

*Encyclopedia of*  
**LAW ENFORCEMENT**

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*Encyclopedia of*  
**LAW ENFORCEMENT**

Volume 2  
Federal

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Inspection Service	National Crime Victimization	Intelligence Agency
International Association of	Survey	Office of Surface Mining
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# Reader's Guide

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Association  
American Society of Criminology  
Burns Detective Agency  
Child Welfare  
Commission on the Accreditation of  
Law Enforcement Agencies  
Crime Stoppers  
Federal Law Enforcement Officers  
Association  
Fraternal Organizations  
Hispanic American Police Command  
Officers Association  
International Association of  
Campus Law Enforcement  
Administrators  
International Association of  
Chiefs of Police  
International Association of Women  
Police  
Mothers Against Drunk Driving  
National Association of Women Law  
Enforcement Executives  
National Black Police Officers  
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National Native American Law  
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National Organization of Black Law  
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### **FEDERAL AGENCIES/ ORGANIZATIONS**

Bureau of Engraving and Printing  
 Police  
 Bureau of Immigration and Customs Enforcement  
 Bureau of Industry and Security  
 Bureau of Land Management, Law Enforcement  
 Bureau of Reclamation, Office of Security, Safety, and Law Enforcement  
 Critical Incident Response Group  
 Department of Health and Human Services  
 Department of Homeland Security  
 Department of Justice  
 Diplomatic Security Service  
 Drug Enforcement Administration  
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 Federal Aviation Administration  
 Federal Bureau of Investigation  
 Federal Law Enforcement Training Center  
 Federal Protective Service  
 Financial Crimes Enforcement Network  
 Fish and Wildlife Service  
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Library of Congress Police  
 National Crime Information Center  
 National Highway Traffic Safety Administration  
 National Institutes of Health, Department of Health and Human Services  
 National Marine Fisheries Service, Department of Commerce  
 National Public Safety Information Bureau  
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# Introduction

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Security is now and has always been the primary function of government. All societies require some form of law enforcement capability to function effectively. Throughout history, governments of all types have relied on either public police agencies or informal means to effect conformity to social norms, standards, and laws. Given how essential law enforcement is to society, it is surprising how little we really know about how it actually functions. The job of law enforcement is always complex and sometimes dangerous. Police function under much public scrutiny, yet the complexities of what police do and why they do it rarely come to our attention. Readers of this encyclopedia will be introduced to the vagaries and nuances of the field, because it is critical to have a more informed citizenry so that when issues concerning public safety come to our attention, as they do on an almost daily basis, we can judge the situation fairly and wisely.

We cannot strictly equate policing with law enforcement in general, but what we do know on the subject is primarily based on policing in large urban settings. So far, few reference works have been published on law enforcement in the federal, state, local, rural, or private sectors. Our knowledge of international and comparative law enforcement is almost nonexistent, and policing in Western democracies can be qualitatively different from policing in emerging countries or other areas using different legal systems. In many countries, law enforcement—indeed, government itself—is almost entirely lacking. In

worst-case scenarios, police are used primarily as a force of terror to keep dictators in power. Regimes fall and rise daily, and people find themselves in lawless and violent states. In the early 21st century alone, we can think of such states as Afghanistan, Iraq, Somalia, and Haiti, to name only a few, that find themselves without effective policing powers.

Although there is a plethora of studies on crime and punishment, law enforcement as a field of serious research in academic and scholarly circles is only in its second generation. When we study the courts and sentencing, prisons and jails, and other areas of the criminal justice system, we frequently overlook the fact that the first point of entry into the system is through police and law enforcement agencies. My work in the field of crime and punishment has driven this fact home with a sense of urgency. Approximately 800,000 men and women work in law enforcement in the United States alone, and they are held to higher standards than the rest of us, are often criticized, and function under intense public scrutiny. Ironically, they are the most visible of public servants, and yet, individually, they often work in near obscurity. But their daily actions allow us to live our lives, work, play, and come and go. They are “the thin blue line”—the buffer between us and the forces of disorder.

Our understanding of the important issues in law enforcement has little general literature on which to draw. Currently available reference works on policing are narrowly focused and sorely out of date. Not

only are there few general works on U.S. law enforcement in all its many facets, but the student and general reader will find very little on current international policing. Policing has changed dramatically over the past century, but our general understanding of it comes primarily from the news media and police television shows and movies. The public seems to gain much of its knowledge of policing from popular television shows such as *Law and Order* and the *CSI: Crime Scene Investigation* series. What we see on television is simplistic and conflates within its 42-minute hour a year's worth of police work. Those of us in the academic field of criminal justice research see an urgent need for providing students and the general interested public balanced information on what law enforcement does, with all of its ramifications. Because democracy can remain strong only with an informed public, our goal is to provide the necessary information for an understanding of these institutions dedicated to our safety and security. To this end, we have gathered a distinguished roster of authors, representing many years of knowledge and practice in the field, who draw on the latest research and methods to delineate, describe, and analyze all areas of law enforcement.

The criminal justice field is burgeoning and is one of the fastest growing disciplines in colleges and universities throughout the United States. The *Encyclopedia of Law Enforcement* provides a comprehensive, critical, and descriptive examination of all facets of law enforcement on the state and local, federal and national, and international stages. This work is a unique reference source that provides readers with informed discussions on the practice and theory of policing in a historical and contemporary framework. Each volume treats subjects that are particular to the area of state and local, federal and national, and international policing. Many of the themes and issues of policing cut across disciplinary borders, however, and a number of entries provide comparative information that places the subject in context. The *Encyclopedia of Law Enforcement* is the first attempt to present a comprehensive view of policing and law enforcement worldwide.

It is fitting and appropriate that we present this information in an encyclopedia, traditionally and historically the gateway to the world of knowledge, a gateway that leads to further studies for those who want to pursue this fascinating and important field. The encyclopedia is the most comprehensive, durable, and utilitarian way in which to present a large body of synthesized information to the general public. Encyclopedias trace their beginnings back to *Naturalis Historia* of Pliny the Elder (23–79 A.D.), in which he collected much of the knowledge of his time in numerous volumes. They became standard and necessary reference tools during the Enlightenment with Denis Diderot's *Encyclopédie* in 1772 and the first edition of the monumental *Encyclopedia Britannica* in 1771. These seminal compendia attempted to present an entire body of knowledge to its readers. The modern encyclopedias broke new ground in the transmission of ideas, and over the centuries, they have been updated and improved. Some editions have become classics in themselves, such as the 11th edition of the *Encyclopedia Britannica*.

Specialty encyclopedias are more a phenomenon of the modern age. The field of criminal justice has matured in the past generation, and its monographs and journals present a large body of specialized research from which to draw. The subspecialty of law enforcement, however, has not received the focused treatment of a comprehensive reference work until now. The study of policing and law enforcement has come a long way since the first attempts at police professionalism at the turn of the 20th century. At that time, we also saw the initial professional publications in policing by way of such partisan, anecdotal police histories as Augustine E. Costello's *Our Police Protectors* (1885) on New York and John J. Flinn's *History of the Chicago Police* in 1887. In no way can we call these works scholarly, although they did give us a glimpse into the activities of the local police departments. It was only with the age of general crime commissions, beginning in the 1930s and culminating in the President's Commission on Law Enforcement and the Administration of Justice in 1967, that we saw the development of a large body of data on police activities. And it was also in the 1960s that the first College of

Police Science was founded at the City University of New York (1964), which became the John Jay College of Criminal Justice in 1966, the foremost college of its kind in the world. Within the decade, journals devoted to the scholarly study of the police were founded, and thus, this academic subspecialty of criminal justice was on the road to professional respectability. In the past 40 years, the field of law enforcement has grown and evolved rapidly.

Law enforcement (or lack thereof) is a complex social and political process that affects everyone. Explanations of its role in society are basic to our understanding of the proper maintenance of social order. Older reference works on policing were limited given the few available sources on which they drew. But a large enough body of scholarly work now exists that a reference work such as this encyclopedia can provide coverage of most U.S. law enforcement concepts, strategies, practices, agencies, and types, as well as the comparative study of world law enforcement systems. Police and law enforcement officers do a variety of things in a day and need to draw on a body of knowledge that includes law, sociology, criminology, social work, and other disciplines. This encyclopedia attempts to answer all the questions on what an officer or an agency, here and abroad, does, but also attempts to explain the reasons for an officer's proper and improper actions. In numerous articles, we also show the development of policing, its functions, the impact of technology and modern culture on law enforcement, and the impact that court decisions have on every facet of the field. Law enforcement worldwide was profoundly affected by the terrorist attacks on New York and Washington on September 11, 2001, and many of the field's methods, concepts, principles, and strategies have changed because of the ubiquity of terrorism. Most of the relevant articles in this encyclopedia reflect these changes. As a reference work, it will be essential reading for anyone interested in the field of law enforcement.

The *Encyclopedia of Law Enforcement* offers the professional, the student, and the lay user information unavailable in any other single resource. Its aim is to bring interdisciplinary treatment to the myriad topics that touch on all facets of law enforcement.

To this end, the editors have assembled more than 300 specialists in the field—academics and practitioners alike—to provide the most current treatment on more than 550 topics. These entries range from simple descriptive essays on federal law enforcement agencies to the most sophisticated analysis of contemporary theories of policing. The broadening of the field of law enforcement affected the process of selection of topics. Some selections were driven by theoretical interests, whereas others were practical and more specific. Our goal is to survey the entire field of law enforcement and to be as comprehensive as possible. For ease of use, we have divided the volumes into three areas of law enforcement: state and local, federal and national, and international. Each volume contains a master index. The longest entries cover key issues in law enforcement, large federal agencies, and major countries of the world. Many of the short entries are descriptive, especially when covering a small federal agency police force, or for a smaller country that provides little information on its law enforcement bureaucracy or that has an insignificant law enforcement presence. Some countries, especially those in social and political flux, have been omitted owing to the dearth of information and/or the almost total lack of a police force. Other entries are analytical and cover the most up-to-date theories and philosophies of law enforcement. The main focus of each entry is on currency, although some historical background is usually covered by the author. A glance at the tables of contents gives a good idea of the many perspectives from which a reader can view a given topic. For instance, a brief look at the essay on police accountability leads the reader to investigate the whole panoply of law enforcement, including police impact on constitutional rights, use of force, civilian oversight, theories of policing, and other areas. Given the interrelatedness of these topics, most authors, when possible, treat their subjects using cross-disciplinary or comparative methods. Some authors give a practical viewpoint of law enforcement, whereas others use empirical research and discuss theories and concepts. In general, the encyclopedia combines the disciplines of criminology, sociology, history, law, and political science to

elucidate the most contemporary and up-to-date view of law enforcement as it is practiced and studied in the world today. An encyclopedia of this kind would be incomplete without such comparative and/or cross-disciplinary coverage. As it now stands, it is the most invaluable tool for all who work in or are interested in the field because it brings together in one work the most recent research and practice of law enforcement.

Some of the subjects are controversial, but we have requested that authors cover alternative views evenhandedly and fairly. We did not include any biographical entries, which can be found in the myriad biographical sources available today. But in order to present the most comprehensive coverage possible, important personages are included in the subject entries. All relevant legal cases affecting law enforcement are cited in the text and in the bibliographies. The discussion of legal cases is especially useful for the generalist not trained in the law, and we have attempted to explain these court cases and laws succinctly and concisely. Bibliographies to guide the reader to documentation on the subject and further research are included after each entry. The bibliographies include relevant books, journal articles, scholarly monographs, dissertations, legal cases, newspapers, and Web sites. (A comprehensive reading list is presented at the end of each volume as well). The Reader's Guide classifies the articles into 24 general subject headings for ease of use. For instance, under Terrorism, we have grouped such subjects from Chemical and Biological Terrorism on both the local and national levels to an essay on foreign terrorist groups. Policing Strategies will

guide the reader from the Broken Windows strategy to Zero Tolerance. Entries are organized alphabetically and are extensively cross referenced. The international volume, in addition to presenting all available information on policing in most of the countries of the world, also includes analytical essays on such subjects as Community Policing, Police and Terrorism, History of Policing, and Women in Policing.

It has been a great pleasure working with Sage Publications on this project. I would especially like to thank Rolf Janke, Publisher of Sage Reference; Jerry Westby, Executive Editor; and Benjamin Penner, Associate Editor, for all of their wise counsel in bringing this publication to fruition. I owe a deep debt of gratitude to the administrators, faculty, students, and staff of the John Jay College of Criminal Justice, whose support made this work possible. I could not have worked with three better editors: Marie Simonetti Rosen was responsible for Volume 1, Dorothy Moses Schulz for Volume 2, and M. R. Haberfeld for Volume 3. I also want to thank the members of our editorial board for their valuable assistance during all stages of the project. I owe special thanks to our project manager, Nickie Phillips, for her excellent handling of the numerous technical details that a project of this magnitude entails. None of this could have been done without the assistance of the outstanding librarians of the Lloyd Sealy Library of the John Jay College of Criminal Justice. To them, I owe a deep and lasting debt of gratitude.

*Larry E. Sullivan, Editor-in-Chief*

# About the Editors

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**Larry E. Sullivan** is Chief Librarian and Associate Dean at the John Jay College of Criminal Justice and Professor of Criminal Justice in the doctoral program at the Graduate School and University Center of the City University of New York. He holds an M.A. and Ph.D. in history from The Johns Hopkins University, an M.S.L.S from the Catholic University in Washington, D.C., and a B.A. from De Paul University in Chicago. He was also a Fulbright Scholar at the University of Poitiers in France where he studied medieval history and literature. Prior to his appointment at John Jay in 1995, he was the Chief of the Rare Book and Special Collections Division at the Library of Congress where he had responsibility for the nation's rare book collection. Previous appointments include Professor and Chief Librarian at Lehman College of the City University of New York, Librarian of the New-York Historical Society, and Head Librarian of the Maryland Historical Society. He first became involved in the criminal justice system when he worked at the Maryland Penitentiary in Baltimore in the late 1970s. That experience prompted him to begin collecting literature written by felons and to write the book *The Prison Reform Movement: Forlorn Hope* (1990 and 2002). A specially bound copy of this book representing the Eighth Amendment was featured at the exhibition of artist Richard Minsky's "The Bill of Rights" series at a number of art galleries in 2002 and 2003. Sullivan's private collection of convict literature has been on public exhibition at the Grolier Club in New York and at

the John Jay College of Criminal Justice. He based his book, *Bandits and Bibles: Convict Literature in Nineteenth Century America* (2003), on these prison writings. He is the author, co-author, or editor of over fifty books and articles in the fields of American and European history, penology, criminal justice, art history, and other subjects, including the above books and *Pioneers, Passionate Ladies, and Private Eyes: Dime Novels, Series, Books and Paperbacks* (1996; with Lydia C. Schurman) and the *New-York Historical Society: A Bicentennial History* (2004). Besides many publications in journals, he has written entries in numerous reference publications over the years, including the *Worldmark Encyclopedia of the States*, *Collier's Encyclopedia*, *Encyclopedia of New York State*, *Encyclopedia of the Prison*, *International Dictionary of Library Histories*, *Dictionary of Library Biography*, *Encyclopedia of Library History*, *Dictionary of Literary Biography*, and the *Dictionary of the Middle Ages*. He serves or has served on a number of editorial boards, including the *Encyclopedia of Crime and Punishment*, the *Handbook of Transnational Crime and Justice*, and the journal *Book History*. Sullivan has delivered papers at meetings of the American Historical Association, the Modern Language Association, the American Society of Criminology, the Academy of Criminal Justice Sciences, the Society for the History of Authorship, Reading and Publishing, and the American Library Association, among others. He has consulted on the development of criminal justice libraries and on rare book and manuscript

collections. At John Jay College, in addition to directing the largest and best criminal justice library in the world, he teaches graduate- and doctoral-level courses in Advanced Criminology, Punishment and Responsibility, and the Philosophical and Theoretical Bases of Contemporary Corrections. Work in progress includes the book *Crime, Criminals, and Criminal Law in the Middle Ages*.

**Maria (Maki) R. Haberfeld** is Associate Professor of Police Science, and Chair of the Department of Law, Police Science, and Criminal Justice Administration at the John Jay College of Criminal Justice in New York City. She was born in Poland and immigrated to Israel as a teenager. She holds two bachelor's degrees, two master's degrees, and a Ph.D. in criminal justice. During her army service in the Israel Defense Force, in which she earned the rank of sergeant, she was assigned to a special counter-terrorist unit that was created to prevent terrorist attacks in Israel. Prior to coming to John Jay, she served in the Israel National Police, in which she earned the rank of lieutenant. She has also worked for the U.S. Drug Enforcement Administration, in the New York Field Office, as a special consultant.

Haberfeld has taught at Yeshiva University and New Jersey City University. Her research interests and publications are in the areas of private and public law enforcement, specifically training, police integrity, and comparative policing (her research involves police departments in the United States, Eastern and Western Europe, and Israel). She has also done some research in the area of white-collar crime, specifically organizational and individual corruption during the Communist era in Eastern Europe. For 3 years (from 1997 to 2000), she was a member of a research team, sponsored by the National Institute of Justice, studying police integrity in three major police departments in the United States. Between 1999 and 2002, she was also a principal investigator on a research project in Poland, sponsored by the National Institute of Justice, where she studied the Polish National Police and its transformation to community-oriented policing. She has received additional grants from the PSC-CUNY Research Foundation to continue her research in

Poland, with particular focus on the balancing act between the public perceptions of the new police reform and rampant accusations of police corruption and lack of integrity.

Haberfeld has recently published a book on police training, *Critical Issues in Police Training* (2002); presented numerous papers on training-related issues during professional gatherings and conferences; and written a number of articles on police training, specifically on police leadership, integrity, and stress. In addition, she has been involved in active training of police officers on issues related to multiculturalism, sensitivity, and leadership, as well as provided technical assistance to a number of police departments in rewriting procedural manuals. She is a member of a number of professional police associations, such as the International Association of Chiefs of Police, International Police Association, and American Society of Law Enforcement Trainers. From 2001 to 2003, she was involved in developing, coordinating, and teaching a special training program for the NYPD. She has developed a graduate course titled "Counter-Terrorism Policies for Law Enforcement," which she teaches at John Jay to the ranking officers of the NYPD. Her most recent involvement in Eastern Europe includes redesigning the basic academy curriculum of the Czech National Police, with the emphasis on integrity-related training.

**Marie Simonetti Rosen** is the publisher of *Law Enforcement News*, a publication of John Jay College of Criminal Justice, the City University of New York. As publisher of one of the nation's leading publications in policing, she has chronicled the trends and developments that have shaped and transformed law enforcement in America during the last three decades. A well-known expert in policing, she is often cited in the mainstream press.

In the publication's 30-year history, it has reported on the evolution of such developments as problem-oriented policing, community policing, and the influence of "Broken Windows" and Compstat in the nation's law enforcement agencies. Under Rosen's leadership, *Law Enforcement News* has followed the increased use of science and technology in the criminal justice system and has reported

extensively on crime rates, use of force, pursuits, police integrity and oversight, standards and training, and minority relations. It regularly covers both state and federal court decisions and legislation that affect criminal justice policy and practice.

*Law Enforcement News* has influenced a generation of police leadership. The newspaper's articles are frequently reprinted in college and professional texts. The publication's reporting has been a factor in the development of legislation and public policy in such areas as health and safety issues, bias-related crime, higher education for police, psychological screening of police recruits, and the police response to the mentally ill. The paper has earned major national awards for its coverage of policing on tribal reservations and the impact of the September 11, 2001, terrorist attacks on law enforcement practitioners.

Her annual analysis of policing that appears in the publication's Year-in-Review issue is widely cited and appears in the Appendix to Volumes 1 and 2. Rosen received her B.A. from the City University of New York.

**Dorothy Moses Schulz** is Professor at John Jay College of Criminal Justice at the City University of New York, where she teaches courses in criminal justice, police history, police administration, and women in policing. Schulz joined the faculty of John Jay College in 1993 after a career in policing. She was the first woman captain with the Metro-North Commuter Railroad Police Department and its predecessor, the Conrail Police Department. She was one of the first women to hold a supervisory rank in any rail or transit police agency, and among her assignments was serving as the commanding officer of New York City's Grand Central Terminal, the midtown Manhattan landmark through which about three quarters of a million people pass daily. Previously she had been director of police operations for the New York City Human Resources Administration. Before beginning her career in policing, she was a reporter and copy editor for a number of municipal newspapers and a freelance editor for a variety of magazines and book publishers. Immediately before joining the John Jay College faculty, she was the director of security at the Fashion Institute of Technology at the State University of New York in New York City.

A well-known expert on historical and current issues involving women in policing, she is the author of *From Social Worker to Crimefighter: Women in United States Policing* (1995), which traces the more than 100-year history of women in policing. The book describes how the fluctuating fortunes of feminism helped early policewomen but how in the 1960s women were forced to reject their historical roles when they sought a wider presence in law enforcement. Her new book, *Breaking the Brass Ceiling: Women Police Chiefs and Their Paths to the Top* (2004), highlights the women—police chiefs and sheriffs—who have made it to the very top rank of law enforcement. Based on historical research, questionnaire data, and interviews, the book describes the careers of pioneering and present women police chiefs and sheriffs, who make up about 1% of law enforcement chief executive officers.

A frequent speaker at police and academic meetings, Schulz received a B.A. in journalism from New York University, an M.A. in criminal justice from John Jay College, and a Ph.D. in American studies from New York University. She has addressed conferences of the International Association of Women Police (IAWP), the Women in Federal Law Enforcement (WIFLE), the National Center for Women & Policing (NCW&P), the Senior Women Officers of Great Britain, and the Multi-Agency Women's Law Enforcement Conference sponsored by the U.S. Border Patrol in El Paso, Texas, as well as at the Federal Law Enforcement Training Center in Glynco, Georgia, and the Canadian Police College in Ottawa, Ontario. In 2003 and 2004, she assisted the New York City Police Museum on exhibits documenting the history of women in the department.

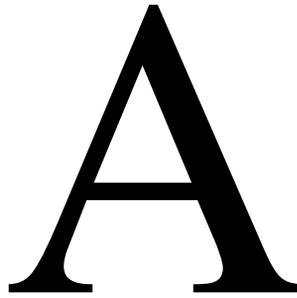
Schulz has also retained her involvement with rail and transit policing. From 1994 to 1997 she was the principal investigator on the Transit Cooperative Research Program's *Guidelines for the Effective Use of Uniformed Transit Police and Security Personnel*, the largest transit policing grant funded in the United States, and she has overseen a number of Federal Transit Administration triennial audits of urban transit system police departments. She is completing research for a book on the history of railroad policing in America.

In 1998, she was a visiting scholar at the British Police Staff College/National Police Training,

Bramshill, Hampshire, England, and she has received research grants from the St. Louis Mercantile Library at the University of Missouri, St. Louis; the Newberry Library, Chicago; the Minnesota Historical Society, St. Paul; the City University of New York, University Committee on Research; the International Association of Chiefs of Police, and the National Association of Female Law Enforcement Executives.

Schulz has delivered papers at meetings of the American Society of Criminology, the Academy of

Criminal Justice Sciences, and the American Historical Association and has published in a number of police and historical journals. She was a coeditor of police topics for *Crime and the Justice System in America: An Encyclopedia* and has contributed articles to other reference publications, including the *Encyclopedia of Crime and Punishment*, the *Encyclopedia of Homelessness*, the *Encyclopedia of New York State*, and the *Encyclopedia of Women and Crime*.



## ACADEMY OF CRIMINAL JUSTICE SCIENCES

The Academy of Criminal Justice Sciences (ACJS) was established in 1963 as a forum for academic researchers and those in the criminal justice professions to focus on the study of crime and criminal behavior. Consistent with its initial purpose, ACJS remains a strong influential body that shapes criminal justice education, research, and policy analyses by promoting professional and scholarly activities in the field of criminal justice.

Criminal justice education, research, and policy are the foci of the organization. ACJS supports the only journal dedicated to criminal justice education, has developed a set of minimum standards for criminal justice programs, and has established an academic peer review committee that conducts program reviews of criminal justice departments and programs. Debates have also centered on the merits of having criminal justice programs accredited.

Membership in ACJS is open to academicians and students in criminal justice, criminology, and any other related disciplines and to practitioners in the field of criminal justice, including both the public and the private sectors. To meet the needs of the membership, ACJS has formed sections in which members can focus more narrowly on policy and educational practices in a single area of interest

within criminal justice. Sections include community colleges, corrections, critical criminology, information and public policy, international, juvenile justice, minorities and women, police, and security and crime prevention. Each section has its own executive board with an elected chair and other board members.

An annual meeting is held during which professionals, academicians, and students come together to develop and share knowledge about critical issues regarding crime and criminal and social justice. The annual meeting, traditionally held in the spring, is well attended, having attracted more than 1,700 participants some years.

The academy publishes two journals: *Justice Quarterly* and the *Journal of Criminal Justice Education*. Both are peer-reviewed and considered to be top-tier journals in the field. Members also received a newsletter, *ACJS Today*, an online, Web-based publication.

The national office is located in Greenbelt, Maryland. There is an association manager, an executive assistant, and a membership coordinator. The executive board consists of ACJS members elected to serve as president, first vice president, second vice president, secretary, treasurer, and regional and at-large board members. The organization is divided into five regions with representation from each region on the board and with two at-large board

members representing the entire membership. The constitution and by-laws indicate which states are in each region.

The academy recognizes outstanding contributions to the field of criminal justice with several awards given annually. These include the Bruce Smith, Sr. Award, the Academy Fellow Award, the Academy Founder Award, the Outstanding Book Award, and the Anderson Outstanding Paper Award. The Bruce Smith, Sr. Award is awarded to someone who has made a substantial contribution to criminal justice. It recognizes leadership in criminal justice administration as well as active involvement in criminal justice research. The award recipient does not have to be an ACJS member. The Academy Fellow Award acknowledges significant and distinguished scholarly contributions to criminal justice education. The Founder's Award is bestowed on someone who has been an ACJS member for at least five consecutive years, who has demonstrated active involvement in criminal justice education and research for the previous five years, and who through service activities has made a substantial contribution to the academy.

Publications are also honored. The Outstanding Book Award recognizes a book published in the area of criminal justice. The Anderson Outstanding Paper Award recognizes a paper presented at the previous annual meeting that demonstrates conceptual and methodological rigor in the development of the paper, and it also recognizes a student paper that was presented at the ACJS annual meeting. Papers are judged on the relevancy of the research problem, the quality of the theoretical orientation, the rigor of the empirical documentation, and the quality of the writing. The Donal MacNamara Award for Outstanding Journal Publication honors Donal E. MacNamara, a founding ACJS member and scholar. The award recognizes published research that constitutes a scholarly approach to the topic, presents a thoughtful analysis, presents insights or a novel treatment of the topic, and constitutes a meaningful addition to the literature.

The academy supports minorities and women with special travel awards to student members who are women or members of an underrepresented

minority group (e.g., African Americans, Asian Americans, Native Americans, persons of Hispanic descent). These funding opportunities allow for a more diverse representation of academy members at the annual meetings.

Laura J. Moriarty

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## ✎ AIRBORNE LAW ENFORCEMENT ASSOCIATION

The Airborne Law Enforcement Association (ALEA) is an international, professional organization of pilots, mechanics, aviation technicians, and aircraft and avionics manufacturers either directly employed by law enforcement agencies or providing critical support services to those agencies. Founded in 1968 and formally incorporated in 1970 as a non-profit educational organization in the United States, ALEA has a substantial international component in its membership. In 2003, it had approximately 3,500 individual and corporate members. Membership categories include professional, which is limited primarily to law enforcement officers of a governmental law enforcement agency who are involved in airborne law enforcement; technical specialist, which includes maintenance personnel who are not sworn officers; associate, which includes those who support the principles and mission of airborne law enforcement; and affiliate, a category reserved primarily for corporate members who manufacture equipment or supply services used in airborne law enforcement.

ALEA supports its activities through membership dues and vendor fees at its conferences. Its activities are controlled through its president and

board of directors. A paid, professional executive director is responsible for the organization's staff and day-to-day operations. ALEA publishes a bimonthly professional journal, *AirBeat*, for its members. The journal is primarily helicopter-oriented, as are most of the training offerings, although members worldwide represent pilots and operators of both helicopters and airplanes.

The primary annual event for ALEA is its national conference, traditionally held in the summer months in a different location each year. To date, all of the conferences have been held in the United States. Recent and future sites include Wichita, Kansas (2003); Charlotte, North Carolina (2004); Reno, Nevada (2005), and New Orleans, Louisiana (2006). The primary focus of the national conference is a series of training events, both classroom instruction and practical training. State and federal agencies support this conference heavily by providing instructors. Additional instructors are provided by the aviation safety community and the military. As a part of its ongoing educational efforts, the organization sponsors yearly regional seminars throughout the United States, generally without charge to its members. ALEA also maintains for its members a database that includes information from approximately 150 agencies worldwide that rely on airborne services to support their law enforcement efforts.

In an effort to provide public education about the role of aviation in law enforcement, ALEA provides introductory and training material for law enforcement agencies interested in developing these units. Specialized training is provided for law enforcement officers and executives who are acquiring their first aviation assets.

ALEA maintains its office in Tulsa, Oklahoma, and may be reached at P.O. Box 3683, Tulsa, OK 74101; via telephone at (918) 599-0705 or facsimile at (918) 583-2353; or through its Web site: [www.alea.org](http://www.alea.org).

*Frances Sherertz*

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## AMBER ALERT

The AMBER Alert is a voluntary partnership between law enforcement agencies, media, and others to distribute an urgent bulletin in the most serious child abduction cases. It was created in 1996 as a response to the kidnapping and murder of a nine-year-old girl, Amber Hagerman, by a stranger in Arlington, Texas. The acronym stands for America's Missing: Broadcast Emergency Response. The goal of the AMBER plan is to involve the entire community to help assist in the safe return of abducted children by publicizing the abduction. After law enforcement has confirmed a missing child report, an AMBER Alert is sent to media outlets such as radio stations, television stations, cable companies, Internet bulletin boards, and electronic highway billboards. Since its inception, the AMBER Alert has been an important and successful tool in rescuing kidnapped children in the states that voluntarily participate in the program.

After the safe recovery in March 2003 of a Utah teenager, Elizabeth Smart, who had been abducted from her bedroom nine months earlier, Smart's father called for a national AMBER Alert system. Congress responded and on April 30, 2003, President George W. Bush signed the Protect Act of 2003, which encourages states to establish AMBER Alert systems to quickly post information about child abductions and also provides for the coordination of state and local AMBER plans. The Protect Act mandated creation of a national AMBER Alert coordinator to be appointed by the Department of Justice. Deborah Daniels, an assistant attorney general in the Department of Justice's Office of Justice Programs, was named coordinator. She is responsible for working with law enforcement agencies and broadcasters to ensure that state and local AMBER

plans are consistent and also for overseeing funding and training issues for the entire program.

### GOALS FOR THE PROGRAM

The goals of the national coordinator, along with a national advisory group, are threefold. The first goal is to assess current AMBER activity by determining the number of local, regional, and statewide plans; to compare plan operations and AMBER Alert criteria; and to evaluate available technology. The second goal is to create a coordinated AMBER network by developing criteria for issuing an AMBER Alert; establishing federal, state, and local partnerships; and promoting technological compatibility among communications systems. The last goal is to communicate lessons learned by working with law enforcement and broadcasters on missing children issues, helping states and communities develop and enhance their AMBER plans, and raising public awareness on how to protect children and prevent abductions.

In addition to creating a national AMBER Alert coordinator, the law also provides significant new investigative tools. The law allows law enforcement to use existing legal tools for the full range of serious sexual crimes against children. For example, law enforcement agencies can now use wiretaps for Internet sex crimes such as luring children for the purpose of sexual abuse and sex trafficking. Additionally, there is no statute of limitations for crimes involving the abduction or physical or sexual abuse of a child. The law also makes it more difficult for those accused of serious crimes against children to obtain bail. Additionally, the law allotted \$25 million in fiscal year 2004 so that states can support AMBER Alert communications systems and plans and it authorized matching grants to the 41 states where the AMBER Alert exists and to other states to help ensure that AMBER Alerts are created.

The Protect Act also strengthens federal penalties for child kidnapping and other crimes against youth. For example, there are increased penalties for non-family member child abduction and increased penalties for sexual exploitation of children and child pornography. The act mandates life

imprisonment for offenders who commit two serious sexual offenses against a child or children. It further reduces judicial discretion to reduce prison sentences of convicted offenders and it eliminates the cap of five years of supervision for sex offenders after they are released.

The law also strengthens existing laws against child pornography. For example, it revised and reinforced the prohibition on virtual child pornography, forbade obscene material that depicts children, and provided stronger penalties than previous obscenity laws. Finally, the Protect Act creates pilot programs to assist nonprofit organizations dealing with children to acquire fast and complete criminal background information on volunteer workers.

*Mara Sullivan*

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## AMERICAN SOCIETY OF CRIME LABORATORY DIRECTORS

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The American Society of Crime Laboratory Directors (ASCLD) is a nonprofit professional society devoted to the improvement of crime laboratory operations through sound management practices. Its purpose is to foster the common professional interests of its members; to promote and foster the development of laboratory management principles and techniques; to acquire, preserve, and disseminate information related to the utilization of crime laboratories; to maintain and improve communications

among crime laboratory directors; to promote, encourage, and maintain the highest standards of practice in the field of crime laboratory services; and to strive for the suitable and proper accomplishment of the purposes and objectives of ASCLD as a professional association.

The provision of forensic science services has become a focal point within many law enforcement agencies in the past two decades. Since the introduction of enhanced technologies in forensic science such as DNA analysis, automated fingerprint identification systems, and automated ballistic comparison systems such as the National Integrated Ballistics Information Network, the complexity of managing a forensic science service provider has increased. Law enforcement management must proactively understand the interface between technology and investigation.

The ASCLD process has guided the development of crime laboratory management. ASCLD's current active committees were a direct product of the strategic planning process. The advocacy committee that educates policy makers is one of the most recent examples of ASCLD's proactive role in leadership of the forensic science profession. In the early 1980s, ASCLD saw a need for a formal process by which laboratories could be evaluated. It formed a nonprofit organization called the American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB), whose sole purpose was to develop a program to accredit crime laboratories. In 1982, the Illinois State Police laboratory system became the first forensic science organization to receive accreditation. Since then, the ASCLD/LAB has provided accreditation to more than 250 forensic laboratories.

Accreditation is voluntary in the majority of states; however, a few have made crime laboratory accreditation mandatory. Accreditation is defined as a third party review of the operations of a forensic service section to a set of recognized standards. In the case of ASCLD/LAB the standards have been developed by forensic science professionals who work in U.S. forensic science organizations. ASCLD/LAB is based in Garner, North Carolina, and is staffed by 14 professional and support staff led by an executive director.

During the mid-1990s, several high-profile cases that used advanced forensic technologies brought forensic service provision into households nationwide. ASCLD again recognized the need for an organization that would address education, training, and support quality to all of the nation's forensic service providers. This organization is the National Forensic Science Technology Center (NFSTC). The NFSTC has from its beginning sought to assist forensic science services to win the confidence of users and the larger community by achieving the highest quality of operations. The NFSTC is governed by a board of directors made up of forensic service professionals. It is located in its own self-contained and secure premises in a science and technology research and development park in Largo, Florida. Operations are managed and implemented by a complement of 23 professional and support staff, under an executive director. NFSTC has a pool of more than 50 experienced and trained consultants that it uses to supplement the permanent staff for technical work, as required. The NFSTC offers an international accreditation program based on ISO guide 17025.

As police agencies come to depend more and more on scientific analysis of evidence, it becomes of great importance that an unbiased service is available to evaluate the quality, timeliness, and overall operation of the forensic services provided.

*Kevin Lothridge*

*See also* Ballistics Recognition and Identification Systems

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## AMERICAN SOCIETY OF CRIMINOLOGY

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The American Society of Criminology (ASC) began in 1941 in Berkeley, California, as a meeting

of seven police administration professors under the original name of the National Association of College Police Training Officials (NACPTO). Among the founders were August Vollmer and Orlando W. (O. W.) Wilson, two of the earliest police administrators who advocated training and education for all police personnel and who also supported academic research into police practices. Under their leadership, NACPTO focused principally on the enhancement and standardization of police training. Growing quickly from informal gatherings to formal meetings, the association began to attract police trainers from California and neighboring states as well as a number of college professionals. Although the principal goals dealt with the professionalization of policing in the United States, it was recognized early that there must be a complementary emphasis on the fields of criminology, public administration, and other social sciences in order to truly modernize the field.

Following a break in formal activity coinciding with U.S. involvement in World War II, in 1946 NACPTO was renamed the American Society for the Advancement of Criminology and it adopted a new constitution. The association defined criminology as the broad study of the causes, treatment, and prevention of crime, including (but not limited to) scientific crime detection, investigation, and identification; crime prevention, public safety, and security; law enforcement administration; administration of criminal justice; traffic administration; probation; juvenile delinquency; and penology. In November 1957 the society again revised its constitution and changed its name to the current American Society of Criminology. Beginning in 1959, ASC established several awards to acknowledge the achievements of its members, including the August Vollmer Award (for contributions to applied criminological policy or practice), the Edwin Sutherland Award (for contributions to the field of criminology), the Herbert Bloch Award (for service to ASC and the larger criminological community), the Michael J. Hindelang Award (for a book of significant contribution to criminology or criminal justice), and the Sellin-Glueck Award (for contributions to criminology by a non-American scholar). Awards have also

been created to recognize student contributions (Gene Carte Award) as well as those who are beginning their careers in criminal justice (Ruth Shonle Cavan Young Scholar Award).

Today the ASC is an international organization comprised of both law enforcement practitioners and academics involved in criminological research and education. ASC reflected the changing social character of the larger criminological profession, increasingly becoming open to women and minorities. For example, it was not until the mid-1960s that women began to attend the annual meetings. Indicative of their rapid emergence into the association, women made up 14% of the annual meeting program in 1975 compared to 37% in 1995. Reflecting the changes in member demographics and also the changing focus of police research from “how to” to broader sociological issues, the society has sections devoted to women and crime, people of color and crime, international criminology, critical criminology, and corrections and sentencing.

ASC is anchored by its annual meeting held in late fall at a location in the United States or Canada and is attended by members from around the world. The ASC newsletter, *Criminologist* (existing in different formats and titles since its first 1963 printing), offers members a complement of issue-oriented articles, society activities, book reviews, and research and employment opportunities. Two journals are also important ingredients to the ASC publications menu. *Criminology: An Interdisciplinary Journal* is published four times a year and offers quantitative criminological articles from across the sociological, public administration, and psychological disciplines. *Criminology and Public Policy* is also interdisciplinary and empirically focused; however, it publishes research with more direct applications to criminal justice police and practice.

Heath B. Grant

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## AMTRAK POLICE

The National Railroad Passenger Corporation, better known as Amtrak, was created in 1970 when President Richard M. Nixon signed the Rail Passenger Service Act. Amtrak, created in response to the bankruptcies of a number of intercity passenger railroads, assumed the responsibility of long-distance intercity rail services on May 1, 1971. Along with other personnel from the railroads who were transferred to Amtrak were a number of police officers who had been employed by the railroads that became part of the new, public-funded rail network.

Since the creation of Amtrak, these officers have been recognized as federal police officers based on the statutory authority provided under the *United States Code* 545J, Section 104.305-45. Under the *Code of Federal Regulations* (CFR), Title 49 (Transportation), Subtitle V (Rail Programs), Part C (Passenger Transportation), Chapter 243 (Amtrak), Section 24305 (General Authority), Amtrak is authorized to employ rail police to provide security for rail passengers and property of Amtrak. Although they are federal officers who receive their training at the Federal Law Enforcement Training Center in Glynco, Georgia, because most officers are assigned in passenger stations and along the rail rights of way to enforce local and state laws, they must also comply with the training requirements established for police officers in each state in which they work.

It is not unusual for the more than 350 Amtrak officers assigned around the country to be licensed as police officers in a number of states, providing them with the authority to enforce not only federal law, but also all state and local laws and providing them with police authority to preserve the peace, detain or arrest offenders, and enforce laws pertaining to crimes committed against Amtrak employees, passengers, and property.

The Amtrak system is vast; in 2004, Amtrak provided service to 500 stations in 46 states, operated more than 22,000 route miles, and on an average

weekday, operated more than 250 trains a day that carried more than 66,000 riders. In fiscal year 2003, more than 24 million passengers were carried, a record. Amtrak is also the nation's largest provider of commuter rail services operated through contractual service agreements with state and regional authorities. In such cases, Amtrak operates the service and maintains the physical plant in exchange for an annual payment. Under this arrangement, Amtrak serves an additional 62 million passengers a year on Caltrain (San Francisco–Gilroy, California), Coasters (San Diego, California), MARC (Baltimore, Maryland–Washington, D.C.), Metrolink (counties around Los Angeles, California), Shore Line East (New Haven–New London, Connecticut), and Virginia Railway Express (Fredericksburg/Manassas, Virginia–Washington, D.C.). On the busy Northeast Corridor between Boston and Washington, D.C., in addition to Amtrak trains, some commuter rail transit systems operate on tracks owned by Amtrak, including New Jersey Transit (NJT) and the Metropolitan Transportation Authority's (MTA's) Long Island Rail Road.

The majority of the officers of the Amtrak police are assigned to major city transportation facilities that are owned by Amtrak, where they either provide the only uniformed police presence or share policing jurisdiction with railroad, transit, or local police agencies. In some parts of the country, they also patrol areas that are not owned by Amtrak but are under its control through various agreements with other railroads. In addition, they are responsible for a full range of police services at Amtrak's nonpublic facilities, including office buildings, rail yards, rights of way, and rail storage areas that house Amtrak's rolling stock, which includes 425 locomotives and more than 2,000 passenger coaches, including the Acela Express trains that provide high-speed service on the Northeast Corridor between Boston and Washington, D.C.

Despite its large jurisdiction, the Amtrak Police Department is set up more like many municipal or state agencies than like federal law enforcement agencies. This is because so much of its efforts are placed on uniform patrol of public areas, rather than the investigative functions assigned to many federal

agencies. The three major components of the Amtrak Police Department are the office of the chief, the headquarters operations bureau, and the field operations bureau. The office of the chief is responsible for the overall administration of the department and includes the offices of professional standards, community relations, and special projects. The chief, who is a sworn member of the force, reports to the vice president of operations and police services, who, along with other senior officers, are located at Amtrak's National Operations Control Center, adjacent to the Northeast Corridor in Wilmington, Delaware. The headquarters operations bureau is led by a deputy chief who is responsible for the strategic planning and investigations unit, the administrative services unit, and the inspectional services unit. The deputy chief of the field operations bureau is responsible for all uniformed patrol and nonspecialized investigations and is located at Amtrak's 30th Street Station in Philadelphia.

## FROM TRESPASSERS TO SABOTEURS

Amtrak police must find ways to combat what appear to be contradictory problems. In remote portions of the nation, officers must work with other agencies to protect the tracks and the trains from trespassers and possible saboteurs. In populated urban areas, officers must do the same but rather than facing hundreds of miles of unpopulated and unincorporated areas, they are faced with overcrowding and use of the stations by criminals to prey on others and by homeless persons who view the stations as semi-permanent or even permanent shelter.

Trespassing may not only lead to theft of property and vandalism, but it is also a major cause of injuries and fatalities on the rails. According to reports from all major railroads to the Federal Transit Administration, there were almost 475 trespassing fatalities in 2000. Although the majority of these deaths did not occur on Amtrak property, but on tracks used by the nation's other railroads, concerns about trespassing on passenger rights of way and the possibility for terrorist attack on passenger trains have increased substantially since the terrorist

attacks of September 11, 2001. Although it has not occurred in the United States, other countries have been faced with threatened and actual terrorist activities on their passenger trains. Such incidents are guaranteed to result in a large number of deaths and injuries and to garner worldwide publicity for those who claim responsibility for them. The Madrid train bombing attacks of March 11, 2004, which killed almost 200 people and injured more than 1,800, are an example of the potential dangers facing rail passenger transportation.

The greatest concern about such an incident in the United States is on the Northeast Corridor, the busiest rail corridor in the nation, which links some of the largest cities with the nation's capital and carried close to 12 million passengers in 2003. It is also a major freight route. With its numerous bridges and tunnels, including the tunnels under the Hudson and East Rivers leading to New York City's Pennsylvania Station, the busiest railroad station in the United States, the Northeast Corridor presents a very tempting target for a potential terrorist act. For this reason, Amtrak has increased its police presence on the Northeast Corridor, especially in the New York metropolitan area. It has also entered into arrangements with local law enforcement agencies that call for greater coordination and joint patrols and surveillance activities. The MTA Police and NJT Police assist Amtrak in the policing of Penn Station and contribute to the security watch over the tunnel portals located in their respective states. In Washington, D.C., Amtrak has separate agreements with the Metropolitan Police Department as well as with several other federal police forces governing the security of Union Station and the adjacent sprawling shop and yard complex. Concerns with possible sabotage in 2001 led the police to provide aerial surveillance when Amtrak introduced its high-speed Acela trains between Boston and Washington, D.C., in 2001.

Elsewhere, away from the Northeast Corridor, Amtrak has been involved in task forces with federal law enforcement agencies, including the Border Patrol, the Drug Enforcement Administration, and U.S. Customs, in an effort to curtail drug trafficking occurring on Amtrak services. The monetary value

of seizures resulting from these activities is reinvested into funding other Amtrak security measures, such as the helicopter patrols in the Northeast. Funding, not only for security, has been one of the most critical challenges facing Amtrak since its inception, and over the years it has come to depend on last-minute rescue funds derived from compromises in Congress. This situation has exacerbated the capital and operating needs of the railroad and places additional pressures on the Amtrak Police Department, particularly in developing long-range plans to respond to threats posed by terrorism and other criminal acts.

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*See also* Railroad Policing

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## ☞ ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT

The Antiterrorism and Effective Death Penalty Act (AEDPA) was enacted by Congress in 1996. Its stated goals are to “deter terrorism, provide justice for victims, provide for an effective death penalty, and other purposes.” The AEDPA attempts to accomplish these objectives by reforming habeas corpus relief; providing tough, new penalties for terrorist activities; and improving alien removal procedures.

In the 1990s, international terrorism became a major concern during the administration of President Bill Clinton. Events such as the bombings of the Federal Building in Oklahoma City, Oklahoma, in April 1995; the Olympic park in Atlanta, Georgia, in July 1996; and the World Trade Center in New York City in February 1993; as well as the crash of TWA Flight 800 in July 1996 created apprehensions that terrorism was becoming rampant. The collapse of the Soviet Union in the early 1990s effectively dissipated the threat of communism: fear of terrorism took its place.

Enacted as Public Law 104-132, the AEDPA consists of nine major titles. Provisions of the act amend a great number of federal statutes. Title I substantially restricts the availability of habeas corpus relief. Habeas corpus is a civil remedy whereby a court orders a person detaining another person to present the body of the prisoner, or detainee, before the tribunal to determine the legality of the detention. The purpose of the writ is not a determination of guilt or innocence: it is solely to establish whether the individual is being lawfully detained. The writ is guaranteed by the U.S. Constitution, Article 1, Section 9 and by all state constitutions.

Convicted prisoners, especially those under an impending sentence of death, have long used the writ of habeas corpus as a final challenge to their incarceration. Title I of the AEDPA addresses what Congress perceived as an illegitimate use of the writ: delay of the final imposition of sentence, after all available appeals have been exhausted and no reasonable legal grounds for reversal exist. By amending several sections of title 28 of the *United States Code*, the AEDPA created new procedural hurdles and implemented a narrow time frame during which a person in custody could seek habeas corpus relief. These changes were intended to limit a prisoner’s ability to challenge a sentence of death. The act also amended sections 2261-2266 of title 28 limiting the right of appeal in habeas corpus proceedings. In effect, the act created a statute of limitations on seeking habeas relief and severely limited the ability of federal courts to review a state court sentence.

The law was intended to provide greater justice for victims by making restitution mandatory for many

federal crimes, including crimes of violence, crimes involving terrorism, offenses against property, and instances in which a victim has suffered physical or monetary harm resulting from the commission of a crime. It also provided for assistance to victims of terrorism and created jurisdiction in the federal courts for lawsuits against terrorist governments or groups.

Title III was designed to limit the financing of international terrorism by prohibiting fundraising for groups that sponsor such terrorism. It also prohibited financial or military assistance to terrorist governments and countries that aid terrorism or terrorist groups. This title vests power in the U.S. secretary of state to designate certain groups as terrorist by notifying Congress and publishing any such designation in the *Federal Register*. The *Federal Register* is published daily by the U.S. government, and it contains orders and proclamations released by the executive branch of the government. The designation remains in effect for two years. Only an act of Congress can revoke the secretary's determination. A designated group may challenge its designation in the U.S. Court of Appeals for the D.C. Circuit, but it must do so within 30 days of publication in the *Federal Register*. Additionally, title III required financial institutions to determine if funds were being used by terrorist organizations. Banks are required to report any transactions that may involve terrorist groups or face civil penalties. This section also provides for funding to other countries to assist in their antiterrorism efforts.

Title IV provided for the removal of all alien (defined as persons born in another country, but residing in the United States without having become U.S. citizens) terrorists and the exclusion or removal of members of terrorist organizations by special removal courts. Five district court judges, appointed by the chief justice of the Supreme Court, are empowered to hear all removal cases in which the alien is alleged to be involved in terrorism. The Court of Appeals for the D.C. Circuit was given appellate jurisdiction over all orders of deportation involving terrorists. This title also provides for stiff criminal penalties if an alien who was previously removed attempts to reenter the United States. For example, an excluded alien might

normally face a two-year sentence if caught trying to enter the country, but an alien who had been previously removed could be sentenced to 10 years of imprisonment if caught trying to reenter the country. Alien terrorists may also be denied asylum. This section has broad-ranging application to the criminal justice system as virtually all illegal and resident aliens fall under its purview. Any noncitizen is subject to deportation or exclusion.

Subtitle D of this section changed the procedures for dealing with criminal aliens. It allowed access to confidential Immigration and Naturalization Service (INS) files based on a court order and it provided for a criminal alien identification system. It also made alien-smuggling crimes predicate offenses for the purposes of the Racketeer Influenced and Corrupt Organization (RICO) laws. The RICO laws allow for civil actions and criminal prosecutions when a pattern of two or more predicate offenses have been committed. Predicate offenses are described in 18 U.S.C.A. 1961(1): they run the gamut from arson and kidnapping to dealing in obscene material and money laundering crimes.

The subtitles' most far-reaching provisions expand the criteria for deportation to include not only certain felonies, but also misdemeanors involving crimes of moral turpitude such as simple assaults, drug possession, or lesser sex crimes. It allows deportation for some nonviolent offenses prior to completion of sentence. Judicial review of an INS determination to deport a criminal alien is restricted. In a similar vein to the law's restriction of habeas corpus, the AEDPA limits the ability of an individual to challenge an INS order of deportation in the federal courts.

Title V created mandatory reporting to Congress of any theft of nuclear materials. It enhanced penalties for the possession or use of biological and chemical weapons. This section of the AEDPA amended title 18 of the *United States Code*, which contains the federal statutes to enlarge the government's jurisdiction over nuclear by-products. In a similar vein, title VI implemented certain conventions relating to plastic explosives.

Title VII modified the existing criminal law to improve mechanisms to fight terrorism. It enhanced

the penalties for conspiracies involving explosives and terrorist crimes. It allowed for prosecution of conspiracies to harm people overseas, and it created mandatory penalties for anyone transporting any explosive materials knowing they will be used to commit a crime of violence. Title VII also extended U.S. criminal jurisdiction over certain terrorism offenses committed overseas. It created federal jurisdiction over bomb threats and added terrorism offenses to the money laundering statutes.

Title VIII provided assistance to law enforcement by supplying resources and security for overseas operations. It also implemented a wide range of funding authorizations for local and federal law enforcement. Title IX expanded the territorial sea limits and discussed issues surrounding fees paid by the government for the representation of indigents in federal criminal cases.

Civil libertarians opposed the legislation and continue to fight many of the act's provisions. Of particular concern are the use of secret evidence at deportation hearings, the degree of power vested in the executive branch to classify individuals or organizations as terrorist, the restrictions placed on the federal judiciary to review state court decisions and grant habeas corpus relief, and the weakening of judicial oversight of wiretap surveillance.

Events since September 11, 2001, have fueled new arguments for those who seek greater governmental power to fight terrorism, even at the expense of civil liberties. Many of the provisions of the AEDPA have been strengthened by subsequent legislation, particularly the USA PATRIOT Act of 2001.

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## APPROPRIATIONS AND BUDGETING FOR LAW ENFORCEMENT

The U.S. government contains a vast number of law enforcement agencies within the executive, legislative, and judiciary branches. Although most people are familiar with the larger agencies, such as the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), and some of the newer agencies that have developed through the Department of Homeland Security (DHS), many people are unaware of the many different forms of law enforcement within this one level of government.

The layered nature of American government, combined with the large number of federal law enforcement agencies, makes it virtually impossible to determine with any degree of accuracy the total value of funds spent by the federal government on its various law enforcement services. It is possible, though, to describe the costs associated with a number of the larger, more prominent agencies and those for whom law enforcement is a major cost center.

Federal law enforcement agencies share with state and local agencies that their major expenditures are for personnel, which is the costliest item in virtually all law enforcement budgets. Personnel costs are generally understood to include salary, fringe benefits (health insurance and retirement), and, in some agencies, overtime. Other costs associated with maintaining an investigative or uniformed law enforcement cost include training and equipment. Since federal agencies not only operate throughout the United States but often assign personnel outside the country, travel, housing, and a variety of costs that are unique to their mandates add to their budgets. Some agencies also provide services for smaller federal law enforcement units and for state and local police. Examples are the

FBI's extensive laboratory and record-keeping facilities, and the U.S. Marshal Service's air transport of prisoners.

The most visible of the federal law enforcement agencies are housed within the executive branch. Each of the 15 departments that make up the executive branch is headed by a chief executive who reports directly to the president of the United States. The best known law enforcement entity of these departments is the U.S. Department of Justice (DOJ), which provides such high-profile services as those of its leader, the attorney general and the U.S. attorneys, the FBI, and the DEA. Because law enforcement functions are so thoroughly spread throughout all areas of the government, the appropriations of executive branch agencies are used as indications of the wide range of functions and costs associated with policing at the federal level. In addition to its other, varied law enforcement functions, each of the executive branch agencies has its own Office of the Inspector General, each of which is funded out of agency resources.

The budget outlay for the DOJ for fiscal year 2003 was \$30.2 billion. Included among the major expenditures were \$4.2 billion for the FBI; \$1.5 billion for the DEA; \$1.5 billion for the Office of the U.S. Attorney; \$802 million for the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and \$706 million for the Marshals Service.

A relatively new agency with law enforcement responsibilities is the DHS, which was created in January 2003 in direct response to the terrorist acts of September 11, 2001. Because it is so new, and it is comprised of a number of law enforcement agencies that were previously administered by other departments, it is difficult to determine what percentage of the 2003 budget of \$32.2 billion was allocated to law enforcement functions.

Agencies whose primary responsibilities are neither law enforcement nor protection of the country's borders or infrastructure spend considerably less on their law enforcement services. In some agencies, budgetary documents make it fairly easy to discern the amounts spent on these functions; in other agencies it can be almost impossible to determine law enforcement expenditures. Agencies for

which some law enforcement expenditures can be determined are provided as examples of the range of activities and funds expended for policing. Executive branch agencies that are not discussed either have no direct law enforcement responsibilities or do not separate out law enforcement related costs in public budget figures.

Within the Department of Agriculture, the Office of the Inspector General serves as the law enforcement arm and investigates criminal activity involving the department's programs and personnel. In 2003 it was budgeted to spend just under \$80 million to fulfill its mandated duties.

The Department of Commerce (DOC) has two primary law enforcement-related agencies. The Bureau of Industry and Security (BIS) advances national security, foreign policy, and economic interests by enforcing export control, antiboycott, and public safety laws, while the DOC's Office of the Inspector General, like all such offices, is tasked to detect and prevent fraud, waste, abuse, and violations of law and to promote economy, efficiency, and effectiveness in the operations of its parent agency and any private vendors with which the agency contracts. The BIS had a 2003 budget of \$66 million; the inspector general's funding was considerably smaller, slightly more than \$20 million.

Like the Department of Commerce, the Department of Education (DOE) has more than one law enforcement component. In addition to its inspector general, which was budgeted at about \$41 million in 2003, the DOE provides law enforcement services through its Office for Civil Rights and its Office of Safe and Drug-Free Schools. The Office for Civil Rights ensures equal access to education through enforcement of civil rights laws, while the Office of Safe and Drug-Free Schools provides financial assistance for drug and violence prevention activities and activities that promote the health and well-being of students in elementary and secondary schools and institutions of higher education. Funds for these two offices in 2003 included almost \$85 million for the Office of Civil Rights and \$666 million for the Office of Safe and Drug-Free Schools. The Department of Energy's various enforcement programs are administered through the

Office of Price-Anderson Enforcement. Expenditures for the office, included under the total expenditures for environment, safety, and health programs, were \$89 million in 2003.

Two agencies whose inspectors general are heavily involved in investigations not only of internal staff but also of numerous contractors who are employed by their agencies are the Department of Health and Human Services (HHS) and the Department of Housing and Urban Development (HUD). The HHS inspector general is also responsible for investigation of beneficiaries of the department's many services. In 2003 the office was budgeted at \$37 million. Indicating the wide range of resources allocated to investigatory functions in different agencies, HUD's inspector general had an estimated 2003 budget of \$97.7 million.

The Department of the Interior (DOI) has several law enforcement divisions within its eight bureaus. The largest law enforcement expenditure in the DOI is the National Park Service. Its expenditures in 2004 were almost \$80 million, most of it to protect national monuments in the wake of the September 11, 2001, terrorist attacks. Other DOI law enforcement components had far smaller budgets; 2003 figures for the Bureau of Land Management were \$14.3 million, \$51.6 million for the Fish and Wildlife Service, and \$16.2 million to the Bureau of Indian Affairs for a variety of public safety and justice responsibilities.

The Department of Labor's (DOL) Office of the Inspector General was budgeted at \$62 million in 2003, whereas the Department of State's inspector general received only \$29 million. Additional funds in the Department of State were allocated to the Bureau for International Narcotics and Law Enforcement Affairs, which received \$891 million to address terrorism, drug trafficking, and international crime that all exploit weaknesses in international law enforcement institutions.

The Department of Veterans Affairs in 2003 allocated almost \$59 million to its inspector general and \$7.2 million to its Office of Operations, Security, and Preparedness (also known as the Office of Policy, Planning, and Preparedness), which includes the Office of Security and Law Enforcement.

As national priorities continue to focus more directly on security, it can be anticipated that a number of these agencies will increase the numbers of personnel involved in protective efforts and that budgets will increase accordingly.

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## ART LOSS REGISTER

According to Interpol, art theft is the fourth largest transnational criminal activity after drugs, money laundering, and illegal arms trading. One of the tools that assists law enforcement agencies in recovery, theft deterrence, and reduction of traffic in stolen art is the Art Loss Register (ALR). The ALR is the largest private computerized database of stolen and missing objects of art from around the world.

Founded in 1990 by Julian Radcliffe, a former British counterintelligence and private security specialist, the ALR has offices in London, New York,

Cologne (Germany), and St. Petersburg (Russia). The company is financed by the insurance industry, art trade associations, and leading auction houses. The ALR's core information comes from data acquired from the International Foundation for Art Research that began to keep track of stolen art in the mid-1970s. When the electronic registry was open for consultation for both the public and law enforcement in 1991, it included about 25,000 items. In 10 years, the number of items multiplied by five. The description and, if possible, images of 1,000–1,200 new items are added to the ALR each month. The spectrum of stolen objects covers everything from paintings, antiques, and jewelry to garden sculpture, classic cars, and toys.

The company employs 20 art historians who are experts in fine art, speak many foreign languages (English, French, German, Czech, Italian, Hebrew, Hungarian, Spanish), and have experience in advising owners, sellers, insurers, lawyers, and law enforcement agencies on questionable deals concerning art. As of 2001, the ALR was responsible for the recovery of more than \$100 million in stolen art.

The fee for a search in the ALR is \$20, although it is waived for law enforcement agencies. If the work is recovered, the register receives a contingency fee of 15% of the value of the work, up to \$75,000, and 10% of the value in excess of \$75,000.

The major objective of the ALR is to discourage art theft by making stolen art harder to sell. In 2000, a group of paintings stolen from the Museum of Fine Arts in San Francisco in the early 1980s was left on the doorstep of an auction house in New York. The specialists explained the fact that the listing on the ALR made these paintings quickly traceable and impossible to sell into a legitimate market.

Museums, private art dealers, and auction and insurance companies check the ALR to verify the legitimacy, or *good title*, for the works and objects of art they try to acquire or sell. It has become a standard for such international art fairs as the European Fine Art Fair in Maastricht (the Netherlands) or London's Grosvenor House fair to screen every lot for provenance against the ALR. Annually, the employees of the ALR check nearly

400,000 auction catalog lots prior to sale. As a result, fewer stolen works are showing up in auction catalogs, and previously stolen artworks are more likely to be returned.

The ALR circulates data about stolen and missing items in the leading international fine art publications as well as through an electronic newsletter addressed to law enforcement agencies, the art trade, and collectors. When a stolen item surfaces on the market, the ALR puts an advertisement in London's *Daily Telegraph*. The ALR's Web site lists statistics of thefts that can be sorted by the type of objects most stolen, types of theft locations, categories of theft victims, country and value of recovery, and so on. Data and images of the most famous art thefts, such as the only known seascape by Rembrandt that disappeared from the Isabella Stewart Gardner Museum in Boston in 1990 along with 11 other items, are available to everyone who visits the registry's site. In 2000, high-profile missing items included 260 works by Marc Chagall, 205 by Salvador Dalí, 291 by Joan Miró, 152 by Pierre-Auguste Renoir, 142 by Rembrandt von Rijn, 135 by Andy Warhol, and 39 by Paul Cézanne.

In 1998, the ALR started to help Holocaust survivors track down stolen World War II treasures free of the search and contingency charge. It is estimated that anywhere from 75,000 to 300,000 items looted by Nazi agencies, Allied troops, or the Soviet Trophy Brigades still remain at large. So far, the ALR has identified 21 wartime losses and is working with many international cultural organizations and law enforcement agencies to assist with the recovery or other form of settlement for these items.

When the ALR produces a match for stolen or missing artwork, the information is turned over to the law enforcement authorities. In many cases, recovery requires international cooperation. Scotland Yard, the Swiss police, and the Federal Bureau of Investigation were involved in the ALR's most significant recovery—Cézanne's painting "Bouilloire et Fruits" that was stolen in 1978 in Boston and was found and sold in Great Britain 20 years later for almost \$30 million.

Maria Kiriakova

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## ASIS INTERNATIONAL (FORMERLY THE AMERICAN SOCIETY FOR INDUSTRIAL SECURITY)

At one level or another, security—protection of assets from loss—as a management function has always had a connection with law enforcement. The principal professional group concerned with this problem and issue—ASIS International—has long had substantial membership from former or current law enforcement officers, though current or past law enforcement employment has never been a requirement for membership.

Security services as a business activity originated in the United States during the mid-19th century. Allen Pinkerton, a former deputy sheriff of Cook County, Illinois, solved vexing counterfeit problems as Chicago's sole detective in 1848. Later he founded a business that conducted investigations of losses to railroads and the U.S. Post Office. Still later, the firm expanded services to provide armed and unarmed guarding, intelligence gathering services, and executive protection. By the beginning of the 20th century, hundreds of detectives and watch, guard, and patrol firms vied for business in

the nation's largest cities. The Pinkerton agency was the biggest.

By the mid-20th century, security services involved simple issues: physical security to protect industrial activity, procedures to make sure that only authorized persons were admitted to restricted areas, prevention of loss from theft, and sometimes investigations. Such issues were of great national concern during times of crisis, such as during wars when disruption of production through sabotage or loss of information through espionage were acute risks. In the years following the end of World War II, hostility emerged between the United States and the Soviet Union, rooted in fundamentally different philosophical, political, and economic outlooks. Many observers at that time thought it was inevitable that nuclear conflict would occur between the two superpowers. It was critical for the industrial might of America to protect what it was developing and making. An organization would help facilitate such protection.

In 1953, five men met in Detroit to discuss how industrial security in the nation could be made more effective. They were Robert L. Applegate, director, industrial security programs of the Assistant Secretary of Defense for Manpower, Personnel, and Reserve; Eric L. Barr, industrial security manager, Electric Boat Division, General Dynamics; Eugene A. Goedgen, manager of plant security, Jet Engine Division, General Electric; Paul Hansen, director, Industrial Security Division, Reynolds Metals; and Russell E. White, security coordinator, General Electric. Most of these men had law enforcement experience. Hansen, the society's first president, was a special agent for the Federal Bureau of Investigation (FBI) and an investigator for the Federal Works Agency before entering private industry.

At that time numerous local and special-interest security groups existed. The goal of the pioneering five was to bring American managers and government officials into a society that would promote enhanced industrial protective practices. Two organizations—the Industrial Security Council of the National Industrial Conference Board and the Security Committee of the Aircraft Industries

Association—joined the fledgling organization. In January 1955, the American Society for Industrial Security was officially incorporated. Its certificate in part called for the “voluntary interchange of members” to collect, evaluate, and share “data, information, experience, ideas, knowledge, methods, and techniques related to the field of industrial security.”

ASIS would seek “to collect, collate, coordinate, and distribute” information that would improve the efficiency and promote uniformity of security practices. The society would also establish ethical and professional standards for its members. At the first annual conference in 1955, ASIS awarded in absentia its first honorary membership to J. Edgar Hoover, then at his peak as the FBI director. Several later FBI directors also would also receive such distinctions.

Starting from its initial domestic industrial focus, the society grew in its early years. But later the exclusionary, narrowly framed, and informally managed group stagnated. By 1972, ASIS faced financial ruin, had no staff members, and almost disbanded. O. Perry Norton, a long-time ASIS volunteer, was named staff executive director. Through his energy, the fortunes of ASIS began to rise.

By the 21st century, ASIS International had evolved into a multifaceted, membership-oriented professional organization. At the national level, some 30 councils have been formed to address varying topics of concern to the membership. These councils stay abreast of the latest developments, which are then incorporated into educational programs for the membership and the public at large.

To nurture self-development and higher general standards, ASIS founded a certification program leading to the designation of a Certified Protection Professional (CPP). The program was studied for years and introduced in 1977. A professional certification board sought to identify critical information and then tested applicants on their knowledge of the principles. The CPP Board retains structural independence from the rest of the organization to safeguard the integrity of the process. To sit for the examination, an applicant need not be a member of ASIS or have a background in law enforcement, but must meet criteria for education, possess charge responsibility in the field, and offer personal

recommendations. Applicants who successfully pass the CPP examination must provide evidence of continuing education on a triennial basis in order to maintain certification.

Members are connected to ASIS directly through 110 chapters further divided into 18 regions in the United States, 1 in Canada, and 10 in the rest of the world. From its constricting origins centered on the Cold War, the organization has evolved to become a global entity. In 2002, the name was formally changed to ASIS International to emphasize the importance of global solutions to challenges facing the workplace. Individual chapters hold meetings, generally monthly, at which speakers offer views and information on current matters of concern. ASIS nationally, as well as its local chapters, often sponsors conferences, workshops, and symposia on topics of interest. Additionally, an annual ASIS seminar and exhibit, held each fall, acts as a convocation for examining practices, ideas, and technology of relevance to dynamic needs. Frequently, law enforcement officials are invited guests and participants.

Services available to members include access to the O. P. Norton Information Resource Center, a Web site, and various publications.

Following the terrorist attack on New York City and Washington, D.C., on September 11, 2001, private security was assessed as a component in homeland security. The private security sector employs 2.5 to 3 times the number of personnel working in law enforcement at a local, state, and national level. Although the responsibility of private security is to protect people and assets on private or institutional property, these observations can aid in making the nation safer and more productive. But standards of selection, training, and supervision at the operational level are inferior to those found in most law enforcement organizations. To meet these expanding needs, ASIS International has actively supported research, legislative change, and executive development to provide a higher level of service reliability for its membership and the wider society.

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## ASSET FORFEITURE

Asset forfeiture is the loss of property, without compensation, due to the commission of a criminal act. Federal forfeiture occurs when federal agents target a property that may have been used to facilitate criminal activity or functions as the proceeds of criminality. Through federal litigation, any interest allocated to the property vests in the United States.

Agencies maintaining forfeiture programs are U.S. attorneys' offices, the Drug Enforcement Agency, the U.S. Customs Service, the Federal Bureau of Investigation, the Immigration and Naturalization Service, the U.S. Marshals Service, the U.S. Postal Inspection Service, the Internal Revenue Service (Criminal Investigation Division), the U.S. Secret Service, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Current federal asset forfeiture programs are intended to punish and deter criminal activity by depriving criminals of property used through illegal activities, take the instrumentalities of crime out of circulation, return property to victims, and make property available as resources to strengthen law enforcement.

Forfeiture law distinguishes between different classes of property. The first, contraband, includes property whose mere possession is a crime (e.g., illegal drugs, smuggled goods, counterfeit money, child pornography, and unregistered machine guns). The second class, derivative contraband, includes property such as boats, automobiles, and airplanes that functions to transport or facilitate the exchange of contraband. Direct proceeds, which is the third class, describes property, such as cash, that is received in

exchange for, or as payment for, any transaction involving contraband. Derivative proceeds comprise the fourth class and include property such as financial instruments, real estate, legitimate businesses, and conveyances that are purchased or otherwise acquired with the proceeds of an illegal transaction. Although contraband and derivative contraband have been subjected to forfeiture in this country for nearly two centuries, direct and derivative proceeds were not subjected to forfeiture until after 1970.

Federal forfeiture law recognizes both civil and criminal forfeitures. Civil forfeiture involves a legal fiction in which the property (the offending object) is personified and the government sues the object. Litigation proceeds against the property, since the guilt of the property is at issue. The owner's guilt or innocence is not necessarily considered. Conviction of the property holder is not a prerequisite for the imposition of civil forfeiture. Civil forfeiture proceeds as an *in rem* action. *In rem* is a legal proceeding against an object in which the government forfeits all right, title, and interest in that object. Criminal forfeiture, on the other hand, is based on a determination of personal guilt. The right of the government in the property subject to forfeiture stems from an *in personam* criminal action against the offender for the purpose of obligating the offender to forfeit the offender's interest in the property to the government.

Both civil and criminal forfeiture have complex histories that date back to before the birth of the American colonies. In common law England, forfeiture included transference of the offending object to the king. Forfeiture of property to the Crown also automatically followed most felony convictions, regardless of the property's relationship to the crime alleged. The offending objects were not destroyed, but rather their value was assessed and the proceeds were given to the Crown as forfeiture. This practice came to be seen as a deterrent to negligence. This forfeiture process continued in England until the advent of the Industrial Revolution when machinery regularly caused workers' deaths. English law further evolved with statutory *in rem* proceedings against property involved in illegal activity.

Civil in rem forfeitures continued in the United States after the passage of the Navigation Acts of 1660 in England, which were intended to stop the importation of contraband goods. In the United States, the earliest federal civil forfeiture statutes allowed for the forfeiture of ships and cargo that violated customs regulations. Americans eventually developed an aversion to the forfeiture of property after learning of the widespread abuses of criminal forfeiture in England. With the exception of the Confiscation Act of 1862, which authorized the president to forfeit the property of Confederate sympathizers, all forms of criminal forfeiture had been unknown in American jurisprudence until 1970. In 1970, Congress enacted two statutes that provided the federal government with criminal forfeiture authority. The Racketeer Influenced and Corrupt Organization Act provided that anyone convicted for racketeering involvement in an enterprise shall forfeit all interests in that enterprise. In 1978, Congress passed the Psychotropic Substance Act, which provided for civil forfeitures for drug offenses.

The passage of the Comprehensive Crime Control Act of 1984 expanded forfeiture authority and established asset forfeiture funds with the Department of Justice and U.S. Customs (of the Treasury Department) to hold the proceeds of forfeitures and finance program-related expenses. In 1986, the Anti-Drug Abuse Act expanded civil forfeiture to include the proceeds of money laundering activity. In 1992, Congress added more categories of offenses to cover proceeds traceable to motor vehicle theft. Also in 1992, Congress created the Treasury Fund to supersede the Customs Forfeiture Fund.

Since the expansion of federal forfeiture laws, significant procedural differences between civil and criminal forfeiture have led to an almost exclusive use of civil forfeitures. Perhaps the most glaring difference pertains to criminal forfeiture's protections of the due process rights guaranteed in all criminal cases. Under civil forfeiture proceedings, such due process protections may not attach. For example, the government need not prove the property was connected to a particular crime or crimes

beyond a reasonable doubt. Rather, the standard of proof needed to initiate a seizure and forfeiture proceeding is probable cause. The burden is on the property claimant to prove by a preponderance of evidence that the property was not used to facilitate a criminal offense or the result of proceeds of illegal activity. With the lowered evidentiary standard, the government may use hearsay, circumstantial evidence, and facts obtained after seizure to justify the forfeiture.

In response to the controversy created over civil forfeiture, Congress overhauled the civil forfeiture law in an attempt to force the government to prove more convincingly that property is subject to forfeiture and to provide greater due process protections for property owners. In 2000, Congress passed the Civil Asset Forfeiture Reform Act. The most significant change is the higher preponderance of the evidence standard imposed on the government. This burden no longer shifts to the property claimant. The law further removes the requirement of cost bonds and requires the immediate release of seized property if the seizure would cause a substantial hardship. Also, for the first time, claimants have a right to counsel in limited circumstances (i.e., they have a related criminal case and already have appointed counsel and claimants whose primary residences are subject to forfeiture).

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*See also* Racketeer Influenced and Corrupt Organizations Act

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## ∞ BALLISTICS RECOGNITION AND IDENTIFICATION SYSTEMS

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Ballistics identification, more properly known as firearms identification, is part of the forensic science discipline of toolmark identification. The premise underlying toolmark identification is that a tool, such as a firearm barrel, leaves a unique toolmark on an object, such as a bullet, with which it comes in contact. Firearms examiners deal with the toolmarks that bullets, cartridge cases, and shotshell components acquire by being fired and also that unfired cartridge cases and shotshells acquire by being worked through the action of a firearm. Comparison microscopes are used to compare evidence toolmarks on ammunition components recovered from crime scenes with test toolmarks that examiners produce on other ammunition components by firing or otherwise using a particular gun. A firearm is identified as the one firearm, to the exclusion of all others, that produced the evidence toolmark, if the examiner decides that the evidence and test toolmarks are sufficiently similar. Although firearms examination may aid in identifying the perpetrators of crimes, law enforcement officers need to be aware that firearms are sometimes misidentified as the source of evidence toolmarks that they did not produce and are sometimes

not identified as the source of evidence toolmarks that they did produce. These risks have not been eliminated by computerized matching systems, including the National Integrated Ballistics Information Network (NIBIN) developed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF) and the Federal Bureau of Investigation (FBI).

### TYPES OF TOOLMARKS

Firearms examiners deal with the striated toolmarks that gun barrels impart to fired bullets and with the impression and striated marks that various parts of firearms impart to cartridge cases (for example, breechblock, ejector, extractor, and firing pin marks) and other ammunition components. Striated toolmarks are patterns of scratches or striae that result from the parallel motion of ammunition components against firearm components. Impression toolmarks result from the perpendicular, pressurized impact of firearm components on ammunition components.

Impression and striated toolmarks have class, subclass, and individual characteristics. The distinctively designed features of types of guns are reflected in class characteristics. For example, the rifling impressions on bullets are class characteristics that reflect the number, width, and direction of

twist of the lands and grooves in the types of barrels that fired them.

Subclass characteristics, which are present in only some toolmarks, arise when manufacturing processes create batches of tools, such as firearm components, with similarities in appearance, size, or surface finish that set them apart from other tools of the same type. The toolmarks produced by tools in the batch have matching microscopic characteristics, called subclass characteristics, that distinguish them from toolmarks produced by other tools of the type.

Firearms identification is premised on the existence of individual characteristics that are unique to the toolmarks each individual tool produces and that correspond to random imperfections or irregularities on tool surfaces produced by the manufacturing process or subsequent use, corrosion, or damage. If the same class characteristics are found on evidence and test toolmarks (for example, the same rifling impressions on a test fired bullet and an evidence bullet recovered from a crime scene), a firearms examiner uses a comparison microscope to compare the toolmarks' individual characteristics (for example, microscopic striations within rifling impressions). The object is to determine whether the individual characteristics are so similar that one and the same tool (for example, a particular gun barrel) must have produced both the test and the evidence toolmark.

## CONFUSING FEATURES OF TOOLMARKS

Central features of toolmarks make it difficult to achieve what is firearms identification's goal of individualization. The goal is to identify *one and only one* gun as the source of the toolmark(s) on an ammunition component found at a crime scene. First, a particular firearm may be wrongly identified as the source if a firearms examiner confuses subclass with individual characteristics of toolmarks. This confusion is possible because some, though not all, manufacturing processes result in batches of tools so similar that their toolmarks have the same subclass characteristics and may or may not also have individual characteristics. While wear and tear on tools may cause the subclass characteristics on their toolmarks to be

completely replaced by individual characteristics, subclass characteristics may also persist alongside individual characteristics. There are no rules for distinguishing subclass from individual characteristics; examiners need to rely on their personal familiarity with types of forming and finishing processes and their reflections in toolmarks.

Second, the individual characteristics of toolmarks are combinations of nonunique marks. For example, Biasotti's classic 1959 study found that 15 to 20% of the striae on bullets fired from different .38 Special Smith & Wesson revolvers matched. If an examiner assumes that a certain amount of resemblance proves that test and evidence toolmarks were produced by the same gun, he or she may be wrong because the same amount of resemblance may be found in toolmarks produced by different guns. Although this can lead to misidentifying a gun as the source of evidence that it did not produce, identifications may also be missed because the toolmark on a fragmented ammunition component is too small to allow an examiner to identify any firearm, including the one that made it, as the toolmark's source.

Third, the individual characteristics of toolmarks can change such that the toolmarks on two bullets fired from the same gun are never exactly the same. For example, in Biasotti's study, only 21-38% of the striae on bullets fired from the same gun matched. Identifications can be missed if examiners fail to realize that differences between test and evidence toolmarks are compatible with their having been produced by the same gun at different times. Misidentifications can also occur if examiners attribute differences in test and evidence toolmarks to changes in the same gun over time, instead of realizing that the marks were made by different guns.

## FIREARMS EXAMINERS' CONCLUSIONS

The similarities between toolmarks made by different guns and the differences between toolmarks made by the same gun indicate that a statistical question must be answered to determine whether a particular gun was the source of the toolmark on an ammunition component recovered from a crime

scene. What is the likelihood that a toolmark made by a randomly selected gun of the same type would do as good a job at matching the evidence toolmark as the test toolmark made by the particular gun? The statistical nature of the question is obscured by firearms examiners' practice of reaching only four conclusions: (1) identifying or (2) eliminating a particular firearm as *the* source of the mark(s) found on an ammunition component, (3) concluding that the comparison of test and evidence toolmarks is inconclusive, or (4) concluding that the evidence toolmark is unsuitable for comparison.

For impression toolmarks, all firearms examiners rely solely on subjective judgments to determine whether the resemblance between test and evidence toolmarks is so great that the toolmarks must have come from the same gun. While some firearms examiners also make purely subjective identity determinations for striated toolmarks, others employ the consecutive matching striae (CMS) criterion that Biasotti and Murdock proposed in 1997. Biasotti's study of .38 Special Smith & Wesson revolvers and follow-up statistical empirical studies of those and other types of guns and tools found significant differences between the numbers of consecutive matching striae, but not the percentages or total numbers of matching striae, on pairs of toolmarks known to be made by the same and different tools. Under CMS, the threshold for identifying a particular tool as the source of a three-dimensional (3D) toolmark is a match between evidence and test toolmarks of one group of six consecutive matching striae or two different groups of at least three consecutive matching striae in the same relative position. The threshold for two-dimensional toolmarks is one group of eight consecutive matching striae or two groups of at least five consecutive matching striae in the same relative position.

The CMS identity criterion is intended to apply to all firearms and all other types of tools and to set such a high threshold that misidentifications cannot result, though the cost may be some missed identifications. However, since CMS requires examiners to compare numbers of striae on individual characteristics of toolmarks, misidentifications may result if examiners confuse subclass characteristics on

test and evidence toolmarks with individual characteristics.

An unresolved scientific issue is whether CMS can reliably lead to accurate identifications when different examiners sometimes find different numbers of striae on the same toolmark. Another is whether the CMS threshold can be high enough to avoid misidentifications of tools with large working surfaces without being so high that unduly many identifications of tools with small working surfaces are missed. This issue arises because the number of consecutive matching striae on pairs of toolmarks varies with the size of the working surface of the tools that produce them. For example, because of the wide lands in their barrels, fired Smith & Wesson revolvers impart more consecutive matching striae to the land impressions of pairs of .38 bullets than Raven, Lorcin, and Stallard pistols respectively impart to .25 caliber, .380 ACP, and 9-mm bullets.

Many firearms examiners see no need for CMS or any objective identity criteria because they believe their subjective determinations are accurate. The testing of firearms examiners' proficiency has been questionable, however. The American Society of Crime Laboratory Directors (ASCLD) bases laboratory accreditation on yearly external proficiency tests, but requires only one examiner in a laboratory to be tested. Laboratories can choose between blind tests and known tests in which test takers are able to distinguish test items from items they are examining as part of their regular case work.

The only ASCLD-approved provider of proficiency tests for firearms examiners is Collaborative Testing Services, Inc. (CTS). In 2002, all examiners completing the CTS test correctly concluded that the same gun had fired two of the sample evidence cartridge cases and the test cartridge cases. Of these, 77% correctly concluded that the gun had not fired a third evidence cartridge case, whereas 23% reported an "inconclusive." Several test takers commented that the questions were so basic that trainees with one or two weeks of training could answer them. CTS cautions against equating its test results with "an overview of the quality of work performed in the profession."

## TRADITIONAL VERSUS COMPUTERIZED FIREARMS IDENTIFICATION

From the 1930s to the early 1990s, a major practical limit on firearms identification was that a comparison microscope could be used to compare only two toolmarks at a time. Because the comparisons were time consuming, it was feasible for examiners to compare the marks on ammunition components recovered from a crime scene only with test marks made by a gun that investigators had already linked to the crime. Transportation and chain of custody problems were a major barrier to comparing guns and ammunition components recovered by different law enforcement agencies.

These limits became surmountable with the development, in the early 1990s, of computerized comparison systems that allowed vast numbers of digital images of bullets and cartridge cases to be quickly scanned into and stored in databases. Computers could rapidly screen the stored images and arrive at short lists of matches for bullets or cartridge cases that examiners submitted for identification. Telecommunications made interagency comparisons of guns and ammunition components feasible. Although traditional firearms identification was merely a tool for verifying investigative leads, computerization created the possibility of using firearms identification to discover links between particular guns and crimes, including linking seemingly unconnected crimes to the same gun.

## NIBIN

The National Integrated Ballistics Information Network, formed in 1997, makes the BATF's computerized comparison system, Integrated Ballistics Information System (IBIS), available to federal, state, and local law enforcement agencies for inputting, storing, and matching digital images of bullets and cartridge cases that they recover from crime scenes or use crime guns to test fire. Agencies that participate in NIBIN are linked through the FBI's telecommunications network, allowing interagency comparisons of digital images of ammunition components.

IBIS rapidly generates a short list of the images in its database that most resemble the scanned image of the ammunition component whose provenance is questioned. A firearms examiner then decides whether there is an identification by using a comparison microscope to compare the questioned ammunition component with an ammunition component on the short list. Since people remain responsible for identity conclusions under NIBIN, misidentifications can occur if examiners underestimate how much similarity between toolmarks is needed to prove that the same gun must have fired two ammunition components. Identifications can also be missed if examiners overestimate the amount of similarity needed. Since NIBIN has not eliminated the risk of these mistakes, the issues of how firearms examiners' proficiency should be tested and whether examiners should rely on CMS or subjective judgments remain relevant.

Federal law limits the BATF's IBIS database to images of ammunition components recovered from crime scenes or test fired by guns recovered from crimes. Hence, NIBIN is of no use for identifying the gun that fired a bullet or cartridge case unless a participating agency has already connected the gun to some crime. Opposition to a national gun registry has been a major barrier to expanding federal databases to include digital images of test fired cartridge cases and bullets from newly manufactured or imported firearms.

By May 2003, NIBIN had made 6,200 links between crime investigations that previously were not known to be connected. Questions about the accuracy of NIBIN are raised, however, by findings that bullets of the same caliber test fired by different guns can rank very high on IBIS lists of candidate matches. Although some have argued that computerized comparison systems using 3D images of ammunition components would be more accurate than IBIS or other systems using two-dimensional images, the several hours it now takes to scan a single bullet into a 3D system makes such systems unfeasible.

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*See also* American Society of Crime Laboratory Directors

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## BRADY HANDGUN VIOLENCE PREVENTION ACT

In 1987, the Brady Handgun Violence Prevention Act (Brady Bill) was introduced in Congress. President William J. Clinton signed the Brady Bill

into law seven years later, on November 30, 1993. The Brady Bill, named after James Brady, the White House press secretary wounded in the 1981 attempted assassination of President Ronald Reagan, required licensed firearms importers, manufacturers, or dealers to wait five business days before selling a handgun to a person not licensed under federal law. During the five-day waiting period, the local police chief was required to conduct a background investigation on the prospective purchaser, including research in state and local record-keeping systems and in a national system designated by the U.S. Attorney General, to determine the purchaser's eligibility to acquire the handgun.

The Brady Bill also provided for exceptions to the five-day waiting period (known as the cooling off period). If the prospective purchaser presented a statement that indicated a need for a handgun due to a threat to the life of the purchaser or any member of the immediate household, the five-day waiting period may have been waived. Additionally, if the prospective purchaser had a permit allowing the possession of a handgun that was not issued more than five years earlier by a state that requires a background check, then the five-day waiting period could also have been disregarded.

According to requirements under the Brady Bill, the prospective purchaser submitted an application to the local police chief including information such as criminal or military records and citizenship status. The chief of police determined eligibility once the background investigation was completed. If the local police chief determined that an individual was ineligible, the prospective purchaser was provided a written statement of the reasons for such a determination within 20 business days after the initial receipt of the request. If the individual was deemed eligible, the records generated by the background check had to be destroyed within 20 business days.

The interim provisions of the Brady Bill were effective on February 28, 1994, and were to continue for five years, expiring on November 30, 1998. The Brady Bill has been replaced by a National Instant Check System (NICS), which relies on computerized federal data to immediately check prospective firearms purchasers for felony

convictions. The NICS does not require a waiting period before the purchase of a firearm.

The Brady Bill provoked intense debate over the Second Amendment to the U.S. Constitution. The National Rifle Association is one of the most outspoken groups against the Brady Bill, arguing that the Second Amendment protects the rights of individuals to bear arms without infringement. The U.S. Court of Appeals for the Fifth Circuit in 2001 upheld the individual rights view, with the support of Attorney General John Ashcroft. This decision was contrary to those of every other federal court as well as the U.S. Supreme Court, all of which by 2002 had rejected the individual rights view and ruled that the purpose of the Second Amendment was to ensure the continuation and effectiveness of state militias.

Data collected after the Brady Bill was signed into law highlighted its potential success. A spokeswoman for the Georgia Bureau of Investigations, in an NBC news report on September 8, 1994, claimed that in the first six months after the Brady Bill was enacted (March 1, 1994 to August 31, 1994), there were 40,846 background checks on prospective gun purchasers. Of these 40,846 applicants, 11,962 (approximately 30%) had criminal histories causing them to be rejected. Additionally, 1,000 (approximately 2%) were wanted on criminal charges or were out on bail. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF) reported that, nationwide, 5% of the applicants had been rejected due to prior criminal convictions detected by the mandatory background investigation.

On February 28, 1995, the BATF released its First-Year Anniversary Survey of the Brady Law. The BATF surveyed 30 law enforcement authorities, using a cross section of the nation's law enforcement population, and found that from March 1994 through January 1995, more than 15,500 persons (approximately 3.5%) had their applications denied (in those 30 surveyed jurisdictions). Among those persons barred from purchasing a handgun, 4,365 were convicted felons, 945 were fugitives, 649 were illegal drug users, 97 were under indictment, 63 were under restraining orders for alleged stalking, harassment, or other domestic threats/intimidation, and 2 were juveniles. A second and larger survey by

the International Association of Chiefs of Police and Handgun Control, Inc. found that 3.4% (more than 19,000 persons in the jurisdictions surveyed) were stopped from buying handguns during this same time. Based on these data, the BATF estimates that, nationwide, the Brady Bill stopped 70,000 convicted felons, drug offenders, fugitives, and other prohibited persons from purchasing handguns during the first year it was signed into law.

In a broadcast on April 12, 2000, President Clinton (on NBC's *Tom Brokaw discusses gun control with the president*) maintained that the Brady Bill has been effective in reducing gun crime by 35% and has contributed to a 31-year low in homicide rates. President Clinton further announced that the Brady Bill has kept a half million potentially dangerous persons (felons, fugitives, and stalkers) from purchasing handguns.

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## BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES

The Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF), located within the Department

of Justice (DOJ), has the statutory mandate to enforce federal firearms laws, investigate arsons and explosive device incidents and thefts, and prevent the diversion into illegal markets of alcohol and tobacco products. The agency, which traces its history to 1789, when the first Congress imposed a tax on imported alcohol, has undergone numerous reorganizations since that time; the last one occurred in 2003, when the former Bureau of Alcohol, Tobacco, and Firearms, which has tax collecting, regulatory, and enforcement responsibilities, was transferred to the DOJ under homeland security legislation and when certain of the BATF's tax and trade functions were separated from the larger agency and retained within the Treasury Department as the new Alcohol and Tobacco Tax and Trade Bureau (TTB).

## HISTORY

The Bureau of Alcohol, Tobacco, Firearms, and Explosives owes its creation to a tax on imported spirits imposed by the first Congress in 1789 to pay a portion of the Revolutionary War debt. The taxes had been suggested by Secretary of the Treasury Alexander Hamilton and its agency was assigned to collect the revenue. Within two years, on March 3, 1791, Congress added a tax on domestic alcohol, which met with considerably more opposition than the import tax. The result was the short-lived Whiskey Rebellion of 1794, as distillers fought the 6- to 18-cents per gallon tax. Opposition grew, particularly in Pennsylvania, resulting in Secretary of War Henry Knox requesting that the governors of Maryland, New Jersey, Pennsylvania, and Virginia send militiamen to quell the rebellion. By November 1795, militiamen and federal officers had arrested more than 150 rebels and broken up the ring of corrupt grain dealers, politicians, and revenue agents who had assisted them in evading the law. This group of criminals (who would today be similar to stock market swindlers) had defrauded the government of millions of dollars in distilled spirits taxes. The rebellion tested the Constitution and its suppression confirmed the supremacy of federal law and Congress's right to levy and collect taxes. With

that right confirmed, Treasury's role as the collection and enforcement arm of the federal government was established. Congress also enacted federal civil service regulations to ensure that those who were responsible for enforcing the laws were recognized (along with the importance of the laws themselves).

So things remained until the Prohibition era, which began in 1919 with the passage of the Eighteenth Amendment to the Constitution. The newly created Prohibition Unit, which fell under the Treasury's Bureau of Internal Revenue, gained jurisdiction over the illicit manufacture, sale, and transportation of liquor for drinking purposes. Roughly 60 million gallons of alcohol had to be disposed of by distillers. Prohibition enforcement fell to Treasury, although in 1930 it was transferred to Justice. Tax-related and regulatory activities, though, remained in Treasury under a newly created Bureau of Industrial Alcohol, whose most famous enforcer was T-man Eliot Ness, who toppled Al Capone on tax-evasion charges and gained fame for himself and his group of "untouchables," so named because they could not be corrupted by organized crime figures. In 1933, the Prohibition Era ended with the passage of the Twenty-first Amendment, and the following year, the Bureau of Prohibition, which had been moved to the Department of Justice in 1930, transferred its responsibilities to a newly created Alcohol Tax Unit (ATU) within the Treasury Department's Bureau of Internal Revenue.

In 1935 the Federal Alcohol Administration (FAA) Act was passed. This act created licensing and permit requirements and established regulations designed to ensure an open and fair marketplace to the businessman and to the consumer. The Federal Alcohol Administration enforced the FAA Act until it merged with the Alcohol Tax Unit, combining related law enforcement and regulatory authorities. However, crime problems of the 1930s were not yet over. Organized crime was becoming more violent both within its ranks and against the public. This criminal behavior pushed Congress to enact legislation that resulted in the National Firearms Act of 1934 (NFA). The act was passed to control certain weapons such as sawed-off shotguns and machine guns that were being used by gangsters.

The NFA, America's first federal gun control law, was soon followed by the Federal Firearms Act (FFA) of 1938. Federal regulation of the firearms industry was the reason the FFA was enacted. It became a federal crime for fugitives and felons to gain firearms through interstate commerce. Responsibility for administering these laws was given to the ATU in 1942 because of its experience in both law enforcement and industry regulation.

By 1951, tobacco tax duties were also delegated to the ATU. The unit's name was again changed in 1952 to the Alcohol and Tobacco Tax Division (ATTD) of the Internal Revenue Service. The division now enforced laws relating to alcohol, tobacco, and firearms. In 1968 Congress passed the Gun Control Act. Repealing the FFA and the NFA of the 1930s, it put greater focus on the problem of violence and created stricter firearms laws. The ATTD now had direct federal jurisdiction investigating bombings with destructive devices being added to machine guns, sawed-off shotguns, and explosives used with criminal intent. The ATTD once again received a new name: Alcohol Tobacco and Firearms Division, or the ATFD (still under the Internal Revenue Service). In 1970 the Organized Crime Control Act was passed, expanding certain bombings and arsons now to be considered federal crimes, which were also to be handled by the ATFD.

On July 1, 1972, the ATFD was separated from the Internal Revenue Service and given full bureau status in the Treasury Department. The department would then become and remain for 30 years the Bureau of Alcohol, Tobacco, and Firearms. When the homeland security bill became law on November 25, 2002, BATF was not included in the new Department of Homeland Security. But legislation enacted on January 24, 2003, resulted in yet another name and role change for BATF, when it was moved from the Treasury Department to the Department of Justice as the Bureau of Alcohol, Tobacco, Firearms, and Explosives, with responsibility for firearms, explosives, alcohol and tobacco smuggling, and arson oversight, enforcement, and control. The date also marked the beginning of the new Alcohol and Tobacco Tax and Trade Bureau, which was given responsibility for the regulatory and taxation aspects

of the alcohol and tobacco industries and remained within the Treasury Department.

