first step involved understanding that law enforcement efforts in an area like the UAC require more than traditional reactive policing. At the

very early stages of the new strategy, HCSO officials became involved in community groups that sought to address social, as well as law enforcement, issues. With community support, the UAC gained designation as a Weed and Seed site, which led to funding for key initiatives.<sup>2</sup> The sheriff continually sought alternative sources of funding to support the agency's commitment to improving the UAC.

While funding played a key role in the strategy to improve the area, the strong commitment made by the crime-fighting partners had an equally important influence. Only by working closely with other law enforcement and community organizations could HCSO begin to resolve the crime problems in the University Area Community.

No one can predict the long-term effects this multifaceted strategy will have on the University Area Community; however, early indications show promise for reducing the crime rate and improving the quality of life for residents there. Through the prudent use of available local and federal resources, agencies like the Hillsborough County Sheriff's Office can have a significant positive influence on such troubled communities. ♦

### Endnotes

<sup>1</sup> Janet Reno, U.S. Attorney General, testimony before the Senate Appropriations Committee, April 1993.

<sup>2</sup> The success of the UAC's Weed and Seed programs earned continued funding for 1998 and 1999.



### **Preparing Students for Criminal Justice Careers**

By Louis Johnson, Ed.D.

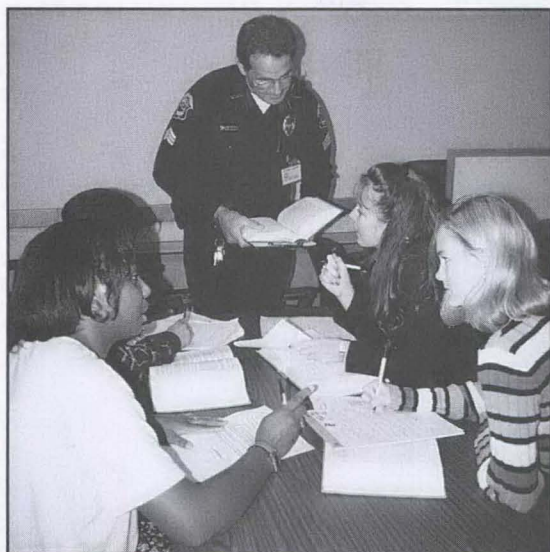


Photo by K.L. Morrison

**W**hile public schools occasionally provide educational programs in crime prevention, some educators have designed specific curricula aimed at preparing students for careers in criminal justice. Students interested in working in the criminal justice system have many careers from which to choose, including policing, corrections, and the judiciary. Some career options attempt, in part, to anticipate the public demand for increased law enforcement protection and more effective correctional treatment facilities. The administrators at the Criminal Justice Academy at Lake Worth Community High School in Lake Worth, Florida, believe that high school students studying the police, the courts, and corrections will be motivated to improve those systems' current operations and thus increase their effectiveness. By exposing students to the theory and practice of criminal justice and giving them the opportunity to earn college credit, the Criminal Justice Academy prepares students for careers in

criminal justice, while encouraging them to continue their formal educations beyond high school.

#### **The Beginning**

The Criminal Justice Academy began as the vision of the former Lake Worth chief of police and the Lake Worth Community High School principal. In August 1993, after considerable input from an advisory panel of criminal justice representatives from municipal, county, state, and federal agencies, Lake Worth High School established the Criminal Justice Academy. The academy opened with 145 students and 2 instructors, who taught an introductory course in criminal justice. Today, the criminal justice academy has 216 countywide students representing many of the 38 surrounding cities and offers four separate course levels of criminal justice. Although the school district provides funding for the textbooks and instructors' salaries, the academy receives its financial support primarily from forfeiture funds from local criminal justice agencies, in addition to money from fund-raisers and donations.

#### **The Curriculum**

Over the course of 4 years, any county high school student who ranges from 14 to 18 years of age and maintains a C average and appropriate behavior can elect to complete a series of four courses. The courses must be taken in sequence. Each course lasts 1 year and counts as an elective in the students' high school curriculum.

The introductory course in criminal justice provides a background for the other courses by analyzing and describing the different agencies of justice and the procedures used to identify and treat criminal offenses. The instructors provide students with information on critical issues in criminal justice using a comprehensive college-level textbook and by relating the practical experiences of two instructors, both retired law enforcement captains. Supervised field trips to municipal police departments, county jails, stockades, and drug detention and rehabilitation centers also provide experiential learning opportunities. Guest speakers, who include municipal, state, county, and federal law enforcement officers, stimulate learning and promote interest in such



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contemporary topics as the use of roadblocks, the use of force, and search and seizure laws.

The second course focuses on the changing issues of patrol operations, defensive tactics, first aid, and field investigations. This course discusses the legalities of probable cause and the different levels of offenses, and covers concerns over the use of force and police brutality. Students also have the opportunity to view practical demonstrations on different handcuffing techniques, the use of specialized equipment, such as the PR-24 side handle baton, and other police and corrections equipment. This course emphasizes the everyday practical applications of law enforcement from responding to citizen complaints to filing a criminal case with the prosecutor. Additionally, this course makes students aware of the terminology commonly used by criminal justice personnel.

The third course introduces students to the theory and practice of investigating forensic crime scenes. This includes reviewing crime scene techniques dealing with such issues as how to investigate crash sites and other aspects of crime investigations. Instructors discuss the importance of evidence, the collection of hairs and fibers, and the history of the use of evidence in critical cases.

The fourth course requires that the students complete two independent research projects, one covering juvenile delinquency and one on crime prevention from a community perspective. Each student selects a criminal justice mentor from the police, the courts, or corrections, who supervises each project, which culminates in both an oral presentation and written paper. Some examples of topics include the effectiveness of local ordinances such as curfews, the problems and solutions to graffiti throughout the school and community, and the positive effects of crime prevention education by law enforcement (e.g., Neighborhood Watch programs). In addition to enhancing the students' writing skills, a major objective of this course is to help make the students

aware that some law enforcement jurisdictions lack a systematic and effective crime control strategy and to encourage the students to develop solutions to the problems that result.