Under the Department of Justice, the BATF is mandated to perform law enforcement functions that relate to alcohol and tobacco smuggling and diversion, firearms, explosives, and arson. Federal laws regarding firearms and firearms trafficking are also the responsibility of the BATF. The BATF is responsible for enforcing the licensing provisions of the Gun Control Act of 1968. This law makes it a requirement for every manufacturer, importer, or dealer in firearms to obtain a Federal Firearms License. Dealers must also adhere to strict record-keeping standards. Illegal firearms trafficking is defined as the movement of firearms from the legal to the illegal marketplace through an illegal method for an illegal purpose. It is usually done with the intentions of gaining profit, power, or prestige or to supply firearms to individuals with criminal intent.

## RANDY WEAVER AND THE BRANCH DAVIDIANS

Enforcing sin laws such as alcohol and tobacco tax laws has never been popular even though it brings in billions of dollars to the U.S. Treasury. Enforcing firearms is also unpopular among those who see it as a prelude to government confiscation of firearms. The BATF's role in enforcing unpopular regulations has resulted in it receiving negative media and public attention on a number of its more prominent cases, with two having particularly adverse consequences.

The first, in 1982, involved an investigation into white power groups in northern Idaho that centered on Randy Weaver, who was charged with manufacturing and selling two sawed-off shotguns in violation of federal laws. He and his wife Vicky, their son, and three daughters isolated themselves in their mountaintop home near Bonner's Ferry, Idaho. When Weaver refused to surrender to federal authorities, deputy U.S. Marshals were sent to evaluate the feasibility of arresting Weaver in this remote location. They encountered Weaver's son and a friend, Kevin Harris, in the woods near the home. A gun battle erupted after one of the deputies

shot and killed the Weaver's dog, which ultimately resulted in the death of a deputy and Weaver's son. Harris and the rest of Weaver's family fled into the Weavers's cabin. The Federal Bureau of Investigation (FBI) Hostage Rescue Team (HRT), the Marshals Service Special Operations Group, and the BATF Special Response Teams were sent to arrest Weaver. On the second day of the incident an FBI HRT sniper shot and killed Vicky Weaver and wounded both Randy Weaver and Harris. Criminal charges brought against the HRT sniper were later dismissed, but the government paid the Weavers more than \$3 million to settle an unlawful death suit. The trial of Weaver and Harris led to criticism surrounding the BATF's use of an informant in the initial investigation. Weaver and Harris were acquitted of all charges, except for Weaver's failure to appear in court on the original charge.

The Weaver incident was followed a decade later by the 49-day standoff at the Branch Davidian compound near Waco, Texas. On February 28, 1993, BATF agents attempted to serve a federal search warrant on the Branch Davidians, a religious group led by David Koresh, after an investigation determined that the Davidians had purchased dozens of weapons, parts to convert these weapons into machineguns, hand grenade bodies, chemicals used to manufacture explosives, and other parts to manufacture hand grenades. It was later revealed in a Treasury investigation that a decision made by BATF personnel had contributed to the failure of the warrant execution. Although there were mixed reactions to BATF's actions, the raid initiated one of the largest shoot-outs in American law enforcement history and resulted in the deaths of four BATF agents and six persons in the Davidian complex. After the raid, the FBI assumed jurisdiction and for 49 days conducted negotiations with Davidians that resulted in the release of a number of children. On April 19, the FBI tried to end the standoff by using tear gas forced into the complex by combat engineer vehicles. A fire started, allegedly by the Davidians, although some said the tear gas ignited candles inside the complex, which resulted in the deaths of all but six of those inside, including Koresh and a number of women and children. An

investigation into the activities of the BATF and the FBI resulted in significant operational changes within both agencies. Although the BATF did not act alone in either of these incidents, it bore the brunt of the criticism.

## CURRENT ORGANIZATION

More positive public responses came to the BATF for its work in finding pieces of the van used to carry the bomb in the 1993 bombing of the World Trade Center in New York City; its work during the investigation in July 1996 of the TWA Flight 800 crash off Long Island, New York, in which 224 people were killed; and its work later that same month in the aftermath of the pipe bomb that killed one person and wounded more than 100 at the Olympic park in Atlanta, Georgia. Most of what BATF agents do receives considerably less publicity; including regulating the more than 100,000 federally licensed gun dealers and the almost 10,000 licensed manufacturers and dealers of explosives and routinely breaking up gun trafficking rings throughout the country.

To assist in meeting its complex tax collecting, regulatory, and enforcement missions, the BATF has divided its organization into three major program areas: firearms, explosives, and alcohol/tobacco. Special agents enforce all federal laws pertaining to these commodities and work closely with state and local police to identify, apprehend, and prosecute criminal violators. In fiscal 2003, the BATF conducted more than 30,000 firearms investigations resulting in more than 6,000 convictions for firearms-related offenses. The agency has also been heavily involved in investigating outlaw motorcycle gangs, which are often involved in firearms trafficking as a source of income. BATF agents in fiscal year 2003 also investigated almost 400 bombing incidents and more than 700 incidents involving recovering explosives or explosive devices or thefts of explosives.

At the same time, regulatory activities are assigned to inspectors, who examine firearms dealers' records, check explosives and alcohol beverage producers, and verify product integrity and inventory. They work closely with special agents on firearms

trafficking cases and on attempts to market alcohol and tobacco without payment of authorized tax revenues. Almost 15,000 firearms-related inspections were performed in 2003, in addition to almost 3,000 explosives compliance investigations and more than 5,000 explosives application investigations. More than 1,000 explosives safety violations were detected and ordered corrected. The BATF's laboratories also employ a large number of chemists and other scientists. In 2003, the agency's three labs worked on close to 650 bomb-related cases.

In addition to its labs, the BATF maintains a number of programs to benefit state and local police in recognizing and tracking law violations. One of these, the National Integrated Ballistic Information Network, provides nationwide networking on ballistic imaging and in 2003 assisted other law enforcement agencies in finding more than 2,500 links of crime scenes and weapons. The BATF in 2001 began a gun-tracing initiative that in 2003 processed almost 300,000 trace requests pertaining to guns used in crimes. In late 2003, the BATF began an Internet-based system called the Bomb and Arson Tracking System that allows law enforcement agencies to share bomb and arson case and incident information. Agencies will be permitted to register for free service and use it as a library to manage and exchange information on types of incidents, targets, dates, and locations. In addition to its two response teams, one national and the other international, the BATF also trains its own and other agencies' explosive detection canines.

## ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

The TTB administers a number of alcohol and tobacco laws that were formerly handled by the BATF and oversees the federal excise tax for firearms and ammunition. Its staff of almost 600 was transferred to the bureau from the BATF. The TTB enforces federal laws to ensure the collection of alcohol beverage excise taxes, provides for accurate deposit and accounting of these taxes, prevents entry into the industry by criminals or persons whose business experience or associations pose a risk

of tax fraud, and suppresses label fraud, commercial bribery, diversion and smuggling, and other unlawful operations in the alcohol beverage marketplace. The bureau regulates and oversees the practices of distilleries, breweries, wineries, and importers and wholesalers in the industry. To ensure that alcohol beverage labels do not contain misleading information and that the labels adhere to regulatory mandates, the Alcohol Labeling and Formulation Division examines all beverage labels. The National Laboratory Center (NLC) is the premier tester of new products coming onto the market. The NLC conducts tests to validate that all ingredients are within legal limits. This is to protect the consumer from identifiable health risks in accordance with the Food and Drug Administration's recommendations. Protecting the consumer interest and providing government oversight is the main goal.

The TTB also works to guarantee the collection of tobacco excise taxes and to ensure that applicants are qualified for permits to manufacture or import tobacco products. In order to verify an applicant's qualification information, tobacco inspections are done to check the security of the premises and to ensure tax compliance.

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*See also* Federal Bureau of Investigation, Prohibition Law Enforcement

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## ⌘ BUREAU OF ENGRAVING AND PRINTING POLICE

The Bureau of Engraving and Printing (BEP) was created July 11, 1862, as part of the Treasury Department, although it was not until October 1, 1887, that the production of all U.S. paper currency and government securities was centralized in one facility. Among the bureau's responsibilities are the design, printing, and finishing of the country's paper currency, many postage stamps, Treasury notes, and other securities and certificates. In addition, the BEP prints military identification cards and invitations to White House functions. The bureau is also called on to provide advice and assistance to other government agencies in designing and producing documents such as securities and certificates, which require security or anticounterfeiting characteristics.

The BEP facilities are protected on a 24-hour, 7-day-a-week basis. These include the headquarters offices and manufacturing operations in Washington, D.C., and an additional plant in Fort Worth, Texas. Typical duties of BEP officers include prevention and detection of crime through routine patrol, assigned fixed posts, and surveillance control rooms. BEP police personnel provide security at entry and exit points of the bureau's facilities and via electronic surveillance in other areas of the buildings with a primary focus on preventing employee theft.

Duties include upholding the integrity of products manufactured at BEP facilities and maintaining peace among personnel as well as visitors. BEP police officers respond to and assume control of crime scenes and provide assistance during fire, medical, natural disaster, or other emergencies, including terrorist activity. BEP police prepare detailed reports of emergency situations, violations,

and descriptions and locations of security and safety violations and may place individuals under a warrant or warrantless arrest. This could require subduing, handcuffing, or otherwise restraining the arrested individual.

As of March 2003, BEP had 209 sworn officers, 36 persons in police administrative support positions, and 79 security specialists, investigators, and security managers who are not counted as police officers but who are licensed and trained to carry firearms. They also provide backup for the police.

The U.S. General Accounting Office (GAO) reported that between 1993 and 2002, the BEP reported 11 incidents of employee theft involving approximately \$1.8 million. One theft involved \$1.63 million worth of experimental \$100 bills being used to test anticounterfeiting technology. The bills were of high enough quality to be used in general circulation. However, \$1.3 million worth of the bills was recovered.

In response to a congressional query as to who should provide security for the Bureau of Engraving and Printing, the GAO, in July 2003, said BEP security personnel were already familiar with the agency's operations and would be preferable to, as well as less costly than, bringing in a new organization, such as the Secret Service Uniformed Division.

In 2002, as an enhanced security measure, the BEP Police Operations Division became responsible for collecting information on all visitors to bureau facilities. The information included name, social security number, and date of birth; government officials were required to provide valid federal identification. BEP police search visitors for such contraband as weapons, objects that could be used as weapons, fireworks, and aerosols. The checking of parcels and coats or other objects has been eliminated.

The BEP conducts its own background investigations of applicants for police positions. Officers must be U.S. citizens at least 21 years old with college degrees or police experience. College graduates must have a degree in administration of justice, police or forensic science, security or correctional administration, or criminal justice. Alternatively, police officers, peace officers, military police personnel, and security officers must have had the

power to detain and arrest for at least one year prior to joining the BEP force. There are approximately 2,600 BEP employees and the police belong to one of 15 unions representing bureau personnel.

Instruction includes two weeks of training prior to 10 weeks of basic at the federal police training facility in Glynco, Georgia. This is followed by eight weeks of field training at the BEP facility and thereafter two weeks of in-service training annually. There is an automatic promotion to corporal within 30 months of joining. Benefits include a year-end bonus, night differential and Sunday premium pay, and a \$1,200 annual transportation subsidy. Equipment and uniforms, including regular dry cleaning, are paid for by the government.

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## BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT

The terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, led law enforcement agencies at every level of government to reevaluate their strategies with regard to preventing future terrorism and to consider their preparedness in the event of other attacks. Perhaps no other agency was more sensitive to the events of September 11 than the Immigration and Naturalization Service (INS). All of the hijackers were aliens as well as technically in violation of immigration laws. In response to the attacks, President George W. Bush and Congress created the Department of Homeland Security (DHS) on March 1, 2003. Special agents of the INS and Customs Service were transferred to

DHS under the Border and Transportation Security Directorate. Within that directorate the Bureau of Immigration and Customs Enforcement (ICE) was designed to be the primary agency to enforce the immigration laws inside the United States. Although there are five major directorates within DHS—Border and Transportation Security, Emergency Preparedness and Response, Science and Technology, Information Analysis and Infrastructure Protection, and Management—ICE retains a strong legacy from INS investigators and their enforcement of the immigration laws.

The growth of the United States is based on immigration. Between 1820 and 2002, 68,217,481 persons legally entered the country as immigrants. The law defines immigrants as those persons with lawful permanent resident status who are permitted to live and work in the United States as long as they establish residence. Immigrants may also leave the United States and return in full status as long as they do not abandon their residence here. Immigrants are also eligible to apply for citizenship (naturalization) if they have good moral character and have resided continuously in the United States for at least five years after their lawful admission as immigrants. The five-year waiting period is reduced if they are married to citizens or have served in the U.S. military. In 2002, a total of 1,063,732 persons entered the country as immigrants.

There are other categories of persons in the United States who are neither citizens nor lawful immigrants. Nonimmigrants are temporary visitors who make a lawful admission through a designated port of entry in the United States. Examples of nonimmigrants include aliens who are visitors for pleasure or business, temporary workers, students, exchange visitors, foreign government representatives, and diplomats. By far, most of the nonimmigrants enter as visitors for pleasure (tourists) or business. There were 27.9 million documented nonimmigrant entries to the United States in 2002.

There are also millions of people who have entered the country illegally and who remain for various lengths of time. In 2000, INS estimated that there were about 7 million illegal aliens living in the United States and further estimated that about 69%

of these unauthorized persons were from Mexico. However, illegal aliens are from every country in the world. Illegal aliens are those persons who are in the country in violation of the immigration laws. Many of these illegal aliens simply crossed the southwest border without inspection and were smuggled into the United States. Some of these illegal aliens were lawfully admitted as nonimmigrants and stayed longer than they were allowed; others were admitted as legal permanent residents but were convicted of certain crimes that make them deportable, usually to the country from which they arrived, but in some cases to a third country. A main concern of ICE is that some of these illegal aliens may very well be terrorists. It is difficult to estimate hidden populations, but estimates in 2003 ranged anywhere from 8 million to as many as 11 million illegal aliens living inside the United States. Such high numbers of law violators pose a dilemma for enforcement of the immigration laws.

Not only the flow of people, but also the flow of goods between countries is an integral part of global economic systems. The mandate of the U.S. Customs Service has historically been to control the business of importing and exporting goods. As it became apparent that narcotics and contraband were also part of this process, control of these illegal goods also became the mandate of the Customs Service. The Customs Service was charged with monitoring the flow of goods, while the INS had the responsibility of monitoring the flow of people. Whether it is people or products, both INS and Customs make a perfect match for dealing with the problems now confronting the DHS. Thus, it made sense to combine the knowledge and talents of both agencies.

## HISTORY OF INS

A brief history of immigration enforcement and legislation is required to understand the place of ICE in the overall organizational structure of DHS. In 1819, the first federal immigration laws had to do with record keeping and rules regarding steerage on sailing vessels. Later immigration laws passed in 1882 had to do with the federal role in immigration

and created an alien head tax. INS began in the Department of the Treasury and in 1906 was moved to the Department of Commerce and Labor. On June 14, 1940, INS moved again, this time to the Department of Justice under a commissioner of immigration and naturalization. Throughout this period, INS had sole jurisdiction to administer and enforce the immigration laws. This mission included a dual mandate of service and enforcement that was often considered contradictory. Service included adjudicating applications for permanent residence and citizenship, while enforcement included patrolling the borders to prevent the illegal entry of aliens and, later, the creation of the investigations program that focused on the location and apprehension of illegal aliens inside the United States. The service function of the INS demanded the attention of many adjudications personnel. The millions of applications for adjustment of status, or change of status, petitions for immediate relatives of legal permanent residents and citizens as well as the traditional naturalization process placed a tremendous strain on INS. Backlogs of applications often frustrated the agency and required tremendous resources to complete this enormous task. The Bureau of Immigration and Citizenship Services will remain in the DHS but be separate from the enforcement apparatus and will perform the service function of the legacy INS.

A notable example of the INS Investigations program included the events following the November 4, 1979, hostage takeover of the U.S. embassy in Iran. INS investigators had the responsibility of locating and processing the scores of Iranian nationals in the U.S. to determine whether they were a threat to the country. Another example of the role played by the legacy INS Investigations program was the Mariel Boatlift on April 15, 1980, when Fidel Castro released more than 125,000 Cubans who attempted to gain refuge in the United States. INS agents were detailed to Florida to investigate the smugglers of these aliens, as well as to participate in adjudication task forces.

When the motor vessel *Golden Venture* ran aground in New York waters in 1993 with 290 illegal aliens from the People's Republic of China on board, it

was the Investigations Program that subsequently arrested the smuggler and crewmembers and successfully prosecuted them for their crimes. Another example of the work of the Investigations Program involved Elian Gonzalez, a young Cuban boy whose mother drowned in November 1999 while they were attempting to enter the United States from a refugee boat sinking off the coast of Florida. This case gained international attention when the boy's father came to the United States demanding the return of his son. The Supreme Court turned down a final appeal by the boy's family in the United States and he was allowed to return to Cuba with his father. INS investigators were responsible for facilitating this volatile situation and had to lawfully remove the boy from a family who did not want him to leave with his father. Such examples highlight the traditions of the INS Investigations Program, whose investigators have worked throughout the country to enforce the immigration laws. Their combined experiences and training, especially in locating and apprehending illegal aliens, and their ability to detect some of the sophisticated fraudulent immigration schemes should contribute to the effective enforcement mandates now in DHS. Under DHS, ICE agents will continue to enforce the immigration laws inside the United States.

## ROOTS OF CURRENT IMMIGRATION POLICIES

The foundation of current immigration law enforcement lies in the McCarran-Walter Act, better known as the Immigration and Nationality Act (INA) of 1952. The INA utilized a quota system with preferences for Eastern Hemisphere immigrants. It focused on excluding and removing subversives and communists. The Immigration Act of 1965 repealed the quota system and all countries were given equal access to immigrant visas. The Immigration Reform and Control Act (IRCA) of 1986 included amnesty for those aliens who had established residence in the country since 1982. It also included employer sanctions in an attempt to remove the lure of jobs for illegal aliens. Studies showed that approximately 2.7 million aliens acquired legal permanent residence

as a result of IRCA. The Immigration Act of 1990 attempted to remove aliens who were criminals and had aggravated felony convictions. This provision was enhanced with the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) that included retroactivity to aggravated felons already in the United States before the passage of the law. IIRIRA also added Border Patrol and Special Agents to the INS.

With regard to interior enforcement of the immigration laws, one of the main priorities of ICE involves locating and removing criminal aliens. As a result of recent legislation, ICE agents can expedite the removal of criminal aliens found to be deportable that previously were delayed in myriad appeals and proceedings. In 2003, the DHS, including ICE and Bureau of Customs and Border Protection (CBP), apprehended a total of 1,046,366 illegal aliens. Of these, 8.2% were criminal aliens located in penal institutions throughout the country.

As of mid-2003 there were 37,830 employees in ICE and 24,290 employees working in the CBP. President Bush signed the 2004 fiscal year appropriations bill for DHS totaling \$29.4 billion. These funds will go toward achieving ICE's four major initiatives, each of which concentrates on a different aspect of immigration illegalities.

The Cornerstone initiative is based on the realization by law enforcement that the best way to fight organized crime is to concentrate on the finances of the criminals. If assets can be seized and profits taken away from criminals it is possible to put these individuals out of business. Cornerstone is a financial investigations program that seeks to identify and correct weaknesses in the global financial system. In addition to locating and prosecuting individuals who attempt to illegally manipulate the financial systems of the world, Cornerstone is geared to sharing the information it acquires in the investigation of these crimes with leaders in the financial world. The aim is to strengthen the security measures within those systems. Within a new program called the Systematic Homeland Approach to Reducing Exploitation (SHARE), Secret Service and ICE agents jointly manage regular meetings with financial industry leaders who are most susceptible to criminal schemes

utilized among money launderers and others involved in financial crimes. Cornerstone and SHARE are designed to bolster the security measures of financial institutions and eliminate the weaknesses uncovered during the investigations. An example of the efforts of Cornerstone is reflected in ICE's El Dorado Task Force, which, since 1992, has arrested 1,753 individuals and seized nearly \$560 million in criminal assets.

In recent years, human smuggling has become a major problem globally that has profound implications for criminal enterprises and for global health issues when individuals are trafficked particularly for sexual exploitation. Even without the added concerns of sexual exploitation, the traffic in humans adds health and welfare concerns for those who are smuggled into the country and those who may come in contact with them in workplaces or in public accommodations. The scope of the problem is profound. Along the southwest border of the United States, the U.S. Border Patrol has consistently apprehended more than 1 million illegal aliens annually. Most of these aliens, who are smuggled into the country, attempt to enter without inspection. In the face of this continuing problem, ICE Storm was developed to assist agents of ICE in prioritizing the investigation and apprehension of smugglers, money launderers, kidnappers and hostage takers, and narcotics and weapons violators that operate along the border and profit from these ventures. For example, in 2002, the agents of INS apprehended more than 1 million illegal aliens attempting to enter the United States without inspection. It is estimated that the majority of these attempted entries were made with the help of a smuggler or some other illegal entry method. The criminal organizations that support human smuggling are also involved in narcotics and other contraband smuggling. In addition, there has been an increase in violent crime directly related to this criminal activity. ICE Storm also attempts to reduce the amount of violence associated with the human smuggling problem and is a direct response to the increased violence found in the corridors frequented by the human smugglers.

Working with the U.S. military, agents from ICE were sent to Iraq to investigate Americans or their companies that supported the Hussein regime.

After Iraq fell, the ICE agents, under a program entitled Iraqi Heritage, augmented their mission by seeking to locate and return Iraqi artifacts and national treasures. During the hostilities in Iraq many national treasures were stolen and ICE agents began a global investigation in cooperation with the national museums of Iraq to return these treasures to the Iraqi people. Operation Iraqi Heritage is a global attempt to restore looted national treasures to the Iraqi people and is coordinated by the ICE Cyber Crimes Center in Virginia.

The final initiative, Operation Predator, began in July 2003 and has resulted in more than 1,700 arrests nationwide of sexual predators, pedophiles, Internet predators, human traffickers, and child sex tourists. It was created to prevent these crimes and protect victims from these predators. ICE has entered into a memorandum of understanding with the National Center for Missing and Exploited Children and has begun sharing information in the hope that this will lead to more rapid location of missing children as well as the identification of predatory criminals involved in these crimes. Included in the strategy is the combination of the AMBER Alert with the Code Adam Alert Program that enables a more efficient and national response by law enforcement when a child is reported missing. ICE is also involved in public affairs and education that will alert the community to the vulnerabilities leading to child abduction and exploitation, thereby making it more difficult for the predators to succeed in their dastardly acts.

Millions of people have been smuggled into the United States and most aliens who enter without inspection do so with the assistance of smugglers, commonly referred to as *coyotes*, along the Mexico-U.S. border. Too many children become the victims of child exploitation and sexual deviance. Operation Predator is an attempt to stop the global exploitation of these vulnerable populations by targeting the predators involved in such activities. ICE agents have the added power to swiftly remove criminal aliens involved in these types of offenses from the United States, thereby removing the source of many of the threats to the exploited populations.

In addition to these initiatives, ICE is involved in an interior enforcement strategy that focuses on the

detention and removal of criminal aliens, the dismantling and diminishing of alien smuggling operations, addressing community complaints about illegal immigration, minimizing immigration benefit and document fraud, and curtailing employers' access to undocumented workers. In addition to this, efforts are being made to enhance border security by creating better documents as well as including in a national database criminal aliens who have been ordered deported and have absconded.

The thrust of interior enforcement appears to be the same as it was within the INS just before ICE was established. Coupled with the initiatives previously described, ICE provides an integral part of the necessary national security plan needed to protect against terrorist threats in addition to dealing with the illegal alien problem. These initiatives prioritize those conditions that pose an immediate threat to national security in an effort to prevent other terrorist attacks from happening.

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## BUREAU OF INDUSTRY AND SECURITY

The U.S. Department of Commerce's Bureau of Industry and Security (BIS) is responsible for regulating the export of sensitive goods and technology

for reasons of national security, foreign policy, and compliance with nonproliferation agreements. Formerly known as the Bureau of Export Administration, BIS has an Office of Export Enforcement (OEE), sometimes referred to as the export police, to help prevent proliferation of weapons of mass destruction and conventional arms, to combat international terrorism, and to implement U.S. economic sanctions and embargoes.

The activities of the export police, though, cover an even wider range of goods and activities. They are responsible for enforcing controls that, for instance, include items that might seem obvious, such as nuclear materials, space propulsion systems, certain chemicals, and microorganisms and toxins, as well as items that may not seem so obvious, such as polygraphs, specialized sensors and lasers, and some types of police equipment. Many items are covered by dual-use controls. These regulate technology that might have legitimate commercial or research applications, but that could also be used for military or illicit purposes. Also, sending gifts via first class mail or faxing blueprints or designs may be considered exports for enforcement control purposes. Restrictions vary from country to country; the most restricted destinations are Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. In addition, certain individuals and a number of organizations are prohibited from receiving U.S. exports regardless of their locations.

In enforcing provisions of the Arms Export Control Act, the Fastener Quality Act, the Trading With the Enemy Act, Export Administration Regulations, and similar laws, Export Enforcement's mission includes identifying and apprehending violators as well as pursuing criminal and administrative sanctions against them. The office also acts to combat restrictive trade practices such as boycotts, reviews visa applications of foreign nationals to prevent illegal technology transfers, and cooperates in enforcement activities on an international basis. Export Enforcement special agents work with the Department of Justice on criminal cases, which could result in fines or incarceration, or both, and with the Commerce Department's Office of General Counsel to impose civil penalties for

violations, which can include fines and denial of export privileges. Export Enforcement also conducts joint investigations with the Bureau of Immigration and Customs Enforcement to stop the export of controlled technology to rogue nations.

Many investigations are triggered by leads and tips provided by individuals in the private sector. These are so numerous, in fact, that the agency has a form on its Web site for reporting violations, ensuring whistle-blowers that they will not be contacted by return e-mail. Assisting investigators is the Intelligence and Field Support Division, based at Export Enforcement's Washington headquarters. These agents review information relating to potential export control violations and generate leads for field investigations. There are 11 field and satellite offices for Export Enforcement: Boston; Dallas and Houston, Texas; Des Plaines, Illinois; El Segundo, Irvine, and San Jose, California; Fort Lauderdale, Florida; Herndon, Virginia, and Jamaica and Staten Island, New York. Export Enforcement's activities extend overseas, with attachés in place in Beijing and Shanghai, China, and the United Arab Emirates. Plans for 2004 included adding attachés in India, Russia, and Hong Kong. Through the attaché program, special agents are posted abroad to conduct end-use checks to uncover illegal export transactions.

Two other BIS units involved in Export Enforcement's efforts are the Office of Enforcement Analysis, which reviews export license data for enforcement concerns, and the Office of Antiboycott Compliance, which investigates violations of the antiboycott provisions of the Export Administration Regulations.

Much of BIS's authority derives from the Export Administration Act of 1979, which expired in 2001, but was effectively extended by President George W. Bush's invocation of the International Emergency Economic Powers Act. Included in this are antiboycott laws, which prohibit U.S. companies from furthering or supporting the boycott of Israel sponsored by the Arab League and certain Muslim countries.

There are approximately 100 sworn special agents in OEE who have the authority to carry firearms,

execute search warrants, and make arrests. The command structure includes a director, two assistant directors, a supervisory special agent, eight special agents-in-charge and a resident agent-in-charge. In addition to training at the Federal Law Enforcement Training Center in Glynco, Georgia, agents undergo an extensive two-week course that focuses on investigative techniques and case prosecution for export control cases. Additionally, there is special counterterrorism training for the special agents.

Among cases that were concluded during 2003, total criminal penalties amounted to \$2.2 million and administrative fines totaled \$4.1 million. Actions brought during the year included cases involving the illegal diversion of night vision devices, the illegal export of laboratory equipment to Pakistan, and the illegal export of pipe-cutting machines through a third country to Iran.

Not all export controls involve state-of-the-art technology or sophisticated equipment. For instance, the Department of Commerce requires a license to export specially designed implements of torture and thumbscrews. The controls can be affected by developments overseas, such as when, in 1989, following the military assault on demonstrators by the People's Republic of China in Tiananmen Square, the United States suspended licenses for goods destined for mainland China that had previously been allowed. Other common items that have been denied export to specific destinations have included optical sighting devices, stun guns, shock batons, fingerprint analyzers, lie detection software, and direct imaging equipment.

A major aim of Export Enforcement is to enable American exporters to take advantage of legal export opportunities while ensuring that all illegal exports will be detected and either prevented or investigated and sanctioned. Export Enforcement also makes available an Export Management System, which creates mechanisms for an export company that provides checks and safeguards to help ensure that the right questions are being asked at various points in the export process to preclude the exporter from making shipments that are contrary to U.S. export controls. During the 2003 fiscal year, 12,444 requests for export

licenses were processed, with approximately 84% being approved.

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## BUREAU OF LAND MANAGEMENT LAW ENFORCEMENT

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Part of the Department of the Interior, the Bureau of Land Management (BLM) is responsible for 264 million acres of public lands located primarily in 12 Western states, including Alaska, as well as management of 700 million acres of subsurface mineral estates throughout the country. Use of public lands includes recreation, livestock grazing, and energy and mineral development, and the bureau's mission includes conserving and protecting natural, historical, cultural, and other resources on public lands. Recreational uses include the activities of outdoors enthusiasts as well as organized events that include weddings, public gatherings such as the Burning Man Festival in Nevada, and competitive events like dog-sled and off-highway vehicle races. The bureau's law enforcement personnel are very active in policing off-highway vehicle use in Southern California, including, but not limited to, the Imperial San Dunes, El Mirage, and Dumont Dunes recreation areas.

In 2002 there were 53.4 million recreational visits to public lands for a total of 67.8 million visitor days. The BLM maintains 3,355 buildings, 662 administrative sites, 811 bridges, 806 qualifying dams, and 79,247 miles of roads.

There are 235 sworn officers, including rangers who patrol areas as large as 1.8 million acres, and special agents, who handle investigations. Each state has a staff state ranger who reports to the respective special agent in charge (SAC) for that state. The SACs report

to the director of law enforcement and security, formerly the chief of law enforcement, who is located in Washington, D.C. There is a deputy chief of law enforcement who oversees the Office of Law Enforcement and Security located in Boise, Idaho. That office is staffed to include the chief ranger, special agents, and support staff, who work for the deputy chief. Ranger duties include such routine matters as assisting visitors with disabled vehicles, patrolling camping areas used by 3 million visitors a year, and keeping off-highway vehicles in designated areas.

Fish and wildlife on public lands are protected by enforcement of the Endangered Species Act and migratory bird hunting regulations on public lands. In Alaska, BLM enforces subsistence hunting and fishing regulations. Feral, or wild, horses and burros are protected from abuse by visitors, as well as unauthorized capture or sale. Rangers conduct compliance checks when animals are assigned as part of the bureau's wild horse and burro adoption program. Cultural resources preservation includes protection against vandalism and theft of more than 150,000 prehistoric and historic sites, including ancient cliff and cave dwellings, burial sites, historic trails, cabins and other buildings such as structures used as Pony Express stations, forts, mines, petroglyphs or rock carvings, and natural phenomena such as preserved dinosaur tracks. Mineral resources, including oil, gas, and coal, fall under the supervision of BLM, as does hazardous waste dumping, which can include such items as electrical ballasts containing polyvinylchlorides (PCBs); paint sludge, waste, and solvents; drums of used oil and other flammable liquids; and chemicals used in the illegal manufacture of drugs. Rangers also assist county sheriffs—who have primary jurisdiction—with search and rescue operations on public lands.

Entry-level positions require a combination of education and experience, depending upon the level at which the position is filled. Most jobs are filled by individuals with bachelor's degrees from either a natural resources program or an administration of justice or law enforcement program and who have some prior experience. Once accepted, there is specialized training at the Federal Law Enforcement Training Center in Glynco, Georgia. The majority of the

supervisory or staff law enforcement ranger positions are filled from within BLM, while the majority of special agent positions are filled from within BLM or by transfers from other law enforcement agencies.

The Bureau of Land Management and its law enforcement authority were reorganized and redefined by the Federal Land Policy and Management Act of 1976. Use of public lands has escalated dramatically since 1976 to the point where now two thirds of BLM-managed lands in the lower 48 states are within an hour's drive of major metropolitan areas. As use has increased, so has crime. Between 1993 and 2002 motor vehicle theft rose by 20%, assault by 30%, and vandalism by 70%. Incidents of marijuana cultivation, drug laboratories, and drug trafficking increased by 50%. In 2002, the BLM received reports of 17,654 violations, and enforcement action was taken on 12,712, or 72%, of them. BLM officers responded to 1,944 hazardous materials and illegal dumping incidents; investigated a total of 759 drug cases, including 36 incidents related to illegal drug laboratories; removed 47,305 marijuana plants from public lands and seized over 2,106 pounds of processed marijuana. BLM officers also investigated 616 incidents of theft, 834 acts of vandalism, and 650 fire offenses. One of the thefts involved 500 pounds of forest products, another resulted in a \$50,000 civil judgment against a Pennsylvania man who had stolen a dinosaur. A joint investigation with Oregon State Police resulted in a civil penalty of \$2.5 million being reaffirmed for the destruction and looting of artifacts from Elephant Mountain Cave in Nevada.

BLM special agents investigate and may seek prosecution of unlicensed guides and outfitters providing services for visitors to public lands. (The bureau issues more than 32,000 special recreation use permits annually.) On occasion, BLM law enforcement agents become involved in land disputes, such as the one in Pine Valley, Nevada, involving Shoshones who were disputing federal ownership of lands covering two thirds of the state of Nevada and grazing livestock on public lands. On September 20, 2002, 40 agents confiscated 232 head of cattle owned by Shoshones and four months later, February 6, 2003, returned with state inspectors and hired cowboys to round up 800 horses.

Though restructured into its present form in 1976, the BLM traces its roots to the postcolonial period. Following the War of Independence, the original 13 colonies ceded various lands to the federal government. In the late 1780s, laws were adopted providing for the survey and settlement of these territories. As additional lands were acquired, primarily from France and Spain, Congress in 1812 established the General Land Office as part of the Treasury Department. Westward expansion and additional land acquisitions brought the Homesteading Laws and, following the Civil War, the Mining Act of 1872 and the Desert Land Act of 1877. During this era, there was a marked shift in federal land management policy, with some lands being withdrawn from settlement and preserved as national parks, forests, and wildlife refuges as well as for their other natural resource value. In 1946, the General Land Office and the U.S. Grazing Service, which had been created in 1934, were merged to create the Bureau of Land Management within the Department of the Interior. It took another 30 years for the welter of more than 2,000 laws and regulations dealing with the use, preservation, and protection of public lands and their resources to be unified in the Federal Land Policy and Management Act of 1976.

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## ☞ BUREAU OF RECLAMATION, OFFICE OF SECURITY, SAFETY, AND LAW ENFORCEMENT

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The Bureau of Reclamation gained new responsibilities in the post-September 11, 2001, concerns over terrorism. The century-old agency—which had long

been concerned with constructing dams, irrigation canals, reservoirs, and hydroelectric plants—was charged with bolstering protection of these sites. Prior to September 11, 2001, the bureau lacked authority to enforce federal laws at its sites and facilities, except at Hoover Dam in Nevada. Its entire police force consisted of 13 uniformed officers.

The bureau, sometimes abbreviated BOR and usually referred to as Reclamation, was created with passage of the Reclamation Act of June 17, 1902, when Congress addressed demands from settlers in western states and territories for assistance in the transportation and storage of water. Originally known as the Reclamation Service, it was part of the U.S. Geological Survey and was charged with reviewing potential water development projects in each western state with federal lands. (Texas, which had no federal lands, was later included in the provisions of the Reclamation Act by an act of Congress in 1906.) The service was separated from the Geological Survey in 1907 and made an independent bureau within the Department of the Interior, and its name was changed to Bureau of Reclamation in 1923 as its mission was about to change. By 1928, Congress authorized the Hoover Dam Project in Boulder Canyon, and for the first time, large appropriations were made available from the general funds of the government.

The period from the Great Depression years to the 35 years following World War II saw the peak of Reclamation dam building, reservoir-creating activity, and hydroelectric power plant development. Among the projects in 17 western states were 457 dams, 348 reservoirs with the capacity to store 245 million acre-feet of water, and 58 hydroelectric power facilities. By 1977, the initial mission of the agency to build irrigation and water storage facilities was deemed completed and its electric power marketing functions were transferred to the Department of Energy on August 4 of that year, although dam-building activities continued into the early 1990s. The decision to phase out construction of new dams may have been hastened by the failure of Teton Dam in 1976, the first and only failure of a major Reclamation dam, which, among other things, also led to the development of a modern and enhanced dam safety program.

Today, the bureau claims as its mission “to manage, develop and protect water and related resources in an environmentally and economically sound manner in the interest of the American people.” As the largest wholesale supplier of water in the country, Reclamation annually provides 10 trillion gallons of water to more than 31 million people while irrigating 10 million acres of land that produce 60% of the nation’s vegetables and 25% of its fruit and nuts. Reclamation is the second-largest producer of hydroelectric power in the nation and its fifth largest electric utility, with its plants generating more than 42 billion kilowatt-hours of energy a year. In addition, Reclamation oversees and manages in partnership 308 recreation sites that attract 90 million visits a year.

Law enforcement had traditionally been a low priority at Reclamation, with offenses such as vandalism, illegal dumping, and drug-related activities generally being reported to cooperating state, local, and tribal officials, though the bureau was involved with the water dispute during the summer of 2001 at the Klamath Project on the border of Oregon and California when water was cut off to farmers in order to protect endangered species. Security, however, has long been a concern of the bureau and from its earliest days, armed guards—including operators at Reclamation facilities on occasion—have been used to protect dams, water works, and generating plants. This was especially true during World War I, when women were pressed into service as armed guards at some locations, and again during World War II, when the Department of the Army provided armed security personnel at some of the more vulnerable sites.

In the aftermath of the September 11, 2001 terrorist attacks, law enforcement officers from other Interior Department police forces, as well as from other agencies, assisted in providing law enforcement and security at Reclamation facilities. This practice was officially recognized with Public Law 107-69 (November 12, 2001), which granted the Bureau of Reclamation the authority to provide law enforcement at its facilities by contract with the Department of the Interior and other federal, state, local, and tribal organizations. Though the personnel

are provided by outside agencies, Reclamation developed job requirements and standards of conduct that may differ from those of the officers' employing agencies. The number of sworn officers at Hoover Dam has been increased to about 30.

In September 2002, a new Office of Security, Safety and Law Enforcement was established within the Bureau of Reclamation, headed by Director Larry L. Todd and headquartered in Denver. Todd, a long-time federal employee with experience in water resources, land management, and reservoir design and construction was Reclamation's director of operations when he accepted the new post. In keeping with the Bureau of Reclamation's traditional emphasis on protection rather than policing, the directors of security and law enforcement are equals who each report directly to the director of the Officer of Security, Safety and Law Enforcement.

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## BURNS DETECTIVE AGENCY

Following a path similar to Allan Pinkerton, William J. Burns and William Sheridan formed the Burns and Sheridan Detective Agency in 1909 after securing a contract with the American Bankers Association to provide protection to its 11,000 member banks. Sheridan left the company within a year, and the company changed its name to William Burns' National Detective Agency, generally shortened to Burns Detective Agency.

Although by the time Burns decided to provide private security to a number of major industries, federal policing had developed considerably from the 1850s, when Pinkerton began his firm, Burns also capitalized on his experiences as a public

police officer to establish his firm. Burns, who was born in Baltimore, Maryland, and whose father had been the elected police commissioner of Columbus, Ohio, began his own career in law enforcement in 1889, when he joined the fledgling Secret Service, where he remained for 14 years until transferring to the Department of the Interior. At the time, most of the work of the Secret Service was investigating counterfeiting.

Reflecting a more fluid movement between public and private policing that existed at the time, he turned his company over to his sons, Raymond and W. Sherman, when he was named head of the Bureau of Investigation (BOI) in 1921, where he remained until 1925. Burns was the personal selection of Attorney General Harry M. Daugherty, whom he had known for more than 30 years. Although both he and his firm had a reputation for solving cases, albeit by resorting to techniques that may have skirted the law, he was confirmed for the position, replacing William J. Flynn, who had also made his reputation as chief special agent for the Baltimore & Ohio Railroad and had worked for the U.S. Rail Administration when the railroads—and their police—were nationalized during World War I. Daugherty became involved in a number of scandals that also engulfed Burns and resulted in claims that he had misused his office. Burns returned to his detective agency and was replaced at the BOI by J. Edgar Hoover, who would become responsible for transforming the BOI into the modern Federal Bureau of Investigation (FBI) in 1935.

Burns was flamboyant and his firm was successful due in large measure to his having solved a case in 1911 that involved the bombing of the *Los Angeles Times* Building on October 1, 1910, which occurred during midday and resulted in a number of deaths and more than 300 injuries. When a bomb went off in New York City's Wall Street financial district on September 16, 1920, Burns was also hired to investigate the case. Although the Los Angeles case resulted in criminal prosecutions, the New York case was never solved and no one was ever prosecuted for it. It is difficult today to imagine such cases being handled by a private security firm rather than by some combination of local police departments, the

FBI, and possibly the Bureau of Alcohol, Tobacco, Firearms, and Explosives due to its expertise in arson and explosive devices.

By the time Burns returned to his agency, the shift to federal policing had begun. He was the last of the prominent private detectives, who were replaced by public servants employed in a variety of federal law enforcement agencies. Burns's sons and his widow controlled the company until 1958, after which a number of grandsons and grandsons-in-law ran it until it was taken over by Securitas AB, a Stockholm company that is one of the world's largest security businesses.

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*See also* Federal Bureau of Investigation, Pinkerton National Detective Agency, Railroad Policing, Secret Service

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## ☞ CAMPUS SAFETY AND SECURITY ACTS

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Prior to 1990, many college and university administrators did not report information about incidents of crime and violence that occurred on their campuses since there was no enforced mandate to report such occurrences. This changed in 1990, when Congress enacted the Crime Awareness and Campus Security Act (Pub. L. No. 101-542, 104 Stat. 2385) as an amendment to the Student Consumer Information Act of 1976.

This legislation was promulgated after years of lobbying by the Clery family (whose daughter had been murdered on a college campus in Pennsylvania in 1986), campus law enforcement officials, and others who had been affected by, or who were concerned about, the rise in crime on the campuses of higher education institutions. The act was amended in 1992 to require that schools give victims specific basic rights (The Sexual Assault Victim's Bill of Rights) and again in 1998 (The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act), which mandated reporting obligations regarding sexual assault. The act forced higher education officials to design and implement more effective security and anticrime policies, strategies, and practices and to monitor as well as report on campus crime patterns and trends.

The Student Consumer Information Act is a section of Title IV (student financial aid) of the Higher Education Act of 1965. Thus, the Crime Awareness and Campus Security Act of 1990, 1992, and 1998 applies to all postsecondary institutions that receive student financial assistance under Title IV or who participate in federal student aid programs, including Pell Grants, Perkins Loans, and Work Study funds.

The Right to Know and Campus Security Act requires that participating institutions disclose their security policies, crime prevention and sexual-assault awareness and response programs, and crime statistics to the U.S. Department of Education upon request and to the public (including current students, employees, and, if requested, applicants for enrollment or employment). The act also provides that institutional reports include crime incidents for off-campus offenses, such as when recognized student organizations are not housed on an institution's grounds or are housed in off-campus facilities. However, this act does not mandate the reporting of minor offenses such as petty larceny crimes. Furthermore, such factors as the misreporting and underreporting of crimes and plea bargaining may skew reporting agencies' data.

Additionally, there are serious flaws in how colleges and universities classify and investigate crime. These issues are compounded by the lack of uniformity in

how institutions educate and train their students and staff about what constitutes a crime and crime reporting procedures. As such, accurately measuring the amount of crime and determining the types of crime on college and university campuses is problematic.

Few public or private institutions are exempt from the requirements of the Campus Security Act. The Campus Security Act is a protective policy law that mandates that institutions receiving Title IV student aid funds must collect, report, and disseminate, to the campus community, policy information (including enforcement policies and crime prevention programs) about campus crime in a comprehensive yearly report. The statistics on campus crime must also be provided for the three calendar years prior to the year in which the report is disclosed. Participating colleges and universities must provide statistics in certain crime categories—murder, forcible and nonforcible sex offenses, robbery, aggravated assault, burglary, and motor vehicle theft. Also, statistics for certain arrests are mandated, including liquor law violations, drug abuse violations, and weapons possession offenses. However, not every occurrence of one of these crimes needs to be reported. The regulations specify that “while the notice should be timely in order to put students and employees on notice and prevent similar crimes from occurring, it need only be given if campus authorities consider the particular crime to represent a threat to students and employees.” This law also regulates certain aspects of campus disciplinary hearings and rules of procedure for the adjudication of sex offense allegations.

The act further requires that colleges and universities provide timely warning notices to the campus community of the specified reported crimes and those which represent a threat to students or employees of the institution. Failure to comply with the law and its regulations could result in tort liability suits, federal civil rights suits, and a loss of student aid funds.

### **THE RELATIONSHIP OF THE CAMPUS SECURITY ACT TO FERPA**

The Campus Security Act also amended the Family Educational Rights and Privacy Act (FERPA) to

allow, but not require, institutions to notify the victims of crimes of violence of the outcome of disciplinary hearings. This is a specific amendment that only provides that institutions are not prohibited from disclosing the outcome. It is unlike the provision in the Sexual Assault Victim’s Bill of Rights, which does not amend FERPA, but requires the disclosure of disciplinary outcomes to victims of sexual offenses.

The 2002 Campus Sex Crimes Prevention Act clarified the language in FERPA, allowing sex offense records to be made public. It requires the disclosure of information about sex offenders enrolled, working, or volunteering at higher education institutions. Specifically, it requires each state to provide information regarding registered sex offenders to the local law enforcement agency that has jurisdiction where an institution of higher education is located. The state or local law enforcement agencies must then share the information with the appropriate college or university. Campus officials must then disseminate the information to the campus community through internal media.

The act further requires that any person who is required to register with the state as a sex offender must notify the state if he or she is a student at or employed by a college or university. The sex offender must also alert the state if his or her enrollment or employment status at the higher education institution changes.

The Campus Sex Crimes Prevention Act amended a section of the Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. No. 103-322). It also expanded the Clery Act of 1998, originally known as the Campus Security Act, requiring sex offender information to be included in the mandated yearly campus crime statistics report. States that fail to comply with the notification requirements of this registered sex offender law risk losing a portion of their federal funding. States had until September 30, 2003, to comply with the act before being subject to the loss of federal funds.

### **OTHER FEDERAL LAWS**

In addition to the Campus Security Act, Subtitle C (Section 403.02) of the Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. No. 103-322)

created a federal civil rights cause of action for anyone who is a victim of a gender-motivated act of violence. Under this law, the act of violence need not result in criminal charges, prosecution, or conviction and because it is a civil suit, it offers compensatory as well as punitive damages as a remedy. In 1992, Congress passed the Ramstad Amendment, which required higher education institutions to adopt policies to prevent sex offenses and procedures to deal with sex offenses once they have occurred.

A higher education institution's response to crime and its prevention is now required by legislation. Many court decisions have upheld the premise that colleges and universities are accountable for disseminating crime information, posting special crime alerts, offering crime prevention programming, and developing policies and support services to address specific crime risks (especially sexual assault).

The courts have held that "colleges have duties to warn, to protect, to keep promises of security," and in some cases "to screen employees and students for crime risks." If colleges fail to act, they may be held liable for injuries that may result (*Miller v. State of New York*, *Peterson v. San Francisco Community College District*).

Some courts have likened the college or university to a landlord and held it to the same duty that any landlord owes a tenant: to keep the premises in a reasonably safe condition, which includes a duty to maintain minimal security measures against foreseeable dangers (*Miller v. State of New York*, *Nero v. Kansas State University*).

Other courts have addressed violations in terms of contract law (*Ross v. Pennsylvania State University*). This interpretation is based on the principle that the college and its students have entered into a contract (whether explicit or implicit, written or oral) in that if the students have paid tuition and fees and meet the established academic and social criteria, the college will confer a degree or provide housing or other services.

Although the courts have held that, in some cases, the terms and conditions of the contract may be changed by the institution without breaching the contract, university officials must be aware that what is published in college catalogs, brochures,

and handbooks may be the subject of litigation (*Duarte v. State of California*). Therefore, every word used in university publications is important and promises of extraordinary programs and services to entice students are risky. Other courts have held both the university and administrators personally liable for damages resulting from negligence (*Mullins v. Pine Manor College*).

Traditionally, campus administrators and those responsible for executing college and university security programs were essentially immune, or legally protected from, lawsuits. However, current legislation and an abundance of case law makes it clear that higher education administrators will not be automatically exonerated from allegations and charges of recklessness and negligence made pursuant to their acts or omissions with regard to campus safety and security. Higher education administrators are being held responsible and accountable for the impact of their decisions upon the campus community. They are now bound by law to design, implement, monitor, and evaluate proactive, remedial, and preventive campus safety and security programs.

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*See also* International Association of Campus Law Enforcement Administrators

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## ☞ CHEMICAL AND BIOLOGICAL TERRORISM

Chemical and biological weapons are rarely used by terrorists, yet they have captured the public

imagination. These weapons have the potential to kill many thousands of people, but are far more difficult to acquire, control, and use effectively than conventional weapons. Chemical and biological weapons, though often classed together, have very different characteristics and require quite different responses. A chemical attack on civilians can be considered in many ways similar to a hazardous materials incident, while a biological weapons attack would be more like a disease epidemic. Both, of course, would have the added complication of requiring a criminal investigation and could spread considerable fear through the community.

The first responders on the scene of a chemical weapons attack would be local responders. Despite the multiple federal response teams trained to deal with the aftermath of a terrorist attack, the brunt of response will be borne by local units. Law enforcement officers, often the first responders to arrive, have been nicknamed *blue canaries*; as canaries were used in mines to indicate the presence of bad air, collapsing police officers may indicate the presence of noxious chemicals. But officers, even without protective equipment, arriving at the scene of a chemical weapons release would not necessarily be physically affected. Depending on environmental conditions and the nature of the agent, the chemicals may have dissipated or inactivated fairly quickly. If trained appropriately, 911 operators may be able to warn responders of the presence of chemical hazards. Hazardous materials units (Hazmat) or the fire service, which routinely assess chemical hazards, would command the scene. Law enforcement responsibilities would include establishing perimeter control, maintaining an exclusion zone or multiple zones into which only appropriately protected responders would be allowed to enter, and generally securing the area. Other duties would include evidence collection from the crime scene, crowd control, and recording contact information from victims and witnesses. Following a large event, maintaining security at hospitals may be necessary. Police officers might be required to organize an orderly neighborhood evacuation or, alternatively, persuade people to remain indoors.

For large-scale events, the National Guard would be asked to assist law enforcement. The National

Guard is normally under the authority of the state, but in extreme circumstances might be federalized, that is, put under federal command.

Successful response to and investigation of a bioterrorism attack would necessitate close cooperation between the law enforcement and public health communities. Medical professionals would be the first to see indications of a biological terrorist attack, but may not recognize the initial cases as non-natural disease occurrences. Unusual symptoms or lab findings, disease clusters, or increases in cases of flu-like diseases outside the normal influenza season would be cause for concern. However, a disease new to the United States would not necessarily have been introduced by a bioterrorist— HIV, West Nile virus, SARS, and the Hanta virus arrived without the aid of terrorists.

In 1996, a criminal investigation was initiated after public health authorities notified the police that an outbreak of gastroenteritis among medical center staff was caused by an unusual bacterium, a strain of *Shigella dysenteriae* rare in the United States but stocked by a laboratory at the center. A staff member had grown the bug at work and used it to contaminate her colleagues' breakfasts. In Oregon, an extensive epidemiological investigation was carried out by public health officials of two mass outbreaks of salmonellosis affecting more than 700 people in 1984. A year later, a member of a local cult confessed to having deliberately poured *Salmonella* cultures into salad bars in local restaurants. Members of the Bhagwan Shree Rajneesh commune had grown and disseminated the bacteria in a bizarre attempt to influence the outcome of local elections. Two people were convicted of violating the federal Antitampering Act. In both of these cases, the public health community was the first to become aware of a health problem necessitating a criminal investigation.

Law enforcement and public health investigations differ. Law enforcement investigations attempt to gather evidence that will withstand legal scrutiny in court. Public health investigators seek sufficient information to identify the cause of a disease outbreak, with the aim of halting it and preventing future outbreaks. Evidence collected in the course

of a legitimate public health investigation may be used in a criminal investigation, but only if a proper chain of custody has been maintained.

Public health officials are granted certain enforcement powers under a body of law known as police powers. If goods are a danger to public health, officials may destroy them with minimal due process and no compensation to the owner. Quarantine or other limitations of liberty may be imposed on individuals who threaten public health. They may take enforcement actions without prior court hearings and may search and seize without probable-cause warrants.

State governments have the primary legal authority and responsibility for public health. Many public health laws were written in response to historic epidemics and are considered by health law experts to be outdated and in need of reform. It is unknown how effectively they could be used to counter a large-scale bioterrorist attack. During the early years of the AIDS epidemic, out of concern for individual rights, some states passed legislation restricting public health police powers. If a massive bioterrorism attack ever took place, quarantine, forcible treatment or vaccination, and other actions severely infringing on individual rights might be mandated, but would doubtless be appealed in the courts. Regardless of the legality of the public health authorities' orders, they would be ineffective without adequate enforcement. During the first TOPOFF exercise (a weapons of mass destruction response exercise involving top federal and local officials, held in 2000), law enforcement and National Guard representatives indicated that they would be unable to force people to stay within their homes. Law enforcement authorities have voiced concern about the level of force that might be required to enforce unpopular restrictions, including perimeter maintenance and quarantine, and have expressed doubts about whether officers would be willing to use unusual levels of force in such a situation.

Conflicts of opinion may develop between law enforcement and public health authorities regarding choosing between potentially protecting the population and collecting evidence to support criminal

investigations. Careful joint planning of bioterrorism responses before an event takes place can identify and resolve potential conflicts.

The overwhelming majority of suspected biochemical weapons events are hoaxes. The challenge for local responders is to develop a standard response routine appropriate for dealing with a hoax without overreacting and capable of confronting a genuine attack appropriately and safely.

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## CHILDREN'S ONLINE PRIVACY PROTECTION ACT

In July 1998, the Children's Online Privacy Protection Act of 1998 (COPPA) was introduced by Senators Richard H. Bryan (R-NV) and John McCain (R-AZ). The act was proposed in response to a Federal Trade Commission (FTC) report that found that Web sites targeted at children were collecting personal information without any safeguards. The FTC was concerned that collection of personal information from children without parental consent would be an unfair and deceptive trade practice.

COPPA was passed within months of its introduction and took effect on April 21, 2000. COPPA requires that commercial Web site operators who have knowledge that they are dealing with a child aged 12 or under, or who aim their content at children, obtain verifiable parental consent before collecting any personal information from a child. A child's personal information may include his or her

full name, home address, e-mail address, telephone number, and Social Security number. The act also covers information such as hobbies or interests when such information is tied to individually identifiable information.

The FTC considers several factors in order to determine whether a Web site is directed toward children. These factors include subject matter, visual or audio content, age of models on the site, language, advertisements, and whether the site uses animated characters or other child-oriented features. The FTC determines who qualifies as a Web site operator by considering who owns and controls the information, who pays for the collection and maintenance of the information, what the preexisting contractual relationships are in connection with the information, and what role the Web site plays in collecting or maintaining the information.

According to COPPA, the operator must make reasonable efforts to ensure that, before personal information is collected from a child, a parent of the child receives notice of the operator's information practices and consents to those practices. Operators may use e-mail to get parental consent for all internal uses of personal information. However, should operators want to disclose a child's personal information to third parties or make it publicly available, they must use a more reliable method of consent, such as obtaining a signed form from the parent via postal mail or facsimile, accepting and verifying a credit card number in connection with a transaction, taking calls from parents, or obtaining e-mail accompanied by a digital signature.

Additionally, COPPA requires that these Web sites place their information collection, use, and disclosure policies prominently on their Web site, both on their homepage and at each area where personal information is collected. The notice must be clearly written and must state the kinds of information being collected, the methods of collection, how the information is used, by whom the information is collected, and whether the information is disclosed to third parties. The law also states that parents be allowed to review and delete information about their children collected by the Web site. COPPA also forbids Web sites from conditioning a child's

participation in online games, contests, or any other activity upon the disclosure of more information than is reasonably necessary to participate.

## EXCEPTIONS TO THE RULES

There are several exceptions to COPPA's regulations. For instance, Web sites that collect information that is not personally identifiable, such as demographic information, do not have to seek parental consent. Additionally, Web sites that do not archive collected information fall outside of COPPA's legislation. Finally, when a site responds to a request for multiple contacts, as in the case of online subscriptions, the site operators can collect the necessary information, but must provide parents with both notice it has done so and the option to remove their children from the mailing list.

The regulations also include several exemptions that allow operators to collect a child's e-mail address without obtaining the parent's consent in advance. For instance, prior parental consent is not needed when an operator collects an e-mail address to respond to a one-time request from a child and then deletes it. Also, an operator can collect the child's name or online contact information to protect the safety of a child who is participating on the site or to protect the security of the site.

Violators of COPPA could be liable for civil penalties of up to \$11,000 per violation, depending on the number of children involved, amount and type of personal information collected, how the personal information was used, and whether the information was shared with third parties. The FTC announced its first civil penalties in April 2001 when three Web site operators were cited for violations of COPPA. The FTC charged Monarch Services, Inc. and Girls Life, Inc., operators of [www.girlslife.com](http://www.girlslife.com); BigMailbox.com, Inc. and Nolan Quan, operators of [www.bigmailbox.com](http://www.bigmailbox.com); and Looksmart Ltd., operator of [www.insidetheweb.com](http://www.insidetheweb.com), with illegally collecting personally identifying information from children under 13 years of age without parental consent, which is a direct violation of COPPA. Each Web site failed to post privacy policies that complied with COPPA and none obtained

the required consent from parents prior to the collection of their children's personally identifiable information.

To settle the charges, the companies together paid a total of \$100,000 in civil penalties; specifically Girlslife was assessed \$30,000 and BigMailbox and Looksmart were each assessed civil penalties of \$35,000. The settlements should deter future violations of COPPA, and they require that the operators delete all personally identifying information collected from children online at any time since COPPA's effective date. Operators are required to also post a privacy policy that complies with the law and post a link to the KidzPrivacy Web site of the FTC. In addition, BigMailbox is prohibited from making deceptive claims in its privacy policy.

*Dryden Watner*

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## ✠ CHURCH ARSON PREVENTION ACT

In early 1996, federal officials detected a pattern of increasing arson attacks on churches, particularly on African American churches in the southern portion of the country. In May of that year, a hearing before the Committee on the Judiciary of the House of Representatives brought together members of the legislature, law enforcement, and victim congregations. After reviewing testimony and supporting

evidence, President William J. Clinton called for the formation of the National Church Arson Task Force (NCATF). In July, just six weeks after the committee hearing, a bill to give the NCATF greater powers passed quickly and unanimously through Congress and was signed into law by President Clinton as the Church Arson Prevention Act of 1996.

Previously, federal officials referred to either the Anti-Arson Act of 1982 to prosecute anyone who set fire to property used in interstate commerce (18 U.S.C. 844(i)) or civil rights legislation to prosecute anyone who conspired to deny a person's civil rights or who desecrated religious property (18 U.S.C. 241 and 247). The new law amended section 247 of Title 18 and granted federal prosecutors greater power. It allowed them to file charges in racially motivated arsons without having to demonstrate that resulting damage totaled \$10,000 or more or that the incident involved interstate commerce. In addition, it enabled prosecutors to seek sentences of up to 20 years imprisonment for arson or 40 years if the arson resulted in bodily injury to any person, including public safety officials (Pub. L. No. 104-155).

The legislation called for a three-pronged approach to combating the problem. The first was to help communities rebuild or repair damaged churches. To aid in rebuilding efforts, the Department of Housing and Urban Development was given the administration of a \$10 million Federal Loan Guarantee Fund and assigned to work with groups such as the Congress of National Black Churches, the National Council of Churches, and Habitat for Humanity. Second, the law sought to effect prevention of church burnings. To do so, the Department of Justice awarded \$3 million in grants to counties that had been affected by the arsons in an effort to intensify enforcement and surveillance. In addition, the Federal Emergency Management Agency (FEMA) awarded about \$1.5 million for training for arson prevention and established a clearinghouse for arson prevention resources.

Third, the law was meant to facilitate the identification, arrest, and prosecution of church arsonists.

The NCAITF was created to make the arsons a priority of federal law enforcement and was given the charge of working with local authorities in investigating arsons, bombings, or attempted bombings at houses of worship. It was made up of prosecutors from the Civil Rights Division of the Justice Department and the U.S. Attorneys' Offices, conciliators from the Community Relations Service, agents from the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF), the Federal Bureau of Investigation (FBI), and other state and federal officials.

Upon its inception, the NCAITF developed a protocol to ensure that all lines of inquiry were pursued and to ensure effective coordination among task force members. Agents from the BATF brought their knowledge of arson and bombing investigations, and the FBI brought its experience in civil rights investigations. Cross-training was conducted between the two agencies and among other members of the task force. It also developed a database to track and analyze cases and ongoing investigations, established a toll-free tip line, and—with the assistance of FEMA—distributed copies of a church threat assessment guide to congregations. It began its operations by opening up 429 investigations into arsons that had occurred between January 1, 1995 and May 27, 1997.

According to the fourth and to date, last, annual report from the NCAITF, by August 2000, 945 cases had been investigated in total. Of those, 310 involved African American churches and 213 of those were in the southern United States. From the total 945, there were 431 arrests made in connection with 342 incidents, representing a 36.2% arrest rate. Since the task force began its investigations, its arrest rate represented more than double the 16% arrest rate for arson crimes in general. Of the 431 arrests, state and federal prosecutors successfully convicted 305 individuals in connection with 224 incidents. Of the 79 defendants who were convicted on federal charges, 46 were motivated by bias, resulting in 37 hate crime convictions and nine guilty pleas to other charges. In July 2000, Scott Jay Ballinger, a self-avowed worshiper of Lucifer, confessed to setting 26 fires in eight states, making

his the largest number of fires linked to a single individual in the task force's history.

Although officials continue to investigate the possibility, evidence does not point to the existence of any kind of nationwide conspiracy. There were some cases, however, in which the offenders were members or former members of hate groups. Analysis of all investigations led to a determination that although blatant racism and religious hatred were among the motivations for the arsons, other reasons—including financial profit, burglary, personal revenge, and common vandalism—were also prevalent. Although officials point out that there has been a decline in the number of church arsons, an estimate in late 2002 still put the number of incidents at approximately 10 a month.

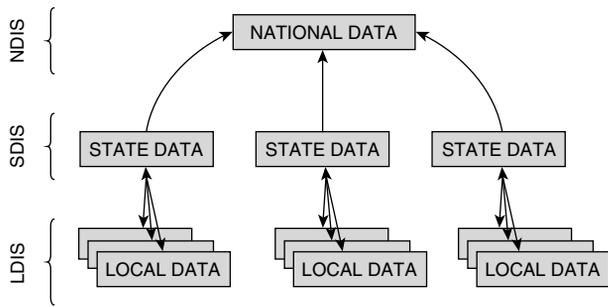
Nancy Egan

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## COMBINED DNA INDEX SYSTEM

Imagine a law enforcement tool that can take biological information from a crime scene, enter it into a computer, and obtain information sufficient to tentatively identify a suspect for investigation. Similar to automated fingerprinting systems, genetic profiles can be obtained from a crime scene, people (to include victims or offenders), or items belonging to missing persons. The Combined DNA Index System (CODIS) is a computerized, hierarchical system that allows the entry and storage of genetic profiles for law enforcement purposes.



**Figure 1** The CODIS Database Chain

The system was initially developed by the Federal Bureau of Investigation (FBI) in 1990 and operated on a limited basis. The DNA Identification Act of 1994 provided the FBI with the authorization to expand the project on a national level and it was four years later, in October 1998, the National DNA Index System (NDIS) officially went online.

The CODIS database has a three-level structure (see Figure 1) that includes the local law enforcement community (Local DNA Index System, LDIS), the state level (State DNA Index System, SDIS), and the national level (NDIS). The FBI maintains the database but the local level is instrumental in the process, with the majority of DNA profiles generated at the lower levels. The flow of information moves from the LDIS level upward to SDIS level where state agencies and laboratories may retrieve and further exchange information within the state. From this point the profiles become accessible to agencies across the nation, via NDIS. This structure allows for differences in local and state law but facilitates national access and utilization.

### WHAT IS ENTERED INTO THE SYSTEM?

It is well known today that genetic information can identify individuals and that a database system can hold this information, but most people cannot explain how the system works. There are actually multiple types of specific genetic information, obtained from different sources and by various methods, that are incorporated into the system. The entire DNA makeup of an individual contains

a vast amount of material and is referred to as *genomic DNA*. Scientists have narrowed down this tremendous amount of information to several specific, short segments that are highly variable and can be used to individualize a sample to a particular individual. These short segments are known as microsatellites or short tandem repeats (STRs) and are taken from nuclear DNA (nuDNA). Nuclear DNA comes from the nucleus. What makes STRs so helpful is that original DNA typing required relatively large, pure (uncontaminated) samples to provide information. Obvious problems, from an investigatory stance, are that samples are rarely large or pure. STRs are very small, short segments of information that can be chemically copied quickly (polymerase chain reaction) to create a larger sample for testing. The FBI system has isolated 13 STRs on the nuDNA that can be used together (multiplexed) to calculate the probability that a sample came from no one but a particular individual. This is not a sample-to-sample direct match system, but is based on frequencies of known populations. Thus the chance of 1 in 67 billion that a sample came from someone other than the offender is a pretty good estimate that the sample and offender are one and the same.

What happens when samples have been highly degraded as in skeletons, teeth, or hair obtained from old body dump sites? There is only one nucleus in a cell and these can be destroyed quite easily, making nuDNA profiles impossible. New technology has established mitochondrial DNA (mtDNA) as an optional profiling system. Every cell contains hundreds of mitochondria, which supply the cell with power and contain a short independent segment of DNA. This material is not as individualistic as the nuclear type but can be used to indicate if remains are associated with a particular family (it is passed down through the mother).

### HOW CODIS WORKS

The genetic information is downloaded into the system and organized based on the origin of the sample. There are currently five categories: (1) Convicted Offender Index, (2) Forensic Index,

(3) Unidentified Human Remains, (4) Relatives of Missing Persons, and (5) Population File.

The Convicted Offender Index contains all DNA profiles obtained from convicted persons in accordance with state or federal laws. Depending on the state, cases that qualify to be included in the database may range from misdemeanors to sex crimes and homicide. The Forensic Index is comprised of DNA samples obtained from crime scenes during investigations. These samples may include blood, hair, saliva, or fingernail clippings. In some instances, even skin removed from earphones or other evidence left at the scene of a crime has been used for identification. The Unidentified Human Remains Index is based on samples recovered from remains found but not yet identified. The Relatives of Missing Persons Index is comprised of DNA samples voluntarily supplied by family members of missing persons that may be later cross-referenced with unidentified remains or forensic samples. Last, the Population File is based on sampling from groups in society in order to establish statistical frequencies of the genetic profiles. Recently, mtDNA population information from the Scientific Working Group on DNA Analysis Methods for all major racial groups was also included in the population data.

Once the information is in the system, several possible outcomes to searches may occur, the most common being conviction of the suspected offender. In this situation a forensic scene sample corresponds to that of the individual who is charged with a crime and is convicted at trial or who pleads guilty to the crime charged or to a related offense. There are also forensic matches that occur when scene information from one investigation corresponds to DNA samples from another. The most controversial though are the cold hits in which the crime scene information is matched to an offender's older profile already in the system. These offender matches may be used as probable cause to obtain John Doe warrants ordering new blood samples from the suspect.

## THE FUTURE OF CODIS

By 1995, all 50 states had enacted legislation establishing DNA databases. Depending on state statute,

convicted offenders are required to submit a biological sample, typically blood, for profile typing and entry. The FBI estimated in late 2002 that CODIS had aided in more than 6,400 investigations and generated more than 6,000 matches. The majority of these cases were concentrated in Florida, Illinois, New York, and Virginia. The reasons for this seem to be that these states established their databases and had forensic facilities to handle them earlier than other states. In addition, these states seem to have officers submitting tremendous amounts of material for analysis due to police education and awareness in forensics; thus, more offenders are on file and there are more samples that correspond to those in the databases. Regardless of location, by 2003, there were more than 1,224,034 offender profiles available for comparison in the database and 44,140 forensic case samples.

On an even larger scale, efforts are underway to coordinate multiple country identification. Since many labs worldwide are changing to the STR system from previous methods and adopting the same 13 markers as the FBI, it may be possible to directly compare profiles provided by Britain, Canada, and a number of European countries. This further expands the potential power of identifying offenders who travel and continue to commit crimes.

As knowledge of CODIS grows as a tool in law enforcement, it expands the ability of investigators to apprehend offenders. An unfortunate by-product is an ever increasing backlog of samples awaiting entry to the system. States that continue to widen the DNA requirements to include nonviolent offenders as well as retesting of older samples have created a tremendous workload. It was estimated in 1999 that over 180,000 rape kit samples alone remained unprocessed. In addition, many laboratories are inundated with scene samples, thus limiting the processing to only those involved in more serious crimes and likely sample sources. It is apparent that if CODIS is to function as intended there is an overwhelming need to create efficient methods of entering backlog cases and incorporating new information as it is submitted.

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## COMMISSION ON THE ACCREDITATION OF LAW ENFORCEMENT AGENCIES

The accreditation of American law enforcement agencies began in 1979 with the establishment of the Commission on the Accreditation of Law Enforcement Agencies (CALEA). CALEA was created to act as an independent accreditation program under the authority of four major law enforcement associations: the International Association of Chiefs of Police, the National Sheriffs' Association, the Police Executive Research Forum, and the National Organization of Black Law Enforcement Executives. The commission was created to develop a body of law enforcement standards defined by police professionals and to establish an accreditation process by which law enforcement agencies could demonstrate that they met criteria for excellence in police management and police service delivery.

CALEA is a nonprofit corporation that is not connected to any local, state, or federal government agency. It is composed of 21 members: 11 law

enforcement personnel and 10 representatives from other public and private agencies. The commission selects individuals who have a breadth of knowledge and experience in law enforcement. These qualifications are necessary in order for CALEA members to conduct thorough on-site evaluations and assessments during the accreditation process.

The standards for accreditation were outlined in the first edition of *Standards for Law Enforcement Agencies* in 1983. The first edition of *Standards* contained a description of more than 900 accreditation standards. Since 1983, a Standards Review Committee composed of 35 law enforcement leaders from across the United States has refined the original standards down to 439 standards. The fourth edition of *Standards* containing the revised list of 439 accreditation standards was officially adopted in January 1999. The standards prescribed by CALEA are designed to improve the delivery of police services to communities (including the prevention and control of crime), to increase citizen confidence in the goals and objectives of local law enforcement agencies, and to increase cooperation and collaboration between law enforcement agencies in the criminal justice system.

The CALEA Web site outlines the accreditation process in five phases. First, police agencies must complete an accreditation application. Next, police agencies must complete a self-assessment of department policies, which will result in a series of proof of compliance forms. The third step of accreditation requires an on-site assessment by CALEA members to observe police agencies and to allow the CALEA team to check all proof of compliance forms. The fourth step requires that police personnel attend a commission review in which the commission determines accreditation status. The final phase of accreditation requires accredited police agencies to continue compliance with accreditation standards through reaccreditation. Accreditation lasts for a period of three years. Thereafter, police agencies are required to submit annual reports to CALEA that demonstrate that they remain in compliance with all CALEA standards. Reaccreditation occurs at the end of the three years, pending another successful on-site assessment and hearing before the commission.

Law enforcement agencies participate in the CALEA accreditation process on a voluntary basis. The first law enforcement agency in the United States to receive accreditation from CALEA was the Mount Dora, Florida, Police Department in May 1984. The Arlington County, Virginia, Police Department; Elkhart County, Indiana, Sheriff's Office; Baltimore County, Maryland, Police Department; and North Providence, Rhode Island, Police Department were accredited in November 1984. As of 2000, CALEA reported that it had accredited more than 530 law enforcement agencies in the United States.

CALEA proposes that accreditation can provide several benefits to law enforcement agencies. Some of those benefits include easier attainment of police liability insurance coverage, stronger defense against lawsuits and complaints filed by citizens, an overall increase in police accountability, and more support from government agencies and citizens. However, there has been limited research conducted to explore whether accreditation in fact provides, the previously mentioned benefits to accredited law enforcement agencies compared to nonaccredited law enforcement agencies.

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*See also* International Association of Chiefs of Police, National Organization of Black Law Enforcement Executives, National Sheriffs' Association, Police Executive Research Forum

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## COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT

Prior to the passing of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (CDAPCA), a plethora of legislation relating to control and diversion of drugs was in place. Congress had enacted more than 50 laws to deal with the escalating problem of drug use and drug trafficking. These laws were sometimes confusing and often duplicative. The CDAPCA (Pub. L. No. 91-513) was proposed to collect and consolidate the laws into a single piece of legislation. Since its passage it has remained the foundation of the federal government's enforcement of drug laws.

At the time the CDAPCA was proposed, the U.S. government reported that drug use was a growing problem, approaching epidemic proportions. Between 1960 and 1968, there was a 322% increase in drug arrests. Furthermore, the government was concerned about the increasing number of minors using drugs. Of the drug arrests in 1968, 43,200 of those arrested were under the age of 18, and 6,243 were under the age of 15. Government officials also noted that, in 1965, almost 50% of the 9 billion amphetamines and barbiturates produced legitimately in the United States had been diverted into illegal channels.

The Comprehensive Drug Abuse Prevention and Control Act of 1970 sought to combine both the punitive and the rehabilitative approaches to the problem of drug abuse. The act has three titles. Title I covers rehabilitation, Title II deals with control and enforcement, and Title III has to do with imports and exports.

Title I provided authority for the Department of Health, Education and Welfare (HEW, which in 1980 became the Department of Health and Human Services) to increase its efforts in the rehabilitation, treatment, and prevention of drug abuse through community mental health centers and through public health service hospitals and facilities. This section of the act allotted \$40 million for fiscal year 1971, \$50 million for fiscal year 1972, and \$80 million for

fiscal year 1973, to be used in the construction and staffing of narcotic treatment facilities and for special projects in the field of narcotic addiction.

Title I also authorized annual appropriations of \$20 million each year for 1971-1973 for grants by the HEW secretary to public or nonprofit private agencies for the treatment and rehabilitation of drug dependent people. The secretary also authorized grants for drug abuse education directed at the general public, children in school, and high-risk groups. Title I also granted the secretary the authority to protect the privacy of drug research subjects by nondisclosure of identifying data, thereby enabling the researcher to guarantee research subjects complete anonymity, with immunity from prosecution.

Title II is often referred to as the Controlled Substances Act. The Controlled Substances Act established a hierarchy of prescription and prohibited drugs and placed every drug in one of five control schedules. The drugs are grouped by their potential for abuse, ability to produce dependence, and accepted medical utility. Schedule I lists drugs that have no traditional recognized medical use, such as heroin, LSD, and marijuana. Schedule II lists the drugs with medical uses that have the greatest potential for abuse and dependence, including morphine and cocaine. The remaining schedules use a sliding scale that balances each drug's abuse potential with its legitimate medical uses. Schedule I and II drugs are subjected to a variety of controls like separate records, manufacturing quotas, distribution restrictions, security requirements, reports to the Drug Enforcement Administration, and criminal penalties for trafficking.

Title II also stated that all people in the distribution chain, including manufacturers, wholesalers, and retailers, were required to be registered and to keep records of all transfers of controlled drugs. Additionally, this section of the CDAPCA revised the structure of criminal penalties involving controlled drugs by providing a consistent method of treatment of all people accused of drug violations. Prior to this act, mandatory minimum sentences for drug defendants were in place. Title II eliminated all mandatory minimum sentences, with the exception of

minimum sentencing for involvement in continuing criminal enterprises. Proponents of the CDAPCA felt that severe previously existing penalties, including minimum mandatory sentences, had led to prosecutors' reluctance to prosecute some violations in which the penalties and the seriousness of the offense did not match up. Additionally, severe penalties tended to make convictions somewhat more difficult to obtain. Title II gave maximum flexibility to judges, permitting them to tailor imprisonment and fines to the circumstances involved in each individual case.

Title II made possession of controlled drugs a misdemeanor, excluding cases in which the possession was for the purpose of distribution to others. In the case of a first offense of simple possession, the court could place the defendant on probation for up to a year. If at the end of the probation period the defendant had not violated the conditions of probation, the proceedings could be dismissed without a court adjudication of guilt. Furthermore, if the first-time defendant was below the age of 21, a court order could be issued expunging the defendant's record. According to Title II, manufacture or distribution of illicit drugs is punishable by up to 15 years in prison in the case of Schedule I or II narcotic drugs, and by up to five years in the case of nonnarcotic Schedule I or II drugs or any other controlled drugs in Schedule III. First-time offense illegal manufacture or sales of Schedule IV drugs is punishable by three years in prison, while Schedule V drugs carry a one-year sentence. Second offenses and situations in which a person over 18 sells drugs to a person below 21 both doubled the penalty for first offenses.

Finally, cases in which a person engaged in a continuing criminal enterprise involving a series of violations undertaken in accordance with five or more people and from which substantial income is derived were punishable by a mandatory minimum sentence of not less than 10 years and up to life imprisonment, a fine of up to \$100,000, and forfeiture to the United States of all profits derived from the enterprise.

Title III is commonly known as the Controlled Substances Import and Export Act. Prior to passage of the

CDAPCA, separate importation and exportation laws were in effect for narcotics/marijuana and depressants/stimulants. Through the provisions of Title III, the importation and exportation of all controlled substances, including marijuana, narcotics, depressants, and stimulants, were covered under a single statute. Title III made it illegal to import into the United States any Schedule I or II or any narcotic drug contained in Schedule III, IV, or V without the consent of the attorney general.

In 1983, the Comprehensive Criminal Forfeiture Act amended the CDAPCA to establish general criminal forfeiture provisions for felony violations. Title II of the Comprehensive Criminal Forfeiture Act created a presumption of forfeitability in cases in which the defendant acquired the property within a reasonable period after commission of the violation and the defendant's legal sources of income were substantially insufficient to account for the acquisition. This amendment also allows a court to issue a warrant authorizing the seizure of property subject to forfeiture. Title III of the Comprehensive Criminal Forfeiture Act permits the Drug Enforcement Administration to set aside 25% of the amounts realized from forfeitures under the CDAPCA for the payment of information or assistance leading to forfeiture.

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## CRIME LABORATORY ACCREDITATION

The introduction of fingerprinting to solve crimes, which began at the end of the 19th century, highlighted the reluctance of the police to accept technology and testimony surrounding it as evidence in criminal prosecutions. Yet by the end of the 20th century forensic investigations had come to play a larger and larger role in determining both the guilt and the innocence of the accused and even, in some cases, of those previously convicted. The increasing reliance on technology and laboratory evidence has led to concerns by both prosecutors and defenders about the results produced by forensic science labs. If criminal justice professionals and those who serve on juries lack confidence in the professional operation of these labs, the efforts of scientists and their managers will be meaningless. These concerns have resulted in the accreditation of crime labs to ensure that they are following accepted scientific practices.

Accreditation is a process by which any supply of goods or services by a provider is deemed to be in compliance with standards that are deemed suitable to meet the needs of the user and to meet generally accepted standards of accuracy and reliability. In many fields, as in forensics, this has come to mean that the services are reviewed by a third, or neutral, party or organization that is recognized to have expertise in the relevant field. Thus, accreditation relies on the provider receiving recognition by an outside, independent source that the service provided is unbiased and meets the highest professional standards for that field or profession. In the case of laboratory accreditation, the service is the conduct and reporting of tests on materials.

Laboratory accreditation has become the primary means of determining the competence of laboratories to perform specific types of testing, measurement, and calibration. It has enabled users to accept as accurate the tests provided by a lab and has allowed lab personnel to determine whether their work correctly meets appropriate standards. Laboratory accreditation provides formal recognition

to competent laboratories and withholds it from those that do not meet professional standards. Meeting these aims requires a formal assessment and recognition by an impartial competent authority that a laboratory is capable of meeting and maintaining defined standards of performance, competence, and professionalism.

There are three main programs in the United States that address accreditation requirements for crime laboratories. These are the National Quality Assurance Standard for Forensic DNA Testing (QAS), the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) accreditation program, and the ISO 17025 accreditation program provided by a unit within the National Forensic Science Technology Center (FQS-I).

The QAS program is based on the quality assurance standards developed by the DNA Advisory Board. The Introduction to the DNA Advisory Board standards states that the board expected that the community would be able to show compliance through accreditation. The standards were adopted by the Federal Bureau of Investigation (FBI), which discharged its responsibility for ensuring compliance by establishing a training program for auditors in conjunction with a consensus compliance checklist. The ASCLD/LAB and FQS-I programs incorporate the QAS checklist into their own accreditation programs when they are assessing a testing laboratory that includes a DNA section. Some laboratories, such as private contract providers, have sought direct accreditation solely of compliance with the QAS program, and the National Forensic Science Technology Center (NFSTC) provides that service. All three program providers use only auditors who have successfully completed the FBI training. The program requires an annual audit of compliance and external participation in the audit every two years. NFSTC also provides that service to state and local crime laboratories. The competent authority requirement is satisfied through the use of trained auditors and the consensus checklist.

In 1981 the ASCLD established a Laboratory Accreditation Board as a separate corporation, which

created the ASCLD/LAB accreditation program. One year later, the laboratories of the Illinois State Police were the first to be accredited by ASCLD/LAB. In 1990, the South Australian Forensic Science Centre became the first non-U.S. facility to be accredited by the program. Since then, the program has grown considerably; by early 2004, there were more than 250 accredited laboratories.

ASCLD/LAB used a checklist of criteria graded as desirable, important, or essential. Laboratories were required to meet 100% of all applicable essential criteria, 75% of important and 50% of desirable to be accredited. The program had a five-year cycle and included demanding proficiency test requirements that addressed demonstration of quality on an annual basis. ASCLD/LAB has been recognized as a competent authority for accreditation through its years of experience in providing accreditation to the crime laboratory community and through its operational structure, which depended heavily on experienced crime laboratory directors.

NFSTC is another spin-off from ASCLD and was incorporated in 1995. NFSTC's mission is quality of service delivery in forensic science, and the company responded to requests from forensic science laboratories that were not public crime laboratories to provide them with accreditation. From the outset, NFSTC chose to pursue the internationally recognized ISO 17025 accreditation program for testing laboratories, together with guidance documents having specific relevance to forensic testing, such as the International Cooperation for Laboratory Accreditation Guide 7 for Equine Drug Testing and Guide 19 for Forensic Science Testing. NFSTC also sought to address the competent authority issue through external evaluation of compliance with ISO Guide 58 for the operation of accrediting bodies. The agency selected for this was the National Cooperation for Laboratory Accreditation (NACLA). One of the requirements of Guide 58 and NACLA is that the accreditation programs are operated independent of any other services. For this reason, NFSTC provided its accreditation programs through its FQS-I business unit.

The U.S. Environmental Protection Agency's National Enforcement Investigations Center (NEIC), located in Denver, Colorado, was the first laboratory

to take up the NFSTC program. In so doing it became the first U.S. forensic testing laboratory to become ISO accredited and has completed its third two-year accreditation cycle.

Generally, the advantages ascribed to accreditation include recognition of testing competence, benchmarking of performance, and international recognition. Recognition of competence comes from the accreditation certificate and the permission to use the accreditation status in reports. Benchmarking of performance comes from the independent technical evaluation that is part of the accreditation process. International recognition is generally not of importance to a crime laboratory but is the main reason for the bulk of accreditation programs. For example, a manufacturer or agricultural product seller may have to demonstrate compliance with standards for fastener reliability or for organic residues in meat or grains. The seller, especially an export marketer, will only accept results from laboratory tests conducted in the seller's country if the testing laboratory is accredited to an acceptable standard. This usually means accredited to ISO 17025 by an accrediting body that has been evaluated by a body such as NACLA and found to meet accepted standards of operation.

However, the same factors in an accreditation program to meet international mutual recognition of test results make for a better domestic crime laboratory, too. Returning to the NEIC, the head of its asbestos testing section commented that the broader benefits of accreditation were seen in the first case presented at trial following granting of accreditation. The record control requirements of ISO 17025 are demanding, but a consequence was that all the information in that (very complex) case was ordered and at hand during the hearing. It made life much easier for the analyst and made a most favorable impression on the court.

Accreditation is a powerful tool for the crime laboratory to implement systems that assist its goal of fault-free testing. Accreditation brings advantages of continuing benchmarking of practices and of external validation of the quality of work conducted.

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*See also* American Society of Crime Laboratory Directors

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## CRIME STATISTICS

Accurate measures of crime are valuable for many reasons; they aid in the formulation of criminal justice policy, in the assessment and operations of criminal justice agencies, in the creation of prevention and intervention programs, and in the development of criminological theory. Two long-established federal data collection programs, the Uniform Crime Reports (UCR) begun in 1929 and the National Crime Victimization Survey (NCVS; formerly the National Crime Survey) begun in 1973, have been, and continue to be, used to measure levels of crime in the United States. Each program is characterized by strengths and weaknesses. A third, emerging data collection program, the National Incident Based Reporting System (NIBRS), when fully operational, will draw upon and merge many of the elements from both the NCVS and the UCR into a single data collection program.

The UCR is a summary reporting program overseen by the Federal Bureau of Investigation (FBI). UCR data are voluntarily submitted by local and state law enforcement agencies directly to the FBI or, in some cases, indirectly through state reporting agencies. Each agency produces frequencies for serious

index crimes (murder, rape, robbery, aggravated assault, burglary, larceny/theft, motor vehicle theft, and arson) and less serious crimes occurring within its jurisdiction. Because UCR data ultimately come from individual law enforcement agencies, crimes included are only those known by or reported to the police.

The UCR has several key strengths. First, it provides a general view of crime nationwide and for other aggregates (e.g., city, county). Second, the UCR crime statistics for homicide and motor vehicle theft are generally accurate due to the fact that both of these crimes tend to be reported to the police at high rates. Third, the UCR produces comprehensive frequency and incident statistics for homicides as part of the Supplementary Homicide Reports. Nevertheless, despite these strengths, the UCR has the primary limitation of only counting crimes known by or reported to the police. This constitutes a significant weakness considering that a substantial portion (in excess of 50% in 2001) of all crime goes unreported. This underreporting and the resulting underestimate of crime contributed to the creation of an additional measure of crime.

To complement the UCR, the Bureau of Justice Statistics conducts an annual nationwide survey, the NCVS, to estimate rates of victimization across the country. The primary purpose of the NCVS is to provide detailed incident-level victimization data from a nationally representative sample of households, regardless of whether the victimization was reported to law enforcement authorities. The focus of the NCVS on both reported and unreported crime overcame one of the primary weaknesses of UCR data.

The survey is administered to individuals age 12 and older in approximately 45,000 sample households. Crime labels are attached to incidents based on responses to a series of questions representing definitions of particular crimes. NCVS crime categories largely overlap with UCR Index crimes with one exception. The UCR is the only source of homicide data in the United States. In addition to the type and frequency of particular victimizations, the NCVS also provides comprehensive information about the incident itself, including characteristics related to the perpetrator(s), weapon use, reporting

behaviors, protective measures, and other specific event information.

While this data collection is successful in describing trends in national victimization rates, in providing characteristics of criminal victimization, and in documenting the so-called dark figure of crime, it has limited value to state and local policy makers, researchers, and practitioners. Since the NCVS is based on a national sample of respondents, individual communities or states represent only a small portion of the overall sample, thereby prohibiting the extraction of reliable local (small area) crime statistics. Even though, in recent years, the Bureau of Justice Statistics has encouraged states and localities to conduct their own victimization surveys to overcome this problem, the NCVS continues to be most useful in painting a national (or other large aggregate) picture of crime.

NIBRS combines several of the strongest features of the UCR and the NCVS. NIBRS data, like UCR data, are compiled from reports of crimes known to the police that are submitted to the FBI by state, regional, and local law enforcement agencies. Data can be explored and examined at multiple geographic levels including within-city, city, county, state, and national. More important, NIBRS is a source of incident-level official statistics. Like the NCVS, NIBRS data move beyond simple summary statistics, instead gathering comprehensive incident-based data including offender characteristics, weapon(s) used, and other incident details.

NIBRS advances crime measurement in several ways. Data are collected for all crimes covered by the NCVS and the UCR as well as for a much broader range of crimes. More specifically, NIBRS includes 46 primary Group A crimes organized into 22 categories and 11 secondary Group B crimes. Second, NIBRS collects crime information for all offenses that occur within a particular incident. This is a considerable advance for a program that relies on official data. The UCR follows a hierarchy rule resulting in only the most serious crime in any event being included in the summary statistics. Overall, NIBRS will increase the volume of data collected by law enforcement agencies and the type of information available to researchers, practitioners, and policy makers.

NIBRS is intended to replace the UCR program in the future, although currently the program is still relatively early in the implementation stage so UCR data collection continues. Approximately half of all states have some sort of incident-based reporting in place. NIBRS is not intended to replace the NCVS, however. Though both gather incident-level information, the NCVS still includes estimates of crime regardless of whether it was reported to the police. Thus, both will complement each other in the future while serving distinctly different purposes.

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*See also* National Crime Victimization Survey, National Incident-Based Reporting System, Uniform Crime Reporting Program

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## ☞ CRIMES, FEDERAL JURISDICTION

Both the state and the federal governments have the authority to define conduct as criminal as well as to prosecute and punish such conduct. The authority of the federal government to establish federal crimes is found in the U.S. Constitution, which identified, or enumerated, certain powers to be within the province of the federal government, while reserving all other powers to the state governments. This fundamental principle underlying the division of authority between federal government and the states is reflected in the traditional distinctions between their separate spheres of criminal jurisdiction. Although states exercise a general criminal jurisdiction based on the common law system,

the federal government, and the federal judiciary in particular, is limited to acting upon authority of the U.S. Constitution and acts of Congress in furtherance of the U.S. Constitution.

Federal crimes are prosecuted in the federal court system. The U.S. Constitution established a U.S. Supreme Court; all other federal courts were created by Congress in the Judiciary Act of 1789. That legislation created the three-tiered court structure that still endures, notwithstanding subsequent legislative action that expanded and modified the federal court system. The U.S. district courts are the trial courts of the federal system. The U.S. courts of appeal, or circuit courts, fulfill the intermediate appellate function. The U.S. Supreme Court is the highest court in the federal system.

The U.S. Constitution identifies only a very few specific crimes that Congress has the power to define and punish, namely counterfeiting the currency and securities of the United States, piracy and felonies committed on the high seas, and crimes violating the laws of nations. The constitutional basis for Congress to enact additional criminal laws is found in its power to make all laws necessary and proper for carrying out the powers of the federal government as enumerated in the Constitution. Apart from those few crimes identified in the Constitution, an act of Congress is required to define a federal crime. The power of Congress to define federal crimes is limited. Unless an act has the appropriate relationship to the powers of Congress or to some matter within jurisdiction of the United States, Congress cannot define that act to be a federal crime. Although many types of criminal acts are properly federal crimes, the U.S. Supreme Court has recognized that congressional power to federalize crime is not unlimited. In the 1995 case *United States v. Lopez*, the Supreme Court held certain portions of the Gun-Free School Zones Act of 1990 (18 U.S.C. 922(q)(1)(A)) to be unconstitutional. That law, passed by Congress, made it a federal crime to possess a firearm in or within 1,000 feet of a school. The Supreme Court found this law to be beyond congressional power under the Commerce Clause because the acts that were prohibited were not generally the type of economic activity

that might substantially affect interstate commerce, nor was there any requirement that a tie to interstate commerce be proven on a case-by-case basis. While Lopez recognized that there were limitations to the broad reach of federal criminal law, the federal courts have generally upheld similar challenges to other federal criminal statutes, for example, the Anti-Car Theft Act of 1992 (18 U.S.C.A. 2119), federalizing carjacking. In most cases, the courts have found that there is a proper basis for the crime to be federal.

Several of the various powers of the federal government enumerated in the Constitution have justified congressional action defining particular crimes as being federal. Congress has defined federal crimes to be those that are necessary and proper to carry out the Commerce Clause of the U.S. Constitution (e.g., narcotics and firearms crimes), the establishment of the Post Office (mail fraud), the regulation of naturalization (immigration crimes), and the power to establish taxes (tax offenses). Many federal regulatory statutes, permissible as necessary and proper under the Commerce Clause, include criminal provisions and penalties for their violation. In addition, Congress has exercised its power, under the Constitution, to define as federal crimes those offenses that occur on federal property, such as the District of Columbia, military installations, and national parks. Within the special maritime and territorial jurisdiction of the federal government, the Assimilative Crimes Act incorporates state criminal laws to allow federal prosecution of criminal conduct defined by the law of the appropriate state penal code.

There is no unified federal criminal code; rather, the definitions of federal crimes are found throughout the *United States Code*. There are presently more than 4,000 federal crimes. The general criminal portion of the code is found in Title 18, the controlled substance offenses are in Title 21, and immigration offenses are in Title 8. Those crimes that penalize regulatory violations are generally found with the related regulatory provisions, for example, securities law violations, which are found in Title 15. Federal crimes include felonies, misdemeanors, infractions, and petty offenses.

When Congress has a constitutional basis for declaring a particular act to be a federal crime it may do so without regard for whether any or all states have criminalized, or even legitimized, that same conduct. There is no requirement of consistency between the criminal law of the states and the federal law, although there are numerous instances in which the same conduct constitutes both a federal and a state crime. Particularly in regard to narcotics offenses, the same conduct can fit the definition of a federal crime, as well as a state crime. A defendant can be prosecuted in either state or federal court for such conduct, even though the penalties may be quite different between the two jurisdictions. Because the protection against double jeopardy does not include the involvement of more than one jurisdiction, such as the state and the federal government, a defendant can be prosecuted in both state and federal court for the same act, when that act meets the definition of an offense in each jurisdiction. Conversely, certain conduct that is not criminal under state law can give rise to federal criminal liability. For example, the federal criminal law recognizes no exception from criminal liability for medical marijuana usage and federal convictions have been obtained in such cases even though certain states have legitimized such usage.

Although many of today's federal crimes are analogous to state crimes, each federal crime has a particular element that establishes the federal interest and thus is the basis of federal jurisdiction. When the victim of the crime has a particular characteristic that involves the federal government, then federal criminal jurisdiction can be established. Bank robbery (a federal crime defined in 18 U.S.C. 2113) requires that the bank from which money or property is taken be "any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, including a branch or agency of a foreign bank . . . and any institution the deposits of which are insured by the Federal Deposit Insurance Corporation." This federal crime also applies to robberies of credit unions "insured by the National Credit Union Administration

Board” and savings and loan associations similarly federally insured. The robbery of these financial institutions would certainly qualify as a state crime, covered by a general robbery definition. The additional element that gives rise to federal jurisdiction allows the case to be prosecuted in federal court, but does not necessarily require that it be handled there. The local and federal prosecuting agencies are empowered to decide whether the robbery will be handled in state or federal court.

Many federal crimes find their basis for federal jurisdiction in the federal character of the victim of the offense. Assault on a federal officer is prohibited by 18 U.S.C. 111. Making a false statement to a federal officer regarding a matter within the jurisdiction of a department or agency of the federal government is prohibited by 18 U.S.C. 1001. This false statement offense does not require that the person who makes the false statement be under oath, but rather covers any statement that is material, that is, that has a natural tendency to influence or is capable of influencing the exercise of a governmental function. Any threats made against an incumbent president of the United States, a former president, successors to the presidency, their families, other persons or candidates for the presidency, or other persons protected by the U.S. Secret Service or who are internationally protected persons are violations of 18 U.S.C. 871 et seq. When forged or counterfeit writing is used with the intent to defraud the United States, the provisions of 18 U.S.C. 495 are violated, as is 18 U.S.C. 1003 when a false demand is made against the nation. These provisions are often used to prosecute cases involving the misuse of checks to fraudulently obtain funds from the federal government. Common examples include cashing someone else’s Social Security check or tax refund from the Internal Revenue Service.

Crimes that have a particular interstate or national component are particularly suited to being handled within the federal criminal system. The basis of federal jurisdiction over these types of crimes has historically been found in the Commerce Clause of the U.S. Constitution. The Supreme Court’s interpretation of the Commerce Clause

recognizes three broad areas that come within the power given to Congress by this provision of the U.S. Constitution. Those three areas are (1) the regulation of the channels of interstate commerce, (2) the regulation and protection of the instrumentalities of interstate commerce, or persons or things in interstate commerce, even if the threat comes only from intrastate activities, and (3) the regulation of activities that have a substantial relation to interstate commerce, that is, that substantially affect interstate commerce. Taken together, and viewed with an expansive approach, these three areas afford Congress a broad authorization to federalize criminal conduct.

Federal statutes have criminalized disparate activity on this basis, such as the interstate transportation of women for prostitution or criminal sexual activity (the Mann Act), the interstate transportation of stolen motor vehicles (the Dyer Act), and the interstate transportation of kidnapping victims (the Lindbergh Law). The Prohibition era was predicated upon the federal government’s criminalization of the manufacture, transportation, and sale of alcoholic beverages in the Volstead Act. The activities of organized crime across state lines made the federal Racketeer Influenced Corrupt Organizations Act legislation an appropriate use of federal jurisdiction. That statute (18 U.S.C. 1962) focuses on the use of proceeds derived from a “pattern of racketeering activity” to acquire or maintain any interest in or to control any enterprise that is engaged in or that affects interstate or foreign commerce. Included within the definition of a pattern of racketeering activity is a list of acts that would be chargeable as state or federal crimes. Thus, this statute defines a broad swath of state and federal criminal activity that, with the requisite connection to commerce, can be prosecuted as a federal crime.

Another significant topical area of federal criminal law arises from the constitutionally based power of the Congress to regulate the post office. Within this power is included the authority to criminalize the use of the mails for a variety of criminal purposes. The federal mail fraud statute (18 U.S.C. 1341 et seq.) includes schemes to both defraud and obtain money or property by means of false or

fraudulent pretenses involving the use of the U.S. mails. The use of the mails is an essential element of the crime, but it might well be a minor aspect of the fraud. The mailing need not even be carried out by the defendant; so long as the use of the mail is foreseeable, the mailing by anyone involved in the scheme is sufficient to satisfy this element of federal jurisdiction. The use of the mails for the transmission of obscenity is likewise prohibited by 18 U.S.C. 1461, which has allowed the federal prosecution of the transmission of pornography. It is notable that the use of the mail that allows federal jurisdiction need not be an interstate use of the mail, for all mail usage is within the federal purview by virtue of the constitutional grant of power over the post office to Congress. The federal criminal law also predicates crimes in which the telephone or other communications devices are used for fraud, transmission of obscenity, and so on. However, it is an essential element of those crimes that the use of these devices must be interstate or international, as the jurisdictional predicate for these offenses is found in the commerce power, not the control of the post office.

Clearly within the purview of federal law are the civil rights laws that prohibit anyone acting on behalf of a government—local, state, or federal—from violating any person's rights, privileges, or immunities that are secured or protected by the Constitution or laws of the United States. The laws, which impose civil liability on law enforcement personnel for actions that deprive persons of their constitutional rights, have as a corollary a federal criminal provision (18 U.S.C. 242), which provides for fines and imprisonment as a penalty for a criminal violation of a person's civil rights. The elements of this crime include not only the deprivation of rights by a person acting under color of law, but also that the deprivation was done willfully. Some law enforcement personnel have been convicted of this crime and have been sentenced to prison, notably in the cases involving Rodney King in Los Angeles in 1993 and Abner Louima in New York City in 1999. Without proof of criminal intent, only civil liability, that is, monetary damages, can be established for a violation of civil rights.

The decision of Congress, beginning in 1970, to wage the War on Drugs through the federal criminal law resulted in a vast expansion of that law, which, in its substance, largely duplicates the narcotics laws of the states. In passing a comprehensive federal drug law, Congress found that there was no way to differentiate interstate trafficking in controlled substances from intrastate trafficking and that federal control of intrastate trafficking was essential to the effective control of interstate trafficking, thus bringing all controlled substances offenses, no matter how localized, under the federal Commerce Clause umbrella. These federal narcotics laws, found in Title 21 of the *United States Code*, prohibit manufacturing, distributing, and possessing controlled or counterfeit substances. The various controlled substances that are included within these federal criminal provisions are found in 21 U.S.C. 812, which sets up five separate schedules of controlled substances, differentiated by type of substance. These schedules are established by the U.S. Department of Justice. The law establishes a sliding structure of penalties, dependent upon the nature and quantity of the substance involved. Within these criminal provisions are found mandatory minimum sentencing provisions, which establish minimum sentences for these offenses, with the length of the minimum dependent upon the type and quantity of controlled substance. A lengthier sentence is required if the offender has a prior felony drug conviction. These mandatory minimum provisions establish very different consequences for offenses involving powder as distinct from cocaine base, heroin, PCP, LSD, and so on and supercede the operation of the U.S. Sentencing Guidelines to the extent that a sentence shorter than the mandatory minimum might be applicable. Mandatory minimum sentencing for controlled substance offenses has been much criticized as having a disproportionately severe impact on low-level offenders as well as having a disparate impact on minority defendants. The sentences imposed in federal court are often more severe than those imposed for the same offenses in many state courts; thus, the decision by the prosecutors as to where the charges should be brought can have serious consequences for a defendant.

The scope and range of federal criminal law is broadened by the inclusion (in Title 18, 371), of conspiracy, applying generally when “two or more persons conspire either to commit any offense against the U.S., or to defraud the U.S., or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy.” While this general conspiracy provision encompasses an agreement to commit any federal offense and carries a maximum penalty of five years for any conspiracy to commit a felony, other provisions identify more specific conspiracy offenses, such as 18 U.S.C. 241, applicable to conspiracies to violate civil rights; 18 U.S.C. 956, which prohibits a conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country; and 21 U.S.C. 846, which is a part of the controlled substances law and prohibits a conspiracy to violate any portion of that law. The narcotics conspiracy provision carries with it the potentially lengthy penalty for the underlying violation of the drug law that was the object of the conspiracy.

Until the passage of the Sentencing Reform Act of 1984, federal judges had discretion to impose any sentence within a statutory maximum on a defendant convicted of a federal crime. With the intention of limiting this discretion and bringing national uniformity to federal sentencing, the U.S. Sentencing Commission was established to promulgate sentencing guidelines. These guidelines now largely determine the sentence imposed for the conviction of a federal crime. They use numerous factual elements of the different federal crimes and also take into account the criminal history of the defendant to establish a grid of sentencing ranges. Since only limited departure from these ranges is authorized, federal judges are now largely constrained to sentence defendants within the guidelines. The sentence imposed is, in many respects, determined by the charging decisions of the prosecutor, which have a determinative impact on the range of permissible sentences. Relief from sentencing guideline may be available at the request of the prosecution for those defendants who provide “substantial assistance” to law enforcement, usually by acting as informants to incriminate others in the same or different federal

law violations. Federal sentencing also includes the imposition of the death penalty for crimes involving certain homicides, as well as aggravated drug crimes, treason, and espionage.

The Department of Justice, headed by the attorney general, is responsible for the prosecution of federal crimes and the operation of federal correctional facilities. Each judicial district has a U.S. Attorney’s Office, which includes among its functions the prosecution of federal crimes. Several law enforcement agencies, including the Federal Bureau of Investigation, the U.S. Marshals Service, the Drug Enforcement Administration, and the Bureau of Prisons, which operates federal correctional facilities, are part of the Department of Justice. Other specialized law enforcement agencies operate separately. The U.S. Postal Inspection Service, which investigates crimes involving the use of the mail, the postal system, and its employees, reports to the postmaster general of the United States. Certain law enforcement agencies, such as the Immigration and Naturalization Service, the U.S. Customs Service, and the U.S. Secret Service, which provide protective services and investigate counterfeiting and certain financial and high technology crimes, have been integrated into the Department of Homeland Security.

Federal criminal law has expanded far beyond the few crimes identified in the Constitution, primarily through the broad interpretation of congressional power to pass all necessary and proper laws to carry out its functions. That expansion has only been enhanced in recent years, with federal legislation defining new crimes related to international terrorism (18 U.S.C. 2331 et seq.) in the wake of the September 11, 2001, attacks. With Congress firmly committed to the increased involvement of the federal government in all aspects of national and international security, the role of federal law, federal law enforcement, and the federal courts will continue to dominate the criminal law arena.

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*See also* Death Penalty, Federally Eligible Crimes; Lindbergh Law; Mann Act; Motor Vehicle Theft Act; Racketeering Influenced and Corrupt Organizations Act; Prohibition Law Enforcement; Volstead Act

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## CRIMINAL INVESTIGATION COMMAND, DEPARTMENT OF THE ARMY, DEPARTMENT OF DEFENSE

The U.S. Army Criminal Investigation Command (USACIDC) houses all major U.S. Army investigative operations. The Criminal Investigation Command (CID) is the major component of the USACIDC and is its primary criminal investigative organization. The creation of USACIDC and CID can be traced back to the mid-1800s with the creation of the Continental Army and the creation of the Office of the Provost Marshal in 1776, followed two years later by the organization of the Provost Corp. This was followed by passage of the Enrollment Act in March 1863, the first draft law, which forced Secretary of War Edwin Stanton to create a police force to enforce the unpopular law and to arrest those who attempted to desert.

During the Civil War the newly created Army Police Force only investigated criminal acts based on the Enrollment Act. All other criminal acts, such as theft or murder, were investigated by various private detective agencies, including the Pinkerton Detective Agency. The army soon commissioned Alan Pinkerton, owner and operator of the Pinkerton Detective Agency, a major. He utilized his military and law enforcement background to create the army's first criminal division. This newly created investigative branch not only investigated draft issues but also all criminal acts within the army, including payroll theft and violent crimes.

The Criminal Division of the army remained unchanged until 1917. When the United States entered into World War I, the demand for American soldiers to fight in France increased dramatically, causing a need for a larger military police force. In October 1917 the Military Police Corps was established. The Military Police Corps functioned well as a law enforcement body during that time; however, an increase in the crime rate also established a need for an investigative component of the police corps. In November 1918, General John Pershing, provost marshal general of the American Expeditionary Forces, organized the first official Criminal Investigation Division of the Military Police Corps. The CID's original purpose was to detect and prevent crimes within the territory occupied by the American Expeditionary Forces. It was intended to bring order to the investigations conducted within the army, which had previously been inconsistent due in part to the discretionary powers of the provost marshals, who had wide latitude in the management of their units.

Originally the division chief reported directly to the provost marshal general and directed the CID. However, operational control of the Criminal Investigation Division remained with the various provost marshals. This allowed for no centralized control of investigative efforts within the CID; nor was there any centralized training or equipment. CID was relatively successful; however, the lack of centralization and training prevented the agency from accomplishing its full mission. Despite these organizational improvements, the unit was relatively inactive in the years between World War I and World War II.

As the army expanded, though, military installations faced new criminal challenges, and in 1964, as a result of Project Security Shield, the Department of Defense realized the need for increased training within CID as well as a more centralized focus for the army's criminal intelligence. It was not until 1969, however, that most centralizing activities took place. The agency was placed directly under the supervision of the provost marshal, who was charged with supervising and guiding all investigative elements of the CID. In March 1971 the secretary

of defense directed the secretary of the army to officially centralize a CID command that had authority and control over all army CID assets.

On September 17, 1971, the U.S. Army Criminal Investigation Command was established as a major army command. It was from this command that the current Criminal Investigation Command was developed. The modern Criminal Investigation Command is responsible for conducting all criminal investigations in which the U.S. Army may have an interest. The mission of the command is the same for both the installation and the battlefield environment, namely, to support the army through deployment, in peace and conflict, with highly trained soldier and government service special agents and support personnel who focus on the investigation of serious crimes; conducting sensitive and serious investigations; collecting, analyzing, and disseminating criminal intelligence; conducting protective service operations; providing forensic laboratory support and logistical security; and maintaining U.S. Army criminal records.

Headquartered in Fort Belvoir, Virginia, CID is directed by a major general. CID operates throughout the United States and abroad and employs more than 2,000 people, 514 civilian and 1,056 active duty, 49 National Guard, and 408 Army Reserve, in six major divisions: Procurement and Fraud, Protective Services, Field Investigative, Computer Crime Investigative, Criminal Records, and the Criminal Investigative Laboratory. Additional responsibilities include logistical security for the transportation of equipment to the battlefield, criminal intelligence, and criminal investigations of war crimes. Specialized training of personnel has led to advances in investigations of procurement fraud and computer crimes.

Throughout its history the Criminal Investigation Division of the U.S. Army has gone through significant changes in its organizational structure and its abilities to detect and prevent crime. However, throughout these changes, the common purpose and principle of CID has remained steady. It is in the stability of its motto, "Do what has to be done," that the CID detectives of the past can be linked with the agents of the future.

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*See also* Military Police, Department of the Army, Department of Defense; Military Policing; Pinkerton National Detective Agency

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## ☉ CRIMINAL INVESTIGATION DIVISION, ENVIRONMENTAL PROTECTION AGENCY

The primary function of the Environmental Protection Agency (EPA) is to implement and enforce pollution control laws enacted by Congress. A staff of approximately 150 special field agents assigned to the EPA's Criminal Investigation Division (CID) is responsible for pursuing violators of these laws. CID is essentially the law enforcement and investigative branch of the EPA.

Although environmental crimes are defined broadly, they have in common that they endanger human, animal, or plant life through misuse of the overall environment, whether through industrial waste, pollution, or other harmful acts that threaten the land, air, or water supply. About half of all EPA investigations involve violations of toxic waste transportation laws and illegal dumping of hazardous materials.

In addition to criminal prosecutions, the EPA also relies on administrative and civil sanctions to curtail violations of federal environmental laws. But since EPA CID's creation in 1982, the EPA has moved from administrative or civil adjudication to a greater reliance on criminal prosecutions. For example, during the 1970s, approximately 130 cases were referred to the U.S. Department of Justice for criminal prosecutions for the entire decade, but by the 1990s more than that number were referred in one year alone, with 256 cases in 1995. The amount specifically referred annually from EPA CID has remained close to that number since.

Because of the increasing number of criminal prosecutions, the enforcement authority of EPA agents has steadily expanded. In 1988, Congress granted full law enforcement authority and the right to bear arms to EPA agents. When it passed the 1990 Pollution Prosecution Act, Congress also authorized expansion of the special agent force to its current size. Agents may be assigned to one of 15 area offices or 29 resident offices throughout the country. CID special agents, who are empowered to enforce all federal laws in addition to environmental violations, receive their basic training at the Federal Law Enforcement Training Center in Glynco, Georgia. They then receive advanced training in environmental law and supporting regulations. They are also taught protocols for sampling and analyzing hazardous waste and the handling of hazardous materials. Training includes legally defensible and environmental safe methods of gathering evidence at scenes of environmental crimes, where missteps may result in danger to the agents themselves and to surrounding areas.

Agents are also trained in financial investigation, because many environmental crimes involve not only large corporations but segments of organized crime, groups who are often able to hide their crimes through subsidiary companies or through creative bookkeeping. Due of the complexity of many of their investigations, EPA CID agents often work in partnership with other federal agencies and state and local levels of law enforcement and regulatory agencies.

In the past special agents were recruited primarily from other federal law enforcement agencies, but this is no longer as prevalent. Requirements are similar to those for special agents in other federal law enforcement agencies; specifically, a candidate must be a U.S. citizen, must have at least a four-year college degree, must be in excellent health, and must pass background, medical, and physical examinations. A background in environmental science is not required.

The small number of agents and the large amount of hazardous waste and other toxic materials that are transported or illegally disposed of results in special agents often relying on inside information,

or tips, on illegal behavior provided from corporate employees. It has been estimated that there are at least 264 million metric tons of hazardous waste generated annually, and it is difficult to estimate what portion of that is improperly disposed of; therefore the risk of plant, animal, or human contamination is a constant. Often agents become aware that illegal dumping has occurred because of damage done to people or to the environment. Investigations are complicated because environmental crimes, as opposed to street level crimes, are rarely discovered immediately after they occur. As concerns about the environment continue to expand, so will the duties and responsibilities of the EPA's CID agents.

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## ☞ CRITICAL INCIDENT RESPONSE GROUP

The formation of the Critical Incident Response Group (CIRG) in 1994 occurred in the wake of the perceived and actual failures by the Federal Bureau

of Investigation (FBI) in its handling of a number of high-profile armed confrontations, including the shooting at Ruby Ridge in Idaho and the siege of the Branch Davidians in Waco, Texas. The concept behind the CIRG is to bring together, under a unified command structure, the various components within the FBI that respond to time-sensitive law enforcement duties within the bureau's area of jurisdiction.

Although both the Ruby Ridge and the Branch Davidian incidents began as investigations of the Bureau of Alcohol, Tobacco and Firearms (BATF—since 2003 renamed the Bureau of Alcohol, Tobacco, Firearms, and Explosives), the outcomes influenced changes in federal response to cases requiring multiagency, tactical response. In 1992 an FBI sniper shot and killed Vicky Weaver, the wife of Randy Weaver, who was wanted in conjunction with an investigation into white supremacist groups in Northern Idaho. Weaver and a family friend, Kevin Harris, were also wounded, and the government later paid Weaver more than \$3 million in a wrongful death suit. On February 28, 1993, raids on the Branch Davidian compound in Waco, Texas, resulted in the deaths of 86 residents, including a large number of children; the deaths of four BATF agents; and the wounding of an additional 16 agents. Public and media responses were highly critical of the actions of special agents at the scenes.

To prevent similar incidents, the Critical Incident Response Group works to combine a tactical law enforcement response with behavioral and investigative resources to enable a more nimble response to a variety of complex law enforcement situations. These include incidents that are time sensitive and highly technical, including hostage situations, barricaded subjects, and other incidents that may rely on faulty intelligence reports, may involve large numbers of people, or are likely to evolve quickly beyond the initial set of facts.

Since the September 11, 2001, terrorist attacks on the United States, the FBI has refocused its attention on the issues of terrorism and the need for a proactive approach to counter this threat. Given the nature of its responsibilities and capabilities, the CIRG reflects this shift in focus, with tasks that also include responses to such varied crimes as acts of child

abduction, hostage taking, and high-risk repetitive violent crimes. The CIRG is currently divided into three primary branches, each of which is further subdivided for enhanced specialization. The three branches, all housed at the FBI National Academy in Quantico, Virginia, are the Operations Support Branch, the Tactical Support Branch, and the National Center for the Analysis of Violent Crime.

## THE OPERATIONAL AND TACTICAL BRANCHES

The Operational Support Branch is divided into the Crisis Negotiation, Crisis Management, and Rapid Deployment/Logistics units. The Crisis Negotiation Unit (CNU) responds to and manages both domestic and international kidnapping incidents involving U.S. citizens. Agents assigned to this unit also provide technical assistance and support to FBI field negotiators and domestic law enforcement negotiators. CNU members also have trained more than 300 crisis negotiators in the 56 FBI field offices and conduct research on new strategies to bring critical incidents to a successful resolution. The CNU maintains two database systems closely aligned with its work: the Law Enforcement Negotiation Support System and the Hostage Barricade Database System.

The Crisis Management Unit is the FBI's liaison with other federal agencies and with international, state, and local agencies. Its mission is to operationally support FBI field units during major investigations and critical incidents. The Rapid Deployment Logistics Unit coordinates deployment requirements and provides logistical support for CIRG specialists.

The Tactical Support Branch consists of the Operations Training Unit and the Hostage Rescue Team (HRT). The HRT is considered by many to be the premier national tactical response team. It has the capability to deploy within four hours of activation to effect the rescue of individuals held against their will in either criminal or terrorist hostage situations. At the end of 2003, the HRT was comprised of slightly fewer than 100 special agents. Members have been deployed on more than 200 assignments with such varied missions as hostage rescue, barricaded subjects, high-risk arrest and warrant service

raids, dignitary protection, tactical surveys, manhunt and rural operations, maritime operations, and dive searches. The HRT has also been deployed in crime prevention operations, including presidential inaugurations, political conventions, the Olympic games, and other high-profile sporting events. Members have extensive training and specialization in conducting operations involving weapons of mass destruction. The Operations Training Unit supports the training component and the operational management requirements of the HRT.

### NATIONAL CENTER FOR THE ANALYSIS OF VIOLENT CRIME

The final component of CIRG is probably the best known to members of the public. The National Center for the Analysis of Violent Crime (NCAVC) was formed in the early 1980s as the product of a planning grant awarded by the Office of Juvenile Justice and Delinquency Prevention and the National Institute of Justice. It is currently comprised of three programs, the Behavioral Analysis Unit (BAU), the Child Abduction Serial Murder Investigation Resource Center (CASMIRC), and the Violent Criminal Apprehension Program (VICAP). Each program is designed to assist law enforcement agencies throughout the world in the investigation of various types of unusual or repetitive violent crimes. The mission of the NCAVC is performed through a combination of research, investigative, and operational support and by providing training to officers working in all types of law enforcement agencies in the United States and elsewhere.

The objective of the BAU is to afford operational and investigative support to police officers by providing behavioral-based case experience to time-sensitive criminal investigations. By performing a review of the criminal activity from both an investigative and a behavioral perspective, agents of the BAU conduct a criminal investigative analysis. This process encompasses an analysis of the criminal act itself, offender behavior, and the interplay between the offender and the victim. Among the services that the unit members can provide are suggesting investigative strategies, conducting crime analysis, developing profiles of unknown offenders, making

threat assessment analysis, providing critical incident analysis, developing interview strategies, assisting in major case management, offering search warrant assistance, devising prosecutorial and trial strategies, and providing expert testimony.

CASMIRC was formed by legislative mandate of Congress under the 1998 Protection of Children from Sexual Predators Act. The goal of CASMIRC is to assist federal, state, and local law enforcement agencies in incidents of child abductions, mysterious disappearances of children, child homicide, and serial murder anywhere in the United States. CASMIRC also maintains a centralized database of case information submitted by state and local agencies concerning child abductions, children who disappear under mysterious circumstances, child homicides, and serial murder.

The final component of CIRG is VICAP. Begun at the FBI Academy in 1985, the primary mission of VICAP is to identify unsolved murder cases exhibiting similar characteristics and to provide information that can facilitate multiagency investigations and successful apprehension and prosecution of serial offenders. VICAP is undoubtedly the best known of the CIRG units since it has been widely written about and its activities have been documented and fictionalized in a number of motion pictures and television shows, including the film *Silence of the Lambs* and the television show *Profiler*. It has also produced the culmination of 10 years of research published in 1992 as the *Crime Classification Manual* that established a standardized system for the investigation and classification of violent crimes. Recently, VICAP has undergone significant redesigns and upgrades to create a user-friendly system accessible to a much greater number of local police agencies. The system can now also support the storage of scanned photographs, maps, or other graphics. VICAP members are also exploring the possibility of developing an investigative analysis tool for sexual assaults and of providing access to a nationwide database. Through the VICAP system, there have been documented clearances of 40-year-old homicide investigations and the identification of a homicide victim found 3,000 miles from his last known location.

As the FBI adapts to its mission shift in the aftermath of the terrorist attacks, the CIRG is upgrading its capabilities in assessing threats to potential targets and in response to specific threats, in creating behavioral profiles of potential terrorist and their organizations, and in enhancing its response to potential or actual threats anywhere in the country.

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## ☞ DEATH PENALTY, FEDERALLY ELIGIBLE CRIMES

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The federal government, as well as the individual state governments, can impose the death penalty. It can impose a death sentence in federal courts or in military court under the Uniform Code of Military Justice. American Indian courts try capital cases if the crime is committed on tribal land. If a capital crime is subject to both state and federal jurisdiction, the federal court takes precedence, although this does not deny the state's right to prosecute. The president of the United States is the only source of clemency for federal capital crimes.

### OFFENSES

In the modern era, murder is the preeminent capital crime. All capital punishment jurisdictions take the offense of murder and surround it with a variety of special circumstances that make it a death-eligible offense. Murder can be capital or noncapital. The surrounding special circumstances create the possibility for execution.

Categories of federally eligible capital crimes are murder or crimes resulting in death, treason, espionage, and trafficking in large quantities of drugs. Crimes that might entail the federal death penalty are set out in the *United States Code* (see Table D-1).

Aggravating circumstances, one or more of which must be present to trigger a death penalty, and mitigating circumstances, which would allow a jury to forego the death penalty, are in the *United States Code* at Section 3592. Aggravating circumstances include age of the victim, death during another crime, pecuniary gain, heinous, cruel or depraved behavior, previous conviction, or premeditation. Mitigating factors are introduced at the penalty phase; they do not prevent a guilty verdict but make the death penalty less likely. Mitigating factors include mental illness, age of felon, duress, background of abuse, or victim consent. Courts allow nonstatutory aggravating and mitigating circumstances as well.

### A FEDERAL OFFENSE BECOMES A CAPITAL OFFENSE

The decision to seek the death penalty for a death-penalty-eligible crime is the U.S. attorney general's, usually on recommendation from federal prosecutors. Attorney General John Ashcroft reversed this sequence; he recommended death in at least 28 cases in which prosecutors did not. Attorney General Janet Reno, who served from 1993 to 2001 during the administration of President William J. Clinton, also changed procedures in 1995 to create a Main Justice committee to review all capital-eligible cases, not only the ones brought forward by

**Table 1** Federal Laws Providing for the Death Penalty, 2001

8 U.S.C. 1342—Murder related to the smuggling of aliens.	8 U.S.C. 1116—Murder of a foreign official.	8 U.S.C. 1992—Willful wrecking of a train resulting in death.
8 U.S.C. 32-34—Destruction of aircraft, motor vehicles, or related facilities resulting in death.	8 U.S.C. 1118—Murder by a federal prisoner.	8 U.S.C. 2113—Bank-robbery-related murder or kidnapping.
8 U.S.C. 36—Murder committed during a drug-related drive-by shooting.	8 U.S.C. 1119—Murder of a U.S. national in a foreign country.	8 U.S.C. 2119—Murder related to a carjacking.
8 U.S.C. 37—Murder committed at an airport serving international civil aviation.	8 U.S.C. 1120—Murder by an escaped federal prisoner already sentenced to life imprisonment.	8 U.S.C. 2245—Murder related to rape or child molestation.
8 U.S.C. 115(b)(3) [by cross-reference to 18 U.S.C. 1111] —Retaliatory murder of a member of the immediate family of law enforcement officials.	8 U.S.C. 1121—Murder of a state or local law enforcement official or other person aiding in a federal investigation; murder of a state correctional officer.	8 U.S.C. 2251—Murder related to sexual exploitation of children.
8 U.S.C. 241, 242, 245, 247—Civil rights offenses resulting in death.	8 U.S.C. 1201—Murder during a kidnapping.	8 U.S.C. 2280—Murder committed during an offense against maritime navigation.
8 U.S.C. 351 [by cross-reference to 18 U.S.C. 1111]—Murder of a member of Congress, an important executive official, or a Supreme Court justice.	8 U.S.C. 1203—Murder during a hostage taking.	8 U.S.C. 2281—Murder committed during an offense against a maritime fixed platform.
8 U.S.C. 794—Espionage.	8 U.S.C. 1503—Murder of a court officer or juror.	8 U.S.C. 2332—Terrorist murder of a U.S. national in another country.
8 U.S.C. 844(d), (f), (i)—Death resulting from offenses involving transportation of explosives, destruction of government property, or destruction of property related to foreign or interstate commerce.	8 U.S.C. 1512—Murder with the intent of preventing testimony by a witness, victim, or informant.	8 U.S.C. 2332a—Murder by the use of a weapon of mass destruction.
8 U.S.C. 924(i)—Murder committed by the use of a firearm during a crime of violence or a drug-trafficking crime.	8 U.S.C. 1513—Retaliatory murder of a witness, victim, or informant.	8 U.S.C. 2340—Murder involving torture.
8 U.S.C. 930—Murder committed in a federal government facility.	8 U.S.C. 1716—Mailing of injurious articles with intent to kill or resulting in death.	8 U.S.C. 2381—Treason.
8 U.S.C. 1091—Genocide.	18 U.S.C. 1751 [by cross-reference to 18 U.S.C. 1111]—Assassination or kidnapping resulting in the death of the president or vice president.	8 U.S.C. 848(e)—Murder related to a continuing criminal enterprise or related murder of a federal, state, or local law enforcement officer.
8 U.S.C. 1111—First-degree murder.	18 U.S.C. 1958—Murder for hire.	49 U.S.C. 1472-1473—Death resulting from aircraft hijacking.
18 U.S.C. 1114—Murder of a federal judge or law enforcement official.	18 U.S.C. 1959—Murder involved in a racketeering offense.	

Source: U.S. Department of Justice, Bureau of Justice Statistics. (2002). *Capital punishment 2001*. Washington, DC: Government Printing Office.

prosecutors. She also revised the *United States Attorneys' Manual* to address a regional lack of uniformity in procedure and prosecution.

The number of federal executions is small in comparison to the states. For the period 1930–2000, it was less than 1% of the total: 33 federal executions compared to 4,509 state executions. From 1963 until the execution of Oklahoma City bomber Timothy McVeigh in 2001, there were no federal executions. The states executed 864 people from 1963 to 2000, but only 46 of those during the 1963–1977 period preceding the Supreme Court decision in 1976 in *Gregg v. Georgia*, which reinvigorated capital punishment.

As in the states, federal capital convictions and executions appear to be biased against nonwhites. A Justice Department study commissioned by President Clinton concluded that minority defendants are overrepresented at every stage of the federal process, and the death penalty is less often applied when the victim is a minority and more often applied when the victim is white. Justice William Brennan, dissenting in *McCleskey v. Kemp* (1987), characterized the effort to eliminate racial arbitrariness in death penalty sentencing as “plainly doomed to failure” (p. 320).

## HISTORY

Federal capital offenses have changed over time. In colonial America, people could have been executed for any felony, including adultery, blasphemy, perjury, sodomy, and witchcraft. The Constitution makes no reference to capital punishment. The First Congress enacted death penalty legislation for 12 federal offenses and required a mandatory death penalty. The first execution under federal law was of Thomas Bird in June 1790, who was hanged for murder. When the Fifth Amendment was adopted in 1791, it acknowledged capital punishment through a limit: “No person shall be held to answer for a capital crime . . . nor be deprived of life, liberty, or property, without due process of law.”

Over the years, the number of possible capital crimes and use of the mandatory penalty declined. Federal capital prosecutions—those of the assassins of presidents, for instance, or of Julius and

Ethel Rosenberg for espionage involving the passing of atomic secrets to the Soviet Union in the 1940s—have tended to be high profile crimes in which the nation took an interest. Likewise, Congress has made capital those crimes that strike a public chord—kidnapping, for instance, such as when pending legislation pertaining to kidnapping was quickly passed after the kidnapping in 1932 of famed aviator Charles A. Lindbergh’s baby from the family home in New Jersey. When the Supreme Court, in *Coker v. Georgia*, disallowed rape as a capital crime in 1977, there appeared to be a legal consensus that the federal death penalty without death of a victim would be unconstitutional. With the advent of world terrorism at the end of the 20th century though, that proposition seems less sure in the 21st century.

## DEATH PENALTY CASES IN THE SUPREME COURT

Two Supreme Court cases inaugurated the modern death penalty era. In *Furman v. Georgia*, the Court found in 1972 that the Georgia death penalty was unconstitutional under the Eighth Amendment’s prohibition of cruel and unusual punishment because of its “arbitrary and capricious administration of capital punishment.” Georgia left to a jury’s “untrammeled discretion” whether or not to apply the death penalty. *Furman’s* majority did not find capital punishment inherently unconstitutional, but this was widely taken as its meaning, especially since the decision coincided with the height of abolitionist public opinion.

In *Gregg v. Georgia*, the Supreme Court in 1976 reinstated capital punishment. The Court found the death penalty not to be cruel and unusual punishment if the legislation were written with “necessary procedural safeguards.” In *Gregg’s* aftermath, federal and 38 state statutes were rewritten to provide juries with guidelines in imposing the death penalty. Most, including federal prosecutions, now have a bifurcated process: a trial to establish guilt or innocence, followed by a sentencing hearing, with the same jury or another jury hearing evidence for and against the death penalty and

constrained by mitigating and aggravating factors. Under federal law, if a penalty jury is unable to decide unanimously for death, the penalty becomes life imprisonment. This was the outcome in the 2003 espionage case against former Air Force officer Brian P. Regan in which the attorney general had requested execution.

Recent developments include *Atkins v. Virginia*, where the Court in 2002 declared it unconstitutional to execute the mentally retarded, and *Ring v. Arizona*, in which the Court ruled in 2003 that it was unconstitutional to have a judge rather than a jury decide if aggravating factors make a case capital.

## FEDERAL DEATH PENALTY LAWS

The federal death penalty statute was reinstated post-*Gregg* in 1988 with the Anti-Drug Abuse Act. It authorized the death penalty for drug-related killings. In 1989, in the midst of President George H. W. Bush's War on Drugs, Congress passed the Drug Kingpin Death Penalty Act, providing the death penalty for "continuing criminal enterprises" involving narcotics and for drug violations involving large amounts of drugs. There have been successful prosecutions but by late 2003 the death penalty had not been applied under this statute. Unlike espionage or treason, there is no common law tradition of execution for nonhomicide crimes and its constitutionality is in doubt.

In 1994, Congress passed a \$30 billion omnibus crime bill, Title VI of which is the Federal Death Penalty Act. It federalized at least 40 crimes not previously eligible for federal death penalty consideration. Among these are murder for hire, sexual abuse crimes resulting in death, car jacking resulting in death, fatal drive-by shootings, and the terrorism provision under which Timothy McVeigh was prosecuted for the Oklahoma City, Oklahoma, bombing.

In 1996, the Antiterrorism and Effective Death Penalty Act (AEDPA) federalized another four offenses. The major death penalty purpose of this law, however, was to decrease time on death row. Average time on death row had expanded from 51 months in 1977 to 133 months in 1997. The AEDPA

provided expedited review and limited the scope of review for federal habeas corpus petitions in state death penalty cases.

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*See also* Antiterrorism and Effective Death Penalty Act; Crimes, Federal Jurisdiction; Violent Crime Control and Law Enforcement Act

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## DEFENSE CRIMINAL INVESTIGATIVE SERVICE

Established in 1981, the Defense Criminal Investigative Service (DCIS) is the investigative arm of the U.S. Department of Defense (DoD) Inspector General. The original Inspector General Act of 1978 did not call for an Inspector General for the DoD, but later amendments did. Headquartered in Arlington, Virginia, DCIS is a civilian law enforcement agency that employs about 400 criminal investigators and support staff and has offices in more than 40 cities throughout the United States and Europe. DCIS special agents have the authority to make arrests, execute search warrants, and serve

subpoenas. Additionally, they conduct interviews and appear as witnesses before grand juries, at criminal and civil trials, and at administrative proceedings. Individuals hired as investigative agents are trained through the Federal Law Enforcement Training Center, in Glynco, Georgia, and undergo a 15-week Basic Agent Training Course in the following training programs: Criminal Investigator Training Program, Inspector General Investigations Training, and the DCIS Special Agent Basic Training Program.

The DCIS conducts all personnel investigations for all components of the DoD. It investigates criminal, civil, and administrative violations impacting the DoD. These investigations primarily involve contract and procurement fraud, antitrust violations, bribery, corruption, large-scale thefts of government property, health care fraud, and intrusions into DoD computer systems. At present, DCIS priorities include terrorism, product substitution, cyber crimes and computer intrusion, and technology transfers.

The DCIS is one of four DoD criminal investigative organizations (DCIOs) and is empowered to conduct its investigations under both the United States Code and the Military Code of Justice. The other three DCIOs, the Naval Security and Investigate Command, the Army Criminal Investigative Command, and the Air Force Office of Special Investigation, are similarly empowered. This dual jurisdiction was challenged in 1987 as a violation of the Posse Comitatus Act (18 U.S.C. 1385) which generally prohibits the military from functioning in a civilian law enforcement capacity but was upheld when the federal court for the District of Columbia circuit found that the DoD inspector general could issue subpoenas in a price-fixing case and could demand that the company under investigation deliver the requested documents to military officers on a military installation (*United States v Aero Mayflower Transit Co. Inc.*).

## INVESTIGATIVE CONCERNS

DCIS has a broad investigative mandate. Agents are involved with such national security issues as terrorism prevention, technology protection, and

computer network defense and with economic crime investigations into product substitution and public corruption. Specialized computer forensic special agents have specialized training in developing computer-based evidence.

In the wake of the September 11, 2001, terrorist attacks DCIS expanded its traditional duties to include providing investigative support to the Federal Bureau of Investigation as part of the continuing task force investigations (Joint Terrorism and Antiterrorism Task Forces) into the attacks. During the period immediately following September 11, 2001 agents in all regions of the country participated in interviews and arrests; served subpoenas; conducted record checks, searches, and surveillance; assisted in essential security operations; and provided computer forensics support. DCIS also responded to requests for antiterrorism-related activities at DoD agencies and contractor facilities. Similarly, the DCIS continues to provide agents and support in the area of computer network defense and plays an active role in the DoD Joint Task Force for Computer Network Operations and the National Information Protection Center at the Department of Justice.

Investigation and prevention of the illegal transfer of strategic technologies, weapons systems, components, and programs to proscribed nations and terrorist organizations posing a threat to national security continue to be a significant focus for DCIS. This also includes the illegal diversion or movement of all forms of high technology, information, and capabilities involving weapons of mass destruction.

Forms of computer crimes investigated by the DCIS include child pornography, Web page hackings, stalking, and insider abuse. DCIS provides criminal investigative resources to suspected computer crimes and computer intrusions; disseminates criminal intelligence to assist in protecting the Defense Information Infrastructure (DII); acts as a liaison with DoD and other government agencies; provides assistance in assessing, reporting, and correcting vulnerabilities in the DII; and provides computer forensics support in the seizing and analysis of digital evidence.

## ECONOMIC CRIMES

One of the highest investigative and prosecution priorities for DCIS continues to be in respect to counterfeit material and other forms of unauthorized product substitution within the consumer marketplace. An area of increased emphasis is readiness enhancement through the detection and investigation of defective or substituted products that involve either safety of flight issues or have a critical application in this area.

The DCIS also investigates allegations of fraud and abuse in DoD environmental programs, including environmental terrorism and contract fraud in relation to the delivery, removal, transport, and disposal of hazardous material and waste from DoD installations.

Public corruption is the betrayal of public trust by elected or appointed U.S. government officials who demand, solicit, seek, accept, receive, or agree to receive anything of value in return for preferred treatment. A major concern for DCIS is health care fraud. Significant resources are contributed to the investigation of all allegations of fraud committed by health care providers throughout the DoD Military Health Services System (which provides health care to active duty and retired military personnel and their family members).

Included in DCIS's financial crime focus are defective pricing, cost or labor mischarging, progress payment fraud, fast pay fraud, government purchase card, antitrust, and economic espionage. These types of investigations may be handled individually or in conjunction with other law enforcement agencies. In 1985 DCIS joined with the FBI and the Internal Revenue Service in "Operation Defcon," an investigation into defense contracts and subcontracts kickbacks in Los Angeles. More recently, in early 2004, it opened an investigation into possible fraud connected with allegations that DBR, a subsidiary of the U.S. company Halliburton, and its Kuwaiti subcontractor may have overcharged the U.S. government for trucking fuel from Kuwait into Iraq.

## TECHNICAL OPERATIONS

The rise of computer use in virtually every level of business has led to an increase in the ability to detect electronic evidence of criminal activity.

Increasingly, business details, activities, and records are created and saved on computers. The DCIS employs special agents, known as computer forensic special agents, who are specially trained to seize, protect, and analyze computer evidence.

DCIS focuses much of its investigative resources in the areas of procurement and acquisition—specifically, allegations involving complex fraud by large DoD contractors and suspected criminal violations affecting DoD resources and programs. These investigations primarily involve contract and procurement fraud, bribery, corruption, kickbacks, antitrust violations, and large-scale thefts of government property. In addition, the DCIS conducts special operations in the form of undercover operations, sensitive cases and security, and criminal intelligence. In recent years DCIS activities have included the investigation into allegations against companies suspected of exporting military technology on the U.S. Munitions List without obtaining the appropriate licenses from the U.S. Department of State, as well as a 100 billion dinar counterfeit ring in Iraq.

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*See also* Economic Crime; Federal Bureau of Investigation; Inspectors General, Offices of; Posse Comitatus Act

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## DEPARTMENT OF EDUCATION, OFFICE OF THE INSPECTOR GENERAL

In the 1960s and 1970s federal spending increased with the awarding of federal grants and contracts. As a result, fraud, waste, and abuse of federal funds became a considerable problem in the federal government, and the executive and legislative branches of the government became alarmed when it was disclosed how much money was lost. The Inspector General Act was enacted in October 1978 in an effort to address the problem, by establishing an Office of Inspector General (OIG) in most federal departments and agencies. The act combined audit and investigative functions within one office to provide leadership that would promote economy, efficiency, and effectiveness in the administration of programs and operations and to prevent and detect fraud and abuse in programs and operations.

The act, for the first time, gave the Offices of Inspectors General independence and authority in their agencies and established a tie between the inspector general and Congress. In the Department of Education the OIG is primarily involved with investigating how federal education programs are managed and how federal funds are used. The OIG also investigates activities of Education Department employees and recipients of department money when any mismanagement is suspected. On the state and local levels, the OIG reviews the expenditure of federal education funds. In addition, the OIG audits awards made to profit and nonprofit organizations.

## STUDENT AID FRAUD

Since its inception, the OIG has investigated and exposed numerous cases of fraud, waste, and abuse in the Department of Education. Investigations over the years have resulted in indictments, arrests, convictions, and jail and prison sentences. The issues under investigation have varied and have included anything from student aid fraud to misuse of funds allocated for migrant workers. The Office of the Inspector General maintains a fraud hotline for citizens to report unlawful activities, maintaining the confidentiality of the informant.

A major area of investigation for the OIG is student loan waste, fraud and abuse. In 2003, OIG staff estimated that \$336 million in Pell grants, the major grant program to U.S. students, was improperly disbursed because applicants understated their income in fiscal year 2001. The department has requested changes in the Internal Revenue Code to permit matching tax information on income with information provided on student loan applications. The OIG also audits agencies used by the government to guarantee the loans and investigates financial aid consulting businesses, more than 400 of which were prosecuted between 2001 and 2003 for certifying false federal income tax returns that permitted ineligible students to qualify for financial aid. Other cases have involved false citizenship information submitted on behalf of non-U.S. citizen students and waste and abuse in the Federal Family Education Loan program that disburses funds directly to students who are enrolled in non-U.S. schools.

The semiannual reports of the OIG provide a comprehensive picture of the activities and issues dealt with by the OIG throughout its history. Many of the topics in these reports have been reported by the media and in newspapers, educational journals, and newsletters. Each of the semiannual reports is arranged differently, but all the reports emphasize the activities and accomplishments of the OIG. In addition to providing an in-depth review of the actions taken over the six-month period, detailed statistical tables are supplied. Since the Office of Inspector General has the responsibility for all levels

of education, the impact of audits and investigations is significant for ensuring access to quality education for all citizens of the United States.

One of the newest goals set forth in a semiannual report is to support the president's mandate to expand the electronic government. The latest initiative taken in this area is completing an audit of the department's Critical Infrastructure Protection program, which protects its cyber-assets. The OIG also conducted investigations of crimes involving computer networks in the department, including Web site defacement and unauthorized access by other countries. Cyber-security is of particular concern and this area is certain to receive considerable attention in the future by the OIG.

The OIG faces many challenges in its efforts to provide the best service possible to the American public. Its investigations are aimed not only at uncovering criminal activities, but also at maintaining fiscal integrity while continuing to improve program delivery and program effectiveness.

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*See also* Inspectors General, Offices of

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

The Department of Health and Human Services (HHS) was established in 1980 to protect the health of all Americans and provide health-related services to the public. By 2003, HHS was the largest grant-making agency in the federal government, representing the nation's largest health insurance program (Medicare) and overseeing more than 300 federally funded health- and service-related programs. HHS's budget for 2003 was reported to be \$502 billion, the majority of which (\$413 billion) was devoted to the Centers for Medicare and Medicaid Services (CMS). This division of HHS is responsible for administering Medicare and Medicaid programs, which provide health insurance for elderly and disabled persons (Medicare) and works with state agencies to provide medical services and health insurance for low-income citizens of all ages (Medicaid). Part of administering these programs includes investigating fraudulent practices associated with Medicare and Medicaid. In 2002, the government was awarded \$1.6 billion in judgments and settlements against violators.

The Medicare and Medicaid programs were created in 1965 to offer comprehensive health care to millions of elderly and low-income Americans. Both programs were originally administered under the Social Security Administration. In 1977, the Health Care Financing Administration (HCFA) was created to manage Medicare and Medicaid separately from Social Security. At the time, these programs fell within the purview of the Department of

Health, Education and Welfare. In 1979, a separate Department of Education was created, leaving the nation's health and welfare issues the responsibility of the newly established HHS. In 2001, the long-standing HCFA was replaced by the CMS, which now administers Medicare and Medicaid programs.

According to the CMS, Medicare and Medicaid programs provide health care to about one in every four Americans. More than 41 million elderly and disabled Americans have health insurance through Medicare and more than 900 million claims are processed annually under Medicare alone. Medicaid, which is a joint program between the federal government and independent states, provides medical coverage for more than 44 million low-income Americans. The Medicaid program includes nearly 19 million low-income children and nursing home coverage for low-income elderly citizens.

Given the staggering size of these programs, it is not difficult to foresee the potential for abuse and fraud on the part of health care providers and recipients. Monitoring and enforcing health care fraud is the responsibility of the Department of Justice (DOJ) and HHS. The DOJ's Fraud Division utilizes Federal Bureau of Investigation agents to investigate fraudulent activities associated with Medicare and Medicaid. Cases of fraud are then prosecuted by the U.S. attorney general's office. Within HHS and the CMS is the Office of Inspector General (OIG). OIG agents are authorized to conduct criminal investigations and assess administrative penalties to those found guilty of Medicare and Medicaid fraud. In doing so, the OIG is able to exclude providers from participating in Medicare and Medicaid programs. For many health care providers the inability to treat recipients of these programs is financial suicide.

## DEFINING AND PREVENTING FRAUD

Medicare and Medicaid fraud occurs when agencies knowingly make false statements or misrepresentations about entitlements or payments under either health care program. False statements can be made by physicians, hospitals, laboratories, billing services, private insurance companies, medical equipment

providers, or any employee of the aforementioned agencies. There are innumerable ways to attempt to defraud the government's Medicare and Medicaid programs. For example, some agencies bill the government for ghost or phantom patients. This includes current patients who were not seen on the date reported, patients who have died, or patients whose Medicare or Medicaid number has been obtained under false pretenses. Double-billing occurs when the government is charged twice for a procedure that occurred only once. Some agencies attempt to bill the government for expenses that are not related to medical services. Additionally, ordering and performing tests and procedures that are not medically necessary to receive additional payments are included as fraudulent practices. Up-coding, kickbacks, and unbundling are three additional fraudulent acts that bilk the Medicare and Medicaid programs. Up-coding occurs when a medical procedure is performed and Medicare or Medicaid is charged for a similar but more expensive procedure. Kickbacks are obtained as the result of receiving additional compensation for making referrals, prescribing specific drugs, or using a company's equipment or services. Medicare and Medicaid are then charged for the services, equipment, or prescription. Unbundling is another fraudulent act that results in overpaying agencies. Often, the whole is worth less than the sum of its parts. By unbundling medical equipment, for example, the agency purchases needed medical items as a whole but bills the government for the individual parts. One such example involved a \$12 medical kit that could be unbundled so that Medicare was charged \$250 for the respective parts. The financial gains of fraudulent practices are staggering. Any and all products and services billable to Medicare and Medicaid can and have been exploited to commit medical fraud.

Numerous federal statutes have been employed to fight Medicare and Medicaid fraud. The Medicaid False Claims Statutes, the Medicaid Anti-Kickback Statutes, the Self Referral/Stark I and II Amendments, and the Health Insurance Portability and Accountability Act (HIPAA) are a few of the statutes written specifically to combat Medicare

and Medicaid fraud. Other statutes, not written to address Medicare and Medicaid fraud specifically, such as the False Claims Act, the False Statement Act, and mail and wire fraud acts have also been used to prosecute agencies that attempt to defraud the government.

The Medicaid False Claims Statute criminalizes the making of false statements or representations in connection with any application for claim of benefits or payment or disposal of assets under a federal health care program. An offense under this statute has four elements the government must prove: a statement of material fact to receive payment from a federal health care program was made, the statement was false, the statement was made willfully and knowingly, and the defendant knew the statement was false. Penalties under the Medicaid False Claims Statute include a fine up to \$25,000 and imprisonment up to five years or both. Administrative sanctions can also be imposed to prevent the defendant from participating in federal medical reimbursement programs for up to one year.

The Medicaid Anti-Kickback Statute makes it a felony to knowingly and willfully pay or receive any remuneration directly or indirectly, overtly or covertly, in cash or in kind, in exchange for prescribing, purchasing, or recommending any service, treatment, or item for which payment will be made by Medicare, Medicaid, or any other federally funded health care program. Included activities are kickbacks, rebates, bribes, and transfers of anything valuable. The elements of the offense include soliciting or receiving compensation in return for referrals for services that will be paid for by either Medicare or Medicaid. The criminal penalties are the same as those under the Medicaid False Claim Statute but in addition allow for civil monetary penalties.

The Omnibus Reconciliation Act of 1989, known as Stark I, was enacted to control the increased medical costs resulting from physicians' self-referrals. It prohibited physicians from referring Medicare patients to clinical laboratories in which the physician had a financial interest, absent a safe harbor provision. The ineffectiveness of this statute led to the enactment of the Omnibus Reconciliation Act of 1993, known as Stark II. This statute

expanded the scope of the first Stark act. To convict a defendant under the Stark statutes, the government must prove that a claim was submitted for services that resulted from a physician referring a patient to a designated health care service provider to which a financial relationship between the health care service provider and physician exists. Because this is a civil statute, there is no intent requirement. There are four penalties that can be imposed under the Stark laws. First, claims that violate the laws will result in nonpayment. Second, if money has already been collected from the federal insurance program, it must be refunded. Third, civil monetary penalties up to \$15,000 per violation and exclusion from federal reimbursement programs may be imposed. Fourth, a person who does not meet reporting requirements may be fined up to \$10,000 per day.

Touted as a protector of patient privacy and medical record security, HIPAA is primarily concerned with increasing the penalties for Medicare and Medicaid fraud. Enacted on August 21, 1996, sections of the act were still being phased-in in 2004. By April 14, 2003, medical service providers were required to meet the health information privacy rule. The new security and privacy standards within HIPAA create a paper trail for federal investigators to follow if fraud is suspected. HIPAA extended the scope of health care fraud prevention by creating a stable source of funding to combat health care fraud and gave the federal government the power to regulate private health insurance providers. Three programs supported through HIPAA are the Health Care Fraud and Abuse Control Program, the Medicare Integrity Program, and the Beneficiary Incentive Program.

The Health Care Fraud and Abuse Control Program coordinates federal, state, and local efforts to prevent medical fraud. Under this program investigations, audits, inspections, and evaluations of health care providers are conducted and a national database of providers who have been sanctioned for health care fraud is maintained. The second program, the Medicare Integrity Program, gives HHS the ability to enter into contracts with private agencies to investigate Medicare fraud. This program is also responsible for educating the public, beneficiaries,

and providers about Medicare fraud. Finally, the Beneficiary Incentive Program encourages beneficiaries of Medicare to report information leading to the prosecution of defrauders of the Medicare program. As an incentive, those who assist the government in recovering monetary losses over \$100 may receive a portion of the savings or recovery.

Applying HIPAA allows the federal government to prosecute anyone who knowingly and willfully defrauds the government by obtaining benefits by making false representations or statements; embezzles, converts, or steals funds, property, or assets of a government health care program; or hinders the investigation of such activities. Violating HIPAA can result in five years imprisonment and fines varying in amount depending on the severity of the violation. Also, if the violation results in a serious bodily injury, the maximum prison sentence is 20 years. A violation resulting in death has a maximum sentence of life imprisonment. It also allows the federal government to freeze the assets of anyone who commits one of the offenses defined in the act. Finally, HIPAA allows asset forfeiture of either real or personal property if the asset has been obtained directly or indirectly during the commission of health care fraud.

The False Claims Act has been favored among federal prosecutors seeking convictions for Medicare and Medicaid fraud. Under this act, the federal government must prove three elements. First, the defendant presented a claim to the government to receive reimbursement for medical goods or services; second, the claim was fraudulent or false; and third, the defendant knew the claim was false and intended to submit it. The penalties include imprisonment for up to five years and a fine in accordance with the U.S. Sentencing Guidelines. The False Statements Act was enacted to serve as a companion to the False Claims Act and criminalizes false statements made to the government, either directly or through a third party. It may be used with, or instead of, other antifraud statutes. The elements of the offense that must be proven to obtain a conviction are the same as those for the False Claims Act, except federal prosecutors must also prove materiality under the False Statements Act. Also like the False Claims Acts, penalties include fines and imprisonment up to five years.

Federal mail and wire fraud laws are also used to convict defrauders of Medicare and Medicaid if agencies use the mail or interstate wire communication as part of their fraud scheme. Prosecutors must prove the defendant intended to participate in a fraud scheme and used mail or wire to perpetrate the scheme. The difference between the mail and wire fraud statutes is that mail fraud does not require interstate use of mails, but wire fraud must cross state lines using wire, radio, or television communications during the fraud scheme. The penalties for violating either mail or wire fraud statutes include a fine up to \$1,000 and a prison sentence up to five years.

Health care fraud was estimated in 2003 to account for up to 10% of total annual health care expenditures and was estimated to cost taxpayers nearly \$100 billion per year. Agencies within HHS and DOJ work together to prevent, detect, and prosecute Medicare and Medicaid fraud. The government has enacted laws and established programs in an attempt to diminish health care fraud. The Beneficiary Incentive Program, for example, encourages program participants to report suspicious behavior. The CMS even offers suggestions to Medicare and Medicaid recipients on how to identify potential fraud by their health care provider and encourages citizens to report suspected fraud.

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## DEPARTMENT OF HOMELAND SECURITY

In the days immediately following the terrorist attacks against the United States on September 11,

2001, the nation was witness to a quick succession of official acts taken by the federal government to help prevent further such catastrophes. These acts included a presidential proclamation of a state of national emergency, the presidential authorization of the Use of Military Force bill, and the speedy establishment of 94 antiterrorism task forces throughout the country, one for each U.S. attorney office. Probably the most striking and far-reaching action taken by the administration of President George W. Bush in the wake of the events of September 11, 2001, was the presidential announcement to Congress of the creation of the Office of Homeland Security, with ex-governor of Pennsylvania Tom Ridge as its director. President Bush's announcement became the first official step in the development of what was to become the Department of Homeland Security, representing both the most sweeping effort to thwart acts of terrorism and one of the most dramatic examples of government restructuring at the federal level in U.S. history.

On the evening of June 6, 2002, President Bush announced, in a nationally televised speech, that he would ask Congress to approve a cabinet-level Department of Homeland Security entrusted with the primary responsibility of protecting the United States from attacks from terrorist groups. The plan was that such a department would inherit a work force and funding from existing federal agencies that the proposed new department would absorb. The departments to be absorbed included the Immigration and Naturalization Service (INS), the Secret Service, Border Patrol, Customs Service, and the Coast Guard. And, as reflected through the results of public surveys, the idea won wide public support; 72% of respondents to a Gallup poll expressed full approval.

On November 25, 2002, President Bush signed into law congressional legislation authorizing the official creation of the Department of Homeland Security and appointed Tom Ridge, then the White House's domestic security coordinator, as the department's first secretary. The secretary of the Navy, Gordon R. England, was appointed to the number two post at the department. As envisioned by the Bush administration at that time, the primary objectives of the Department of Homeland Security were

publicly stated as (1) the prevention of terrorist attacks, (2) the reduction of vulnerabilities to terrorism, (3) the minimization of damages of terrorist attacks that may occur as a result of terrorism, and (4) the assistance in recovery from attacks that may occur as a result of terrorism.

On March 1, 2003, the final step of merging 22 federal departments, offices, and agencies and nearly 170,000 employees into the super-department known as the Department of Homeland Security was taken. The government entities moved to the main divisions of the Department of Homeland Security included the Justice Department's Immigration and Naturalization Services and the Office of Domestic Preparedness, the Secret Service and Customs Service from the Department of the Treasury, and the Transportation and Security Administration and the Coast Guard from the Transportation Department. The inauguration of the new department was met with a combination of high expectations and some pessimism. The pessimism centered on three major areas: the ability to successfully manage such a mammoth organization; the potential for rivalries with existing national intelligence-gathering agencies, such as the Federal Bureau of Investigation (FBI); and the department's ability to accomplish its goals with the amount budgeted for its first year of function—\$33 billion. Regardless of differing opinions on the department's future prospects, few could argue that the birth of the Department of Homeland Security represented the most ambitious consolidation of federal agencies since the joining of the War and Navy Departments to create the Defense Department during the Truman administration in 1947.

To pursue its primary objectives, the department was organized into four divisions: (1) Emergency Preparedness and Response, (2) Information Analysis and Infrastructure Protection, (3) Border and Transportation Security, and (4) Science and Technology.

## **EMERGENCY PREPAREDNESS AND RESPONSE**

The thrust of the department's division on Emergency Preparedness and Response is to activate effective

first responses to terrorist disasters. Although the United States has possessed the resources, in terms of both funding and workforce power to achieve this objective, much of the responsibilities have been diffused among many diverse public and private agencies servicing the general populace. The primary role of the department's Emergency Preparedness and Response Division is to provide an overarching entity that would facilitate the consolidation of the efforts of first responders, such as police, firefighters, and emergency medical personnel, to terrorist disasters at the state and local government levels. Building on the work of the Federal Emergency Management Agency, the division's mission is to transform decentralized first responder activities to action that is both well synchronized and proactive. This effort is described by the department as a "comprehensive, risk-based, all-hazards emergency management program of preparedness, mitigation, response and recovery."

As originally designed, the division not only assumes authority over federal programs for first responders, but is also responsible for the development and administration of a comprehensive training program to enhance the skills and coordination of all first responders. This undertaking includes training curriculum design, the setting of standards of substantive excellence, and the development of a system of performance evaluation for all local, state, and federal training programs.

Additional areas of responsibility for the division are incident management and interoperable communications. A key objective of the division is the creation of a comprehensive national incident management system designed to effectively respond to terrorist incidents as well as natural disasters. The aim is to streamline existing federal incident management procedures and to eradicate any distinctions between crisis management and consequence management. The division also addresses the need for unimpeded communication among all relevant government agencies across the country in the aftermath of a terrorist attack. Mindful of this need, the division is responsible for enabling a seamless communication system among all responder agencies.

## INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

The mission of the department's Information Analysis and Infrastructure Protection division is solidly rooted in the conviction that the disruption of terrorist activities is closely associated with timely and thorough analysis and dissemination of information about terrorist groups. This division is responsible for systematically coordinating all information and intelligence on potential terrorist threats within the United States. The division is designed to achieve this objective by collecting and synthesizing information generated by existing intelligence-gathering agencies, including the Central Intelligence Agency (CIA), National Security Agency, and FBI, to furnish early warnings of potential attacks as a means of preempting these attacks. Special attention is paid by the division to revised FBI guidelines governing the collection of information and the conducting of investigations. Foreseeing that the guidelines would empower the FBI with broadened investigative authority at earlier stages of the investigation process, the division is dedicated to coordinating the analysis of expanded information, generated as a result of the revised guidelines, with data collected by other intelligence-gathering agencies. An added responsibility for the division is to coordinate and consolidate lines of communication with state and local public safety agencies to effectively convey intelligence on potential terrorist actions.

Being responsible for infrastructure protection, this division leads the coordinating efforts for a partnership of federal, state, and local government agencies and the public sector to protect the U.S. energy, information, transportation, defense, and telecommunications systems from the effects of terrorist attacks. This division builds on the work of the Department of Energy's National Infrastructure Simulation and Analysis Center to model methods for identifying and alleviating vulnerabilities that could lead to significant damage to the country's critical infrastructure if successfully attacked by terrorists. Due to the potential for the widespread disruption of essential services cutting across many

branches of critical infrastructure, a priority of the division is protection of the nation's cyber infrastructure from terrorist attack.

## **BORDER AND TRANSPORTATION SECURITY**

Through the division of Border and Transportation Security, the Department of Homeland Security strives to secure the nation's extensive national borders with Canada to the north and Mexico to the south, as well as U.S. maritime borders of shoreline and navigable waters. A special concentration of division activities is devoted to effective screening at the nation's 350 official points of entry to ensure that these ports do not serve as points of entry for terrorists. A major initiative of this division is to convert the past general conception of linear borders into what the department terms *smart borders*, that is, the creation of a layered management system—building on the work of agencies such as INS, U.S. Coast Guard, Animal and Plant Health Inspection Service, and the Transportation Security Agency—to enhance the visibility of individuals, vehicles, and goods exiting and entering the United States. The goal of the division is to enhance the coordination and quality of transportation while not burdening or otherwise delaying the efficient processing and review of legitimate traffic across U.S. borders. The division addresses the protection of government buildings in the United States by incorporating the functions of the Federal Protective Service (General Services Administration).

Methods employed to achieve the division's ends are varied. One of these methods are the requirements for visitors to present travel documentation that may include biometric identifiers and collaboration with other nations and international organizations to enhance the quality and issuance of travel documents in an attempt to limit the illegal use of such documents by terrorist organizations. Strategies also include interfacing with other countries to improve the effectiveness of those countries' border controls to help mirror new advances attained for U.S. border controls. As part of the department's comprehensive border and transportation security

control program, this division is also responsible for developing and deploying nonintrusive inspection technologies to upgrade the effective and efficient screening of goods at the borders.

Four special objectives of the Border and Transportation Security division are (1) to improve immigration services, (2) to improve the security of international shipping containers, (3) to implement the Aviation and Transportation and Security Act of 2001, and (4) to recapitalize the U.S. Coast Guard. As part of the improvement of immigration services, the division works with colleges and universities to track and monitor international students and exchange visitors and also facilitates the separation of the INS's enforcement and service within the Department of Homeland Security. Improved security of international shipping containers is sought by the division by establishing security criteria to identify high-risk containers and by using new technology to prescreen containers before they arrive at U.S. ports (U.S. inspectors are positioned at high-volume foreign seaports for prescreening). Through the Aviation and Transportation Security Act of 2001, signed into law by President George W. Bush on November 19, 2001, this division was made head of a program of strengthening partnerships among federal, state, and local governments and the private sector to protect critical transportation assets. These include protection of rail and highway bridges, pipelines, Federal Aviation Administration facilities, and the securing of the national airspace. The division has also been charged with the responsibility of ensuring that the nation's aging U.S. Coast Guard fleet is upgraded so that it is able to fulfill its functions of maritime safety, maritime mobility, and protection of natural resources.

## **SCIENCE AND TECHNOLOGY**

The Department of Homeland Security's published mission statement underscores the core element of progress in science and technology. In many ways, the department views this as the key to a successful national program against the threat of terrorism. Much of the potential in this area is envisioned as being centralized in improved technology in

capabilities of early detection of terrorist attacks and counteractions against chemical, biological, radiological, and nuclear weapons. An integral piece of this effort is the establishment of a research and development center for mitigation of the risks presented by the ongoing technological advancements of modern terrorists. The center draws upon new technological innovations emanating from the private sector to gain and sustain a competitive technological edge over terrorist groups. A large part of this is the improvement of accuracy, consistency, and efficiency in biometric systems and the exploration of biomolecular techniques and noise suppression methods for voice authentication.

As identified by the National Strategy for Homeland Security, there are 11 major initiatives for the science and technology division: (1) development of chemical, biological, radiological, and nuclear countermeasures; (2) development of systems for detecting hostile intent; (3) application of biometric technology to identification devices; (4) improvement of technical capabilities of first responders; (5) coordination of research and development of the homeland security apparatus; (6) establishment of a national laboratory for homeland security; (7) solicitation of independent and private analysis for science and technology research; (8) establishment of a mechanism for rapidly producing prototypes; (9) development of demonstrations and pilot deployments; (10) setting of standards for homeland security technology; and (11) establishment of a system for utility-based research. The national laboratory is actually a proposed network of laboratories that is modeled on past work of the National Nuclear Security Administration laboratories operational throughout the Cold War. In effect the network is intended to act as a testing ground for countermeasure techniques directed at chemical and biological threats and to identify those techniques of most practical use. As part of this effort, the division of Science and Technology is responsible for conducting demonstrations and pilot deployments of methods that may be unique to regional needs throughout the United States. Technologies developed through laboratory research and testing that are judged to be effective become the basis of rapid

prototyping to the field and are sustained through partnering with the private sector for support.

## CRITICISM AND RESPONSE

Although the Department of Homeland Security has been the recipient of much praise since its inception, it has also received criticism. In June 2002, a top Republican senator, Richard C. Shelby (AL), who was vice chairman of the Senate Select Committee on Intelligence, accused the department of not being designed to effectively address acute intelligence problems. At the same time, Democratic Senator Joseph I. Lieberman (CT) claimed that the plans for the department's development had not satisfactorily accounted for ensuring the sharing of information between the FBI and the CIA. The national color-coded security alert system created by the department in an attempt to prepare law enforcement agencies and the public for the possibility of terrorist attacks was derided as being simplistic, confusing, and unreliable due to occasional dependence on erroneous information. During the winter of 2002, the upgrading of the alert system led to a surge of consumer purchases of duct tape and plastic sheeting in the New York and Washington, D.C., metropolitan areas to ward off the possible seepage of noxious gas used in terrorist attacks. The unusual public reaction forced representatives of the department to issue announcements discouraging the rush to seal windows and doors and to admit to fumbled efforts to effectively educate the public on practical methods for protection against gas and biological attacks.

The department's organizational makeup and methods became critical targets of two separate reports. In *Assessing the Department of Homeland Security*, the Brookings Institution criticized the department for merging too many diverse functions under one roof, not paying enough attention to the effective management of the department, and failing to prioritize its strategic priorities. The report's authors also accused the department of oversimplifying the terrorist threat by confining its focus to protection against chemical, biological, and radiological attacks and overlooking more conventional attacks

similar to those used in the September 11, 2001, attacks. *Meeting the Challenges of Establishing a New Department of Homeland Security*, published by the Center for Strategic and International Studies, called for the initiation of tighter links between the department and other homeland security entities, the crafting of closer connections to the private sector for the establishment of public-private partnerships, and a facilitation of an increased public awareness about personal safety and security through an ongoing national public education campaign.

The Department of Homeland Security has demonstrated a willingness to adjust to perceived shortcomings and has altered its original directions in some cases. The most notable example is in the area of public education. On February 19, 2003, Secretary Tom Ridge announced that the Department of Homeland Security would embark upon a \$1.2 million public relations effort to furnish information to the public on how to go about putting together emergency kits and communication plans in response to a chemical, biological, or radiological attack. The campaign was orchestrated using television and radio advertisements and brochures to get the message out. The campaign also includes the development of a government Web site, [www.ready.gov](http://www.ready.gov), and a toll-free telephone line, 800 BE READY, to provide further detailed advice to the public. The Web site includes links to the Federal Emergency Management Agency, the Centers for Disease Control and Prevention, and the American Red Cross. Secretary Ridge's announced program managed to garner wide praise from lawmakers who had previously criticized him for neglecting organized public awareness and underscored what was hoped to be the department's new direction in promoting strategic change response according to public needs.

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## DEPARTMENT OF JUSTICE

The Department of Justice (DOJ), an agency of the judiciary branch of the federal government, is headed by the U.S. attorney general (AG), who reports directly to the president of the United States and is a cabinet-level officer. The mission of the DOJ has expanded considerably since its creation, and now includes,

To enforce the law and defend the interests of the United States according to the law; to ensure public safety against the threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; administer and enforce the nation's immigration laws fairly and effectively; and to ensure fair and impartial administration of justice for all Americans.

DOJ is similar to a major law firm with divisions of attorneys with identified areas of expertise. The attorney general is counsel and adviser to the president and other federal agency executives.

### HISTORICAL OVERVIEW

The attorney general's position was established by the Judiciary Act of 1789, although DOJ itself was not created until 1870, after many years of discussions and pleadings with presidents and politicians

regarding the scope and responsibilities of the attorney general. George Washington initiated the practice of inviting the attorney general to cabinet meetings. From the beginning, the ideals of justice and freedom translated to the necessity of laws fairly administered governing citizen to citizen and citizen to government relations. The department's motto, *Qui Prodomina Justitia Sequitur*, has British origins with an American application that, in essence, states that the attorney general prosecutes on behalf of justice. The attorney general serves as the lawyer for the federal government and prosecutes government interests before the Supreme Court.

The department was created through an act of Congress in 1870 that was introduced by Congressman Thomas A. Jenckes (R-RI), who convinced fellow legislators of the necessity to exercise all legal authority and administrate all legal issues affecting the country under one legal department. Under the act, the attorney general was given supervisory powers over district attorneys, U.S. marshals, administrative staff, and all officers of the federal courts, duties that had previously been assigned to the secretary of the Interior.

DOJ, more than any other executive department, has reflected the changing political landscape of American society. After the Civil War many citizens had claims against the government regarding damaged or confiscated property or companies as a result of wartime contracts. The country was more and more involved in commercial activities and the need for legal counsel became evident. As specialized lawsuits and cases were brought against the government, the development of specialized divisions evolved. Congress enacted the first criminal statute in 1790 and a unified criminal code followed in 1883. Citizens were concerned that such a centralized authority would undo the freedoms they fought to win when they left England. However, when the nation entered an isolationist period, many citizens blamed high rates of immigration to the United States for higher rates of crime and violence, a concern that propelled the department's role. Both the assassination of President James A. Garfield in summer 1881 and the Haymarket Riots five years later seemed to confirm citizens' fears

that American life was at risk. Congress was slow to act and Attorney General Benjamin Brewster took responsibility for addressing these circumstances and the Criminal Division proceeded to prosecute acts against federal criminal statute.

Current DOJ responsibilities involve cooperation in both domestic and transnational crime problems. Multiagency and governmental task forces address crime problems such as health care and computer frauds, drugs, violent crime, and crimes against children to name only a few. Organized crime and espionage were developing as critical issues in the 1980s and incidents of domestic political and environmental terrorism were called the gathering storm. An increase in lawsuits against the federal government in the area of constitutional and civil rights presented challenges to both the criminal and the civil divisions. For example, in the 1980s a claim was brought against DOJ (Parole Commission and Bureau of Prisons) when a paroled prisoner went on a killing spree. The Civil Division is responsible for handling this type of process against any federal government entity.

Due to the scope of the department, several law enforcement agencies developed under its purview, including the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA). Additionally, two other major law enforcement agencies, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF, which was formerly the Bureau of Alcohol, Tobacco, and Firearms within the Department of Treasury) and the Immigration and Natural Service were transferred to DOJ under the Homeland Security Act of 2002. The concept of concurrent jurisdictions and responsibilities has affected the changes regarding authorized missions and responsibilities. An example of this is the 1983 executive order giving concurrent jurisdiction for drug violations to the FBI with the DEA. Merging these agencies had been discussed and studied since the late 1970s, but they remained autonomous.

## ADMINISTRATIVE STRUCTURE OF DOJ

The officer in charge of DOJ is the AG, a presidential appointee who is a member of the cabinet and is the most senior law enforcement officer in the

country. The AG must be confirmed by the Senate and candidates undergo significant scrutiny prior to appointment. The main functions of the AG are to represent the nation in legal matters, to supervise and direct the administration of the department, to furnish advice and opinions to the president and other federal executives, to make recommendations to the president regarding judicial appointments, to represent and supervise representation before the Supreme Court, and to implement and supervise statutes and executive orders. The AG is supported by a deputy attorney general. Additionally, an associate attorney general and the solicitor general comprise the executive command hierarchy.

### *Deputy Attorney General*

The deputy AG reports directly to the AG and is the second in command of the department. The position is a presidential appointment and is generally held by an expert in criminal law. The main functions of this position are to provide overall direction of all organizational units within the department and to handle matters related to employment, separation, and general administration of all personnel employed within the department. The deputy AG oversees liaison with the White House and Executive Office of the President, coordinates the response to civil disturbances and terrorism, and has general supervision of the U.S. Parole Commission.

### *Associate Attorney General*

The associate AG is the third ranking executive at the department and a principle member of the AG's executive management team. An expertise in civil law is usually required, since the incumbent directs the activities of the department's Civil Division. This office oversees the United States Trustees, Foreign Claims Settlement Commission, Office of Justice programs, Tribal Justice, Dispute Resolution, and Community Relations programs to name a few.

### *United States Solicitor General*

The solicitor general is the only officer of the United States required by statute to be trained in the

law. This position is one of two government employees (the other is the vice president) with formal offices in two branches of the government. The solicitor general represents the interests of the government before the Supreme Court and is sometimes termed the Tenth Justice of the Supreme Court, albeit without a vote. The solicitor general also directs any government intervention defending the constitutionality of acts of Congress.

### *United States Attorneys*

There are 93 U.S. attorneys (USAs) located throughout the country with a federal mandate covering the prosecution of crimes articulated in more than 900 criminal and civil statutes. The USAs are also presidential appointments and considered pivotal political positions of great visibility, since the decisions to charge and prosecute are key and impact matters arising in their geographical jurisdictions. These high-profile investigations garner political currency for those interested in continued public service. Rudolph Giuliani, a former USA for the Southern District of New York, led high-level prosecutions of major organized crime leaders and complex drug organizations in the 1980s. He was later elected mayor of New York City. Other USAs often advance to federal judgeships or are hired to lead general counsels' offices in major law firms or corporations. Teams of assistant U.S. attorneys dominate federal litigation and develop prosecutive expertise in various areas of federal investigations working closely with federal investigators and multiagency task force personnel.

### *Office of Professional Responsibility*

This office serves as the internal watchdog for the department and investigates allegations of misconduct by DOJ personnel. It is authorized to act in all aspects of the identification, preliminary inquiries, report of findings, and recommendations to the AG and deputy AG regarding reported misconduct. This office also reports on trends of misconduct developing in the department. In 2002 there were notable whistleblowers related to FBI operations, as there were cases of espionage committed

by sworn federal law enforcement agents. The Office of Professional Responsibility also serves as liaison to the National Organization of Bar Counsel (NOBC). NOBC is a nonprofit organization of legal professionals whose members enforce ethics rules regulating the conduct of lawyers in the United States, Canada, and Australia.

### *Major Divisions of the Department*

Criminal, civil, civil rights, and antitrust are the most widely recognized divisions addressing cases involving terrorism, hate crimes, and major business, securities, and health care frauds. Attorneys within these divisions supervise and direct investigative priorities and the particular strategies involving major initiatives within their respective divisions.

The department spearheads the activities of more than 60 law enforcement agencies under its aegis together with community and research programs and institutes. These components number more than 62. Together with the FBI, DEA, and BATFE some of these are Community Oriented Policing Services, Federal Bureau of Prisons, Immigration and Naturalization Services until March 1, 2003, National Institute of Corrections, National Institute of Justice, Office of Legal Policy, U.S. Marshals Service, U.S. Parole Commission, National Drug Intelligence Center, National Criminal Justice Reference Center, and Office of Tribal Police. Programs addressing victims' needs and providing assistance and financial support are also responsibilities of the department.

The Office of Legal Policy is the department's think tank regarding developing procedural and legislative issues. The pardon attorney reviews requests for executive clemency, conducts investigations, and makes recommendations to the president for action, though the president is not obligated to consult with the department officials prior to granting pardons or clemency orders. This office came to some public notice in December 2001, during the final days of the administration of President William J. Clinton when he extended clemency to Marc Rich (a high profile, wealthy white collar crime fugitive) without consulting the department.

### TRENDS AND DIRECTIONS

The department has changed dramatically within the past 10 years. The Office of Community Oriented Policing Services, created in 1994 to reinforce partnerships among local police departments and community policing programs, was the recipient of two major grant awards. One was \$899,500 designated to fund 311 nonemergency telephone systems for police departments. The AG also awarded more than \$21 million for the employment of 176 additional police officers nationwide in America's schools and an additional \$78 million was awarded to hire more police for local agencies around the nation. This office provides the public and the criminal justice community with assistance by answering inquiries regarding grants, funding, and legislative initiatives relative to its stated mission.

The Civil Rights Division, established in 1957, has directed its resources in the last several years in support of equal rights and the discrimination of any citizen based on race, religion, gender, or sexual orientation. The rise in hate or bias crimes over the past decade has warranted aggressive and high-profile prosecutions. In 2001 more than 11,000 bias-motivated incidents were reported to the DOJ, both single and multiple bias circumstances. In support of federal law enforcement activities regarding hate crimes, DOJ was mandated by the Hate Crimes Statistics Act of 1990 to be the repository for the collection and trend analysis of these incidents throughout the country. That legislation preceded the 1998 Hate Crimes Prosecution Act that expanded federal jurisdiction to facilitate more hate crime prosecutions. Two major department prosecutions have become benchmarks in the field of bias crimes enforcement, including the 2001 racially motivated dragging murder of James Byrd, Jr. in Texas and the capture of long-time fugitive, Eric Rudolph, for bias-motivated bombings at the Atlanta Summer Olympics, gay bars, and abortion clinics throughout the south. The Civil Rights Division has also provided close liaison with citizens and communities related to voting issues. It recommended observer and examiner activities authorized by the Voting Rights Act of 1965, as amended.

## REFLECTING SOCIETY'S CONCERNS

The work of the DOJ over the years has reflected society's priorities. In the 1960s, under the leadership of AG Robert F. Kennedy, the DOJ was responsible for enforcement of the Civil Rights Acts of 1960, 1964, and 1968. Organized crime's influence and actual existence were also part of Kennedy's administration.

In the 1980s, the department pursued the drug war and forged unprecedented cooperation with overseas law enforcement and judicial authorities, sharing intelligence and pursuing the mutual prosecution of subjects. An example is the movement of the full authority and structure of the Sicilian judicial system to Philadelphia against mafia figures due to the danger of assassinations of magistrates and police officials in that country. The partnership with Italian and Sicilian officials made numerous investigations and international work groups possible. The ideology of cooperation is testament to the task forces of the 1970s by the Drug Enforcement Administration with local and state law enforcement. Organized Crime Drug Enforcement Task Forces were created across the United States in 1983 when concurrent jurisdiction of drug crimes was mandated. In 1995, these efforts led to establishing the International Training Academy in Budapest, Hungary, in conjunction with both the State and Treasury departments. The academy mirrored the mission and operation of the FBI's National Academy, which was founded in 1935 and has trained numerous senior American and international law enforcement leaders.

Gangs, guns, and school violence marked the 1990s, with many social scientists and police leaders concerned with the number of kids killing kids. In 1993 the nation experienced terrorism perpetrated on its soil in the bombing of the World Trade Center. This case was addressed as a criminal matter and was successfully investigated and prosecuted, proving the value of interagency cooperation and international law enforcement relations. The 1993 World Trade Center incident foreshadowed the events of September 11, 2001, and the department's sudden organizational shift to terrorism prevention and prosecution.

The terrorist events of September 11, 2001, changed the direction of the many components and operations of DOJ. Evidence of this shift is clearly reflected in the department's annual reports. In its fiscal year 1994 report, the department detailed priorities connected with violent crime, drugs, gangs, gun laws, and more police on the beat through community policing. However, the fiscal year 2002 report makes it clear that new leadership and a redirection of mission and resources to terrorism interests dominates. To that end, DOJ agencies began to shift their personnel, priorities, and mission. The FBI moved quickly away from violent crime and drug cases to counter terrorism both domestic and abroad. Attorney General John D. Ashcroft directed department personnel to formulate more effective communication and cooperation with other agencies involved in national security.

The autonomy once symbolizing bureaucratic entities is challenged by this unprecedented coordination and is yet to be tested.

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## **DIPLOMATIC SECURITY SERVICE**

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The Diplomatic Security Service (DSS) is a little known law enforcement agency within the U.S. Department of State. Its primary mission is to protect U.S. personnel, property, and information at embassies and missions around the world. In the United States, the DSS safeguards the secretary of state, the U.S. ambassador to the United Nations,

and foreign dignitaries below the head-of-state level. The agency also responds to terrorist attacks against Americans overseas, investigates passport and visa fraud, and issues security clearances to Department of State employees.

The origins of the DSS date back to the period shortly before World War I. At that time, German and Austrian spies were engaged in espionage activities in the United States. The foreign agents were using forged or stolen identity papers. President Woodrow Wilson authorized the secretary of state to form a security agency within the Department of State.

In 1916, the Bureau of Secret Intelligence was formally established under Secretary of State Robert Lansing. The bureau was headed by a chief special agent, who reported directly to the Secretary of State and was responsible for investigating possible espionage activity that was being conducted by foreign agents in the United States.

Two years later, in 1918, Congress enacted a law that required passports for American citizens traveling abroad and visas for people entering the United States. Since the Department of State was the agency that issued passports and visas, the bureau was charged with investigating passport and visa fraud. The bureau was also responsible for protecting visiting dignitaries to the United States.

Following World War II, the bureau created a new Office of Security that was known simply as SY. The new security arm, which was a precursor to the DSS, assigned security personnel to Department of State facilities in the United States and to missions, consulates, and embassies abroad. Then in 1948, the Marine Security Guard Program was created to guard consulates and embassies overseas. The DSS's SY was charged with protecting the domestic security of Department of State facilities and personnel.

By the late 1960s, international terrorism throughout the Middle East, Europe, South America and Asia was becoming more commonplace. SY responded to this increasing terrorist activity by hiring more than 100 new agents and deploying sophisticated security details that included heavily armored vehicles, secure radio equipment, and special weaponry.

In the late 1970s and early 1980s, there were more than 100 terrorist attacks against American citizens and facilities abroad, including the burning of U.S. embassies and the killing of some 300 Americans. In 1984, Secretary of State George Schultz formed a commission to review security arrangements for Department of State personnel and facilities abroad. Retired Admiral Bobby Inman headed this commission that would ultimately transform the Department of State's security agency. In November 1985, the Bureau of Diplomatic Security and the DSS were officially established.

The Omnibus Diplomatic Security and Anti-terrorism Act, which was signed by President Ronald Reagan on August 27, 1986, incorporated many of the recommendations that were set forth by the Inman commission. The new security service, the DSS, was structured as a law enforcement agency that was similar to other federal law enforcement, security, and intelligence agencies.

In 2003, the DSS consisted of approximately 1,200 special agents who were stationed at every U.S. embassy and consulate throughout the world. One of its primary missions was also to protect the secretary of state in the United States and for all visits abroad. When traveling outside the United States, the secretary is protected by a highly skilled, tactical unit that is called the Mobile Security Division or MSD. The MSD, also known among DSS personnel as "The Ninjas," is a versatile security force that is able to move on a moment's notice from its headquarters in Virginia. They have flown directly into embassy bombings, hostage situations, and to scenes of terrorist attacks throughout the world.

The DSS is a highly secretive agency that stands clear of the media spotlight. In fact, many other government agencies, such as the Federal Bureau of Investigation (FBI), sometimes get credit for the daring work that is accomplished by the DSS. For example, it was the DSS, not the FBI, who in 1995 actually found and apprehended Ramzi Ahmed Yousef, the mastermind of the 1993 World Trade Center bombing.

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**☞ DNA TESTING**

Analysis of physical evidence left at the scene of a crime often plays a critical role in identifying the individuals who were involved in the crime. In many sexual assaults, this evidence is semen left by the perpetrator; in violent crimes it might be blood or bits of tissue from the victim or the assailant. Since 1985, an extensive effort has been made to develop laboratory procedures for DNA typing as a tool for linking such evidence to known individuals.

DNA, the genetic material of humans and all other cellular organisms, consists of four small molecules, the nucleotide bases adenosine, guanosine, cytidine, and thymidine, assembled into a linear polymer. The human genome contains approximately two billion bases of DNA divided into 23 segments, called chromosomes. The order of the bases in a complete human genome has recently been determined. A person has two copies of this genome, one inherited from his or her father, the other from his or her mother.

The genome encodes the structures of all the proteins needed for human function, and most of the genome sequence is identical in all people. Variations in human DNA sequence do occur, both within genes—the regions of DNA that encode proteins—and in the large regions between genes. These variations are called polymorphisms. In particular, at tens of thousands of sites distributed over all 23 chromosomes, variations known as short tandem repeat polymorphisms, or STRs, are found. At each such site, a short DNA sequence, that is, cytosine-adenosine-guanosine (CAG), is exactly repeated several times. Examination of the site in different individual human genomes reveals that, while a CAG sequence is always present, the number of copies of the sequence varies: in one genome, there might be four copies, CAGCAGCAGCAG, while in another there might be two, CAGCAG.

To identify the particular versions of this repeat found in a person's two copies of the genome, the polymerase chain reaction (PCR) technique is applied to a small sample of the person's DNA to make many copies of each repeat, and the sizes of these copies (hence the number of CAG repeats in each) are determined by gel electrophoresis.

Early in the course of the Human Genome Project, thousands of STRs were identified, their locations in the human genome were determined, variant forms at each site were identified, and PCR tests for these polymorphisms were developed and applied to human genetic research and clinical genetic testing. Researchers interested in identifying the source of human tissues, notably blood and semen, in forensic specimens, realized that these clinical tests for DNA polymorphisms were a promising alternative to techniques like ABO blood typing then used for this purpose. The number of STRs in the human genome is large, each one is much more likely to vary from person to person than a typical blood protein, and DNA itself is chemically stable—while blood proteins can be reliably tested, for the most part, only in fresh specimens, DNA can remain testable for years.

Although the polymorphisms and testing strategies are the same in forensic and clinical DNA typing, four features of a forensic specimen complicate its typing. While considerable genetic information about the subject is typically known at the outset in a clinical test, allowing for internal checks on the plausibility of a test result, the subject is typically unknown in a forensic test. While a clinical specimen is abundant and collected under controlled conditions in a sterile environment, a forensic specimen is limited in quantity and generated under conditions that lead to chemical and microbial contamination and possible degradation. While a clinical specimen is known to be from a single person, the number of contributors to a forensic specimen is often unknown. While, if a clinical test fails, another test specimen can often be obtained, forensic specimens are unique and cannot be reproduced.

A fifth problem unique to forensic DNA typing concerns the interpretation of the test results, illustrated by a hypothetical example. A broken window

at the scene of a crime has blood on it. A suspect is arrested. The blood from the broken window is subjected to STR DNA typing. Separately, a blood sample from the suspect is typed. Each test yields a typing pattern, consisting of one or two variants for each STR polymorphism tested. If the two patterns are different, the suspect is excluded as the source of the blood on the window: all the cells in his body contain exact copies of the same two genomes, so if the blood on the window is his, it must have the same typing pattern as the known blood collected from him later. If the two patterns are identical, however, before concluding that the blood on the window came from the suspect, one needs to determine how likely it is that another person, by chance, could have the same set of STR markers. The basic laws of genetics suggest that if many STRs are tested, and these STRs are located on different chromosomes, the chance of such a coincidence is small. Both conditions are met by current forensic STR tests. However, many courts have held that a qualitative result—"small"—is inadequate, and require a numerical estimate of the chance of a coincidental match. Such a numerical estimate is determined for a typing pattern by determining the frequency of each individual STR variant in a database of typing patterns obtained by typing large numbers of unrelated individuals from various human populations and multiplying these individual frequencies together.

Extensive research projects to develop tests that could perform reliably on forensic specimens, and to develop valid statistical standards for interpreting test results, were carried out in the Federal Bureau of Investigation (FBI) Laboratory, in several state and local crime laboratories, and in several commercial laboratories. These commercial laboratories were ones that did such testing for a fee or that provided the chemical reagents and equipment used in the tests. Most of this research was done during the late 1980s and the mid-1990s. Considerable controversy over the results of early research efforts led to the publication of two expert reports under the auspices of the National Academy of Sciences, one in 1992 and the other in 1996, and to the establishment of an expert advisory group, under the

auspices of the FBI, to promulgate standards for forensic DNA typing. These standards are now widely observed. As part of this standardization, many of the results of this research have been published in scientific literature.

DNA typing of STR polymorphisms is now widely used by law enforcement agencies and legal authorities to identify possible sources of forensic samples of human body fluids, and solid tissues as well. It has a well-established role in criminal investigations and prosecutions and has been effectively used to identify human remains from mass disasters. But problems surround its application to samples that contain DNA from two or more individuals and to badly degraded samples. Other forms of DNA typing, mitochondrial DNA typing for analysis of very badly degraded specimens and Y-STR typing identifying DNA from the male contributor to a mixed sample, are under development and may come to be useful if generally reliable techniques for typing and, more important, valid strategies for interpreting typing results can be developed.

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## ☉ DRUG ENFORCEMENT

In February 2002, President George W. Bush unveiled a new campaign to target the drug problem within the United States. The strategy emphasized supply reduction through aggressive drug enforcement and interdiction programs while simultaneously emphasizing demand reduction through effective drug education, prevention, and treatment programs. Under this plan, the federal government allocated almost \$2 billion to the Drug Enforcement Administration (DEA) to maintain the War on Drugs. This trend in drug enforcement is not innovative, but is simply a continuation of past policies.

Since the establishment of federal agencies designed to combat the use, manufacture, and sale of illegal drugs, the federal government has increasingly appropriated funding to combat the illicit drug trade. In addition, the ever-changing policies have evolved to encompass a number of agencies working simultaneously to eliminate the flow of illicit drugs throughout the country.

### HISTORY OF DRUG ENFORCEMENT

Government attempts to regulate the use of drugs are not a new phenomenon. Legal efforts to censure the use of drugs date back over 3,000 years to the ancient civilizations of Babylon and Egypt. However, in comparison, the use of law and law enforcement agencies to control the use of drugs within the United States is relatively recent. In 1875, the first drug law in the nation was passed in San Francisco to target opium use. Over the next 30 years, almost every state passed similar laws to control the use of opiates. This trend of narcotic criminalization laid the foundation for the passing of the Harrison Narcotics Act in 1914. The Harrison Act

drew its power from the government's ability to collect taxes; therefore, the government could now require those who distributed these drugs to register with the government. Not only did this landmark law enable the government to tax and regulate the sale and manufacture of narcotics, opiates, and cocaine, but the legislation also forbade any addiction maintenance of these new federally regulated drugs. The enforcement of this act led to thousands of physicians, pharmacists, and users being arrested.

The success of the Harrison Act was not repeated during Prohibition. In 1919, the Eighteenth Amendment, which outlawed the manufacture and sale of alcohol, was passed. Within nine months of its passing, the Volstead Act was enacted to enable the government to enforce the amendment. Public support was not behind the law; thus in 1933, ratification of the Twenty-first Amendment brought an end to Prohibition.

Even though governmental attempts to control drug production had suffered a devastating blow with the repeal of Prohibition, the federal government was able to extend its drug control efforts with the establishment of the Federal Bureau of Narcotics (FBN). The FBN was created to enforce the Harrison Act. In addition, the agency was established in part to curb the rising popularity of marijuana. Under the direction of Harry Anslinger, the FBN expanded its power using scare tactics to classify marijuana as a dangerous drug. Although the main targets of the Harrison Act were opiates and cocaine, the FBN included a provision within the Uniform Narcotic Drug Act to allow marijuana to be incorporated into the Harrison Act. In 1937, the Marijuana Tax Act was passed, which, in essence, extended the power of the Harrison Act to tax and regulate marijuana.

Drug enforcement efforts to eliminate illicit drugs from American society seemed to be a success during the World War II era; however, during the late 1940s and early 1950s, allegations of heroin abuse led to the government furthering its anti-drug enforcement policies. With the passing of the Boggs Act (1951) and the Narcotics Control Act (1956), the penalties for marijuana and narcotics violations dramatically increased. The Boggs Act established

mandatory minimum sentences for drug violations while the Narcotics Control Act lengthened minimum sentences and allowed the courts to impose the death penalty on anyone over the age of 18 who sold heroin to a minor.