### **Discipline**

Preparing students for immediate career expectations remains an important aspect of any introductory course. Those students pursuing careers in law enforcement and corrections must someday face the reality of a recruit training program and undergo a cultural orientation into a paramilitary-oriented agency, although many agencies are moving away from such a rigid organizational structure. The academy students may be better prepared for such an environment because they must wear a uniform to school and grow accustomed to the formal rank structure and close-order drills often found in paramilitary agencies. Additionally, the students must stand at attention and show respect for visitors entering the classroom.

### **Extracurricular Activities**

Yet another one of the many changes from typical high school classroom behavior is additional specialized functions, such as a drill team and color guard, available for those students interested in the added responsibilities and who demonstrate the coordination, rhythm, agility, and discipline needed. The color guard often presents the colors and leads the school in the pledge of allegiance during school functions, as well as during community events, such as immigration ceremonies.

Those students interested in extended learning who want to participate in extracurricular activities can join a club completely operated by criminal justice students. The club members, guided by faculty, elect their own officers and coordinate their own searches for extracurricular efforts. For example, the students, on their own, may schedule law enforcement representatives to speak about topics of interest

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**Students interested  
in working in the  
criminal justice  
system have many  
careers from which  
to choose....**

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to them. Additionally, the students often volunteer for local charitable organizations and edit and publish a monthly criminal justice newsletter distributed to the academy students and select members of local criminal justice community.

### Administration

An executive advisory board of criminal justice experts representing law enforcement, the courts, and corrections meets each month to review the progress of the academy and make suggestions regarding programs offered within the academy. The advisory board makes additional important contributions to the Criminal Justice Academy by developing fund-raising activities, providing guest speakers, lending agency resource support, and providing counseling to students.

### Opportunities and Challenges

Because workforce diversity presents a major human resource challenge, high schools can help by providing the criminal justice community with recruits from a wide variety of ethnic and cultural backgrounds.<sup>1</sup> For minority students, the changes in the nation's demographics and economy can represent a great opportunity.<sup>2</sup> In order to match the diversity in the community, law enforcement should hire diverse candidates. Schools with an academy similar to that at Lake Worth Community High School can help this effort by recruiting and training a wide variety of students.

### College Credit

The ability of the students to obtain tuition-free college-level credit represents a unique facet of the Criminal Justice Academy. After students graduate from high school having successfully passed the four criminal justice elective courses, a local community college grants 3 tuition-free credit hours for each course. The community college applies the 12 college credits to the student's transcript, regardless of their

major, only after the student completes five courses at that community college. This incentive motivates students to pursue their education.

### Results

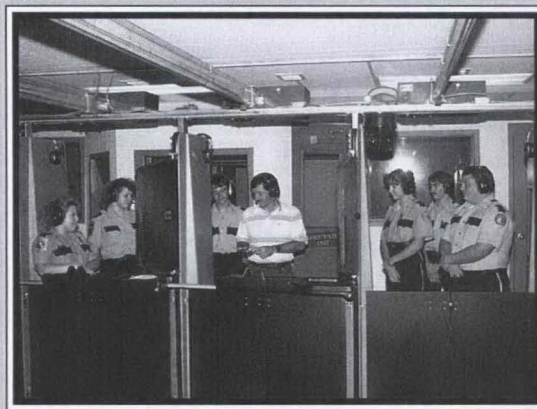
Because the Criminal Justice Academy at Lake Worth Community High School has only been in existence for 5 years, administrators cannot yet determine whether its first graduates will pursue employment in criminal justice. Still, with 38 local police jurisdictions in Palm Beach County Florida, the prospect of placing for those academy graduates seems promising.

The academy potentially provides criminal justice agencies with better-educated applicants. It encourages students to further their educations and stresses the importance of having a college education in today's competitive job market. Ultimately, no matter which field the students pursue, the

community gains a more-educated applicant pool. This fact alone makes the academy a success.

### Conclusion

Many criminal justice agencies are evaluating their approaches to community education and early recruitment from local high schools. This involvement with high school students fits into the philosophy of today's sought-after community-oriented policing by interacting with community youth and solving problems through the network established at the high school level. Though some critics contend that high school students lack the maturity necessary to pursue careers in policing or courts and corrections, the Lake Worth High School Criminal Justice Academy has shown that many high school students make a commitment to learning as much as they can to pursue their desire to join the criminal justice field. Yet, whether they choose to follow a career in criminal justice or not, students in the program gain an opportunity to think in a critical way about the current issues facing the criminal justice system. Students





learn the strengths and weakness of the criminal justice system and, therefore, can make intelligent suggestions and realistically have a hand in reforming the system.

Further, the Criminal Justice Academy gives students the opportunity to meet their educational and career goals. Because this program encourages students to attend college, it also helps law enforcement agencies hire college-educated individuals. Realizing that students have a unique opportunity to demonstrate leadership skills that will translate into future jobs, academy administrators continue to form partnerships with the criminal justice community, the school district, and local businesses and remain encouraged about the prospect of providing young adults with an opportunity for developing leadership

within the criminal justice system. Investing time and experience in the academy students can lead to personal satisfaction for those involved, as they watch the students mature and develop into the criminal justice leaders of tomorrow. ♦

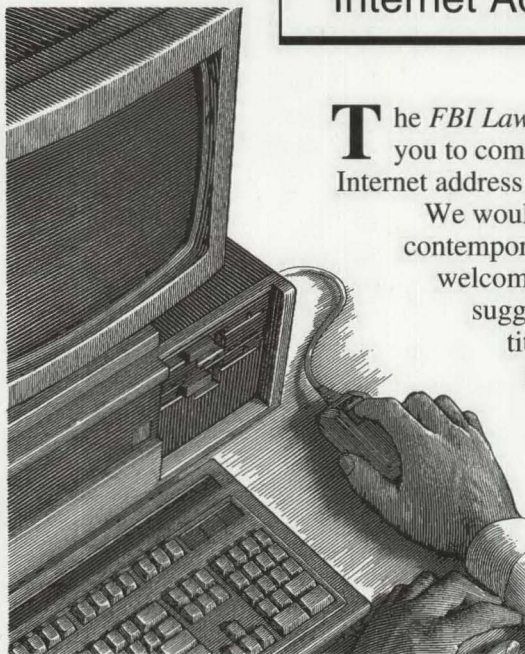
#### Endnotes

<sup>1</sup> W.B. Johnson and A.H. Packer, *Workforce 2000* (Indianapolis, IN: Hudson Institute, Inc., 1987), 10.