While drug enforcement agencies were busy targeting narcotics and marijuana, new drugs of abuse, amphetamines and hallucinogenics, began to become popular throughout the country. Because many of these drugs were legal, Congress passed the Drug Abuse and Control Amendments of 1965, which placed the manufacture and distribution of amphetamines, barbiturates, and LSD under the control of the federal government. These amendments made it a criminal act to illegally manufacture these drugs. Moreover, the amendments required distributors to maintain records of all transactions. Responsibility for the enforcement of the act was given to the newly established Bureau of Alcohol and Drug Abuse Control, a branch of the Department of Health, Education, and Welfare.

With the passage of the Comprehensive Drug Abuse Prevention and Control Act of 1970, commonly known as the Controlled Substances Act (CSA), the majority of antidrug laws were combined to set a standard for ranking the dangerousness of all drugs. Hence, this law established the legal basis for what would become the government's drug control initiative, eliminating the need for law enforcement agencies to rely on tax measures to target the drug trade. In addition, the CSA instituted (a) provisions for reducing the availability of drugs, (b) procedures for controlling a substance, (c) criteria for determining control requirements, and (d) obligations incurred by international treaty arrangements.

Consequently, the 1980s brought a return to the punitive nature of drug enforcement. With the emergence of crack cocaine, drug enforcement agencies realized the illicit drug trade was far from eradicated. Thus, in an attempt to regain control, the federal government passed the Anti-Drug Abuse Act of 1986 and the Anti-Drug Abuse Act of 1988. The former reinstated mandatory minimum sentences for those in possession of specified amounts of drugs while the latter established the Office of

National Drug Control Policy (ONDCP). This punitive trend of enforcement continued throughout the 1990s and remains in effect today.

## FEDERAL AGENCIES AND DRUG ENFORCEMENT

Since a national police force does not exist within the United States, 32 separate federal agencies share law enforcement responsibilities. These federal agencies must also work with state and local agencies to control the illicit drug trade. Drug enforcement efforts on the larger scale are typically headed by federal agencies. Since numerous federal agencies must work together, these efforts are coordinated by the ONDCP, which also controls the amount of money that each agency involved in drug enforcement receives.

Initially, federal agencies were primarily responsible for drug enforcement; however, that responsibility has increasingly trickled down to state and local agencies. Due to a lack of staff at the federal level, state and local agencies respond to what is considered to be day-to-day enforcement efforts. However, these efforts are not conducted without federal assistance; the majority of state and local agencies receive federal aid to assist in drug control attempts. Some estimates in 2003 noted that within the United States there are more undercover police officers working in narcotics than in any other area of police enforcement.

### *The Drug Enforcement Administration*

The DEA's history predates the establishment of the Federal Bureau of Narcotics (1930), with the government housing of alcohol and drug enforcement responsibilities under both the Internal Revenue Service and the Treasury Department. With the establishment of the FBN, the government solidified its attempt to regulate the drug industry within the United States. In 1968, the FBN was merged with the Bureau of Drug Abuse and Control to create the Bureau of Narcotics and Dangerous Drugs (BNDD). With this merging of agencies, the Department of Justice was given the authority to

enforce federal drug laws. In an attempt to assist state and local drug enforcement agencies, the Office for Drug Abuse and Law Enforcement (ODALE) was established in 1972. During that same year, the Office of National Narcotic Intelligence (ONNI) was established to gather and propagate any information that might assist state and local law enforcement agencies. President Richard M. Nixon combined the BNDD, ODALE, and ONNI to create the Drug Enforcement Administration in 1973.

The DEA was established for the sole purpose of combating the illicit drug trade. Not only is the agency responsible for drug investigations, but it is also in charge of coordinating federal, state, local, and foreign government attempts to eliminate the drug trade within the United States and internationally. In addition, the DEA collects and distributes relevant information to domestic and foreign law enforcement agencies. By 2003, approximately 8,500 special agents and support personnel were stationed throughout the United States and in 58 other countries.

### *The Federal Bureau of Investigation*

Like the DEA, the Federal Bureau of Investigation (FBI) is housed in the Department of Justice. In 2002, the FBI employed 11,000 special agents and 16,000 professional support personnel. Because it is the primary law enforcement agency of the federal government, the FBI does not solely investigate drug-related issues. Historically, the FBI did not have jurisdiction over drug enforcement; however, in 1982, during the administration of President Ronald W. Reagan, the FBI was granted concurrent jurisdiction with the DEA. Although the FBI is responsible for supervising drug-law enforcement and enforcing the Controlled Substances Act of 1970 in conjunction with the DEA, the agency's primary focus in the drug war concerns the investigation of organized crime groups' involvement in the drug trade.

### *U.S. Customs*

In 1789, the U.S. Customs Service was created to collect taxes on imported goods. Today, the

Customs Service is responsible for processing all individuals, baggage, cargo, and modes of transportation that enter and leave the United States. Currently, its primary responsibility lies in the interdiction of border smuggling through official ports of entry on land; this power extends up to 12 miles into U.S. coastal waters.

### *Other Assisting Federal Agencies*

The DEA, FBI, and Customs Service are predominantly responsible for drug enforcement responsibilities; however, a number of other federal agencies assist in drug-related enforcement. Along with the Customs Service, both the U.S. Coast Guard and the U.S. Border Patrol assist in drug interdiction. The Coast Guard's primary responsibility in the War on Drugs is to interdict maritime vessels at sea. This federal agency's principal area of concentration is the Caribbean, south Florida, and the Gulf of Mexico. By using these designated choke points, officials are able to identify and interdict shipments of illegal drugs on route to the United States. However, this task is difficult due to the vast amount of ocean that each coast guard vessel must patrol, the number of vessels traveling through the choke points, and the Coast Guard's limited equipment and personnel resources. The U.S. Border Patrol targets those who are transporting drugs into the United States using the same routes used to smuggle aliens into the country, primarily along the Mexican border. The Marshals Service manages properties seized in drug asset forfeiture cases and administers the Witness Protection Program. The Internal Revenue Service examines all bank transactions and purchases to ascertain any excesses that are unfeasible based on income levels reported on tax forms. In some instances, surplus income can be linked to drug-related enterprises. Indirectly, the Bureau of Alcohol, Tobacco, Firearms, and Explosives takes part in the drug war by targeting those engaged in firearms and explosives violations; these individuals are commonly engaged in drug trafficking as well. The use of technology has enabled agencies such as the Federal Aviation Administration (FAA) to assist in drug control

efforts. All pilots of private airplanes departing from a foreign country are required to file a flight plan with the FAA at least 24 hours prior to take-off and landing in an airport that has a customs agent present. Failure to file a flight plan results in an investigation of the aircraft upon entry into the United States.

In addition to these domestic-based agencies, the military has also become involved in combating the illicit drug trade. The revision of the Posse Comitatus Act in 1981 gave the Department of Defense the ability to use military equipment to gather information to assist law enforcement agencies in arresting drug traffickers. Because numerous agencies are involved in drug control, the ONDCP coordinates these efforts.

## DRUG ENFORCEMENT POLICIES

Throughout the 20th century, governmental attitudes toward drug use shifted from a policy of acceptance and tolerance to one of intolerance and criminal sanction. Even though the nation has sporadically, at times, shifted to a pseudo-treatment-based position toward drug enforcement, society has implemented increasingly punitive policies toward the sale, manufacture, and use of illegal drugs. Currently, state and federal policies addressing the drug problem favor a punitive or prohibition model. Simply, the government prohibits the production, distribution, sale, and use of any drug deemed illegal under state and federal law. Through legislation and enforcement, the government has attempted to eliminate the illicit drug trade using two strategies: demand reduction and supply reduction.

Demand reduction approaches the drug war by targeting users through punitive policies such as mandatory minimum sentencing and zero tolerance. Under these policies, those found distributing or in possession of illegal substances, no matter the amount, are held accountable by the criminal justice system. In addition to this castigatory stance toward the population, demand reduction policies hold that if the public is educated about the risks of drug use, both physical and legal, potential users will choose to abstain from using substances

deemed illegal. By implementing educational programs such as Drug Abuse Resistance Education (DARE), the government believes that participants will become resistant to peer pressure, therefore ensuring that they will be able to withstand the temptation of experimenting with drugs. Ironically, educational programs such as DARE often demonize drugs to an extreme degree. This “reefer madness” approach, a term originating from the 1936 antimarijuana film of the same name, misinforms students about drugs and their abuse. Because these presentations take such an extremist position, rather than being educational, these programs have lost credibility among those they are attempting to stave off from drug use. A more controversial technique in demand reduction is the drug testing of employees and students. Although there are few criminal ramifications for those being tested, the fear of losing a job or being suspended from a school activity may be enough to deter an individual from using an illegal substance.

The federal government has also enacted policies to reduce the supply of drugs. The most prevalent method of supply reduction used within the United States is to prosecute those involved in the production and distribution of illicit drugs. In addition to targeting those individually involved in the sale, manufacture, and distribution of illegal drugs, agencies also incorporate drug enforcement techniques such as interdiction of drug shipments, crop eradication, and reduction in aid to source countries. Theoretically, by reducing the supply of drugs, the cost will raise astronomically, causing consumers to abandon their use of the drug. These attempts have failed to significantly reduce drug consumption and in many instances even fail to affect the prices of drugs.

Under the punitive model, criminal penalties have become the primary means of controlling the drug trade through arrest and imprisonment. As a result of get-tough policies that target both the demand and the supply side of the drug trade, such as mandatory minimum sentencing, zero tolerance, and three-strikes-and-you’re-out laws, an unprecedented number of individuals are currently being housed in correctional institutions. Not surprisingly, the prison population has risen from approximately

200,000 in 1971 to approximately 2 million individuals incarcerated in both state and federal prisons in 2002. Nearly half a million of those incarcerated are in prison for drug-law violations.

## THE FUTURE OF DRUG ENFORCEMENT

Over the past three decades, drug enforcement policies have become increasingly punitive. Each year, the federal government appropriates more money to combat the illicit drug trade. However, no matter how much money and staffing is put into the War on Drugs, illegal drugs remain present in society. Attempts to diminish the use of illegal drugs have led to overcrowded prisons and the increased potency of drugs without any significant evidence that drug use has declined. This failure to eliminate the drug trade and drug abuse has led to a rise in both domestic and international drug policy reform movements. The majority of opposition to drug prohibition surrounds the use of marijuana. Although marijuana remains illegal under federal law, some states have begun to pass legislation permitting the use of medical marijuana. In addition, policy reform regarding marijuana has intensified in Canada and a number of Western European countries. In the future, federal drug enforcement officials may have to make some modifications in their approach to certain drugs (i.e., marijuana); however, this does not mean that attempts to control the drug trade will decrease. Most likely drug enforcement policies will continue to adhere to the punitive model.

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*See also* Harrison Act, Marijuana Tax Act, Volstead Act

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## ☉ DRUG ENFORCEMENT ADMINISTRATION

Federal narcotic law enforcement began in 1915, within a year of passage of the Harrison Narcotics Tax Act, section 10 of which authorized the commissioner of internal revenue, with the approval of the secretary of the treasury, to appoint as many agents and messengers in the field and in the Bureau of Internal Revenue as may be necessary to enforce provisions of this act.

In subsequent years, additional federal laws were passed to reflect societal and political responses to the problems of drug use and drug trafficking. The federal enforcement agency responsible for enforcing federal narcotics laws changed, transferred, merged, and shared concurrent jurisdiction with other federal agencies. Over the years, these changes resulted in the creation of the Drug Enforcement Administration (DEA), which has grown to become one of the largest of the federal law enforcement agencies.

The handful of original internal revenue agents and messengers had grown by 2004 to comprise the DEA, with almost 5,000 special agents, more than 1,000 diversion investigators, 730 intelligence

analysts, and a large number of support personnel with a wide variety of forensic, clerical, and administrative responsibilities.

## EARLY ENFORCEMENT EFFORTS

The Department of Treasury maintained primary responsibility for drug enforcement, forming the Federal Bureau of Narcotics (FBN) under the leadership of Harry B. Anslinger. Although Anslinger served as director of the FBN almost as long as J. Edgar Hoover did at the Federal Bureau of Investigation (FBI), neither he nor his agency ever became as well known. Part of the reason for this was that the FBN had a much narrower mandate than the FBI and throughout its history shared jurisdiction with a number of other agencies also involved in federal narcotics enforcement efforts. Among those who held major responsibility for such enforcement was the U.S. Customs Service, which was heavily involved in drug smuggling interdiction and formed a drug enforcement unit within its Investigative Bureau.

By the 1960s responsibility was further spread with creation of the Bureau of Drug Abuse Control (BDAC) within the Department of Health, Education and Welfare. The BDAC was an attempt to control the growing misuse and diversion of prescription drugs, pharmacy thefts, and the illicit manufacture of drugs such as LSD, MDA, amphetamines, and methamphetamines. A number of indictments of BDAC and FBN agents for corrupt activities and misuse of office led President Lyndon B. Johnson, in 1968 to win congressional approval to merge the two agencies into the Bureau of Narcotics and Dangerous Drugs (BNDD) under the Department of Justice. According to the plan, the attorney general would have full authority and responsibility for enforcing the federal laws relating to narcotics and dangerous drugs, but would not oversee the U.S. Customs Service's continued investigation of drug smuggling cases at the nation's borders.

By the 1970s, BNDD had established offices in 14 foreign countries, including Turkey, Vietnam, and Mexico. But lines of authority continued to overlap and to confuse enforcement efforts. In

January 1972, President Richard M. Nixon issued Executive Order 11641 creating the Office of Drug Abuse Law Enforcement (ODALE) within the Department of Justice. ODALE was proposed as an innovative approach to attacking drug distribution at the local level by concentrating federal resources to bear on street-level heroin pushers. Although ODALE was a means of setting up an independent group of enforcement officers under the direct control of the president, it also was viewed by the president's adversaries as a potential political vehicle for supporting a strong anticrime platform. A number of provisions of ODALE reinforced this view, including that the director served as both a special assistant attorney general and a special consultant to the president; that the office was designed to showcase a number of new crime-fighting tools, including use of no-knock warrants, Racketeer Influenced and Corrupt Organization, and special investigative grand juries; and that it had a sunset provision of 18 months, which would take it through the next election. Overzealous actions by some of the agents provided political ammunition for the opponents of the 1970 Controlled Substances Act and resulted in negative publicity for the BNDD based on its agents' involvement in ODALE task forces. By this time, task forces had become regular narcotics enforcement tools. In 1970, the New York Regional Office of BNDD had established the first joint narcotics task force in New York City, comprised of its agents, New York City Police Department officers, and New York State Police troopers.

A major change in the workforce of the BNDD occurred in 1971 when it became one of the first federal agencies to recruit women for the position of special agent. In November 1973, the first women to graduate from the DEA's special agent training class (BA-1) were sworn in as DEA special agents. In 2003, President George W. Bush appointed former assistant attorney general Karen Tandy as DEA administrator and Special Agent Michele Leonhart received congressional approval as deputy administrator of the DEA. Leonhart is the first woman to work her way up through the ranks from special agent to the number two position in the

DEA and the DEA is the first federal law enforcement agency to have its two highest leadership positions held by women.

## CREATION OF THE DEA

Early in 1973, House and Senate committees began hearing testimony on President Nixon's plan to create a single agency that would consolidate and coordinate the government's drug enforcement strategy. Among the benefits proposed were that a single agency would put an end to interagency rivalries that had undermined federal drug law enforcement and that the creation of a super-agency for drug enforcement would provide the momentum needed to coordinate all federal efforts related to drug enforcement outside the Department of Justice, especially gathering of intelligence on international drug smuggling.

The plan was implemented on July 1, 1973, with creation of the DEA's Office of Intelligence. At the same time, the National Narcotics Intelligence System became the first law enforcement agency to use an all electric, centralized computer database for its records. In 1974, the DEA proposed the establishment of a regional intelligence center to collect and disseminate information related to drug, illegal alien, and weapons smuggling on the southwest border. This resulted in creation of the El Paso Intelligence Center (EPIC) to provide tactical intelligence support to federal, state, and local agencies. EPIC has since grown into a national drug intelligence center focused on global drug smuggling intelligence.

Despite the creation of the DEA, drug enforcement policies did not remain consistent. A White House report issued in 1975 reported that not all drugs were equally dangerous and recommended that enforcement policies be directed toward highly addictive drugs, which were defined at that time as heroin and amphetamines. Setting in motion policies that would remain in effect for decades, the report found that cocaine use was not physically addictive and did not usually involve serious social consequences, defined specifically as crime, hospital emergency admissions, or deaths. Marijuana

was defined as a minor problem. As a result of these findings, the DEA and the U.S. Customs shifted their enforcement focus to heroin distribution organizations, a policy that ultimately allowed the Cali and Medellin cartels to develop their distribution networks for marijuana and cocaine along the East Coast.

By the late 1970s, drug trends began to change; cocaine and marijuana had become the drugs of choice for many users and distributors. Colombian traffickers began using mother ships, which were moored off the U.S. coast with bulk cargoes of marijuana or cocaine in their holds. These mother ships would rendezvous at prearranged locations with go-fast and fishing boats and off-load smaller loads to be brought to ports, marinas, and fishing stations along both coasts. By the end of the decade, South Florida had become the center of the illegal drug trade. Drugs were estimated to be the state's biggest industry, worth more than \$10 billion per year. Then-DEA Administrator Peter Bensinger was reported to have said that there was so much money in the drug trade that traffickers weighed the money rather than count it.

At the same time, drug use was becoming more common. In 1979, a national survey estimated that almost 20% of Americans had tried cocaine at least once. Cocaine use continued to peak until the early 1980s, when about 22 million people admitted to having used cocaine, and an estimated 10,000 to 15,000 tons of it were consumed in the United States. This increased use did not attract law enforcement attention though, particularly after President Jimmy Carter's drug advisor, Dr. Peter Bourne, labeled cocaine as not physically addictive and acutely pleasurable, defining it as the most benign of illicit drugs and one that was becoming increasingly popular among drug users at all socioeconomic levels.

Amid the changing nature of drug use, the DEA became part of yet another reorganization of federal drug control efforts. In January 1982, Attorney General William French Smith ordered a reorganization of law enforcement agencies within the Department of Justice, requiring the DEA to report directly to the FBI director. Only six months earlier,

an FBI assistant director had been appointed as acting administrator of the DEA, a hint of Attorney General Smith's attempts to provide greater centralization of drug control and to possibly place the DEA under FBI control. Although this did not occur, the reorganization did allow the FBI to gain concurrent jurisdiction with the DEA over federal drug laws. A high-ranking Justice Department committee had considered merging the two agencies, but due to strong congressional opposition, it was decided that this reorganization was the least disruptive way to formalize a closer relationship between the DEA and the FBI.

Under President Ronald Reagan, the National Narcotics Border Interdiction System (NNBIS) was formed in March 1983 to monitor and coordinate the investigation of smuggling activity originating outside U.S. borders. Vice President George H. W. Bush was appointed Director of NNBIS. After the election of 1988, the Office of National Drug Control Policy (ONDCP) was established by the Anti-Drug Abuse Control Act of 1988 and took over the functions of NNBIS and was given the authority to develop a national drug control strategy. The act established ONDCP for five years; however, several executive orders have extended ONDCP's mission to include assessing agency budgets and resources related to the National Drug Control Strategy issued annually by the director of ONDCP, the so-called drug czar.

Based on highway interdictions begun in the early 1980s in New Jersey and New Mexico, the DEA in 1984 became more involved with state and local police through the creation of Operation Pipeline. In the early 1980s, state troopers in the two states had noticed sharp increases in the numbers of motor vehicle violations that resulted in drug seizures and arrests and each state independently established highway interdiction programs. The success of these two programs led to Operation Pipeline, a DEA-funded training and highway interdiction program that developed into a nationwide program to train state and local traffic officers in the policy of interdiction laws and to sharpen their perceptiveness of highway couriers. The training focused on training state and local police on laws governing highway stops and drug prosecution, on

drug trafficking trends, and on the key characteristics that were shared by drug traffickers. Critics of the program have pointed to the charges of racial profiling that resulted from traffic stops conducted by troopers in southern New Jersey along the I-95 drug corridor, as an abuse of police power caused by an agency of the federal government.

## COCAINE AND CRACK COCAINE ENFORCEMENT STRATEGY

In 1987, the benign view of cocaine was no longer part of the DEA's drug strategy. The DEA and the State Department's Bureau of International Narcotics developed an unprecedented enforcement operation in support of President George H. W. Bush's Andean Strategy, which was directed at attacking the cocaine growth and distribution problem at the source. Teams of DEA agents and specialized investigative assistants were assigned to Operation Snowcap. Trained at the U.S. Army Ranger School and the Jungle Warfare School in Panama, these teams were expected to operate with the police of the host countries to disrupt the growing, processing, and transportation systems supporting the cocaine industries of Bolivia, Peru, and Ecuador. Operation Snowcap was terminated in 1994 after the crash of a DEA aircraft claimed the lives of five DEA agents in Peru.

Cocaine and crack cocaine remained the primary targets of DEA's enforcement activities in the 1990s. In the northeastern cities of the United States, the Cali cartel had established a network of cells to handle every facet of the trade from shipment to storage and communications, including laundering and returning the profits to Colombia. Meanwhile, the Medellin cartel began a campaign of terror and bribery in Colombia to pressure the legislature and judiciary to prohibit the government from extraditing native-born citizens. The first attempt to force this legislation can be traced to November 1985, when 30 members of an M-19 terrorist cell seized the Palace of Justice and held members of the Colombian Supreme Court hostage. The alliance between the cartel and the terrorists continues through the present.

Pablo Escobar led the wave of narco-terrorism to force the Colombian congress to pass legislation to prohibit the extradition of himself and his fellow *Extradictables*.

The violence was unprecedented. Scores of police and government officials were assassinated and random bombings aimed at government buildings and agencies led the Colombian congress to pass the desired prohibition of extradition of native Colombians in July 1991.

To counter the threat of Colombian narco-terrorists, the DEA devised the kingpin strategy. The plan was to dismantle the cartel by attacking the supply of precursor chemicals, finances, transportation, communications, and leadership structure in the United States. Simultaneously, the Colombian National Police, assisted by the DEA and U.S. Military Intelligence, targeted the cartels' fugitive leaders in Colombia.

As the major leaders of the Medellin and Cali cartels were neutralized, either by death or incarceration, the kingpin strategy was deemed by DEA officials to have been successful. A permanent offshoot of this initiative was the establishment of the Special Operations Division (SOD) at DEA headquarters. SOD was created specifically to target the command and control capabilities of major drug trafficking organizations around the world, using intelligence collection capabilities of several multiagency sources. Domestically, SOD assists field divisions to develop national conspiracy cases derived from multijurisdictional wiretap investigations. Based on these and other efforts, including interdiction and working with international police forces, current DEA leaders believe that as the agency enters the 21st century, the dismantling of the Medellin and Cali cartels has led to more decentralized and compartmentalized trafficking patterns, with groups now specializing in one aspect of the cocaine industry. It is unclear whether this will make enforcement more effective or will result in the agency being required to expend additional efforts merely to recognize and counter so many smaller, less centralized criminal groups.

The DEA has also been faced with changes in the drug culture itself. In the late 1990s, Ecstasy, also known as MDMA (3,4 methylene-dioxymethamphetamine), burst upon the pop-culture scene in the

United States and Europe. MDMA had been known to the DEA since the 1960s as a noncontrolled analog of methamphetamine, combining the stimulant effect of speed with the feel-good effect of peyote in an easy to take (and traffic) pill. Other *club drugs* that became popular in the youth culture were GHB (gamma hydroxybutyric acid) and Ketamine and Rohypnol, which were tasteless and odorless and became popularly known as date rape drugs because they could be slipped into a victim's drink and cause disorientation and unconsciousness. In 2000, GHB and GHL joined Ecstasy as Schedule I drugs when Congress passed legislation amending the Controlled Substances Act (CSA). By 2003, the DEA had placed several other rave scene drugs that are chemically and pharmacologically related to MDMA on Schedule I, based on the emergency scheduling provision of the CSA.

The DEA has also become involved in drug-related forms of terrorism. Narco-terrorism has been defined by the agency as a subset of terrorism in which terrorist groups participate directly or indirectly in the cultivation, manufacture, transportation, or distribution of controlled substances and share the monies derived from these activities. According to the Department of State, one third of international terrorist organizations are linked to illicit drug activities in some manner. For example, both the DEA and the State Department believe that both of Colombia's major insurgent groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), as well as the right-wing Colombian United Self-Defense Forces (AUC), are linked to drug trafficking and that in Afghanistan, the former Taliban built its financial base from heroin trafficking. The DEA's intelligence indicated that Osama bin Laden was involved in the financing and facilitation of heroin trafficking activities.

In order to support the coordination, control, and containment of the production and processing of opium in post-Taliban Afghanistan, as well as provide "eyes on the ground" intelligence collection expertise and sharing, the DEA in 2003 reopened its office in Kabul and was planning to either expand or open offices in former Soviet republics and other

countries bordering Afghanistan. Although the drugs of choice have changed over the years that the DEA and its predecessor agencies have been in existence, the issues surrounding enforcement of drug laws have remained consistent. The DEA is faced with enforcing laws that are sometimes unpopular but that are steeped in violence and international politics due to the numbers of countries in which supply is grown or processed to meet the demands of those who seek drugs despite their illegality.

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*See also* Federal Bureau of Investigation

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## ☞ DRUG TESTING OF EMPLOYEES

Drug use became a serious concern in the workplace during the 1980s. Companies involved in the oil, chemical, and nuclear industry as well as travel and transportation sectors, became areas of concern especially when accidents occurred causing deaths and immense financial ramifications.

Drug testing has evolved and is now used for a variety of reasons. The main uses for drug testing include screening potential employees during the interview process, creating safety precautions for workers and the surrounding public, and monitoring drug use in the prison population. Today all federal employees, transportation employees, prisoners, and athletes competing on the national, Olympic, or professional level are subject to drug testing under current federal laws. In addition to

these federal guidelines, each state has adopted its own guidelines involving drug testing in the workplace. Many private sector companies are also adopting drug testing into their bylaws in order to achieve a drug-free workplace. However, each company has its own policies that are not always identical to the federal guidelines.

Military personnel were the first employees to be tested for drugs in the United States. More specifically, military officials were concerned with how the use of illegal drugs affected combat readiness and performance. In 1971, the U.S. Congress advised the secretary of defense to devise methods for identifying and treating drug-abusing military personnel.

The problem of drugs in the workplace surfaced after a study performed by the National Transportation Safety Board, which examined the involvement of drugs, including alcohol, in train accidents. As a result of this study, the Federal Railway Administration and the National Institute on Drug Abuse (NIDA) started to create drug regulations for the Department of Transportation (DOT). Consequentially, other public sectors—including the oil, chemical, transportation, and nuclear industries—became concerned about drugs in the workplace and followed suit in developing their own drug-testing programs. The laboratory procedures developed for each industry varied and were not consistent in drug-testing protocols. This caused controversy and resulted in lawsuits by employees upset about violations of their privacy and constitutional rights.

In 1986, the executive branch of the federal government took special interests in drug testing. President Ronald W. Reagan issued Executive Order No. 12564, which enforced each federal executive agency leader to develop drug-testing programs for employees in sensitive positions. The main goal of the order was to maintain a drug-free federal workplace. During that same year, NIDA met at a conference and concluded that random drug screening was appropriate under a well-defined program and was legally defensible in certain situations. In addition, a definition was formulated at this conference that described specific situations

when drug testing was appropriate for employees. NIDA concluded that all individuals must be informed that they are subjected to drug testing, the confidentiality of the test results must be secure, and all positive test results on the initial screen must be confirmed with an alternate laboratory procedure.

Two years later in 1988, NIDA, under the Department of Health and Human Services (DHHS), released mandatory technical and laboratory procedural guidelines for all federal drug-testing programs. Several rules were established to maintain consistent drug testing from laboratory to laboratory. These guidelines determined that urine would be the biological sample of choice for the screening of drug use. The guidelines also maintained that all drug-testing meet specific criteria in order to maintain laboratory accreditation. Procedures for specimen collection, procedures for transmitting samples to testing laboratories, assay protocols, evaluation of test results, quality control measures, record keeping, and reporting requirements were established. These specified procedures still need to be followed today for the DHHS to accredit a drug-testing laboratory. The DHHS guidelines were established to guarantee the accuracy and integrity of the test results and, most important, the privacy of the employees tested. Consequently, from these guidelines a new organization, the National Laboratory Certification Program, was created in 1988 by the DHHS/NIDA to maintain the guidelines set forth earlier in that year.

In 1989, the Nuclear Regulatory Commission published a final rule (54 F.R. 24468) in the *Federal Register*. This program became effective on January 3, 1990. Most of the previously stated guidelines established by the DHHS were included in this publication along with a clause that allowed on-site testing under specified circumstances. The DOT also published an interim rule in 1988 and another in 1989 that were effective on January 2, 1990. These policies required that the following six transportation sectors follow procedural guidelines: vehicle, aviation, railroad, mass transit, pipeline, and maritime.

The Urban Mass Transit Administration drug procedural program was delayed because the federal

appellate court overturned the rule and stated that the agency did not have the statutory power to issue the procedures required in drug testing. This setback was eliminated by the Omnibus Transportation Employee Testing Act of 1991, passed by Congress. This act required that the DOT form drug-testing regulations to also include both intrastate operations and the testing of ethanol.

In 1990, under the General Military Law (10 U.S.C. 1090), the secretary of defense and the secretary of transportation were required to write drug-testing regulations and laboratory protocols and to provide facilities to identify and assist drug-dependent military personnel. In addition, potential military recruits were required to undergo drug screening as a part of the application process. Also during 1990, the drug-free workplace policy was installed in the military and concluded that drug-dependent military recruits would not be hired and drug-dependent military personnel currently serving would undergo disciplinary actions or a discharge if they did not become drug free.

The final DOT guidelines became effective on January 1, 1995, and January 1, 1996, and pertained to employers having more than 50 employees and to small companies, respectively. These guidelines required more than 7.4 million transportation employees to follow the drug-testing guidelines set forth by the DHHS. The current federal workplace guidelines and state guidelines can be located online from the Substance Abuse and Mental Health Administration and U.S. Department of Labor Web sites, respectively.

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## ✎ ECONOMIC CRIME

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The phrase economic crime refers to a dizzying range of offenses. The concept is complicated by the fact that most crimes have as their primary motive financial gain. Despite this, not all crimes are defined as economic crimes. Thus, armed robbery, extortion, and burglary are meant to achieve economic gain and they rely on either active or passive elements of force to achieve their objective, but they are not defined as economic crimes. What the term economic crime does encompass, though, depending upon its usage, is corporate crimes, white-collar crimes, occupational crimes, governmental program frauds, and street crimes of an economic nature. Economic crimes are the opposite of good government or government transparency. Economic crimes can be committed by a wide range of individuals or groups, including a sovereign entity such as a nation state, a legal entity such as a corporation, a group of people, or a lone individual. Offenses can range from the loss of a few dollars to losses collectively totaling hundreds of billions of dollars. In its broadest meaning, economic crimes would encompass losses or damages to the public trust, even if no direct profit had been realized by the guilty parties.

One way to understand the range of offenses that can be considered economic crimes is to start with the largest entities accused of these acts. Sovereign

nations are accused of committing economic crimes when they allow rampant exploitation of their national resources, displacement of their indigenous peoples, or severe harm to the environment. Such acts may apply to international resources as well, as in cases where some nations are accused of overfishing or exploiting endangered species or regions. Others have acted to nationalize both domestic and foreign assets following a change in political leadership, while still others have governed in a manner that benefited only a few and harmed many. The systematic looting of foreign aid and development monies is a frequent accusation also leveled at these types of regimes. Within the past decade, the actions of German industrial corporations that relied on slave labor during the Nazi regime of World War II have been accused of committing economic crimes. The actions of other nations in holding and even profiting from the cultural treasures of other countries and cultures have been termed economic crimes, even though the capture or seizure of the items in question may have occurred centuries earlier.

Corporations operating in one or more countries have also been accused of economic crimes. The acts that have formed the basis of these accusations have been varied and far-reaching. They include the use of sweatshop or child labor, operating in an environment or country with loose environmental

regulations, shipping and selling inferior goods, paying bribes to foreign officials, exploiting natural resources, lowering worker safety standards, and paying markedly lower wage rates. As with the actions of nation-states, however, it is sometimes difficult to assess the appropriateness of applying the label economic crimes to a given set of facts or actions. Often one party, in or out of power, will accuse the opposition of economic crimes, when in reality their track record is little or no better. Similar exchanges of allegations occur among multinational corporations. One person's economic crime is another's economic development. Even persons of intelligence and goodwill can differ, sometimes vehemently, over the wisdom of a given course of economic activity. Time also plays a factor. Actions that were considered routine business activity a few decades ago may now be illegal, at least in more vigilant countries. Examples would include payment of bribes to foreign officials, manipulation or trading regulations and quotas, or hiding true ownership of economic entities.

One can think of economic crime in terms of two groups: the first are individuals who resemble a gang, and the second are industries. The first is the traditional perspective of a criminal gang. The type of economic schemes in which individuals or gangs may participate is limited only by their imaginations and the nature of the industry in which they are committing their crimes. Schemes might include money laundering; stock and bond manipulation in so-called boiler rooms where vulnerable populations are urged to purchase worthless stocks; so-called pump-and-dump schemes in which the values of stocks are inflated and then rapidly deflated; telemarketing schemes; pyramid schemes in which people are asked to invest money with the promise that it will increase only to have their investment become the profits for the criminals; so-called snake oil schemes that involve sale of spurious medical products; counterfeiting of currency, financial instruments, or rebate coupons; identity theft schemes that encourage innocent victims to provide data that can be used to raid their bank or credit card accounts; or deceptive advertisements for employment opportunities, small business creation,

or vacation time-share deals, all of which encourage the victim to provide personal information or remit a deposit for services that will never be provided. Other schemes include dating services, fortune-telling, weight loss, or credit consolidation; Nigerian "419" money-laundering scams; home-repair frauds; rigged, phony, or deceptive contests; provision of supposedly legitimate educational or vocational credentials; swindling customers, in the case of a small business; unrealistic offers of medical, life, or burial insurance; foreign sweepstakes schemes; phony charitable solicitations; and many more.

Some of the groups that engage in these frauds are quite structured and long term in nature, while others are ad hoc conglomerations of grifters and scam artists. Either variety may be quite difficult for authorities to deal with, as they move frequently, increasingly travel internationally to avoid prosecution, and are quite good at covering their activities even when remaining close to their bases of operations. Also, laws and prosecutors in many jurisdictions do not treat these offenses as seriously as they do violent crimes, and the relatively few sentences handed down tend to be fairly light. Investigation of these crimes is also complicated by the overlapping jurisdictions of the different federal law enforcement agencies empowered to deal with these myriad schemes.

Another way to conceptualize economic crimes committed by groups is to think in terms of industries. Throughout U.S. history, there appear to have been cycles of activity generally centered on business groupings that would be considered economic crimes. In the 19th century, these activities revolved principally around railroads, oil, steel, stocks, land, and banking, leading to the term *robber barons* to describe those accused of benefiting from these activities. In the early decades of the 20th century, there was rampant stock speculation and manipulation leading to the stock market crash of 1929.

Toward the middle of the century, in the 1960s, price-fixing and antitrust violations were leveled against a number of large companies, particularly in the steel and electrical products industries. The 1970s saw a number of governmental actions against defense contractors and also labor organizations that had been infiltrated by elements of organized

crime. The 1980s witnessed a banking crisis involving savings and loan institutions, as hundreds of such institutions failed amid allegations of mismanagement, poor controls, and outright fraud. Also during this period the junk bond markets collapsed, again involving allegations of mismanagement and fraud. The 1990s saw numerous governmental actions against health care providers, as this market segment boomed due to improved medical services and an aging population. And, in the beginning of the 21st century, a number of corporate accounting scandals have come to light, in many cases involving huge and apparently profitable companies.

A separate category of economic crimes involves occupational fraud, which are frauds committed by members of organizations against their employers. Such acts may take place in the public, private, or not-for-profit sectors and have been estimated to have cost institutions within the United States as much as \$600 billion annually. To put such losses into perspective, the entire U.S. fast food industry is a \$100 billion a year industry and Major League Baseball is estimated to be a \$3 billion a year industry. As huge as the fraud estimate is, the figure does not include estimates of the more mundane frauds employees commit against their employers, such as calling in sick when they are healthy, removing office supplies for home use, inflating or abusing travel and entertainment expenses, or abusing telephone or computer privileges.

Included in the figure are active, willful schemes that result in financial loss to a company. Such acts are limited only by the imagination of the defrauder, but normally include putting nonexistent (or ghost) employees on the payroll or paying fees to ghost vendors; inflating work records through timecard or other manipulations; falsely claiming overtime; stealing production materials; selling proprietary information; engaging in kickback schemes; inflating sales or production numbers to achieve bonuses; diverting business to entities in which one has a hidden interest; diverting or manipulating checks; stealing cash; rigging the bidding process for outside vendors or the purchase of goods and services; theft of services by allowing others improper access to company resources or services;

short shipping or receiving; and fraudulently claiming worker's compensation. The proportion of occupational fraud committed in the public and private sectors has been estimated to be roughly the same, although some industries appear to be more vulnerable to occupational frauds than others.

Espionage is also a form of economic crime. Whether labeled espionage or spy cases, the nature of these acts has changed greatly in the past 50 years. Historically, spies tended to operate for reasons of ideology. Within the past 30 years, spies, including John Walker of the U.S. Navy, Aldrich Ames of the Central Intelligence Agency, Ronald Pelton of the National Security Agency, and Robert Hanssen of the Federal Bureau of Investigation, have undertaken their acts for money. While the damage they have caused is incalculable, but easily in the billions of dollars, their purely economic motivation makes them guilty of committing occupational frauds (the selling of trade secrets to a competitor). Less damaging to national security but of great concern to private companies is industrial espionage, in which proprietary information is sold to a competitor. The information can range from formulas for drugs or makeup, recipes of foodstuff, or financial data that would affect a firm's ability to acquire credit, participate in a sale or merger, or list itself on the stock exchange.

Although economic crime is frequently associated with corporations or relatively faceless bureaucrats, a few individuals throughout history have engaged in schemes that were either so imaginative or so lucrative that they remain in the public's mind. Their activities have contributed to the dimensions and definition of economic crimes. Perhaps one of the most famous was Charles Ponzi, an Italian immigrant who in the early years of the 20th century fleeced thousands of investors of millions of dollars in a postal coupon scheme. The scheme, in which early investors are paid off with the proceeds from later investors, has thousands of pyramid variations but most are still referred to as Ponzi schemes.

In the 1970s the name Robert Vesco became a household word, as news of the international financier's Investor's Overseas Services (IOS) operation began to leak out. In the 1960s there were

800,000 U.S. military personnel stationed abroad and an additional 2.5 million Americans seeking work in foreign countries. IOS offered them a variety of supposedly tax-advantaged investment vehicles and packages. By the early 1970s the sweet deals had collapsed, millions of dollars were missing, and Vesco became a high-profile fugitive hopscotching through a string of Caribbean and Central American countries.

John Bennett, once an aspiring medical student who could not muster the academic firepower necessary to graduate, finally drifted into the world of not-for-profit fundraising. By the 1990s the Foundation for New Era Philanthropy was in place and flourishing, due to Bennett's workaholic habits and an increasingly large circle of influential acquaintances. The pitch the foundation made was simple—it had a cadre of secret supporters who wanted to do good works but also to remain anonymous. If a charitable entity wanted to invest with the foundation for six months, its money would be matched by the secret benefactors, effectively doubling it. Scores of organizations came forward and millions of dollars flowed through the foundation until it collapsed. Bennett pleaded no contest to charges against him and was sentenced to 12 years in prison. But for Bennett's conviction, Charles Ponzi would have been proud of him.

Despite these personal sagas of economic crime, there are a number of larger issues involving politics and changing public perceptions and definitions of what is, and is not, legitimate economic activity. Similar debates have occurred with regard to white-collar and corporate crimes. One has to do with definition. What is a white-collar crime? Is it defined by the nature of the act? Oftentimes, the answer is yes, and offenses such as embezzlement are almost always considered white-collar crimes. However, others see such crimes defined by the nature of the offender and fall back on the definition used for many years that such offenses were committed by persons of high organizational or social standing. Thinking of corporate crimes brings even more ambiguity. One question is, Did the entire organization benefit or only a favored few? Then, in the case of punishment, does one punish only those most

actively involved in or favored by the crime, does one punish the organization, or does one punish both? If the organization is to be punished, how does that happen? A publicly traded company can be forced to pay a financial penalty such as a fine or restitution, but cannot be incarcerated. Should individuals be sentenced to prison separate from financial penalties? In the case of fines and restitution by the corporation, it may appear that the honest employees and shareholders may be being penalized more severely than those who benefited by the crime and now must do little more than cease their illegal activities. As economic crime continues to flourish and to become more and more sophisticated in its methods and its ability to mask the true nature of the activities, these questions can only become more pointed.

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## ELECTRONIC SURVEILLANCE

Electronic surveillance refers to the practice of monitoring individuals through the use of electronic devices. Law enforcement agencies are generally the first entities that come to mind when the term is mentioned because of the obvious benefits such devices play in monitoring criminal activities. However, it is worth noting that this is not always an accurate assumption. Although such devices are beneficial to law enforcement investigations, the use of electronic surveillance today extends well

into the private and commercial sectors. Many businesses have found electronic surveillance of employees to be a cost productive method of ensuring that the company's time and resources are not wasted on the personal business of employees.

## DEVELOPMENT OF ELECTRONIC SURVEILLANCE

The use of electronic surveillance technology can be traced back as far as the late 1800s, when it was discovered that the newly constructed telephone lines could be tapped into, thereby allowing for the monitoring of individuals' phone communications. The technology and procedures associated with this activity became known as wiretapping, and the technique is believed to have been used during the Civil War as a means of Confederate and Union agents intercepting military commands. The use of such techniques provided new investigative opportunities for law enforcement personnel, since surveillance could now be conducted on conversations coming from rooms, buildings, and other enclosures without the requirement of physical entrance into the area. In fact, the justification or determination of the legality of these devices was often based upon the grounds that there was no physical intrusion into the suspect's privately protected areas.

Eventually the Supreme Court examined whether the use of such electronic monitoring devices violated the Fourth Amendment's prohibition on unreasonable searches and seizures. In *Olmstead v. United States* (277 U.S. 438) the court was asked to determine whether law enforcement officers violated the Constitution when they obtained evidence against a suspect through the use of a wiretap device attached in the basement of the suspect's building. The government based its argument on the fact that there was no violation due to there being no physical trespass into the private areas controlled by the suspect. The Court agreed with the government's argument and in 1928 found that "there was no searching. There was no seizure. The evidence was secured by the use of the sense of hearing and that only. . . . The wires are not a part of his house

or office, any more than are the highways along which they are stretched" (pp. 464–465).

Following the Court's decision in *Olmstead* there developed a belief that without physical trespass there was no violation of the Fourth Amendment, and the use of electronic surveillance was held to be a valid method of circumventing the protections of the Constitution. Congress, in an attempt to regulate the use of electronic surveillance technology, passed the Communications Act of 1934, which regulated the unauthorized recording of telephone calls. However, there were several problems with the legislation. The primary cause of concern was that the Communications Act only regulated the recording of communications that were to be released. The legislation was ineffective in dealing with recordings in which the government did not reveal any of the contents of communications. Once again the issue turned to the courts, and over the next three decades the Supreme Court began systematically eliminating the belief that physical trespass was necessary for a violation of the Fourth Amendment.

While the Supreme Court's opinions in the 1940s and 1950s alluded to the fact that electronic surveillance could not be used to avoid physical trespass during an investigation, it was in 1967 that the court openly ruled against the use of electronic devices in this manner. In *Katz v. United States* (389 U.S. 347) the issue was whether law enforcement personnel violated the Fourth Amendment when they obtained evidence of the defendant transmitting wagering information from a telephone booth. A microphone was attached to the top of the telephone booth and conversations by the defendant were recorded. The defendant argued that without a warrant the seizure violated his constitutional right to privacy, an argument to which the government responded by claiming that there was no need for a search warrant because the microphone was on top of the phone booth and there was no physical trespass involved in the seizure of the communications. The Supreme Court ruled in 1967 that previous case law concerning the issue of trespass had moved the Court beyond such an argument and therefore found that "the fact that the electronic

device employed to achieve that end did not happen to penetrate the wall of the booth can have no constitutional significance” (p. 353). It ruled that the Fourth Amendment protects people and not places, and because electronic surveillance devices were designed to record personal information with limited or no physical trespass, the use of such devices must be regulated by the courts.

Following the Court’s decision there appeared to be some level of confusion, as many law enforcement agencies had relied on the *Olmstead* doctrine as a foundation in their approach to surveillance. In an effort to provide regulation to the use of electronic devices to monitor suspects, Congress once again passed legislation in the form of Title III of the Omnibus Crime Control and Safe Streets Acts. Title III regulated the interception of oral and wire communications through the use of electronic devices. These statutes are still used today in the regulation of electronic surveillance, and in 1986 the statutes were amended with the addition of the Electronic Communications Privacy Act (ECPA). The ECPA regulated the government’s ability to obtain electronic communications and is considered one of the more instrumental pieces of legislation in regard to electronic surveillance due to the prevalence of e-mail and other forms of electronic communication.

## CURRENT ISSUES INVOLVING ELECTRONIC SURVEILLANCE

There are several devices now used in the process of electronic surveillance. The more commonly encountered devices are wiretaps, miniature microphones, pen registers, digital cameras, and e-mail monitoring technology. Wiretaps were the devices employed in the *Olmstead* case. Miniature microphones are recorders capable of capturing low levels of sound while being worn without detection by those who are under surveillance. Today the devices are used extensively when collecting evidence for undercover operations involving narcotics or prostitution. The ability of the judges and jurors to see and hear individuals as they commit a criminal act is a powerful tool in the process of carrying out justice. Pen registers are used in cases involving

telephone communications. Unlike wiretaps, which provide the actual communications, pen registers only provide information relating to the telephone numbers dialed by the telephone that is under surveillance.

The last two devices, digital cameras and e-mail monitoring technology, are the more heatedly debated devices currently used for electronic surveillance. The technology associated with digital cameras has advanced at incredible rates over the past two decades, with cameras today capable of magnification of 200 times or greater. This means that an individual could be clearly monitored from as far away as 150 yards or more. Also, software has recently been developed that will work in conjunction with digital cameras and digital video recorders that is capable of comparing images taken from one of these devices with images in a known criminal database. The technology, referred to as facial recognition technology, has not been completely developed but has seen increasing levels of interest in the past five years.

Digital cameras have also been modified in an effort to record not only physical appearances but also the heat emanations given off by people and objects. The use of these cameras, which are commonly referred to as thermal imaging devices, was addressed in 2001 by the Supreme Court. In *Kyllo v. United States* (533 U.S. 27) the Court was asked to determine whether the use of thermal imaging technology to locate the presence of marijuana was a violation of the Fourth Amendment. The argument proposed by the government was that there was no violation of the Constitution because the officers merely scanned an area that was in public view. It was only after this initial scan that law enforcement discovered heat emanations consistent with those necessary to grow marijuana and obtained a search warrant for the residence. The Court, however, disagreed and found that any evidence obtained through the use of electronic surveillance technology that in essence provides for a search of an area that would be unobtainable without physical intrusion into a constitutionally protected area must be governed by the same law as techniques that would require physical intrusion. Interestingly enough, it

was the Court's opinion that this should be the case when such electronic technology is employed by law enforcement but is not the case in general public use. This curious statement concerning the public use requirement leads some to believe that should the technology become more common and available to the public, then law enforcement agencies could possibly employ the device without a search warrant.

The use of electronic surveillance devices to monitor electronic communications is possibly the greatest argument concerning electronic surveillance. As the use of electronic mail, commonly referred to as e-mail, has increased, so too has the need for law enforcement agencies and private industries to occasionally monitor the communications for inappropriate behaviors. Private industries are of course significantly less limited in the application of such monitoring technology because of the issue of diminished privacy held by individuals who work for a company and who use company equipment to conduct their electronic communications. Law enforcement entities are limited by the ECPA and Title III of the Omnibus Crime Control and Safe Streets Act, with the ECPA governing the ability of governmental agents to gain access to stored electronic communications, or e-mails that are stored on the Internet service provider's (ISP's) computers. Title III is used to obtain electronic communications as they occur, as the ECPA only provides for communications that are stored on the suspect's ISP's network server.

The Federal Bureau of Investigation (FBI) has been at the center of heated privacy rights debates for the past several years as a result of its use of a surveillance device designed to intercept e-mails. DCS1000, which was originally named Carnivore, is a computer that attaches to the e-mail server of an ISP and monitors e-mails that pass through on their way from or to subscribers. The device is designed to capture any or all of the following portions of an electronic communication: the e-mail addresses, subject lines, headers of e-mails, and content of e-mails. According to the FBI, the device is only used to monitor communications coming from or to individuals under criminal investigation, but privacy rights groups have argued that the device is actually

monitoring others who are not under investigation. In response to these criticisms, and at the request of privacy rights groups, the FBI has released large amounts of information relating to the operation of DCS1000. This information, however, has been censored by the FBI in an attempt to protect the operational integrity of the device. As a result, many groups have continued to argue that the device is being used to illegally monitor the electronic communications of innocent people, but the FBI has consistently denied using the device outside of authorized surveillance orders from the court.

## THE FUTURE OF ELECTRONIC SURVEILLANCE

There is little reason to believe that the use of electronic surveillance will decrease in the near future. On the contrary, the issue of terrorism has led to a moderate increase in the belief that electronic surveillance is important to the nation's protection. Building from thermal imaging technology, airports have even considered the possibility of instituting thermal imaging scanners to prevent individuals from bringing weapons on board commercial aircrafts. Of course, with the development of each new form of electronic surveillance technology there develops an argument concerning the constitutionality of the device's use. However, considering the role electronic surveillance devices plays in the operations of law enforcement agencies and private security operations today, it is unlikely that neither development nor use of the technology will cease in the foreseeable future.

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## ☒ EMERGENCY PREPAREDNESS

At the scene of an emergency such as a natural or accidental disaster, a terrorist attack, an act of mass violence, or an incident in which a considerable number of fatalities occur, law enforcement personnel are among the first to respond and are responsible for the management of the rescue, recovery, and investigation. *Mass violence* can be defined as a criminal incident whose consequences result in a massive number of casualties and traumatized survivors. A terrorist attack is a prime example of such mass violence.

The federal government's response to a large-scale critical incident anywhere in the United States is most frequently managed by the Federal Emergency Management Agency (FEMA). FEMA, which was created in 1979 by President Jimmy Carter to merge a number of disaster-related responsibilities in the federal government, remained an independent agency until March 2003, when it was merged into the new Department of Homeland Security (DHS).

The role of federal law enforcement, particularly in the case of a terrorist attack, lies in the coordinated management of the consequences of the incident as well as a planned approach for prevention. The emergency preparedness plans and procedures developed by federal law enforcement agencies have become the models for state and local agencies. Each agency has a unique role and performs specialized tasks at the scene of the emergency. In the case of natural disasters such as tornados or hurricanes, FEMA remains in charge. In disasters in which criminal conduct is involved, the Federal Bureau of Investigation (FBI) takes on a much larger role in conjunction with the state or local

police agency in whose jurisdiction the event occurred. FEMA is the lead agency responsible for coordinating the federal response to the consequences of an emergency incident such as a terrorist attack and has developed comprehensive plans for emergency operations.

## INITIAL RESPONSE

Since its creation in 2003, the DHS has had primary responsibility for the prevention of terrorist attacks within the United States and has been delegated to lead the recovery from any attacks that may occur. To address these objectives, the Federal Response Plan and the U.S. Government Interagency Domestic Terrorism Concept of Operations Plan were developed. These plans include guidelines on the coordination of federal, state, and local law enforcement agencies, emergency public information and media relations procedures, and plans for recovery efforts.

Another important part of emergency preparedness plans has been the establishment of color-coded threat levels. The threat levels are severe (red), high (orange), elevated (yellow), guarded (blue), and low (green). These threat levels were established to help state and local law enforcement officials provide for the safety and welfare of their communities. Warnings of a potential incident can come from the Central Intelligence Agency, FBI, or from any law enforcement agency.

Local law enforcement's responsibility lies in the first response, establishing incident command and assessment of personnel and equipment needs, evacuation, and rescue. State and federal law enforcement can provide reinforcement and assistance with personnel, equipment, and other resources. Although each critical incident is unique, the role and responsibility of federal, state, and local law enforcement is similar. The goal is to prevent further incidents and protect those in the immediate area from harm. The personnel, equipment, and other resources employed will largely depend on the specific event and its magnitude. As the local enforcement officers respond to the incident, appropriate notifications are made to local, state, and federal

authorities. Crisis and consequence management is critical in the early stages and usually takes place in the command center located in the outer perimeter. It is from here that law enforcement leadership controls and implements the plan of action.

Working closely with DHS and FEMA, the FBI is responsible for assessing all information relayed by local and state law enforcement personnel and for managing the criminal investigation along with state and local law enforcement agencies. FEMA retains responsibility for coordinating support teams for recovery operations. Fast, accurate information is of paramount importance in order to ensure an effective and coordinated response from all agencies involved in disaster recovery. This will prevent public hysteria and minimize the possibility of related disasters or crimes in the aftermath of the original emergency.

The Department of Health and Human Services has been designated to coordinate the mobile triage support teams and to assess the need for personnel, supplies, and triage locations. The American Red Cross has historically played a major role in these efforts. Bioterrorism, or exposure to chemical and radioactive agents, requires specialized response plans that call for a high level of interagency collaboration to meet unique treatment and investigation objectives. Mental health support services are critical during an emergency incident, particularly when there are massive casualties. Because survivors, families, friends, coworkers of victims, and others are at risk for psychological trauma and require mental health services, emergency preparedness plans generally include instructions for contacting psychiatrists, psychologists, social workers, spiritual care providers, and pet therapy providers.

At the scene of mass violence, law enforcement agencies are confronted with survivors, witnesses, and onlookers. Taking control, rescuing survivors, and providing a sense of security to those in crisis is one of the most difficult tasks for law enforcement officers. Law enforcement personnel who respond to the consequences of an emergency related to mass violence are at risk for posttraumatic stress disorder and are also vulnerable to vicarious trauma. The initial trauma experienced by the officer can become

magnified by further exposure to the victims of the incident and their families. Many law enforcement agencies have employee assistance programs to address the consequences of responding to emergencies of this magnitude.

It is critical for law enforcement to continue to assess the threat potential for additional acts of violence. Secondary devices, conventional explosives, and chemical, biological, and radioactive agents are among the list of possible modes of attack. Emergency plans are developed with contingency plans for multiple crises sites or for multiple crises at the same site.

## RECOVERY

In the early hours of an emergency incident, the first agency on the scene, which will usually be the local police department, will have charge until FEMA takes over coordination of the response and the recovery. Agencies that may become involved in addition to local law enforcement, emergency responders, and public health authorities include the Departments of Justice, Defense, Energy, Health and Human Services, and Agriculture; the Environmental Protection Agency; the Nuclear Regulatory Commission, and the Centers for Disease Control and Prevention.

Natural disasters are unpredictable and may be inescapable; however, a crisis and consequence management plan can be developed in anticipation of any type of emergency. In addition to planning for natural disasters, since September 11, 2001, law enforcement agencies have become more aggressively involved in counterterrorism initiatives. Counterterrorism units have been created in federal, state, and local law enforcement agencies and continue to coordinate their efforts. Additional training, often held jointly among the various agencies, has also been increased in recent years.

Prevention of acts of terrorism is in the forefront of law enforcement's preparedness. Such strategies include prevention, interdiction, ongoing investigation, and intelligence gathering. In addition, preparedness includes a proactive crisis and consequence management plan.

Emergency preparedness can involve the business community, educational facilities, human service organizations, the medical and psychological community, and mortuary services. Determining the role and responsibilities of responders, local fire departments, state and local law enforcement personnel, state and local governments, hazardous material teams, paramedics, and the National Guard requires ongoing dialogues about response plans. Prior emergency incidents are used as critical analysis tools to assess what was effective previously and what should be avoided for future incidents. It is also during this open communication that interjurisdictional responsibilities can be addressed. Formal memorandums of agreement are often prepared in order to avoid confusion over jurisdictional authority and responsibility when the incident has already taken place.

FEMA has developed an extensive database that can be used as a reference guide for training and planning. It is a resource for crisis and consequence management and response to emergencies of a terrorist nature including chemical, biological, or nuclear attacks. Federal response capabilities, educational information that includes indicators of chemical, biological, and radiological emergencies, first responder concerns, and other sources for assistance, are discussed. This database also addresses first responder concerns for explosions and fires.

## VULNERABLE AREAS

A key portion of emergency preparedness for police is being aware of locations that are likely target areas of an attack. The identification of these locations is usually coordinated with the FBI. Likely targets generally include government facilities, airports, communication and electrical facilities, transportation carriers and facilities, major highways, bridges, tunnels, and critical access roads. Emergencies occurring in tunnels or on bridges, highways, and waterways—whether through accidental, natural, or criminal acts—may result in massive casualties and critical service disruptions. Preparedness plans should include details on all high-risk areas, including where heavy volumes of

traffic can be anticipated that would raise the casualty levels and that could also delay or impede response or rescue efforts.

Transit carriers and facilities around the world have been prime targets for hijacking, hostage or barricaded situations, shootings, detonation of explosive devices, and the release of chemical, biological, radiological, or nuclear weapons. Tightened system security programs to protect passengers, employees, and facility structures have been initiated in response to these incidents. In addition to planning for alternate routes, law enforcement agencies have periodically implemented mandatory checkpoints for inspection of possible incendiary devices or hazardous materials. The terrorist attacks on the World Trade Center and the Pentagon were accomplished through the use of airplanes as weapons. This led to heightened security procedures at all airports, where the DHS has authority over the facilities' security systems.

Government offices, schools, prominent skyscrapers, stadiums, monuments, and landmarks may be prime targets because of their high traffic volumes and congestion. They are also vulnerable because they may have symbolic meaning, may attract tourists, or may be centrally located. If they are well known, their desirability as targets will be enhanced because of the impact their destruction will make on supporters and antagonists of the terrorist group. Certainly both the Pentagon and the World Trade Center are examples of the vulnerability of targets that are recognizable around the world and are viewed as representing the power of the group or nation under attack.

Water supply facilities are another type of vulnerable target, subject to chemical, biological, nuclear, or radiological contamination. Agricultural facilities are at risk for biological contamination, making security at processing, packaging, and storage locations critical. Checkpoints where credentialing and weapons inspection are implemented have become routine for enforcement personnel charged with the protection of these types of sites. The detection of suspicious packages, vehicles, and individuals is an ongoing operation for many local law enforcement agencies in cooperation with state and federal authorities. In addition to physical

targets, elected and appointed public officials may also be at risk, enhancing the need for dignitary protection specialists in many agencies.

Law enforcement agencies are charged with the mission of protecting life and property and preventing crime. Their roles in emergency preparedness include responding to initial crises and managing the immediate consequences. Emergencies that take the form of incidents of mass violence, particularly terrorist attacks, require a key focus on prevention. Emergency preparedness includes not only appropriate and effectual crisis and consequence management plans, but also effective measures to avert those emergencies that may be avoidable.

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## ENCRYPTION

The concept of encryption dates back to the time of Greek and Roman generals, who used the technique in their fields of battle. Similar methods have since been employed in many situations of war.

Cryptography is also used by civilians for protecting industrial and scientific secrets and financial information. The function of the encryption is to protect the confidentiality, the authenticity, and the integrity of the message. Encryption is used to scramble the information or message sent so that unauthorized persons cannot read the content. The technique also provides digital signatures that can be used to identify the author of a message. Furthermore, methods have been developed to verify that a message has not been altered during the transmission process. In situations in which information needs to be protected, the effectiveness of the transmission of messages becomes crucial. Military, civilian, or diplomatic organizations are therefore faced with the challenges of intercepting and deciphering enemy communications, as well as keeping their own codes from being decoded. The use of encryption by major criminals and terrorists can seriously aggravate the work of law enforcement agencies, given that it can be used to conceal unlawful activities. Lawfully intercepted and retrieved material can therefore be an essential tool in the fight against serious crimes and threats to national security.

*Encryption* is a cryptographic technology. *Cryptography* is the basic technology that protects information during the transit process. A message is transformed and is viewed as an unintelligible format by an unauthorized recipient. However, an authorized receiver can transform it back to its original form or content. The modern cryptographic method consists of the paired processes of encryption and decryption. *Encryption* is the system through which a plaintext (message) is transformed into a ciphertext (second message) using encryption algorithms and encryption keys. *Decryption* is defined as the opposite of encryption: the ciphertext is transformed back into the original format. The only way to decrypt an encrypted message is by knowing the particular key used in the algorithm system of choice.

Two major types of encryption algorithms are in existence. The first algorithm, called *private key algorithms*, uses the same key to code and decode. In this system only the one coding-decoding key can be used to decrypt a message coded in this way.

A second type of algorithm is the *public key algorithms*. Public key algorithms use different keys to respectively encrypt and decrypt the message. The encryption key is a public key since it is made publicly available, whereas the decryption key is the secret key. Consequently, only the authorized receiver can decode the message in the public key algorithm system.

The ability of a system to protect information from being decoded is dependent on four factors: its power of protection to keep the key secret, the level of difficulty for a hacker to be able to guess possible keys, the nonexistence of additional ways to decrypt final messages other than by use of the right key, and the prevention from decrypting an entire message of that system even when parts of the decoding process are known. Unfortunately, each logarithm system can only have a finite number of keys. For those hackers who have the time and the computer skills, a system can be cracked by using every possible key. So far, no encryption algorithm exists without a flaw.

A type of attack employed against private key system coded information is referred to as a *key search attack*, in which every possible key is tried. No system can offer absolute protection against this attack; however, this method is not very efficient given the astronomical number of possible keys that need to be tested until the right one is found. Another method for attacking a system is called *cryptanalysis*. The goal of this method is either to discover the plaintext or to discover the encryption key used to code text. Sophisticated mathematical skills and computer power are needed to perform cryptanalysis. A third type of attack, the *system-based attack*, is designed to strike the encryption-decryption system instead of attacking the algorithm itself. Public key algorithms can be attacked by using the publicly known key to determine the secret key through the help of mathematical skills. Finally, a system may also be beaten by finding a fundamental mathematical flaw in the encryption system.

Under United States law, the export of cryptography systems is restricted by the Defense Trade Regulations. As of December 1996, an individual needs a license from the U.S. Commerce

Department to export a cryptography program. U.S. cryptography export rules have relaxed since the Security and Freedom through Encryption (SAFE) Act, HR 850, was introduced in 1999. SAFE allows U.S. citizens to use any type of encryption anywhere in the world and permits the sale of any encryption type domestically. The same act proposed that the export laws should be eased for encryption software and hardware if a foreign manufacturer has already made it widely available. Additionally, the act created criminal penalties for the willful use of encryption to conceal a crime, enforced by the Department of Justice. SAFE also proposed that the president of the United States convene an international conference to draft an encryption policy agreement. However, the amendment (dated July 21, 1999) of the SAFE HR 850 Act granted the president authority to deny encryption exports and to dictate the level of encryption eligible for license exceptions.

Since 2001, there has been an increase in concerns regarding software encryption policy in the United States. In the wake of the terrorist attacks of September 11, 2001, there have been renewed calls among some lawmakers for restrictions on the use and availability of strong encryption products. It is believed that the restrictions on strong encryption techniques may reduce the risk of terrorist groups acquiring encryption techniques. In addition, electronic message tracking is currently used to survey terrorist communications. Access to the encryption key is necessary for government agencies to decrypt such messages. Consequently, proposals have been made that would grant law enforcement access to encryption keys.

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## EXCLUSIONARY RULE

The exclusionary rule, created by the U.S. Supreme Court, states that any evidence seized by government agents (usually police) in violation of the Fourth Amendment's protection against unlawful search and seizure is not admissible in an ensuing criminal trial. Although the exclusionary rule is not part of the U.S. Constitution, this issue of whether evidence obtained in violation of the Constitution could be used in court against a defendant was raised before the Supreme Court as early as 1886 (*Boyd v. United States*), but remained open to debate until 1914. Finally, in 1914, in order to enforce the mandate of the Fourth Amendment, the Supreme Court determined that prohibiting the introduction of evidence seized in violation of the Fourth Amendment, in a criminal trial, was the only way to deter law enforcement officials from future unconstitutional conduct. The development of the case law surrounding the exclusionary rule is tied to issues of federal versus states rights, because the early decisions pertaining to the rule applied only to cases in the federal courts. This created a dual system of exclusion until 1961, when the Court extended the rule to all state courts and to all law enforcement personnel, whether federal, state, or local.

Without the exclusionary rule, evidence seized by government officials was admissible in criminal trials, even if it was procured by constitutionally impermissible means. A police officer could enter a home, without a warrant or probable cause, in direct violation of the Fourth Amendment, and any contraband discovered during that unlawful search was admissible in the following criminal trial. A defendant could not have the evidence barred from trial, but could only seek other remedies at law, such as a lawsuit against the government agent, to recover damages for any injury sustained as a result of the agent's misconduct.

All this changed in 1914, when the Supreme Court decided in the case of *Weeks v. United States* that evidence seized by federal authorities in violation of the Fourth Amendment was inadmissible in federal criminal trials. The Court reasoned that this would deter federal agents from acting in violation of the Fourth Amendment by removing any potential benefit to the government from the evidence seized unconstitutionally. Federal officials would have to be careful, the Court reasoned, not to violate the Fourth Amendment if they knew that the evidence seized in such a manner would not be admissible at the subsequent federal criminal trial. The decision took into consideration the dual system of the U.S. government, with both federal and state criminal statutes. Federal crimes are adjudicated in the federal courts, while the state courts handle cases involving violation of state laws. Because *Weeks* did not apply to state officers or state courts, evidence seized by state officials, even if in violation of the Fourth Amendment, was still admissible in a state court criminal prosecution. Additionally, evidence seized by a state agent in violation of the Fourth Amendment would be admissible in a federal criminal prosecution, if the state agent turned over the illegally seized evidence to the federal authorities, as long as the federal authorities were not directly involved in the seizure. This became known as the *silver platter doctrine* because the states' agents gave the federal authorities the evidence on a silver platter. The Court's rationale was that there was no deterrent effect on unlawful searches and seizures committed by federal authorities by the

preclusion of evidence seized unlawfully by a state actor from a federal criminal prosecution.

In 1949, the Supreme Court determined that the Fourth Amendment applied to the states through the Fourteenth Amendment, which extended much of the Bill of Rights to the states by incorporation. In *Wolf v. Colorado*, the Court held that even though the Fourth Amendment applied to the states, evidence seized in violation of the Fourth Amendment by a state officer need not be suppressed (precluded from introduction into evidence) in a state criminal trial. The states were free to fashion other remedies to address violations of the Fourth Amendment by state officials. Additionally, evidence seized in violation of the Fourth Amendment by state officials was still admissible in federal criminal prosecutions under the silver platter doctrine. Once again, the rationale was that there was no deterrent effect on wrongdoing by federal agents when evidence seized illegally by state officials was precluded from a federal criminal trial.

As often occurs with controversial constitutional issues, a number of cases reached the Court. The issue was revisited in the early 1950s, when the Court decided two cases originating from California (*Rochin v. California* and *Irvine v. California*). The Court held that if a state official obtained evidence in a sufficiently offensive manner, and if the official egregiously violated the Fourth Amendment, admitting such evidence violated the constitutional guarantee of substantive due process. The Court was concerned, especially about *Rochin*, whose stomach had been pumped to obtain evidence of illegal drug use, that the way in which evidence was obtained would not “shock the conscience” or violate the concept of fundamental fairness. When government agents did not follow such rules of fairness, the Court concluded that the appropriate remedy was in effect to punish the government by preventing use of the evidence seized in such a manner. Even after these decisions, however, states could still use evidence seized in violation of the Fourth Amendment in all but the most egregious cases and there was still no prohibition against using evidence seized unlawfully by a state agent in a federal criminal prosecution, no matter how serious the constitutional transgression.

The Supreme Court soon realized that the framework it had created was rife with loopholes and difficult to apply. It called for myriad gradations in determining how offensive to consider a particular Fourth Amendment violation. It left intact the silver platter doctrine, which resulted in the odd state of affairs that evidence seized by a state official, in a manner that precluded its use in a federal criminal trial if done by a federal agent, was still admissible in both federal and state criminal prosecutions when done by the state official.

In 1960, the Court exercised its supervisory powers over the administration of criminal justice in the federal courts and effectively eliminated the silver platter doctrine (*Elkins v. United States*). After *Elkins*, if the evidence was seized by a state official in the same way that barred it from a federal criminal trial if done by a federal official, the evidence would be barred in a federal prosecution, even though no federal agents had been involved in the unlawful search or seizure. There was, however, a part of the silver platter doctrine that survived *Elkins*. Evidence seized by government officials from countries other than the United States remained admissible in either a federal or a state criminal trial in the United States. In *Stonehill v. United States*, a federal court of appeals determined that evidence seized by foreign officials in violation of the Fourth Amendment would only be suppressed if there had been significant involvement by U.S. officials. Basically, this required that the search and seizure be a joint venture between the two governments for the evidence to be considered inadmissible in a criminal trial conducted in a state or federal court within the United States.

Shortly after *Elkins*, in 1961, the Supreme Court handed down its landmark decision in *Mapp v. Ohio*. The *Mapp* decision ended the silver platter doctrine by extending the exclusionary rule to all state criminal prosecutions. After *Mapp*, it made no difference whether it was a state official or a federal official: if any government agent obtained evidence in a manner contrary to the Fourth Amendment, that evidence would not be admissible in either a state or a federal criminal prosecution. The Court maintained that its judicially created remedy to safeguard

Fourth Amendment rights was aimed at deterring official misconduct by not permitting the government to benefit from its unlawful searches or seizures and that the government would make sure that its agents acted within the constraints of the Fourth Amendment.

There has been considerable debate over the value of the exclusionary rule in deterring police misconduct. Many observers have commented that it makes little sense to penalize society for police misconduct. Why should credible evidence that an individual has committed a crime be suppressed from introduction at a criminal trial simply because the government obtained it in a manner that violated the Fourth Amendment?

Proponents of the exclusionary rule have maintained that without a deterrent against governmental overreaching, police and prosecutors would violate the Fourth Amendment at will to obtain evidence. They also have pointed out that there is an element of fundamental fairness in excluding evidence from trial when it is improperly obtained in violation of the Fourth Amendment. Furthermore, it would impugn judicial integrity if the courts willingly allowed a conviction based on evidence seized in an unconstitutional manner.

Detractors of the exclusionary rule have claimed that there are other adequate remedies to ensure governmental adherence to the Fourth Amendment. Government officials who violated the Fourth Amendment's constraints could be punished administratively or criminally and could be liable civilly to injured parties. Those opposed to the exclusionary rule claimed that it was preferable to admit the evidence at the criminal trial and then let the government official who violated the Fourth Amendment face whatever consequences might result from the unlawful actions. In this way, the detractors argued, society benefited by allowing the evidence to be used against the criminal and the official misconduct was penalized by other means. Despite their arguments, however, the exclusionary rule has endured.

There have been several important judicially created exceptions to the exclusionary rule that have mitigated its hampering effect on law enforcement.

The two most important are the good faith exception and the inevitable discovery exception. Normally, if evidence had been obtained in a manner that violated the Fourth Amendment, it was excluded from introduction at the subsequent criminal trial. If, however, the government agent acted in good faith, and had a good faith basis to believe that the actions were constitutionally permissible, the evidence was not suppressed at trial. For example, if the police obtained a search warrant to search a specific apartment, but the warrant listed the wrong apartment, and the police searched that incorrectly identified apartment and found contraband, that contraband was admissible into evidence in a criminal trial because the police had a good faith basis to rely on the warrant, even though it specified the wrong apartment. According to this reasoning, if the police had a good faith basis that the search was lawful (reliance on a warrant), there was no deterrent effect on future police misconduct by suppressing the evidence, so the court would allow the contraband seized from the wrong apartment to be admitted into evidence.

If the police had seized evidence in violation of the Fourth Amendment, but could prove to the court's satisfaction that they would have discovered the evidence anyhow, it would be admissible under the inevitable discovery exception. For example, if the police arrested a motorist and performed an illegal search of the trunk of the car subsequent to the arrest, the contraband seized was still admissible, despite the unlawful search, if the police could show that whenever they arrested someone in a car, the car was towed to the police impound garage where an inventory search was always conducted. The court would reason that the contraband would have been discovered during the inventory search, and therefore its discovery was inevitable and the evidence would be admissible despite the original unconstitutional search. Again, the courts have reasoned that there was little deterrent effect on police misconduct by the exclusion of evidence that would have been inevitably discovered despite the police misconduct.

The exclusionary rule provides a means of enforcing the Fourth Amendment. By precluding the government from introducing evidence obtained

in violation of the Fourth Amendment in a criminal trial, the courts have effectively deterred police misconduct. When government agents realized that there was no benefit from seizing contraband in violation of the Fourth Amendment, they were careful to adhere to rulings forbidding its seizure.

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## ✎ FEDERAL AIR MARSHAL PROGRAM

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The Federal Air Marshal Program is a component of the Transportation Security Administration, which is housed within the U.S. Department of Homeland Security. Federal air marshals (FAMs) are a full-time force that continuously deploy throughout the world on all major U.S. carriers in areas where terrorist activities indicate the highest probability of attack. FAMs respond to criminal incidents aboard U.S. air carriers, as well as other in-flight emergencies. FAMs are authorized to carry firearms and make arrests, while preserving the safety of aircraft, crew, and passengers. As with many areas of aviation security, only limited information on the program has been made available to the public. FAMs disguise themselves as ordinary travelers to maintain a low profile so that no one aboard a flight knows an air marshal is present except for the pilot and flight crew.

Aircraft piracy was initially addressed in the Federal Aviation Act of 1958, but it was defined more specifically by Public Law 87-197 of 1961. It was defined as “any seizure or exercise of control, by force or violence or threat of force or violence and with wrongful intent, of an aircraft in flight in air commerce.” Punishment for this crime was either the death penalty or imprisonment of not less

than 20 years. Public Law 87-197 also outlined regulations governing “interference with flight crew members or flight attendants” and “carrying weapons aboard aircraft.” The law was enacted because there was a rash of air piracy incidents on commercial jets in the 1960s.

The Federal Air Marshal Program began as the Sky Marshal Program in 1968, organized under the U.S. Marshal Service, and was designed to stop hijackings to and from Cuba. The sky marshals introduced certain airport screening processes that are still in use today, including a special pat-down search. During the four years of the Sky Marshal Program, no hijackings occurred on the agency’s watch. In fact, records show that the sky marshals prevented at least 27 hijackings. In a 1973 speech, Marshals Service Training Chief Jack Cameron stated that sky marshals made 3,457 total arrests, 348 of them for passengers concealing firearms. By the end of 1973, all airport security duties were transferred to the Federal Aviation Administration (FAA).

The rise of the FAA’s Air Marshal Program came in June 1985 after the hijacking of TWA 847. On the flight, two Lebanese Shiite Moslems diverted the plane to Beirut, where more hijackers boarded the plane, leading to a two-week standoff and the death of a U.S. Navy diver (a passenger on board the aircraft). This event led President Ronald Reagan to ask Congress to expand the Air Marshal Program

and it also led to Public Law 99-83, the International Security and Development Cooperation Act. This act established the explicit statutory basis for the Federal Air Marshal Program.

Another transition was made in the Federal Air Marshal Program following the hijackings of September 11, 2001. On this day, four U.S. commercial airliners were hijacked; two of them crashed into the World Trade Center in New York City, one crashed into the Pentagon in Washington, D.C., and the other crashed into a field in Somerset, Pennsylvania. There were no survivors in these crashes.

After these events, a surge of security measures was applied to the commercial aviation industry. Although the Air Marshal Program employed approximately 30 agents before September 11, 2001, the number had increased into the thousands only a year later. On November 19, 2001, President George W. Bush signed into law the Aviation and Transportation Security Act, which among other things established a new Transportation Security Administration within the Department of Transportation. The TSA, which was given the responsibility of the Federal Air Marshal Program, was moved to the Department of Homeland Security in 2002.

The Federal Air Marshal Program tactical training facility and operational headquarters is located at the William J. Hughes Technical Center in Atlantic City, New Jersey. This center houses three outdoor ranges with moving targets, a 360-degree live fire shoothouse configured as both a narrow-body and a wide-body aircraft with computer-controlled targets and a bulletproof observation platform, an indoor laser disc judgment pistol shooting interactive training room, and a close-quarters countermeasures/personal defense training room. The program also uses an inactive five-story air traffic control tower, a retired B-727 narrow-body aircraft, and a retired L-1011 wide-body aircraft for on-board exercises. In order to become an air marshal, men and women must participate in an 11-week training program at the New Jersey center. The TSA will not reveal the exact number or identity of marshals, the specific details of their training, or the routes they fly.

Candidates must be willing to perform regular and extended travel, both foreign and domestic, for several weeks at a time. FAMs work irregular hours and shifts, and may have limited personal contact with family and limited time off. FAMs travel to and spend time in foreign countries that are sometimes politically or economically unstable. Candidates must be under 40 years of age and must undergo psychological screening and various fitness tests. FAMs must be eligible for and maintain a top secret security clearance based upon a favorably adjudicated special background investigation as a condition of employment.

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*See also* Department of Homeland Security, Federal Aviation Administration, Transportation Security Administration, U.S. Marshals Service

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## ✎ FEDERAL AVIATION ADMINISTRATION

The U.S. Federal Aviation Administration (FAA) is a subordinate agency of the Department of Transportation (DOT). It was originally established by the Federal Aviation Act of 1958. The FAA is one of the largest agencies in the United States and has a broad span of aviation control including regulatory and procurement functions and operational responsibilities. It has more than 48,000 employees and had a fiscal year 2003 budget of approximately \$14 billion.

The FAA's chief executive is its administrator, who is appointed by the president of the United States for a five-year term and confirmed by the Senate.

Prior to 2002, the FAA had responsibility for civil aviation security, which it regulated through airport and air carrier security programs. The FAA also had an active Federal Air Marshal Program. Subsequent to the September 11, 2001 terrorist attacks, Congress created a separate agency (Transportation Security Administration, TSA) under the DOT, and transferred most of the FAA's security functions to it. The TSA was transferred to the Department of Homeland Security in 2003. The FAA still maintains, and exercises, requirements for security of its own employees and facilities, as well as internal investigations.

The FAA has divided its efforts into several core areas. While none are commonly thought of as law enforcement, each has oversight responsibilities of a number of enforcement-type activities. Law enforcement agencies are frequently able to obtain assistance on a wide range of aeronautical issues directly from local FAA offices. Principal activities include air traffic services, research and acquisition, regulation and certification, airports, commercial space transportation, and international programs.

Air traffic services encompasses all air traffic control services; construction, installation, and maintenance of navigational aids and all FAA communication equipment and controller display equipment; runway safety programs (incursion prevention); air traffic system requirements; control and coordination of military air traffic requirements; and air traffic system capacity. The FAA maintains a national system of weather observing equipment, which generates both radar images and text messages for use by pilots, air traffic controllers, and air carrier dispatchers.

Research and acquisitions includes system development, research direction and sponsorship, procurement management, system architecture decision and procurement investment analysis, and a large testing and logistical center. Regulation and certification covers flight standards, certification of aircraft and airmen, aviation medicine, enforcement of safety regulations for airmen and aircraft maintenance, inspection

and certification of newly designed aircraft and aircraft propulsion systems, accident investigation, and management of the FAA's public rulemaking process. In aviation accident investigation, the FAA may be delegated investigative duties by the National Transportation Safety Board or may conduct its own investigations for the purpose of determining regulatory compliance.

The FAA's responsibilities for airports include inspections for runway, taxiway, and airfield compliance with safety regulations, administration of large grant programs for airport improvements, and airport planning and coordination of national policy issues related to access to public-use airports. Responsibilities in commercial space transportation include licensing and safety oversight of all commercial space launches in the United States, space systems development, and research sponsorship. Last, international programs involve the exchange of information with foreign governments on certification standards for aircraft and airmen, providing technical assistance on aeronautical issues, assisting U.S. air carriers in regulatory compliance in foreign countries, and providing scientific and technical expertise at international conferences on weather, air traffic procedures, and flight operations.

In addition to these activities, the FAA maintains a national registry of airmen and aircraft. Law enforcement agencies requiring confirmation of aircraft registry or confirmation of airman certification may contact the registry in Oklahoma City. FAA regulations are generally contained within 14 C.F.R. Parts 1-199, which are all publicly available from libraries, the Internet, and a number of commercial providers. FAA's instructions to its employees on the enforcement of regulations are generally found in a number of FAA orders, handbooks, and policy statements. Like regulations, these also are public documents; many are accessible from the FAA's Web site, but few are available for commercial sale. The FAA's advisory circulars are nonenforceable guidance for pilots, air traffic controllers, and airport and aircraft operators. FAA has taken over responsibility for the maintenance and publication of aeronautical charts from the National Oceanic and Atmospheric Administration.

The FAA conducts nationwide recruiting for a number of positions. In general, each of the FAA's regions manages the recruiting process for its principal lines of business. Pilot certificates are required for some, but not all, positions. Specific age requirements are in place for air traffic controllers. Bargaining units cover much of the FAA's workforce. In most of its procurement requirements processes, modernization plans, and regulatory development, the FAA utilizes formal advisory committees to gather citizen and industry input. Notices of upcoming advisory committee meetings are published in the *Federal Register*.

The FAA maintains its principal offices in Washington, D.C., and coordinates its various functions through regional offices located in Anchorage, Alaska; Kansas City, Missouri; New York City, New York; Chicago, Illinois; Boston, Massachusetts; Dallas, Texas; Atlanta, Georgia; Los Angeles, California; and Seattle, Washington. In addition, the FAA maintains a significant employee presence in each of the states and territories of the United States and in foreign regions.

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*See also* Federal Air Marshal Program, National Transportation Safety Board

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## FEDERAL BUREAU OF INVESTIGATION

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The Federal Bureau of Investigation (FBI) is the investigative arm of the Department of Justice and has the widest jurisdiction of any federal law

enforcement agency. It is the primary agency for the investigation of more than 200 federal statutes and also collects evidence in any cases in which the U.S. government is a litigant or an interested party, including both criminal and civil matters. The FBI plays an influential role in local and state law enforcement through collection and publication of crime data statistics through the Uniform Crime Reports (UCR) on a quarterly basis; through operation of the National Crime Information Center, a nationwide criminal justice information network that receives and provides records checks from police within the United States and internationally on stolen property, wanted persons or warrant information, criminal history data, missing children, and unidentified body parts; and through operation of the National Academy (FBINA), a three-month training program conducted at its Quantico, Virginia, facility for ranking officers of law enforcement agencies within the United States and a number of other countries.

### FOUNDING AND EARLY HISTORY

Although the FBI is the best known federal law enforcement agency, it is neither the largest nor the oldest. From its creation in 1870 until 1908, the Department of Justice had no special agents of its own but relied on either private detectives or agents from the Secret Service to investigate its cases. In 1907, a year before Congress passed legislation restricting the Secret Service to investigating counterfeiting and protecting the president of the United States, Attorney General Charles J. Bonaparte was refused congressional approval to hire his own investigative staff but, with approval from President Theodore Roosevelt, on July 26, 1908, he created an investigative agency to which the President transferred a number of Secret Service agents. Despite the controversy surrounding its creation, this unit attracted little attention under its first chief, Stanley W. Finch, who, reflecting the agency's roots in the Secret Service, held the title of chief examiner. In 1909, Attorney General George Wickersham named the group the Bureau of Investigation (BOI) and changed Finch's title to chief.

The BOI concentrated on banking, bankruptcy, antitrust, naturalization, peonage, and land fraud matters, since there were few federal criminal statutes and the investigations of most crimes were the responsibility of local police. Because no formal training was offered, preference was given to applicants with prior law enforcement backgrounds. The first significant movement toward a broad definition of federal crimes came in 1910, with the passage of the White Slave Traffic Act (better known as the Mann Act), which made it a federal offense to transport a woman across state lines for an immoral purpose. With U.S. entry into World War I in 1917 the BOI investigated acts of sabotage, espionage, and draft-dodging under the Selective Service Act. Agents also engaged in counterintelligence efforts against Germany even before U.S. entry into the war and agents stationed near the Mexican border concentrated on neutrality matters, smuggling, and intelligence collection in conjunction with the aftermath of the Mexican revolution.

William J. Flynn, a former head of the Secret Service, became the first person to use the title of director of the BOI in 1919. He was followed from 1921 to 1924 by William J. Burns, another former Secret Service agent who had gained fame as the founder and head of the William F. Burns Detective Agency. After a series of political scandals, both Attorney General Harry Daugherty, who had appointed Burns, and Burns left the administration of President Warren Harding. Harding's successor, President Calvin Coolidge, appointed Harlan Fiske Stone as his attorney general and on May 10, 1924, Stone appointed J. Edgar Hoover as director of the BOI, a post Hoover would continue to hold when the BOI became the FBI and which he would not relinquish until his death on May 2, 1972.

Hoover, a law graduate of George Washington University, had begun working at BOI in 1917; during World War I he had been in charge of enemy alien operations and had assisted Attorney General A. Mitchell Palmer in investigating suspected anarchists and communists. When Hoover became director, the BOI was not a major law enforcement agency. It had fewer than 500 agents and only nine field offices but Hoover dismissed many of the political

appointees and instituted a number of changes, including promotions on merit, uniform performance appraisals, regular inspections of field offices, and, in 1928, a formal training course for agents.

Law enforcement generally, and specifically the BOI, was shaped in the years from World War I to the 1930s by the greater mobility of criminals, the enforcement of Prohibition, and the rise of the gangster. The public's fear of crime grew in this period, particularly with the press attention paid to the violence surrounding the illegal liquor trade and the rise of organized gangs of bootleggers. Hoover's gift for keeping the agency in the public eye was aided by a number of highly publicized crimes and by the expansion of federal criminal statutes. In 1919, the National Motor Vehicle Theft Act (Dyer Act) prohibited the transportation of stolen vehicles across state lines. Passage of the Eighteenth Amendment to the U.S. Constitution (the Volstead Act) in 1919, which banned the manufacture and sale of alcohol, created new areas of federal law enforcement and by the time of its repeal in 1933 (the Twenty-first Amendment) had spawned an unparalleled level of criminal activity. Although it was the Treasury Department, not the BOI, that was responsible for Prohibition enforcement, Hoover capitalized on these fears to increase his own and his agency's importance as the primary defenders of the thin line between chaos and a crime free nation.

In 1932, hastened by the kidnapping of the baby son of the world-famous aviator Charles A. Lindbergh, Congress passed pending legislation that made kidnapping a federal offense. Finally, in response to the killing on June 13, 1933, by Charles Arthur "Pretty Boy" Floyd and other wanted criminals of four law enforcement officers who were transporting a criminal through the Kansas City, Missouri, Union Railway Station, in what has been termed the Kansas City Massacre, Congress in 1934 gave BOI agents the authority to carry firearms and make arrests and passed the Fugitive Felon Act, which greatly expanded the jurisdiction of the BOI. In 1935, the BOI changed its name to the Federal Bureau of Investigation and by the end of the decade had grown to almost 700 agents assigned in more than 40 cities and, more important, had

solidified its reputation as the nation's leading law enforcement agency.

## WORLD WAR II TO THE 1970S

In 1936, President Franklin D. Roosevelt provided the FBI with its greatest expansion of power to that time when he authorized agents to investigate various fascist and communist groups. With passage of the Smith Act in 1940, which outlawed advocating the overthrow of the government, the FBI assumed a lead role in national security investigations. This role would place the FBI in conflict with the Central Intelligence Agency (CIA) on numerous occasions, most recently in questions surrounding whether either or both agencies should have been aware of the al-Qaeda plots to hijack airplanes and commit multiple acts of terrorism on September 11, 2001.

When Congress established the draft in 1940, the FBI was charged with locating draft evaders and military deserters. The FBI penetrated the Frederick Duquesne spy ring and virtually controlled information flowing to Nazi Germany and learned of Nazi plans for infiltration of North America. When the ring was broken up, 33 spies were arrested and convicted. When the United States entered war following the Japanese attack on Pearl Harbor on December 7, 1941, the FBI arrested enemy aliens who posed national security threats and turned them over to military or immigration authorities. Hoover opposed the recommendation of the military, ultimately endorsed by President Roosevelt and the attorney general, that Japanese aliens and Americans of Japanese descent be interned. Hoover's argument was that there was no need for it, since those who posed any danger to the United States had already been identified and arrested by the FBI. A special branch of the FBI, the Special Intelligence Service, performed intelligence operations in Central and South America during the war years, concentrating on Nazi spies and supporters.

The efforts of the Soviet Union in the postwar period to become a nuclear power dominated much of American thinking, augmented by fears that foreign agents had infiltrated various levels of the government. Under Presidents Harry S. Truman and Dwight D. Eisenhower the national security

mandate of the FBI was expanded and in 1946 the Atomic Energy Act gave the FBI responsibility for determining the loyalty of individuals having access to atomic energy data. It was during this period that the arrest, conviction, and execution of Ethel and Julius Rosenberg took place for their passing atomic secrets to the Soviet Union. By the time the Korean War ended the FBI had 6,200 agents and spent much of its resources combating the influence of the Communist Party–USA. At the same time, the bureau's investigations of organized crime increased after the New York State Police documented a major organized crime meeting in upstate New York in 1957.

Another expansion of the FBI's role was its investigation of violations of the Civil Rights Acts of 1960 and 1964. In 1964 the bureau investigated the murders of three civil rights workers—Michael Schwerner, Andrew Goodman, and James Chaney—in Philadelphia, Mississippi, and later would investigate the murders of civil rights leaders Dr. Martin Luther King, Jr. and Medgar Evers. The Omnibus Crime Control and Safe Streets Act of 1968 expanded the use of court-authorized electronic surveillance and the Racketeer Influenced and Corrupt Organizations Act in 1970 provided prosecutors new tools to use against mob operations. Finally, the assassination of President John F. Kennedy caused Congress to pass legislation making assaulting the president a federal crime.

The Vietnam War era saw both rising crime rates in the United States and increased militancy on the part of antiestablishment groups. The Weathermen, one such group, claimed responsibility for a number of bombings in protest of the war, while the killing of four young people at Kent State University by National Guard troops further frayed the national psyche. Draft dodging and property damage in demonstrations became increasingly common.

## NONENFORCEMENT ROLES: TRACKING CRIMINALS AND TRAINING POLICE

Hoover also greatly expanded the range and importance of the FBI through its nonenforcement roles.

By the end of the 1930s, the FBI had established itself as the federal agency to which local and state police would turn for assistance in the important areas of tracking wanted persons and property and for training personnel, particularly those moving into management positions.

After fingerprinting emerged as the preferred method of tracking criminals, the Department of Justice in 1905 had established a Bureau of Criminal Identification as a central repository of fingerprint cards. When, in 1907, it was moved to Leavenworth Federal Penitentiary and inmates were assigned to maintain the system, police in many cities were leery and set up their own systems or turned to one operated by the International Association of Chiefs of Police. In 1924, Congress merged the two systems under the BOI. Also, at this time, studies were underway that would lead to the formation of the FBI's Technical Laboratory and its maintenance of the UCR.

Sensing that public support was an important element of his plans for the Bureau of Investigation, Hoover tapped into a growing interest in criminals and their activities. In 1932, improving on the technique of wanted posters that Wells Fargo, the Pinkerton Detective Agency, and railroad police had used since the 1870s, Hoover created *Fugitives Wanted By Police*, which would eventually evolve into the *FBI Law Enforcement Bulletin*, a monthly magazine. In 1950, Hoover further revised the old-time wanted posters into the Ten Most Wanted Program, which featured mug shots of wanted criminals posted in public buildings around the country and which can now be accessed on the Internet.

In 1935, the FBI convened its first National Academy class for state and local police; international officers were invited to attend starting in 1940. The FBINA and shorter training programs for police executives, the National Executive Institute and the Law Enforcement Executive Seminar, are considered important career enhancements for those seeking positions as chiefs of police in state and local agencies throughout the United States and, to a lesser degree, in departments outside the country.

## THE POST-HOOVER YEARS TO 2001

Following Hoover's death on May 2, 1972, President Richard M. Nixon appointed L. Patrick Gray acting director, but his tenure was short-lived following allegations of improper conduct relating to the investigation of the Watergate burglary. A number of directors have served since that time; some had once worked for the FBI but none were promoted directly from the ranks as Hoover had been. Clarence M. Kelley, a former agent who was the police chief of Kansas City, Kansas, at the time of his appointment, held the position from 1973 to 1978. In addition to a number of other changes, Kelley implemented more stringent guidelines for investigations in counterintelligence and domestic security matters, stepped up recruitment of accountants to enhance enforcement of organized crime and white-collar crime, and began to more aggressively recruit women and ethnic minorities as special agents. When Kelley left there were approximately 8,000 agents and 11,000 support employees.

The 1980s saw yet another shift in the FBI's priorities, including the beginnings of interest in counterterrorism investigations and a renewed interest in espionage. The bureau also became more heavily involved in drug investigations, an area of law enforcement that Hoover had avoided. In part as a result of its involvement in security preparations for the Olympics held in Los Angeles in 1984, the bureau created the Hostage Rescue Team to deal with high-sensitivity tactical situations. In 1986 Congress permitted the FBI to investigate terrorist acts against U.S. citizens abroad and in 1989 the Department of Justice authorized the FBI to arrest certain classes of fugitives abroad without the consent of the country where they resided. Responding to the rise of technology, the FBI also created computer analysis and response teams in its major offices and enhanced its laboratory facilities to take advantage of DNA testing, a form of identification superior to fingerprints.

## PUBLIC SCRUTINY

Perhaps reinforcing Hoover's concerns about joint investigations and participation in areas that were

beyond the FBI's specialties, two major events that brought severe criticism to the bureau developed under the Bureau of Alcohol, Tobacco, and Firearms (BATF), since 2003 renamed the Bureau of Alcohol, Tobacco, Firearms, and Explosives: the fugitive standoff at Ruby Ridge, Idaho, and the standoff in Waco, Texas, which ended in the mass suicide of members of the Branch Davidian religious cult. In 1982 an FBI sniper shot and killed Vicky Weaver, the wife of Randy Weaver, who was wanted in conjunction with an investigation into white supremacist groups in Northern Idaho. Weaver and a family friend, Kevin Harris, were also wounded, and the government later paid Weaver more than \$3 million in a wrongful death suit. On February 28, 1993, raids on the Branch Davidian compound in Waco resulted in the deaths of 86 residents, including a large number of children; the deaths of four BATF agents; and the wounding of an additional 16 agents. Public and media responses were highly critical of the actions of special agents at the scenes.