<sup>2</sup> R.A. Noe, J.R. Hollenbeck, B. Gerhart, and P.M. Wright, *Human Resource Management: Gaining a Competitive Advantage* (Homewood, IL: Austen Press, 1994), 12.

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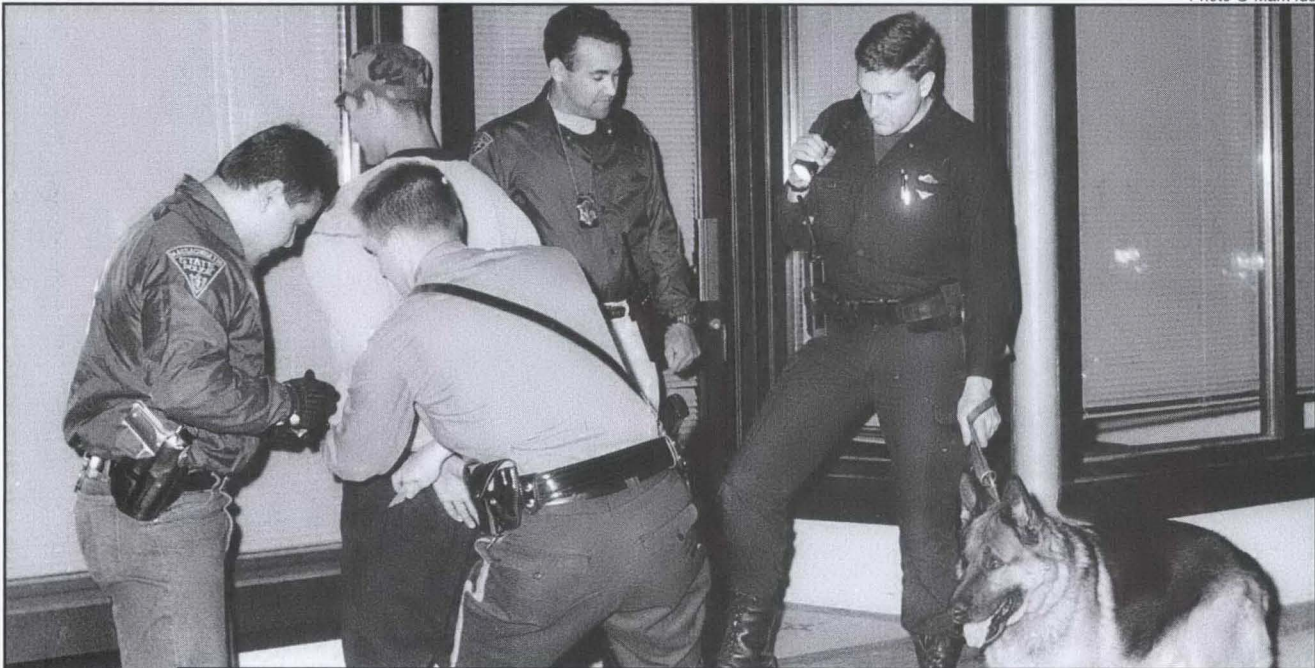


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## ***Warrantless Entries to Arrest Constitutional Considerations***

By EDWARD M. HENDRIE, J.D.

**I**t is constitutional for a police officer to arrest a suspect in a public place without a warrant if the officer has probable cause to believe the arrestee has committed a crime, regardless of whether that crime is a felony or a misdemeanor.<sup>1</sup> The common law rule, however, followed in many state and federal statutes, limits the authority of an officer to make a misdemeanor arrest without a warrant to circumstances when the suspect commits the misdemeanor in the officer's presence.<sup>2</sup>

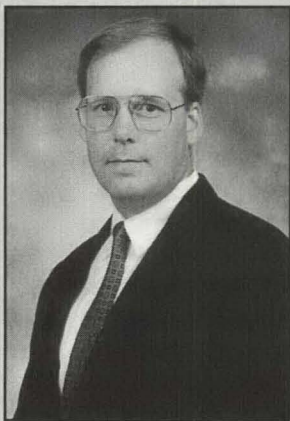
It is not constitutionally required that an officer be faced with an emergency before making a public arrest without a warrant.<sup>3</sup>

Arresting a person in public is one thing, entering the home to make the arrest is quite another. When an officer enters a subject's home and arrests that subject, not only has the officer seized the subject, but by entering the home, the officer also has conducted a Fourth Amendment search of the home. While it is not presumed that a public arrest without an arrest warrant is unreasonable, it is presumed that a search conducted without a search warrant is unreasonable.<sup>4</sup> Although an arrest warrant is a seizure warrant and not a search warrant, the U.S. Supreme Court has ruled that an arrest warrant carries with it the implicit authority to enter the residence of the

person named in the warrant to search for that individual, provided that there is at least probable cause to believe that the individual is present in the home.<sup>5</sup> When a person named in an arrest warrant is believed to be in a third party's home, however, an officer must obtain a search warrant before entering, unless there is an emergency or the resident gives consent to search. An arrest warrant alone will not suffice.<sup>6</sup>

The presumption of unreasonableness for searches conducted without a warrant can be rebutted through one of the exceptions to the warrant requirement. A warrantless intrusion into a residence is





Special Agent Hendrie, DEA, is a legal instructor at the FBI Academy.