The FBI has also been stung by a number of internal controversies, including failure to detect spies among its staff and separate claims of discrimination in the 1990s by female, homosexual, African American, and Hispanic agents and most recently, in 2003, by agents of Middle Eastern heritage. The agency was harshly criticized when it became known that agent Robert Philip Hanssen, who, from 1985 until he was arrested, was a spy for the former Soviet Union and then for Russia in exchange for cash and diamonds. Hanssen pled guilty on July 6, 2001, to 15 counts of espionage and conspiracy charges in exchange for prosecutors agreeing not to seek the death penalty and was sentenced to life in prison without parole on May 10, 2002. The case led to new security procedures at the FBI.

## TARGETING TERRORISM

Foreshadowing the expanded role in terrorism investigation that the FBI would acquire after September 11, 2001, agents investigated the World Trade Center bombing in New York City in 1993, the bombing of the Murrah Federal Building in Oklahoma City, Oklahoma, in 1995, and the

Olympic Park bombing at the Olympics in Atlanta in 1996. Agents also were involved in the 1996 arrest of Unabomber Theodore Kaczynski. Soon after former U.S. Attorney Robert Mueller, III was sworn in as FBI director on September 4, 2001, exactly one week before the September 11, 2001 terrorist attacks on the World Trade Center and the Pentagon, his priorities and those of the more than 11,000 agents stationed around the world changed quickly. Amid criticism of its failure to uncover the hijacking plots, the FBI was forced to focus its investigative efforts away from organized crime, white collar crime, and drug cases to counterterrorism investigations. By 2003, more than 2,000 of the FBI's almost 9,000 agents within the United States were working virtually full-time on counterterrorism cases. Mueller noted that the day before the terrorist attacks (September 10, 2001), the FBI had only 535 international terrorism agents stationed around the world and only 82 at FBI headquarters. The shifts in personnel undertaken are unprecedented; in fiscal 2002, 21% of agents investigated organized crime and drug violations; by fiscal 2003 the percentage had fallen to 14 while more than one third of all agents (36%) were assigned to three areas: counterterrorism, counterintelligence, and cyber-crime.

This change in focus has renewed concerns of turf battles between the FBI and the CIA over unwillingness to share intelligence data. A report released by the House and Senate intelligence committees on July 24, 2003, that was highly critical of both the FBI and the CIA for their failures to assess and share available information that might have prevented the attacks has raised the same questions originally raised in the 1940s; namely, whether the FBI's crime-fighting role is inconsistent with its role as the monitor of domestic intelligence that may involve international threats to the United States. These concerns have also affected state and local police departments, who complain that they have difficulty getting information from the FBI while at the same time they have been forced to pick up investigations of crimes such as local bank robberies and fraud cases that were previously handled by special agents either alone or as part of task forces with local police. How the FBI will meet the

challenge of balancing its new mandates with its traditional crime-fighting duties will continue to concern politicians, civil libertarians, and members of the law enforcement community.

*Joseph W. Koletar*

*See also* Bureau of Alcohol, Tobacco, Firearms, and Explosives; National Academy, Federal Bureau of Investigation; Prohibition Law Enforcement; Secret Service; Uniform Crime Reporting Program

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## ⌘ FEDERAL COMMUNICATIONS COMMISSION, ENFORCEMENT BUREAU

The Federal Communications Commission (FCC) was founded as a result of the 1934 Communications Act as an independent government agency directly responsible to U.S. Congress. The Communications

Act gave the FCC jurisdiction in regulating interstate and foreign communication by wire or radio transmission (the regulation of television, satellite, and cable were later added). The FCC is headed by five presidentially appointed and Senate-approved officials for five-year terms. The FCC has three regional offices, 16 field offices, and nine resident agents offices located throughout the country.

The Enforcement Bureau (EB) of the FCC is concerned with regulating compliance with FCC rules and regulation. The EB is headed by a bureau chief and is split into four divisions with a separate division chief in charge of each. The Telecommunications Consumer Division is responsible for handling complaints on consumer-related obligations of telecommunication providers, including unsolicited faxes, long distance telephone slamming, special provisions to persons with disabilities, and telemarketing. The Market Disputes Resolution Division handles market disputes and assists in negotiation between competing communications carriers. The Spectrum Enforcement Division assists in the maintenance and support of public safety systems such as sufficient lighting on radio towers and maintenance of the Emergency Broadcast System and investigates all unauthorized use of public safety systems. The responsibilities of the Investigation and Hearings Division include resolution of complaints and enforcement of regulations of broadcast stations on nontechnical matters.

The FCC ensures compliance with its rules and regulations by utilizing several enforcement options. A letter of inquiry may be issued if a suspected rules violation has occurred. The letter will outline a possible rule violation that the FCC has reason to believe has occurred. The accused must respond to the letter within 10 days. The response to the letter will be considered before further investigation takes place. One such further action would be a field inspection of the facilities in question. If, after the inspection, further action is deemed necessary a subpoena for records will be issued. If a rule violation is found, the FCC may issue a warning, a notice of violation, or a citation, which would only be given to unlicensed operators, or a fine may be assessed. If the violation is severe the FCC may

issue a cease and desist order to stop the violation from continuing. If the violation continues, the FCC may revoke the operator's license or seize equipment. The FCC also reserves the right to refer the offender to the Department of Justice for criminal charges.

The FCC also assists local, state, federal, and military law enforcement and public safety organizations. EB agents share information with state law enforcement in cases involving the violation of consumer telecommunication laws. The EB maintains and licenses public safety band radio. Agents investigate abuses of these channels by non-public safety persons. They assist the Coast Guard in locating mayday transmission signals from damaged or wrecked vessels and assist other agencies when FCC expertise is required.

The FCC also assists in interoperability, which is the ability of different law enforcement and public safety agencies to communicate across jurisdictions with each other. This often will require the use of wireless communication and designating radio bands. Interoperability ensures quick and effective response times in disaster situations. The ability of local, state, and federal agencies to communicate leads to a higher level of efficacy and productivity in law enforcement.

*David A. Hohn*

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## FEDERAL DRUG SEIZURE SYSTEM

The Federal Drug Seizure System is the power of the federal government to seize property if it is

used, or intended to be used, in any manner or part, to commit or to facilitate the commission of a drug crime. Federal drug seizure statutes were first enacted by Congress in 1970. However, it was the passage of the Comprehensive Crime Control Act of 1984, part of the increased focus on the War on Drugs during the administration of President Ronald Reagan, that significantly strengthened the abilities of the government to seize property or assets if there was probable cause to assume that the property or asset in question was being used for the commission of drug crimes. The laws state that any person convicted of a federal drug offense punishable by more than one year in prison shall forfeit to the United States any personal or real property related to the violation, including houses, cars, and other personal belongings. A warrant of seizure may be issued and property seized at the time an individual is arrested on charges that may result in forfeiture. However, property and assets may be seized prior to conviction and retained by the federal government even in the ultimate absence of conviction.

Forfeiture laws have evolved from admiralty laws to the present-day *United States Code*. Assets can be forfeited under civil forfeiture or criminal forfeiture proceedings. Civil forfeiture actions are *in rem*, against the property, whereas criminal forfeiture actions are *in personam*, against the person. Forfeiture laws remained essentially unchanged until the 1970s when the first federal laws to authorize criminal forfeiture were enacted. These two key laws were the Racketeer Influenced and Corrupt Organization (RICO) Act of 1970, which focused on organized crime syndicates, and the Controlled Substances Act of 1970, which facilitated the War on Drugs.

### RATIONALE FOR THE PROGRAM

Throughout the 1970s, law enforcement agencies primarily used asset forfeiture in an attempt to dismantle traditional organized crime. As the concern with drug trafficking increased, federal forfeiture programs began concentrating their forfeiture-related initiatives on drug-related seizures. By 1980, federal investigative agencies with jurisdiction to

investigate drug offenses began seizing assets in numbers that exceeded what was contemplated in the 1970s. Thousands of illegally gained assets were seized, the majority of which were processed administratively for civil forfeiture. This shift of investigative priorities had a significant impact on the type of property seized. RICO seizures were generally for high-value assets processed under criminal forfeiture procedures while drug-related seizures were generally of lower value and processed under civil forfeiture procedures.

### MANAGEMENT OF FORFEITED AND SEIZED PROPERTIES

Many federal agencies are involved in the removal of illicit drugs from the market. The Federal-wide Drug Seizure System (FDSS) reflects the combined drug seizure efforts of the Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), U.S. Customs Service, and U.S. Border Patrol within the jurisdiction of the United States, as well as maritime seizures by the U.S. Coast Guard. FDSS eliminates duplicate reporting of a seizure involving more than one federal agency.

Issues regarding the expenses associated with processing seized and forfeited property (storage, maintenance, disposal, etc.) arose. Over time, these issues precipitated the 1992 enactment of legislation, 31 U.S.C. 9703, which shaped the funding, operation, and management of the present day Treasury Forfeiture Fund. Prior to this legislation, only the U.S. Customs Service and the U.S. Coast Guard participated in what was then the Customs Forfeiture Fund. Today, both of these agencies; the Internal Revenue Service Criminal Investigation; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; and the U.S. Secret Service participate in the Treasury Forfeiture Fund.

At a federal level, the law established two new forfeiture funds: one at the U.S. Department of Justice, which gets revenue from forfeitures done by agencies such as the DEA and the FBI, and another now run by the U.S. Treasury, which gets revenue from agencies such as Customs and the Coast Guard. These funds can now be used for forfeiture-related

expenses, payments to informants, prison building, equipment purchase, and other general law enforcement purposes.

Local law enforcement agencies also get a piece of the forfeiture funds or goods. Within the 1984 act was a provision for so-called equitable sharing, which allows local law enforcement agencies to receive a portion of the net proceeds of forfeitures they help make under federal law—and under current policy that can be up to 80%. Previously, seized assets had been handed over to the federal government in their entirety.

### CRITICISMS OF THE SEIZURE LAWS

Critics have said that the government has overstepped its bounds by encouraging police to make blatantly unconstitutional seizures. Of particular concern to the critics was that the property may be seized without probable cause and retained by law enforcement officials so long as the police can establish probable cause at the forfeiture proceeding itself. Furthermore, if the government can later establish probable cause (through investigation of the seized property after the seizure), that is sufficient to uphold a forfeiture.

To address some of these concerns, the Forfeiture Reform Act was signed into federal law in 2002. The passage capped a nearly decade-long crusade and is the result of cooperation between unlikely allies. Henry Hyde, a conservative Republican from Illinois and chairman of the House Judiciary Committee was joined by the House Judiciary Committee's ranking Democrat, John Conyers of Michigan, to spearhead the effort—which united politicians as diverse as outspoken conservative Bob Barr of Georgia with Democratic liberal Barney Frank of Massachusetts. An equally impressive coalition formed in the Senate around the issue. Joining in support were such wide-ranging organizations as the American Civil Liberties Union, the National Rifle Association, the American Bankers Association, the National Association of Criminal Defense Lawyers, the U.S. Chamber of Commerce, Americans for Tax Reform, and organizations representing groups such as pilots, boaters, and hotel owners.

The new law requires the government to have much stronger evidence of wrongdoing before it can seize a person's property—raising the burden of proof from probable cause to a preponderance of the evidence that the property is linked to a crime. Equally important, it shifts the burden of proof to the federal government, meaning that the government must now prove in court that the property was involved in crime—instead of the property owner needing to prove the opposite.

In sum, the federal government has substantially increased its police powers with respect to drug trafficking. The constitutional procedural safeguards simply do not apply to those who are suspected of, or are convicted of, drug trafficking in the United States.

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## FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

The Federal Law Enforcement Officers Association (FLEOA) is a professional, voluntary, nonpartisan association that advocates for more than 19,000 federal law enforcement officers employed in more than 50 agencies. The association was designed to offer services and support to all federal law enforcement officers, as well as to advocate on their behalf.

Since its formation in 1977, FLEOA has granted regular membership to any person employed as a full-time or permanent Series 1811 Criminal Investigator (federal law enforcement officer) for the U.S. government. Among the larger agencies whose officers are members are the Secret Service, the

Federal Bureau of Investigation, and the Internal Revenue Service. FLEOA members are offered association-sponsored benefits, which include 24-hour access to legal services and representation by a legislative counsel who handles issues that might potentially affect the officers.

Memberships are also offered to retired officers, resigned officers, and associate members, consisting of those who do not fall under the other categories. FLEOA insists, however, that in order to gain membership, all persons must have an interest in promoting the aims and objectives of the association.

All members also receive the *1811*, which is a bimonthly publication created to keep officers abreast of any governmental activities that may influence their careers. The name of the publication is derived from the Series 1811 Criminal Investigator title for federal law enforcement officers. The *1811* also informs FLEOA members of association activities undertaken on their behalf.

Typical of these activities, in July 2003, FLEOA leaders testified at congressional hearings on pay disparity and the need for pay reform for federal law enforcement agents. Former FLEOA president Richard J. Gallo and then-incumbent president Timothy Danahey testified before the House Government Reform Committee. Earlier that year, Danahey had also appeared before a House Judiciary Committee meeting concerning organization of the Department of Homeland Security.

In addition to its concern with legislative action, another of FLEOA's main goals centers on the Federal Law Enforcement Officers Foundation. Funds are used primarily for financial assistance to family members of officers who die in the line of duty and to disabled officers. Funds are also disbursed for need-based scholarships to officers' families, particularly to allow students to pursue education in the fields of criminal justice, political science, and law. Funds are also used for charitable donations to organizations based on recommendations from its members.

FLEOA is also an active member of the Law Enforcement Steering Committee, a group comprised primarily of local and state law enforcement agencies but to which FLEOA contributes on behalf

of federal law enforcement officers. The committee generally discusses matters pertaining to officers' daily work-lives and emerging career opportunities in the law enforcement field. Participation by FLEOA provides the ability to voice the concerns of the federal law enforcement officers in these areas. Although FLEOA has expanded since its inception in 1977, the leadership remains focused on the main objective to act as an advocate on the behalf of federal law enforcement officers at the federal, state, and local levels.

*Christopher Morse*

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## ☞ FEDERAL LAW ENFORCEMENT TRAINING CENTER

The Federal Law Enforcement Training Center (FLETC), established in 1970 as a bureau of the Department of the Treasury, is the primary organization for training all federal law enforcement personnel. It provides basic and advanced training to uniformed and investigatory personnel employed by more than 75 federal law enforcement agencies. Throughout the 1990s, FLETC graduated about 25,000 students annually. In 2003, FLETC was moved from the Department of the Treasury into the Department of Homeland Security (DHS).

Initially located in temporary space in the Washington, D.C., area, planners envisioned that permanent space would be found nearby. Construction

delays resulted in the selection of the former Glynco Naval Air Station as a permanent location in May 1975. Training began there in September 1975 and the facility has been in constant use ever since. Glynco is located near Brunswick, Georgia, between Savannah, Georgia, and Jacksonville, Florida. The location, which has its own ZIP code even though it is not a recognized city, often causes confusion, particularly among the newly assigned agents who will be attending training there. Twenty of FLETC's participating agencies have established permanent offices at Glynco to coordinate their training. The facility is a 1,500-acre site comprised of more than 100 buildings, including classrooms, gyms, dormitories, and staff and faculty housing.

FLETC has expanded to three additional facilities across the United States: in Artesia, New Mexico; in Charleston, South Carolina; and in Cheltenham, Maryland. The Glynco, Artesia, and Charleston locations are residential facilities that offer housing and meals 24 hours a day, 7 days a week; the Cheltenham facility is designed as a commuter facility primarily for inservice training.

The Artesia center, near Roswell, New Mexico, opened in 1990 to provide advanced training for the Immigration and Naturalization Service (INS), U.S. Border Patrol, Bureau of Prisons, and other participating agencies with large numbers of personnel located in the western United States. Located on what had been the Artesia Christian College campus, the facility includes firearms and driver training ranges, a physical training complex, and a computer classroom. The Artesia center also houses the Department of the Interior's Bureau of Indian Affairs Indian Police Academy, which provides 16 weeks of training for tribal law enforcement officers. Approximately 4,000 officers graduate annually from the Artesia Center.

The Charleston campus, although considered temporary, has been in operation since 1995, primarily to accommodate the training needs of INS and the Border Patrol. It is located on the Charleston Navy Base and Naval Weapons Station. The newest facility, in Cheltenham, is used primarily for inservice and requalification training for officers and agents working in the Washington, D.C.,

area. It opened in early 2003 for use solely by the U.S. Capitol Police but has since expanded to use by all area agencies.

Although it is used by a wide array of agencies, FLETC remained under the administrative and financial auspices of the Department of the Treasury until 2003, when it was transferred to the newly created DHS, along with many of the law enforcement functions that had previously been housed in Treasury. Other aspects of the administration remained intact. The FLETC director is assisted in the management of the center by four associate directors (for training, administration, planning and development, and Washington operations), three deputy associate directors, and seven assistant directors. Training policy, programs, and standards are overseen by an eight-member interagency board of directors. Five of the eight are voting members, one each from the Departments of Interior, Justice, and Treasury; one from the General Services Administration; and one two-year rotational member representing the other organizations whose officers train at the facilities. Due to the large number of students it was sending for training, in 2002 the Transportation Security Administration (TSA) was selected to represent all other partner organizations.

FLETC offers courses for entry-level and management personnel. It is the locale of basic police training for most federal law enforcement officers. The Federal Bureau of Investigation (FBI), which maintains its own training facility in Quantico, Virginia, is one of the few agencies that does not send its agents to FLETC for either basic or advanced training. For other agencies, the basic training academy normally lasts from 10 to 16 weeks. Specialized and management courses generally run from 3 to 14 days in length. FLETC offers more than 300 courses that address almost all aspects of law enforcement work. The courses are divided into 12 categories: behavioral science, diver and marine, enforcement operations, enforcement techniques, financial fraud institute, firearms division, FLETC management institute, legal division, office of Artesia operations, physical techniques division, security specialties division, and training management division.

## PARTICIPATING AGENCIES

FLETC's courses are available only to agents and officers sent by their agencies. Providing consolidation at FLETC is viewed by the cooperating agencies as both cost-effective and a way to ensure that officers of many agencies receive similar training experiences. Agencies whose officers have received trained at FLETC from its inception until 2003 include the Forest Service (Agriculture Department); National Institute of Standards and Technology, National Marine Fisheries Services, Office of Security, and Office of Export Administration (Commerce Department); Food and Drug Administration and National Institute of Health (Health and Human Services Department); Bureau of Indian Affairs, Bureau of Land Management, Bureau of Reclamation, National Park Service, Office of Surface Mining and Reclamation, and U.S. Fish and Wildlife Service (Interior Department); Bureau of Prisons, Drug Enforcement Administration, Immigration and Naturalization Service, and the Marshals Service (Justice Department); Bureau of Diplomatic Security (State Department); Federal Aviation Administration and Coast Guard (Transportation Department); Bureau of Alcohol, Tobacco, Firearms and Explosives, Bureau of Engraving and Printing, Financial Crimes Enforcement Network, Internal Revenue Service, Customs Service, Mint, and Secret Service (Treasury Department); and Defense Protective Service, Naval Criminal Investigative Service, and the National Security Service (Defense Department). The three police departments under congressional control, namely, the Government Printing Office, Library of Congress, and U.S. Capitol Police, also train at FLETC, as do the Supreme Court's Police. Independent agencies whose officers receive their basic and advanced training at FLETC include Amtrak's Northeast Corridor Police, the Central Intelligence Agency's Office of Security, the Environmental Protection Agency's Office of Criminal Investigations, the Federal Emergency Management Agency's Security Division, the General Services Administration's Office of Federal Protective Service, the Smithsonian's National Zoological Park Office of Protection Services, the Tennessee Valley Authority's

Police, and the Postal Services' Inspection Service officers and the Postal Police.

Virtually all the agents of the Offices of Inspectors General receive their basic and advanced training at FLETC, including those employed by the Agency for International Development; the Departments of Agriculture, Commerce, Defense, Education, Energy, Environmental Protection, Health and Human Services, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, and Treasury; Federal Deposit Insurance Corporation; Federal Emergency Management Agency; General Services Administration; Government Printing Office; National Aeronautics and Space Administration; Nuclear Regulatory Commission; Office of Personnel Management; Railroad Retirement Board; Resolution Trust Corporation; Social Security Administration; Small Business Administration; Tennessee Valley Authority; U.S. Information Agency; and Veterans Affairs.

## LOOKING AHEAD

FLETC's transfer from the Treasury Department to the Department of Homeland Security in early 2003 reflected at least in part its increased focus on antiterrorism training in the wake of the attacks on the Pentagon and New York City on September 11, 2001. New demands for training brought the number of officers who attended courses to an all-time high in 2002, with more than 32,000 students attending classes at FLETC, a 25% increase over the previous year. In addition, FLETC worked closely with the TSA to create programs at Artesia for the Federal Air Marshal Training Program and at Glynco for the thousands of TSA officers and agents who were hired to replace private security officers at airports throughout the United States. On July 31, 2002, Connie L. Patrick became the fifth director of FLETC, succeeding outgoing director W. Ralph Basham. Patrick, who reports to the undersecretary for border and transportation security of the DHS, served as a Brevard County, Florida, deputy sheriff before moving to the Florida Department of Law Enforcement, where she rose through the ranks to become director of human

resources and training. She has been closely involved with developing new programs for the DHS component agencies, the source of the majority of FLETC's students over the past few years, and in designing an accreditation program, the Federal Law Enforcement Training Accreditation, to establish standards and procedures for accrediting training programs and academies throughout the country.

*Candido Cubero*

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## FEDERAL MARITIME COMMISSION

The Federal Maritime Commission (FMC) was established in 1961 as an independent government agency, responsible for the regulation of shipping in the foreign trades of the United States. Its five members are appointed by the president of the United States, with the advice and consent of the Senate.

The FMC's jurisdiction encompasses many facets of the maritime industry. Its duties and regulatory powers include protecting U.S. shippers, carriers, and others engaged in foreign commerce from restrictive rules and regulations of foreign governments and from the practices of foreign-flag carriers that have an adverse effect on shipping in U.S. trades. It investigates discriminatory, unfair, or unreasonable rates, charges, classifications, and practices of ocean common carriers, terminal operators, and freight forwarders operating in the foreign commerce of the United States. Other duties include receiving and monitoring agreements entered into among ocean common carriers or marine terminal operators to ensure that they are not anticompetitive or in violation of the Shipping Act of 1984 and receiving, reviewing, and maintaining electronic tariff filings that contain the rates,

charges, and rules established by water carriers operating between the United States and other countries.

Additionally, the FMC regulates rates, charges, classifications, rules, and regulations contained in tariffs of carriers controlled by foreign governments and operating in U.S. trades to ensure that such matters are just and reasonable. It licenses U.S.-based international ocean freight forwarders, requires bonds of non-vessel operating common carriers, and issues passenger vessel certificates showing evidence of financial responsibility of vessel owners or charterers to pay judgments for personal injury or death or to repay fares for the nonperformance of a voyage or cruise.

Among its statutory functions, the FMC regulates common carriers by water and other persons involved in the foreign commerce of the United States under provisions of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998, portions of the Merchant Marine Act of 1920, the Foreign Shipping Practices Act of 1988, sections of the Financial Responsibility for Death or Injury to Passengers and for Non-Performance of Voyages, and other applicable statutes.

A major responsibility of the FMC is enforcing the Shipping Act of 1984, which established a non-discriminatory regulatory process for the water-based transport of goods in the foreign commerce of the United States and ensured a minimum of government intervention and regulatory costs. It was intended to encourage the development of an economically sound and efficient U.S.-flag liner fleet capable of meeting national security needs and to promote the growth and development of U.S. exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.

When the FMC was created under Reorganization Plan No. 7, not more than three of the five FMC commissioners were to belong to the same political party, a provision still in effect. The chairperson, who is designated by the president, is the agency's chief executive and administrative officer and has exclusive authority over agency personnel matters, organization and supervision, distribution of business, and

use of funds for administrative purposes. The chairperson and the other four commissioners are responsible for making decisions on docketed cases and for ensuring the efficient, equitable, and expeditious resolution of all other matters arising under statutes administered by the commission. The FMC maintains its headquarters in Washington, D.C., with five area representatives assigned throughout the country.

*Aviva Twersky-Glasner*

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## FEDERAL POLICING IN INDIAN COUNTRY

Native Americans have a unique relationship with the government of the United States. On the one hand, tribes are considered sovereign nations that enjoy a government-to-government relationship with federal authorities. On the other hand, Indians are considered wards of the government whose assets must be held in trust for them. The tension between these two views of Indian nations affects every aspect of their government. Law enforcement is a prominent example.

Chapter 18, section 1151 of the *United States Code* defines Indian Country as any land granted by treaty or allotment to Nations, tribes, reservations, communities, colonies, or individuals and recognized as such by the federal government. Today there are

close to 300 federally recognized reservations and communities. Relocation policies dating from the 1800s have caused some reservations to be shared by two or more tribes.

Although the majority of reservations are located in sparsely settled rural locations, there are exceptions. For example, the Reno-Sparks Indian Colony of Nevada is located within the Reno metropolitan area; the Salt River Pima-Maricopa Community is just outside of Phoenix, and part of the Oneida Indian Nation lies within the city of Oneida, New York.

In a number of states, state or local agencies provide policing on reservations. A very small number of tribes provide the entire funding for their own police departments. The vast majority of tribes receive law enforcement services under some arrangement with the federal Bureau of Indian Affairs (BIA). In 2000, tribes operated 171 police agencies employing 3,462 full-time personnel under BIA contracts or compacts calling for federal funding, often supplemented by tribal funds. The BIA directly operated 37 agencies, employing 281 sworn officers.

## LEGISLATIVE HISTORY

Both Congress and the U.S. Supreme Court have contributed to the confusion surrounding the status and power of tribal governments. Chief Justice John Marshall laid the groundwork for all future decisions on the rights of Indians when, in 1831, he defined tribes as “domestic dependent nations” (*Cherokee Nation v. Georgia*). The phrase was clearly a compromise between the position of the state of Georgia, which claimed jurisdiction over the Cherokee lands in its midst, and the Cherokees, who claimed to be a sovereign foreign nation. He described the relationship between the Indians and the federal government as one that “resembles that of a ward to his guardian.” Marshall thus validated the Cherokee assertion that, as a nation, they should deal only with the federal government but he made it clear that the relationship was one of paternalism, not one between equals. This set the stage for federal provision of tribal law enforcement services.

The General Crimes Act of 1854 spelled out some of the implications of the federal wardship of Indian Country. Most important was the assertion of federal jurisdiction over crimes in which one of the parties was not Native American, unless the Indian offender had already been punished by tribal justice. There were two exceptions—arson and assault with intent to kill or maim a non-Indian—which were federal offenses even when the offender was an Indian and even if the offender had been punished. Already, the tendency to limit tribal jurisdiction over tribal members was clear. Further implications for Indian law enforcement are found in *Ex Parte Crow Dog* (1883). Crow Dog, a Brule Sioux, had killed Spotted Tail, another Sioux who was popular with white officials and settlers. As was customary, the families of the killer and victim agreed upon proper compensation and the case was considered closed. Spotted Tail’s friends in the Dakota Territory were appalled that Crow Dog was not punished and insisted on his capture. The Dakota Territorial Court tried him for murder and sentenced him to death. On appeal, the U.S. Supreme Court affirmed the criminal jurisdiction of the Sioux nation over its members. In doing so, the court stated that Indian nations had all the attributes of sovereign nations except those that were extinguished by an act of Congress. Congress promptly took up the invitation and passed the Major Crimes Act (1885), which gave jurisdiction of major crimes on Indian lands to the federal government. This is the legal basis for federal jurisdiction over most felonies even when the reservation has its own tribal police force; the legislation conveyed the conviction that serious crimes should be handled by a civilized justice system rather than the primitive one used by the Sioux.

A more recent (1953) piece of legislation reflects the sense, strong in the 1950s, that Native Americans should be assimilated into mainstream U.S. culture and that the way to do this was to terminate any vestiges of tribal sovereignty. The result was Public Law 280 (67 Stat. 588), which directed the states of California, Nebraska, and Wisconsin to assume civil and criminal jurisdiction over Indian Country located within their borders; Minnesota and Oregon

were directed to do the same, with a few exceptions. This ended both federal and tribal policing of Indian Country in these states.

## HISTORY OF FEDERAL POLICING IN INDIAN COUNTRY

The federal government began policing Indian Country in the early 1800s, during the period in which Native Americans were being confined to reservations. Federal troops stationed near the reservations carried out law enforcement duties. The soldiers were less concerned with the well-being of Native American reservation residents than with the possibility that crime, violence, or disorder on the reservation would interfere with the ever-growing number of non-Indians who were settling nearby. The troops were responsible for keeping Indians within the reservation boundaries and for prohibiting indigenous activities—such as the Ghost Dance—that were seen as either immoral or threatening.

The relationship between the federal government and American Indians was made clear in 1824, when a Bureau of Indian Affairs was established in the War Department; American Indians were enemies to be subdued, not citizens to be protected and served. Shifting the BIA to the Department of the Interior in 1849 brought about a gradual decrease in the role of the military, but in most cases the only alternative available to the Indian agent—the BIA official administering the reservation—was to call upon federal deputy marshals. Marshals were few in number and their reputation among Indians was poor. The Homestead Act of 1862, which made Indian land in Kansas and Nebraska available to white settlers, increased the demand for troops to keep Native Americans on the reservations and to make sure that they did not disturb the homesteaders.

The role of the military did not diminish until well after the Civil War, when the American population grew tired of a seemingly never-ending series of Indian Wars and grew even more tired of paying for them. At the same time, many people began to view Indians less as hostile savages and more as people who could be civilized and eventually assimilated into the general population. Indian agents

found themselves at odds with military forces, which still considered Indians to be the enemy. But the military had provided an example that could be followed. The U.S. Army had employed Native Americans as scouts to help subdue other tribes. This example gave rise to the first Native American police officers.

Indian Agent John T. Clum was appointed to the San Carlos Apache reservation in Arizona in 1874. He found that the military had virtually controlled his predecessors and that the reservation, or agency, was subject to violence and disorder. Clum appointed a small group of Apaches to be a reservation police force, a force that pacified the reservation and distinguished itself by capturing the insurrectionist Geronimo and 50 of his followers. Clum's success led to the gradual disappearance of the army from Indian reservations and the concurrent establishment of police forces staffed by Native Americans, a creation that was officially authorized in 1878, when Congress appropriated \$30,000 to employ 430 privates and 50 officers. This form of policing increased rapidly and by 1881, 49 of the 68 BIA agencies had some type of Indian police force. BIA agents organized their forces according to the military model of policing then common in the rest of the country, complete with short haircuts, ranks and chain of command, and military-style uniforms.

BIA agents and other white settlers in Indian Country divided Indians into two groups. Traditionalists were those who tried to preserve prerreservation traditions and who resisted acculturation, whereas progressives were those who saw the future in the hands of the white man and who tried to adopt white norms, values, and customs as quickly as possible. BIA agents chose their police largely from the progressives, which undermined the legitimacy of the forces in the eyes of the traditionalists.

The early BIA reservation police forces faced other problems. The salaries authorized by Congress were absurdly low. Uniforms and equipment were unavailable or shoddy. Training was nonexistent. Their duties were not limited to law enforcement, but consisted of doing whatever the BIA agent felt needed to be done. In addition to mundane duties such as cleaning out irrigation

ditches, building roads, and acting as interpreters, Indian police officers were often expected to force children into BIA boarding schools, oppose the influence of tribal healers, stop “heathen” dances, and report whether fellow tribesman were working hard enough to have earned their government rations of sugar, coffee, and tobacco. Hiring Indians to police Indians was not an early version of community policing. The military model, with its emphasis on impersonality and authority, precluded any such thing. The police did not enforce traditional Indian law and did not support traditional Indian methods of justice. Reservation residents often perceived reservation police as traitors and employees of an occupying army.

The year 1907 saw a development that reflected the reform model of policing that was gradually replacing the military model. Consistent with reform’s call for greater centralization, better training, and a narrower police function, the commissioner of Indian Affairs appointed a number of special officers. Their primary duty was to enforce Congress’s ban on selling alcoholic beverages to Indians on or off reservations. Centralized under a chief special officer headquartered in Salt Lake City, the special officers received extensive training and concentrated on finding bootleggers, traffickers, and buyers. When the nation’s general disenchantment with Prohibition resulted in less concern with alcohol on the reservations, the BIA found additional duties for these officers, who now had years of law enforcement experience and wide knowledge of Indian Country. They were transferred to reservations and given the duty of investigating major crimes, becoming the genesis of the investigative division of the BIA Division of Law Enforcement. In 1953 Congress changed the law to allow Native Americans to buy and consume alcohol off the reservation and gave tribal councils the right to allow alcohol on the reservation. The shift from enforcing alcohol legislation to general investigative duties was now complete.

In the 1960s, the BIA Division of Law Enforcement services continued successfully to press Congress for funds to train its officers and provide them with better equipment. One result of

this was an even greater influence of the reform and professional styles of policing. The growth of the BIA gave the federal government greater control over Indian police policy and management, while the professional model distanced the police from the communities they served. Policing also suffered from inefficiencies in the BIA structure. BIA patrol officers reported through a long chain of command to the highest levels of BIA administration located in Washington, D.C. Investigators, on the other hand, reported directly to the BIA Division of Law Enforcement Services. Thus, although each function was highly centralized, each reported to different departments within the BIA.

During the 1960s and 1970s, Native Americans began working effectively to assert claims of sovereignty and self-government. They demanded more control over the institutions that affected their lives; primary among these were education, health, and policing. In response, Congress passed Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975. This allowed tribes to contract with the federal government to provide their own services that had previously been provided by the government. This included contracting with the BIA to provide law enforcement. Tribal governments submitted plans for organization and performance measurements and the BIA provided basic funding. This arrangement gave the BIA the right to approve or withhold approval of tribal suggestions and approved contracts that usually strongly resembled conventional non-Indian policing arrangements. Funding was supplied on a line item basis.

Feeling the need for more autonomy, Native Americans pressed for the Self-Governance Amendments of 2000. These amendments call for tribes to compact with the BIA. The main difference between contracts and compacts is that the latter are funded by block grants rather than by line items. Tribal governments have been quick to exercise their rights under both of these arrangements that diminish but do not extinguish the influence of the BIA. Another way in which the BIA continues to be a presence is that some tribal departments provide only patrol services, relying

on the BIA for investigation of misdemeanors and felonies.

An additional way in which the BIA continues to affect tribal policing is through the Bureau of Indian Affairs Training Program (BIATP) at the Indian Police Academy located in Artesia, New Mexico, on the campus of the Federal Law Enforcement Training Center. The 16-week Integrated Basic Police Training Program is required of BIA officers and is also open to tribal law enforcement officers. In addition to the topics taught to any police recruit class, the BIATP also includes conflict management, Indian Country law, and BIA specialized training.

The BIA no longer has the long chain of command mentioned above, but its structure is still unusual. Patrol officers are supervised by their department's commanding officer, who usually holds the rank of captain. Captains now report directly to the BIA Division of Law Enforcement Services, which now has its headquarters in Albuquerque, New Mexico. Department commanding officers have no line authority over investigators, who report directly to BIA Law Enforcement Services.

## THE JURISDICTIONAL MAZE

The cumulative effect of laws, decisions, and practices reflecting different attitudes at different times is the creation of a jurisdictional nightmare. State or federal authorities handle all crimes involving Indians and taking place outside of Indian Country. If either the suspect or the victim is non-Indian, state or federal authorities have jurisdiction even if the crime took place within Indian Country. If both suspect and victim are Indians and the crime took place within Indian Country, tribal officers have jurisdiction—unless the offense is one listed in the Major Crime Act, in which case federal officers have jurisdiction; either the BIA or the Federal Bureau of Investigation may carry out the inquiry. Federal authorities may decline jurisdiction, in which case tribal authorities may prefer a lesser charge, which would bring the crime within their jurisdiction. The situation is complicated even more when state or federal roads run across Indian lands.

One partially successful attempt to escape the jurisdictional maze is cross-deputation or commission. This takes place when two or more law enforcement agencies confer full or partial jurisdictional privileges on each other's members. BIA forces may form agreements with sheriffs' or municipal police departments, with state police agencies, or with other federal agencies such as the National Park police or the Fish and Wildlife Service. This cross-deputation is the most recent example of the evolving relationships between Native Americans and the local, state, and federal governments of the United States. First treated as enemies and then as wards of the federal government, Native Americans today continue to assert their autonomy in all areas, including law enforcement.

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## FEDERAL PROTECTIVE SERVICE

The Federal Protective Service (FPS) provides both security services and law enforcement to more than 8,000 federally owned and leased buildings nationwide. These buildings include office buildings, courthouses, border stations, and warehouses. FPS's headquarters is in Washington, D.C., but because

of the large number of buildings for which it is responsible, it also operates regional offices in New York, Boston, Philadelphia, Atlanta, Denver, Chicago, San Francisco, Seattle, Fort Worth, Kansas City, and Washington, D.C. In addition, FPS operates a megacenter in each state and in the U.S. Virgin Islands and Puerto Rico that serves as a dispatch network to provide emergency communications for police business and routine monitoring of security alarms in federal facilities.

The FPS traces its history to 1790, when President George Washington appointed three commissioners to establish a federal territory that was to become the permanent seat of the government. The commissioners hired six night watchmen to guard the buildings that the government occupied, including those occupied by Congress and by the president. The creation of the FPS was an outgrowth of Americans' reluctance to create a national police force, requiring establishment of a protective service designated to prevent attacks on governmental personnel and facilities. Because of this diffusion of responsibilities, protection of the White House and Capitol is currently provided by the Capitol Police and uniformed Secret Service officers. Since its creation, many of the FPS's federal guard force operations were transferred and divided among several departments.

In 1948, Congress enacted Title 40 U.S.C. 318, which gave federal guards arrest powers and the new role of police officers. Congress directed the appointment of special police officers to have the same powers as sheriffs and constables. One year later, the newly formed General Services Administration (GSA) assumed leadership of the federal police, which were known as U.S. Special Police.

In 1971, the GSA administrator signed an order formally establishing the FPS to provide a uniformed force to protect government occupied buildings. However, over the decades, the FPS provided only reactive fixed guardposts. Until 1995, the agency operated in relative obscurity, and legislators, in their effort to shrink governmental spending, diminished the number of FPS officers. The bombing of the Alfred P. Murrah federal building in Oklahoma City, Oklahoma, on April 19, 1995, changed legislators' minds. Soon after, the Department of Justice

recommended increasing the level of security at vulnerable buildings and upgrading the role of the FPS. As a result, the FPS doubled its size to 724 officers and shifted its strategy to a mobile, proactive police force.

In 2000, GSA relinquished control of governance of security and law enforcement to the FPS's assistant commissioner, who was the agency's head, and in March 2003, the FPS was transferred to the Department of Homeland Security. The FPS was incorporated into the Bureau of Immigration and Customs Enforcement, and the head of the FPS was retitled director.

## CURRENT ORGANIZATION

The FPS is organized around four distinct job titles, each with a somewhat different set of responsibilities: law enforcement security officers (LESOs), criminal investigators, police officers, and support services personnel. LESOs assess federal facility vulnerabilities and recommend appropriate security measures to prevent attacks against building tenant agencies. LESOs act as liaisons with the FPS and management officials of the customer agencies. LESOs further assist FPS police officers during emergencies. LESOs are authorized to wear uniforms and exercise police powers for the duration of an emergency.

Criminal investigators (also called special agents) are plainclothes personnel who investigate felonies committed in federal buildings, collect evidence, preserve crime scenes, conduct surveillance and interviews, and make arrests. The results of their investigations are presented to U.S. attorneys and investigators may testify in front of grand juries and at trials. Criminal investigators may further participate in federal task forces.

FPS police officers are the front lines in federal buildings. They wear blue uniforms, carry weapons, and perform routine patrol on foot, in motor vehicles, and on bicycles. Like other patrol officers, they conduct preliminary investigations of crimes, arrest offenders, and work with criminal investigators. They further assist citizens in emergencies and provide a visible force both inside and outside of federal buildings.

Support services personnel provide nontactical services and maintenance not provided by the other components. For example, dispatchers operating in megacenters monitor break-ins at federal buildings, and physical security specialists conduct routine security assessments and communicate findings with LESOs and each building's tenants.

All sworn officers receive their training at the Federal Law Enforcement Training Center in Glynco, Georgia, and additional field training in the regions in which they are assigned.

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## **FEDERAL TRADE COMMISSION**

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The Federal Trade Commission (FTC) is empowered to ensure that the nation's free market system works in a way that is productive yet not harmful to consumers. The FTC enforces the nation's consumer protection laws, which are designed to protect consumers from unfair and deceptive trade practices. Examples of consumer protection violations include telemarketing fraud, Internet scams, price-fixing schemes, and other deceptive practices. The FTC is also charged with regulating advertising claims and approving corporate mergers.

The Federal Trade Commission was created in 1914 in an effort to prevent unfair methods of competition and to help with federal antitrust legislation. The U.S. Congress strengthened the power of the FTC in 1938 with the passage of the Wheeler-Lea Act, which gave a broad interpretation to the

prohibition against unfair and deceptive acts or practices. The authority of the FTC was further increased in 1975 with the passage of the Magnuson-Moss Act, which gave the FTC the authority to define unfair and deceptive acts that were specific to particular industries. The FTC is divided into three bureaus: Consumer Protection, Competition, and Economics. Although the FTC does not employ special agents, the investigative staff includes 500 attorneys, 70 economists, a large number of paralegals, and other support personnel. The Environmental Protection Agency's Office of Inspector General aids these bureaus in fulfilling the mission statement of the commission.

### **ACTIVITIES OF THE BUREAUS**

The Bureau of Consumer Protection is charged with protecting consumers against unfair, deceptive, or fraudulent practices. The bureau enforces not only the laws enacted by Congress, but the regulations and rules implemented by the FTC as well. It has the authority to investigate individual companies, as well as to conduct industry-wide investigations. The Division of Advertising Practices enforces truth in advertising laws. This division works to ensure that products are labeled correctly and that no producer of any product is making claims that are untrue or misleading. The Division of Enforcement ensures that businesses comply with FTC cease and desist orders or federal injunctive court orders.

The Division of Financial Practices develops and enforces rules and regulations governing consumer privacy laws and financial and lending laws affecting consumers. The Division of Marketing Practices files federal court actions on behalf of the FTC to prevent scams and scam artists from repeating their crimes, freezes assets, and seeks compensation for scam victims. This division also enforces the laws and regulations pertaining to telemarketing sales practices, funeral price disclosures, proper disclosure of warranty information, and franchise and business disclosure policies applicable to potential buyers. The Division of Planning and Information works to get pertinent information to consumers via newsletters, press releases, telephone

banks, and help lines. The Consumer and Business Education Program creates advertising campaigns that target everyday consumers. This program stresses consumer research of products and competitive business practices.

The Bureau of Competition is the antitrust branch of the FTC. It is empowered to promote fair competition between businesses by monitoring and approving mergers and acquisitions that might have anticompetitive effects. This bureau protects competition through enforcement of the federal antitrust laws that regulate unfair methods of competition and possible trade monopolies. The FTC also regulates all mergers between companies to determine which mergers may potentially harm consumers. The Bureau of Competition also investigates complaints made by consumers concerning business practices that threaten competition but do not involve mergers or acquisitions. This bureau also analyzes important consumer-related information for Congress and the public and regularly issues reports on industry deregulation, pricing, and any subject of current interest. The bureau is also a source of information for businesses regarding proper competitive business practices.

The Bureau of Economics helps the FTC evaluate the impact of its actions on consumers. It analyzes financial and economic information regarding possible antitrust regulations and consumer protection investigations and also analyzes data regarding possible legislative actions as they pertain to pricing and competition.

The FTC's Office of Inspector General was established in 1989 to promote the economy, efficiency, and effectiveness of FTC programs and operations. The Office of Inspector General does not investigate possible violations of regulations and laws. It is, however, empowered to investigate allegations of possible wrongdoing by FTC employees or to investigate allegations of waste or abuse of authority by the FTC or its staff.

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## ✎ FEDERAL WITNESS PROTECTION PROGRAM

The Federal Witness Protection Program, also known as the Federal Witness Security (WITSEC) Program, was authorized by Congress as part of the Organized Crime Control Act of 1970. This program, which was implemented in 1971, is proclaimed to be the government's best tool in combating organized crime, drug-related crimes, terrorism, and other serious law violations. Witnesses receive protection from the U.S. Marshals Service from the time they testify before a grand jury until the trial is completed. After the trial, witnesses and their family are relocated, given new identities, and provided with monthly stipends. The U.S. Marshals Service assists protected witnesses in obtaining such services as housing, medical care, job training, and employment. Ninety-seven percent of these witnesses have criminal histories but their recidivism rate is only half of the national average. Their testimony is extremely important because they have inside information that would be difficult or impossible for law enforcement to obtain. Since witness intimidation is a pressing problem, without the protection afforded by WITSEC, many believe, most witnesses would be too afraid to cooperate with law enforcement.

From 1970 to 1996, protection was provided for more than 6,600 witnesses and 9,000 of their family members. There are about 20 to 25 witnesses added to the program each month (this number does not include dependents). According to statistics released by the program, the witnesses who have received protection have helped to bring about a conviction rate of 89% in cases in which they have testified. No witnesses who have followed the rules of the program have been killed or harmed, although about 30 people who have left the program have been murdered.

## HISTORY OF WITSEC AND ITS DEVELOPMENT

The importance of implementing this program was recognized in 1962 after the U.S. Senate organized crime hearings, commonly known as the Valachi hearings. Joe Valachi, a known mobster, agreed to testify against the Mafia organization. As a result, the Mafia allegedly placed a price tag of \$100,000 on his life, but he was never killed because he was provided with federal law enforcement protection. In 1971, he died of natural causes.

The success of Valachi's protection prompted Congress to pass the Organized Crime Control Act of 1970, which allowed for the implementation of WITSEC. Initially the program was only used to house witnesses testifying in organized crime cases, but the Witness Security Reform Act of 1984 extended this protection to witnesses of any serious crime. Family members are also protected. Reflecting the changing nature of criminal activity, since the 1980s, most witnesses were involved in drug-related cases, with the Mafia accounting for only one-fifth of new witnesses. The act also authorized the victim compensation fund, which allowed the U.S. attorney general to compensate victims of crime perpetrated by protected witnesses. All financial matters and child custody issues are supposed to be resolved by the witness prior to entering the program.

## ADMISSION TO WITSEC AND SERVICES PROVIDED

Title V of the Organized Crime Control Act of 1970 gives the attorney general or a designee the power to select witnesses for WITSEC. Factors that are considered include the importance of the witnesses' testimony in securing a conviction and the possibility that similar information might be obtained from another source. All witnesses and their family members must submit to a psychological evaluation (to determine stability and possible dangerousness to the community) and a Marshals Service Assessment (to determine suitability for the program). Witnesses are also required to sign a memorandum of understanding (MOU) that states they will testify in

court, they will desist from all criminal activity, they will keep their identity a secret, and they will follow all other rules imposed upon them by the program. The Bureau of Prisons provides incarcerated witnesses with protection. The marshals are responsible for providing protection for these witnesses during transport but these witnesses are eligible to apply to WITSEC when they are released from prison.

Every member of the family that is relocated with the witness must receive a new identity. Each is required to choose a new last name but may choose to maintain his or her first name. The last name must be ethnically compatible and it cannot be a previously used or current family name. The Marshals Service will not pay for plastic surgery but will help witnesses obtain this service if they can afford to pay for it on their own. Each witness is provided with a new birth certificate, social security card, driver's license, and diplomas to the level of education previously obtained. Marshals will not provide any false documents (i.e., no false references, resumes, college degrees, etc.); all documentation is legal. Once the legal name change has taken place, records will show that the witness' prior identity never existed. There is no paper trail. Families will also be provided with monthly stipends and given additional money for clothes, furniture, automobiles, moving expenses, and so on. During this time, marshals provide job training and job placement. When families are self-sufficient, they no longer receive stipends from the government. However, their progress is still monitored by an inspector.

Those who enter the program must be prepared to start an entirely new life. All witnesses are trained to answer questions, or how to properly avoid questions, about their past. They are taught everything that they might need to know about the county and state they supposedly originated from. Witnesses can have only limited contact with past associates. They can initiate phone calls through secure lines but they cannot receive any calls. They must also use secure mailing channels. They can write to others but any mail addressed to them is sent through the marshals.

WITSEC remains very secretive. The witness's identity is not released unless felony criminal activity is suspected. Federal court judges have authorized protected witnesses to testify in cases without divulging their new identities if it can be demonstrated that the witnesses would be in danger. To further protect the identity of witnesses, only a small number of marshals know their true identities.

WITSEC is a voluntary program and witnesses can choose to withdraw from the program at any time. If witnesses do not follow the strict guidelines set forth by the MOU, they can be removed from the program. Federal courts have ruled that the program's guidelines fall under the jurisdictional discretion of the government. The government cannot be held responsible for failing to provide protection for a witness or for terminating a witness from the program.

## CRITICISMS OF WITSEC

Criticisms of WITSEC have centered on issues of secrecy and the problems inherent in witnesses starting new lives. The unwillingness of the attorney general to disclose a witness's identity has created problems for creditors who are trying to collect debts and to nonrelocated parents who were granted visitation or custody rights of relocated children. Most witnesses have criminal histories and critics believe that WITSEC allows them to evade justice, since, in return for testifying, the witnesses may receive reduced prison sentences or total immunity. They are relocated to a new community and free to commit new crimes. Since the recidivism rate for witnesses averages about 17–23%, there is also a belief that relocation to a new community allows the witnesses to commit new crimes and prey on members of their new communities. Even though the Victim Compensation Fund was created, it places a limit on the value of a human life. The family members of those who have been killed by protected witnesses will only be awarded a maximum of \$50,000. Moreover, state and local officials can rarely obtain information on a federally protected witness in their jurisdictions and prosecutors and victims of protected witnesses have faced great

difficulty in filing civil or criminal suits against them. Since witnesses may opt to leave the program at any time, those with serious criminal pasts are able to evade community supervision. Although some critics have recommended review boards to scrutinize the practices employed within WITSEC, by 2003, none had been formed.

Another major concern is the difficulty witnesses may have starting new lives, especially when there are children involved. Children may disclose their identities accidentally, particularly since it is difficult for protected witnesses to make friends because they must constantly lie to protect their identities. Very little is known about witnesses because of the program's secretive nature; empirical research is virtually impossible, yet critics maintain that witnesses often suffer from depression and anxiety and have higher rates of suicide than the general population. The program has also been criticized for its poor record in finding witnesses' employment or providing them with adequate job training.

Another area of concern is less about the witnesses than about those protecting their identities. There is concern that fiscal difficulties have created disgruntled inspectors. Between 1990 and 2000, staffing difficulties resulted in a loss of 115 inspectors, leaving only about 200 to oversee 21,000 witnesses. Although the Marshals Service has an excellent record in protecting witness for the past 30 years, these internal issues may lead to the future endangerment of witnesses and their families.

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*See also* U.S. Marshals Service

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## FINANCIAL CRIMES ENFORCEMENT NETWORK

The Financial Crimes Enforcement Network (FinCEN), a Treasury Department bureau, was established in 1990, to enforce anti-money laundering laws and to help combat money laundering in the United States and elsewhere. FinCEN collects, analyzes, and exchanges information, provides intelligence reports and technological services, and implements the Bank Secrecy Act and other Treasury Department mandates. FinCEN provides information and analytical reports to national and international law enforcement agencies, to financial institutions, and to domestic policy makers. FinCEN employs specialists from areas such as intelligence, financial analysis, and information technology.

A major responsibility of FinCEN is oversight of the Bank Secrecy Act, a key tool in the monitoring of money laundering activities. The Bank Secrecy Act, enacted in 1970, was intended to limit secrecy of certain types of financial transactions, to prevent criminals from using financial institutions to convert funds from illicit sources into clean money, and to give the secretary of the treasury the authority to require banks and financial and nonbank financial institutions to keep specific records, file certain reports, for example, currency transaction reports (CTRs) and reports of international transportation of currency or monetary instruments, report cash transactions over \$10,000, and it put into action anti-money laundering programs and compliance guidelines. Amendments in 1992 gave the secretary of the treasury the right to require suspicious transactions reports (SARs) from all financial institutions, and the authority to require all financial institutions to establish anti-money laundering training programs. In 1994, the Money Laundering Suppression Act (MLSA) provided for a single agency to take the SARs sent in; required specific types of negotiable instruments, transported across borders, to be reported; and required certain types of

nonbank financial institutions, for example, money transmitters and check cashiers, to register with the Treasury Department. This MLSA is the main tool for regulating nonbank financial institutions. The Bank Secrecy Act has also been expanded to include both state-licensed and tribal gambling casinos and card clubs involving \$10,000 or more in funds or assets. The institutions are also encouraged to voluntarily report suspicious transactions below \$5,000.

### FINCEN DATABASES

Agents assigned to FinCEN create and maintain databases that contain law enforcement, commercial, and financial records that provide information and ideas for strategies for investigators tracking suspects, their patterns and assets, and the movement of illegal money. The financial database includes the reports required by the Bank Secrecy Act—including CTRs, SARs, and foreign bank and financial accounts. These analytical tools provide an audit trail so that FinCEN agents are alerted to the possibility of money laundering activities. FinCEN maintains a memorandum of understanding with various law enforcement agencies and federal and regulatory agencies, which allows agents to access individual law enforcement agencies' databases. FinCEN also has access to commercially maintained databases that are useful in locating individuals, determining the ownership of an asset (including property) and the asset's tax assessment, and establishing links between individuals, businesses, and assets. FinCEN's databases are used by law enforcement agencies (federal, state, and local), and regulatory bodies.

FinCEN fosters cooperative efforts around the world to deter and prevent global and domestic financial crimes by cooperating with financial intelligence units (FIUs) in other countries. In addition to supporting investigations into money laundering, FinCEN personnel provide training and technical help and evaluate the controls other countries have in place for deterring financial crimes. FinCEN's secure Web site, the Egmont International Secure Web System, is used by FIUs to access and send information regarding money laundering and analytical and technological tools.

## TRENDS

Money laundering has been included in a number of recent legislative initiatives. The Anti-Drug Abuse Act (1986) enhanced the penalties for laundering drug-related funds to include forfeiture and also sought to stimulate financial institutions to report this activity without fear of civil liability. In 1998, the Money Laundering and Financial Crimes Strategy Act created mechanisms for all levels of law enforcement to coordinate resources to identify so-called high-risk money laundering and related crimes areas (HIFCAs). FinCEN is part of the HIFCA that reviews applications for intensive investigation because a particular target is thought to represent a high risk for financial crimes. Even more recently, in 2001, Title III of the USA PATRIOT Act amended the Bank Secrecy Act in an attempt to make it more difficult to use the nation's financial system to launder money and to make it easier to prosecute the international laundering of money and financing of terrorism.

FinCEN has reported to Congress regarding hawala, an informal value transfer system that uses very little paperwork and therefore is difficult to trace. The report, required by Section 359 of the USA PATRIOT Act, documented how the system is legitimately used to send money to families in countries where Western-style banking is relatively unknown. Hawala is quick, cheap, and reliable, and the identification process can be used to evade taxes, commit financial crimes, and fund terrorist activities. In addition, FinCEN is continually looking for weaknesses in new technology tools that can be exploited for financial crimes, for example, Internet gambling or the use of a cell phone to transfer value from one credit card to another without the use of a bank. As more and more transactions are conducted in a paperless world and the global exchange of information and money increases, FinCEN will be challenged to enforce the growing body of legislation aimed at curbing money laundering and related financial crimes.

*Marvie Brooks*

*See also* USA PATRIOT Act

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## FISH AND WILDLIFE SERVICE, DIVISION OF LAW ENFORCEMENT

The mission of the U.S. Fish and Wildlife Service (FWS) is to conserve, protect, and enhance fish and wildlife. This involves managing ecosystems, saving endangered species, protecting migratory birds, preserving habitat, and promoting wildlife conservation. The FWS is also responsible for enforcing laws, regulations, and treaties that relate to wildlife resources. In 2003, the service received an annual budget of approximately \$1.27 billion with a proposed increase in 2004 of \$25 million.

To support the service's mission, the Division of Law Enforcement (DLE) investigates wildlife crimes, regulates wildlife trade, improves public understanding and compliance with wildlife protection laws, and collaborates with international, state, and tribal law enforcement agencies to conserve and protect wildlife resources. To fulfill this mission, the DLE is involved in investigatory, enforcement, educative, and monitoring functions. The DLE enforces hunting regulations, inspects wildlife shipments, combats smuggling of protected species, and provides specialized training to other federal, state, and foreign law enforcement officers. The division uses forensic science to analyze evidence and solve wildlife crimes so violators can be prosecuted and punished. The budget of the DLE averages about \$50 million but an increase in 2004 of \$3 million was proposed and earmarked for hiring additional wildlife inspectors and increasing enforcement of Florida waterway speed zones to protect the manatee.

## HISTORY

In the early 1900s, the first pieces of federal legislation, including the Lacey Act (1900), the Migratory Bird Law (1913), and the Migratory Bird Treaty (1918), were passed to protect wildlife. The responsibility to enforce these laws and treaties was initially given to the Department of Agriculture in the Division of Biological Survey (later renamed the Bureau of Biological Survey). In 1934, a Division of Game Management was created within the bureau to specifically handle wildlife enforcement. In 1939, the Bureau of Biological Survey, along with the Commerce Department's Bureau of Fisheries, was transferred to the Department of the Interior and merged to form the Fish and Wildlife Service. Law enforcement responsibility continued to reside in the Division of Game Management until 1956 when the service was renamed the U.S. Fish and Wildlife Service and reorganized into two bureaus: Bureau of Sport Fisheries and Wildlife and the Bureau of Commercial Fisheries. Wildlife law enforcement responsibilities were placed with the Bureau of Sport Fisheries and Wildlife, in the Branch of Management and Enforcement. Until

the 1970s, wildlife law enforcement primarily dealt with game protection and management. This organizational structure continued until 1972, when the responsibility for waterfowl management was shifted elsewhere in the service and the division was renamed to its current title—Division of Law Enforcement. In the 1970s, a flurry of legislation was passed and treaties signed that increased protection for endangered species and migratory birds. This led to a much expanded role for wildlife law enforcement.

## ORGANIZATION

The Division of Law Enforcement is organized into seven regional law enforcement offices, managed by an assistant regional director for law enforcement, who reports to a regional director, and the headquarters office, called the Office of Law Enforcement, in Washington, D.C. Besides coordinating the efforts of the seven regional offices, the headquarters office sets policy, manages the budget, and is responsible for member training. The office also hosts a Special Operations division that conducts complex investigations that are national and international in scope.

The DLE also includes the Clark R. Bavin National Fish & Wildlife Forensics Laboratory in Ashland, Oregon. The laboratory supports investigations and prosecution of wildlife crime. It is the only crime lab worldwide devoted to wildlife law enforcement and is fully accredited by the American Society of Crime Laboratory Directors. Since its inception in 1988, the lab has analyzed more than 44,000 pieces of evidence from more than 6,100 cases and each year those numbers increase steadily. Laboratory scientists are largely responsible for creating the field of wildlife forensic science and contribute heavily to this body of knowledge with their research. The laboratory strives to make species-specific identifications of wildlife parts and products to link suspects, victims, and crime scenes through the physical examination of evidence. They also create or apply new analytical methods and techniques to wildlife situations.

According to the publication *Federal Law Enforcement Officers, 2000*, the FWS employs 888

personnel with arrest and firearm authority. This figure includes refuge personnel who perform some law enforcement activities in addition to their regular duties. The Division of Law Enforcement, when fully staffed, employs 253 special agents and 94 wildlife inspectors who exclusively work in law enforcement. Special agents are criminal investigators with full federal law enforcement authority who conduct investigations, make arrests, participate in the preparation of court cases, and may engage in surveillance and undercover work. Agents can be assigned to work at border ports or one of 540 wildlife refuges, 133 fish hatcheries, or 78 field stations. Successful investigations have involved the breakup of an international smuggling ring in the reptile trade that in 1998 resulted in 40 arrests, a multistate investigation in 1998 of illegal mussel trafficking, and prosecution in 2002 of a major U.S. caviar importer for illegal trade activities that included misrepresentation of the origin and quality of roe. Indicative of the complex investigations that must often precede charges, agents worked from 1999 to 2002 on a case that involved exposure of poaching of moose, caribou, Dall sheep, and black and grizzly bears on protected land in Alaska. Special agent positions are highly competitive and candidates must be U.S. citizens, between the ages of 21 and 36, and possess at least a bachelor's degree preferably in wildlife management or criminal justice. Typically, candidates undergo extensive background checks and medical, physical, and psychological tests. Newly hired special agents receive basic training for 18 weeks at the Federal Law Enforcement Training Center in Glynco, Georgia. Agents can begin at the federal government employment levels of GS-7, 9, or 11, depending on their qualifications. In the year 2001, special agents were involved in 8,681 investigations that resulted in penalties of approximately \$14 million in fines and civil penalties, 41 years in prison, and 503 years of probation. More than half of these cases dealt with violations of the Endangered Species Act.

Wildlife inspectors closely monitor wildlife imports and exports with an annual trade of \$1 billion at more than 30 major airports, ocean ports, and border crossings by physically inspecting shipments

and reviewing required permits and documentation that facilitate legal trade and deter or detect illegal trafficking in protected species. These uniformed inspectors must be conversant with laws, regulations, and treaties relating to wildlife and be able to identify thousands of different species, animal parts, and products. Inspectors work closely with special agents as well as the U.S. Customs Service and the Department of Agriculture's Animal and Plant Health Inspection Service. A background in wildlife biology, zoology, or criminal justice is advantageous for employment. Newly hired wildlife inspectors receive four weeks of basic training at the Federal Law Enforcement Training Center in Glynco, Georgia, and then train on the job. Inspectors can begin at the federal government employment levels of GS-5, 7, or 9, depending on their qualifications. In 2001, wildlife inspectors processed more than 116,000 shipments.

Today wildlife crime has become a big business, international in scope with large amounts of money at stake. The seriousness of offenses has increased, as has the involvement of firearms. Additionally, the service is charged with patrolling the third largest land area (90 million acres) of any federal agency in the United States. Yet the DLE has been underfunded and understaffed for the past 15 years, making it extremely challenging to police effectively. Some crimes and violations are prevented or uncovered, but many escape detection. In Miami, Florida, alone the U.S. Customs Service has about 500 agents—double the number assigned to the entire DLE. More support is needed from Congress to increase funding and staffing and provide stiffer penalties for perpetrators in order to stem the tide of wildlife crime.

*Katherine B. Killoran*

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## FOOD AND DRUG ADMINISTRATION

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The Food and Drug Administration (FDA) is an agency within the U.S. Department of Health and Human Services with broad regulatory, investigatory, and educative duties intended to protect the health and safety of American consumers. It administers the federal Food, Drug, and Cosmetic Act of 1938 and certain related laws. Its mission was updated by the FDA Modernization Act of 1997 and its jurisdiction is under continuous definition and expansion. In the wake of the September 11, 2001, and subsequent terrorist attacks, Congress has enhanced the FDA's resources by allocating funds to hire additional employees to ensure the safety of both domestically manufactured and imported products.

The FDA embodies eight centers, each with specific duties: the Centers of Biologic Evaluation and Research, Devices and Radiological Health, Drug Evaluation and Research, Food Safety and Applied Nutrition, Veterinary Medicine, Toxicological Research, and Offices of the Commissioner and of Regulatory Affairs. Under the direction of these centers, posts and field offices send out agents to monitor manufacturing facilities and warehouses, employ chemists and other specialists to analyze the samples, and maintain a legal staff. Its employees, both full-time and part-time, are hired and promoted by merit within the Civil Service system and must meet education and experience qualification requirements suitable to their duties. For example, the position of Paralegal Specialist GS-9 requires at least one year of specialized experience in the federal service, a master's degree, or two years of higher level graduate education leading to such a degree or an LLB or JD, if related to the duties.

The Office of Regulatory Affairs (ORA) directs the activities of approximately one third of FDA personnel. Stationed in more than 150 offices, resident

posts, and laboratories throughout the United States, including Puerto Rico, this staff monitors more than 115,000 business establishments that produce, warehouse, import, and transport consumer goods. Consumer safety officers and inspectors examine plants before the FDA approves a product to ensure that firms are capable of high-quality production, monitor clinical trials that precede submissions for FDA approval, and check at intervals afterward to determine if the plants are following suitable processes. Scientists in 13 ORA laboratories analyze the products to determine whether they meet FDA standards. Included are imports that are overseen by inspectors at ports of entry. Public affair specialists explain FDA policies and actions to consumer groups, health care professionals and state health authorities, and the media and encourage compliance with FDA standards. They also respond with the rest of the field staff to public health emergencies, natural disasters, and product problems.

In addition to being the agency responsible for ensuring that foods are safe, wholesome, and properly labeled, the FDA regulates medicines, medical devices, blood products, vaccines, cosmetics, veterinary drugs, animal feed, and electronic products that emit radiation, such as microwave ovens and video monitors to ensure that they are safe and effective.

Other agencies handle issues related to restaurant food and sanitation, unsolicited products in the mail, accidental poisonings, pesticides or air and water pollution, hazardous household products, alcoholic beverages, drug abuse and controlled substances, hazardous chemicals in the workplace, warranties, dispensing and sales practices of pharmacies, and medical practice.

Before the FDA considers approving products for sale, it requires manufacturers to conduct tests on small batches and submit satisfactory results to establish the safety of products, such as drugs and medical devices. After approval, manufacturers submit samples of production lots of antibiotic drugs, insulin, or color additives periodically to FDA laboratories for testing for purity, potency, effectiveness, and safety. In some instances problems remain undetected until the products are

widely used. If the problems pose a significant danger to the consumer, the product is withdrawn from the market, retailers and wholesalers are notified immediately to remove the product from the shelf, and the media alerts the public. Ordinarily, this is usually accomplished through cooperation between the FDA and the parties involved. With the exception of baby formulas and medical devices, the FDA does not have legal authority to require recalls. If immediate action is not taken, usually legal measures are avoided by issuing warnings or notices to the parties involved that the matter will be referred for prosecution.

Congress has not empowered the FDA with authority to arrest offenders or to initiate litigation. The power to file civil or criminal charges against companies or individuals is vested in the U.S. Department of Justice. The FDA has the responsibility to recommend action. FDA personnel who find violations report them to the legal staff, which reviews and reports them to the U.S. attorney offices in the federal judicial district in which the violations occur. FDA can act in the name of the United States, as the plaintiff. Occasionally, approval of a product is obtained by fraudulent means—by submitting unscientific or inadequate testing or by deliberately omitting or underreporting adverse effects. In such cases the secretary of the department may enjoin the offenders from further violations and submit evidence for the assistant U.S. attorneys to initiate prosecution in the federal court system. Offenders are subject to seizure, fines, and incarceration.

Consumers, health providers, and vendors are invited to report any adverse reactions or other problems with the products the agency regulates. The FDA maintains extensive educational programs to promote compliance by industry with its regulations and to enable consumers to benefit from its work. Since the late 1990s, the FDA has been under public pressure to formulate rules pertaining to over-the-counter so-called natural remedies and dietary supplements; weight reduction formulas containing ephedra; and genetically altered plant foods, especially corn products, and to establish guidelines for suitable drug dosage for children. Each of these issues

has proved controversial and final determination is under review. Accusations of being too slow in warning drug companies against false or misleading advertising and of withholding products from the market beyond a reasonable time period have prompted the FDA to streamline its processes and, in some cases, relax some of its release procedures.

*Lorine Swainston Goodwin*

*See also* Pure Food, Drink, and Drug Act

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## FORENSIC ACCOUNTING

Forensic accounting has historically referred solely to the application of accounting skills, tests, and principles to financial books and records when litigation is anticipated. Since the 1970s, though, thousands of accountants, auditors, and investigators have become involved in such undertakings and, accordingly, the use of the term has broadened. Today, forensic accounting has expanded to involve criminal investigations, regulatory examinations, internal corporate inquiries, pre- or postpurchase price disputes, preacquisition due diligence, licensing disputes, vendor and purchasing integrity programs, bankruptcy investigations, protection of intellectual property, monitoring of joint venture activities, construction or project analysis, or various forms of controls and compliance assessment.

At the same time that the term forensic accounting has broadened, so, too, have the types of professionals engaged in these activities. Forensic accounting may involve accountants, auditors, civil or criminal investigators, computer forensic specialists,

data management and archival professionals, billing and coding specialists, and various subject matter experts knowledgeable in the intricacies of various businesses. When undertaken by law enforcement officials, forensic accounting investigations may seek to document illegal political payoffs and kick-backs, frauds committed against organizations and individuals, tax evasion, organized crime and drug cartel operations, consumer scams, crimes committed by corporations and their officers, fraud against the government, violation of the Foreign Corrupt Practices Act, economic espionage, money laundering, and the financing of terrorism activities. Although the term was not in use at the time, the income tax evasion case made against Prohibition-era mob boss Al Capone would today be called forensic accounting.

When undertaken by regulators, such inquiries may focus on revenue management by publicly traded corporations, insider trading, pump-and-dump schemes, front-running activities, fraudulent conveyance, federal program abuse, or deceptive sales practices. Depending upon the circumstances, some regulatory inquiries may become criminal investigations. Whether criminal or civil in nature, such investigations are frequently international in scope, because, by the 21st century, more and more businesses have become multinational. Also, the ability of individuals and organizations to move money in and out of safe havens via electronic funds transfer has greatly complicated many such inquiries.

The development of forensic accounting and the activities surrounding it have not gone unnoticed in other areas. Increasingly, attorneys filing suits on behalf of their clients seek to make fraud one of the allegations in their pleadings. Some knowledgeable experts have estimated that more than one third of the civil suits filed in U.S. district courts now contain an allegation of fraud as one of the elements.

One of the largest forensic accounting projects ever undertaken occurred in the 1990s with regard to Holocaust accounts. During this period, major Swiss banks operating in the United States came under severe political, regulatory, and public scrutiny due to allegations that they had improperly retained and profited from accounts of persons who perished during the Nazi Holocaust of World War

II. During these inquiries hundreds of forensic accountants worked for years to trace and unearth the history of thousands of such accounts. Another major forensic accounting effort, both criminal and regulatory in nature, was the savings and loan crisis of the 1980s, in which hundreds of such institutions failed amid allegations of fraud, mismanagement, loose supervision, and poor business practices.

In the public sector, forensic accountants may be law enforcement officers, regulators, auditors, examiners, program analysts, members of an inspector general's staff, tax or revenue agents, or contract administration personnel. In the private sector, they may be sole practitioners, members of a private investigations firm, associates of a law firm, certified public accountants, or members of an international professional services firm. In some instances, forensic accountants may be appointed by a court or special master to assist in monitoring an entity with a history of corruption problems. Sometimes referred to as independent private sector inspectors general, such monitors have been appointed to oversee the activities of some companies and unions with a history of organized crime involvement or infiltration.

As more and more individuals have become involved in forensic accounting inquiries, so, too, have organizations. The American Institute of Certified Public Accountants and the Institute of Internal Auditors are two of the largest organizations to offer training and research to their members on issues pertinent to forensic accounting. The oldest and largest organization devoted solely to forensic accounting is the 26,000-member Association of Certified Fraud Examiners, headquartered in Austin, Texas. The association offers training, seminars, and research to both members and nonmembers and also offers the certified fraud examiner designation to those who complete a course of study and pass a certification test.

*Joseph W. Koletar*

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## FOREST SERVICE, LAW ENFORCEMENT AND INVESTIGATIONS

The motto of the Forest Service (FS), “Caring for the Land and Serving the People,” reflects its mission to protect, manage, and promote use—timbering, grazing, and mining, as well as recreational—of more than 175 national forest units. Under the Department of Agriculture, the FS is responsible for stewardship of natural resources on more than 192 million acres, 8.3% of America’s land area. The Law Enforcement and Investigations (LEI) program is responsible for public safety and protecting the natural resources, employees, and property on lands under the jurisdiction of the FS. LEI investigates violations of, and enforces federal laws and regulations that relate to, the National Forest System (NFS). LEI also works to prevent violations through public education programs and cooperates with other federal, state, and local law enforcement organizations. Internal investigation is also part of its responsibilities. In 2001, LEI personnel handled 215,484 incidents and, according to Assistant Director Ann Melle, issued 64,000 written warnings and citations, and made 5,000 arrests in the year 2000. The FS budget totaled \$4.75 billion of which \$80 million was designated for LEI operations in 2003.

### HISTORY

As early as the 1880s, the federal government set aside public lands for forest preserves. The Organic Administration Act of 1897 authorized regulations for the protection and use of forest preserves and prescribed criminal sanctions for violations. The Forest Service was established under the Department of Agriculture by the Transfer Act (1905) to manage these lands under a philosophy of multiple use and sustained yield. It also gave FS employees arrest

powers for federal violations while states retained jurisdiction to enforce state laws. For the first half of the 1900s, most law enforcement duties involved wild game law and livestock violations and were performed by forest rangers as part of their regular jobs. An increase in arson during the 1950s brought about the hiring of the first criminal investigators. The 1960s brought a rise in the recreational use of the NFS as well as an increase in illegal drug activity. To respond, the number of law enforcement personnel grew as well. In 1971, Congress granted the FS new authority to work cooperatively with state and local law enforcement organizations to enforce state and local laws, rules, and regulations on national forest lands. Law enforcement personnel were cross-designated with the authority of the Drug Enforcement Administration in 1988 to investigate and suppress illegal drug activities and aid in asset seizure. The same bill granted FS law enforcement authority to personnel from other federal agencies. A memorandum of understanding was exchanged in 1990 between the departments of agriculture and the interior, cross-designating their law enforcement personnel with the powers of each.

At this point, management of law enforcement personnel within the FS was decentralized and personnel reported to district rangers and forest supervisors, not other law enforcement personnel. In 1994, Congress mandated that FS law enforcement personnel have a separate reporting structure resulting in the formation of the Law Enforcement and Investigation program, which reports directly to the FS chief. Congress remained concerned about the reporting structure and, in 1996, ordered an independent study to evaluate the effectiveness of the new structure. The *Star Mountain Report* concluded that overall effectiveness, quality of resource protection, and enforcement improved under the new structure but expressed major concerns with data collection practices, accountability, and communication within the agency.

### ORGANIZATION

The director of the LEI program reports directly to the chief of the forest service, bypassing the regular

FS chain of command. The director is assisted by a deputy and four assistant directors in Washington, D.C. Special agents-in-charge supervise the law enforcement activities in each of the nine FS regions. Regional hierarchy varies but usually includes zone and forest level supervision. In 2000, the FS employed 457 law enforcement officers (LEOs) and 123 special agents. The staff is overwhelmingly male (83%) and Caucasian (82%), but employs the highest number of Native Americans of any federal law enforcement agency (8%). The NFS is responsible for more acreage and visitations than the National Park System and U.S. Fish and Wildlife Service combined, yet there are six times the number of LEOs serving under those two agencies as serving under the FS.

Special agents are the agency's criminal investigators. In 2001, special agents opened 2,700 resource investigations, closed 1,988, and conducted 172 internal investigations. Candidates must possess a bachelor's degree or three years of experience in law enforcement and be less than 37 years of age. Additional experience can be substituted for education. Agents are generally hired at the GS-5 level with promotion to GS-7 and GS-9 levels. Special agents attend the Federal Law Enforcement Training Center (FLETC) for 11 to 13 weeks in addition to field training in their first year. Types of cases special agents may be involved in include property and timber theft, arson investigation, illegal drug activity, violent crime, and occasionally internal investigations.

LEOs are uniformed members who provide regular, reoccurring presence and enforce laws and regulations on FS lands. They primarily perform patrol duties dealing with public safety incidents such as traffic accidents, search and rescue, disputes, shooting incidents, drug or alcohol abuse problems, and assaults. They have many of the same powers as special agents and assist them in conducting investigations. Candidates must have a bachelor's degree or one year of experience in law enforcement although additional experience can substitute for education. Training takes place at FLETC for 11 weeks followed by field training. Initial appointments for LEOs occur at the GS-5 level.

The LEI program also has approximately 500 cooperative patrol agreements with state, county, and local law enforcement organizations, which include reimbursement for their services. In 1998, more than 8% of the LEI budget was encumbered for cooperative agreements.

## FUNCTIONS AND ACTIVITIES

LEI personnel are involved in a number of major areas. The theft of timber causes losses valued in the millions of dollars, and protection of archaeological artifacts and sites continues to be problematic. Wildfires have become more prevalent, resulting in major loss of habitat and property. Special agents search for the origin, causes, and persons responsible. The Forest Service is a favorite target of radical environmentalist groups, such as the Earth Liberation Front, that protest its timber management practices using public demonstrations, vandalism, destruction of property, and sometimes even violence with damages that had totaled \$40 million by 2003.

Drug control is a major challenge for all federal law enforcement agencies, but marijuana cultivation and clandestine drug laboratories are particularly rampant in the national forests. Their remote locations appeal to growers and use of public land protects their own properties from seizure. According to LEI Assistant Director Ann Melle, 730,000 marijuana plants were eradicated, 9,000 pounds of processed marijuana were seized, and 450 drug labs were closed in 2000.

In recent years the Forest Service, including the Law Enforcement and Investigations program, has been under close scrutiny by Congress. Questions have been raised about the need for the program. Some see the law enforcement role as inappropriate for the FS and feel the job can be more efficiently and effectively done by other federal or local law enforcement agencies. Cooperative agreements are increasingly being encouraged as the level of funding and staffing for the LEI program continues to be insufficient to address the magnitude of the law enforcement problems in the national forests.

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## ☞ FREEDOM OF INFORMATION ACT

The Freedom of Information Act (FOIA) was enacted to make accessible to members of the general public, as their right, the records held by federal executive branch departments and agencies. It is based on the belief that government belongs to the people and they have a right to know what their government is doing and why.

The FOIA (5 U.S.C. 552) provides for routine release of most requested executive branch government records within specified, relatively narrow, time limits unless the records fall within nine specific categories of exemptions. It requires uniform fees, which can be waived, for all aspects of the process, from searching for the records to

duplicating them and in some instances reviewing them to determine if they can be released. Requesters are entitled to written explanations if their requests are denied.

A requester can appeal a denial, first to the agency and then, more important, to federal district court, which can review all the records, override agency decisions, and require the government to pay reasonable court costs if it finds that the records were improperly withheld. Each agency is required to submit an annual report detailing all aspects of FOIA administration to the attorney general who, in turn, is required to make the reports available, electronically, at a central location and to submit an annual report assessing overall operations to the Congress.

The statute, signed into law July 4, 1966, by President Lyndon B. Johnson at his Texas ranch, covers not only Cabinet agencies and other executive departments, but also the military, government corporations, government-controlled corporations, the executive office of the president, and independent regulatory commissions. It does not cover elected officials (president, vice president, members of Congress), the federal courts, government contractors, or nonprofit organizations. A record is a document in any format, including print, tape recordings, photographs, maps, records in all digital and electronic formats, and technologies not yet invented.

The two fundamental principles on which the FOIA rested were that agency records were to be made available to *any person, on request*. *Any person* applies to an individual, corporation, citizen, or foreigner. Under the original law, every requester had equal access to a record but had to ask for and (reasonably) describe the records. This meant that in deciding to release or withhold a government record, the agency had to examine the record, not the person making the request, the reason for the request, or the purpose for which the record would be used. The burden was on the agency to show why a record should not be released, not on the requester to prove that he or she has a right to see the record.

The principle of any person remained in place until November 15, 2002, when Congress passed

the Intelligence Authorization Act of Fiscal Year 2003 (Pub. L. No. 107-306), which for the first time included restrictions on who could make FOIA requests. Intelligence agencies (and segments of agencies that deal with intelligence) now cannot disclose records requested under FOIA either directly to “any foreign government or international government organization” or indirectly through a representative. This is a major reversal of the statute’s original intent because it moves the standard for releasing records away from the record itself and looks instead at the requester.

### AMENDING THE FOIA

Since 1966, the statute has been amended seven times: three times with major revisions and four times with less sweeping changes. In 1974, a bipartisan Congress amended and significantly strengthened the FOIA, with procedural and substantive changes, quickly overriding President Gerald R. Ford’s veto. Congress was responding to widespread criticism of such problems as long delays in getting documents, improper denials, and unreasonably high copying charges. Legislative resolve, however, was also a reaction to an executive branch accused of illegal activities, as revealed by the Watergate investigation and President Richard M. Nixon’s subsequent resignation.

These amendments, although since modified, form the framework of the act, setting such requirements as time limits for agency response to requests, uniform reasonable search and copying fees, and waiver or reduction of fees “in the public interest.” Nonexempt portions of records had to be released and indexes had to be provided to help the public identify agency matters. In addition, Congress rewrote the exemption on security classification (b) (1) to reverse a 1973 Supreme Court decision (*EPA v. Mink*) that held the court lacked authority to review classification decisions. Perhaps most important, a person was given the right to appeal to the federal district courts if a request was denied and administrative remedies had been exhausted. The courts could, independently, review the documents *de novo* and *in camera*.

The 1986 amendments, attached to the Omnibus Anti Drug Abuse Act of 1986, reflected a shift toward increased restrictions. Three categories of requesters were created, each subject to different fees depending on status and purpose: commercial (profit-making) requesters, news media representatives or educational or noncommercial scientific institutions engaged in scholarly or scientific research, and everyone else. Uniform fee and fee waiver guidelines were to be promulgated by the Office of Management and Budget. At the same time, the court’s review of fee waivers was reduced to considering only the record before the agency, and more conditions had to be met to qualify. Until 1986, judges were required to give FOIA cases precedence over other cases but this special status was repealed with these amendments. Further, the law enforcement exemption (b) (7) was modified, giving agencies more discretion to withhold more kinds of records.

The 1996 amendments (Electronic-FOIA, Pub. L. No. 104-231) were written to encourage agencies to use electronic technology to enhance public access to agency records and information and, to the extent possible, make available records in any format requested. Agencies may set up multitracking systems and expedite the process for compelling need. Increased reporting requirements provide Congress with a more detailed picture of how agencies handle FOIA requests.

### EXEMPTIONS

Whereas the FOIA was designed to ensure that agencies would make their requested records available, nine categories of information were identified in which agencies could exercise discretion and withhold records. These exemptions are commonly referred to by their numbers, (b) (1) through (b) (9). The first, (b) (1), concerns documents specifically designated by presidential executive order to be kept secret, “in the interest of national defense or foreign policy,” and “properly classified.” However, an agency can review a requested document to determine whether the classification is still appropriate and must release the document if its status

has changed; there is also a procedure in the executive order to request declassification.

The eight remaining exemptions cover an array of categories. Exemption (b) (2) applies to internal personnel rules and regulations. Exemption (b) (3) deals with information exempt under other laws. In many cases, as with the 2003 Intelligence Authorization Act, congressional committees or individual members have attached FOIA exemptions to other legislation not handled by the House and Senate committees responsible for FOIA so that certain agencies have been exempted from having to respond to FOIA requests or additional categories of information can be withheld. These exemptions now number in the hundreds.

The exemption for confidential business information, (b) (4), protects trade secrets and commercial or financial information that has been obtained from a person and is privileged or confidential. It covers narrowly defined trade secrets (e.g., the formula for Coca-Cola) and other business information that is competitively sensitive. Exemption (b) (5) protects some interagency and intraagency communications in memorandums, letters, and e-mails. Exemption (b) (6) protects some aspects of privacy, focusing on protections against “a clearly unwarranted invasion of personal privacy.” These records include personnel and medical files and similar files.

Exemption (b) (7) applies to records or information that has been compiled for law enforcement purposes. In 1974, categories of what could be withheld were narrowed, making it easier to obtain documents; in 1986 categories were broadened, permitting more documents to be withheld and making it more difficult to get documents. The exemption now covers records and information, not just records. The withholding threshold has been lowered from “would” cause harm to “could reasonably be expected” to cause harm. This exemption protects law enforcement activities, both the work of the agencies (enforcement, proceedings, ongoing investigations, confidential sources, and agency procedures for investigation and prosecution) and the rights of individuals (to a fair, impartial trial, personal privacy, and life and physical safety). These are further identified by six subexemptions.

Exemption (b) (8) applies to information concerning financial institutions. Exemption (b) (9), which has become more important since the September 11, 2001, terrorist attacks, pertains to information concerning geological and geophysical information and data, including maps concerning wells. Additionally, agencies are permitted, under limited circumstances related to law enforcement or foreign intelligence, to respond to a request by neither confirming nor denying that a record exists (exclusions).

## HISTORY, IMPLEMENTATION, AND ADMINISTRATION

The campaign that led to the FOIA began in 1953. Representative John Emerson Moss (D-CA) was concerned about widespread government secrecy and about Senator Joseph R. McCarthy’s attacks on unnamed Communists in government. A year later, Senator Thomas C. Hennings, Jr. (D-MO) made openness a high-priority issue as well. When Hennings died in 1960, his successor, Senator John V. Long, although initially most concerned with protecting citizen privacy from government intrusion, took on the fight for access. It was his version of the FOIA that passed the Senate and House.

Enactment of the FOIA marked the end of a 13-year effort by members of Congress, with support from the American Society of Newspaper Editors. The FOIA amended Section 3 (Public Information) of the 1946 Administrative Procedure Act (5 U.S.C. 1002). The amendments expanded the kinds of information that must be published in the *Federal Register*, and after 1996, also electronically; required certain records be available for inspection and copying; and forced agencies to change the way requests from the public would be handled. It was also the beginning of an ongoing, often hotly contested, debate on how to balance the needs for access with the needs of government to restrict information for such reasons as privacy, law enforcement, and national security.

FOIA administration has varied considerably over the decades, shaped by competing and sometimes contradictory interpretations from all three

branches of government. Congress has written the key legislation and conducts oversight through hearings and General Accounting Office studies. At times, however, House and Senate members have differed, often along party lines, on content and implementation of the statute.

In the executive branch, some presidents have encouraged disclosure, whereas others have discouraged it. Presidents have issued executive orders on security classification, expanding or narrowing what could be classified and for how long. The attorney general has had a central role in interpreting the statute, issuing guidance to agencies, although at times, members of Congress have disagreed sharply with these interpretations.

The courts have played a central and critical role in interpreting the statute, including several landmark Supreme Court cases. Virtually every aspect of the statute has been litigated. The Justice Department's May 2002 *Freedom of Information Case List* identifies 4,917 published and unpublished judicial decisions that address FOIA and privacy access issues. More than 2 million federal FOIA requests are now filed every year, according to the National Security Archive at George Washington University, at a total cost, for fiscal year 2001, of \$287,792,041.08, or approximately \$1 per citizen, based on 2003 census data.

Requests have led to thousands of stories reported in books, journals, newspapers, and on television on topics as varied as civil rights, flight safety, and telemarketing practices. Requests have led to books documenting Federal Bureau of Investigation and other government agencies' surveillance of civil rights leaders, such as Martin Luther King, Jr., and of many writers and artists. Central Intelligence Agency experiments into LSD and mind control in the 1950s and 1960s and government radiation experiments (1945–1947), which involved injecting plutonium into a small number of men, women, and some children, without their knowledge or consent, have also been documented. FOIA records from the Environmental Protection Agency for 2000 to 2001 showed that almost one third of major industrial facilities and government-operated sewage treatment plants routinely violated

pollution discharge regulations, but were never penalized. All of these stories confirm the vital historic and current importance of the act.

In the aftermath of the September 11, 2001, terror attacks on New York City and the Pentagon, access issues have become more divisive and intense. The executive branch has moved to curtail access to large categories of records. The Homeland Security Act of 2001 (Pub. L. No. 107-296) added broad new FOIA exemptions and criminalized release of this information, for example by whistleblowers.

Critics have claimed increasing evidence of a system "in extreme disarray." In 2002, the General Accounting Office reported governmentwide "substantial and growing" FOIA processing backlogs. The number of classification decisions increased 14% for fiscal year 2002, to more than 23 million individual classification actions, according to the government's Information Security Oversight Office. A major House and Senate intelligence committee report in June 2003, assessing CIA and FBI actions before and after the terrorist attacks, cited growing concerns that overclassification is impairing the government's ability to adequately protect the country from terrorism by limiting congressional oversight over and guidance to the intelligence community.

That democracy depends on an informed citizenry was a fundamental belief of the Founding Fathers, beginning even before the Constitution was written, but there has always been disagreement on how best to balance the people's right of access with the government's privilege to conceal. The debate has often revolved around the meaning of informed, the controls over concealment, and determination of where this balance should be set. Issues surrounding the FOIA today form a major portion of that debate.

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## ✎ FUGITIVE FELON ACT

Fugitive felon legislation was introduced into the U.S. Congress in 1934 as part of a package of bills designed to give the federal government power to aid states in addressing the activities of criminal gangs. The Fugitive Felon Act (18 U.S.C. 1073, 1074), considered a major part of this antigangster legislation, made it a federal offense to flee a state to avoid prosecution for committing a felony or to avoid giving testimony in a criminal proceeding. Enforcing the act was and remains the responsibility of the Federal Bureau of Investigation (FBI).

The criminal gang problem in the country at the time was extensive enough for one of the bill's supporters to note that there were more armed gangsters in the country than armed forces. In addition, interstate flight problems were increasing as methods of transportation became more readily accessible. Many of the bill's supporters, such as Senator Arthur Hendrick Vandenberg (R-MI) and Senator Royal Samuel Copeland (D-NY), represented states that had large cities where gangster activity flourished. Like the lawmakers who supported the bill, law enforcement officials from cities such as Detroit, New York, and Chicago welcomed the new law. Because of their proximity to state borders, felons or witnesses routinely fled these cities to fade-away or hideout areas outside the jurisdiction of their courts. Before the act was passed, state law enforcement officials were not only inhibited by the cost of potential out-of-state investigations, but

even if fugitives were apprehended, extradition and rendition procedures were time consuming and costly.

The act was amended to enumerate types of felonies but in 1961 was subsequently amended to make the law applicable to all felonies as defined by the state in which the original crime occurred. Under Title III of the Organized Crime Control Act of 1970, the Fugitive Felon Act was expanded to make it a federal offense to flee to avoid giving testimony in a proceeding before a state agency or state authorized commission investigating criminal activity. This came in response to a proliferation of state commissions formed around that time to better deal with organized crime. Since 1980, the act has been used to aid in the apprehension of another type of offender—parents who kidnap their own children. Part of the Parental Kidnapping Prevention Act allows states to use the Fugitive Felon Act in cases in which noncustodial parents take a child across state lines to avoid prosecution. Only those states that have felony parental kidnapping laws can make use of the provision.

A strict reading of the act calls for federal authorities to search and apprehend interstate fugitives and then prosecute them for the flight. The act's legislative history, however, suggests that the law's intent was not for the offenders to be prosecuted for the flight, but rather to give the federal authorities the power to secure custody and to return fugitives for local prosecution for the original crimes. In fact, very few people were ever federally prosecuted under the act. In addition, very few offenders were ever returned to authorities in the original local jurisdiction by federal authorities. A set of guidelines published by the FBI after the act was amended in 1961 suggests that the actual procedure followed by federal law enforcement only helped secure custody of the fugitives. The states were still charged with the task and costs of instituting extradition proceedings and transport. This is still true; the *Criminal Resource Manual* of the Department of Justice points out that the act does not give the FBI the authority to supersede state extradition proceedings and it directs that the federal complaint be dismissed as soon as a felon is turned over to state authorities.

Fugitives who are in violation of the Fugitive Felon Act fall under the rubric of the FBI's Unlawful Flight to Avoid Prosecution (UFAP) Program. When a jurisdiction applies to the U.S. attorney in its district to obtain a UFAP warrant, the jurisdiction must first apply for a state warrant and then show probable cause, agree to pay extradition costs, and agree to prosecute the fugitive if apprehended. In the mid-1980s, Congress debated moving the UFAP Program from the FBI to the U.S. Marshals Service, which already engaged in the investigation and apprehension of fugitives not defined by the act, such as parole violators and prison escapees. A study performed by the General Accounting Office, however, found that such a

move would not necessarily be cost effective, nor would it benefit either agency.

*Nancy Egan*

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# G

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## GOVERNMENT PRINTING OFFICE POLICE

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The Government Printing Office (GPO) Police force is one of three legislative-branch police departments located on Capitol Hill. The other two are the U.S. Capitol Police and the Library of Congress Police. The GPO Police authority is granted under 44 U.S.C. 317, which says in part that the GPO Police are to “bear arms in the performance of their duties; make arrests for violations of the laws of the United States, several states and the District of Columbia” and that the GPO Police jurisdiction is “concurrent with the jurisdiction of the respective law enforcement agencies where the premises are located.”

As a small and highly specialized federal police agency, the GPO Police force has had little visibility beyond its immediate jurisdiction. One of the rare public mentions of Government Printing Office law enforcement was when the agency was working overtime on a weekend to print the voluminous report of independent counsel Kenneth Starr and ready CD-ROM and online formats for public release early Monday, September 21, 1998. The work was done under tight security, with GPO police officers monitoring the building and all production areas around the clock.

The Government Printing Office, under the direction of the public printer, was established June 23,

1860, to provide printing and binding services for Congress, the White House, and the various federal agencies. This monopoly on government printing continued until 2003 when President George W. Bush ordered competitive bidding for printing jobs at various government agencies. The Printing Act of 1895 authorized the GPO to sell and distribute government documents. With the advent of the Internet and other electronic-format information media, the GPO has undergone a radical transformation in the way it disseminates documents. What once was a chain of 20 GPO bookstores around the country has been condensed into a smaller number of regional distribution centers for both print and electronic format materials. The GPO also maintains an online operation for electronic access to publications and databases. As an arm of Congress, the GPO’s responsibilities include the daily printing of the *Congressional Record* when the national legislature is in session; the *Federal Register*, which lists proposed changes in laws and regulations as well as other detailed information about government agencies and their activities; and the *Commerce Business Daily*, which provides information about government contracts, bids, and sales.

In addition to guard duties and basic security functions, the GPO authorizes its police officers to be armed and have arrest power in their jurisdiction. The GPO Police area of operations extends beyond

the headquarters building and plant to include a 14-square-block area straddling the H Street Corridor and North Capitol Street. This expanded area of operations came after a GPO police officer was discharged from the force for using a department patrol car and making arrests too far from GPO facilities. In addition, Congress, in response to community requests, amended the National Capital Revitalization and Self-Government Improvement Act of 1997 to allow federal police to enter into cooperative agreements with Metropolitan Police to address crime in Washington, D.C.

GPO Police incident reports are destroyed after two years, as are the daily police activity logs, though in an electronic format these maybe kept for as long as five years. The agency also maintains a report accountability database to track the status of police investigative reports. Log entries are deleted when an investigation is completed or at the end of each fiscal year. GPO Police personnel receive their training at the Federal Law Enforcement Training Center in Glynco, Georgia. The course covers instruction in first aid, officer safety, firearms training, defensive driving, physical fitness, defensive tactics, interview and interrogation, report writing, radio communication, criminal law, constitutional law, situational awareness, and weapons of mass destruction. All officers must successfully complete the 11-week course. Upon completion of this course, officers serve a one-year probationary period and receive 30 days of additional training in the field prior to receiving regular officer status. The GPO Police have an authorized a police chief, with the rank of commander, and 80 uniformed officers, including supervisory ranks. Women constitute approximately 6.25% of the force.

*David Schulz*

*See also* Library of Congress Police, U.S. Capitol Police

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## ☞ GUN CONTROL ACT

The United States' primary gun law is the Gun Control Act of 1968. It was drafted following the assassination of President John F. Kennedy by Lee Harvey Oswald using a mail-order gun. It was passed in the wake of the murders of civil rights leader Dr. Martin Luther King, Jr. and presidential candidate Senator Robert Kennedy (D-NY). These historic events, combined with rising rates of crime and violence throughout the United States, were instrumental in passage of the law, which was sponsored by Senator Thomas Dodd (D-CT), a former prosecutor of Nazi war crimes. The aim of the act was to keep firearms out of the hands of those not legally entitled to possess them because of age, criminal background, or incompetence.

The Gun Control Act of 1968 greatly expanded the only two prior federal gun laws existing in the United States, the Prohibition-era National Firearms Act of 1934 (NFA) and the Federal Firearms Act of 1938. These two laws had few provisions, but had banned machine guns and had begun the practice of Federal Bureau of Investigation background checks of gun purchasers.

The 1968 Gun Control Act had far more sweeping provisions. It prohibited the following as purchasers and possessors of firearms: persons convicted of any non-business-related felony, fugitives from justice, illegal drug users or addicts, minors, anyone adjudicated mentally defective or having been committed to a mental institution, anyone dishonorably discharged from the military, illegal aliens, and anyone who had renounced U.S. citizenship.

For gun dealers, it required licensing and set standards. It established a licensing fee schedule for manufacturers, importers, and dealers in firearms and set record-keeping standards, including requiring that licenses be obtained from the secretary of the treasury. It also required that serial numbers be placed on all guns.

The 1968 Gun Control Act prohibited the mail-order sales of all firearms and ammunition and the interstate sale of firearms. A handgun purchaser may only buy a gun in the state in which he or she resides; however, long gun sales to individuals in

contiguous states that did not violate either state law were allowed. (Subsequent changes to the law permitted long guns to be purchased from gun dealers in any state, regardless of purchaser's state of residence). The act set age guidelines for firearms purchased through dealers: Handgun purchasers must be at least 21. Long gun purchasers must be at least 18.

Additionally, the law set penalties for carrying and using firearms in crimes of violence or drug trafficking. It prohibited importation of weapons covered in the NFA and extended NFA restrictions to machine gun frames and receivers and conversion kits (i.e., the parts used to make machine guns). It prohibited the sale of parts or conversion kits used to make semiautomatic firearms fully automatic. It also classified silencer parts and kits as weapons falling under the National Firearms Act.

Importation of foreign-made military surplus firearms was also prohibited, as was the importation of nonsporting weapons. It prohibited the importation of small, cheaply made handguns, so-called called junk guns or Saturday night specials, and some semi-automatic assault rifles (the 43 weapons covered in the 1989 Bush Administration ban) as well as two military shotguns. It placed minimum safety standards on imported guns to raise their purchase price. No standards were adopted for U.S.-manufactured guns, however, and the law helped spawn a huge domestic gun industry that turns out cheap handguns. The act prohibited the sale and manufacture of new fully automatic civilian machine guns (effectively freezing the number of them in circulation).

The National Rifle Association (NRA), the best known of a number of groups that advocate in the United States for individual citizens' right to bear arms under the Second Amendment to the Constitution, favored the passage of the Gun Control Act of 1968 and helped write some of its key provisions. However, immediately following the enactment of this law, the NRA announced that its highest priority

in the next Congress would be to repeal the ban on machine guns. By 2003, such legislation had not been introduced by any member of Congress.

The Gun Control Act of 1968 is now enforced by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF). The Bureau of Alcohol, Tobacco, and Firearms was created in 1972. Although the Gun Control Act predated creation of the BATF, enforcement of the law has been one of its primary responsibilities throughout its existence. One provision of the Homeland Security Act of 2002 divided the former BATF into two new agencies, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (referred to as BATF, despite the name change), which was moved to the Department of Justice, and the Alcohol and Tobacco Tax and Trade Bureau, which will remain in the Department of Treasury. In conjunction with this change, the new BATF will continue the original mandate to enforce federal gun laws.

The Firearm Owner's Protection Act of 1986 revised some of the requirements of the Gun Control Act of 1968. There were no major changes in federal gun laws until the passage of the Brady Handgun Violence Prevention Act of 1993.

*Patrick Rowan*

*See also* Brady Handgun Violence Prevention Act

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# H

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## ☞ HARRISON ACT

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The Harrison Act, passed by Congress in 1914, was the first federal law in the United States to criminalize the nonmedical use of drugs. The chief proponent of the measure was Secretary of State William Jennings Bryan, a major force in American politics at the time, who was closely identified with traditionalism, particularly with fundamentalist Christianity. He urged that the law be promptly passed to fulfill U.S. obligations under international treaties aimed primarily at solving the opium problems of the Far East, especially China. The law was sponsored by Representative Francis Burton Harrison (D-NY).

The Harrison Act applied only to opium; morphine and its various derivatives, such as heroin; and the derivatives of the coca leaf, such as cocaine. It was basically a revenue code designed to exercise some measure of public control over these drugs. The law specifically provided that manufacturers, importers, distributors, pharmacists, and physicians prescribing these drugs should be licensed to do so, at a moderate fee. They were required to register with the Treasury Department, pay special taxes, and keep records of all transactions.

As part of the law there were two taxes. The first tax was paid by doctors. It was \$1 a year and the doctors, in exchange for paying that \$1 tax, got a

stamp from the government that allowed them to prescribe these drugs for their patients so long as they followed the regulations in the statute. The second tax was a tax of \$1,000 of every single non-medical exchange of every one of these drugs. This was such a large tax on the nonmedical use of these drugs that selling them became totally unprofitable and, for all effective purposes, illegal. Nobody was going to pay \$1,000 in tax to exchange something that in 1914, even in large quantities, was worth no more than \$10.

The Harrison Act was not intended to be a prohibition law. It is unlikely that legislators realized in 1914 that the law Congress was passing would later be decreed a prohibition law. But the law was in fact interpreted by law enforcement officers to mean that a doctor could not prescribe opiates to an addict to maintain his or her addiction.

Certain provisions of the Harrison Act permitted physicians to prescribe, dispense, or administer narcotics to their patients for “legitimate medical purposes” and “in the course of professional practice.” The medical establishment held that addiction was a disease and that addicts were patients for whom drugs could be prescribed to alleviate the distress of withdrawal. But these clauses were interpreted by law enforcement officers to mean that a doctor could not prescribe opiates to an addict. Because addiction was not a disease, the argument went, an

addict was not a patient, and opiates dispensed to or prescribed by a physician were therefore not being supplied “in the course of [a] professional practice.” According to the Treasury Department, the Harrison Act meant that a doctor’s prescription for an addict was unlawful.

Thus a law apparently intended to ensure the orderly marketing of opiates and cocaine derivatives was converted into a law prohibiting the supplying of these drugs to addicts, even on a physician’s prescription. Many physicians were arrested under this interpretation, and some were convicted and imprisoned. Even those who escaped conviction had their careers ruined by the publicity. The medical profession quickly learned that to supply these drugs to addicts was to court disaster.

After the passage of the Harrison Act, the criminalization process began in earnest. As more and more heroin users were arrested for the illegal possession of the drug, the association of heroin with crime became more firmly entrenched in the public’s mind. Despite extensive efforts over the years by various federal, state, and local law enforcement agencies to curb heroin-related crime, heroin use and crime by heroin users remain serious problems in the United States. In fact, many observers, including some law enforcement personnel, have concluded there is only so much that law enforcement agencies can do to curtail heroin markets and heroin-related crime and feel that the relative place of law enforcement in the overall approach to controlling heroin needs to be decreased, that penalties for simple heroin possession need to be reduced, that more reasonable sentences for heroin offenses need to be adopted, and that the focus needs to be kept on traffickers, not customers. In this view, judges and prosecutors in special drug courts should continue to have considerable discretion within existing laws to steer abusers toward treatment instead of jail. Whether this will happen continues to be a topic of debate, but there is no doubt that the passage of the Harrison Act in 1914 set the tone for the nation’s drug and alcohol laws by creating revenue acts that ultimately found their way into the criminal codes of the nation.

*Barry Spunt*

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## ☉ HATE CRIMES

Hate crimes are defined as those criminal acts in which the perpetrator was motivated by bias against the victim based on the victim’s religion, race, gender, sexual orientation, or ethnicity. Criminal acts motivated by hatred are not new: the Romans persecuted Christians, the Nazis committed crimes primarily against Jews but also against Gypsies and other religious or ethnic minorities, and acts against African Americans due solely to their skin color have been a common occurrence in the United States from colonial times and continue, to a far lesser extent, to the present.

A resurgent interest in bias-motivated crimes began in the 1980s. After the sensationalized murder of a controversial radio talk show host, Alan Berg, in Denver, Colorado, in 1984, which exposed the prevalence of white supremacist groups, and the unprovoked 1986 attack on three African Americans in the white New York City neighborhood of Howard Beach, hate crimes, once again, captured national attention.

In 1990, Congress enacted the Hate Crimes Statistic Act. It provided that the U.S. attorney general should collect data from state and local law enforcement about bias-motivated crimes. The act defined hate crimes as those “crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, including where appropriate the crimes murder, non-negligent manslaughter,

forcible rape, aggravated assault, simple assault, intimidation, arson, and destruction, damage or vandalism of property.” Initially, fewer than 20% of the states had mechanisms in place to track which criminal acts were motivated by hate. With the advent of the National Incident Based Reporting System in the mid-1990s, however, by 1998 most states were reporting bias crimes to the federal government.

The Federal Bureau of Investigation has served as the central repository of hate crime statistical information. The agency’s Criminal Justice Informational Services Division, which compiles the annual Uniform Crime Reports, also administers the Bureau’s Hate Crime Data Collection Program. In addition to data collection, the bureau conducted training conferences nationwide to teach local law enforcement personnel how to recognize and report hate crimes. Despite efforts to objectively quantify the extent of bias crimes, there was still a great deal of uncertainty whether the incidence of hate crimes was rising, falling, or remaining static. Much seemed to depend on who was doing the reporting and what criteria were being employed to label a particular crime as one motivated by bias instead of some other motivation. An additional factor that became problematic was the ever-increasing list of qualifying motivations: crimes motivated by age, economic status, sexual preference, and other factors became reportable hate-motivated crimes.

Despite the somewhat controversial statistical justifications, most jurisdictions came to consider hate crimes as a serious problem. In response, the federal government, along with the vast majority of states, enacted legislation designated as hate or bias crime laws, which were aimed at diminishing the incidence of bias-motivated crime. These statutes were of essentially two types: those that enhanced sentencing if a crime was found to have been motivated by bias and those that made a bias-motivated crime a separate criminal offense. The laws were meant to deter biased acts by providing for harsher punishment when the criminal selected a victim based on that victim’s race, gender, ethnicity, or other enumerated factors. For example, California and Florida enacted laws that prohibit specific

activities at specific places. Vandalizing a place of worship or burning a cross on someone else’s property would constitute illegal acts under provisions of these states’ statutes. Other states, such as New York, chose to enumerate specific crimes and provided that when the perpetrator was motivated by hate in the commission of any of those enumerated crimes, the offense level was raised, thus effectively increasing the defendant’s sentence upon conviction. So a simple assault in New York, an A misdemeanor for which a convicted defendant could be sentenced to up to a year in jail, became an E felony if motivated by hate, exposing the defendant to up to four years in prison.

Bias crime legislation has not been without its detractors. Some critics question the need for specific laws against bias-motivated crime. They pointed out that the statistical evidence purporting that crimes motivated by hatred were prevalent was inconclusive and that there has been little documentation suggesting that new hate-crime legislation was an effective method of dealing with racially or religiously motivated acts. Additionally, there may be basic constitutional infirmities inherent in legislation that attempted to legislate subjective motivations. The U.S. Supreme Court has twice addressed the First Amendment implications of hate crime legislation. The First Amendment placed limits on the government’s ability to enact laws that infringed on an individual’s freedom of speech and expression. The Supreme Court has been called upon to decide if punishing an offender more harshly because of his thoughts violated the First Amendment.

In *R.A.V. v. City of St. Paul, Minn.*, the Court struck down a City of St. Paul statute that made it a misdemeanor to “place on public or private property, a symbol, object, appellation, characterization or graffiti, including, but not limited to, a burning cross or Nazi swastika, which one knows or has reasonable grounds to know arouses, anger, alarm or resentment in others on the basis of race, color, creed, religion or gender.” Writing for the Court, Justice Antonin Scalia explained that the statute was unconstitutional because it prohibited otherwise permitted speech solely on the basis of the subjects addressed. But, the following year, in

*Wisconsin v. Mitchell*, the Court upheld a Wisconsin statute that provided for an enhanced penalty when the underlying crime was motivated by hate. In *Mitchell*, a group of black teenagers beat up a white youth after seeing the movie *Mississippi Burning*. Immediately prior to the attack, they yelled racial slurs that left little doubt as to their subjective motivations. The Court upheld their convictions and enhanced sentencing for the assault motivated by racial bias. Chief Justice William J. Rehnquist explained that assault is not a form of expressive conduct protected by the First Amendment.

In many respects, the two decisions seem contradictory, and the Supreme Court will likely have to address this issue again. Other courts have examined the First Amendment implications of hate crime legislation. Many state courts have struck down laws that violate their own state constitutional guarantees of free speech and freedom of expression. Often the state legislatures attempted to redraft the legislation to comport with court decisions.

While critics and proponents debate the efficacy and legality of hate crime statutes, politicians have raced to enact even broader, sweeping legislation that has included an ever-increasing group of protected individuals. Political pundits observed that this was an easy way to show support for any particular constituency. By fighting for a group to be included as a protected class, politicians have been able to reaffirm their commitment to that group with little financial or political expenditure. Politicians countered that they were looking out for the best interests of their communities by deterring criminal acts motivated by hatred or dislike of the particular group.

Hate crime laws have become firmly entrenched in the criminal law. While they may continue to be debated, it is unlikely that legislatures will abandon efforts to provide enhanced penalties when criminals' actions are determined to have been based on bias.

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## ☞ HATE CRIMES STATISTICS ACT

The Hate Crimes Statistics Act (HCSA) became law in 1990 in response to a number of high-profile bias-motivated crimes that occurred during the 1980s. These crimes became the basis of claims by a variety of interest groups that such actions had reached epidemic proportions and that the crimes did not receive sufficient attention from law enforcement agencies. To support this view and in an effort to combat bias-motivated incidents, various groups, including the Anti-Defamation League, the National Gay and Lesbian Task Force/Anti-Violence Project, and the Southern Poverty Law Center, began to collect and disseminate data on such incidents. The activities of these groups led congressional leaders to pass federal legislation to address the matter. The resulting HCSA was introduced in 1985 and signed into law by President George H. W. Bush in 1990.

The HCSA, however, is not designed to combat hate crimes, but rather to serve as a database to record such crimes in an attempt to monitor where they might be occurring and to aid in annual comparisons. Specifically, the act requires the attorney general of the United States to gather and disseminate data regarding "crimes that manifest prejudice based on race, religion, sexual orientation, or ethnicity." In an attempt to provide accurate data and to ensure that there is some comparability among reporting agencies, the HCSA also requires the attorney general to develop guidelines to assist law enforcement with data collection.

Although the HCSA was hailed as the first piece of federal civil rights legislation to include sexual orientation as a protected status, this development was not without opposition. To ensure the HCSA was not misconstrued as approving of homosexual behavior, the act asserts that "the American family life is the foundation of American society . . . and nothing in this Act shall be construed, nor shall any funds appropriated to carry out the purpose of the Act be used, to promote or encourage homosexuality."

## AMENDMENTS TO THE HCSA

Since its passage, the HCSA has been amended twice. In 1994, passage of the Violent Crime and Law Enforcement Act added disability as a protected status under the HCSA. In 1996, when the Church Arson Prevention Act reauthorized the HCSA, it made data collection efforts permanent, expanding the act from its original five-year data gathering mandate. Legislation pending at the end of 2003 (the Hate Crimes Statistics Improvement Act) was intended to add gender to the HCSA.

## HATE CRIMES DATA COLLECTION

Under the HCSA, information on hate crimes is collected from local law enforcement agencies at the same time they report statistics to the Federal Bureau of Investigation (FBI) under the Uniform Crime Reporting Program (UCR). In 2001, 11,987 agencies, representing approximately 85% of the country's population, provided hate crime statistics to the UCR. Along with its annual report based on the material submitted, the FBI also provides data collection guidelines to assist law enforcement officials in identifying hate crimes, determining their motivation, and submitting the required data to the UCR.

The UCR Hate Crimes Statistics annual report provides information on the type of bias motivation, the number of incidents, the number of offenses, the race of known offenders, and the location of the occurrence of hate crime incidents. Since 1991, the annual reports have indicated that race is the most frequent type of bias motivation and that the most frequent offense is intimidation. The majority of hate crimes is committed against persons (as opposed to property), but the most frequent hate crime against property is destruction/damage/vandalism. In addition to the agency tallies, the annual report lists agencies that submit *zero reports*—a total of zero hate crime incidents within their jurisdiction. This list is quite extensive; according to a report released in 2000 from Northeastern University's Center for Criminal Justice Policy Research, 83% of participating agencies submit zero reports.

## LIMITATIONS OF HATE CRIMES DATA

Although the passage of the HCSA is a positive step toward recognizing and documenting bias-motivated crimes, it is not without limitations. First, as with all UCR tallies, incidents reported include only those known to law enforcement. Thus, any incident not reported to police will not be included in the statistics. Second, the number of law enforcement agencies reporting to the UCR varies each year. Therefore, an increase or decrease in hate crime activity may be due to the number of agencies reporting rather than an actual change in number of incidents. Third, according to the Criminal Justice Policy Research report, hate crime statistics may vary according to the level of training and commitment of law enforcement personnel and agencies, the amount of intolerance toward bias crimes in the community, and media attention. Thus, changes in incident totals may reflect variables other than the absolute number of hate crime incidents. Despite these drawbacks, the act has led to a greater focus by law enforcement agencies on bias-motivated crimes and has provided some mechanism for monitoring the occurrence of these types of incidents.

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*See also* Church Arson Prevention Act, Hate Crimes, Uniform Crime Reporting Program

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## HIRING STANDARDS FOR FEDERAL LAW ENFORCEMENT

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Hiring standards for law enforcement officers at the federal level generally have been more stringent than at the local and state levels. In fact, several agencies, most notably the Federal Bureau of Investigation (FBI), have traditionally set the benchmark for all law enforcement agencies to follow, especially in terms of basic entry requirements, education, work experience, and the rigor of the selection process. Because of low turnover and high demand, federal law enforcement positions are highly competitive, and only the most qualified applicants are selected for employment.

At the federal level, there are at least 13 governmental departments (i.e., Departments of Justice, Defense, and Treasury), composed of approximately 50 law enforcement agencies, as well as a host of independent agencies (i.e., National Aeronautics and Space Administration, Nuclear Regulatory Commission) that employ thousands of individuals in hundreds of different law enforcement positions. Moreover, the shuffling of departments and agencies in 2002 and 2003 in conjunction with the creation of the Department of Homeland Security has changed the federal law enforcement picture and created additional positions. The specific requirements and standards for any given position may vary notably, but are almost always listed on an agency's Web site.

Despite the variation in hiring standards within positions and agencies, the overwhelming majority of federal law enforcement agencies share some basic requirements and expect applicants to present a combination of education and work experience and to complete a number of steps in the selection and hiring process.

### BASIC REQUIREMENTS

All federal agencies adhere to some basic requirements for potential employees. Generally, an applicant should be a U.S. citizen, have a valid driver's license, be registered with Selective Service, and be within a certain age range. For example, the FBI requires that applicants be between ages 23 and 37.

All agencies also have minimum requirements for eyesight (corrected and uncorrected) and hearing loss. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF) requires applicants to have uncorrected vision of at least 20/100 in each eye or corrected 20/20 in one eye and 20/30 in the other. Several agencies also require that applicants be willing to relocate, in some cases outside of the continental United States (i.e., the Bureau of Diplomatic Security).

Federal agencies also have more vague requirements for physical condition. BATF requires that the applicant's weight be proportional to height, and the U.S. Marshals Service requires applicants to be in excellent physical condition. Applicants will be given a complete medical examination by a physician to ensure they have no serious illness and are in good physical health. Examples of conditions that may result in exclusion from the hiring process include heart disease, hypertension, and conditions affecting mobility.

Federal agencies employ rather restrictive standards with regard to criminal history. Individuals with prior felony convictions are barred from employment with all federal law enforcement agencies. Many also will not consider candidates with misdemeanor convictions. Although prior arrests and even excessive driving violations do not necessarily bar someone from consideration, those factors come into play during the overall assessment of the candidate.

Most federal agencies also have strict rules regarding recent and prior drug use. For example, the FBI will not consider applicants who have used an illegal substance within the past three years, used any drug other than marijuana at any point, or used marijuana more than 15 times. Additionally, as part of the selection process, applicants to most positions will be drug-tested and must take a polygraph exam, where questions about drug use will be addressed.

### WORK EXPERIENCE AND EDUCATION

Federal law enforcement agencies generally require some combination of prior work experience in law enforcement or a related field and college education.

Most, but not all, require a four-year college degree. However, applicants are generally rated based on their combined education and experience, so that even if a college degree (or work experience) is not a basic minimum qualification, the education or experience serves to improve the applicant's likelihood of being hired. Examples may help to illustrate the value placed on education and work experience. The U.S. Postal Service, Naval Criminal Investigative Service, FBI, and Internal Revenue Service (IRS) are just a few of the many agencies that require a four-year degree. For an agent position in the Secret Service, applicants must have, at a minimum, a four-year college degree and three years of work experience, with at least two years in criminal investigation. The BATF has different work and education requirements depending on what government grade (or level) the applicant is seeking. Other agencies such as the Bureau of Citizenship and Immigration Services (BCIS, formerly Immigration and Naturalization Service) and the U.S. Park Police do not require a four-year college degree and place greater emphasis on prior related work experience (though often college education can be substituted for work experience).

Many federal agencies will accept active duty military experience in place of work experience or education. In fact, toward the end of 2003 several agencies were actively seeking applicants with military experience. The U.S. Marshals advertised Operation Shining Star IV, an accelerated recruitment drive for active military personnel who qualified for the U.S. deputy marshal position. The Veteran's Readjustment Authority allows federal agencies, at their own discretion, to appoint eligible veterans to positions without competition, assuming they meet the basic requirements.

There are many positions within federal law enforcement agencies that, because of their specialized nature, also require specific knowledge and skills. For example, in order to apply for an Air Safety Investigator position at the Federal Aviation Administration, one should be a licensed pilot with extensive knowledge of aircraft design and aviation safety. Applicants for positions in the Bureau of Customs and Border Protection (CBP, formerly

Border Patrol) should be able to read and speak Spanish fluently. In 2003, the Secret Service was offering a salary bonus (25% of annual salary paid in one lump sum) to applicants with foreign language proficiency. The IRS strongly prefers applicants with degrees in law or accounting, as well as certified public accountants. Applicants who meet the basic qualifications for the FBI then must choose from five different entrance programs, each with its own requirements for specialized knowledge and skills.

## SELECTION AND HIRING

Each of the federal law enforcement agencies uses a selection and hiring process that is composed of several steps for the applicant to complete. Many of the agencies, such as the U.S. Marshals and the Federal Protective Services (FPS is the investigative arm of the U.S. General Services Administration), require applicants to first complete a written civil service exam. The BATF, Bureau of Immigration and Customs Enforcement (ICE, formerly U.S. Customs), IRS, and Secret Service all require applicants to take and pass the Treasury Enforcement Agent Examination, given by the U.S. Office of Personnel Management. Individuals applying to the CBP for a position as a border patrol agent must first pass the Border Patrol Agent Examination. Other agencies, including the Drug Enforcement Administration (DEA) and many of the Offices of the Inspector General, require completion and submission of Form OF-612 as a first step in the application process.

Once an applicant passes the initial phase (an exam or completion of federal forms), he or she can expect a rigorous, intensive, and lengthy selection process. Although agencies vary in the order in which different steps occur, and, in some cases agencies employ slightly different tests, there are several general screening mechanisms used to identify the most qualified candidates. All agencies conduct extensive background investigations of applicants, focusing on such issues as work history, criminal history, drug use, spending habits, and character. Family, friends, coworkers,

and employers (past and current) will be contacted and interviewed.

Most federal agencies also require an applicant to complete an oral interview with agency personnel. The content of the oral interview can differ by position and agency, but issues typically addressed include any questions or problems uncovered through the background investigation, logic and reasoning questions, and scenario and situational questions, as well as general questions about the applicant's goals and reasons for seeking employment with the agency. Generally, during the interview agencies are assessing a number of the applicant's qualities such as communication and verbal skills, ability to think on one's feet, logic and reasoning, judgment, and ability to answer difficult questions under pressure. Other potential steps in the application process include additional written exams, a polygraph examination, complete physical examination by a licensed physician, and drug test.

Once an applicant has successfully completed the initial steps of the selection process, he or she is then sent for specialized training at one of several federal law enforcement training facilities. Many agencies send their applicants to the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia, or, if the agency assigns its staff principally to the western states, in Artesia, New Mexico. Federal agencies that send applicants to FLETC include BATF, ICE, U.S. Marshals, FPS, INS, BCIS, U.S. Park Police, and the Secret Service. Several agencies have their own training facilities or programs, mostly notably the FBI Academy in Quantico, Virginia. The DEA and IRS also run their own specialized training programs. Several agencies send their applicants to training at FLETC in Georgia and then provide additional, more specialized training upon completion of the initial program.

Applicants undergo rigorous, intensive training regardless of which agency they have applied to or where they are receiving their training. The length of the training program varies, but generally runs from 11 to 17 weeks. For example, special agent trainees at the FBI Academy in Quantico receive 15 weeks of training, while the U.S. Marshals training program is 12 weeks and Border patrol agent training

is 16 weeks (both at FLETC). The content of training varies somewhat based on the responsibilities and duties of the specific agencies, but applicants typically receive instruction in the criminal law, law enforcement, and investigative techniques, use and care of firearms, defensive tactics, undercover operations, surveillance techniques, protective techniques, defensive driving, and first aid. Much of the training occurs in a classroom setting (similar to a college atmosphere) with much less emphasis placed on the militaristic, boot camp-style training that is more common at state and local law enforcement training facilities. However, federal law enforcement training is physically demanding, and successful completion of academy training will hinge on an applicant's physical conditioning. As a result, there is a fair amount of attrition among training classes at both FLETC and the FBI Academy due to failure to meet the rigorous physical and academic requirements.

Upon completion of academy training, recruits are assigned to agency field offices for employment. Applicants' preferences for assignment are typically given consideration, but new officers will be assigned wherever need for additional manpower is greatest. Several agencies, such as the FBI and BICE, place new officers on a one-year probationary appointment, and if their work is satisfactory after that time, they receive permanent positions in the agency.

## THE FUTURE

Federal law enforcement hiring standards involving basic considerations such as U.S. citizenship, physical health, criminal history, drug use, education, and prior employment are unlikely to change in the foreseeable future. However, the shifting of federal agencies, as well as changing responsibilities and objectives following the September 11, 2001 terrorist attacks, has produced some minor changes in hiring standards and recruitment practices. As of fall 2003, most of the federal agencies described were actively recruiting for open positions, several for applicants with specialized skills (computer and foreign language proficiency, for

example). In the wake of the September 11, 2001 terrorist attacks, as well as changing technology and criminal behavior, federal law enforcement agencies will continue to employ the most rigorous hiring standards to ensure only the best, most qualified applicants are selected for employment.

*Michael D. White*

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## ☪ HISPANIC AMERICAN POLICE COMMAND OFFICERS ASSOCIATION

The Hispanic American Police Command Officers Association (HAPCOA) was established in California in 1973 and is the largest and oldest organization of Hispanic American command officers in law enforcement and criminal justice agencies in the United States and Puerto Rico. Formerly known as the Mexican American Police Command Officers Association, the association changed its name in 1984 to reflect a broader representation of Hispanic command-level officers. HAPCOA offers assistance

in the recruitment, retention, and promotion of qualified Hispanic American police officers at all ranks and levels of government. It further serves as an advocate for issues of importance for Hispanic American law enforcement officers and the Hispanic community. A third goal of the association involves the development of partnerships and outreach activities with other law enforcement organizations, civilian agencies, and corporations in an effort to increase community involvement, understanding, and support.

HAPCOA is comprised of 12 local chapters and a national office located in Falls Church, Virginia. Each local chapter elects officers and holds events in police training, criminal justice education, and community outreach. The national office is made up of a 10-member executive board elected from the association's membership of law enforcement executives. The national office is responsible for coordinating the goals and activities of the association, developing policy, and addressing issues salient to the association at the national level. The national office also holds an Annual National Training and Career Conference that provides workshops on police education and training and major criminal justice issues and that offers opportunities for community outreach and professional liaisons. HAPCOA's membership in 2003 was approximately 1,200 command-level Hispanic law enforcement officers employed at all levels of government. Individuals who do not hold supervisory positions in law enforcement or criminal justice agencies and organizations who are interested in furthering the goals of HAPCOA may become associate, student, or organizational or corporate members. These members, however, cannot vote or run for elected offices in the association at either the local or the national level.

Corporate sponsorship plays a major role in HAPCOA's achievement of its goals and initiatives. An advisory board of corporate members establishes, develops, and maintains mutually beneficial working relationships between HAPCOA and a select group of corporate entities. Membership on the board, however, is limited to corporations that provide cash or in-kind contributions of \$12,500 to \$17,500 to the association. Major corporations

supporting the goals and initiatives of HAPCOA include Anheuser-Bush, which in 1998 cosponsored a national Hispanic Community Leadership forum.

HAPCOA has proven to be an important advocate in bringing attention to issues and policies that negatively impact Hispanic law enforcement officers and the Hispanic population. In 2002, for example, HAPCOA passed two resolutions that addressed the discriminatory treatment of Hispanic special agents in the U.S. Customs Service and the Drug Enforcement Administration. HAPCOA voiced its support of a class-action discrimination suit against the U.S. Customs Service filed by Hispanic special agents and called upon the president of the United States, the U.S., attorney general, and U.S. secretary of treasury to exercise appropriate and firm oversight to end institutional racism in these organizations and to ensure equal and fair treatment in promotions, training, transfers, and disciplinary actions for all Hispanic special agents.

Other initiatives of HAPCOA include partnerships and agreements with several other national organizations and federal agencies including the Office of Community Oriented Policing Services (COPS); the National Highway Traffic Safety Administration (NHTSA); the U.S. State Department's Bureau of Population, Refugee, and Migration; the National Council of La Raza (NCLR); and the National Latino Peace Officers Association. Closing the Gap Project is a joint effort of COPS and HAPCOA in which non-Spanish speaking officers take a course in the Spanish language and Hispanic culture. The goals of the course are to alleviate the fear, frustration, and distrust between Hispanic community members and law enforcement officers that arise from language barriers and to increase the ability of the Hispanic community to interact more effectively with law enforcement professionals and the criminal and juvenile justice systems. HAPCOA's partnership with the NHTSA is geared toward identifying the most effective methods of providing traffic safety information to the Hispanic community and instructing Hispanics on how to react to police stops. Its work with the U.S. State Department's Bureau of Population, Refugee, and Migration helps promote traffic safety among immigrant populations. Collaborative efforts between HAPCOA and

other minority organizations such as the NCLR have provided strategies for addressing improper police practices and policies (e.g., racial profiling) that negatively affect racial and ethnic minorities.

*Becky L. Tatum*

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## ☉ HUMAN TRAFFICKING

Trafficking of women into the United States for sexual exploitation first came to the nation's attention between 1860 and World War I. There was a large amount of migration of young women from China, Japan, and Central and Eastern Europe to American cities. The Mann Act was enacted in 1910, criminalizing the transport of women across state lines for "immoral purposes." Formally titled the White Slave Traffic Act (36 Stat. 825), the Mann Act was also intended to protect the nation's minors against sexual exploitation.

After 1914, public concern over sex trafficking peaked and faded as an important issue on the American political front. Since the 1970s, however, there has been a reemergence of women trafficked into the United States for sexual exploitation. There have been four waves of imported prostitution over the past 30 years: (1) Southeast Asia during the 1970s and early 1980s, (2) Africa in the 1980s, (3) Latin America in the late 1980s, and (4) Central and Eastern Europe in the late 1990s. Recent attention in the United States on the trafficking issue may be due to a number of high-profile sex trafficking rings discovered in several U.S. cities within the past five years.

According to 2003 estimates, 50,000 women and children are trafficked annually into the United States for purposes of sexual exploitation. The worldwide figure of men, women, and children trafficked ranges

from 700,000 to 4 million. An official of the U.S. Department of State estimated in 2003 that trafficking was a \$7 billion a year industry. The victims of trafficking span nationality, gender, race, and age. In 1999, the Immigration and Naturalization Service reported that sex trafficking was likely to have occurred in 250 brothels in 26 different American cities. Accurate figures on the number of trafficking victims in the United States are difficult, if not impossible, to determine. There is vast underreporting of the crime due to victims' fear of retaliation. Until October 2000, when President William J. Clinton signed into law the Trafficking Victims Protection Act (TVPA; Pub. L. No. 106-386), an additional factor had been a lack of a central repository in the United States of trafficking statistics. Most trafficking statistics are based on victim and law enforcement interviews but this pattern is expected to change as the new legislation takes effect.

The United States mainly serves as a destination and transit point for trafficking victims. Victims mostly originate from countries experiencing economic and political instability. The victims are recruited abroad through advertisements in local papers or visits to local villages by traffickers, often-times posing as legitimate work agents or friends of a friend. The common denominator of virtually all victims is their desire for a better life. There are two main methods utilized by traffickers to get trafficked victims into the United States. The first is the overstay of victims who have used legitimate (or forged) visas or work permits prepared for them by their traffickers. The second method is the smuggling of victims illegally into the country for a fee. In either case, the Central Intelligence Agency (CIA) reported at the end of the 20th century that victims were often prevented from escaping their traffickers due to the presence of "security guards, violence, threats to themselves and their family members, debt bondage, and/or retention of documents."

## U.S. EFFORTS TO COMBAT TRAFFICKING

The TVPA was designed to protect victims of "severe forms of trafficking," which the law defines as the following:

- Sex trafficking in which a commercial act is induced by force, fraud, or coercion or in which the person induced to perform such act has not attained 18 years of age
- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery

The TVPA mandates many efforts to combat trafficking, including the preparation of annual reports on U.S. trafficking prevention efforts and nations receiving U.S. assistance, the establishment of a federal interagency task force dedicated to stopping trafficking, new felony offenses to combat trafficking, court-mandated restitution payments to trafficking victims, and the use of special T visas for trafficking victims.

Some public interest groups, including the National Organization of Women, have objected to certain conditions of the TVPA. One major objection was that the TVPA does not define all acts of prostitution as exploitative to women—only forced ones. A second major criticism of the TVPA was that only 5,000 T visas are made available for trafficking victims annually, dispute the CIA estimate that 50,000 women and children are trafficked into the country each year.

Prior to the TVPA's passage, trafficking offenses were tried under the following four sections of federal statutory law: Mann Act (Title 18, §2421), Involuntary Servitude and Slavery (Title 18, §1581), Extortionate Collection of Extension of Credit (Title 18, §1324), and Harboring for Prostitution (Title 8, §1328). The statutory maximum penalties for these laws are relatively light; for example, the federal maximum penalty for imposing involuntary servitude is 10 years. The TVPA has 20 years as the maximum penalty for imposing trafficking offenses, and in some instances (e.g., violations that result in death, kidnapping, or sexual abuse), there is the possibility of life imprisonment. One case decided under the TVPA involved a Berkeley, California, landlord who deceived teenage girls from his home village in Southern India to travel to the United States for legitimate employment. Once the girls

arrived in the United States, they were forced into sexual servitude. The defendant was ordered to pay his three victims, and the parents of one victim who died, \$2 million in restitution damages. He was also sentenced to eight years in prison. In another case, a 14-year-old girl from Cameroon was lured to Maryland by the promise of an education but instead was forced to work as a domestic servant and was sexually abused. Indicating the difficulty in bringing these cases to trial, in early 2003 the U.S. government pointed out the conviction of 36 defendants between 2000 and 2002, which represented a doubling of the number of cases in prior years.

Due to trafficking's international reach, the United States maintains official antitrafficking partnerships abroad. The United States holds a long history of signing numerous United Nations treaties of cooperation and participates in several regional action plans to fight sex trafficking. Pursuant to the TVPA, the United States now appropriates foreign assistance to international nongovernmental organizations for overseas antitrafficking initiatives. Further impact of the TVPA, and other U.S. domestic and international efforts to combat trafficking, still waits to be seen.

*Elizabeth Bartels*

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# I

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## ☞ INFORMANTS, ISSUES SURROUNDING USE OF

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An informant is any person who supplies information to law enforcement officers about a crime that has occurred or that is planned. Because an informant's identity is usually kept secret outside the agency, officials usually refer colloquially to an informant as a confidential informant. Informants may include tipsters who volunteer information, informants who conduct surreptitious investigations, and cooperating defendants who testify or otherwise assist in convicting others in order to obtain reduced sentences. Although many federal law enforcement officers have come to rely on informants to build their cases, there are a number of legal issues surrounding the use of informants. Many of these issues are quite technical and depend on the specific facts of each case. However, to reach an informed assessment of the costs and benefits of relying on informants, agencies and law enforcement officers need to be aware of how Supreme Court case law and the federal sentencing guidelines and Anti-Drug Abuse Act of 1986 encourage the use of informants. Agencies and law enforcement officers also need to understand how the law's encouragement of the use of informants increases the risk of the following: investigations by law enforcement agents that are based on false tips by

informants, surreptitious invasions of individuals' privacy by informants, convictions that are based on false testimony by cooperating witnesses, and rewards for cooperation that make offenders' sentences disproportional to their culpability.

### FALSE TIPS

Arrests, searches, and stops and frisks are frequently based on information from tipsters and confidential informants. Tipsters may name or incriminate innocents because of hatred or similar feelings. Anonymous letters or telephone calls allow this to be done with impunity. Although confidential informants' criminal backgrounds may enable them to uncover crime, there is a risk that they will conceal their own crimes by falsely inculcating others. Confidential informants may also manufacture reports of crime in order to convince law enforcement officers of the worth of their services and to continue to be employed. Officers must consider these factors, because the use of informants is costly. The government paid federal informants hundreds of millions of dollars in the 1990s, including \$97 million in 1993 alone.

In *Aguilar v. Texas* in 1964 and in *Spinelli v. United States* in 1969, the Supreme Court established what came to be known as the Aguilar-Spinelli test. This formulated the rule that information from

an informant could not establish the probable cause that the Fourth Amendment requires for arrests and searches without evidence of the informant's veracity *and* his or her basis for concluding that criminal activity was afoot. In 1983, in *Illinois v. Gates*, the Court replaced the Aguilar-Spinelli test with a totality of the circumstances test that allows deficiencies in the government's showing with regard to the informant's veracity or basis of knowledge to be cured by a superior showing on the other prong. Although *Gates* criticized the Aguilar-Spinelli test for hampering law enforcement, the Fourth Amendment's entrustment of the probable cause determination to courts fits oddly with *Gates's* allowing probable cause to be established by an unusually reliable informant's unexplained belief that criminal activity exists. By also allowing a detailed account of criminal activity to compensate for the lack of evidence of an informant's truthfulness, *Gates* fails to guard against tale telling by untruthful informants.

The Supreme Court has provided even less protection against stops and frisks based on false tips. In 1972, *Adams v. Williams* held that because an informant was known to the police, his bare assertion that a person in a nearby car had a gun provided the reasonable suspicion that the Fourth Amendment requires for a stop and frisk. The informant's credibility had been called into question by the only information he had previously provided: a false tip about homosexual activity. Moreover, in 1990, *Alabama v. White* deemed an anonymous tip sufficient for a forcible stop, merely because the police had corroborated innocent details. The tip predicted that a woman who would be carrying cocaine in an attache case would leave a particular apartment in a building at a particular time and travel to a named motel in a particular type of car. Although the woman whom the police stopped had left the building at the specified time and driven in the direction of the motel in the specified car, her hands were free when the police observed her. More recently, by contrast, *Florida v. J.L.* held in 2000 that because there was no evidence of its reliability, an anonymous tip that a black youth wearing a plaid shirt and standing at a bus stop would be carrying a gun did not justify a stop and frisk. The events of September 11, 2001, may diminish the

significance of this protection, given *J.L.'s* reservation that "We do not say . . . that a report of a person carrying a bomb need bear the indicia of reliability we demand for a report of a person carrying a firearm" (292 U.S. 273-74).

## INVASIONS OF INDIVIDUAL PRIVACY BY INFORMANTS

Loopholes for informants increase law enforcement's ability to obtain convictions, but also limit ordinary citizens' protection against government interrogation and invasions of privacy. Fourth Amendment searches do not occur when informants gather information by concealing their identities and gaining suspects' trust. On the rationale that the informant has obtained the suspect's consent or that one cannot legitimately expect legal protection from false friends, a search has not occurred, and Fourth Amendment protections do not apply, even if tape recordings or videotapes are made (*Hoffa v. United States*, *United States v. White*). Nor do the limits on electronic surveillance of Title III of the Omnibus Crimes and Safe Streets Act of 1968 apply if informants record their own conversations with suspects or consent to recording by law enforcement agents.

In *Illinois v. Perkins* in 1990, the Court reached a similar conclusion. Here the informant successfully posed as a fellow prisoner and elicited a murder confession. The Supreme Court held the confession admissible despite the absence of Miranda warnings, reasoning that because the informant had gained the suspect's trust, Miranda warnings were not necessitated by coercive pressures.

## COOPERATING WITNESSES

The U.S. Sentencing Guidelines and the Anti-Drug Abuse Act of 1986 make cooperating the principal way for federal defendants to obtain reduced sentences. Since the prosecutor must request a "substantial assistance" departure for a judge to reward cooperation with a sentence below the applicable guideline range or the statutory mandatory minimum sentence, defendants are motivated to please the prosecution with their testimonies or other efforts to

incriminate others. Moreover, while cooperation agreements require defendants to plead guilty and testify or otherwise assist in the prosecution of others, prosecutors usually agree to make substantial assistance motions only if they are satisfied with the defendant's performance. The fact that, in 2001, 17.1% of all guideline defendants and 25.7% of drug defendants received substantial assistance departures understates the role of cooperation in the federal criminal justice system. Further, 67.5% of the defendants in drug conspiracy cases prosecuted in 1992 provided the prosecutor with some form of assistance, yet only 38.6% of the cooperators received substantial assistance departures.

The substantial assistance provisions have caused the anticipated or actual testimony of cooperators to play a role in most federal criminal cases. However, federal bribery law and professional ethics forbid defense attorneys from providing or promising to provide lay witnesses anything beyond expenses for their testimony. Although defense attorney payments are outlawed on the grounds that they may induce witnesses to lie, a prosecutorial promise of reduced prison time seems at least as great an inducement to lie. In *United States v. Singleton* in 1998, a federal circuit court held that prosecutors violate federal bribery law when they reward or promise to reward cooperating witnesses with reduced sentences. But the decision was reversed only a year later.

The jury's ability to detect cooperators' lies is called into question by former assistant U.S. attorneys' acknowledgements that they were deceived by cooperators. Moreover, jailhouse snitches and cooperating witnesses played a role in convicting 16 of the first 70 people on death row whom postconviction DNA testing exonerated. Unlike many states' laws, federal law increases the risk of wrongful convictions by allowing convictions to be based solely on an accomplice's uncorroborated testimony.

## INEQUITABLE SENTENCING

Defendants in the know are more likely to provide the prosecutor with useful information and are thus more likely than minor players to receive substantial assistance departures. Among equally culpable

coconspirators, the one who informs on the other(s) first is more likely to receive a substantial assistance departure. This may reward more culpable defendants or those who quickly inform and therefore conflicts with making sentences proportional to offenders' culpability.

Awareness of this inequity in sentencing may cause defendants and their loved ones to question the fairness of the American legal system. There is a risk that, by creating this potential for loss of faith in the legal system, the substantial assistance provisions of the federal sentencing guidelines and Anti-Drug Abuse Act will impede law enforcement. Scholars have found that if people's experiences with legal officials lead them to doubt the fairness of the law, their voluntary compliance with the law will be less likely in the future.

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## ✎ INSPECTORS GENERAL, OFFICES OF

An inspector general (IG) is an official of a federal agency who has been appointed by the president of the United States specifically to review and report on operations within his or her agency. The IG is the chief law enforcement official within that department or agency (except for the Department of Justice [DOJ]). The Office of the Inspector General (OIG) consists essentially of two divisions: criminal investigations and audit. Unlike an auditor in the private sector, the IG is responsible for reporting under the Chief Financial Officer's Act (Financial Statement Audits), which must meet the standards established by the American Institute of Certified Public Accountants and Generally Accepted Government Audit Standards.

The idea behind the creation of the Offices of Inspectors General is not new; IGs fulfill roles similar to those played by internal auditors or integrity officers. There is evidence that suggests that early civilizations performed review and inspection on the status and accountability of their equipment and personnel. This practice has changed from the ways it was carried out by the Samaritans and ancient Egyptians or, for that matter, from what was practiced in the United States in the mid-20th century. Agencies historically examined accounts and records to detect fraud; today the primary purpose of such audits is to express an opinion on the fairness of the presentation of financial statements. Following

accepted practices, General George Washington maintained a journal and ledger that he presented to the Continental Congress for an accounting of funds during the Revolutionary War, thus establishing at the very beginning of U.S. history the principal of accountability to an official body of legislators. Later, in the 19th century, railroads were among the first private enterprises to regularly require audits and inspections of their vast property holdings.

As the nation expanded, so, too, did the number and range of government programs. Along with this increase, the government decentralized. Funding and assets were managed by appointed regional administrators, a situation that led to waste, fraud, and abuse of programs and operations. There was one incident of fraud and abuse that was so egregious that President John F. Kennedy in 1962 directed that an Office of Investigation and Audit be established at the U.S. Department of Agriculture (USDA). The event involved a scheme on the part of a Texas cotton farmer having USDA officials transfer other farmers' cotton allotments to his own cotton acreage. In this way all his land could be used to grow this tightly regulated crop. Such a scheme would have been impossible without the help of high-level officials, either inside the USDA or in Washington, D.C., or both. The farmer profited by several tens of millions of dollars. As time went on other federal agencies instituted the USDA model for investigation and audit.

This specific event led to greater concerns over government integrity, and on October 12, 1978, the Inspector General Act was enacted. Initially, 18 federal agencies were covered by the act and the existing Offices of Investigation and Audit were re-formed as Offices of Inspectors General. The purpose of the act was to create independent and objective units to conduct audits and investigations relating to the programs and operations of their respective federal agencies. By the early 21st century, more than 50 federal agencies had IGs.

### MISSION AND DUTIES OF AN INSPECTOR GENERAL

Each agency's inspector general operates under a five-point mission. The inspector general and his or

her staff are mandated to (a) conduct independent and objective audits, investigations, and inspections; (b) prevent and detect waste, fraud, and abuse; (c) promote economy, effectiveness, and efficiency; (d) review pending legislation and regulation; and (e) keep the head of the agency and Congress fully and currently informed.

To ensure that information reaches the highest levels of the agency, the head of the agency has been defined as the secretary of the department or administrator of a cabinet-level agency. For all other agencies, the agency heads appoint and can remove IGs at designated federal entities. The IG Act established the law for the appointment, supervision, removal, and political activities of an IG. The most important section of the appointment process, meant to ensure the independence of the IG, directed that the appointment be made not by the agency head, but by the president of the United States, by and with the advice and consent of the Senate. The process further states that the selection should be made without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, and law.

Neither the head of the agency nor the officer next in rank is permitted to prevent or prohibit the inspector general from initiating, carrying out, or completing any audit or investigation or from issuing any subpoena during the course of any audit or investigation. To further isolate the IG from agency politics or pressure, he or she may be removed from office only by the president, who is required to communicate the reasons for any such removal to both houses of Congress. This effectively makes each IG a member of the president's subcabinet, which reports directly to the Congress and the president.

Each IG has legislated duties and responsibilities, including reporting criminal violations to the attorney general of the United States. The IG is responsible for conducting, supervising, and coordinating audits and investigations relating to the programs and operations of his or her agency; for reviewing existing and proposed legislation and regulations relating to programs and operations; for making recommendations in semiannual reports on

the impact of such legislation or regulations on the economy and efficiency in the administration of programs; and for detecting fraud and abuse in programs and operations.

The IG must also keep the agency's chief official and the Congress fully and currently informed of fraud and other serious problems, abuses, and deficiencies relating to the administration of programs within the agency. The IG is expected to recommend corrective action concerning such problems and abuses and to report on the progress made in implementing such corrective action. Further, each IG must comply with standards established by the comptroller general of the United States for audits of federal establishments, programs, activities, and functions. These standards are listed in the *Government Auditing Standards (The Yellow Book)*, revised July 1988. This publication is the official guide for all federal agencies, and controls accounting and auditing standards for all state, local, municipal, and not-for-profit entities receiving federal funds. These standards are revised every 10 years, with interim rules issued during the intervening periods.

The IG Act requires each IG to transmit to the Congress a semiannual report based upon significant problems or deficiencies relating to program administration and operations reviewed during the periods of October 1 through March 31 and April 1 through September 30 each year. These reports must be transmitted no later than the last business day of the following month. If an IG feels that a significant event or flagrant problem requires an immediate report, the IG is authorized to immediately transmit that report to the Congressional Committee of Jurisdiction. Generally the semiannual report describes problems, abuses, and deficiencies within the agency. A description of the recommended corrective actions made by the IG during the six-month period is included.

Each IG enjoys unique authorities among federal departments that are outlined in Section 6 of the IG Act. Important provisions of this section authorize each IG to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material related to programs and

operations for which IG has responsibility. The IG may subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of his or her office's functions. If the subpoena is refused, the IG is authorized to turn to any U.S. district court to enforce the order.

An IG or an employee of the OIG is authorized to administer an oath, affirmation, or affidavit whenever necessary. This is an often-used tool for an IG, because if a person is proven to be swearing falsely, that person can be charged with a felony under 18 U.S.C. 1001—False Swearing. This section is frequently used by law enforcement officers and has consistently been upheld by U.S. appeals courts.

The sizes of OIGs vary considerably throughout the federal bureaucracy. In 2003, the largest of the more than 50 OIGs was the one at the Department of Health and Human Services, with 1,600 employees working in 85 field offices around the country. Savings attributed to this office in 2002 were \$21.8 billion, an increase over the \$15.6 billion in savings achieved in 2000. This IG's main job is to investigate fraud and abuse in the federal Medicare and Medicaid programs, which in 2003 cost more than \$400 billion. Agents also investigated a variety of other health care frauds. Investigations resulted in more than 500 convictions and the recovery of about \$518 million from people accused of filing false claims. The postal service IG is a much smaller operation; in 2001 it had about 725 employees and a budget of about \$117 million.

Not all IG reports are about waste; some look at the overall operations of their agencies. In June 2003, the Department of Justice IG issued a report that was highly critical of the department's handling of approximately 750 illegal aliens detained in the wake of the September 11, 2001 terrorist attacks. The report called for clearer criteria for labeling terrorism suspects, improved communication between counterterrorism agents and immigration officials, and better training of guards assigned to supervise detainees. Other nonfinancial issues in DOJ that the IG has examined included the Federal Bureau of Investigation's misplacement of thousands of pages

of documents in the 1993 Oklahoma City, Oklahoma, bombing case and why immigration officials sent visa approval notices for two of the September 11 hijackers to attend a Florida flight school six months after they died in the plane they crashed that day.

## **WHISTLEBLOWER PROTECTIONS**

One section of the IG Act that has received considerable publicity is Section 7, which is commonly referred to as the Whistleblower Protection Act of 1989 (5 U.S.C. §§ 1201 et seq.). This section authorizes an IG to receive and investigate complaints or information from any employee concerning the existence of an activity constituting a violation of law, rules, or regulations or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. The IG is directed not to disclose the identity of the employee without the consent of that employee, unless the IG determines that the disclosure is unavoidable during the course of the investigation. The Office of Special Counsel, an independent arm of the Merit Systems Protection Board, carries out oversight for enforcement of the Whistleblower Protection Act.

To ensure the autonomy of the OIGs, each incumbent operates independently of his or her department or agency, a status that is ensured by assigning the OIG its own personnel, budget, and procurement authority. It is for these reasons that IGs have been called the watchdogs of America and have been able to save the government several billions of dollars each year.

## **PERSONNEL REQUIREMENTS**

There are uniform personnel requirements for all OIGs. At a minimum, all professional employees must possess a bachelor's degree. All criminal investigators are job series 1811, which means that they are authorized to conduct criminal investigations, make arrests, execute warrants, and carry firearms. They carry the title of special agent.

Each special agent is required to undergo training at the Federal Law Enforcement Training Center

(FLETC) for 12 weeks of entry-level training in criminal investigations, firearms, law, interviewing techniques, surveillance methods, arrest techniques, defensive tactics, testifying at mock trials, and management. In addition special agents must return to FLETC for three weeks of intensive training at the Inspector General Academy, which is co-located at FLETC, for specific instruction in the operations covered by the IG Act.

Auditors are required to meet established academic requirements in addition to a bachelor's degree. They must have successfully completed at least 24 semester hours of accounting and auditing. In practice, a bachelor's degree in accounting satisfies this requirement. However, those who want to be auditors and have degrees in other disciplines must meet the additional requirement of the 24 semester hours in accounting.

Each auditor must attend the Inspector General Audit Academy for 12 weeks. During this time they will be trained in specific requirements of the Comptroller General's *Yellow Book*. These standards differ from financial audits in the paperwork, maintenance, and format requirements. Additionally, each person working in job series 501 (auditor) must undergo a minimum of 40 hours in accounting and audit training annually.

As of 2003, the agencies with IGs appointed by the president were the Agency for International Development, the Department of Agriculture, the Central Intelligence Agency, the Department of Commerce, the Department of Defense, the Department of Education, the Environmental Protection Agency, the Federal Deposit Insurance Corporation, the Federal Emergency Management Agency, the General Services Administration, the Department of Health and Human Services, the Department of Housing and Urban Development, the Department of Interior, the Department of Justice, the Department of Labor, the Department of National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Small Business Administration, the Social Security Administration, the Department of State, the Department of Transportation, the Department of Treasury, the Department of Treasury Inspector General for

Tax Administration, and the Department of Veterans Affairs.

Some agencies have IGs who are not appointed by the president and are not confirmed by the Senate. These IGs are appointed by the agency head and may be removed at any time without cause. They include Amtrak, the Appalachian Regional Commission, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Election Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Reserve Board, the Federal Trade Commission, the Government Printing Office, the U.S. International Trade Commission, the Legal Services Corporation, the National Archives, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Peace Corps, the Pension Benefit Guaranty Corporation, the U.S. Postal Service, the Securities Exchange Commission, the Smithsonian Institution, and the Tennessee Valley Authority.

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## INTEGRATED AUTOMATED FINGERPRINT IDENTIFICATION SYSTEMS

Automated fingerprint identification systems were developed in the mid-1990s as a computer-based

alternative to ink fingerprinting. These automated systems have allowed law enforcement agencies to accurately take and match fingerprints within seconds that previously would have taken years to match manually.

Using the Integrated Automated Fingerprint Identification System (IAFIS), law enforcement personnel no longer must roll the fingers of those being printed in ink and then press each finger onto a paper card. Rather, automated systems use a computer to take fingerprints and handprints when the individual's hand is placed on the machine just as one would place a sheet of paper on a copy machine. The IAFIS computer scans the images and reproduces them on paper, in many cases dispensing altogether with the need for fingerprint cards. These images, unlike those on a copy machine, are not immediately forgotten. Fingerprint data are stored and logged in a central national database.

One of the first agencies to make use of this technology was the Los Angeles County Sheriff's Department, which by the late 1990s had joined with 46 smaller departments in the county to create a live-scan network that minimized duplication and sped up the process of identifying those printed. Such computerized fingerprint technology has led not only to greater efficiency, but also to a radical change in the way law enforcement agencies now track crime. In July 1999, the Federal Bureau of Investigation's (FBI's) Criminal Justice Information Services Division's system became operational. IAFIS provides five key services: 10-print services, subject search and criminal history request services, document and image searches, remote search services, and latent print services. In its first six months of operation, IAFIS reduced the FBI's criminal 10-print processing time from 45 days to two hours.

With IAFIS, the FBI replaced a 64-year-old fingerprint identification process that was not fulfilling law enforcement needs with a system that provides expeditious and accurate identification services in a paperless environment. Its vast computing power examines the characteristics of fingerprints provided by law enforcers nationwide and converts them to searchable code. The information is added to a criminal database of some 41 million entries.

When a department requests a latent search, which is a search of fingerprints left at a crime scene, IAFIS searches the characteristics of the latent against the criminal database for a possible match. The technical ability to search this large group of known fingerprint specimens allows for a previously unidentified piece of evidence, in some cases a bloody print, to be matched with a the name of a person in the FBI's criminal records. These are examples of the types of searches that can be conducted. Jurisdictional boundaries are virtually erased. Law enforcers can now more easily track a criminal simply with the use of latent prints. If the suspect is already in the system, police can attach an identity. Moreover, fingerprints lifted from various crime scenes and entered into IAFIS can be linked.

This technology has fostered interdepartmental communication and net widening, along with higher closure rates. Law enforcers from numerous departments can easily keep one another abreast of a suspect's whereabouts simply by tracking that person through IAFIS. For example, a person charged with a crime in one part of the country whose information is entered into IAFIS and later commits a crime somewhere else can be identified simply by lifting latent prints from that crime scene. This function allows police to attach a name to seemingly anonymous forensic evidence. Additionally, IAFIS has drastically reduced the demands on police resources associated with maintaining large collections of fingerprints and has minimized the need to store on paper cards all fingerprints taken by a particular agency. Compiling and organizing such data has always been a time-consuming process. Prior to the introduction of IAFIS, the burden on police departments was even greater when large collections of fingerprint cards and latent finger marks were processed completely manually.

While the resources necessary to maintain such collections were a great hindrance to law enforcement agencies, the prospect of maintaining similar collections of palm prints and latent palm marks was a deterrent in itself. The task was intimidating because of the difficulties associated with palm data. As a consequence, few agencies maintained

collections of palm prints and latent marks. IAFIS is one of a number of computer-based tools that has provided benefits to law enforcement agencies. It is a cost-effective identification tool that has eliminated the use of messy inkpads to fingerprint suspects and has reduced the identification process to a fraction of the time it once took.

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## INTELLIGENCE AND SECURITY COMMAND, DEPARTMENT OF THE ARMY, DEPARTMENT OF DEFENSE

The impetus for the Intelligence and Security Command, Department of the Army, Department of Defense (INSCOM) originated in 1975 with the Army's Intelligence Organization and Stationing Study's recommendation that intelligence, counterintelligence, and electronic warfare operations at echelon above corps level be combined into one organization. Based on this recommendation, the former U.S. Army Security Agency was renamed INSCOM on January 1, 1977, and established its headquarters near the Pentagon, in Washington, D.C. INSCOM absorbed the Army Security Agency, the U.S. Army Intelligence Agency, three military intelligence (MI) groups (66 MI in Germany, the 470 MI in Panama, and the 500 MI in Japan), and a fourth group, the 501st MI, that had been activated in Korea. Today INSCOM serves as the mechanism for the implementation of multidiscipline intelligence

and security operations at echelon above corps level. Many of its civilian investigators have military backgrounds, and it has integrated the Army's different intelligence disciplines under one command, an important first in military intelligence history.

### INSCOM'S MISSION

The mission of the INSCOM is to plan, implement, and coordinate multidiscipline intelligence, security, and information operations and protection of the battle forces for military commanders, national decision makers, and the intelligence community. Members of INSCOM provide electronic warfare intelligence, force protection, and multidiscipline intelligence (imagery, signals, human, measurement and signature, and technical) as well as operations security, counterintelligence, and intelligence production and dissemination. The two major subcommands of INSCOM are the National Ground Intelligence Center (NGIC) and the Land Information Warfare Activity (LIWA). Both commands are located at Fort Belvoir, Virginia, near where the entire INSCOM command moved in 1989.

The NGIC's mission is to produce and disseminate reports using all types of intelligence on foreign ground forces and their combat technologies to help U.S. military commanders keep informed so they can have a decisive edge on all types of enemy offensive and defensive battlefield activities. The NGIC analysts not only assess the foreign ground force current capability (e.g., battlefield operating systems, tactics, training, and logistics) but also provide forecasts 20 years into the future. The specialists (chemists, computer scientists, mathematicians, engineers, simulation experts, modelers, and physicists) evaluate all types of foreign combat equipment and technologies (e.g., rocket launchers, tanks, chemical weapons, radars, electronic countermeasures, and military engineering equipment).

Center staff is also responsible for the Army's Foreign Materiel Exploitation Program and foreign materiel acquisitions requirements. Foreign materiel is exploited by garnering intelligence (understanding of the adversary's capabilities and threat projection

assessment) from deserted foreign battlefield materiel. Thus, electronic warfare equipment, passive and active jamming equipment, satellite communications, battlefield computers found on the battlefield or other locations are examined, validated, and verified as to the materiel's usage guidelines, state-of-the-art status, and origin of the technology used in the design and constructional capacity of the equipment. The military is also provided with imagery intelligence by NGIC's Imagery Assessments Directorate located at the Washington, D.C., Navy Yard.

Army Regulations 520-20 established LIWA to support Information Operations and Command-Control Warfare. As of October 16, 2002, the Land Information Center was redesignated as 1st Information Operations Command (Land). LIWA is the center for information operations and its personnel assist military commanders all over the world to plan, implement, and evaluate information operations. Three important support units within LIWA are the Field Support Teams, Army Computer Emergency Response Teams, and Information Operations (IO) Vulnerability Teams.

LIWA assists the land component command and the separate Army commands (both active and reserve soldiers) with technical expertise for conducting full spectrum (offensive, defensive, stability, and support actions) information operations. LIWA coordinates multidiscipline intelligence and counterintelligence and provides intelligence monitoring, analysis, and tailored reports. The Army Computer Emergency Response Teams send alerts when there are computer intrusions and provide appropriate countermeasures. LIWA deploys skilled field support teams with varied expertise; for example, skills in electronic warfare, computer network defense, and operational security assist battle staff responsible for strategy or policy and those charged with the physical and mechanical activities for putting the strategy into action to incorporate information operations into their battle plans, operations, and exercises.

LIWA's IO Vulnerability Assessment Teams (skilled in information operations, information systems security and architecture, communications, and computers) assess and mitigate real and potential

weaknesses in a command's information operation elements that would allow penetration by the enemy. LIWA ensures interoperability between the IO components of the United States and allies so that both sides can communicate, work together, and share in the development of Army doctrine and training materials.

INSCOM has played an important intelligence and security role in a number of recent U.S. military operations, including Operation Just Cause in Panama in 1989 and in both Desert Shield and Desert Storm in the Persian Gulf in 1991.

*Marvie Brooks*

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## INTERNAL REVENUE SERVICE, CRIMINAL INVESTIGATION DIVISION

The Sixteenth Amendment to the U.S. Constitution, passed in 1913, gave Congress the power to levy and collect tax. The Bureau of Internal Revenue, under the Department of the Treasury, was the agency responsible for collecting taxes on individuals and corporations. In 1919 there were widespread accusations of fraudulent tax reporting. Daniel C. Roper, then the commissioner of the Bureau of Internal Revenue, was a former first assistant postmaster general; Roper requested the secretary of the treasury and the postmaster general to assign six experienced postal inspectors to the Bureau of Internal Revenue to investigate fraudulent income returns. These inspectors formed a new unit called the Special Intelligence Unit, with Elmer L. Irey as its first chief.

In 1952 the Bureau of Internal Revenue reorganized and was renamed the Internal Revenue Service (IRS). The Special Intelligence Unit went through a series of similar name changes until 1978 when it was renamed for the last time to the Criminal Investigation Division (CID). Since its inception in 1919, the CID has remained the primary tax fraud investigator in the world. Through its efforts the government has brought cases against such organized crime figures as Al Capone, Frank Nitti, Albert Anastasia, and Frank Costello. The CID also played a major part in the investigation of the Lindbergh baby kidnapping case.

The Criminal Investigation Division is mandated to act as the IRS investigation division. It ensures compliance with Title 26 of the *United States Code*, which gives the IRS the authority to investigate alleged criminal tax violations, including tax evasion and filing a false tax return. Under Title 18 U.S.C., the IRS has authority to investigate a broad

range of fraudulent activities, such as false claims against the government and money laundering. Title 31 U.S.C. gives the IRS the responsibility for enforcing certain record-keeping and reporting requirements of large currency transactions, such as cash bank deposits of more than \$10,000. In carrying out its responsibilities, CID coordinates as necessary with IRS's District Council, the Tax Division within the Department of Justice, and local U.S. attorneys to prosecute violators of these statutes.

The CID is the only law enforcement agency that has the jurisdiction to investigate cases involving these statutes. If its members did not investigate these fraud cases, no other law enforcement agency would have jurisdiction to investigate them. The stated mission of the CID is to support the overall IRS mission by enforcing the criminal statutes relative to tax administration and related financial crimes in order to encourage and achieve, directly or indirectly, voluntary compliance with internal revenue laws.

The CID attempts to achieve its goal of voluntary tax compliance through deterrence by investigating and publicizing the results of tax fraud cases. Even though its goal is compliance by deterrence, the CID is mandated by Treasury Department policy to conduct all investigations by the least intrusive means necessary. These fraud cases are divided into two categories. The first category is tax gap investigations in which the target is a citizen or legal corporation in a legal industry not involved in narcotics. Tax gap investigations may involve other illegal activities including extortion, bribery, or money laundering, but not narcotics. Narcotic investigations, the second category, are cases involving narcotics and any other illegal activities the investigators may come across in their investigation. CID also investigates the possibility of money laundering and other tax violations including using tax-exempt organizations to fund terrorist activities. Besides using tax and income information, CID investigators file for grand jury or IRS administration subpoenas to obtain statements and records from witnesses or use witnesses' statements to obtain search warrants. Information on ongoing cases is stored in the Criminal Investigation

Management Information System (CIMIS). Not only does CIMIS collect information on current cases, but it also tracks time expended by CID employees.

Special agents take the information collected in their investigations to a U.S. attorney, who decides whether a case will be prosecuted. The U.S. attorney may also request that the CID investigate an individual or a corporation. The CID's assistance may also be requested if tax expertise is needed in an interagency taskforce. Although the CID has a mission statement, the U.S. attorney's office has considerable determination in the CID's agenda. About 60% of the CID's investigation time is taken up with tax gap or tax-related violations and close to 25% of the time is spent in narcotics-related investigation. The rest of CID's time is consumed in interagency taskforces concerning issues such as narcotics. Agents also have assisted in investigations concerning organized crime, health care fraud, and 61% of all Organized Crime Drug Enforcement Task Force Programs. Their expertise in tax law and their agents' access to tax information is invaluable. Often the only case that can be built against a target is a tax fraud case.

In 2004, CID employed nearly 3,000 special agents and had an operations team of almost 1,700 members consisting of auditors, revenue officers, and revenue agents. Their job is to assist the agents in all investigations. Special agents and the operations teams are located in 33 district offices in four regions, as well as those in the central office in Washington, D.C., those stationed overseas in Interpol, and more than 350 agents assigned to assist in interagency taskforces. Due to the emergence of Internet commerce, some agents are placed overseas to investigate computer fraud cases. The CID has a classic top-down organization structure with the assistant commissioner of criminal investigation as its top officer. In 2003, that position was held by Nancy J. Jardini, the first woman to head CID. She and her deputy assistant oversee the four regional directors. Every field office reports to a division chief of its district, who reports to a regional director.

Applicants to the CID must be U.S. citizens with a bachelor's degree with at least 15 semester hours of accounting and 9 hours of business courses in a related field. If they do not have a degree, those with

a combination of work and educational experience may be considered. Certified public accountants are encouraged to apply as well. Applicants must be under 34 years of age, with at least 20/200 vision in each eye, and must pass a physical examination. Applicants must provide proof of a valid driver's license prior to applying. Candidates must also appear for an interview to measure their level of poise, expression, and presentation. A passing score on the Treasury Enforcement Agent Examination is also required. Special agents start at a federal general schedule pay rate of GS-5 or GS-7, which in 2003 meant a salary of \$30,000 or more annually depending on the office location to which the agent is posted. Those who start above a GS-5 rating have had more extensive education, had excellent grades, or were members of a national scholastic society. Agents are guaranteed they will move up one GS level annually provided they perform at satisfactory level, until they reach a GS-11 rating. Thereafter they compete with other agents for promotions. GS-14 level is considered management level and requires extensive training before an agent is able to apply.

Special agents of the Criminal Investigation Division receive the top training available at the Federal Law Enforcement Training Center in Glynco, Georgia. There, after 1 week of orientation, agents-in-training have an additional 21 weeks of training in the Criminal Investigation Training Program and the Special Agent Basic Training. The programs emphasize physical fitness, arrest techniques, firearms, computer skills, and courses on criminal law, evidence, and criminology. In today's technology dependent world, information that agents are looking for is often encrypted or password protected. Agents must also be extensively trained in computers in order to be effective enforcers of tax laws, especially when dealing with electronically filed tax returns. After completion of the 22-week course, agents are posted to their field offices for on-the-job training that can last anywhere from one to two years. CID employees are also expected to go to continuing professional education courses every year. This ensures agents have the up-to-date training needed to be safe and effective law enforcement agents. Since 1992 advanced special

agent training has been available to any agents with at least six years of experience looking to rise to a level GS-12 or GS-13 rating. These courses teach advanced investigation techniques, defensive tactics, operational procedures, and advanced computer training.

Although much of the special agent's work is done in the office poring over tax and income statements for larger operations, investigators of the CID take advantage of classified informants and undercover operations. These investigations are divided into two categories. Group I involves operations of a more sensitive nature, with the expectation that the agent will be undercover longer than six months. These cases must be approved by the assistant commissioner of criminal investigations and only after the National Undercover Committee recommends them. Those that are deemed to not meet the criteria of Group I are classified into Group II and may be approved by a regional director of investigations. The special agents of the CID are the only law enforcement agents that are mandated to conduct all investigation by the least intrusive means possible. Therefore CID agents only use undercover operations when there are no other options available.

The special agents and support staff of the CID are an invaluable asset to the federal law enforcement community. Over many years, they have successfully pursued white-collar criminals, organized crime figures, drug traffickers, terrorists, and those who provide financial support to terrorist groups.

*David A. Hohn*

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## INTERNAL REVENUE SERVICE, INSPECTION SERVICE

The Internal Revenue Service (IRS) was created in 1862, during the presidency of Abraham Lincoln. To help pay the cost of the Civil War, one of its first charges was to enact an income tax. The income tax was repealed in 1872 and although this tax was revived for a year in 1894, it was not until 1913 that the Sixteenth Amendment was ratified giving Congress the power to institute an income tax.

It was inevitable that a mandatory income tax would lead to fraudulent behavior by some citizens and on July 1, 1919, the IRS commissioner created the Intelligence Unit to investigate possible acts of tax fraud. This original unit consisted of six U.S. Post Office inspectors who were moved to the Internal Revenue Service to become the first special agents. This unit of inspectors evolved into the highly trained staff of professionals who today investigate tax evasions by citizens, businesspersons, and the government.

To help ensure that IRS officials and inspection employees are best serving the taxpayer, the 1988 amendments to the Inspectors General Act created the Treasury Office of Inspector General (OIG). The Treasury OIG had the responsibility of investigating possible misconduct, waste, fraud, and abuse involving IRS inspection employees and IRS officials, as well as overseeing the functioning of the IRS Inspection Service. The Treasury OIG and the IRS Inspection Service shared some responsibilities outlined in a 1994 IRS Commissioner-Treasury OIG memorandum of understanding. The Treasury OIG could refer any accusation to the IRS for investigation, and the IRS in turn could refer the case back to the Treasury OIG if deemed necessary.

In 1998, the commissioner of the IRS, Charles O. Rossotti, decided to review the IRS Inspection Service to determine how effectively it accomplished its mission. A team of experts was recruited to review the organization and methodology used by the Inspection Service and to also assess the relationship between the Inspection Service and the IRS management and between the Inspection Service and the Treasury inspector general. The review identified a number of opportunities to enhance the effectiveness of the Inspection Service, particularly in the areas of independence, public reporting of both audit results and accounting for investigative results, and the process of managing complaints in the IRS. The reviewers recommended that the Inspection Service concentrate more on the quality of its investigations than on the quantity. In January 1999, most of the responsibilities of the IRS Inspection Service were moved to the Treasury Inspector General for Tax Administration, which, although organizationally within the Department of the Treasury, is independent of it.

*Sandra Shoiock Roff*

*See also* Treasury Inspector General for Tax Administration

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## ☉ INTERNATIONAL ASSOCIATION OF CAMPUS LAW ENFORCEMENT ADMINISTRATORS

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The International Association of Campus Law Enforcement Administrators (IACLEA) is an

organization of college and university security directors and police chiefs serving both public and private institutions. Its history dates to November 6, 1958, when 11 security directors came together at Arizona State University to discuss mutual job problems and frustrations. This small conference illustrated a need for security directors across the United States to network with one another and to formulate a clearinghouse to share their experiences and concerns.

Job problems then were very similar to current times. They included, but were not limited to, the use of narcotics on campus, parking problems on campus, cooperation with other law enforcement agencies, search and seizure, arrest, civil defense, key systems, crowd control, and organization and management of university police departments.

The first official IACLEA conference was held in Houston, Texas, in 1959 and members of the group have been meeting annually since. The conferences are designed to provide professional development training programs for campus law enforcement administrators and to provide a forum for discussing common problems, solutions, and the latest trends in campus law enforcement. As an educational goal for the 21st century, IACLEA launched its first Executive Development Institute to provide professional training for new college and university law enforcement administrators. In addition to its conferences, IACLEA sponsors the *Campus Law Enforcement Journal*, a bimonthly magazine published since 1961 to provide information and discussions on timely matters. The journal goes out to more than 1,750 campus law enforcement administrators throughout the world.

### ADDRESSING CURRENT ISSUES

IACLEA has taken advantage of the technology of the Internet to provide easier professional discussion between college and university security directors and police chiefs through an international Listserv. Using the Listserv, the campus law enforcement administrators discuss up-to-the-minute issues, share and network information, and provide one another with timely alerts and crime trends.

Over the years many changes have taken place in college and university law enforcement and the 1990s were no different. New federal legislation, titled the Crime Awareness and Campus Security Act of 1990, required all public and private colleges and universities that received certain federal funding to formulate accurate reporting procedures and guidelines to disclose to current and prospective students, faculty, and staff members crime statistics on and around their campuses. The law, which after many revisions added numerous additional requirements, came to be known in the late 1990s as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. This new legislation generated many discussions over its first decade among campus law enforcement administrators concerning interpretations and procedures required by the new laws. IACLEA played a major role in helping law enforcement administrators throughout the country interpret the legislation and answer questions concerning the new laws and was active in lobbying for future legislative adjustments and needs.

Realizing that the coming changes would have a great impact on campus law enforcement and would require better standardization and professionalism, the board of directors came together toward the end of 1990 and adopted 19 position statements that would identify the association's position on professional college and university law enforcement. These position statements would serve as benchmarks in campus policing. By the late 1990s, concerns of alcohol consumption and the marketing of alcohol on college and university campuses were major and complex concerns for campus law enforcement administrators and agencies. IACLEA called on its member institutions to adopt guidelines for promoting responsible alcohol marketing on campuses and for promoting healthy lifestyles and responsible use of alcohol among college and university students.

IACLEA's mission to advance public safety for educational institutions by providing educational resources, advocacy, and professional development for all current issues continues with the 21st century concerns of terrorism. After the September 11, 2001

terrorist attacks on the World Trade Center in New York City and on the Pentagon in Washington, D.C., protecting universities and colleges became a major concern. After coming to grips with the fact that many colleges and universities are vulnerable to terrorist attacks because they provide many of the basic target criteria for terrorists, the International Association of Campus Law Enforcement Administrators, the Federal Bureau of Investigation, and the Office of Domestic Preparedness formulated a partnership to discuss how best to protect the nation's campuses from weapons of mass destruction terrorism while also ensuring the openness that is vital to their missions. The first conference on weapons of mass destruction was held in Washington, D.C., on December 3, 2002.

## MEMBERSHIP

In 1978 the Canadian Association of University Security Directors formally merged with the International Association of Campus Law Enforcement Administrators, greatly enhancing international relations for the organization.

IACLEA's membership in 2003 represented more than 1,000 colleges and universities throughout the world, with primary membership coming from the United States and Canada. In addition to these institutional memberships, IACLEA has an individual membership category open to campus law enforcement administrators, criminal justice faculty members, and municipal chiefs of police. In 2003, more than 1,750 people held such individual memberships.

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*See also* Campus Safety and Security Acts

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## INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

The International Association of Chiefs of Police (IACP) is a not-for-profit private association providing a variety of law enforcement related services to federal, state, county, local, tribal, and other police agencies. In 2002, the IACP had close to 20,000 members. Although the majority were from North America, primarily the United States and Canada, police executives from more than 100 countries world are represented and many attend the annual conference traditionally held in the fall. The staff members of the IACP are not sworn law enforcement officers and cannot assist with criminal investigations or complaints about citizens or police officers, but assist police departments through information exchange through publications and a series of regional meetings around the world.

The IACP was founded in 1893 by chiefs of police who met in Chicago, Illinois, where they created the National Union of Chiefs of Police of the United States and Canada. The first meeting of police chiefs occurred in 1871 in St. Louis, Missouri, and although they had hoped then to meet annually, future meetings failed to materialize until 1893, when Chief William Seavey of Omaha, Nebraska, convinced Superintendent Robert McLaughrey of Chicago to host a gathering that brought together 51 chiefs from 18 states and the District of Columbia. In 1902 the name International Association of Chiefs of Police was adopted.

Seavey and the other chiefs created the association primarily to aid in the apprehension and return of wanted persons who fled local jurisdictions. As early as 1897 the organization began working toward the national identification of criminals and the compilation of crime statistics. The chiefs believed this information would not only help them fight crime, but would also serve as a management tool to help them measure the crime fighting activities

of their officers. Toward these ends, they began to collect data from member chiefs and in 1924 the IACP's criminal identification files became the basis of the Federal Bureau of Investigation's (FBI's) Identification Division. In 1930 these files were turned over to the FBI to form the beginning of the Uniform Crime Reporting Program.

Virtually all the early police chiefs whose names are associated with police reform were members of the IACP. Seavey was president of the National Union of Chiefs of Police and Washington, D.C., police chief Richard Sylvester was the first IACP president. Berkeley, California, police chief August Vollmer, an early advocate of advanced education and training for police, was president in 1914. Many issues were discussed at the annual meetings, including police involvement with their cities' homeless populations, many of whom slept in police stations in the years prior to other provisions being made for them; the responsibility of police for combating juvenile delinquency; the role of women in policing; the introduction of technology into policing, including the telegraph, the telephone, and later cars and motorcycles; and scientific crime detection including the use of fingerprint technology.

In 1934 the IACP and the FBI established the FBI National Academy (FBINA), where municipal and state police leaders went for advanced training. Initially located in Washington, D.C., the FBINA was later relocated to the Marine Corps base in Quantico, Virginia, where ranking officers continue to go for management training. The IACP also began publication of the *Police Chiefs Newsletter*, the forerunner of *The Police Chief*, the monthly magazine that describes itself today as the "professional voice of law enforcement." In 1940 the IACP established its first headquarters office in Washington, D.C., where the staff remained until 1992, when the IACP purchased a building at 515 North Washington Street, Alexandria, Virginia, and relocated staff and activities to the new site.

The association's goals are to advance the art and science of police services; to develop and disseminate improved administrative, technical, and operational practices and promote their use in law enforcement; to promote police cooperation and the

exchange of intelligence, information, and experience among police administrators throughout the world; to bring about recruitment and training in the police profession of qualified individuals; and to encourage adherence of all police officers to high professional standards of performance and conduct. To this end the IACP has developed a host of programs and initiatives through its Research Center. The center's mission is to identify issues in law enforcement and to conduct timely policy research, evaluation, follow-up training, and technical assistance and to provide information and direction to law enforcement leaders, the criminal justice system, and the community. Programs and initiatives have covered a vast array of policing issues, including national policy development, policy recommendations and reports, technology projects, improving police-based victim services, violence against women, technical assistance for smaller police departments, and education and training of police personnel. All the information developed by the center is available to the law enforcement community at little or no cost.

To keep pace with 21st century technology, the IACP has formed the Law Enforcement Information Technology Standards Council (LEITSC), which will provide a voice for the law enforcement and criminal justice community in the advancement of information technology (IT) standards. The purpose of LEITSC is to foster the growth of strategic planning and implementation of integrated IT systems in law enforcement and criminal justice. The council plans to accomplish this mission by promoting the merits of information technology standards; providing advice to the law enforcement community at large on the technical aspects of IT standards; sharing practical solutions; and representing the entire criminal justice system in the expansion of justice and public safety information technology standards. In this way, the IACP will attempt to facilitate the integration of all the criminal justice information systems nationally by influencing the development of information technology standards and protocols that will meet the technical, practical, and political needs of law enforcement within the criminal justice community.

The IACP has worked toward expanding its services throughout the world in other ways. Since the 1990s, the IACP has been expanding worldwide to become international in more than name. It has encouraged wider attendance at its annual meeting, the largest law enforcement gathering in the world, and has increased the number of smaller conferences that it sponsors outside of North America, since the annual conference has historically been in major U.S. or Canadian cities. In 2002 the IACP held two international executive policing conferences, one in Budapest, Hungary, and another in Brasilia, Brazil. In 2002, at the 109th annual conference in Minneapolis, Minnesota, translation services were provided in French, Spanish, and Portuguese for six of its workshops, both general assemblies, and the opening ceremonies. Indicating the international focus of policing, the conference, now called an education and technology exposition, attracted close to 13,000 people representing 48 nations. In addition to conducting the association's business and receiving training, attendees were able to view exhibits sponsored by almost 800 vendors and law enforcement agencies promoting their services.

*Steven D. Cherry*

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## INTERNATIONAL ASSOCIATION OF WOMEN POLICE

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The International Association of Women Police (IAWP) was formed in 1956 as a continuation of the International Association of Policewomen (IAP), which was founded in 1915 and discontinued in 1932. Membership is open to all sworn law enforcement

officers—male and female—around the world; nonsworn officers and those in related fields are eligible for associate membership. Primarily an organization of women law enforcement professionals from almost 50 countries worldwide, approximately 5% of the IAWP's membership is male. As of mid-2002, membership was approximately 2,500, with an additional 4,000 officers in affiliated chapters around the world. The association sponsors an annual training conference, usually in the fall, and publishes a quarterly magazine titled *Women Police*.

The IAWP traces its origins to the IAP, founded in 1915 by Alice Stebbins Wells, who in 1910 was given the title "policewoman" by the City of Los Angeles Police Department (LAPD). Although not actually the first policewoman in the United States, she is generally considered to be the first person to have been officially designated with that rank.

Stebbins Wells, a graduate theology student and social worker who campaigned actively for her position with the LAPD, pioneered preventive protection principles for youth. On May 18, 1915, while attending a meeting of the National Conference of Charities and Correction (NCCC), Stebbins Wells and a small number of policewomen formed the IAP. The NCCC (later the National Conference of Social Work, NCSW) was a group through which women prison reformers and social service professionals had increased their influence on social policy. Although members of the International Association of Chiefs of Police (IACP) in 1922 passed a resolution supporting policewomen, the social work background of most of the policewomen made the NCCC a more appropriate fit than the IACP for their outlooks and concerns. Until the IAP disbanded in 1932, it met each year as an adjunct of the NCCC (later NCSW) meetings, not with the IACP. While the IAP is often viewed as a casualty of the Great Depression, the more direct cause of its demise was the death of Lieutenant Mina Van Winkle, the director of the Washington, D.C., Police Department's women's bureau. Van Winkle, who in 1920 succeeded Stebbins Wells as president of the IAP, had also provided financial support to the group from personal and family resources.

In 1956, at a meeting of the Women Peace Officers of California, in San Diego, the remnants

of the IAP became the present-day IAWP when the organization was reestablished by Dr. Lois Lundell Higgins. A 30-year veteran of the Chicago Police Department, Higgins held the presidency for 8 years and served an additional 12 years as executive director. The IAWP at this time, through its constitution and its activities, promoted separate women's bureaus. Many women felt this was their own opportunity for advancement since, before 1968, these women were never on uniformed patrol.

Reflecting on the changing role of women in policing, in 1972 the IAWP deleted from its constitution the clause encouraging the establishment of women's bureaus in police departments and in 1976 extended voting membership to men in law enforcement.

Somewhat earlier (in 1963), annual conferences had replaced biennial meetings and in 1978 the present five-day training format was instituted. Training topics today, often provided by expert practitioners, cover all facets of police activity. The conferences, which attract upward of 750 people, also serve as a forum for reporting on developments in law enforcement and for publicizing women's advancement and accomplishments in policing. Although historically conferences were held only in the United States or Canada, recent sites reflect the increasingly international outlook of the association and its success in enrolling non-North American members. International participation in the conferences increased substantially in 1987, in part due to the venue of New York City and in part due to participation by a number of IAWP members at other international women's police gatherings. Since then, the 1996 meeting was held in Birmingham, England (in conjunction with the European Network of Policewomen), and the 2002 conference was in Canberra, Australia (in conjunction with the Australasian Council of Women and Policing).

In 1979 the Woman Officer of the Year Award was instituted. This award has traditionally gone to a woman who exhibits not only bravery and valor, but who is involved with community projects and who exemplifies the ideas of policing as a multifaceted public service. To be eligible for the award, a candidate must be recommended by her chief. Since the late 1980s the IAWP has used money from a benefactor to support an International Officer

Scholarship for a woman from a country other than the United States or Canada. The recipient of the award traditionally attends the annual conference and speaks about police practices in her country. Many have retained their ties with the organization and provided a link with new members in countries that were previously unrepresented. In 1998 the IAWP developed an Adopt a Member Program, which encourages members to sponsor (or adopt) a woman from a country where police salaries are low and who would be unlikely to join if she had to pay the annual membership fee on her own. Sponsors are urged to overcome language and cultural barriers by corresponding with their adoptees.

In recent years, as women's roles in policing have expanded, the IAWP has also become involved in such issues as state (U.S.) and provincial (Canadian) car licensing procedures, U.S. gun control, transport of firearms across state lines, missing children, and serial murder programs. The IAWP also underwrites and staffs an informational booth at the annual IACP conferences and has worked closely with the National Law Enforcement Officers Police Memorial to ensure that women are represented on the memorial itself and at annual commemoration ceremonies in Washington, D.C., each May.

*Dorothy Moses Schulz*

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## **INTERNATIONAL TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE**

The International Trade Administration (ITA) was created by Congress on January 2, 1980, to protect domestic industries from unfair foreign trade practices.

In addition to a number of advisory roles, the ITA is responsible for ensuring that foreign governments abide by U.S. trade laws. The trade law enforcement role has grown over the years as more industries have sought trade protection. ITA agents work to ensure international compliance with the trade agreements, to eliminate market barriers for exports, and to promote trade.

Located within the Department of Commerce, the ITA has four divisions: Market and Access and Compliance, Commercial Service, Trade Development, and the Import Administration. The Market Access and Compliance unit keeps world markets open to U.S. products. Country specialists identify possible barriers and work with governments to remove obstacles to international trade. Within this unit, the Trade Compliance Center monitors, investigates, and evaluates foreign compliance with American trade agreements.

The Commercial Service unit helps U.S. businesses engaged in exporting. Staff members provide businesses with market information, trade leads, overseas contacts, and promotional opportunities. The Domestic Export Assistance Centers, with staff stationed at embassies and consulates around the world, provide businesses with export counseling. The Trade Development unit promotes U.S. companies, supports trade negotiations, and analyzes markets. Its Advocacy Center assists businesses to win overseas contracts and its Trade Information Center provides data on all government export assistance programs. In addition, information and assistance is provided on general and country-specific export regulations; international market research and trade leads and sources of export finance; advice on export licenses and controls; and opportunities for U.S. companies in country-specific markets. These services are designed to minimize the difficulties in doing business overseas and to assist U.S. companies in following the laws of the nations in which they want to operate. To facilitate adhering to all legal requirements, trade center staff maintain lists of foreign contact information, lists of trade publications, and calendars of trade events. Last, the Import Administration helps defend American companies against foreign governments that are subsidizing

the exports of their own businesses or selling their products below market prices in this country.

To assist in meeting its goals, the ITA's Web site provides links to many sources of business information. Information on the legal aspects of international trade and investment is provided through the Chief Counsel for Industry and Security (formerly the Office of the Chief Counsel for International Commerce), which administers and enforces U.S. export controls. There are also links to research aids such as trade and industry data, including TradeStats Express and *Export America Magazine*. As economic globalism continues even in the face of terrorist threats around the world, agents of the ITA will continue to work with American businesspeople overseas not only to keep open foreign markets but to enforce trade laws by ensuring that U.S. firms are in compliance with international laws and that foreign firms are in compliance with U.S. laws.

*Sandra Shoiock Roff*

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## INTERNET FRAUD COMPLAINT CENTER

The Internet Fraud Complaint Center (IFCC) was created in May 2000 as a partnership between the Federal Bureau of Investigation (FBI) and the National White Collar Crime Center (NW3C). The IFCC is a federally funded, not-for-profit organization, based in Morgantown, West Virginia. At its inception the IFCC staff consisted of 12 FBI agents and 25 employees of the NW3C, with an annual budget of \$12 million. In February 2002, the IFCC

was the recipient of the Excellence in Government Award, which is an award given to federal government agencies that have demonstrated innovative electronic government initiatives.

The IFCC's primary function is to act as a clearinghouse for Internet fraud complaints filed by victims. Because a victim of Internet fraud often does not know where to file a complaint, the IFCC centralizes this function and disseminates complaints to the proper jurisdictional authority. Complaints can be filed via the IFCC Web site (<http://www.ifccfbi.gov/index.asp>) 24 hours a day, seven days a week for all types of Internet fraud—auction fraud, non-delivery of merchandise, credit card fraud, investment fraud, business fraud, confidence fraud, identity theft, check fraud, and Nigerian letter fraud. The information is collected, entered into a database, analyzed to determine patterns or trends, and disseminated to the appropriate federal, state, or local law enforcement and regulatory agencies.

In its first full year of operation, 2001, the IFCC received approximately 50,000 complaints and 17,000 reports of fraud were referred to law enforcement or regulatory agencies. Total loss from these cases was \$17.8 million. In the second full year of operation complaints rose to 75,063 and referrals almost tripled. The associated loss was \$54 million.

For the consumer, the IFCC provides a centralized way to file a complaint of Internet fraud regardless of jurisdiction. The IFCC determines which agencies have jurisdiction and forwards the complaint to them. The consumer only needs the Web site address and the details pertaining to the fraud. When filing a complaint, the information requested is similar to that found on a standard police complaint report, such as name, address, and nature of complaint. In addition, specific information about the fraud should be included, for example, transaction numbers, auctions sites, and electronic payment documentation.

Once a complaint is received, IFCC analysts review it and check it against their fraudulent complaint database to determine if there have been other complaints against the same party. If there is a match, the complaint is grouped with the others and reviewed by the same analyst. The IFCC may

conduct a preliminary investigation, which includes the number of victims and the dollar loss. The IFCC then forwards this information to all relevant agencies with jurisdiction, including a copy of each complaint, results of various database checks on the subject, and lists of agencies receiving the report with contacts and phone numbers. The IFCC will communicate with agencies electronically, by fax, and by mail. The IFCC does not dictate which agency should investigate but leaves it up to the individual agencies to coordinate so that a duplication of work does not occur.

Agencies that want to receive information from the IFCC must file a memorandum of understanding with the National White Collar Crime Center. These agencies may be law enforcement, regulatory enforcement, civil enforcement, or administrative authority. The IFCC maintains the highest level of confidentiality. Inquiring agencies will never be told if another agency is investigating. However, they can be advised if the subject of the complaint has been the subject of other complaints and from what locations. It is up to the agencies to contact each other.

What makes the IFCC unique and effective is its ability to centralize and disseminate information regardless of location and to identify patterns. What appears to be an isolated incident may be linked to others, forming a pattern. Isolated incidents may appear to be minor, but collectively the losses can total millions of dollars. Losses of some proportion might prompt agencies to coordinate and perhaps conduct joint investigations. This linking technology allows police agencies and, upon arrest, prosecutors to see that the perpetrator has scammed other people.

Consumers should be aware that each time the IFCC Web site is accessed certain information is recorded and tracked. This information includes the domain, date and time of access, Internet address of the computer from which the site was accessed, and specific page visited. This tracking information is forwarded to the agencies along with the complaint. Even if a referral is not made at that time, the tracking information is maintained and could be available for retrieval at a later date.

After the terrorist attacks on September 11, 2001, the IFCC Web site was utilized to collect tips on

terrorists. The IFCC was chosen due to its ability to collect and organize data and disseminate it to law enforcement agencies regardless of whether they are federal, state, or local and it continues to play this role in homeland security.