**“ A warrantless intrusion into a residence is constitutionally permissible if the resident gives consent or there are exigent circumstances. ”**

constitutionally permissible if the resident gives consent or there are exigent circumstances. Courts permit police officers to make warrantless emergency entries to arrest suspects when police have reason to believe that a suspect is in the area to be entered and

- 1) the suspect will escape if the police do not immediately enter;
- 2) the suspect poses a danger to officers or others;
- 3) the suspect may destroy evidence; or
- 4) the officers are in hot pursuit of that suspect.

The primary reason that the courts allow warrantless entries in such exigent circumstances is simply that the police do not have time to obtain a search warrant. Some courts would consider whether a telephonic search warrant was available to officers when determining if there was an emergency justifying a warrantless entry. Obtaining a search warrant over the telephone expedites the warrant review process. Consequently, a

telephonic search warrant is obtained much sooner than if the officer had to personally appear before a magistrate with a written affidavit. If a court determines that the officers had time to obtain a telephonic search warrant but did not do so before entering a building, then the court may rule that there was not, in fact, an emergency that necessitated the warrantless entry.<sup>7</sup> This article is limited to a discussion of those emergencies that would justify police entering a residence without a warrant to arrest a suspect.

#### **Hot Pursuit Exception Requires Probable Cause**

Police officers who are in hot pursuit of a criminal suspect are not required to stop in their tracks and seek a warrant before entering a residence into which the suspect has just fled. In order for police officers to make a warrantless entry under the hot pursuit exception, however, they must be hot on the trail of a suspect who is trying to flee, and the officers must have probable cause to believe that the suspect is inside

the building to be searched. In *Llaguno v. Mingey*,<sup>8</sup> the full bench of the U.S. Court of Appeals for the Seventh Circuit ruled that a police determination of probable cause in an emergency is dependent to a great extent on the seriousness of the crime committed.

In *Llaguno*, two suspects committed two robberies, abducted a young girl, killed four people, and wounded three others, including one police officer. Police shot and captured one of the suspects after the getaway car crashed and rescued the girl unharmed. The other suspect fled on foot. The officers decided to go to the address on the car registration. The house was 2 miles from the crash site. Before going to the house, the officers drove to police headquarters to get a sledgehammer and a shotgun. The officers then went to the house and entered without a warrant. They arrested a suspect in the house who was found later to have had no involvement in the robbery. The officers were sued for, among other things, conducting an illegal search by entering the house without a warrant. The suspect who had fled from the crash scene was subsequently shot and killed elsewhere that night by other officers.

Despite the fact that the officers stopped in the midst of the chase and went back to police headquarters, the court still deemed that the officers were in hot pursuit of the killer.<sup>9</sup> The *Llaguno* court balanced the officers' interest in preventing escape or injury against the privacy interest of the resident and had little difficulty in finding that the officers were faced with an emergency. "The situation was an emergency in



about as vivid a sense as can be imagined.”<sup>10</sup> The court focused on the dangerousness of the circumstances. The greater the danger posed to the public, the more reason officers have for not waiting to obtain a warrant.

The court emphasized that an emergency alone is not enough; there also must be probable cause to believe the suspect is at the location to be searched. The court stated that probable cause is not a fixed point but occupies a zone somewhere between bare suspicion and virtual certainty. While the seriousness of the offense is an important factor when determining if there is an emergency, the *Llaguno* court also viewed it as an important consideration when determining if there is probable cause. The more serious the crime, the more latitude officers must be allowed when deciding probable cause. The address on the vehicle registration was considered sufficient for probable cause in *Llaguno* because the crimes were serious and the killer posed a clear and present danger.

The police in *Llaguno* had a bare minimum of probable cause; thin though it was, they still in fact had probable cause. In *United States v. Winsor*,<sup>11</sup> the full bench of the U.S. Court of Appeals for the Ninth Circuit disapproved of the police searching for a bank robber in all of the first floor rooms and some of the second floor rooms of a hotel where they had chased him. The officers finally located the bank robber after searching 15 to 25 rooms. The court found that, even though the officers were in hot pursuit of the bank robber, they only had a reasonable suspicion that the

robber was in any of the rooms; they did not have the requisite probable cause.

### **Hot Pursuit Exception Requires a Police Chase**

In order for police officers to enter a building without a warrant under the hot pursuit exception, the suspect must be fleeing from a crime. By definition, if the suspect is not trying to get away, police are not in hot pursuit. For example, in *Johnson v. United States*,<sup>12</sup> police officers smelled the odor of opium coming from an apartment. After the officers demanded entry, the

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***The greater the danger posed to the public, the more reason officers have for not waiting to obtain a warrant.***

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defendant opened the door and the officers entered the apartment. The U.S. Supreme Court ruled that the officers were not in hot pursuit of the defendant because 1) she was not fleeing from the officers; 2) she was completely surrounded by the police before she knew of their presence; and 3) she made no attempt to escape.<sup>13</sup> Just because police officers are moving swiftly does not mean that they are in hot pursuit. In order for officers to be in hot pursuit of a suspect, they must be chasing a suspect who is trying to get away.

Although there must be some kind of chase in order for the police to make a warrantless entry under the hot pursuit exception, the chase is not required to be the classic hue and cry through the city streets. For instance, in *United States v. Santana*,<sup>14</sup> an undercover officer purchased heroin from a suspect who told the officer that her source of supply was “Mom Santana.” The officers arrested the suspect and went to Santana’s house to arrest her, as well. They saw Santana standing directly in the doorway of the house with a brown paper bag in her hand. The officers pulled up in front of the house, approached Santana, shouted “police,” and displayed their identification. As the officers approached, Santana retreated into the vestibule of her house. The officers followed her through the open door and arrested her in the vestibule. They found the premarked drug-buy money in her possession and her bag was later determined to contain heroin.