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## ✎ INTERSTATE COMMERCE COMMISSION

The Interstate Commerce Commission (ICC) was established in 1887 as an independent agency of the federal government with the responsibility for regulating railroads and water carriers. During the 108 years of its existence, the ICC's jurisdiction grew to include all surface forms of transportation including bus lines, railroads, trucking companies, water carriers, freight forwarders, and transportation brokers. In 1995, Congress abolished the ICC and transferred some of the functions and staff to the Department of Transportation. Regulatory responsibilities had been reduced by Congress during the previous 15 years. The workforce of more than 2,000 employees had been reduced to around 400 employees by 1995.

The history of the ICC is important to the study of law enforcement because many precedent-setting court cases were brought by the ICC against transportation companies. Law enforcement professionals

investigated irregularities in the practices of transportation companies. Their goal was to ensure that the transportation companies were providing fair and reasonable rates and services to the public, whether they used then-existing transportation modes for shipping or for their own travels.

The Interstate Commerce Commission was established by an act of Congress passed on February 4, 1887, called the Interstate Commerce Act, to monitor interstate railroads and water transportation systems. Congress acted after years of complaints from small farmers and shippers about the railroads using their monopolistic power to drive up rates. Congress gave the ICC the power to investigate the business operations of transportation companies and to require those companies to file annual reports with specified data. An ICC commissioner could request that the company stop the unfair behavior and make payment for any injury done. Should the transportation company refuse, then the commissioner was empowered to use the federal court system to enforce ICC regulations.

Over the years Congress added to the powers of the ICC. The ability to set rates and fine companies was not explicitly stated in the original act of 1887. When the ICC commissioners tried to enforce just and reasonable rates, the railroads fought back through the courts. In 1897 the case of *Interstate Commerce Commission v. Cincinnati, New Orleans and Texas Pacific Railway Company* was decided in favor of the railroads. Subsequently the ICC requested that Congress pass specific legislation giving the ICC the ability to set rates. With the Hepburn Act in 1906 Congress granted the ICC the power to set a federal ceiling on rates and to fine companies that violate the orders of the ICC. Once again the railroad industry tried to curb the rate-setting ability of the ICC through the courts. But in 1913, with the case of *Delaware, Lackawanna, & Western Railroad Co. v. United States*, the Supreme Court upheld the rate-setting power of the ICC.

Other functions of the ICC included making rulings about proposed mergers or acquisitions by transportation companies. All common carriers had

to obtain certification from the ICC. Regulations were established for accounting procedures, inventory and distribution of equipment, and rebating. The ICC also had to approve new construction or abandonment of railroad lines. Small businesses used the ICC for filing protests on shipping rates or filing requests for extension of service to geographic areas not currently serviced.

The role of protecting railroad workers became part of the ICC's function after legislation was passed in 1933. During the 1920s, the railroads were consolidating, cutting costs, and laying off workers. In 1933 Congress passed the Emergency Railroad Transportation Act, which set a three-year freeze on employment levels for railroads. The ICC then issued regulations that required dismissed or laid-off railway workers to be given protection with compensation and benefits. Even with the legislation that abolished the ICC in 1995, Congress included protection for workers of midsized railroads that downsized due to mergers.

When the ICC was abolished, newspapers wrote of the Interstate Commerce Commission as the "once-mighty oak." Despite criticism for wielding great power during stages of its 108-year history, the ICC played a critical role in developing the transportation industry in this country and in developing the legal balance of regulatory power between government and big industry.

*Gretchen Gross*

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# J

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## JOINT TASK FORCES

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The fragmented nature of federal law enforcement has meant that different agencies have different areas of responsibility. Although various agencies may enforce different laws and concentrate on different crimes, criminal acts have always crossed jurisdictional boundaries, whether defined by geography or statutory functions. Joint task forces emerged in the 1970s as a management tool to overcome the autonomy of law enforcement agencies.

A task force is any group of officers who are employed by different agencies assigned to work together on a specific case or specific types of cases. In addition to personnel, agencies forming task forces may commit other resources, including investigative records, surveillance equipment, clerical support, and such common tools as vehicles, telephones, and office space for the task force to use. Members of the task force are often given joint powers and jurisdictions, so that federal officers are able to enforce state laws and so that state and local officers may engage in police activities outside their normal jurisdictions. For task forces to operate successfully, agencies and their personnel must put aside individual goals to achieve larger goals.

Task forces represent an important departure from the older, go-it-alone mentality that previously existed in most agencies. These task forces confronted

the reality of the need for interagency cooperation while balancing criminal justice goals. Limited resources and personnel also propelled agencies into task force arrangements of varied structure and duration. The sophistication and mobility of many criminals and organized criminal enterprises also made it necessary for law enforcement agencies to pool their resources to keep up with those they were investigating.

Federal task forces have specialized in organized crime and drug trafficking investigations. Early task forces targeted bank robberies and kidnappings, while more recent task forces, since the 1990s and into the 21st century, have been created to stem domestic and international terrorism. Each of these types of cases shares in common the complexity of the investigations and the mobility of the criminal actors. Their reliance on law enforcement agencies for joint operations was also encouraged by research in the 1980s that identified the multiagency approach to crime control and policy as an important solution to almost any crisis affecting cities.

## TASK FORCE ENTITIES

Task forces may be comprised of any number of agencies and may involve agencies that crisscross many jurisdictions. Although some task forces are made up solely of officers from different federal

law enforcement agencies, many task forces also involve nonfederal officers. These types of combinations traditionally rely on the federal agencies for investigative experience and technological expertise and on the local police for contacts, informants, and a more general knowledge of criminals working in the area. Issues of funding, concurrent or overlapping jurisdiction, and elevated identification of community safety and interest all contribute to the formation of interagency efforts.

Federal task forces have played a major role in drug enforcement. The Organized Crime Drug Enforcement Task Forces (OCEDTF) and High Intensity Drug Trafficking Area (HIDTA) task forces realized unprecedented funding and support while engaging any variety of federal, foreign, state, and local partnerships. OCEDTF and HIDTA task forces received approximately \$140 million in 2000 to support a vast network of international, national, state, and local partnerships. Since the 1990s, a variety of task forces have also been created to address non-drug-related issues, including child pornography, computer and health care fraud, and violent crime initiatives. Many of these have continued in operation into the 21st century.

### **TASK FORCE ADMINISTRATION**

Task forces are designed to undertake specific investigations while skirting the usual agency hierarchies and addressing collective crime problems. Task forces generally fall within three structural categories: ad hoc, major case, or permanent co-location. Task forces involve varied combinations of federal, foreign, state, and local police agencies.

The ad hoc task force is a form of liaison characterized by telephone contacts and infrequent meetings regarding an ongoing criminal matter of mutual interest. Personnel and resources are not usually commingled and intelligence sharing is limited by a need-to-know prerogative. At the conclusion of such a task force, all the participating agencies may appear together at a joint press conference so that each receives its share of the publicity surrounding successful completion of the investigation.

Major case task forces are generally formed specifically to target a single investigation and are dispersed upon completion. Major case task forces often involve temporary co-location of supervisors and street investigators. Intelligence sharing and credit claiming are coordinated throughout the investigation. By their nature, these task forces involve high profile matters such as acts of terrorism, kidnappings, or major business frauds.

Permanent, co-located task forces are long-term commitments and focus on general categories of crime. These ventures always involve issues of task force control and leadership, mission consensus, security clearances, federal deputation of state or local officials, thorough memorandums of understanding among involved agencies, budgeted funding, multiagency on-site supervision, division of resource allocation and responsibility, and the often cited intelligence sharing dilemma. Joint and coordinated press releases are expected. The permanent nature of these task forces requires careful staffing of street managers and investigators. Continued participation of agencies is likely to change over time as primary agency duties dictate.

For task forces to succeed they must be supported from the most senior managers. Personnel assigned to these ventures are usually the most experienced investigators both in case work and in interagency relations. Consensus management is expected. Task force success is usually measured in law enforcement language of arrests, warrants, and seizure/forfeiture statistics. However, its true legacy is found in the enduring law enforcement relations it generates securing the protection and safety of their mutual constituencies. Agency primacy and autonomy is relinquished in favor of future relations and investigative matters. Successful task forces have addressed many areas of crime. Some of the more successful prosecutions included the Pizza Connection investigation in the 1980s that was directed against the Sicilian Mafia, a large number of drug cases in the 1980s and 1990s, and health care fraud in 1997.

*Katherine M. Newbold*

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# L

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## ⌘ LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

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The Law Enforcement Assistance Administration was created in response to concern about crime in the United States. The President's Commission on Law Enforcement and the Administration of Justice established in 1965 by President Lyndon B. Johnson recommended that a federal agency be established within the Department of Justice to assist states in controlling crime. That same year the Office of Law Enforcement Assistance was created; it provided federal funds to states and localities directed toward improving criminal justice agencies, especially the police. Three years later, on June 19, 1968, the Omnibus Crime Control and Safe Streets Act was signed into law.

Title I of this legislation contained five major provisions that (1) created the Law Enforcement Assistance Administration (LEAA) within the Department of Justice, (2) provided grants to states for operating planning agencies to develop criminal justice plans, (3) made action grant funds available to the states, (4) established a National Institute of Law Enforcement and Research within LEAA, and (5) provided funding for the first four. These provisions were designed to achieve three goals: to encourage comprehensive planning by states and municipalities, to direct grants toward the

improvement of law enforcement, and to encourage research and development programs for the improvement of law enforcement.

There were five offices within the agency, the Office of Administration, Office of Law Enforcement Programs, the National Institute of Law Enforcement and Criminal Justice, the Office of Academic Assistance, and the National Criminal Justice Information Statistics Service. Regional offices were responsible for assisting and overseeing grants issued to the states. During the first year of operation LEAA provided funds to states to establish state planning agencies (SPAs) that were responsible for assessing the criminal justice system and developing proposals that would guide expenditures of the federal grants. After LEAA approved a state's plan, funding for planning and action grants was released. By December 1968, each state had established an SPA.

LEAA disbursed funds for the improvement of state and local criminal justice systems through its action block grant program. Initially, most funding went to law enforcement agencies; later, courts, corrections, juvenile justice agencies, and community anticrime programs were funded as well. LEAA also administered a discretionary grant program.

LEAA was instrumental in what is now referred to as the research revolution. The National Institute on Law Enforcement and Criminal Justice funded

numerous research projects that led to important reforms in police work. The Kansas City Preventive Patrol Experiment, studies of criminal investigations, rapid response time, fear of crime, foot patrol, and numerous other topics, challenged traditional assumptions about policing and contributed to new operational strategies including community policing. Over time, LEAA funded important research projects related to criminal justice agencies other than the police.

During its brief existence, LEAA also funded a number of innovative programs, projects, workshops, and conferences. National programs included Career Criminals, Citizens' Initiative, High Impact Anti-Crime, and Pilot Cities. Another important program, the Law Enforcement Education Program, provided financial assistance to criminal justice professionals to continue their higher education. Special projects included the National Crime Survey, the National Advisory Commission on Criminal Justice Standards and Goals, and the National Institute of Law Enforcement and Criminal Justice. LEAA also spearheaded numerous technological advancements including the development of information systems, bulletproof vests, and forensic application of DNA technology.

LEAA was abolished during President Jimmy Carter's administration as a result of the Justice System Improvement Act (1979) and officially dismantled in 1981. Several LEAA initiatives are carried out today in other Department of Justice bureaus.

*Helen Taylor-Greene*

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## LAW ENFORCEMENT RANGERS, NATIONAL PARK SERVICE

The U.S. Organic Act (1916) established as the mission of the National Park Service (NPS) the preservation of the natural and cultural resources of the National Park System for the enjoyment, education, and inspiration of this and future generations. The National Park Service, a bureau of the Department of the Interior (DOI), in 2004 consisted of 387 individual parks, monuments, historical sites, battlefields, recreation areas, and so forth on more than 84 million acres. The size of the national park system has doubled since 1970. The NPS has more than 20,000 employees and provides service to approximately 280 million visitors each year. The mission of the law enforcement personnel in the service is to protect park resources—natural and cultural; to protect visitors, employees, and personal and government property; and to provide a safe environment in which to enjoy national parklands.

Law enforcement in the parks is largely handled by park rangers, who are commissioned law enforcement officers; criminal investigators; special agents; and the U.S. Park Police, who serve in urban units of the NPS. Law enforcement (LE) rangers have arrest authority and carry firearms. In addition to enforcing laws and regulations, and detecting and investigating crime, LE rangers provide emergency medical services, search and rescue services, traffic control, and fire prevention and control. LE rangers work cooperatively with state, local, and other federal agencies. The total budget for the park service in the 2005 proposed budget is \$2.36 billion. Of this, approximately \$109 million was for law enforcement and protection and another \$250 million for visitor safety. In addition, the NPS receives approximately \$9 million per year in federal drug control funding.

In 2002, more than 100,000 offenses were reported in national park units. The most frequent were liquor law violations, vandalism, drug possession, and disorderly conduct. Property crime made up fewer than 5% of the offenses. Violent crimes have historically been low in park facilities,

although drug seizures, primarily marijuana, have been increasing in the national parks. Certain offenses, such as poaching, marijuana cultivation, narcotics smuggling, sale and manufacture of illegal drugs, and theft of cultural and natural resources, are major problems.

At facilities that abut the U.S./mexican border, drug smuggling and undocumented alien trafficking have skyrocketed partially due to tighter security at designated border entry sites. These illegal activities have caused tremendous damage to the natural resources of these parks, particularly in Arizona where it has been estimated 1,000 undocumented aliens enter the United States daily. NPS units share 365 miles of international border and 72 miles of shoreline with Mexico. The increased levels of crime have also contributed to the danger and violence faced by rangers. In a report from the Department of Justice, the NPS had the highest annual assault rate per 1,000 officers (39.6) between the years 1997 and 2001, almost triple the next highest agency, the Immigration and Naturalization Service. Four park rangers were killed in the line of duty between 1990 and 2004.

## HISTORY

Yellowstone, established in 1872, was the first national park but the slaughter of wildlife in the new park continued, since no formal mechanism existed for the protection of wildlife or natural resources. In response, a scout and mountain man, Harry Yount, was appointed in 1880 as the park's first gamekeeper to enforce hunting limits and protect Yellowstone's unique geological features. Yount, considered the first park ranger, resigned after one year citing the impossibility of his task and recommending creation of a small police force. In 1883, Congress authorized U.S. Army Cavalry troops to patrol the park and the appointment of 10 assistant superintendents as a civilian police force. The Secretary of the Interior did not utilize the troops and wildlife slaughter continued unabated. In 1886, Congress refused to provide additional resources for the force and the Secretary of the Interior was forced to bring in Cavalry troops. This arrangement

continued for 30 years with the commander of the troops acting as the park superintendent and reporting directly to the Secretary of the Interior. Approximately 150 troops were assigned to Yellowstone and others were assigned to national parks as they were created by Congress.

In 1916 the National Park Service was established under the DOI to oversee the 14 national parks and 21 national monuments. The Organic Act (16 U.S.C. 1, 2, 3, and 4) consolidated various civilian scout and assistant superintendent positions into one civilian ranger force that assumed the duties of the military troops needed for World War I. The Organic Act also empowered the DOI to create rules and regulations for the use and management of parklands. The first director of the NPS, Stephen T. Mather, believed in the necessity of a uniformed police force. His view was that the primary duty of the ranger force was to protect park resources. As visitation rose, the ranger force was given additional duties to enforce federal law and government regulations, including general policing of the park, educating the public on rules protecting fish and game, enforcing laws and regulations, making arrests, and regulating traffic.

Visibility of the law enforcement role of the ranger force varied by the particular park and was subject to the discretion of superintendents. No uniform policies existed and for the next 30 years the tasks assigned to the ranger force were diversified. In addition to maintaining public order, rangers were used to perform maintenance, fight fires, manage wildlife and resources, and provide interpretational materials for visitors. The ranger's law enforcement role was subsumed by some of these other activities as the NPS increasingly altered its focus from law enforcement to the promotion of the parks as peaceful, pristine places in order to build public and congressional support.

In 1970, the inadequacy of law enforcement efforts came to light when acts of civil disobedience by a large gathering of youth in Yellowstone National Park resulted in riots and 170 arrests. This exposed the need for improved training concentrating on modern law enforcement techniques and crowd control. In 1972 a Branch of Protection and

Law Enforcement was established within the Visitor Services Division. The branch was responsible for the oversight of LE ranger operations nationally and was an attempt to centralize oversight of law enforcement efforts, although park superintendents maintained supervisory responsibility. Subsequent years saw efforts to professionalize the LE rangers by the addition of police academy training programs and standardized reporting procedures. In response to the death of a ranger in 1973, new policies requiring LE rangers to be armed at all times, establishing national standards for law enforcement training, and establishing criteria for the delegation of law enforcement authority and the use of firearms and defensive equipment were enacted.

In 1976 the Authorities Bill (16 U.S.C. 1a-6) codified the statutory authority of the NPS to designate employees to maintain law and order and protect persons and property in the national parks. These powers included the ability to carry firearms, make arrests for any federal offense, execute warrants, and conduct investigations. During the late 1970s and early 1980s, a restructuring of the ranger classification system downgraded the service level of new and existing LE rangers. NPS management made law enforcement an unattractive career path and many LE rangers left for higher-paying positions in federal, state, and local law enforcement. After a series of grievances and the introduction of new management, in 1992 special agent and special agent supervisory positions were created in Washington, D.C., to coordinate criminal investigations. Shortly after, the NPS clarified law enforcement policy, declared law enforcement to be an indispensable component of NPS operations, and identified LE rangers as the core of the protection workforce who should aggressively combat criminal activity in the parks.

## ORGANIZATION

As a result of an increased need for homeland security and as a response to a 2002 study by the Interior inspector general, the secretary of the Interior appointed a deputy assistant secretary responsible for law enforcement and security, who

also coordinates training and supervision of the five DOI bureaus with law enforcement personnel. Each bureau was directed to appoint a director of law enforcement to establish a separate law enforcement chain of command. The NPS created a new associate director for Visitor and Resource Protection, who acts as the chief ranger and who is responsible for managing NPS law enforcement and emergency services, fire and aviation, risk management, wilderness management, and wireless communications. The chief ranger also serves on the DOI Law Enforcement and Security Board of Advisors, which acts to unify security policy, programs, and coordination among bureaus. Under the DOI's direction, the NPS is moving to centralize supervision of law enforcement personnel under managers who have law enforcement training and experience rather than individual park superintendents. New chains of command are being established so that special agents and rangers with law enforcement duties would ultimately report to the chief ranger.

The NPS is organized into seven regions and a regional director supervises park superintendents who head each park. All LE personnel previously reported to park superintendents and funding for law enforcement was taken out of each park's budget giving discretionary control to the park superintendents. This did not prove optimal for law enforcement, which has received greater resources through creation of the National Leadership Council (NLC) consisting of the director, deputy director, associate directors, seven regional directors, and the U.S. Park Police chief. In late 2002, the NLC formed the Protection Ranger Leadership Board to advise the council on law enforcement policy and operational issues.

In 2002, the NPS had 1,549 park rangers commissioned as law enforcement officers and 56 special agents; 83% of LE rangers were male and 10% had minority backgrounds. Rangers are hired at the GS-5 to GS-9 levels depending on college degrees and experience. Candidates receive 20 weeks of basic law enforcement training at the Federal Law Enforcement Training Center in Glynco, Georgia. An additional 12 weeks of field training is provided, usually at one of the larger parks. LE rangers

are eligible to become criminal investigators after three years of experience as commissioned LE rangers. Criminal investigators receive 10 weeks of specialized training that covers investigative concepts and techniques, investigative technology, human behavior, and law. New hires may advance to the GS-9 level after having spent at least one year at the lower grades.

## RECENT DEVELOPMENTS

Over the years, the law enforcement role within the NPS has been embraced with varying levels of commitment. Since 2000, several reports examining the effectiveness of law enforcement within the DOI and its individual bureaus were authored by the International Association of Chiefs of Police, the Inspector General's Office of the Department of the Interior, and the National Academy of Public Administration. The reports call for a more centralized, standardized approach to law enforcement, improved accountability, the earmarking of funding for law enforcement, increases in law enforcement personnel, and the installation of an effective incident tracking and management system. These reports have identified several strategies to enhance ranger safety, including better training, a communications system that is compatible with other law enforcement agencies, additional funding for vehicles and equipment, and regional availability of specialized technological devices to detect and deter criminal activity. The NPS has been slow in addressing many of the recommendations; however, it is being championed by the DOI and by Congress. Improvement in law enforcement within the national parks ultimately may depend on appropriate funding and support as well as a consistent atmosphere of accountability.

*Katherine B. Killoran*

*See also* U.S. Park Police

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## ☞ LAW ENFORCEMENT TELEVISION NETWORK

Technology has changed the way people accomplish tasks in every area of life, and education is no exception. At one time, correspondence courses provided the primary means for students to learn outside the traditional classroom environment. The term distance education or distance learning is a specific instructional delivery that does not constrain the student to be physically present in the same location as the instructor. Today, audio, video, and computer technologies are more common delivery modes. Distance education can be as simple as a lecture prerecorded on an audio or videotape or as complex as a two-way, real-time audio and video interaction using videoconferencing equipment. For law enforcement agencies working with limited budgets, distance learning represents a cost-effective way to provide the training that their employees might not receive otherwise.

In 1989, Primedia Workplace Learning (PWPL) created a Law Enforcement Training Network

(LETN) that delivers training via satellite or videotape to law enforcement agencies across the United States. LETN focuses on the creation and delivery of vital emergency response and preparedness training, along with providing news and information to first-responder professionals and government service agencies. Its programs meet state-mandated requirements with topics covering patrol, drug enforcement, legal issues, and professional development. PWPL, based in Dallas, Texas, a division of Primedia, Inc. is a privately owned and operated company and the leading provider of distance learning. It has more than 1.6 million viewers in the automotive, banking, fire, health care, industrial, and law enforcement markets.

### HOW DOES IT WORK?

LETN is known for examining training issues associated with tragedies and helping the law enforcement community gain insight needed for the next challenge. Like a cable network for law enforcement officers, LETN provides subscribers with a variety of training and educational programs. Viewers can tune into both live and prerecorded programs on a variety of law enforcement topics. LETN's satellite feed programs come from such sources as the International Association of Chiefs of Police, the National Sheriffs' Association, and the Federal Bureau of Investigation. Once recorded, these programs are broadcast numerous times during the course of a month.

Illinois was the first state to introduce this training method. The Illinois Law Enforcement Training and Standards Board (ILETSB) needed to deliver training to part-time officers scattered throughout the state and distance learning was the answer. In 1997, the ILETSB graduated a class of 200 part-time officers who completed a 12-month intensive Basic Training Program conducted via television.

Combining curriculum-based training and technology, LETN developed the Specialized Training, Testing and Recordkeeping System (STTAR). This system comes with a desktop computer system that allows students to view live LETN satellite broadcasts. The system's touch screen and voice instructions

make computer literacy unnecessary. The STTAR program also serves as a paperless database, giving departments an easy and efficient way to track their inservice training. A video recorder hookup makes it possible to record live programs or watch prerecorded tapes. Students can take pre- and posttests on the computer and send them electronically to LETN for grading. The Mission Police Department, in Texas, viewed the pretest as an eye-opening experience for officers going through the training. In order to evaluate the students' skill levels or knowledge, they are tested before watching a training program. The officers are amazed at how little they know about properly handling a crisis situation compared to what they think they know.

The Mission Police Department is training its officers in real life crisis scenarios. LETN is scheduled one day a week, and officers are rotated to receive eight hours of training per month. Each program depicts a situation or an event that officers may or have encountered and encourages them to rethink how to handle it in the future. The feedback from officers is that situations or events shown on video are more realistic than reading them in a book. The Broward County Sheriff's Office in Fort Lauderdale, Florida, has a state mandatory 40 hour inservice training requirement for all personnel. The certification expires every four years and each officer is responsible for renewing the certification. To recertify, officers sit at a terminal located in each district, watch a training program, and then complete an exam. This format frees up personnel for patrol as opposed to losing an officer for a one- or two-day traditional lecture session.

Prompted by the events of September 11, 2001, Primedia Workplace Learning launched an emergency preparedness and response initiative that includes more than 50 new learning courses from terrorism to critical incident stress debriefing. As criminals continue to take technological leaps ahead of police officers across the nation, the cornerstone of any law enforcement organization is its ability to educate and train personnel with the utmost advanced technology available.

*Denise Zerella*

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## LIBRARY OF CONGRESS POLICE

There are more than 30 small federal police forces operating in the District of Columbia. The Library of Congress (LOC) Police is one such agency with only 122 sworn officers and five civilians on staff. The LOC Police operate within the Capitol Hill area along with the Government Printing Office (GPO) Police and the United States Capitol Police (USCP). All three police forces are part of the legislative branch of the federal government.

The library was established for the use of Congress by law in 1800. Eventually its services were expanded to the attorney general of the United States and justices of the Supreme Court and to the general public by 1866. But the institution did not get its own special police agency until 1950. In 1987, LOC police officers were authorized to carry firearms (a nine-millimeter pistol) and make arrests. Unlike the USCP and the U.S. Supreme Court Police, however, the LOC police officers have to leave their weapons at work when they go off duty. The LOC police force does not have a single squad car.

LOC police are part of the LOC's Office of Security, which in fiscal year 2003 submitted a budget request of about \$14 million. The Office of Security reports to the librarian of Congress. The librarian is appointed by the U.S. President with the advice and consent of the Senate.

The major task of the LOC police force is to provide security for the collections, staff, and visitors

to the library, a charge that requires maintaining a fine balance between safeguarding one of the most unique institutions in the world and providing access to an open public space that gets 1 million visitors annually. Library police are officially assigned to one of two 12-hour shifts, working four days a week with three days off. They are usually scheduled for 10 hours on regular pay and then earn two hours overtime.

LOC police officers perform a variety of law enforcement and security functions within six buildings and parking lots adjacent to these buildings, including the Thomas Jefferson, John Adams, James Madison, Library's Child Care Center, Taylor Street annex, and Landover, Maryland annex. More than 17 million books, 48 million original manuscripts, 4.4 million maps, and 16 million audiovisual materials are monitored by walking patrols, visitor control, static posts, and control room operations.

The security in the LOC was tightened in the early 1990s when it was detected that almost \$2 million worth of printed materials had been stolen from the Library's 532 miles of bookshelves. The stacks are now blocked by electronic doors to the public and to all but a tenth of Library staff. Police officers monitor visitors and the staff by using the metal detectors at the building's entries and theft detection system at the exit points. Researchers have to register in person by presenting a valid photo ID and are allowed to bring only pencils and marked paper into the reading rooms. All reading rooms and stacks are constantly surveyed by closed circuit television. Missing items are now reported to the Federal Bureau of Investigation and art dealers, booksellers, and auction houses are alerted immediately.

In the aftermath of the September 11, 2001, events, the Congress began considering a merger of the LOC Police, the GPO Police, and the USCP in order to improve the emergency planning and response to terrorist attacks, fire alarms, and other dangerous situations on Capitol Hill. Currently, the LOC Police and the USCP patrol along the same streets but do not share equipment, security procedures, or even radio frequencies. The merger, which would cost between \$15 million and \$26 million,

will benefit the LOC police officers by providing them with a unified chain of command and more varied assignments, expanding their powers while off duty, and bringing better retirement benefits. The librarian of Congress expressed a concern that some of the expertise in protecting the library's unique collections might be lost in a consolidated force. If a merger were to take place, the Congress would have to redefine the role of the librarian and statutory responsibility for facility and collections security.

Eighteen percent of LOC police officers were hired and trained between May 2000 and the end of 2002. Police candidates must meet a list of minimum educational requirements, pass a written exam, and undergo an interview, background check, polygraph test, and psychological and medical evaluations. New police officers complete an eight-week Basic Police Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia, as well as a two-week agency-specific and eight-week on-the-job training program that includes courses in criminal law, search and seizure, laws of arrest, interviewing techniques, handling of firearms, first aid, and other subjects.

*Maria Kiriakova*

*See also* Government Printing Office Police, U.S. Capitol Police

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## ☞ LINDBERGH LAW

The passage of federal legislation to deal with the crime of kidnapping has been forever linked to the

1932 kidnapping of the infant son of the famous aviator, Charles A. Lindbergh. In actuality, the law was intended to quell the epidemic of kidnappings that took place from the end of the roaring twenties into the early 1930s in conjunction with criminal turf battles associated with Prohibition and the rise of organized crime. Criminals were kidnapping other criminals as well as wealthy individuals or their family members. Reinforcing the association with the Lindbergh case, the law, although officially titled the Federal Kidnapping Act (18 U.S.C. 1201), is to this day popularly referred to as the Lindbergh Law.

Although most states had by the 1930s enacted kidnapping laws that carried severe penalties, the absence of a federal kidnapping statute forced local law enforcement agencies to abandon pursuits of offenders at their state boundaries. Knowing this, offenders frequently snatched their victims in one state and transported them to another from which they sent their ransom requests. In the years prior to the Lindbergh baby kidnapping, there were approximately 2,000 kidnappings annually throughout the United States. Just prior to the kidnapping, two Missouri legislators, Senator Roscoe C. Patterson (R-MO) and Representative John J. Cochran (D-St. Louis), concerned that because of St. Louis's central location in the country it had experienced a large number of kidnappings, introduced identical bills in the Senate and the House forbidding the transportation in interstate or foreign commerce of any person who had been kidnapped, held for ransom or reward, or for any other unlawful purpose. Shortly after the Lindbergh case, in March 1932, Congress enacted the law, which became effective on June 22, 1932, and which for the first time authorized federal law enforcement agencies to become involved with the investigation and pursuit of the offenders who had taken their victims across state lines or who had used the U.S. mail in furtherance of the crime. Because members of Congress were careful not to infringe on state's rights, the law specified, somewhat arbitrarily, that 72 hours had to pass before allowing law enforcement officials to make the presumption that the victim was or could have been taken over state lines. In August 1956,

reflecting improvements in transportation and communication, the time that had to pass was decreased to 24 hours. The federal law enforcement agency assigned primary jurisdiction for kidnaping was, and continues to be, the Federal Bureau of Investigation.

The original Lindbergh Law called for a maximum of life imprisonment, but in 1934 President Franklin D. Roosevelt requested, and Congress agreed, that the law be amended to include imposition of the death penalty if the victim had been killed any time during the commission of the crime and if the jury specifically recommended that penalty. The amendment (18 U.S.C. 408a), effective May 18, 1934, stated that the jury was barred from recommending the death penalty if the victim had been “liberated unharmed,” but it did not define unharmed. In 1945, the Supreme Court affirmed the jury’s right to impose the death penalty when the victim was harmed but released alive (*Robinson v. United States*), but in 1968 the court invalidated that portion of the law, finding that since the death penalty could only be imposed by a jury verdict, and not by a judge, the provision made “the risk of death” the price for asserting the right to a trial by jury (*United States v. Jackson*). An additional amendment in 1934 made conspiracy to commit a kidnaping a federal crime even if commission of the crime was unsuccessful, a section of the law that remains in effect.

The media frenzy surrounding the Lindbergh baby kidnaping was intense. Lindbergh was a famed aviator who had flown nonstop, solo from New York to Paris in 1927 and his wife, Anne Morrow Lindbergh, whom he married two years after his historic flight, was an author and the daughter of wealthy parents. The child, Charles A. Lindbergh Jr., was taken from his home in Hopewell, New Jersey, on March 1, 1932; a ransom note found in his nursery demanded \$50,000. Posters seeking information featured the photos of the blond and dimpled, 20-month old boy, whose body was discovered on May 12, 1932. The arrest of Bruno Hauptman in September 1934 brought extensive publicity to the recently created New Jersey State Police and its 26-year-old superintendent

H. Norman Schwarzkopf. The trial, which began on January 2, 1935 amid strong anti-German sentiment in the nation, has been likened to a carnival and was believed to have been the most widely covered trial up to that time. Hauptman was convicted after a six-week trial and executed on April 3, 1936. In the aftermath of the crime and resultant publicity, the Lindberghs had in 1935 moved to England. Uneasiness about the guilty verdict, though, persists to the present time.

The original term *kidnapping* was applied in 17th-century England only to the abduction of children; quite literally napping (or stealing) children (kids), but eventually came to designate the same offense with regard to adults. Kidnapping involves the seizure, confinement, and abduction of another by force or threat of force against the victim’s will. Kidnapping occurs if the purpose of the abduction is to (1) obtain ransom or reward; (2) use the victim as a shield or hostage; (3) facilitate the commission of another offense, such as robbery or rape; or (4) terrorize or inflict bodily injury on the victim. The crime may occur even with the consent of the victim if the removal is induced by fraud or if the victim is legally incompetent to give valid consent, is a child, or is a feeble-minded person. While traditional kidnappings continue to occur throughout the world, where financial gain through payment of a ransom is the motive for the crime, kidnaping has also become closely associated with hijacking, skyjacking, hostage-taking, and other terrorism-related activities.

Hijacking, defined as the forcible seizure of a vehicle while in transit in order to commit robbery, extort money, kidnap passengers or crew, or carry out other crimes, had earlier been called highway robbery. Initially applied primarily to the theft of goods in transit by truck, it also came to include the taking of ships (piracy) and, by the 1950s, of airplanes (air piracy), when the term *skyjacking* was coined. The Federal Aviation Act of 1958 was amended in 1961 to make aircraft piracy a federal crime, defining the act as exercising control, by threat of force with wrongful intent, of any aircraft in flight in air commerce (49 U.S.C. [Supp. IV] 1472 (i)). Initially the Air Operations Area was

considered the nonpublic areas of an airfield, for example the runways, taxiways, and under or around the aircraft, but it is now understood that once people enter the secure area of the airport, past the screening positions, they have entered federal jurisdiction. Skyjackings of U.S. aircraft became a serious problem in the 1970s; in 1973 the Federal Aviation Administration required airlines to begin searching passengers and checking carry-on baggage and instituted the Sky Marshal program of having armed officers on selected flights. Although these precautions, as well as international agreements, alleviated the problem, the skyjacking and crashing of planes into the World Trade Center in New York City, the Pentagon, and in rural Pennsylvania on September 11, 2001, has renewed concerns over the safety of air travelers.

Kidnapping has also been extended to include hostage-taking even though the term *hostage* was not included in the original law. The addition of hostage-taking to the terrorists' repertoire resulted in the 1980s in passage of 18 U.S.C. 1203, which defines as federal violations specific types of hostage situations that differ from state criminal definitions. Hostage-taking as a form of kidnapping was thrust into the lexicon of crime on September 5, 1972, when eight members of Black September, a splinter group of the Popular Front for the Liberation of Palestine, crashed their way into the Israeli living quarters at the Olympic village in Munich, Germany, killing two Israeli athletes and capturing nine others. As the world looked on through the eyes of almost 3,000 members of the news media, the terrorists held the athletes bound and gagged for almost 18 hours. Attempts to negotiate with the

hostage-takers were unsuccessful, as was a rescue attempt at the airport. The failed rescue resulted in the deaths of the nine hostages, five of the terrorists, and one police officer. It also led police departments around the world to create hostage negotiating units, a new response to this politically charged version of kidnapping, in which achieving a worldwide stage to publicize political demands replaced financial gain as the rationale for the crime.

Such situations were far from the thoughts of those who created the Lindbergh Law, which today has been expanded to define kidnapping to include any situation in which a bystander becomes a human shield. Air piracy and hostage-taking are examples of how a law created in response to a narrowly defined set of actions can be applied to a broader array of criminal activities.

*Frank A. Bolz, Jr.*

*See also* Federal Air Marshal Program, Federal Aviation Administration

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## ☞ MANN ACT

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The passing of the White Slave Traffic Act of 1910 (36 Stat. 825), popularly known as the Mann Act, was the federal government's regulatory response to the white slavery hysteria that gripped the country during the early years of the 20th century. The act, which applied the commerce clause of the Constitution to combat prostitution, contained vague language that was broadly interpreted by the Supreme Court. Its enforcement at times created the potential for blackmail, criminalization of the women it was designed to protect, and abuse of prosecutorial discretion. As the number of investigations and violations increased, so too did the scope and responsibilities of the Federal Bureau of Investigation (FBI)

Although many cities, homes to red light districts, dealt with prostitution on a local level, the issue received national attention when concerns over increased immigration, urbanization, and women's independence led middle-class Americans to fear an erosion of traditional white Protestant values. From 1910 to 1914, white slavery hysteria peaked. Influenced by purity reformers and vice commission reports, a significant portion of the American population apparently believed that large numbers of white women and girls from rural areas were going to the cities and being coerced by

scheming foreigners into lives of prostitution. This, coupled with the government's desire to fulfill its obligation to a 1908 international agreement for the repression of trade in white women, called for a national remedy.

James R. Mann, Illinois congressman and chairman of the House Committee on Interstate and Foreign Commerce, drafted a bill that treated white slavery as interstate commerce and made it a federal crime to transport a woman or girl from another country or state "for immoral purposes." Although couched in general language, the little debate there was over the bill emphasized that it was framed to specifically address the commercial traffic of women. President William Howard Taft signed it into law in 1910.

Early Supreme Court rulings, such as *Hoke and Economides v. United States* (227 U.S. 308), affirmed the law's constitutionality. Its scope was addressed in cases such as *Wilson v. United States* (232 U.S. 563) in 1914, which found that intent of immoral activity was enough to violate the act, and in *United States v. Holte* (236 U.S. 140) in 1915, which found that a woman could be party to a conspiracy. In 1917, the landmark case *Caminetti v. United States* (242 U.S. 470) was decided. In this, the Court ignored legislative intent and found that two men who transported their willing mistresses across state lines violated the act even though there

was clearly no financial motive. This application of the law in noncommercial cases led to incidents and fear of blackmail and changes in law enforcement.

Earlier, in 1908, the attorney general had created the Bureau of Investigation (later to become the Federal Bureau of Investigation) in the Department of Justice. Originally maintaining operations only in Washington, D.C., Mann Act investigations gave the new agency its impetus for growth. In 1910, the first field office was opened in Baltimore. In 1912, its director, Stanley W. Finch, resigned to take the newly formed position of special commissioner for the Suppression of the White Slave Traffic, a division of the Bureau. In this role, he developed a plan to use part-time agents to work with local law enforcement officers to make detailed censuses of brothels. This system became obsolete as prostitution moved underground. By 1914, Finch's office was abolished and enforcement of Mann Act violations once again fell under the rubric of the parent division.

The *Caminetti* decision created a surge in investigations as large numbers of individuals lodged complaints based on their limited understanding of the law. The 1937 annual report of the attorney general listed the number of FBI Mann Act investigations between 1922 and 1937 as 50,500. During that period, the number of convictions in any given year ranged from only 203 to 528. In the decade following *Caminetti*, as young people tested the limits of sexual mores, prosecutors zealously pursued convictions in noncommercial cases. After 1928, however, noncommercial cases were pursued less frequently and only at the discretion of the FBI and prosecutors. These usually involved politically unpopular individuals. At the end of the 1930s and into the 1940s, J. Edgar Hoover, then the director of the FBI, personally led several high-profile vice raids and used investigations to get information that would help his political career.

The number of Mann Act convictions declined throughout the 1950s and the sexual revolution of the following decades resulted in a judicial reinterpretation of the term *immoral purpose*. Eventually, the Department of Justice urged its offices to exercise restraint in applying the act and the number of

convictions dropped steadily so that by 1980, there were only 14. The act was amended in 1978 (92 Stat. 7), 1986 (100 Stat. 3510), and 1994 (108 Stat. 2037) to address male prostitution, the use of children in pornography, and interstate or foreign travel for the purpose of engaging in a sexual act with a minor. The 1986 amendments included a change in language that replaced the term *immoral purpose* with “any sexual activity for which any person can be charged with a criminal offense.” The Mann Act, as amended, is still in force today.

Nancy Egan

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## ☉ MARIJUANA TAX ACT

The hemp plant, which grew abundantly in Colonial America, was used for many years beginning in the 1600s to make rope, as bases for paints and varnishes, and in birdseed. It was not until the early 1900s, however, that the smoking of marijuana, the mixture of dried, shredded flowers and leaves that comes from the hemp plant, was introduced to American culture. And it was not until 1937 that the first federal law to restrict the usage, distribution, and production of marijuana—the Marijuana Tax Act—was passed.

After the Mexican Revolution of 1910, Mexican immigrants flooded into the United States, and smoking marijuana (as hemp had been known colloquially in the Sonoran region of Mexico) became associated with these immigrants. Fear and prejudice about the Spanish-speaking newcomers and the drug many of them used developed and eventually

became widespread. During the Great Depression, massive unemployment increased public resentment and fear of Mexican immigrants, escalating public and governmental concern about the problem of marijuana.

In large measure, the hysteria created over marijuana, which ushered in the Marijuana Tax Act, was motivated by a desire to destroy the burgeoning hemp industry. Cheap, durable hemp paper posed a dire threat to timber companies, who feared that hemp would be used for paper and plywood instead of trees. The attack on the hemp industry was twofold: a massive propaganda campaign demonized cannabis in the eyes of the public, and the power of government was used to cripple and eventually exterminate industrial uses of hemp. The two leaders of the antimarijuana campaign who played a key role in the drug's criminalization were Harry Anslinger and William Randolph Hearst. Anslinger was the commissioner of the Federal Bureau of Narcotics (FBN) from 1930 until 1962. Beginning in the early 1930s the FBN flooded the nation with educational propaganda against marijuana use, portraying its use as a great menace that needed to be controlled because it was directly linked to crime, induced violent behavior, and caused insanity.

An ally of Anslinger was William Randolph Hearst, whose chain of newspapers made him among the most influential men in America. He also owned vast timber holdings, which fed the paper industry. He and other industrialists (including his friend Lammont Du Pont, who supplied chemicals that were needed for making paper) wanted industrial cannabis production to be stopped. Hearst warned his readers of terrible crimes attributed to marijuana and those who used it. Hysterical stories that denigrated Mexicans, African Americans, and jazz musicians whipped readers into a frenzy.

After a few years of this campaign, the FBN effectively lobbied for the passage of the Marijuana Tax Act, which was signed into law by President Franklin D. Roosevelt on August 2, 1937, and went into effect September of that year. At the congressional hearings, Commissioner Anslinger had claimed that marijuana was an addictive drug that produced in its users insanity, criminality, and

death. The only witness to appear in opposition to the administration's proposal, an American Medical Association spokesperson who argued that the evidence against marijuana was incomplete, was barraged with hostile questions.

The act outlawed marijuana in America, classifying it as a narcotic and placing it under essentially the same controls as the Harrison Act had done with opium and coca products. The tax act did not criminalize the cultivation or transfer of marijuana. Rather, the bill charged a \$100 per ounce tax on any commercial hemp transaction, which made American hemp noncompetitive. As a result, all hemp used by America had to be imported. Marijuana was criminalized, and the hemp industry died.

*Barry Spunt*

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## ☞ MILITARY POLICE, DEPARTMENT OF THE ARMY, DEPARTMENT OF DEFENSE

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The Military Police Corps of the U.S. Army traces its roots to the Revolutionary War, but despite its presence in some form during each subsequent war in which the United States was involved, it was not until 1941 that it was established as a permanent branch of the Army. Each arm of the U.S. military, which includes the Army, Marine Corps, Navy, Air Force, and Coast Guard, has its own police force. On military installations around the world, the Army's Military Police Corp, known as military police or MPs, performs roles similar to a civilian police force. MPs enforce military laws and regulations,

control traffic, prevent and investigate crime, apprehend military absentees (soldiers absent without leave), and provide physical security for military personnel and property. They also maintain custody of military prisoners. In combat situations, they have the added duty of maintaining custody of prisoners of war (POWs) and may be ordered to fight with infantry soldiers.

General George Washington formed the first provost unit, the Marechaussee Corps, on May 27, 1778, to perform police functions at Continental Army camps and in the field. The name of the unit was borrowed from a French term for provost troops, and it was commanded by a provost marshal who held the rank of captain. The unit's responsibilities were similar to modern times. Candidates, selected from the ranks, patrolled the camp and its surrounding area to detain fugitives and generally prevent crime. During actual fighting, unit members rounded up stragglers and prevented desertions. Beginning what would be the history of military policing units being disbanded at the end of hostilities, the corps was disbanded in 1783, only for a similar unit to be formed during the War of 1812 and again during the Civil War. During the Civil War, General George B. McClellan, commander of the Union Army, established the Office of Provost Marshal General of the Army and extended the jurisdiction of military police to areas off base to include regulation of places of public accommodation and amusement where soldiers might congregate and to control access of civilians to military areas. This began a tradition of MP involvement with tradespersons and others who conduct business with the military. General McClellan also assigned provost personnel, often wounded soldiers or those unable for other reasons to fight, to secure draft offices, a dangerous job when protesters attempted to avoid the draft, as they did in New York City in July 1863.

After the United States entered World War I in 1917, the War Department in 1918 again created military policing. In addition to their traditional policing functions, unit members maintained POW camps and transported close to 50,000 prisoners. Yet from the end of World War I until World War II, law enforcement duties were primarily performed

on a temporary and rotational basis by members of the service, and most of the training was informal and on the job. As the law enforcement responsibilities continued to expand and become more complex, the role of the military police in the Army became more professional and formalized. On September 26, 1941, the Military Police Corps was finally officially established and given permanence within the Army chain of command. A Military Police Service School was established at Fort Myer, Virginia, in 1941 to train MPs in military law, traffic control, police methods, and criminal investigation.

The current training facility, The U.S. Army Military Police School, located at Fort Leonard Wood, Missouri, has far broader mandate. Training for MPs, along with other law enforcement personnel for other branches of the military, includes classroom instruction on civil and military laws, law enforcement administration, investigation procedures and techniques, traffic control, evidence collection, prisoner control and discipline, and combat skills, including the use of a wide array of firearms. Personnel also receive on-the-job and specialist training. MPs receive training that is not only very similar to law enforcement training in the other branches of service but that has begun more and more to resemble the training for civilian police officers. Soldiers are required to complete 9 weeks of basic training, followed by another 8 to 12 weeks of advanced classroom instruction and on-the-job training. Recent changes in training have stressed both urban warfare and urban crime problems. Officers are taught how to question crime victims, including those who may have suffered sexual violence, as well as procedures of house-to-house searches to locate either crime victims or suspects.

As the nature of war has changed to numerous peacekeeping missions, the role of the MPs has continued to evolve. No longer just responsible for base security, enforcing military law and regulations, or even securing POWs, they have expanded their general law enforcement duties to handle a variety of emergencies and such general police duties as protecting designated buildings, public works, and localities of importance from looting, sabotage, and damage; performing security investigations;

protecting supplies and equipment, and learning how to master the nuances of rape kits and domestic violence cases. The new roles are further complicated by shifts in the military that are expected to transfer more policing roles from full-time military personnel to reservists, whose civilian jobs may not prepare them for the multifaceted responsibilities of today's Military Police Corps.

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*See also* Military Policing

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## ✎ MILITARY POLICING

The U.S. military is comprised of the Army, Marine Corps, Navy, Air Force, and Coast Guard. Each branch of the armed forces has an internal law enforcement force that is unique to its own branch and that has specific peace- and wartime missions. Law enforcement forces, in general, are responsible for protecting military resources and bases; protecting coastal waters and shores; enforcing military law and regulations; preventing crime; protecting individuals, property, and classified information; and guarding military correctional facilities.

The U.S. Army Military Police School at Fort Leonard Wood, Missouri, provides law enforcement training for all branches of service. Training for law enforcement personnel typically includes an

average of 7–28 weeks of classroom instruction. Classes include instruction on civil and military laws, law enforcement administration, investigation procedures and techniques, traffic control, and prisoner control and discipline. In addition to classroom instruction, personnel receive on-the-job training and, depending on the military occupational specialty (MOS), some personnel receive specialty training. As the law enforcement organization and roles in each branch have evolved, so have the titles, ranks, and responsibilities, but the primary missions have remained the same.

### AIR FORCE

Aviation in the military began in the early 1900s. Aviation operations were placed under the umbrella of the U.S. Army Signal Corps. Aviation operations in the Army went through several changes and finally became the Army Air Service on May 24, 1918. The mission of the Army Air Service was to provide protection for the military ground forces. At that time, law enforcement duties in the Army Air Service were primarily focused on guarding aircraft and were simply an extra detail for personnel.

After World War I (1926), the Army Air Service became the U.S. Army Air Corps (AAC) and remained the AAC until World War II. With the advent of World War II, and with projections for record growth, including the use of 60,000 airplanes, the semiautonomous United States Army Air Force (USAAF) was created within the Army in 1941. The creation of the USAAF led to the construction of hundreds of air bases that needed to be secured and protected. The difference between the traditional role of the military police (MP) in the army and the new role of the military police guarding air bases became evident.

Black enlisted men, serving in the newly formed Air Base Security Battalions (ABS Battalions), were the first troops to be charged with defending the new airbases. During World War II, the ABS Battalions continued to provide domestic base duties, but also began to perform general police duties in the war zones. This new role in World War II led to a new designation, both domestically (Guard

Companies) and overseas (Military Police Company, Aviation). The end of the war led to military downsizing, ultimately releasing the most trained and experienced law enforcement personnel. At this time, the training of new law enforcement personnel became virtually nonexistent.

After the war, in 1947, the Air Force became an autonomous branch of the armed forces and the groundwork for a new law enforcement force began. The new law enforcement force became known as the Air Police, but changed to Security Police in 1966, followed by Security Forces in 1997.

The primary mission of contemporary Security Forces is to protect and control access to bases, protect resources and classified information, perform general police duties (including traffic patrol, crime prevention and investigation, and guarding of inmates), and engage in antiterrorism efforts. Training for the Security Forces includes classroom instruction and on-the-job training in law enforcement security, combat skills, and other specialized areas such as traffic management, accident investigation, and corrections.

Throughout the years, the law enforcement force in the Air Force has been periodically renamed and reorganized with various efforts to upgrade and clarify goals, missions, and law enforcement duties and will continue to do so in the face of new international challenges.

## **U.S. COAST GUARD**

The forerunner of the U.S. Coast Guard (USCG) (1790) was called the cutters. The cutters was a small maritime force that was responsible for enforcing national laws and protecting the coasts and other maritime interests. By 1799, the formal role of the cutters in the military was established. The responsibilities of the cutters continued to expand as the nation expanded and included assisting those in distress; enforcing laws against slavery, piracy, and smuggling; and protecting the maritime environment.

The primary mission of the original cutters continues today with the USCG performing general law enforcement, humanitarian, and emergency-response

duties, including the enforcement of maritime laws, the interception of drug smugglers and illegal immigrants, and the protection of ports, the flow of commerce, and marine resources. Thus, the USCG is an active law enforcement agency. In fact, the USCG is often referred to as America's maritime guardians.

In terms of personnel, there are two jobs that support the law enforcement function of the USCG, the *criminal investigator* and the *port security specialist*. Criminal investigators are specialists who provide support to the law enforcement and intelligence community. Criminal investigators in the USCG perform similar duties to those of civilian investigators, such as conducting background checks, investigating criminal acts, and analyzing evidence and intelligence information. They also provide protection services for various dignitaries and other officials.

Port security specialists protect ports, both domestically and internationally, against terrorism and other crimes; prepare for national defense operations; monitor and inspect vessels, waterways, and ports; and maintain the operational capability of the ports under all circumstances. The positions of criminal investigator and port security specialist are open only to the Coast Guard Reserves; they are not active duty positions.

The modern-day USCG is working in an increasingly complex and dangerous environment. The law enforcement responsibilities of the USCG have been heightened with the increased attention placed on homeland security after the terrorist events of September 11, 2001. As an integral part of the Department of Homeland Security, the USCG is on the front line of protecting the shores and waterways of the United States.

## **MARINE CORPS**

The role of the military police in the United States Marines Corps can be traced to World War I, when the military police protected supply routes, guarded military prisoners, and performed traffic control operations. Historically, these general law enforcement duties were performed by Marines from various occupational specialties on a temporary and rotating basis.

Marine military police battalions were established during the Vietnam conflict. The military police battalions maintained order and discipline on the battlefield, conducted traffic control operations and checkpoints, patrolled off-limit areas, and investigated drug violations, black-market transactions, and war crimes.

After the Vietnam conflict, significant changes occurred within the military police. A formalized MOS for military police in the Marines was established and the job was professionalized with the initiation of formal training. Marines received formal training at the U.S. Army Military Police School and the U.S. Army Criminal Investigation School at Fort Gordon, Georgia. One impetus for the formalized MOS of military police resulted from a media investigation of the abuse of prisoners of war in 1969. The rise of the drug culture in the 1960s, the civil rights movements in the 1970s, and increasing crime rates and racial tensions shifted the focus from wartime duties to general law enforcement duties.

Military police responsibilities include traditional law enforcement duties, such as maintaining order and discipline, conducting accident and criminal investigations, implementing crime prevention strategies, and general physical security. In addition, the military police are responsible for traffic control, antiterrorism efforts, monitoring brig (jail) operations and correctional custody units, and the handling and safeguarding of prisoners of war, refugees, and evacuees. Military police personnel receive classroom training as well as training in battlefield missions, in traffic control, in enemies of war operations, in area security, and in other law enforcement duties.

## NAVY

The master-at-arms (MAA) designation can be traced back to the 16th century Royal Navy. The sheriff counterpart aboard Royal Navy ships was responsible for securing and monitoring the weapons on the ship and also had the responsibility of training the crew in hand-to-hand combat should they need to fight enemy forces boarding the ship.

The American Navy service began with the Revolutionary War when a naval force was needed

to combat the Royal Navy. The master-at-arms position was mirrored by colonial forces, but remained a collateral duty until 1973 when it became professionalized and formalized with an official rating.

From the time of the Revolutionary War, the master-at-arms position became increasingly complex and important as the role of Navy wartime operations became more involved and the Navy became an increasingly vulnerable target. By World War I, the Navy was a major force in military operations and the function of the master-at-arms was to maintain order and security on the ship and to provide protection from potential enemy attacks.

The primary responsibilities of the MAA today are to maintain order and discipline, provide antiterrorism protection, and perform general law enforcement duties, including apprehending suspects, conducting investigations and interrogations, preparing required reports, operating brigs, and enforcing military orders and regulations.

Due to the nature of this job, selection of personnel is of the utmost importance. In order to enter this MOS, individuals must have normal color perception, no speech impediments, and a security clearance and must be U.S. citizens. Individuals receive both formal schooling and the on-the-job training. MAA's receive general law enforcement, traffic control, terrorist, and other specialized training.

## ARMY

The roots of the military police in the U.S. Army can be traced to the Revolutionary War, when a special unit of troops patrolled and protected military camps. This special military unit in the Continental Army was authorized by Congress in 1778 and was directed by General George Washington to perform law enforcement duties in the camp and the field.

From then until World War II, law enforcement duties were primarily performed on a temporary and rotational basis by members of the service, and most of the training was informal and on the job. As the law enforcement responsibilities continued to expand and become more complex, the role of the military police in the Army became more professional

and formalized. In 1941, the military police was officially established in the U.S. Army.

Today, similar to the military law enforcement roles in the other branches of the armed forces during peacetime, the military police are responsible for base security, general law enforcement duties, traffic control, responding to emergencies, and enforcing military law and regulations. Wartime duties of the military police include the enforcement of military laws and regulations, the maintenance of order and discipline, and traffic control. MPs are also responsible for such general law enforcement duties as protecting designated buildings, public works, and localities of importance from looting, sabotage, and damage; performing security investigations; protecting supplies and equipment; apprehending deserters; and escorting prisoners of war.

Training for this MOS is very similar to law enforcement training in the other branches of service. Soldiers are required to complete 9 weeks of basic training, followed by another 8 to 12 weeks of advanced classroom instruction and on-the-job training. Soldiers are trained and educated in civil and military laws and regulations, traffic control, investigation procedures, evidence collection, and combat skills, including the use of firearms.

All branches of the armed services have an internal law enforcement force that maintains order and discipline and performs basic police functions on military bases and on the battlefield. Although each force is unique in its branch mission, there exists a shared responsibility to perform law enforcement duties to protect military resources and personnel and ensure combat readiness of troops anywhere in the world.

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## ☉ MILITIAS

Militias are groups that deploy or encourage paramilitary rituals and use informal social networks, charismatic leaders, and various forms of consciousness raising to mobilize individuals on behalf of an ideology that expresses antipathy toward the federal government, multinational corporations and organizations (such as the United Nations), and international treaties (such as the North American Free Trade Agreement). Militias also seek to protect fundamental American rights such as individual liberty and gun rights. Because there is no national militia organization, not all militia groups are the same. For example, while some engage in military training, others, such as the Militia of Montana, only encourage others to train militarily since Montana laws prohibit paramilitary training activity.

The militia movement arose in the early 1990s as a reaction to federal legislation that limited gun rights and to perceived federal law enforcement misconduct. Initially, most of the American public was unaware of these groups. This changed, however, after the media linked them to the April 19, 1995, bombing of the Alfred P. Murrah federal building in Oklahoma City, Oklahoma. Although this attention led to a short-term increase in membership, the media's negative portrayal of militias ultimately resulted in diminishing membership for many of them. In the ensuing years a number of standoffs between armed groups and law enforcement officials (e.g., sieges occurred at the compounds of the Montana Freeman and the Republic of Texas) received media attention and reinforced the public's negative view of the militia movement. Despite some resurgence of militia activity, particularly in Arizona and California, the movement as a whole declined at the end of the 20th and the beginning of the 21st centuries.

Despite individual differences among the militia groups, law enforcement authorities and other

observers have been able to develop a number of generalizations that apply to many of them. Indeed, one of the most important aspects of the militia movement is the diversity of its beliefs.

## IDEOLOGY

Most militias deeply distrust centralized authority, federal bureaucracy, government encroachment, and multinational corporations. Their message to members stresses the primacy of the individual and local communities. Closely related is the desire to protect the sovereignty of the United States. Many militia members fear that a one-world government will be established that subordinates the U.S. government to global entities such as the United Nations and to international treaties and organizations. According to many militia supporters, foreign and international troops are already in the United States as part of a plan to do away with American independence and personal liberties. These troops are said to be acting on behalf of a shadowy global dictatorial elite that is commonly referred to as the new world order.

Some militia groups blame the media for demonizing them as well as numbing the American populace to the looming dangers. Sheeple (blind sheep) is just one of the terms applied to the general population by some militia and patriot supporters. Further, a number of movement activists assert that, unlike their brethren, they will not be lulled into complacency. They will do whatever is necessary to protect their republic's independence and their personal autonomy. This is why owning guns, indeed many and different types of guns and other weapons, is important. Their significance lies not in their utility for hunting or recreation but in their ability to defend liberty. Militia leaders wonder, moreover, how it is possible to infringe upon gun rights since guns (and revolution) are what created this country. National sovereignty, personal liberty, and private firearm ownership are thus not distinct issues but interrelated parts of a single issue.

Other beliefs flow from these core values. Some militias praise nature and the outdoors and campaign against federal land regulations. Similarly, a

number of militias endorse jury nullification as an important bulwark against corrupt government. Most in the movement firmly contend that the federal government has no right to tax the earnings of its citizens. Further, militias condemn public education as wasteful and maintain that public educators are brainwashing students. Some militia groups are also strong proponents of religion in general and specific social issue campaigns, in particular movements centered on antiabortion, antihomosexuality, and prayer in the public school system. Finally, certain militia groups focus heavily upon issues relevant to their local communities. The patriot and militia movements in Kentucky, for example, seized upon the campaign to legalize industrial hemp due to its importance to that state's farming community.

## ORGANIZATION

The movement is composed of diverse, independent local groups that sometimes communicate among themselves to further their ends. There are two main types of organizations. Many of the better-known militias (e.g., Michigan Militia, Missouri 51st Militia) are hierarchal, military-style entities. These militias tend to be more moderate and worry less about government infiltration. The employment of a public organization model is a calculated step, in fact, undertaken to reassure the public and law enforcement that they are not a threat. Militia members argue that part of their mission is to aid the government during times of natural disaster or other crises. These groups tend to decry racism and nativism, are less likely to embrace conspiracy theories, are more accepting of the political system, and attempt to work with local officials to achieve their goals.

Groups that are more distrusting and fearful of the federal government's intentions shun publicity. Some utilize the leaderless resistance model and operate in small underground cells. They also tend to be extreme and are more likely to subscribe to racism, anti-Semitism, and conspiracy theories. Some groups are a hybrid of these two. Apparently certain paramilitary groups organize in public but also have a secret wing that is open only to trusted

members. Finally, some researchers and law enforcement personnel contend that militia groups can be differentiated by their level of threat to the social order. These outsiders have also observed that the ritual that most distinguishes the militia movement is the military motif, paramilitary training, and the wearing of military style camouflage uniforms. This is not a novel phenomenon; the United States has a long history of far-right groups employing a paramilitary structure and engaging in private military training.

The militias recruit members by publicizing their agenda and activities. Patriot leaders with national reputations have toured the country setting forth the movement's beliefs and urging people to get involved. Similarly, militia groups circulate and sell books and audio- and videotapes and organize public meetings. Almost all militias operate Web sites on the Internet and engage in leafleting at venues such as gun shows or expositions, thought to draw individuals predisposed to their ideology. Further, some militias operate shortwave radio stations and rely on fax machines and e-mail to advertise their message. The most effective militia recruitment technique, however, is informal social networks—friends recruiting friends.

## THEORIES EXPLAINING MILITIAS

A number of explanations have been offered to account for the emergence of this particular style of paramilitary activity in the 1990s. One major thesis maintains that a paramilitary culture emerged as a result of cultural and structural changes that led to a decline in the power and status positions of many white native-born American males. This thesis begins by focusing on the Vietnam War. Because this military campaign was viewed as America's first overseas defeat, it proved upsetting to American males. In addition, since American culture and tradition argued that U.S. military strength reflected moral purity, the loss in Vietnam forced Americans to confront the possibility that their country was not ethical and just, which proved traumatic and stressful to many people.

Further, a number of domestic social movements emerged during this period that brought about significant changes in American society and threatened

white male power. The civil rights movement challenged and defeated most de jure racist restrictions and began curtailing de facto racist practices in society and was followed by the feminist movement, which was successful in achieving greater equality for females in the workplace and the home. At the same time, changes in U.S. immigration laws and policies led to a rising proportion of non-white immigrants entering the United States. Many white males viewed these changes as ominous and, according to some, began to experience feelings of frustration and anxiety that led to participation in an extreme social movement.

The paramilitary culture (which encompasses the militia and patriot movements) that emerged in the United States in the 1970s and 1980s is just such a world. In the pages of this culture's novels and magazines, and on the screens of its movies, white native-born American males are portrayed as morally upright. Nonwhites rarely appear in these stories and females are portrayed as either loyal submissive subjects or sexually dangerous creatures who must be tamed.

Another major perspective associates the emergence of the antigovernment militia and patriot movements with the farm depression that plagued rural America in the 1980s and peaked in 1987. The federal government was blamed for this downturn because it encouraged farmers to expand by taking out loans in the late 1970s. Many farmers overextended themselves and when interest rates increased they could not make payments, resulting in a surge in farm foreclosures.

Researchers maintained that the unique culture in rural areas magnified the problem. Rural culture places a premium on individual self-sufficiency and personal honor. To many people farming is a way of life, not just an occupation, and is central to their identity. Losing one's farm was traumatic and many could not cope. Moreover, although the depression began in the farm economy it took on a life of its own and devastated other, related industries. The effects soon spread beyond economic conditions to undermine the social fabric of communities. Economically depressed circumstances led to the weakening of social institutions. These economically

and socially weakened communities comprised of bitter, vulnerable individuals who externalized their rage and partially blamed the government for their circumstances were more likely to post higher participation rates in antigovernment groups.

## LAW ENFORCEMENT RESPONSES

The media and watch groups such as the Anti-Defamation League and Southern Poverty Law Center have consistently highlighted the militia movement's involvement in crime. Some scholars have argued that the movement, although sometimes unintentionally, fosters deviance and acts of political violence. Federal and state law enforcement authorities, in fact, have thwarted a number of criminal antigovernment plots involving militia and patriot members. Some of these crimes involved planned attacks against federal installations as well as violations of gun and tax laws.

Because the militia movement is stigmatized, feared by many in the general public, and viewed by some in law enforcement as a potential threat, it has garnered attention from law enforcement. Federal Bureau of Investigation agents Duffy and Brantley (1997) have argued that distinctions need to be made among different types of militia organizations and have urged local law enforcement agencies to open a dialogue with militia groups in their jurisdictions because "such contact should allow law enforcement representatives the chance to gauge and assess the true, or at least unprovoked, nature of the militia leaders." Local law enforcement agencies must be extremely careful while communicating with these militia groups "because different groups operating within the same geographic agency may pose varying degrees of threats." This is why local law enforcement agencies must make serious efforts to distinguish among types of militia groups. To aid in this process, Duffy and Brantley outlined a typology which consists of four different types of militia groups from the first (least serious) category, which "engages in no known criminal activity," to the fourth (most serious) category, whose members "plot and engage in serious criminal activity, e.g., homicide, bombings."

Meanwhile, Dr. Mark Pitcavage, the founder of the militia watchdog Web site, has noted that many confrontations between law enforcement personnel and militia and patriot members have occurred during traffic stops. For example, in 2002 and 2003 militia members in Michigan and Ohio were, respectively, involved in separate shootouts with law enforcement that resulted in the deaths of officers in the line of duty. Pitcavage has advised law enforcement officials to be vigilant during traffic stops and to pay attention for the following warning signs: strange license plates or bumper stickers (e.g., "sovereign citizen"), claims from the driver that he or she is not required to have a license, or that the driver is a law enforcement official from a strange-sounding agency. He has also advised officers who conclude that they are interacting with an antigovernment extremist to remain calm and vigilant (especially for the presence of concealed weapons) and to defuse any tension that might exist. In addition, officers are urged to humanize themselves and warned that they should not argue political ideology with the patriot member.

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## MOTHERS AGAINST DRUNK DRIVING

Mothers Against Drunk Driving (MADD) is the largest crime victims' assistance organization in the world with more than 3 million members and supporters. Members of this nonprofit organization are committed to stopping drunk driving, to preventing

underage drinking, and to supporting victims of these crimes and their families. The organization's slogan is "Voice of the Victim," with its primary focus on assisting victims through the justice process. MADD members have been instrumental in the passage of hundreds of federal and state anti-drunk driving laws, with the most recognized being the 1984 federal law requiring all states to increase the legal drinking age to 21.

Since MADD's inception, alcohol-related traffic fatalities have declined dramatically. Studies have documented that the 21 minimum drinking age law has saved an average of 1,000 young lives each year since its passage. In MADD's *Sanction Issues Compendium*, the organization reported that annual deaths from drinking and driving have decreased from approximately 28,000 in 1980 to 16,068 in 2000. The National Highway Traffic Safety Administration (NHTSA) also reports that from 1992 to 2000, the reduction in youth alcohol-related fatalities was similar to that for adults (6% and 7%, respectively) despite an increase in the youth population.

MADD was born out of two tragic drunk-driving fatalities. In 1979, Laura Lamb and her mother, Cindi Lamb, were hit head-on by a repeat drunk driving offender traveling at 120 mph in Maryland. Laura, who was five years old, became one of the world's youngest quadriplegics as a result of the crash. A few months later, a drunk driver who had been released on bail two days prior to the crash killed Cari Lightner, the 13-year-old daughter of Candy Lightner. The offender, with two drunk-driving convictions on his record, was released on bail for a hit-and-run drunk driving crash. The driver was carrying a valid California driver's license at the time of the crash. In 1981, the two mothers joined forces and created MADD—Mothers Against Drunk Drivers (later changed to Mothers Against Drunk Driving). By the end of 1981, MADD had 11 chapters in four states and was the recipient of a \$65,000 grant for chapter development from NHTSA. By the end of 1982, there were more than 190 MADD chapters operating within 35 states. MADD became nationally recognized after NBC produced a made-for-television movie titled "The Candy Lightner Story." A national poll revealed that 84% of Americans had heard about

MADD and most believed it was accomplishing its mission.

MADD's influence has extended into the legislative arena. In 1984, the Federal Minimum Drinking Age Bill was passed. This legislation won acceptance in all 50 states, making 21 the legal drinking age throughout the United States. During this same year, MADD went international when Canada became the first country outside the United States to charter a MADD affiliate. Project Red Ribbon was also introduced, and 1 million red ribbons were distributed to motorists who pledged to drive safe and sober during the holiday season. Not long after, a national 1-800 hotline was created to support victims of drunk driving.

By 1989, MADD had 407 chapters and 32 state offices, as well as affiliates in England, New Zealand, and Australia. By the end of 2002, MADD had more than 620 chapters with offices in all 50 states, including its first chapter on a Native American Indian Reservation. A Gallup poll conducted in 1989 revealed that Americans believed drunk driving was the main problem on the nation's highways. MADD held its first National Youth Conference, cosponsored by the National Association of Broadcasters and also formed Victim Impact Panels as a national program. Not long after, MADD filed an *amicus* brief with the U.S. Supreme Court over the constitutionality of sobriety checkpoints, which were later upheld. MADD subsequently established the week of July 4 as National Sobriety Checkpoint Week. It also introduced its "20 X 2000" plan to reduce the proportion of alcohol-related traffic fatalities another 20% by 2000 (this goal was met by 1997). Two years later, Gallup polls revealed that public sentiment was growing less tolerant of drunk driving and respondents were in favor of stiffer penalties for drunk driving.

A rise in national drunk driving fatalities in 1995 prompted more aggressive lobbying by MADD, which resulted in the passing of the Federal Zero Tolerance Law, geared at alcohol-related driving offenses among persons under the age of 21. To ensure compliance, this law tied federal highways funds to the passage of state-level versions. To avoid the withholding of funds, states were required to comply with the federal guidelines that set .02%

blood alcohol content (BAC) as the legal limit for all persons under the age of 21, make .02 BAC a per se offense (without proving intoxication), provide for primary enforcement, and authorize license suspensions and revocations for all violators. By 1998, zero tolerance legislation had been passed in all 50 states.

Kimberly D. Hassell

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## ☞ MOTOR VEHICLE THEFT ACT

Congress passed the Motor Vehicle Theft Act of 1919, 18 U.S.C.A. Section 2311-2313, on October 28, 1919. This act, commonly referred to as the Dyer Act, named after Congressman Leonidas C. Dyer (R-MO), made interstate transport of stolen motor vehicles a federal crime and authorized the Federal Bureau of Investigation to investigate vehicle thefts that crossed over state jurisdictional lines. Prior to 1919 most states had established comprehensive laws governing theft in its many forms. However, few states were prepared for the unique theft problems that resulted from the increased production, distribution, and accessibility of the automobile in the United States, which increased dramatically during the early part of the 20th century.

The automobile is particularly well-suited for theft. Vehicles are easily salable items that also

provide increased opportunities to commit other crimes and then allow offenders to quickly escape or flee the scene. Criminals have developed a distinct relationship with motor vehicles and are often known to both target motor vehicles for theft and to use them for crimes. Before passage of the Motor Vehicle Theft Act of 1919, local law enforcement's ability to apprehend motor vehicle thieves was impeded by state jurisdictional boundaries, especially in cities and communities near state borders (*Dowling v. United States*, 1985).

The Motor Vehicle Theft Act of 1919 provides for harsh sentences, including fines and imprisonment of up to 10 years, for those who are convicted of transporting stolen vehicles across state lines. As with all legislation that initially dealt with new problems, defining a number of the provisions of the law meant actually defining a motor vehicle and what constituted a stolen vehicle.

According to provisions of the Dyer Act, a motor vehicle includes automobiles, automobile trucks, automobile wagons, motorcycles, or any other self-propelled vehicle designed for running on land but not on rails. Transportation of a stolen vehicle in interstate or foreign commerce requires that the individual charged with the crime had received, possessed, concealed, stored, bartered, sold, or disposed of any motor vehicle or aircraft, which has crossed a state or U.S. boundary after being stolen, and that the individual knew that the vehicle was in fact stolen. For the purposes of the law, state was specifically defined to include any state of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

## FURTHER DEVELOPMENTS IN VEHICLE THEFT LEGISLATION

Since the passage of the Motor Vehicle Theft Act of 1919 there have been several additional initiatives passed by Congress to further combat motor vehicle theft.

In 1984 the Motor Vehicle Theft Law Enforcement Act was passed to facilitate the tracking and recovery of stolen vehicles and parts. This was Congress's response to the growing professionalism of

motor vehicle thieves, theft rings, and international trafficking. The act required manufacturers of high-risk theft vehicles to place the vehicle identification number (VIN) on the engine, transmission, and several additional parts. This effort was designed to thwart the professional chop shops that notoriously disassembled vehicles and rebuilt them with indiscernible stolen parts. The act allowed for the criminal prosecution of individuals responsible for altering or removing the VIN. In addition, it provided for the forfeiture and seizure of vehicles and parts found to be fraudulently altered.

The Anti-Car Theft Act of 1992 made it a federal crime to perpetrate an armed motor vehicle theft, also known as carjacking. Additionally, owning, operating, maintaining, or controlling a chop shop became a federal crime. The Motor Vehicle Theft Prevention Act of 1994 required the establishment of a national voluntary theft prevention program that would allow law enforcement officers to stop a vehicle based on owner-specified circumstances. Finally, the Anti-Car Theft Information Act of 1996 enabled state and federal law enforcement officers to instantly check a vehicle's title information to determine if the vehicle has been reported stolen.

Despite these and many other improvements in state and federal motor vehicle theft legislation, motor vehicle theft continues to be a serious problem in the United States and around the world. By the end of the 20th century, more than 1 million vehicles were stolen annually with a value of more than \$7 billion. Vehicle theft is a leading contributor to the high auto insurance premiums being paid by many motorists throughout the United States.

*Jeff Walsh*

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## ☞ NARCOTICS CONTROL ACT

The Narcotics Control Act (NCA) of 1956 was proposed in order to help eradicate the use and trafficking of narcotic drugs and marijuana. At the time of its proposal, the government estimated that 60,000, or 1 in 3,000, people were addicted to drugs and that approximately \$219 million was spent annually for drugs obtained through illegal sources.

Prior to the passing of the Narcotics Control Act, the Boggs Act, proposed by Senator Hale Boggs (D-LA) and signed and enacted in 1951, provided minimum mandatory sentences for first-time drug violators and brought together drug legislation of narcotics and marijuana for the first time. After the Boggs Act was passed, the government reported significant declines in drug arrests in the United States. Prior to the enactment of the Boggs Act, the average sentence for a narcotics violation was 18 months, but after the Boggs Act was passed, the average narcotics violator spent approximately 43 months in jail. The Narcotics Control Act was expected to achieve subsequent success in the eradication of illicit drug traffic by further increasing penalties for narcotic and marijuana law violations.

Specifically, the Narcotics Control Act imposed the following penalties: 2 to 10 years for a first offense of narcotic or marijuana possession; 5 to 20 years for a second offense; 10 to 40 years for a third

offense; up to a \$20,000 fine for any drug law violation; 5 to 25 years on a first time conviction for sales or smuggling; 10 to 40 years thereafter with a separate penalty of 10 to 40 years for sale by an adult to a minor, and 10 years to life imprisonment for heroin sale to a minor, with possible death sentence at the jury's discretion.

The Narcotics Control Act also eliminated the opportunity for probation, suspension of sentence, and parole for first-time offenders. Although the Boggs Act had imposed heavier mandatory penalties for repeat offenders, it also assigned lighter punishments to first-time offenders. However, proponents of the NCA believed that in order to prevent people with previous drug violations from recruiting people without such violations for trafficking, it would be necessary to impose stricter penalties on first-time offenders. It was thought that stricter penalties for first-time offenders would dissuade citizens from becoming involved in drug trafficking.

The Narcotics Control Act also, for the first time, included penalties for the use of communication facilities, including all public and private instruments used in the transmission of writings, signs, pictures, signals, and sounds by mail, telephone, wire, or radio in the violation of narcotic and marijuana laws under the NCA. Violators are subject to imprisonment for a period of two to five years and a fine of up to \$5,000.

Several measures in the act were designed to permit police and other law enforcement agents to operate more effectively. The NCA authorized more effective searches and seizures in narcotics cases. It also authorized the commissioner, deputy commissioner, assistant to the commissioner, and agents of the Bureau of Narcotics of the Department of the Treasury and officers of the U.S. Customs Service to carry firearms to execute and serve warrants and to make arrests without warrants for narcotic violations in which the violation is committed in the presence of the person making the arrest or in which there are grounds to believe that the person being arrested has committed, or is committing, such a violation. This subsection of the NCA also relaxed restrictions governing the issuance of search warrants in cases in which violations of the narcotic and marijuana laws are involved, allowing for the issuance of search warrants even if there was no direct evidence that the narcotic drugs sought were in the premises to be searched.

The Narcotics Control Act also allowed for a statutory method to grant immunity to witnesses in cases involving a violation of narcotic or marijuana laws. Furthermore, the NCA proposed that the United States has the right of appeal from certain court orders granting a defendant a motion to suppress evidence or return seized property. Finally, the NCA sought to strengthen applicable venue provisions so that the venue in marijuana cases would lie within the jurisdiction in which a trafficker was apprehended, as well as in the jurisdiction of acquisition.

The Narcotics Control Act also attempted to facilitate control of the international traffic in narcotic drugs. The act included a provision that states that a U.S. citizen who uses, or is addicted to, narcotic drugs or has been convicted of a narcotic or marijuana violation be prohibited from entering or departing from the United States without registering with a customs official, agent, or employee at the point of entry or a border customs station. The act also created a new offense by prohibiting the illegal importation of marijuana. Additionally, it presumes that unexplained possession of marijuana is sufficient evidence for conviction.

The NCA was one of more than 50 drug-use and trafficking laws that were consolidated into the

Comprehensive Drug Abuse Prevention and Control Act of 1970.

*Dryden Watner*

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## NATIONAL ACADEMY, FEDERAL BUREAU OF INVESTIGATION

Since its inception in 1935, the Federal Bureau of Investigation's National Academy (FBINA) has provided advanced law enforcement training to police officers from around the world. The National Academy, well-known throughout policing by the acronym FBINA, strives to improve professionalism, knowledge, and leadership training for law enforcement officers not only in the United States, but from foreign countries as well. The NA offers coursework to about 1,000 students annually through four training sessions each year on site at the FBI Training Facility in Quantico, Virginia. More than 36,000 officers, including 2,300 international officers representing 149 countries, are FBINA graduates.

Although the FBINA includes physical and skills training such as firearms proficiency in its coursework, it is best known for its academic and administrative courses that provide leadership and specialized technique training on a wide range of topics and that are recognized for credit by a number of undergraduate and graduate criminal justice programs around the country. In addition to being a training facility, the FBINA gives law enforcement officers the opportunity to share ideas, experiences, and techniques with other officers.

Officers wishing to attend the FBI National Academy must be nominated by their department and undergo an extensive background check and interview process. Most applicants are senior-level personnel already in management or recognized as future managers. Fewer than 1% of all officers are invited to attend the training facility for the FBI National Academy. In order to be eligible for admission to the FBI National Academy, candidates must meet the following criteria: They must be full-time officers of a law enforcement agency with at least five years of continuous service; must be at least 25 years of age and in excellent physical condition; must be of excellent character and reputation as law enforcement officers; must have shown an interest in continuing education through law enforcement service and training; must have a high school diploma or high school equivalency certificate; and must agree to remain in law enforcement for a minimum of three years after completion of the FBI National Academy.

## HISTORY

Former FBI director J. Edgar Hoover envisioned the National Academy as a law enforcement school that would “raise the level of professionalism nationwide by training local police officers.” Although Hoover felt that the training of law enforcement officers was a local matter, he believed that the federal government, and particularly the FBI, had an obligation to provide assistance in training through methods of scientific criminal detection and other law enforcement activities.

The National Police Training School began operation on July 29, 1935, in Washington, D.C. Twelve weeks later, 23 graduates completed a course that focused on practical training, problem solving, and administration. In 1941, the renamed FBI National Academy moved to the FBI’s training facility in Quantico, Virginia. The FBI National Academy has continually modified its curriculum to meet the changing needs of society and law enforcement. In response to World War II, the FBI added training to cover such topics as civil defense, treason, espionage, and sabotage investigation. In the 1950s, in response to the cold war, the FBI

National Academy added training centered on the investigation of communist sympathizers and communist organizations. During this time, the NA also added training centered on civil rights and organized crime.

The size and scope of the FBI National Academy was increased greatly in the 1960s and 1970s, due in part to an increase in funding directly related to the passage of President Lyndon B. Johnson’s Commission on Law Enforcement and Administration of Justice and the passage of the Omnibus Crime Control and Safe Streets Act. With the move to a self-contained training facility at the Marine Base in Quantico, Virginia, in 1972, the FBINA again changed the curriculum to meet the diverse needs of law enforcement agencies in this country. The NA began to offer more training that focused on drugs, civil terrorism, money laundering, and international crime. Eleven-week academic courses were added or modified to cover such topics as criminal law, behavioral sciences, education and communication, physical training, investigation and management, hostage negotiation, terrorism, and forensic sciences. What began with 23 students has grown to a 1,000 member per year institution with a curriculum that continues to change to meet the newest challenges in law enforcement.

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## NATIONAL ADVISORY COMMISSION ON CIVIL DISORDER (KERNER COMMISSION)

The National Advisory Commission on Civil Disorders, known as the Kerner Commission after its chair, Illinois governor Otto Kerner, was established by President Lyndon B. Johnson on July 28, 1967. It was formally constituted by Executive

Order No. 11365 dated July 29, 1967. After seven months of investigation, the commission issued its 425-page report, popularly known as the Kerner Report, on March 1, 1968. The commission found that racism was the underlying cause for the nation's recent riots and that unless reform was instituted America was "moving toward two societies, one black, one white—separate and unequal."

## SUMMERS OF UNREST

The summer of 1967, like many in its immediate past, was fraught with civil disorder and rioting. Urban violence in the United States ranged from full-scale rioting and looting to a range of minor disturbances in more than 150 cities. The Kerner Commission was charged with finding the causes of these riots and the factors underlying the explosive unrest that marred race relations in the United States. Civil disorders are a form of collective violence that interrupts the peace, security, and normal functions of a community. Starting with Birmingham, Alabama, in 1965 and escalating over the summer of 1965, riots marred many inner cities of the United States, including Watts (Los Angeles) (1965), Chicago (1966), and Newark, New Jersey (1967). On the date of the Kerner Commission's establishment, rioting was still underway in Detroit.

These urban riots, frequently called race riots at the time, were a violent counterpoint to the civil rights movement. The 11-member Kerner Commission was called to analyze the specific triggers of the riots, the underlying causes for their contagion, the roots of the widening racial discord, and potential solutions. Believing that violence—looting, murder, pillage, and arson—were separate from civil rights issues, President Johnson sought recommendations for a peaceful solution from the group of business, political, and civil rights leaders who formed the commission. Racism and economic disparity were found to be the underlying causes of the spiraling spasm of civil unrest. The commission concluded that the violence of the urban riots reflected the profound alienation and collective frustration of inner-city blacks. For the first time, an

official government report acknowledged the deep scars caused by racism.

In its chapter "Police and the Community," the Kerner Report explored the impact of police violence, misconduct, and brutality on minority-police relations. Citing contemporary sources, the commission underscored the impact of improper police conduct. For example, according to a 1965 Gallup poll referenced by the report, 35% of black men versus 7% of whites believed police brutality occurred in their areas. In Watts, an African American community at that time, 60% of residents between 15 and 19 believed there was police brutality, while half said that they had seen such misconduct.

## DEEP ROOTS OF CONFLICT

During the mid-1960s, the civil rights struggle seemingly threatened to shear the United States in two. Racial conflict—particularly black and white conflict—has deep roots in American society. Fear and apprehension of racial unrest further fuels the conflict. The commission issued its report at the height of conflict, warning that unless conditions in its cities were remedied, the United States faced a "system of 'apartheid.'" In April 1968, one month after the report's release, rioting broke out in more than 100 cities immediately following the assassination of Dr. Martin Luther King, Jr.

The explosive mixture then found in U.S. cities included segregation, pervasive unemployment, education and housing discrimination, and community instability as whites left the inner city and poor blacks moved in. The Kerner Commission noted a number of deeply held community grievances among African Americans at the time. These included police practices and discrimination in the administration of justice, unemployment and underemployment, inadequate housing, and inadequate municipal service among others. Scarce employment, inadequate education, poverty, and a lack of opportunity—perceived and actual—combined to fuel resentment of the police as a symbol of authority.

The Kerner Report documented that a deep reservoir of grievances underscored black relationships with the police and the broader community at large.

While specifics varied from city to city, common concerns were prejudice, discrimination, disadvantaged living conditions, and a broadly felt sense of frustration about the ability to change these entrenched conditions. Inaction by government and municipal authorities exacerbated this reservoir of frustration, providing the tinder for the riot process.

Similarly, precipitating incidents were found to exist prior to the outbreak of overt violence and widespread community disturbances. Specifically, the Kerner Commission identified the existence of triggering events that immediately preceded the outbreak of a riot or widespread disorder. These precipitating events generally occurred a few hours before the onset of the riot and within the general proximity of the riot's flashpoint. While seemingly minor in nature, these flashpoint incidents took place within the chronic, disturbed social atmosphere of the ghetto amid the reservoir of grievances held by the community. The cumulative mounting of tensions then ignited into violence.

## POLICE CONDUCT AND COMMUNITY PERCEPTIONS

This experience highlights the importance of police conduct (or misconduct) as a contributing factor to riot behavior. As the Kerner Commission found, real or perceived police abuse can be the spark or instigating event in incidents of unrest or civil disorder. Specifically, the Kerner Report noted that “almost invariably the incident that ignites disorder arises from police action. Harlem, Watts, Newark and Detroit—all the major outbreaks of recent years—were precipitated by routine arrests of Negroes by white officers for minor offenses.” Contemporary blacks viewed police action in the ghetto as being influenced by racist and disparate attitudes. The Kerner Report noted that the police had “come to symbolize white power, white racism and white repression.” According to the report, many police of the time did “reflect and express white attitudes.” The cumulative effect was that the “atmosphere of hostility and cynicism [among police] is reinforced by a widespread perception among Negroes of the existence of police brutality and corruption, and of a

‘double standard’ of justice and protection—one for Negroes and one for whites.”

The Kerner Commission made a major contribution to the understanding of police-community tensions, riot dynamics and, most important, the impact of racism on black and white relations and relations with the police. Race still plays a pivotal role in police-community relations. Brutality—real or perceived—still triggers unrest as the 1992 Los Angeles riots (which arose from the aftermath of the Rodney King beating) and many smaller-scale subsequent events attest. Concerns over racial profiling, disparity, brutality, and corruption continue, as does the recognition that community viability is an important factor in limiting violence, crime, and disorder, both in daily events and in catastrophic riots. The Kerner Report paved the way for this understanding and opened the debate on how to sustain a society and its police service across a racial divide.

*John P. Sullivan*

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## ☪ NATIONAL ASSOCIATION OF WOMEN LAW ENFORCEMENT EXECUTIVES

The National Association of Women Law Enforcement Executives (NAWLEE) was formed in early 1995 by a small group of women holding senior management ranks in police agencies throughout the United States. It was incorporated as a nonprofit organization less than a year later, in March 1996, with an initial membership of about 150 women. The women represented a variety of types of police agencies, including federal, state, county, municipal, campus, and railroad law enforcement agencies. At its first conference in July 1996, Alana Ennis, then the chief of the Duke University Police

Department, Durham, North Carolina, and a founding member of the group, was elected the first president. In 2002, during her term as president, Theresa Chambers became the first female chief of the U.S. National Park Police and the first chief to have been selected from outside the National Park Service. She had been serving as chief of the Durham City (North Carolina) Police Department. Also at the end of 2002, NAWLEE membership included approximately 350 voting and about 100 nonvoting members.

Although one of a number of associations of women in policing, NAWLEE is the only one created specifically for women in management ranks. Voting members must be in the rank of lieutenant or above; associate, or nonvoting, members may be of any rank. NAWLEE's mission is to further the interests of women executives and those who aspire to executive-level positions. Toward that end, it has fostered a close relationship with the International Association of Chiefs of Police (IACP). Although NAWLEE holds its own conference annually during the summer months, members also meet at the fall IACP conference and staff an information booth at the IACP conference to make attendees aware of NAWLEE. A number of NAWLEE members serve on IACP committees, including the executive committee, which provides an opportunity to have a voice in the larger agency's agenda. In 1999, Mary Ann Viverette, chief of police in Gaithersburg, Maryland, a founding member of NAWLEE, was elected sixth vice president of the IACP, the first woman vice president in the IACP's history. Following IACP policy of each vice president moving up one position annually, if Viverette remains a chief of police she will become president in 2006.

NAWLEE also joined with the IACP to support two studies of women in policing. The first, conducted in 1998 by the Gallup Organization, surveyed 800 police chiefs about their attitudes and actions toward women in policing. The findings indicated that most of the respondents believed their departments should have more female officers to better represent the demographics of their communities and that, while they expected the numbers of women in policing to increase in the 21st century,

few had specific recruitment strategies aimed at women. Small departments reported difficulties retaining women officers, primarily due to a combination of family responsibilities or the women seeking better job opportunities elsewhere, often with larger police agencies. Both groups also provided financial and logistical support in 2000 for a census of women police chiefs and a survey of women chiefs, sheriffs, and chief special agents of federal and state agencies to learn more about the career paths of women law enforcement executives.

Based on its focus on management issues and encouraging women to aspire to police management positions, NAWLEE's conferences differ from the groups that span all ranks. Presentations on mentoring, promotion, and leadership predominate, and members of the group are frequently called upon to serve on assessment centers and promotion boards set up by police departments around the country as one way to move from the more traditional pencil-and-paper tests to select personnel for management ranks. In an attempt to better serve members and to attract new members from the increasing numbers of women in higher ranks, NAWLEE appointed an executive director in 2003, selecting Diane Skoog, a NAWLEE member who had recently retired after serving for 12 years as chief of the Carver (Massachusetts) Police Department.

*Dorothy Moses Schulz*

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## NATIONAL BLACK POLICE OFFICERS ASSOCIATION

The National Black Police Officers Association (NBPA) is a national consortium of African

American police organizations in the United States. Established in 1972, NBPA provides a nationwide law enforcement network to address the needs, issues, and concerns of minority officers and the diverse communities that they serve.

Focusing on education, training, and policy issues in law enforcement and criminal justice, the goals of the organization are fivefold: improving the relationship between police departments as institutions and the minority community; evaluating the effects of police policies and programs within the minority community; serving as a mechanism to recruit minority police officers on a national scale; working toward police reform in order to eliminate police corruption, police brutality, and racial discrimination; and educating police officers to perform with professionalism and compassion.

NBPA is organized into five geographical regions (northeast, eastern, southern, midwest, and western) with each region having elected and appointed officers representing the black police associations in that jurisdiction. National officers, however, are elected from a board of directors, who are also responsible for the formulation of policy and the operation of the organization. A national office, located in Washington, D.C., formulates, coordinates, and monitors nationally funded projects and programs and serves as the administrative arm of the board of directors. NBPA in 2004 had a national membership of approximately 35,000 individual members and more than 140 professional and student criminal justice chapters across 34 states and the District of Columbia. In addition to its American constituents, NBPA has associate members and professional chapters in Bermuda, Canada, and the United Kingdom. Although the total membership of these international affiliates is not readily known, their objectives are identical to the parent organization, that is, improving the working conditions of black and Asian law enforcement personnel and improving law enforcement services to diverse communities.

The major activities of NBPA include an annual national education and training conference that provides workshops and discussion groups on current law enforcement and criminal justice issues and

policies and that serves as a forum for both recruitment and the dissemination of pertinent information. Training and educational conferences, newsletters, and career fairs are also provided by the regional and international chapters and organizations. As an educator and advocate for minority police officers and the issues that they face, the NBPA has been credited with doubling the number of minority officers in police organizations and improving the historically strained relationship between police and the community. Moreover, NBPA has provided publications that inform the public how to address issues such as being stopped by the police and has collaborated with the National Organization of Black Law Enforcement Executives to develop a strategy for community oriented policing.

In its advocacy role, NBPA has taken policy positions on numerous issues including community policing, crime prevention, police residency regulations, and women in police work. NBPA, for example, calls for cooperative partnerships between the community and police organizations for safer communities and argues that police officers should have official residency in the city or municipality in which they are employed. Of specific note are NBPA's policy statements on police-mediation center partnerships and the use of mediation in addressing complaints against the police. According to NBPA, police department-mediation center partnerships must allow police officers to empower disputing parties because the absence of the transfer of power in interpersonal disputes perpetuates racially discriminatory policing. In short, police department-mediation center partnerships must take into account the social justice issue of poor police-people of color relations as well as the problem of social subordination of people of color when police arbitrate or dictate where empowerment is appropriate. NBPA further argues that complaints of racial discrimination against police should not go through the process of mediation. Mediation assumes that all parties are on an equal playing field and affords the alleged victim dignity and respect, which are not normally characteristics of cases involving complaints of racial discrimination.

Facilitation, specifically conversations between two parties aided by a neutral third party, is proposed as a better strategy because it provides the victim with the opportunity to face the officer and explain how and why he was affected by the victimization and prevents society from ignoring the social responsibility of addressing racially discriminatory policing.

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## ☒ NATIONAL COMMISSION ON LAW OBSERVANCE AND ENFORCEMENT (WICKERSHAM COMMISSION)

In 1929 President Herbert Hoover created the National Commission on Law Observance and Enforcement. The commission is often referred to as the Wickersham Commission, named after George W. Wickersham, who served as its chairperson. The commission comprised several leading experts in criminal justice and law in the United States at that time. Some of the other members of the Wickersham Commission included Roscoe Pound, Newton D. Baker, Frank Loesch, Paul J. McCormick, Ada L. Comstock, William I. Grubb, William S. Kenyon, Henry W. Anderson, and Monte M. Lemann.

The Wickersham Commission was created in response to some of the major crime problems relevant to that time period, including organized crime and Prohibition. To better understand the state of crime and criminal justice in the United States, the Wickersham Commission conducted the first federal assessment of crime and the criminal justice system over a two-year time period (1929-1931).

The commission was composed of several committees that examined issues surrounding Prohibition, the major causes and costs of crime in the United States, the manner in which federal courts functioned, and the extent of lawlessness in all criminal justice agencies (including police, court, and corrections).