The U.S. Supreme Court ruled that when Santana was standing in her doorway, she was as exposed to public view, speech, hearing, and touch as if she had been standing completely outside her house. The Court ruled that Santana could not thwart a lawful public arrest by retreating into the privacy of her home. The Court also held that even though the chase was over almost as soon as it started and did not involve a clamorous chase through the public streets, it was a hot pursuit nonetheless. In addition, the court noted that the officers reasonably believed that Santana could have taken steps to destroy evidence had they not immediately



arrested her. Therefore, the warrantless entry of the house to arrest Santana was lawful. The chase in *Santana* lasted only seconds; but if a chase is relatively continuous, it could last for hours and still be considered hot pursuit.<sup>15</sup>

The officers in *Santana* chased the suspect from public view into the house. What if a subject leaves the scene of an offense and enters his home before the police are even called? Would the police be in hot pursuit if, after arriving at the scene, they go straight to the house and enter it in order to arrest the suspect? In *Welsh v. Wisconsin*,<sup>16</sup> a witness saw a car being driven erratically. The car eventually swerved off the road and stopped in an open field. The car did not collide with anything and nobody was injured. The driver walked a short distance from the car to his house. Police officers arrived at the car within minutes and checked the registration, which revealed that the car's owner lived within walking distance of the scene. The officers proceeded to the driver's home to find him lying naked in bed. The driver was placed under arrest for driving a motor vehicle while intoxicated in violation of Wisconsin law.

The state of Wisconsin contended that the warrantless search of the home was reasonable on three grounds: 1) the officers were in hot pursuit of the suspect; 2) the defendant posed a threat to public safety; and 3) there was an emergency need to ascertain the driver's blood-alcohol level.

The U.S. Supreme Court, however, ruled that "...the claim of hot

pursuit is unconvincing because there was no immediate or continuous pursuit of the petitioner from the scene of a crime."<sup>17</sup> In addition, the Court was not convinced that there was a threat to public safety because the defendant already had arrived home and had abandoned his car at the scene of the accident. Finally, the court stated that the defendant's right to be secure in his home from a warrantless, nighttime

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The more serious  
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entry by police officers outweighed the state's interest in obtaining evidence of his blood-alcohol level before it dissipated. The state of Wisconsin had categorized drunk driving as a civil infraction, which indicated that the state had a lower interest in prosecuting those offenses than it had in prosecuting criminal offenses. The Court held that a warrantless home entry rarely should be sanctioned when only a minor offense has been committed.<sup>18</sup>

#### **Hot Pursuit of a Fleeing Misdemeanant**

The police officers in *Welsh* were not in hot pursuit. If officers are in hot pursuit of a suspect who

has committed only a misdemeanor, would they be able to make a warrantless entry in order to arrest the suspect? Some courts allow officers to enter a home without a warrant if they are in hot pursuit of a fleeing misdemeanor.<sup>19</sup> For example, in *Minnesota v. Paul*,<sup>20</sup> the Supreme Court of Minnesota refused to make a bright-line rule prohibiting warrantless police entries into homes for offenses of less magnitude than a felony. The court permitted a warrantless home entry in a drunk driving case primarily because, unlike the officers in *Welsh*, the *Paul* officer was in hot pursuit of the suspect.

The *Paul* decision is further distinguishable from *Welsh* because the *Paul* court considered a violation of the Minnesota drunk driving statute a serious offense. The Minnesota statute in *Paul* provided for criminal penalties and not merely the civil penalties of the Wisconsin statute in *Welsh*. This led the *Paul* court to conclude that Minnesota had a greater interest in preserving evidence of the suspect's blood alcohol level than did Wisconsin in the *Welsh* case.

Other courts prohibit warrantless hot pursuit entries for misdemeanors unless there is an additional emergency. For example, in *Idaho v. Wren*,<sup>21</sup> the Court of Appeals of Idaho ruled in a disturbing case that it is not permissible for the police to make a warrantless entry if the sole reason for their entry is that they are in hot pursuit. The police, in addition, must be faced with at least one other recognized emergency before they may make a warrantless



entry. A fleeing nondangerous misdemeanor would seldom present any additional emergencies. Consequently, a court that requires an additional emergency to augment the exigency of hot pursuit rarely would allow police to make a warrantless entry to arrest a suspect for a nondangerous misdemeanor.<sup>22</sup>

### Warrantless Entries When Officers Not in Hot Pursuit

The *Welsh* decision involved what the Supreme Court characterized as a minor offense. In an armed robbery case involving pertinent search facts analogous to those in *Welsh*, the Supreme Court found that an armed robbery was sufficiently serious to allow police to enter a residence without a warrant. The Supreme Court decision in *Warden v. Hayden*<sup>23</sup> did not involve a police chase through the streets; the Court nonetheless approved of the police, without a warrant, entering a robber's home.

In *Hayden*, the defendant committed an armed robbery of the Diamond Cab Company in Baltimore, Maryland. Two cab drivers followed the robber to a residence. One cab driver radioed the suspect's description and location to the company dispatcher, who then relayed that information to police. Within minutes, officers arrived at the house, knocked, and announced their presence. They entered the residence and spread out through the house in search of the robber, who was found in an upstairs bedroom feigning sleep.

In *Hayden*, the Supreme Court ruled that "...neither the entry without warrant to search for the robber,

nor the search for him without warrant was invalid. Under the circumstances of this case, 'the exigencies of the situation made that course imperative.'...The police were informed that an armed robbery had taken place and that the suspect had entered [the house] less than 5 minutes before they reached it. They acted reasonably when they entered the house and began to search for a man of the description they had been given and for weapons that he had used in the robbery or might use against them. The Fourth Amendment does not require police officers to delay in the course of an

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investigation if to do so would gravely endanger their lives or the lives of others."<sup>24</sup>

Many courts view *Hayden* as a hot pursuit case.<sup>25</sup> Yet, in *United States v. Santana*, the Supreme Court noted that the *Hayden* court did not even use the term "hot pursuit" in its opinion and concluded that the *Hayden* case did not involve hot pursuit in the sense that the term is normally understood.<sup>26</sup> The *Santana* court stated that the search in *Hayden* was justified under the

general label of the "exigencies of the situation." The *Santana* court took the position that hot pursuit requires a police chase. In *Hayden*, there was no chase in the classic sense. Under *Hayden*, even though officers are not chasing a suspect and therefore cannot be said to be in hot pursuit, they still may be permitted to enter a suspect's residence without stopping to obtain a warrant if to delay entering might give the suspect an opportunity to escape or harm the police or public.<sup>27</sup>

When a case involves hot pursuit, the emergency is apparent; the police are hot on the heels of a suspect who is trying to elude police. However, when the basis for the emergency is not dependent upon the suspect's being hotly pursued, the courts must examine the situation more closely. In *Dorman v. United States*,<sup>28</sup> the full bench of the Court of Appeals for the District of Columbia set forth the following factors to consider when deciding if exigent circumstances exist in the absence of hot pursuit:

- 1) whether a grave or violent crime has occurred;
- 2) whether officers reasonably believe the suspect is armed;
- 3) whether there is a clear showing of probable cause that the suspect committed the crime;
- 4) whether officers have strong reason to believe that the suspect is in the premises being entered;
- 5) whether the suspect will escape if not apprehended swiftly; and



6) whether officers can enter the premises in a peaceful manner.

While not enumerated as one of the factors, the *Dorman* court indicated that whether the police entry is in the daytime or at night is important in calculating exigent circumstances.

In *Dorman*, the defendant and three armed accomplices robbed a clothing store at approximately 6 p.m. and stole money and clothing. The defendant picked out a blue sharkskin suit from the rack and made his getaway. The defendant's vanity was his undoing. He left his old pants in the changing room and wore the suit when he ran from the store. Police arrived at the scene, and between 7 and 7:45 p.m., a detective found the defendant's pants containing a monthly probation report showing the defendant's name and address. Three victims made a photographic identification of the defendant at 8:30 p.m. At 10:20 p.m., the officers entered the defendant's home without a warrant to arrest him. He was not there, but the officers located the stolen sharkskin suit in his closet.

The *Dorman* court found that the officers were not in hot pursuit of the suspect because the entry into the home came over 4 hours after the offense. The court, however, pointed out that the emergency the police faced was similar to hot pursuit. If the defendant discovered that he had left his probation papers behind, he would have realized that the police soon would identify him as the perpetrator. Any further delay by the officers in entering his

residence might have provided him with an opportunity to escape. Entry without a warrant was permitted to prevent that escape.

While some courts have followed the *Dorman* approach,<sup>29</sup> other courts have rejected the *Dorman* checklist. For example, in *United States v. Acevedo*,<sup>30</sup> the court stated that the limitless array of potential facts that officers could

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**‘Law enforcement agents are required to be innocent but not naive.’**

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face caution against the application of the *Dorman* checklist. The court considered *Dorman* as only a guide in determining the balance of the resident's privacy interest against the police interest in preventing escape, injury, or destruction of evidence. In addition, in *Llaguno v. Mingey*, the court followed the *Acevedo* precedent and argued against the rigid application of the *Dorman* factors. The *Llaguno* court pointed out that the issue in a warrantless entry case is simply whether the police were unreasonable in not obtaining a warrant under the circumstances that they were faced with at the time. In fact, in *Welsh v. Wisconsin*, the Supreme Court expressly refused to approve of all of the factors listed in *Dorman* and simply cited *Dorman*

as precedent that the gravity of an offense is the principal factor to be weighed when determining whether the police are faced with an emergency. Even those courts that apply the *Dorman* checklist do so with a degree of elasticity. For example, the full bench of the U.S. Court of Appeals for the Second Circuit in *United States v. McDonald*<sup>31</sup> pointed out that the *Dorman* factors are not intended as an exhaustive canon, but merely represent a sampling of facts to be considered when deciding whether a sufficient emergency exists to excuse obtaining a warrant.<sup>32</sup> The court emphasized that in some circumstances, the presence of a solitary factor may be enough to establish an emergency.

The *McDonald* court upheld an emergency entry by government agents into an apartment that was the site of an illegal retail drug operation. Shortly before 10 p.m. on September 8, 1988, an undercover agent with the New York Drug Enforcement Task Force 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 9 mm 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. There were four other men in the apartment. The agent bought a small amount of marijuana and left the building.

Shortly thereafter, the agent returned to the apartment with reinforcements and knocked on the door. As soon as the agents



identified themselves, they heard the sound of scuffling feet and received simultaneous 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 enter the apartment. The agents arrested the suspects and found large quantities of cocaine and marijuana along with two loaded weapons, drug paraphernalia, drug packaging materials, and several thousand dollars in cash.

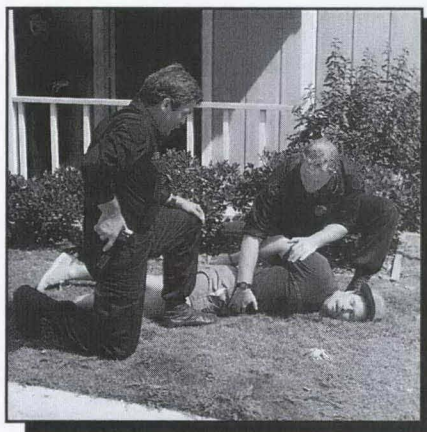
The *McDonald* court applied the *Dorman* factors and ruled that the agents were faced with an emergency as soon as the undercover agent made the drug purchase.

First, the ongoing sale and distribution of narcotics constituted a grave offense. Second, the defendant and at least one of his associates were armed with loaded, semiautomatic weapons. Third, the law enforcement agents had not only probable cause to suspect that a crime had been perpetrated but firsthand knowledge that ongoing crimes were transpiring. Fourth, the agents further knew that the defendant and his associates were in the apartment. Fifth, the likelihood that a suspect might escape if not swiftly apprehended was confirmed by the fact that the man who actually made the sale to Agent Agee had apparently escaped during the 10-minute interval that elapsed after the controlled purchase and before the agents entered the apartment. Sixth,

the agents acted in accordance with the law and first attempted to effect a peaceful entry by knocking and announcing themselves.<sup>33</sup>

The court listed two other considerations in addition to the *Dorman* factors as relevant to its decision. First, "...the volatile mix of drug sales, loaded weapons and likely drug abuse presented a clear and immediate danger to the law enforcement agents and the public at large....In addition,...the agents were confronted by an urgent need to prevent the possible loss of evidence...."<sup>34</sup>

The defendant argued that the agents impermissibly created the emergency by knocking on the door



and announcing their presence. The court, however, found that the emergency arose before the agents knocked on the door; it originated at the point that the agent purchased the drugs. The court further stated that, even if the exigency had not existed when the agent made the purchase, because the agents acted

lawfully by knocking on the door and announcing their presence,<sup>35</sup> they did not impermissibly create the emergency.<sup>36</sup>

The *McDonald* court interpreted the Fourth Amendment as establishing an objective standard of reasonableness and the subjective state of mind of the agents was immaterial. It was irrelevant whether the agents intended to create the exigency. The court thought it was not significant that the agents brought along a battering ram when approaching the door. The fact that the agents fully expected the occupants to attempt an escape or destroy evidence did not render unlawful the otherwise lawful acts of knocking on the door and identifying themselves.

The court held that "...when law enforcement agents act in an entirely lawful manner, they do not impermissibly create exigent circumstances. Law enforcement agents are required to be innocent but not naive."<sup>37</sup>

The defendant also argued that narcotics-related crimes so frequently involve exigent circumstances that the exception to the warrant requirement threatens to become the rule. The court responded that, "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."<sup>38</sup>

## Conclusion

If police officers are in hot pursuit of a criminal suspect and chase that suspect to a house, most courts permit the officers to follow that suspect into the house to apprehend him. It is not required that the officers stop and obtain a warrant before entering the house; there is an emergency—they are in hot pursuit. If, on the other hand, the police are not hot on the trail of a suspect, they may not enter the house under the hot pursuit exception. The officers could still enter the house without a warrant, however, if they have reason to believe that the suspect will escape or poses a threat of destroying evidence or harming the police or the public. ♦

## Endnotes

<sup>1</sup> See *Street v. Surdyka*, 492 F.2d 368, 371-72 (4th Cir. 1974); *Minnesota v. Seefeldt*, 292 N.W. 2d 558 (Minn. 1980).

<sup>2</sup> E.g., 21 U.S.C. § 878.

<sup>3</sup> *United States v. Watson*, 423 U.S. 411 (1976).

<sup>4</sup> *Katz v. United States*, 389 U.S. 347, 357 (1967).

<sup>5</sup> *Payton v. New York*, 445 U.S. 573, 603 (1980).

<sup>6</sup> *Steagald v. United States*, 451 U.S. 204, 215-16 (1981).

<sup>7</sup> E.g., *United States v. Patino*, 830 F.2d 1413, 1416-18 (7th Cir. 1987) (entry of a third party's home without a search warrant to arrest a suspect was not justified as an emergency exception where the federal agents had time before the entry to obtain a telephonic search warrant).

<sup>8</sup> 763 F.2d 1560 (7th Cir. 1985) (en banc).

<sup>9</sup> *Id.* at 1567. See also *Reardon v. Wroan*, 811 F.2d 1025, 1029 (7th Cir. 1987), which

described the police in *Llaguno* as being in hot pursuit of the suspects.

<sup>10</sup> *Id.* at 1564.

<sup>11</sup> 846 F.2d 1569 (9th Cir. 1988) (en banc).

<sup>12</sup> 333 U.S. 10 (1948).

<sup>13</sup> *Id.* at 16 n.7.

<sup>14</sup> 427 U.S. 38, 43 n.3 (1976).

<sup>15</sup> E.g., *United States v. Baldacchino*, 762 F.2d 170, 176 (1st Cir. 1985) (pursuit of drug suspects from a plane crash site took three and a half hours before they were finally captured in their hotel room).

<sup>16</sup> 466 U.S. 740 (1984).

<sup>17</sup> *Id.* at 753.

<sup>18</sup> *Id.* at 750.

<sup>19</sup> E.g., *Greiner v. City of Champlin*, 27 F.3d 1346, 1353-54 (8th Cir. 1994); *Goines v. James*, 433 S.E.2d 572, 576-78 (W.Va. 1993), cert. denied, 114 S. Ct. 721 (1994).

<sup>20</sup> 548 N.W.2d 260, 265-68 (Minn. 1996).

<sup>21</sup> 768 P.2d 1351, 1356-58 (Idaho App. 1989).

<sup>22</sup> See, e.g., *New Jersey v. Bolte*, 560 A.2d 644, 652-54 (N.J. 1989) (The court prohibited a warrantless hot pursuit entry because the offenses were minor and apparently noncriminal. *Id.* at 654 n.12.)

<sup>23</sup> 387 U.S. 294 (1967).

<sup>24</sup> *Id.* at 298-99.

<sup>25</sup> E.g., *United States v. Ford*, 56 F.3d 265, 271 (D.C. Cir. 1995); *United States v. Winsor*, 846 F.2d 1569, 1582 (9th Cir. 1987) (en banc). Even the U.S. Supreme Court, on occasion, has described *Hayden* as a hot pursuit case, despite the express statement to the contrary in *Santana*. See, e.g., *Mincey v. Arizona*, 437 U.S. 385, 394 (1978); *Michigan v. Tyler*, 436 U.S. 499, 509 (1978).

<sup>26</sup> 427 U.S. 38, 43 n.3.

<sup>27</sup> See *United States v. McNeal*, 77 F.3d 938 (7th Cir. 1996).

<sup>28</sup> 435 F.2d 385 (D.C. Cir. 1970) (en banc).

<sup>29</sup> See, e.g., *Salvador v. United States*, 505 F.2d 1348, 1351 (8th Cir. 1974); *United States v. Phillips*, 497 F.2d 1131, 1135 (9th Cir. 1974); *United States v. Shye*, 492 F.2d 886, 891 (6th Cir. 1974); *Vance v. North Carolina*, 432 F.2d 984, 990 (4th Cir. 1970).

<sup>30</sup> 627 F.2d 68, 70 (7th Cir.), cert. denied, 449 U.S. 1021 (1980).

<sup>31</sup> 916 F.2d 766 (2nd Cir. 1990) (en banc), cert. denied, 498 U.S. 1119 (1991).

<sup>32</sup> See also *United States v. Robinson*, 533 F.2d 578, 584 (D.C. Cir.) (en banc), cert. denied, 423 U.S. 1000 (1976). In *Robinson*, the author of the *Dorman* decision did not require

all of the factors when determining that there was an emergency allowing a warrantless search of a motor vehicle. The court did not decide the applicability of the motor vehicle exception.

<sup>33</sup> 916 F.2d at 770 (quoting *Warden v. Hayden*, 387 U.S. 294, 298 (1967), and *McDonald v. United States*, 335 U.S. 451, 456 (1948)).

<sup>34</sup> *Id.* at 770. See also *Minnesota v. Olson*, 495 U.S. 91, 100 (1990), wherein the U.S. Supreme Court cited with approval the Minnesota Supreme Court's position that in assessing the risk of danger, the gravity of the crime and likelihood that the suspect is armed should be considered.

<sup>35</sup> There is a split in the courts as to what constitutes impermissible creation of an emergency. Some courts look to whether the police deliberately created the exigency. E.g., *United States v. Thompson*, 700 F.2d 944 (5th Cir. 1983); *United States v. Socey*, 846 F.2d 1439 (D.C. Cir. 1988), cert. denied, 488 U.S. 858 (1988). 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, e.g., *United States v. Duchi*, 906 F.2d 1278 (8th Cir. 1990); *United States v. Rico*, 51 F.3d 495 (5th Cir. 1995). Still other courts look to whether the police acted lawfully, regardless of whether they deliberately intended to create the exigency, e.g., *United States v. Acosta*, 965 F.2d 1248 (3rd Cir. 1992); *United States v. Tobin*, 923 F.2d 1506 (11th Cir. 1991) (en banc), cert. denied. See also Edward M. Hendrie, "Creating Exigent Circumstances," *FBI Law Enforcement Bulletin*, September 1996, 25-32.

<sup>36</sup> See also *Pennsylvania v. Govens*, 632 A.2d 1316 (Pa. Super. 1993) (The 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 shuffling and moving about.)

<sup>37</sup> 916 F.2d at 772.

<sup>38</sup> *Id.* at 772-73.

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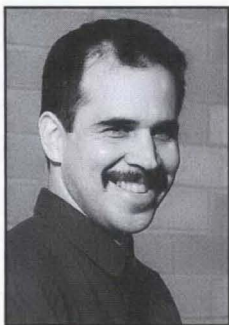
*Law enforcement officers of other than federal jurisdiction who are interested in this article should consult their legal advisors. Some police procedures ruled permissible under federal constitutional law are of questionable legality under state law or are not permitted at all.*

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## The Bulletin Notes

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



Deputy Kimerly

While investigating a theft in Evergreen, Montana, on a cold winter morning, Deputy George Kimerly of the Flathead County Sheriff's Department heard the radio dispatcher call for the fire department to respond to the report of a mobile home fire. Only minutes from the scene, Deputy Kimerly decided to respond, also. Arriving at the residence, he was met outside by a woman who said that her husband was inside on the floor near the front door. Although heavy smoke filled the home, Deputy Kimerly could see flames near the husband. He grabbed a shovel by the front door and started throwing snow around the victim to knock down the flames. Deputy Kimerly then entered the home and dragged the husband to safety. Once her husband was safe, the woman realized her pets were still in the home and reentered the burning residence. Deputy Kimerly went back into the home and pulled the woman to safety. Without the quick and selfless actions of Deputy Kimerly, the couple could have perished.



Sergeant Reou

Shortly after arriving home following his tour of duty, Sergeant Robert Reou of the Sarasota, Florida, Police Department heard a female neighbor screaming for help at his front door. The woman, covered in blood, told Sergeant Reou that her daughter's former boyfriend was at their residence threatening to kill her daughter. Sergeant Reou told his neighbor to stay in his house, called for backup and an ambulance, armed himself with his service weapon, and went next door to investigate. Hearing a fight inside the house, Sergeant Reou entered the dwelling and followed the sound to a bedroom where he found the daughter and her former boyfriend engaged in a violent, bloody struggle over a screwdriver. Sergeant Reou identified himself and instructed the boyfriend to drop the screwdriver. At that moment, the daughter managed to obtain the screwdriver and throw it across the room. While holding the

boyfriend at bay, Sergeant Reou sent the daughter to his residence for safety. Backup officers arrived and arrested the former boyfriend who subsequently indicated that he intended to kill the mother, the daughter, the 5-year-old granddaughter inside the house at the time, and the daughter's husband when he arrived home from work and then commit suicide. Sergeant Reou's prompt, brave actions thwarted the former boyfriend's murder/suicide plan and saved four innocent lives.

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



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## Patch Call



The Marquette, Michigan, Police Department patch exhibits an ore freighter gliding across the bay of Lake Superior. The design also highlights the beauty and majesty of the Great Lakes region of the state.



The patch of the Salem, New Hampshire, Police Department depicts the snowcapped mountains of the White Mountain National Forest. It also features an open white gate representing Salem as the gateway to the White Mountains.