In 1931, the commission's study resulted in a final report that contained 14 individual volumes on the following topics: proposals to improve enforcement of criminal laws in the United States; report on the enforcement of Prohibition laws in the United States; report on U.S. criminal statistics; report on prosecution; report on the enforcement of deportation laws of the United States; report on child offenders in the federal system of justice; progress report on the study of federal courts; report on criminal procedure; report on penal institutions, probation, and parole; report on crime and the foreign born; report on the cost of crime; report on the police; and two reports on the causes of crime (labeled Volume 1 and Volume 2). The Wickersham Commission's final report offers an important historical look at the state of crime and the criminal justice system in the United States from 1920 to 1930.

In general, the final report produced by the Wickersham Commission revealed that the federal mechanisms for enforcing criminal law in the United States were insufficient and ineffective. The final report also stated that official lawlessness by criminal justice officials in all criminal justice agencies (including the police, courts, and corrections) was widespread across several jurisdictions in the United States. Several potential solutions to the identified problems within police, court, and correction agencies were also included in the final report. This was the first comprehensive study of the criminal justice system in America.

Two of the volumes of the final report were devoted specifically to the police. One, "Lawlessness of Law Enforcement," focused on police misconduct, whereas the other, "Report on Police," focused on issues involving police administration. Both of these reports had a significant impact on police policy; however, the report "Lawlessness of Law Enforcement" uncovered some disturbing information on the existence of police corruption

and some of the coercive techniques used by police officers and prosecutors, which in turn prompted some of the earliest attempts at the implementation of police accountability mechanisms.

### “LAWLESSNESS OF LAW ENFORCEMENT”

The report “Lawlessness of Law Enforcement” began by detailing the rights by which U.S. citizens are protected in regard to due process of the law under the Fourteenth Amendment and self-incrimination under the Fifth Amendment. In general, the report stated that there was evidence that these two specific rights had been widely disregarded by the police. As a primary example of the neglect of those rights, the commission identified the use of the coercive tactics to extract confessions and information from suspects, sometimes referred to as the third degree. The third degree is the use of psychological, emotional, or physical coercion to get suspects or witnesses to disclose information that the police could use to close cases faster or to get suspects to confess to involvement in criminal activities.

It was difficult for the commission to study the prevalence of the use of the third degree as those people who would employ such measures (including police officers, detectives, sheriffs, and prosecutors) would not be forthcoming with the information. To explore the use of the third degree the commission relied mostly on judicial decisions that outlined the use of such techniques. The commission also used survey and interview data collected during the course of members’ fieldwork in 15 cities across the United States. Individuals who were interviewed during fieldwork included judges, prosecutors, police commissioners, city managers, members of the American Bar Association, affiliates of the American Civil Liberties Union, prison associates, social workers, newspaper reporters, law professors, and managers of correctional facilities.

“Lawlessness of Law Enforcement” revealed that the use of the third degree was widespread and frequently used by law enforcement officials and prosecutors in both urban and rural areas. More specifically, the report noted that incidents involving the use of the third degree had taken place in

more than half of the states in the country in the 10 years prior to issuance of the report. It was also discovered that the use of the third degree was often coupled with other illegal practices including bribery, illegal arrests, fabrication of evidence and reports, entrapment of suspects, use of brutality by the police, the use of illegal wiretapping, and denial of the opportunity to have legal counsel present during the questioning of suspects.

The commission urged that all police agents and prosecutors abandon the use of the third degree and that police administrators not tolerate the use of such techniques by employees of their agencies. To support this assertion the commission provided a list of several evils that can result from using coercive techniques such as the third degree. First, the commission stated that the use of the third degree could create false confessions by suspects and witnesses. The third degree would also impair police efficiency as police officers might become less eager in the investigation for objective evidence outside of confessions by suspects and witnesses. This coercive technique would also likely impair the efficiency of the administration of justice in the court system because it could deflect the focus away from the guilt or innocence of the accused and turn the focus toward the legitimacy of confessions obtained by the police. And finally, the commission noted that the use of the third degree would harden police officers and lower public confidence in the integrity of the police.

### “REPORT ON POLICE”

The “Report on Police” focused specifically on issues involving police administration and policy. The ineffectiveness of the police at that time was believed to be the result of a combination of deficits identified within police organizations. For example, the commission revealed that chiefs of police lacked the ability to provide strong leadership in most U.S. police agencies. Low education levels, little experience with, or knowledge of, politics in policing, and the inability to earn the support of subordinates were identified as key problems in police administration. The involvement of politics

in American policing had proven to be problematic; thus the commission noted that police management should be aware of the problems that can result from such involvement. In fact, the final report strongly recommended that politics be completely removed from police organizations.

The commission's report also pointed out the need for hiring better qualified police officers. During the early 1900s there were no formal qualifications to become a police officer. In addition, there were no mandatory education requirements for police recruits. There was also no formal firearms training, which meant that most police officers acquired their marksman skills on the job. The commission believed that raising the standards of the hiring, recruiting, and training of police officers would result in higher quality police officers. In addition to raising the standards of recruitment, hiring, and training of police officers, the commission's report also suggested that employment benefit packages should be improved to adequately compensate police officers for their work. More specifically, the report noted that salaries, sick leave, vacation, death benefits, and pension plans should be adequate to provide police officers with respectable living standards.

The commission also found that the inefficiency and ineffectiveness of the police resulted from the lack of adequate communication systems and equipment. It foresaw that the deficit in communication systems would cause more problems for American police as cities continued to rapidly grow in size. The ability to use several types of communication tools (such as call boxes, teletypes, recall signal boxes, and radios) would improve police officers' ability to provide a higher quality of police service to the community.

Another part of becoming more efficient and effective would require that police agencies begin to systematically keep records of official police activities. The efforts of the members of the Wickersham Commission contributed to the creation of the Uniform Crime Report. The Federal Bureau of Investigation would play a key role in record keeping, as it would ultimately become the primary depository of police records. Sufficient record

keeping would allow police administrators to monitor their progress in crime fighting efforts over time.

An overload of duties placed upon police officers was also noted as a factor in the inefficiency of the police during the time of the Wickersham Commission. The increase in police duties resulted in part from the consistent increase in populations as people were moving from rural areas into cities. As populations increased in urban areas, the problems that police officers encountered became more complex. The combination of inadequate police training and an increasingly complex work environment resulted in police agencies that were not effective or efficient in any capacity.

And finally, the commission suggested that police agencies adopt specialized crime prevention units. Since most police officers spend their time identifying and detaining criminals, there would be little time left to create crime prevention strategies. Part of the crime prevention strategy would require the collaboration between police agencies and other social and community-based agencies including schools, social welfare agencies, probation agencies, and churches. The suggestion of creating crime prevention units within police organizations was one of the earliest attempts to make some police activities more proactive as opposed to purely reactive in nature.

The efforts of the Wickersham Commission initiated serious discussions of police reform in the United States. Each volume in the final report published by the commission identified problematic areas in the criminal justice system and also provided suggestions to make significant changes to American policing. It was not until the formation of the President's Commission on Law Enforcement and the Administration of Justice in 1965 that the criminal justice system and the administration of justice in the United States were as closely scrutinized and studied as they were by the Wickersham Commission in 1931.

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*See also* Federal Bureau of Investigation, Prohibition Law Enforcement, Uniform Crime Reporting Program, Volstead Act

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## ☞ NATIONAL CRIME INFORMATION CENTER

The National Crime Information Center (NCIC) is a nationally centralized database that collects, analyzes, and disseminates information on criminal activity. The information maintained and indexed in the NCIC system is collected from the Federal Bureau of Investigation (FBI), certain authorized courts, and various domestic and foreign criminal justice agencies and is maintained by the FBI.

By acting as a centralized information system, the NCIC assists law enforcement agencies in performing their duty to uphold the law and protect the public. The NCIC's computerized information system allows agencies to make inquiries and receive prompt responses regarding crimes and criminals. Examples of inquiries include information on fugitives, stolen property, or missing persons. The nationwide system houses about 39 million records and currently serves approximately 94,000 criminal justice and law enforcement agencies at all levels of government in all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and Canada.

From the time of its inception, NCIC transactions have multiplied from approximately 2 million a year to about 2.5 million a day. With the FBI accounting for only 1% of the transactions, the value of the

NCIC to various criminal justice agencies is clearly evident. Access to the NCIC is provided 24 hours a day, 365 days a year. Most state and local police agencies train their dispatch personnel in the use of the system and the computer terminals are usually maintained in the communications areas of most agencies. More recently, as police departments have placed computer terminals in patrol cars, immediate access can be obtained by police officers in the field. This is particularly important when the check is for a person who might have been stopped by the officer, who is now trying to determine if that person is a fugitive or if the vehicle stopped may be stolen.

A dramatic example of how NCIC information is transmitted was the capture of Timothy McVeigh, the Oklahoma City, Oklahoma, bomber, in 1995. The FBI had identified and traced the rented truck that was involved in the Oklahoma City bombing. Employees at the rental location were interviewed and helped the FBI to prepare a composite drawing of the individual who rented the truck. The composite drawing was then locally circulated. The owner of a local motel remembered a man in a similar truck and later identified the man as McVeigh. Based on the identification, the FBI submitted an inquiry to NCIC and learned that McVeigh had been arrested on the day of the bombing on a traffic violation and was being held in the Noble County Jail in Oklahoma.

This is exactly the scenario the FBI had in mind when it created the NCIC in 1967 as a central crime clearinghouse for collecting and disseminating basic information useful in criminal investigations. One of the original purposes of the NCIC was to assist law enforcement in tracing and tracking stolen vehicles. Since its inception, however, the NCIC has continuously broadened the scope of the system to include information on missing, unidentified, and wanted persons; criminal histories; stolen property; and violent gang and terrorist activity.

### NCIC 2000

The increasing need of agencies to access immediate and accurate crime information, coupled with the recent and rapid advancements in technology, has led to upgrades to the NCIC system to take

advantage of improvements in computer technology and software. Generally, the NCIC 2000 system has expanded the types of information gathered and made available to agencies and has added specialized features, such as photo imaging, that aid criminal investigations. The increased crime-solving capabilities of NCIC 2000 assist law enforcement in locating criminals by increasing the exchange of information among law enforcement and criminal justice agencies. For example, prior to recent improvements the database only allowed the entry of stolen or recovered guns, but with the improvements in the database, users can now also enter guns that are missing. The expansion of the pool of identified guns enhances the crime-solving capabilities and ability to aid agencies in gun investigations.

The NCIC 2000 system is capable of providing image processing (such as mug shots, signatures, and identifying marks such as scars, birthmarks, and tattoos), automated fingerprint matching, and online validation of records. The system is also capable of storing and providing for retrieval digital images of records pertaining to persons, vehicles, and articles. Photo images can also be retrieved and attached to the matching text records of the individuals or items in question. It also allows multiple inquiries to be submitted collectively on wanted and missing persons, vehicles, boats, or articles and the collected information to be received online. One immeasurable use of such features is the ability of patrol officers to have instantaneous access to the information, helping to ensure officer safety by identifying potentially dangerous individuals and also by helping officers to identify wanted and missing persons during traffic stops.

The increase in the volume and type of information stored in the system has broadened the crime-solving tools available to law enforcement. One new feature of NCIC 2000 is its ability to logically link related records on crimes and criminals. In addition, new crime databases, including the Convicted Sexual Offender Registry and the Convicted Person on Supervised Release databases, assist law enforcement in locating potentially dangerous individuals.

The expanded capabilities of the NCIC 2000 are numerous. In addition to the specific features

discussed, the system has 17 databases. It can accommodate searches using variations in name spellings, permits access to online manuals, and provides data quality checks. There are also several security measures in place to protect the information in the system and to prevent unauthorized access to the system.

## CHALLENGES FOR THE FUTURE

Recent updates to the NCIC system were primarily initiated so that it would continue to be useful to law enforcement agencies. The system itself, and its databases, must be responsive not only to law enforcement, but also to technological and societal changes. In order to evaluate and maintain the effectiveness of the system, there are built-in evaluation mechanisms that examine both the usage of the system and the benefits it provides to the users.

The NCIC 2000 faces challenges in increasing users' abilities to access the system to its full potential. In order for agencies to fully utilize the enhanced system, they must have the technological resources, including computers, monitors, software, printers, scanners, digital cameras, and the computer infrastructure. It is also imperative that agencies provide adequate technical training of employees.

Technology has become an important crime-solving tool for law enforcement agencies. The technological advances provided by NCIC 2000 not only provide the most up-to-date and technologically advanced crime-solving tools, but also facilitate cooperation and communication among various agencies, enhancing the ability of law enforcement to reduce and prevent crime.

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## ☞ NATIONAL CRIME VICTIMIZATION SURVEY

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The National Crime Survey (NCS) was introduced by the Bureau of Justice Statistics (BJS; part of the Department of Justice) in 1973. In 1993, BJS implemented a major methodological redesign of the NCS and revised the name to the National Crime Victimization Survey (NCVS) to reflect the intent of the survey. Until the introduction of the NCS the primary source of crime information in the United States was the Uniform Crime Reports (UCR), a summary-based reporting system of crime reported directly to the police. The NCS/NCVS was designed to serve as a complement to the UCR by providing additional information on many of the same offenses reported through the UCR. However, the NCS/NCVS provided additional benefits not available through the summary-type reports of the UCR. The NCS/NCVS collects previously unavailable information on crimes suffered by individuals and households, the victims of these crimes, and the offenders who perpetrate these offenses. In addition, and maybe more important for policy purposes, the NCS/NCVS also collects information on crimes that were not reported to the police.

Twice each year, the U.S. Bureau of the Census, on behalf of BJS, conducts interviews with all household members age 12 or older from a nationally representative sample. In 2000, about 45,000 households were included in the sample, providing BJS with nearly 160,000 completed surveys for the year. BJS reported that it received a 93% to 96% response rate for eligible households and just slightly lower (around 90%) for eligible individuals. Households generally remain in the sample for three years. The sample selection is staggered to allow new households to be rotated into the sample on an ongoing basis.

Prior to the introduction of the NCS, the UCR was the primary source of crime information in the country. Although the UCR was beneficial in displaying trends and monitoring changes in crime rates between jurisdictions and over time, it offered little information on the victims involved in the

incidents and virtually no characteristics of the incidents. The NCVS collects victim demographic information (age, sex, race, ethnicity, marital status, income, and educational level), offender demographics (sex, race, approximate age, and victim-offender relationship), and incident-related details on the crimes (time and place of occurrence, use of weapons, nature of injury, and value of property destroyed or stolen). Critical to the NCVS are questions directly related to the victims' experiences with the criminal justice system and protective measures the victims may have used prior to the crime.

Because the NCVS uses the crime victim as the primary unit of count, it can collect much greater detail on the victims, the offense(s), and the consequences of the offense(s) on the victims. The NCVS collects detailed information on the frequency and nature of the crimes of rape, sexual assault, personal robbery, aggravated and simple assault, household burglary, theft, and motor vehicle theft. The NCVS does not address the issue of homicide nor does it attempt to measure commercial crimes (such as burglaries of stores).

### COMPARING UCR AND NCVS

Over the years, numerous comparisons have been made between the NCVS and the UCR. Some researchers argue that comparing the two is like comparing apples and oranges. Together, the two systems provide a much more informative picture of crime in the United States. They were each designed to meet different objectives, and although there is some overlap, methodologically they are as different as night and day. The UCR was designed to provide the first and—at the time—only set of criminal justice statistics for law enforcement administration, operation, and management. On the other hand, the NCVS was primarily established to provide previously unavailable information about crime victims, offenders, and crimes not reported to police.

Comparisons of the NCVS with the UCR over time have shown that in the early years of the NCVS the gap between the self-reported data and the official data was fairly large. However, in more recent years the gap in the numbers of crimes

reported between the two systems has narrowed considerably. To fully interpret and benefit from a comparison of the two systems, a thorough understanding is required of how the methodologies define the differences in the reporting. It is also important to keep in mind that each of the programs is unique and only by understanding the strengths and weaknesses of each can the UCR and NCVS be used to achieve a greater understanding of crime trends and the nature of crime in the United States.

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*See also* National Incident-Based Reporting System,  
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## NATIONAL DNA INDEX SYSTEM

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DNA typing has been widely implemented over the past 15 years as a tool for associating human body fluids and tissue fragments recovered at a crime scene with the individuals involved in the crime. A person's DNA typing pattern is the same for all cells and tissues in the person's body and does not change with time. DNA typing can therefore be used not only to determine whether a suspect's known DNA typing pattern matches that of semen recovered from a particular rape victim, but also to

determine whether a convicted rapist's known DNA typing pattern matches that of semen recovered in connection with various unsolved sexual assaults. In the United States, a National DNA Index System (NDIS) has been established, under the auspices of the Federal Bureau of Investigation (FBI), to facilitate this broad investigative use of DNA typing.

The development of NDIS is feasible because technical advances in DNA typing methods over the past decade have yielded testing methods that are inexpensive, quick, and far more reliable and reproducible than earlier DNA typing methods. The availability of commercially produced testing equipment and commercially produced kits of the testing materials has contributed to the standardization of these new methods. Equally important, the National Institute of Standards and Technology has developed reference materials whose exact DNA typing patterns are known, which can be used by individual DNA typing laboratories to calibrate their testing equipment. The FBI, through its Scientific Working Group on DNA Analysis Methods, has set standards in the areas of personnel training, laboratory organization, and other aspects of laboratory administration and security that apply to all laboratories generating DNA typing patterns used by NDIS.

NDIS has been implemented as a stratified group of DNA typing databases. DNA typing data originate and are initially analyzed in local testing laboratories and jurisdictions, are passed on to statewide databases for further analysis, and are finally passed on to a central nationwide database maintained by the FBI. These DNA typing patterns originate from current criminal investigations, from typing of convicted felons, and from analysis of evidence from old, unsolved crimes.

The first source of patterns is DNA typing carried out in connection with criminal investigations, for example, the typing pattern for the semen recovered from a rape victim or the typing pattern of a blood sample taken from a suspect in a case. DNA typing patterns for crime victims are not included in NDIS.

Most states have now enacted laws specifying that some or all individuals convicted of felonies in their

courts must submit to DNA typing. Such systematic DNA typing efforts are relatively recent, compared to the typing of materials associated with specific crimes, but are now proceeding on a large scale.

Many jurisdictions have embarked on systematic programs of DNA typing applied to material recovered from victims of unsolved sexual assaults. If properly stored, swabs or stained garments collected from a victim within a few hours of the assault typically provide sufficient high-quality DNA for DNA typing, even years later. These typing efforts are likewise recent, but their scale is rapidly expanding.

Finally, in missing-person cases, DNA typing patterns developed from articles used by the person (e.g., from hair roots on a hairbrush or cheek cells on a toothbrush) can be included in NDIS, together with DNA typing patterns of unidentified bodies.

In all of these cases, matches have been reported between, for example, the typing pattern of a known felon tested as part of a systematic testing program and material from unsolved crime, and some successes have been reported in the association of previously unidentified human remains with missing persons.

## IMPLICATIONS OF DNA TYPING

This process of determining the DNA typing patterns of large numbers of individuals, storing this information in centralized databases, and systematically analyzing these data for matches raises two new issues.

First, who should be typed? At present in the United States, only typing patterns from some felons and suspects in current investigations are entered into the NDIS system. Here the issues are whether the classes of felons who are typed should be made uniform across jurisdictions, and perhaps broadened to include all felons, or even to include all individuals.

Second, what typing methodology should be used? At present, DNA typing patterns are generated using a single DNA typing technology, so all patterns in the NDIS system can be directly compared. On the one hand, provision must be made for

storage and analysis of patterns developed in the early days of DNA typing, using technology that is now obsolete. On the other, basic research in the area of human molecular biology and DNA typing is advancing rapidly, and DNA typing strategies that are cheaper, faster, and more reliable than those now in use are likely to come out of this work. There is thus a tension between the need to have a single standard DNA typing strategy, to allow the systematic comparisons that are the purpose of NDIS, and the need to generate high-quality, reliable DNA typing data on an increasing scale and at a reasonable cost. Storing actual DNA samples from individuals, as well as DNA typing results, would address this concern by allowing retesting of samples as necessary. This strategy, however, would raise practical issues of sample handling and storage, as well as concerns about privacy and possible misuse of DNA typing in the future.

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## ☞ NATIONAL DOMESTIC PREPAREDNESS OFFICE

The National Domestic Preparedness Office (NDPO) was created in 1998 to coordinate federal programs and technical assistance efforts related to terrorism preparedness. The attorney general called for the creation of the agency following an August 1998 meeting of 200 representatives of the national emergency response community, which highlighted the fragmented nature of federal assistance efforts to state and local authorities.

Under the auspices of the Federal Bureau of Investigation (FBI), the NDPO was designed to

serve as an information clearinghouse in the areas of weapons of mass destruction (WMD) planning, training, research, and technical assistance. As an umbrella organization, the NDPO's federal partners include the Federal Emergency Management Agency (FEMA), the Department of Defense, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Energy, the Office for Domestic Preparedness (ODP), and the National Guard Bureau.

Despite its origins as a means to coordinate national efforts and policy related to terrorism, the NDPO never fully achieved its original vision of providing a true central clearinghouse in an otherwise fragmented federal bureaucracy. It did, though, represent the first federal effort for such an integrated approach. A major source of its inability to reach this goal was the fact that the NDPO was provided virtually no staff or money, nor was it granted any authority with respect to evaluating or modifying the federal programs it was created to publicize. It was not until January 2001 that NDPO received funds for an operational budget, even though it had been charged with coordinating both NDPO and federal interagency projects.

President George W. Bush created a National Preparedness Office under FEMA in 2002, with little effort to distinguish its activities from the NDPO, even though it was said to have more coordinating authority. Similarly, in addition to the NDPO, the existing attorney general's Five Year Plan and the National Security Council each sought to plan and develop national preparedness strategies. These apparently overlapping federal agencies continued to create confusion among state and local agencies as to where to turn for needed assistance. Despite this, the NDPO's State and Local Advisory Group (SLAG) has provided a means for federal government input regarding federal programming effectiveness and current needs. Following the creation of the Department of Homeland Security in the wake of the September 11, 2001, terrorist attacks in the United States, the NDPO was moved from the Department of Justice's FBI to the Emergency Preparedness and Response Division of the new Department of Homeland Security.

## THE CLEARINGHOUSE CONCEPT: SERVICES AND ACTIVITIES OF THE NDPO

Even following the move to the Department of Homeland Security, the core of the NDPO's functioning will continue to be enhanced information sharing and collaboration to determine agencies' needs related to terrorism preparedness. Additionally, the NDPO was envisioned as a one-stop shop, creating not only ease of access to important WMD information and resources, but also reducing the redundancy and duplication of similar efforts within the federal government. In sum, the NDPO was to provide a central point of contact for all state and local first responders seeking to enhance their capacity to respond to the threat of terrorism. The NDPO has no operational capacity; instead, each of the various departments and agencies (federal, state, and local) carried out the response activities within their respective jurisdictions. The NDPO's services and activities are categorized across six functional areas: training, equipment, exercises, planning, information sharing/outreach, and health/medical services.

*Training.* Pursuant to its larger focus regarding overall national domestic preparedness strategy, the NDPO is meant to identify the needs and gaps of the emergency response community and to establish training standards and curricula to address these needs. The ODP then plays a major role in disseminating such federal training or technical assistance efforts to the state and local communities.

*Equipment.* The NDPO facilitates national efforts to obtain such needed equipment that might be required in a WMD incident, including staying abreast of current best practices and technologies. As with training, however, the ODP handles the federal equipment grant matters to aid in the dissemination process.

*Planning.* This was the principal reason for the creation of the NDPO, particularly to overcome the fragmented nature of federal, state, and local antiterrorism resources and efforts and the general lack of a cohesive national domestic preparedness strategy.

As such, NDPO is responsible for developing a common forum for planning and policy. The central mechanism for such planning efforts is housed within the establishment of SLAG. SLAG was intended to provide the attorney general and NDPO with advice on strategy, development, and implementation of programs enhancing the capabilities of emergency responders to prepare for a terrorist act involving WMD. This 32-member group is made up of representatives of the emergency response community, including law enforcement, fire/rescue, National Guard, Office of Hazardous Materials Safety, medical and public health services, state and local governments, and bomb technicians. SLAG is meant to be the linkage between federal agencies and state and local jurisdictions with respect to domestic preparedness and WMD response.

*Information Sharing/Outreach.* Traditionally, the state and local emergency response community was often confused by the scattered efforts and technical assistance offered in relation to terrorism. The NDPO developed several mechanisms to improve information sharing and outreach, including the following:

- Securing a common communication link hosted by Law Enforcement Online
- Creating a monthly official newsletter for the emergency response community called *The Beacon*, which offers information regarding best practices, existing federal resources/grants, training opportunities, and so forth
- Issuing a variety of bulletins on important and current topics, such as sample guidelines for responding to WMD threats
- Compiling a census of federal WMD training courses and standardized equipment
- Offering regularly updated counterterrorism and WMD information
- Creating and maintaining an electronic helpline for the emergency response community

*Health/Medical Services.* Given the obvious threat of biological and chemical terrorist acts, the NDPO seeks to establish an effective national public health surveillance system to improve the identification of

terrorist-induced diseases. Thus, the participation of the medical community in the NDPO planning and policy activities has always been viewed as crucial.

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## ☞ NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

The National Highway Traffic Safety Administration (NHTSA), established by Congress in 1970 as an agency within the Department of Transportation, carries out a variety of motor vehicle and highway safety programs. The NHTSA administers a variety of federal statutes and related grant programs to carry out its mission of reducing deaths, injuries, and traffic-related economic costs.

The NHTSA succeeded the National Highway Safety Bureau (NHSB), which Congress had created in 1966 in response to a rise in traffic fatalities. In 1965, consumer advocate Ralph Nader published *Unsafe at Any Speed*, a book that drew national attention to vehicle safety problems. NHSB's first administrator, William Haddon, Jr., an epidemiologist, sought to implement a balanced, scientific approach to highway safety that would address the reduction of harm caused by crashes, not merely their prevention. This broadened scope has continued in the agency's mandates and in the terminology adopted by safety officials. What once were

regarded as *accidents*, focusing solely on the drivers' actions, are now viewed as *crashes*, the causes of which may be far more complex than the role of individual drivers.

A major responsibility of the NHTSA is the administration two federal laws pertaining to motor vehicle and highway safety. The law that covers motor vehicle safety (49 U.S.C. 30101 et seq.) provides for the establishment and enforcement of motor vehicle safety standards, as well as the research necessary to promulgate such standards. Additionally, the highway safety law (23 U.S.C. 401 et seq.) provides for occupant protection and alcohol-impaired driving initiatives through grant programs carried out by state and local governments. A third major law administered by the NHTSA is the National Driver Register (49 U.S.C. 30301 et seq.), which facilitates the interstate exchange of driver's license information regarding unsafe drivers.

In addition to its administrative role, the NHTSA operates a number of data collection and analysis programs for the federal government. One of the major programs for which a variety of investigators, scientists, and analysts are employed is the Crash Operation Data Evaluation Service program, which improves the capability of states to analyze information on crashes by linking various databases containing crash, driver, and medical outcome information. The Fatality Analysis Reporting System evaluates the effectiveness of vehicle safety standards and highway safety programs. Information from crash investigations is then synthesized by the NHTSA through the Crash Injury Research Engineering Network (CIREN). CIREN is a collaboration of physicians, crash investigators, and traffic safety engineers who work to prevent motor vehicle crashes and to improve the treatment of crash-related injuries.

The NHTSA's Special Crash Investigations Program (SCI) conducts in-depth automotive crash investigations to develop information used by the safety community to evaluate and to improve safety systems. SCI personnel select cases of interest through notification by law enforcement agencies, medical personnel, and automotive manufacturers, as well as through the NHTSA's Auto Safety Hotline. Investigations often focus on issues involving

use of safety belts and air bags and the roles they may or may not play in mitigating the effects of crashes. SCI has provided information on injuries caused by air bags that has been used to change the design of air bag safety systems. Another major investigative focus is crashes involving school buses, because the possibilities for multiple deaths or serious injuries is high in such vehicles and can devastate a community in which such a crash occurs.

## VEHICLE TESTING AND RECALL

The NHTSA's New Car Assessment Program provides consumers with crash-test information to assist in vehicle safety comparisons. The NHTSA purchases vehicles and evaluates their crashworthiness to determine which models better protect occupants in a crash. The program's intent is to create market incentives for manufacturers to voluntarily design safer vehicles. To further facilitate safety, the NHTSA promulgates vehicle safety standards and directs vehicle manufacturers to recall vehicles with safety defects. A defect is a problem with a vehicle or its equipment that poses an unreasonable safety risk and is common to vehicles of the same design. When a manufacturer becomes aware of a defect it must notify the NHTSA and remedy the defect at no charge to the vehicle owner. The NHTSA is responsible for ensuring such corrective action. After the NHTSA Office of Defects Investigation determines that a safety-related defect exists, the NHTSA administrator issues a recall order, which a manufacturer may challenge in federal court. The agency then has the burden to prove that a safety-related defect exists.

## HIGHWAY SAFETY

In recent years, the NHTSA has conducted extensive research on the causes of crashes to develop effective countermeasures and evaluate the effectiveness of existing programs. Based on its extensive research into alcohol-impaired driving, the NHTSA was the lead federal agency in implementing the national initiative to reduce the legal blood

alcohol content (BAC) for drivers in all states to .08 percent. The NHTSA has published several studies on the effectiveness of .08 percent BAC laws and has sponsored a study of the accuracy of field sobriety tests used by law enforcement officers in making arrest decisions. This research produced a Standardized Field Sobriety Test (SFST) battery used by law enforcement agencies nationwide. The three-test battery consists of the walk and turn test, and the one-leg stand test, and the horizontal gaze nystagmus test, which is based on the involuntary jerking of the eyes caused by intoxication. The NHTSA developed a formal training program on the SFST that it provides to law enforcement agencies.

Mason Byrd

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## NATIONAL INCIDENT-BASED REPORTING SYSTEM

There is a prevailing belief that the advancement of efficient and effective criminal justice policy requires an accurate picture of crime. The primary tool for assessing crime in America has been the Federal Bureau of Investigation's (FBI's) Uniform Crime Reports (UCR) since its inception during the 1930s. Criticism of the UCR began almost as soon as the program began. One of the most frequent concerns was how crimes were counted. The original purpose of the UCR was to provide a basis for comparison. This led to a measure of crime that, while providing an easily comparable set of indices, failed to provide in-depth information about specific incidents of crime that would be extremely useful to theorists, researchers, and the police themselves.

In an effort to bridge some of the gaps in the crime data, the FBI is attempting to broaden the utility of America's crime data with the implementation of the National Incident-Based Reporting System (NIBRS). The thrust of NIBRS is to replace the UCR summary system with an incident-based system, which will provide detail about the circumstances surrounding crimes. While the UCR provided little more than frequency counts, the NIBRS system provides many details on each criminal incident. The ability to accurately identify when and where crime takes place and the characteristics of its victims and perpetrators is seen by many as an invaluable weapon in the war on crime. NIBRS data can easily be summarized to produce the types of indices available with the UCR, but allows for much more detailed analyses. Of special interest to social scientists and policy makers is the ability to conduct detailed crime analyses within and across law enforcement jurisdictions. Regional law enforcement agencies can share information more easily, and strategic and tactical crime analyses can be made at the local and regional levels. Such data are essential to understanding the root causes of crime and to allocating resources to address crime problems. NIBRS data contain information about the location of offenses and can be used with innovative

crime mapping technologies. Such maps are useful for identifying hot spots of crime, evaluating the effectiveness of strategic decision making, and looking for interactions between crime and other variables that have known spatial components.

The transition from summary data collection to incident-based data is not complete at the national level. The FBI began accepting crime data in the NIBRS format in 1989, expecting national compliance by 1999. As of 2001, only 21 state reporting programs were compliant. Although participation in the NIBRS program has grown steadily, data are still not pervasive enough to make broad generalizations about crime in the United States. Poor coverage remains the biggest problem with NIBRS. There have been, however, several studies that demonstrate the value of NIBRS data. This growing number of research reports provides support for the argument that NIBRS is worth the effort and expense involved in its full implementation.

### INFORMATION COLLECTED IN NIBRS

Incident-based reporting systems involve comprehensive data collection at the incident level on various aspects of reported criminal incidents. The information collected can contain information about the incident location, offenses, offenders, victims, and arrestees. An important advantage of NIBRS over the UCR is that NIBRS records and counts all offenses, not just the most serious offense as with the hierarchy rule used with the UCR.

NIBRS provides more categories of offenses than does the UCR. One of the early criticisms of NIBRS is that it lacks specific classifications for domestic violence. Crimes reported in NIBRS are divided into two categories: Group A offenses, which consist of 22 serious offenses, and Group B offenses, which consist of 11 lesser offenses. Group A offenses are arson; assault offenses; bribery; burglary and breaking and entering; counterfeiting and forgery; destruction, damage, and vandalism of property; drug offenses; embezzlement; extortion and blackmail; fraud offenses; gambling offenses; homicide offenses; kidnapping and abduction; larceny and theft offenses; motor vehicle theft;

pornography; prostitution; robbery; forcible sex offenses; nonforcible sex offenses; stolen property offenses; and weapon law violations. Group B offenses, those for which only arrest data are reported, are bad checks; curfew, loitering, and vagrancy violations; disorderly conduct; driving under the influence; drunkenness; liquor law violations; nonviolent family offenses; peeping tom; runaway; trespass; and a generic “all other offenses” category.

### PROBLEMS IN IMPLEMENTING NIBRS

Because the data for NIBRS are more detailed than in the traditional UCR system, local agencies must do more data entry and processing. State and local agencies must utilize their own incident-based reporting systems and translate their data into the NIBRS format before submitting it to the FBI.

As with the UCR, the quality of the data provided to the FBI is uneven. Insofar as the FBI is concerned, participation in both the UCR and NIBRS is voluntary. Some states have enacted legislation that requires agencies to report data to the FBI or to a state agency that reports aggregate data for that state to the FBI. These measures, however, are often not well enforced. Other problems are technical in nature. Software and other problems have prevented some agencies from sending NIBRS data to the FBI.

Another critical concern is the lack of human and technical resources within many departments. Translation of paper-based incident reports into computer code is a tedious and time-consuming process that is prone to error. A more efficient method has been to ensure that local law enforcement agencies have the necessary technology and training to utilize incident-based systems on the departmental level. This has proven to be impossible for many small agencies that cannot spare the funds or the personnel to develop and maintain such a program. Many small agency administrators report that they do not have the human resources to participate in the UCR program, which requires much less time than does NIBRS. A solution to this dilemma has been to allocate funding on the state and federal level

to provide local agencies with hardware, software, and training to implement NIBRS-compatible data collection systems. Such a partnership helped South Carolina become NIBRS compliant earlier than the vast majority of states.

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*See also* National Crime Victimization Survey, Uniform Crime Reporting Program

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## NATIONAL INSTITUTE OF JUSTICE

The National Institute of Justice (NIJ) is a section of the U.S. Department of Justice that provides research funding and professional staff support for studies of basic knowledge building, innovation, and program evaluation in crime control and criminal justice. Its official mission is to “advance scientific research, development, and evaluation to enhance the administration of justice and public safety.” In addition to sponsoring research and development and technology assistance, NIJ disseminates criminal justice knowledge through conferences and print and electronic media. The NIJ director is appointed by the president and confirmed by the Senate.

### NIJ TODAY

NIJ is a division of the Office of Justice Programs, the part of the Department of Justice that has

oversight regarding special programs of justice in the federal jurisdiction and support to programs in the states. The special role of the NIJ is to provide support, especially grants and contracts, that encourages original social and behavioral science research regarding crime and justice. It also supports studies of the effectiveness of new technologies designed to reduce or control crime. In each case, its charge under authority of the Omnibus Crime Control and Safe Streets Act of 1968 (amended, 42 U.S.C. 3721-3723) and Title II of the Homeland Security Act of 2002 is to provide “objective, independent, evidence-based knowledge and tools to meet the challenges of crime and justice, particularly at the State and local levels.”

Currently, The NIJ has two main divisions. The Office of Research and Evaluation funds and oversees an array of studies of crime and criminal justice with the aim of reducing crime or controlling its negative impact on society. It also manages a substantial program of information dissemination, in which the results of studies and the profiles of innovative approaches to crime and justice are made widely known to the field through a series of publications, including periodic reports of particular studies and the flagship monthly journal, *NIJReports*. The Office of Science and Technology “manages technology research and development, development of technical standards, testing, forensic sciences capacity building, and technology assistance to state and local law enforcement and corrections agencies.”

The agency's official profile lists seven strategic goals in three categories:

1. Creating relevant knowledge and tools
  - Partner with state and local practitioners and policy makers to identify social science research and technology needs.
  - Create scientific, relevant, and reliable knowledge—with a particular emphasis on terrorism, violent crime, drugs and crime, cost-effectiveness, and community-based efforts—to enhance the administration of justice and public safety.
  - Develop affordable and effective tools and technologies to enhance the administration of justice and public safety.

2. Dissemination
  - Disseminate relevant knowledge and information to practitioners and policy makers in an understandable, timely, and concise manner.
  - Act as an honest broker to identify the information, tools, and technologies that respond to the needs of stakeholders.
3. Agency management
  - Practice fairness and openness in the research and development process.
  - Ensure professionalism, excellence, accountability, cost-effectiveness, and integrity in the management and conduct of NIJ activities and programs.

## HISTORY OF NIJ

Impetus for the National Institute of Justice came from the 1967 President's Commission on Crime and Administration of Justice, which was highly critical of the paucity of scientific knowledge to inform crime and justice policy and practice. In 1968, partly as a direct result of that report, Congress passed the Omnibus Crime Control and Safe Streets Act, which created the National Institute of Justice to support research that would assist state and local governments in improving the effectiveness of their police, courts, and corrections agencies. The agency opened its doors a year later with 35 employees and a budget of \$2.9 million. In the early years, grants were made to support a wide range of research and evaluation efforts, most notably the evaluation of methadone maintenance programs, the development of specialized policing units, the improvement of police communications systems, and the initiation of a fellowship program in support of graduate study. From its outset and throughout its tenure, the NIJ has been prominently involved in some of the most important criminal justice and crime policy issues of the day.

In the early 1970s, the NIJ played a central role in improved police communications, funding computer-aided dispatch, management information systems, and centralized call collection. It also established the Law Enforcement Standards

Laboratory to create scientific standards for criminal justice equipment. Its funds supported the Kansas City Preventive Patrol Experiment, which cast doubt on the value of conventional patrol by uniformed officers in marked police cars. The initial studies of the impact of police response time came from NIJ-supported projects in the 1970s. Throughout that decade, the NIJ supported a range of studies of sentencing disparity and the impact of sentencing reform, and its studies played a significant role in trial reform. One-day one-trial, in Wayne County, Michigan, was an NIJ-sponsored project, as was a series of reports on prison population management strategies for overcrowded prison systems.

In the 1980s, NIJ became well established as the primary source of funds for innovative studies in crime and justice. Among its efforts in that decade were The Newark Foot Patrol Experiment, the RAND Corporation's research on selective incapacitation of career criminals, *Varieties of Criminal Behavior* by Jan Chaiken and Marsha Chaiken, the Minneapolis domestic violence study, *Newport News* tests of problem-oriented policing, and the Georgia experiments with intensive probation supervision. Two very important efforts in the 1980s were the founding of the executive sessions on community policing in cooperation with Harvard's Kennedy School of Government (which fueled the modern-day community policing movement) and the Drug Use Forecasting (DUF) System, which became a major source of information supporting later changes in U.S. drug policy.

The 1990s began with one of the most ambitious public-private research partnerships in U.S. history, when the John D. and Catherine T. MacArthur Foundation joined with NIJ to fund the Project on Human Development in Chicago Neighborhoods, with Robert Sampson as the lead investigator. This study examines how neighborhood characteristics influence individual behavior and, ultimately, public safety. That decade also saw NIJ-supported research on the effectiveness of intensive supervision for probationers, the cycle of violence for abused and neglected children more likely to be involved in later criminal behavior, a systematic

study of violence against women, the Breaking the Cycle program for early identification and treatment of abuse, the NIJ Crime Mapping Research Center, and the NIJ International Center on cross-national research and policy. This decade, dominated by increased attention to drug law and drug crime, ended for NIJ with the Arrestee Drug Abuse Monitoring program, which refines and expands NIJ's DUF program.

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*Author's Note.* All quotations are taken from "What Is NIJ?" <http://www.ojp.usdoj.gov/nij/about.htm>

*See also* Department of Justice

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## ☞ NATIONAL INSTITUTES OF HEALTH, DEPARTMENT OF HEALTH AND HUMAN SERVICES

The National Institutes of Health (NIH) was founded in 1887 as the Hygienic Laboratory in Staten Island, New York, and has become the paramount medical research center for orchestrating federally sponsored biomedical and behavioral research in the United States. As one of eight health agencies of the Public Health Service, within the U.S. Department of Health and Human Services, the NIH consists of 27 separate institutes and centers, each of which is geared toward acquiring knowledge to help prevent, detect, diagnose, and treat disease and disability. In addition to sponsoring and conducting medical research, the NIH is charged with assisting in the training of research investigators and disseminating medical and health sciences information around the globe.

In 2003, the NIH had almost 19,000 employees and managed a budget of \$27.2 billion. The vast majority of the funding (83%) was allocated to extramural research programs. Grants and contracts,

awarded in every state of the country, advance the research objectives of the NIH. Approximately 10% of the budget funded the 2,000 projects performed within the NIH's own laboratories. The NIH has supported ongoing research in cancer, heart disease, genetic birth defects, and AIDS. The most recent research sponsored by the NIH includes mapping the human genome, identifying the virus that causes severe acute respiratory syndrome, and isolating a gene that predisposes an individual to clinical depression or to alcohol abuse.

The findings of NIH-sponsored research guide the formulation and implementation of public policy to improve human health and secure public safety. The NIH is not an organization with specific law enforcement functions; however, the work of the NIH has significant influence on public health, protection, and security and public safety issues. For example, emergency preparedness policies emerge from clinical knowledge regarding the prevention, detection, and control of infectious diseases. Deterrence and treatment policies for drug and alcohol abusers are directed by NIH research findings. Emerging policies and procedures to confront potential acts of bioterrorism will be influenced by the biomedical research by NIH and its sponsored investigators.

NIH institutes that are frequently involved in research that may impact criminal justice policy or enforcement include the National Institute on Alcohol Abuse and Alcoholism, the National Institute of Allergy and Infectious Diseases, and the National Institute of Drug Abuse. In addition, NIH's Office of Administration includes the Office of Acquisition Management and Policy, the Office of Logistics and Acquisition Operations, and the Office of Management Assessment. Each of these offices has oversight and investigative authority over portions of NIH's responsibilities. The Office of Acquisition Management and Policy is particularly involved in providing an audit and investigative capability for NIH in areas of contract and procurement management.

In August 2003, the Institute of Medicine released a study suggesting a consolidation of several NIH institutes and centers and expanded authority of the NIH director over individual institute directors to manage overlapping research agendas,

as well as the creation of a special projects budget to address cutting-edge research issues. The mission of the NIH remains constant; however, the multiple venues requiring research will continue to challenge the NIH to evolve and adapt to ever-increasing health and security risks to the public.

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## NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTER SYSTEM

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The National Law Enforcement and Corrections Technology Center (NLECTC) system was created in 1994 as a component of the National Institute of Justice's (NIJ's) Office of Science and Technology. The National Institute of Justice is the research and development agency of the U.S. Department of Justice. The NLECTC system serves as the honest broker, offering support, research findings, and technological expertise to help state and local law enforcement and corrections personnel perform their duties more safely and efficiently.

The NLECTC system is assisted in its work by national and regional advisory councils. National council members are appointed by NLECTC based on their records of distinguished service and include representatives from federal, state, local, and international criminal justice agencies and organizations. Each regional council is made up of criminal justice practitioners who represent a cross section of law enforcement and corrections agencies from each of the states within the centers' constituent regions. The system consists of facilities across the country that are colocated with an organization or agency that specializes in one or

more specific areas of research and development. Although each NLECTC facility has a different technology focus, all facilities work together to form a seamless web of support, providing technology assistance, support, and information. The NLECTC system's regional centers and specialty offices work directly with federal, state, and local government agencies; community leaders; and scientists to foster technological innovations that result in new products, services, systems, and strategies for criminal justice professionals throughout the United States. These offices are as follows:

*The National Center.* The National Center is colocated with its host, Aspen Systems Corporation, in Rockville, Maryland, and serves as the hub of the NLECTC system. As part of its mission, this center

1. Provides information and referral services to anyone with questions about law enforcement and corrections equipment or technology
2. Oversees the equipment standards and testing program to ensure that law enforcement and corrections equipment is safe and reliable
3. Reviews and analyzes testing data and publishes test results and consumer-product reports designed to help justice system officials make informed purchasing decisions
4. Publishes *TechBeat*, a quarterly newsletter that highlights technology breakthroughs and applications
5. Operates JUSTNET, a Web site that provides links to the entire NLECTC system and serves as a gateway to other technology sites for those seeking information about equipment, technology, or research findings.

*NLECTC-Northeast.* Located at the Air Force Research Laboratory Rome Research Site, on the grounds of the Griffiss Business and Technology Park in Rome, New York, this center leverages technologies designed for the military that can be adapted to meet law enforcement and corrections needs. It draws on the expertise of Air Force scientists and engineers and focuses on concealed weapons technologies, through-the-wall sensors, audio and image processing,

timeline analysis, computer forensics, secure communications, speaker identification, and communications interoperability. NLECTC-Northeast also operates the Law Enforcement Analysis Facility and NIJ's National Law Enforcement CyberScience Laboratory-Northeast.

*NLECTC-Northwest:* Law enforcement and corrections (LE&C) officers in Alaska and other cold, remote areas of the United States face unique challenges to crime prevention, investigation, and rehabilitation efforts. This center was established to provide assistance in defining LE&C's requirements for information and operational technology, with specific attention directed toward technologies that support law enforcement and corrections under the extreme weather conditions and vast distances found in remote, rural Alaska and other parts of the United States. Newly developed technologies will be applicable for law enforcement and corrections officers in all regions of the country with rural or severe weather challenges. NLECTC-Northwest identifies, evaluates, demonstrates, and assesses technology applications for state and local law enforcement and corrections agencies. Staff also manages joint technology programs applicable to law enforcement and corrections missions. NLECTC-Northwest was founded in 2001 in partnership with Chenega Technology Services Corporation, a technology support company experienced in providing information technology support to America's military organizations and private corporations.

*NLECTC-Rocky Mountain.* This center, located at the University of Denver in Colorado, focuses on communications interoperability and the difficulties that often occur when different agencies and jurisdictions try to communicate with one another. This facility works with law enforcement agencies, private industry, and national organizations to implement projects that will identify and field test new technologies to help solve the problem of interoperability. In addition, NLECTC-Rocky Mountain houses the Crime Mapping and Analysis Program, which provides technical assistance and capacity building to state and local agencies in the areas of crime and intelligence analysis and geographic

information systems. Sandia National Laboratories has been designated as a satellite of NLECTC-Rocky Mountain and works in partnership with NLECTC to focus on technologies for detecting and neutralizing explosive devices.

*NLECTC-Southeast.* This center is colocated with its host, the South Carolina Research Authority in North Charleston, South Carolina. Its technology focus areas include information technology and technologies for corrections and school safety. NLECTC-Southeast helps law enforcement and corrections agencies acquire and redistribute federal surplus and excess property. The center also operates an Incident Mapping and Analysis Program that includes crime mapping training, spatial information management, geographic profiling, and data mining. The center's technology partners include the Space and Naval Warfare Systems Center-Charleston, Oak Ridge National Laboratory, and Savannah River Technology Center.

*NLECTC-West.* This center is colocated with its host, the Aerospace Corporation, in El Segundo, California. The nonprofit corporation provides technical oversight and engineering expertise to the Air Force and the U.S. government on space technology and space security systems. NLECTC-West draws on Aerospace Corporation's depth of knowledge and scientific expertise to offer law enforcement and corrections personnel the ability to analyze and enhance audio, video, and photographic evidence. This NLECTC facility also has an extensive array of analytic instrumentation to aid in criminal investigations, such as a scanning electron microscope and a mass spectrometer, instruments that can be used to process trace evidence. The center's other focus areas include computer forensics, communications systems, technologies to stop fleeing vehicles, and a Homeland Security Project with programs in less-than-lethal weapons and counter-OPFOR (opposing force) activities.

*The Border Research and Technology Center.* Operated by Sandia National Laboratories and located in San Diego, California, this center works

with the Immigration and Naturalization Service, the U.S. Border Patrol, the U.S. Customs Service, the Office of National Drug Control Policy, the U.S. Attorney offices, and law enforcement agencies to strengthen technology capabilities and awareness on U.S. borders. One of its most recognized assistance activities has been the implementation of the Secured Electronic Network for Travelers' Rapid Inspection. The Border Research and Technology Center (BRTC) also works on joint ventures to identify technologies that will stop fleeing vehicles and is currently participating in a project to detect heartbeats of people concealed in vehicles or other containers. BRTC's technology partners include Sandia and the Space and Naval Warfare Systems Center-San Diego.

*Office of Law Enforcement Technology Commercialization.* This program of NIJ's Office of Science and Technology was established in 1995. Its mission is to develop and deploy an active, broad-based national program to assist in the commercialization of innovative technology for use by the law enforcement and corrections community. The Office of Law Enforcement Technology Commercialization's (OLETC's) primary objective is to bring research and private industry together to put affordable, market-driven technologies into the hands of law enforcement and corrections personnel. OLETC actively solicits manufacturers to commercialize technologies based on requirements identified by NIJ and its Law Enforcement and Corrections Technology Advisory Council as well as from law enforcement and corrections practitioners.

*Office of Law Enforcement Standards.* The mission of the Office of Law Enforcement Standards (OLES) is to serve as the principal agent for standards development for the criminal justice and public safety communities. OLES has been instrumental in the development of numerous standards and the issuance of various technical reports that have had significant impact on both of these communities. Through its programs, OLES helps criminal justice and public safety agencies acquire, on a cost-effective basis, the high-quality resources they

need to do their jobs. OLES's programs are organized into six areas: Weapons and Protective Systems; Detection, Inspection, and Enforcement Technologies; Chemical Systems and Materials; Forensic Sciences; Public Safety Communication Standards; and Critical Incident Technologies. Within each program area there are a variety of projects.

*The Rural Law Enforcement Technology Center.* This center provides technology and technical solutions to rural and small criminal justice agencies. The Rural Law Enforcement Technology Center (RULETC) concentrates on information technology, communications interoperability, and training and simulation technologies that will improve the effectiveness and efficiency of rural law enforcement. RULETC provides technology assistance via a nationwide network of criminal justice subject-matter experts, engineers, academia, and scientists. The center is developing capacity-building programs for dissemination nationwide that will provide rural agencies with the information they need to better equip officers to serve their communities. Hosted by Eastern Kentucky University Justice and Safety Center, RULETC is located in Hazard, Kentucky.

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## NATIONAL LAW ENFORCEMENT MEMORIAL

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The National Law Enforcement Memorial in Washington, D.C., honors police officers killed in the line of duty and provides a quiet place for survivors to mourn and to heal. The memorial also serves as a positive image of law enforcement in

America and is meant to ensure that slain law enforcement officers will never be forgotten in this lasting tribute.

In June 1984, Congressman Mario Biaggi (D-NY), Senator Claiborne Pell (D-RI), and Suzanne Sawyer, then the executive director of Concerns of Police Survivors and president of the Fraternal Order of Police Auxiliary, incorporated the National Law Enforcement Memorial. Craig Floyd was appointed executive director and a board of directors was created representing 15 national law enforcement groups. Each group donated \$1,000 for office supplies to begin fund-raising for what the directors estimated would be the \$5 million needed to build the memorial. Their estimate was based on the \$4.5 million it had taken to construct the Vietnam Veterans Memorial that had been dedicated on November 13, 1982. The first year the Memorial Fund raised a disappointing \$47,000. Jan Scruggs, who was president and founder of the Vietnam Veterans Memorial, was asked to join the corporation. Scruggs, who became the Memorial Fund's first full-time employee, had the ability to raise money. One of his first acts was to hold a press conference to get public recognition and he soon enlisted corporate sponsors such as Borg Warner Corporation and Pepsico. The Memorial Fund ultimately raised \$11 million from 300 companies, thousands of police officers across the country, and more than 800,000 private citizens.

## APPROVAL OF THE MEMORIAL

The directors agreed that the memorial should be built in Washington, D.C., which necessitated congressional approval. Representative Biaggi, a 23-year veteran of the New York Police Department, who had retired in 1965, strongly supported the memorial in 1982. Two years later, on October 19, 1984, President Ronald Reagan signed Public Law 98-554, authorizing the National Law Enforcement Memorial to be built. Congress had included three stipulations for the memorial: no federal funding would be provided, construction had to begin by October 1989, and money had to be raised before breaking ground. The law only provided that a site

would be found on federal land in Washington, D.C. All funds, though, had to be from private sources—the American people.

The memorial needed to be constructed in a suitable space that was capable of holding public events as well as providing a quiet place to mourn. The first suggestion by the National Parks Service was on Memorial Drive leading to Arlington Cemetery. Military memorials would surround the memorial, a situation that made the site unacceptable to members of the board, who believed there should be a distinction between the military and law enforcement. After the Capitol Memorial Commission rejected a second location, John Parsons of the National Park Services and Charles Atherton of the Fine Arts Commission suggested Judiciary Square, then a crumbling park with broken benches and litter. Despite its disrepair, the three-acre space was appropriate because it was next to the Police Court and near the Federal Bureau of Investigation (FBI) Building, which meant that the memorial would be built surrounded by law enforcement buildings. The Capitol Memorial Commission approved the site in March 1989.

## BUILDING THE MEMORIAL

Davis Buckley was hired as the architect for the project in January 1987. Buckley realized that this memorial had to be different from other memorials. This was not to be just a memorial, but a memorial park. There would be no statue in the middle, like most memorials have, but a raised bronze medallion with a shield and rose. Bronze lions, symbolizing strength and protection, watch over their cubs at either end of the memorial.

Finding the names to be added to the memorial became an arduous task. The original plans for the memorial did not include names for fear of leaving officers' names off. The FBI files recorded names of officers killed in the line of duty starting in 1961. The research staff of the memorial sent letters to approximately 15,500 law enforcement agencies requesting names of officers who had been killed in the line of duty. Most departments did not take the letter seriously until U.S. Attorney Dick Thornburgh requested the information in 1990.

Construction began October 17, 1989, just 48 hours before the congressional deadline. The official groundbreaking took place on October 30, 1989. The memorial became a reality on October 15, 1991, a date which by Presidential Proclamation 6357 was declared National Law Enforcement Memorial Dedication Day. More than 10,000 people are estimated to have attended. At the time of the dedication 12,561 names were engraved on the 128 panels of the memorial. The names are not listed by date so that names could be added as additional officers' names were submitted by their departments. The memorial has space for an estimated 29,233 names, which, based on current statistics of officers killed in the line of duty, should be sufficient until the year 2100. A candlelight vigil is held annually at the memorial during National Police Week in May.

*Jessica Waterhouse*

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## ☉ NATIONAL LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM

The National Law Enforcement Telecommunications System (NLETS) is a nationwide network that enables criminal justice agencies to exchange information quickly and cost effectively. NLETS provides intrastate as well as interstate transmission of data such as vehicle registration, driver's license information, wanted persons, criminal histories, and Canadian hot files. NLETS is available 24 hours per day and seven days a week.

NLETS is unique because it is the only nationwide system that allows state and local criminal

justice agencies to send information interstate and it is managed by the states. State law enforcement agencies are linked together through an interface agency. This agency maintains the telecommunications system within its geographical borders. NLETS allows the state systems to connect using high-speed communications. This communication allows agencies around the country to correspond and share information. The system is accessible to law enforcement, prosecutors, probation and parole offices, and other local, state, and federal criminal justice agencies. Although NLETS works closely with the Federal Bureau of Investigation's (FBI's) National Criminal Information System, they are not interrelated.

Comprised of network servers that support a message switch and other applications, NLETS guarantees message delivery including but not limited to terminal-to-terminal communication, broadcast messages, all points bulletins, and AMBER alerts. NLETS can be accessed from more than 500,000 devices in the United States and another 145,000 devices in Canada. There are more than 35 million transmissions each month. The majority of the transmissions are for vehicle registration and driver's license information. NLETS does not warehouse information but acts only as the conduit to connect various databases that house information. The principal computer system is headquartered in Phoenix at the Arizona Department of Public Safety and the disaster recovery site is at the Idaho State Police Department.

NLETS was incorporated in 1970 and is a non-profit corporation that is funded by its users via fees collected as membership. Currently, there are four types of members: principal, federal, international, and associate members. Principal members consist of all 50 states and Puerto Rico. Federal members include federal agencies such as the FBI and the Immigration and Naturalization Service. The associate membership is composed of additional agencies that provide vital services to the criminal justice community such as the National Insurance Crime Bureau. At present the only international member is Canada, which has access through the FBI. Members of the system are divided into eight

regions. Each region has representatives who elect a chairperson annually. The chairpersons chosen from each region make up the NLETS board of directors. The board sets policies for the organization, and a small team of employees headed by an executive director is responsible for the day-to-day operations.

Communication in law enforcement has been a priority, beginning with the use of Morse code and advancing to radio communication in the 1930s. In 1966, the Law Enforcement Teletype System (LETS) was established. LETS, the first nationwide interstate communications system, was an improvement on the previously segmented regional communications system but it was still very slow. The system's first upgrade occurred in 1970. Then, in 1973, LETS concluded a substantial upgrade, which made it more accessible to criminal justice agencies throughout the United States. In 1975, LETS became known as the National Law Enforcement Telecommunications System. In 1973, NLETS averaged 43 transmissions per hour; by 2004 it was capable of handling 45,000 messages per hour.

To keep up with 21st century technology, NLETS is pursuing the expansion of wireless communications, setting national standards, and assisting the Department of Homeland Security in preventing terrorism. The wireless project will allow local and regional agencies to utilize the existing NLETS network and will reduce budgets, especially for agencies in remote areas, because it will decrease the airtime fees while ensuring receipt of the same quality of information. NLETS is also at the forefront of defining national standards for data exchange. Prior to standardization, a requesting agency in one state would receive state-specific information and formats that might not be applicable to the request. The use of extensible markup language, a computer programming language, will allow for standardized information to be exchanged between various agencies. Likewise, NLETS has been instrumental in providing terrorist threat information to law enforcement agencies in a timely manner. NLETS is being employed to provide critical communication to agencies that previously did

not receive information such as fire and emergency medical service.

*Nicolle Y. Parsons-Pollard*

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## ☞ NATIONAL MARINE FISHERIES SERVICE, DEPARTMENT OF COMMERCE

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The mission of National Marine Fisheries Service (NMFS), sometimes referred to as the National Oceanic and Atmospheric Administration (NOAA) Fisheries, is to develop and enforce domestic fisheries regulations as specified by federal law, international agreements, and treaties. NMFS monitors both foreign and domestic compliance with these regulations inside the 200-mile U.S. Exclusive Economic Zone. The NMFS is committed to a sustainable use philosophy that attempts to balance commercial interests and recreational interests while preserving the health of U.S. marine resources.

The NMFS Office for Law Enforcement (OLE) protects both commercial and recreational fishery resources, marine mammals, and other threatened or endangered species and manages the NOAA's 13 National Marine Sanctuaries. The NMFS receives an annual budget of approximately \$700 million, with more than \$50 million earmarked for enforcement and surveillance activities.

The OLE is responsible for the enforcement of more than 100 legislative acts, the most important of which include the Magnuson-Stevens Fishery Conservation Act; the Marine Protection, Research, and Sanctuaries Act; the Marine Mammal Protection Act; the Endangered Species Act; and the Lacey Act. OLE has a presence in 17 states and four U.S.

territories. In 2004, it was one of only two federal law enforcement agencies that were accredited by the Commission on Accreditation for Law Enforcement Agencies.

The OLE has a four-pronged prevention and enforcement strategy: investigation and patrol, community-oriented policing and problem solving (COPPS), advanced technologies, and partnerships. This includes investigations of both civil and criminal violations, seizures of illegal property and contraband, and information gathering on criminal activities. For the bulk of patrol, OLE relies on cooperative agreements with the U.S. Coast Guard, other governmental agencies, and partnerships with federally deputized state marine enforcement agents to assist them in covering the 3.4 million square miles of water in their jurisdiction.

Since 1995, the OLE has instituted the COPPS initiative. COPPS is an outreach program that promotes voluntary compliance with regulations through public awareness and education targeted at both recreational and commercial fishing populations. The program allows first-time offenders to correct minor violations without threat of penalty. COPPS also maintains a 24-hour enforcement hotline to accept reports of fisheries violations.

OLE efforts in using technology focus on a satellite-based vessel monitoring system (VMS) which allows OLE staff to locate fishing vessels and monitor compliance with area restrictions while maintaining confidential fishing positions. VMS is also used to track violators and gather evidence for prosecution and aids federal efforts in homeland security by identifying marine traffic close to U.S. coasts. As of 2000, there were 541 VMS units in use.

Partnerships and cooperative agreements play a large part in assisting the OLE in fulfilling its mission. Partners are largely other federal, state, and local agencies; councils; and nongovernmental environmental organizations. These partners are organized into eight regional fishery management councils that work closely with NMFS and the OLE in the management of the fisheries in their regions. The U.S. Coast Guard is the OLE's most important partner and enables special agents and enforcement officers to actively respond to calls aboard Coast

Guard vessels. These partnerships allow the OLE to be more effective than it could possibly be alone by providing increased patrol personnel to conduct open water boardings and dockside checks.

## HISTORY

Federal interest in fish and marine resources began in 1871, when President Ulysses S. Grant established a small U.S. Fish Commission and charged it with investigating decreases in the population of food fish and making recommendations to Congress on protective, prohibitory, and precautionary measures that should be taken.

In 1903, the Fish Commission was expanded and became the Bureau of Fisheries. It was placed in the newly formed Department of Commerce and Labor. As legislation protecting wildlife increased, the responsibility for enforcing these laws was given to the Department of Agriculture, Division of Biological Survey (later renamed the Bureau of Biological Survey), which formed the Division of Game Management to specifically handle wildlife enforcement. In 1939, the Bureau of Fisheries (Commerce Department) and the Bureau of Biological Survey (Agriculture Department) were merged and transferred to the Department of the Interior to form the Fish and Wildlife Service. However, wildlife law enforcement remained in the Division of Game Management (Agriculture Department). It was not until 1956, with the passage of the Fish and Wildlife Act, that wildlife law enforcement responsibility was moved to the Department of the Interior when the Fish and Wildlife Service was renamed the U.S. Fish and Wildlife Service and reorganized into two bureaus: the Bureau of Sport Fisheries and Wildlife and the Bureau of Commercial Fisheries. Law enforcement responsibility was placed in the Bureau of Sport Fisheries and Wildlife. The Bureau of Commercial Fisheries continued to monitor and regulate the quantity of certain species caught domestically but had no enforcement authority.

In 1970, the NOAA was formed within the Department of Commerce by merging more than five separate agencies including the Bureau of

Commercial Fisheries. The bureau was made a branch of the NOAA and renamed the National Marine Fisheries Service. The Magnuson-Stevens Fisheries Conservation and Management Act of 1976 authorized the enforcement authority of the NMFS in federal waters. The act extended the U.S. legal fishing jurisdiction to 200 miles off shore and specified that this zone be enforced by both the NMFS and the Coast Guard.

## ORGANIZATION

Staff members of OLE are dispersed into five regional division offices, 54 field offices, and headquarters in Washington, D.C. The OLE is managed by a chief who reports to the deputy assistant administrator for regulatory programs, who in turn reports to the assistant administrator for fisheries (more recently called the director of NOAA Fisheries).

In 2003, the OLE had approximately 200 employees, including 150 special agents, seven enforcement officers, and 46 technical and support personnel. Enforcement officers are uniformed and perform routine inspection, patrol, and surveillance duties. They board and inspect fishing vessels and their catches to ensure compliance with laws and regulations. Special agents conduct investigations of criminal and civil violations. They carry firearms and interrogate suspects, interview witnesses, conduct searches and seizures, make arrests, carry out undercover operations, and develop evidence for prosecution. Applicants for special agents' positions must be U.S. citizens and be between 21 and 36 years of age. Candidates must possess a bachelor's degree or three years of general law enforcement experience to be hired at the lowest (GS-5) level. Both enforcement officers and special agents receive training at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. Enforcement officer candidates attend a 17-week Natural Resources Police Training course that focuses on patrol techniques. Special agent candidates attend a 10-week Criminal Investigator Training program focusing on investigative law enforcement skills. Both pools of candidates continue with specialized training after their FLETC basic training.

Due to the lack of personnel and monetary resources, current NMFS law enforcement efforts focus only on the most significant offenders, obtaining voluntary compliance, and monitoring regulatory schemes to ensure compliance. To increase its effectiveness, the NMFS needs an increase in funding to expand investigative resources, make better use of technology, modernize and expand the vessel monitoring system, and regularize funding to support partnerships with state and local agencies that enforce federal fishing regulations.

*Katherine B. Killoran*

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## ☪ NATIONAL NATIVE AMERICAN LAW ENFORCEMENT ASSOCIATION

The National Native American Law Enforcement Association (NNALEA) was founded in Washington, D.C., in 1993. The founders were Native American men and women from law enforcement organizations

across the United States where, except for tribal and Bureau of Indian Affairs (BIA) law enforcement agencies, they typically comprised fewer than 1% of agency personnel.

NNALEA is headquartered in Washington, D.C., with chapters in New Mexico and Oklahoma. Membership includes Native American and non-Native American men and women who are sworn federal, state, local, or tribal law enforcement officers and local chiefs of police, as well as non-law enforcement officers. Executive officers must be Native American sworn law enforcement officers. By mid-2003 NNALEA estimated its membership at more than 700. NNALEA sponsors an annual training conference and publishes a quarterly newsletter.

NNALEA's mission is to support and promote Native American law enforcement officers and agents in the field; foster cooperation between them and their agencies, private industry, tribal entities, and the public; provide a national voice for Native Americans in law enforcement; assist Native American communities; and improve the quality of law enforcement under tribal authority. Its objectives include

- Providing a forum for the exchange of ideas and new techniques used by both criminals and investigators
- Conducting training seminars, conferences, and research on educational methods for the benefit of Native American law enforcement professionals
- Keeping the membership and public informed of statute changes and judicial decisions as they relate to the law enforcement community
- Establishing a network and directory of Native American law enforcement professionals
- Providing technical and investigative assistance to association members
- Promoting positive attitudes toward law enforcement in Native American and other communities
- Providing a support group for Native American law enforcement professionals

NNALEA offers expert testimony at congressional and other federal committee hearings that address social welfare as well as law enforcement and security concerns of Native Americans. It also partners with federal government agencies and private organizations to provide services in Indian

Country, that is, reservations, dependent Indian communities, and tribal allotments.

The association's youth programs are developed in partnership with private organizations such as the Boys and Girls Clubs of America; private corporations; federal initiatives such as the National Indian Youth Academy funded by Department of Justice's Community Oriented Police Services (COPS) to promote community policing and careers in law enforcement, and the Gang Resistance Education and Training Program funded by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF) and COPS.

Through partnerships with educational institutions such as the University of Tennessee School of Veterinary Medicine and health care providers such as the Remote Area Medical Program, the U.S. Department of Health and Human Services' Indian Health Service, and the Helen Keller Worldwide ChildSight Program, NNALEA helps provide a wide range of social services to Native American communities. NNALEA also awards academic scholarships to Native American college students and provides grants to the families of Native American and non-Native American law enforcement officers killed in the line of duty in Indian Country.

NNALEA training activities, publications, and partnerships support the professional development of its members. Newsletters promote recruitment of Native Americans by federal law enforcement agencies such as the Secret Service, BATF, and BIA's Office of Law Enforcement Services (OLES). Both BIA and tribal law enforcement agencies operate in Indian Country. NNALEA's technical assistance and training conferences promote professionalism in tribal law enforcement and enhancement of tribal agencies' standing through increased certification and accreditation. Association scholarships to tribal law enforcement officers from small and remote tribes help increase their participation in NNALEA's annual conferences. The conferences provide law enforcement and community policing training tracks for college credit.

To raise retention rates of tribal law enforcement officers and recruits at national training academies,

NNALEA collaborates with colleges and universities in Indian Country, federal law enforcement agencies and training centers, volunteer organizations, and tribal authorities to develop training methodologies and curricula that incorporate both traditional culture and distance learning technology.

Since 2001 NNALEA has led in the development of policies and programs to enhance homeland security in Indian Country, 100,000,000 acres that include strategic infrastructure, natural resources, and territories adjacent to U.S. international borders. In 2002 NNALEA's 10th Annual Training Conference featured a Tribal Lands Homeland Security Summit cosponsored by COPS and OLES. The U.S. Department of Homeland Security and other federal, state, and local law enforcement and security agencies and corporate leaders were also key summit participants.

*Jannette O. Domingo*

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## ☞ NATIONAL ORGANIZATION OF BLACK LAW ENFORCEMENT EXECUTIVES

Beginning in the 1960s, the violent crime rate in America began a dramatic proliferation. From the mid-1960s to the late 1970s, the homicide rate doubled, reaching a record peak at 10.2 homicides per 100,000 persons. Further, official data indicated that African Americans were disproportionately represented in violent crime, especially as homicide offenders. Not only were African Americans more likely to commit homicide, but African American

men were also disproportionately represented as homicide victims. At the same time, studies were demonstrating that certain social and structural characteristics in which many African Americans found themselves (such as being unemployed and heading single-parent households) were influencing criminal offending.

In September 1976, the Police Foundation and the Department of Justice's Law Enforcement Assistance Administration cosponsored a symposium to address the burgeoning crime problem in urban low-income areas. The Joint Center for Political Studies coordinated this event in which 60 high-ranking black law enforcement executives, representing 24 states and 55 major cities, assembled. Reflecting on the high rate of crime in black urban communities, the 60 black law enforcement executives abandoned the original agenda. Forming a unified alliance committed to equity in criminal justice, they became the creators and first members of the National Organization of Black Law Enforcement Executives (NOBLE). Hubert Williams, then director of the Newark, New Jersey, Police Department and the first black police chief of a major city, was unanimously elected temporary chairman of NOBLE. After his retirement, Williams went on to head the Police Foundation, one of the law enforcement groups that had participated in the original symposium. NOBLE has had both male and female presidents. One of its presidents, Chief Leonard Cooke, was named one of *Ebony* magazine's One Hundred Organizational Leaders in 2002 as part of its annual recognition of the "100 Most Influential Black Americans." In May 2002, Virginia Governor Mark R. Warner appointed Chief Cooke the director of the state's Department of Criminal Justice Services.

Since its inception in 1976, NOBLE's membership has grown to more than 4,300 law enforcement professionals, primarily chief executive officers and command level officials of law enforcement agencies at the federal, state, county, and municipal levels. There are 53 chapters in the United States. In May 2002, NOBLE approved a chapter in St. Kitts and Nevis; this expansion into the Caribbean represents its first chapter outside the United States.

NOBLE published its first official magazine, *The Noble National*, in 1977 at the 17th Annual Training Conference in Milwaukee, Wisconsin; the publication has since become a quarterly that highlights current research interests of the association and its members, job prospects, and members' achievements. It is mailed to all active members of the organization.

Membership in NOBLE is open to any individual either involved in, or interested in pursuing, a career in law enforcement. There are five categories of membership, based on status as a sworn law enforcement officer and rank at the time of application. Membership classification may be amended later, however, to reflect promotional changes or job reclassification. Some exclusive benefits for NOBLE members include subscriptions to all newsletters and magazines, access to the NOBLE interactive Web site, and substantial discounts on conference registration for annual training conferences and other NOBLE events.

NOBLE's mission is to ensure equitable treatment in the administration of justice and to function as the conscience of law enforcement. The core operating philosophy is *justice in action*. Consistent with this philosophy, NOBLE is actively involved in many facets of justice in the United States. The organization focuses on relevant issues such as fairness in the administration of justice, police community relations, the hiring and promotion of black police officers, and the unique problems of the black police executive.

Members of NOBLE conduct substantive research, use the media to discuss pertinent issues, and perform myriad outreach activities. In 1983, NOBLE received funding from the National Institute of Justice to research racial and religious violence and to develop model policies and procedures for police organizations. As a result of this research, NOBLE published a law enforcement handbook, which is used by both law enforcement and social service agencies. NOBLE also designed a Victim's Assistance Program, which was implemented in several major cities, including Baltimore, Maryland; Chicago, Illinois; Boston, Massachusetts; and Washington, D.C. Funded by the Ford

Foundation, NOBLE's Victim Assistance Program outlines tactics to help police agencies form permanent relationships with local victim service providers, hospitals, and district attorneys to ensure the protection of victims of violent crime.

NOBLE has also been involved in efforts to assist police departments in the development of policies to respond more appropriately to the needs of domestic violence victims. Under a grant from the U.S. Department of Justice, NOBLE has been conducting policy development training seminars for law enforcement executives and managers since 2000. NOBLE has supported and published studies on racial and religious violence and harassment, hate crime, and use of deadly force by law enforcement officers.

Recognizing that the community must be an integral part of the criminal justice system, NOBLE views community outreach as a major guiding principle of the organization. NOBLE offers particular attention to criminal justice issues affecting the African American community and promotes a community-wide approach to the reduction of crime through various community outreach programs. The organization offers scholarships to high school and continuing education students, sponsors events to raise funds that provide supplies for financially disadvantaged schools, mentors students in various academic subjects, and cosponsors clothing drives, holiday food distribution drives, and various events to bring resources into disadvantaged communities. A publication, *The Law and You*, is geared toward advising minority males on their interactions with the police in the hope that unnecessary confrontation will be avoided.

NOBLE is also a participant in the Community Policing Consortium, along with four other leading policing organizations in the United States. The Community Policing Consortium was created and funded in 1993 by the U.S. Department of Justice, Bureau of Justice Assistance to deliver community policing training and technical assistance to police organizations and sheriff's offices that have received federal funding to implement community policing. As an active member of the consortium, NOBLE has trained more than 480 law enforcement

personnel (representing 165 law enforcement agencies) in cultural diversity and community partnerships. This training focuses on understanding the objectives of community policing and offers insight into the importance of forming collaborations with other agencies and community members.

One of NOBLE's most ambitious projects is the NOBLE Youth Initiative, which includes the participation of all U.S. NOBLE chapters. The initiative is aimed at preparing youth for leadership roles in their communities and maximizing the opportunity for youth to reach their full potential. The Youth Initiative, through workshops, focuses on exposing youths to various educational components; developing life, communication, and leadership skills; and instilling a sense of community pride.

Kimberly D. Hassell

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## ☞ NATIONAL PUBLIC SAFETY INFORMATION BUREAU

The National Public Safety Information Bureau began in 1964 as a source for public safety information. It works closely with law enforcement agencies and fire and emergency departments to provide the public with names of chief officers, addresses, phone numbers, and e-mail addresses for the more than 70,000 contacts it maintains in its database.

One way in which it carries out its mission is by publishing public safety directories. This role has expanded since the terrorist attacks of September 11, 2001, and now includes three major publications to assist the public in navigating newly created federal agencies such as the Department of Homeland Security. The *National Directory of Law Enforcement Administrators*, the *National Directory of Fire Chiefs & EMS Administrators*, and the

*Safety Source Yellow Pages* provide timely contact information for the public. The Department of Homeland Security combines a variety of law enforcement bodies into one department, as well as joining previously separate segments of the government. This presents a challenge to the publishers of the volumes who remain committed to maintaining updated information. The more than 74,000 listings in the National Public Safety Information Bureau database are updated annually for its directories, which help to provide accurate lifesaving information to the public.

The most comprehensive source of information relating to the National Safety Information Bureau is its Web site, through which 5,000 public safety links can be accessed. The site, [www.safetysource.com](http://www.safetysource.com), has A to Z listings titled Public Safety Shopping. There are references to bullet traps, cardiopulmonary resuscitation training, body armor, prison supplies and equipment, and nuclear, biological, and chemical protection, to name only a few. In addition the main page has featured areas, which include the three major directories, public safety mailing lists, public safety shopping, Web guides, and news and events. The Web guides are divided into seven areas—law enforcement, emergency medical services, associations, products and services, fire service, corrections, and emergency management. As an example, the law enforcement Web guide leads the user to such diverse agencies as the Bureau of Indian Affairs and state police and highway patrols across the country. The news and events link maintains three sections: police and law enforcement news, events schedule, and fire news.

Since 2000, the National Safety Information Bureau has been publishing *This Week in Law Enforcement*, which is intended to provide readers with up-to-date information affecting the law enforcement community. The publication is comprehensive and reports news from all over the country. Some of the issues covered in 2003 included gun control laws, court actions on high-profile cases, drug rings, and a section called "crime wire," which covers several states and reports on topics of interest in law enforcement. This publication is available through the Web at [www.twile.com](http://www.twile.com). The homepage

leads to the top story of the week, as well as contact and subscription information, a link to feedback for the public, a connection to an online version of the last five issues of the publication, and links to related organizations and associations. The links include a number of government or quasi-public agencies that are active in law enforcement research and training, including the Police Foundation ([www.policefoundation.org](http://www.policefoundation.org)), the National Law Enforcement Officers Memorial Fund ([www.nleomf.org](http://www.nleomf.org)), the Police Executive Research Forum ([www.policeforum.org](http://www.policeforum.org)), the Commission on Accreditation for Law Enforcement Agencies, Inc. ([www.calea.org](http://www.calea.org)), and the International Association of Chiefs of Police ([www.theiacp.org](http://www.theiacp.org)).

*Sandra Shoiock Roff*

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## **NATIONAL RIFLE ASSOCIATION**

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Dismayed by the lack of marksmanship shown by their troops, Union veterans Colonel William C. Church and General George Wingate formed the National Rifle Association (NRA) in 1871. According to Church, the primary goal of the association was to promote and encourage rifle shooting on a scientific basis. After receiving a charter from New York State, the NRA selected Civil War General Ambrose Burnside, who was also the former governor of Rhode Island and a U.S. senator, as its first president.

An important facet of the NRA's creation was the development of a practice ground. In 1872, with financial help from New York State, a site on Long Island, the Creed Farm, was purchased for the

purpose of building a rifle range. The range, named Creedmoor, was opened a year later, and it was there that the first annual matches were held. In 1892, Creedmoor was deeded back to New York State and NRA's matches moved to Sea Girt, New Jersey.

The NRA's interest in promoting the shooting sports among America's youth began in 1903 when NRA secretary Albert S. Jones urged the establishment of rifle clubs at all major colleges, universities, and military academies. By 1906, NRA's youth program was in full swing with more than 200 boys competing in matches at Sea Girt that summer. Youth programs are still a cornerstone of the NRA, with more than one million youth participating in NRA shooting sports events and affiliated programs with groups such as 4-H, the Boy Scouts of America, the American Legion, U.S. Jaycees, and others.

### **DEVELOPING A LEGISLATIVE AGENDA**

The NRA became politically active in 1934 with the formation of its Legislative Affairs Division. Although it did not begin to lobby directly, the NRA began to mail out legislative facts and analyses to members, encouraging them to take action based on the information. In 1975, sensing a need for political defense of the Second Amendment, the NRA formed the Institute for Legislative Action. Today the NRA is widely recognized as the leading lobbyist group for the broadest possible interpretation of the Second Amendment to the U.S. Constitution. The NRA is in the forefront of issues supporting the rights of individual citizens to purchase and bear firearms.

In addition, the NRA has maintained its emphasis on training, education, and marksmanship. During World War II, the association offered its ranges to the government, developed training materials, encouraged members to serve as plant and home guard members, and developed training materials for industrial security. After the war, the NRA concentrated its efforts on education and training the hunting community. In 1949, the NRA, in conjunction with the state of New York, established the first hunter education program. The NRA launched

a new magazine in 1973, *The American Hunter*, dedicated solely to hunting issues.

*The American Hunter* and *The American Rifleman* were the mainstays of NRA publications until the debut of *The American Guardian* in 1997. *The Guardian* was created to cater to a more general audience, with less emphasis on the technicalities of firearms and a greater focus on self-defense and recreational use of firearms.

Law enforcement has remained a major emphasis of the NRA. Although a special police school had been reinstated at Camp Perry in 1956, NRA became the only national trainer of law enforcement officers with the introduction of its NRA Police Firearms Instructor certification program in 1960. By 2004, there were more than 10,000 NRA-certified police and security firearms instructors. Additionally, top law enforcement shooters compete each year in eight different pistol and shotgun matches at the National Police Shooting Championships held in Jackson, Mississippi.

The NRA also continues to promote civilian firearms education: safety courses are available in basic rifle, pistol, shotgun, muzzleloading firearms, personal protection, and ammunition reloading. Additionally, nearly 1,000 Certified Coaches are specially trained to work with young competitive shooters.

Although the NRA is widely recognized today as a major political force and is either staunchly criticized or defended depending on individuals' views regarding how narrowly or broadly to interpret the Second Amendment, the association has retained its original purpose to encourage shooting as a sport and to train individual shooters in gun safety.

*Michelle Beharry*

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## NATIONAL SECURITY AGENCY

The National Security Agency (NSA) coordinates, directs, and performs focused activities to protect U.S. information systems and to produce foreign intelligence information. It is the nation's primary cryptologic organization and, as such, is a high-technology organization, reaching new frontiers of communications and data processing. The agency is also one of the most crucial centers of foreign language analysis and research within the government.

Signals Intelligence (SIGINT) is a special program with a long history. SIGINT's modern era began during World War II, when the United States broke the Japanese military code and became aware of plans to invade Midway Island. This intelligence helped the United States win against Japan's superior fleet. The utilization of SIGINT is believed to have played a significant role in shortening the war by at least one year. SIGINT continues as an important force helping the United States maintain its superpower status.

Given that the world is more technology oriented, the Information Systems Security (INFOSEC) mission has become challenging. This mission involves securing all classified and sensitive information that is sent or stored by U.S. government equipment. INFOSEC professionals go to great strides to ensure that government systems remain impenetrable.

NSA operates one of the nation's most significant research and development programs. Some of the agency's research projects have greatly impacted the state of the art in the scientific and business worlds. Early interest by the NSA in cryptanalytic research led to the first large-scale computer and the first solid-state computer, forerunners to the modern computer. NSA led efforts in flexible storage capabilities, which allowed for the development of the tape cassette. NSA also made pioneering developments in semiconductor technology and continues to be a world leader in many technological fields.

NSA employs the country's leading codemakers and codebreakers. It is one of the largest employers of mathematicians in the United States and possibly in the world. These mathematicians contribute directly to the two missions of the agency: to design cipher systems that will protect the integrity of U.S. information systems and to search for weaknesses in the systems and codes of adversaries.

Like the NSA, the National Security Council (NSC) plays a vital role in maintaining the safety of American domestic and international interests. The National Security Act of 1947 authorized the National Security Council to advise the president of the United States in matters pertaining to domestic, foreign, and military policies relating to national security. The system is a method to coordinate executive departments and agencies in the effective development and implementation of these important national security policies.

The NSA is chaired by the president. The vice president, the secretary of state, the secretary of treasury, the secretary of defense, and the assistant to the president for National Security Affairs are regular meeting attendees. The statutory military adviser to the council is the chairman of the Joint Chiefs of Staff, and the director of central intelligence is the intelligence adviser. Also invited to attend the meetings are the chief of staff to the president, counsel to the president, and the assistant to the president for economic policy. The attorney general and the director of the Office of Management and Budget also attend meetings that impact their responsibilities. When appropriate, the leaders of other executive departments and agencies are invited to attend NSC meetings.

The NSC is the president's primary forum for matters pertaining to national security and foreign policy, giving him the opportunity to meet with his senior national security advisers and cabinet officials. For more than 50 years, 11 presidents have sought to use the NSC system to merge foreign and defense policies in order to maintain the nation's security and advance its interests abroad. Recurrent structural modifications through the years have been due to presidential management style, changing requirements, and personal relationships.

Overall, the nation's intelligence community (IC) contains a cooperative network of people and organizations that work together to inform decision makers and keep the country secure. The director of central intelligence coordinates and directs the multifaceted activities of all the U.S. intelligence organizations. The IC has representation from members of many intelligence agencies, including the Department of Defense; Departments of Justice, Treasury, Energy, and State; and the Central Intelligence Agency. Although it is not a military organization, NSA is one of a multitude of elements of the IC administered by the Department of Defense. As commander-in-chief, the president has the final authority over all intelligence collection and analysis.

Sean W. Wheeler

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## NATIONAL SHERIFFS' ASSOCIATION

The National Sheriffs' Association (NSA) is a nonprofit professional organization dedicated to increasing professionalism in the criminal justice community. Although there is a decided emphasis on the office of sheriff, the organization is more diverse than its name suggests. Membership is open

to the law enforcement community at large as well as concerned citizens and corporate entities.

Since its inception in 1940, the NSA has offered many services to the criminal justice community. Today, the organization has grown to approximately 20,000 members, who participate in a wide variety of organizational activities ranging from receiving the monthly *Sheriff Magazine* to obtaining liability insurance at a reduced rate. The most valuable of these services seems to be the large network of information sharing. Each year a national conference is held in June. The purpose of the annual conferences is to provide members with educational opportunities and acquaint them with the latest technological advances in policing and correctional research and product development. In addition, peer networking is an important function of the conferences. The 2003 national conference was attended by approximately 4,600 members with more than 300 companies exhibiting law enforcement products. In addition to vendors of traditional police products (uniforms, firearms, body armor, training programs, etc.), many exhibitors reflect the jail-management functions of sheriffs' offices and therefore might range from architects specializing in cell construction and maintenance to food vendors purveying single-serving food packets to accommodate the dietary needs of detainees.

The most critical element of the NSA's success is its commitment to partnerships at all levels. NSA works to establish and maintain cooperative relationships with local, state, and federal criminal justice agencies, as well as relationships with citizens' groups.

The most influential partnerships have been with other professional organizations, bridging the gap between professionals working in an often unsystematic criminal justice system. For example, the Commission on Accreditation for Law Enforcement Agencies was established in 1979 as an independent accrediting authority by the NSA in cooperation with the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, and the Police Executive Research Forum. The NSA has several sections and committees directed at specific aspects of law enforcement, such as a traffic safety committee, the

chaplains' advisory committee, and a research and development section.

## TRAINING

The NSA established the National Sheriffs' Institute (NSI) in 1972 to provide executive management training for law enforcement leaders. The NSI was established in response to a need by sheriffs to meet the rapidly changing demands of the office during the turbulent 1970s and is regarded as a source of quality training on essential and timely topics. The institute offers a wide variety of courses, ranging from law-enforcement-specific courses on terrorism and crime prevention to the more business-like aspects of law enforcement management, such as budget preparation. The institute also offers training for new sheriffs. This training is tailored to the special concerns of the office's executive and administrative functions. These executive leadership skills are learned in a two-week course of instruction. NSA also offers specialized training in jail operations through the jail operations section, offering beginner and more advanced courses in jail operation and administration.

The association also publishes a wide variety of training material for use with, and outside of, these courses. The rapid shifts in what society demands of law enforcement have resulted in shifts in the training opportunities offered by NSA. Since the terrorist events of September 11, 2001, NSA has added a weapons of mass destruction (WMD) training program to its calendar. The WMD program is intended to prepare sheriffs to plan and train their office to respond effectively to a WMD incident. WMD training program participants learn the nature and extent of the terrorist threat and the actions that a sheriff's office should take to prepare for a WMD incident.

## NATIONAL NEIGHBORHOOD WATCH PROGRAM

The late 1960s saw a dramatic increase in burglary rates. In response to a multitude of requests from sheriffs and police chiefs around the country, NSA developed the National Neighborhood Watch Program

as a crime prevention strategy that incorporated citizen involvement and addressed the increasing number of burglaries taking place at unprecedented levels in rural and suburban residential areas. Watch programs have enjoyed a resurgence in popularity since the late 1990s due to the increasing adoption of community policing strategies by the law enforcement community. As policing has evolved into a more community-oriented activity, so too have Neighborhood Watch Programs. Groups are now incorporating activities that not only address crime prevention issues, but also restore civic pride and community cohesion. For example, some Neighborhood Watch groups participate in neighborhood cleanups and other activities aimed at improving the quality of life for neighborhood residents.

### POLITICAL ACTIVITY

The NSA is politically active on the national level and has been involved in planning with the White House and the Department of Justice on many issues of concern to its membership. The Government Affairs Division of NSA operates as a connection for sheriffs to lawmakers in Washington, D.C., and also smoothes the process of communication with presidential aides and congressional officials. The division monitors and analyzes legislative activity for the NSA and works closely with the executive branch to develop and maintain cooperative relationships that benefit the law enforcement community.

*Adam J. McKee*

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## NATIONAL TRANSPORTATION SAFETY BOARD

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The National Transportation Safety Board (NTSB) is an independent agency of the U.S. government,

charged with the investigation of certain transportation accidents within the United States for the sole purpose of issuing safety recommendations to prevent future accidents. The board is not authorized to establish liability for civil purposes, but attempts to prevent future accidents by recommending operational, regulatory, and engineering improvements. The board has neither the authority nor the training to conduct criminal investigations. Where there is a collateral interest on the part of law enforcement, federal, state, and local law enforcement agencies conduct all portions of the criminal investigation. The NTSB's role with law enforcement is solely to make evidence and technical information available to enforcement officials.

The NTSB operates under rules established by the Code of Federal Regulations, Title 49, Chapter VIII. It is composed of three members appointed by the president of the United States, plus a chair and a vice-chair. The members, chair, and vice chair are appointed to fill specific terms (one term expiring each year, on a rotating basis) and confirmed by the Senate. The board is assisted by a staff of civil servants, some of whom are specialists in a single transportation mode.

The board receives most of its visibility through involvement in aviation accidents; however, it also investigates selected accidents on the highways, waterways and marine environments, materials pipelines, and railroads. Not all transportation events are classified as reportable to regulatory bodies, much less to the NTSB. The board also reviews, on appeal, actions taken by the Coast Guard or the Federal Aviation Administration against operator certificates.

High-visibility accidents are investigated by Go Teams (usually chaired by a member and staffed by civil service personnel) based on the mode of transportation involved, the relative severity of the accident, and the expected complexity of the accident. Field investigators are frequently accompanied by family service specialists and public information officers to assist in timely release of information to the media as well as to individual family members. On-scene, investigative subgroups are formed to look into specific areas, such as power

plants, structures, weather, and survivability. The number and assignment of groups varies from accident to accident. Other regulatory bodies and affected corporations participate. Accidents with relatively little public visibility are investigated by field offices with regulatory and other participation. Public participation is not permitted.

At the conclusion of on-scene activities, the board staff and the parties to the investigation will continue to conduct off-site tests, review evidence, and collect additional data from manufacturers and others. Additional witness interviews may be compiled as well. In events involving aviation, the NTSB protocols mirror those established by the International Civil Aviation Organization.

The work product consists of two parts: a factual record and an analysis record. The factual record becomes a matter of public record, while the analysis report is considered a working document of the individual staff members and does not become part of the public record. For certain large-scale accidents, a full report of the board's activities, including analysis, will be published together with the board's conclusions, finding of cause, and recommendations. In developing its analysis, the board occasionally convenes public hearings. Without regard to accident size, the recommendations and statement of probable cause are always a matter of public record. Law enforcement bodies should be aware that the board's use of the term *probable cause* should not be interpreted in the same context as used in law enforcement. Further, the NTSB accident investigation does not establish fault, but serves only to identify potential government or industry changes to prevent recurrence.

The board staff also supports the transportation industry by serving as accredited representatives to certain non-U.S. investigations when invited to do so by the host government. In these cases, the host government controls the investigation and the participation of NTSB and Department of Transportation staff members is limited as technical advisers and observers. The conclusions drawn and reports issued are the exclusive province of the host government.

The NTSB has no oversight body. This has led to criticism from the public and occasionally from the

larger accident investigation community. Because the board is an independent organization, it is not accountable for the length of time taken for the completion of its investigations, some of which have taken several years.

Accident reports are sold by the U.S. National Technical Information Service. Single copies of special studies and some statistical reports are available directly from NTSB offices. Law enforcement organizations requesting assistance can contact any one of the NTSB's offices through telephone listings under the U.S. Government or, for immediate attention (regardless of transportation mode) through the nearest Federal Aviation Administration air traffic control facility, state departments of motor vehicles, or state or local emergency services coordinators.

The NTSB's principal offices are in Washington, D.C. In addition, the board maintains nine field offices strategically located throughout the country. In 2003, these locations were Gardenia, California; Seattle, Washington; Denver, Colorado; Arlington, Texas; Chicago, Illinois; Atlanta, Georgia; Miami, Florida; Parsippany, New York; and Anchorage, Alaska.

*Frances Sherertz*

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## ☞ NATIONAL WHITE COLLAR CRIME CENTER

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The National White Collar Crime Center (NW3C) was formed in 1992 with the purpose of providing a nationwide support network for agencies and organizations involved in the prevention, investigation,

and prosecution of high-tech and economic crime. Federally funded by Congress through grants from the U.S. Department of Justice's Bureau of Justice Assistance, NW3C is a nonprofit, membership-affiliated organization comprising law enforcement agencies, state regulatory bodies with criminal investigative authority, and state and local prosecution offices.

By 2003, nearly 1,500 local, state, and federal enforcement agencies had joined NW3C. Members benefit from several support services with their cost-free affiliation to NW3C, including financial investigations and cyber crime training, analytical services, case funding, database searches, Internet Fraud Complaint Center (IFCC) referrals, and research and information resources.

## TRAINING

NW3C is a resource for the design, development, and delivery of financial investigations and computer forensic and investigation courses. NW3C's Training Section includes curriculum developers who are teachers, instructional designers, publishing editors, lawyers, engineers, and degreed computer-based training specialists. NW3C training provides investigators, prosecutors, auditors, financial analysts, and regulatory personnel with the specialized techniques and skills needed to successfully detect, investigate, and prosecute economic and cyber crimes. Its nationwide training programs have delivered up-to-date economic and cyber crime training to nearly 60,000 investigators.

A blend of on-site classroom and computer-based training is available, including such courses as financial investigations practical skills, financial records examination and analysis, disaster fraud management, basic data recovery and analysis, advanced data recovery and analysis, Internet trace evidence, prosecuting cases that involve computers: basic information and important issues, big money—a financial investigations resource, introduction to Internet investigations, digital evidence for first responders, and cyber crime fighting video.

Other training opportunities include electronic law enforcement seminars and the Economic Crime

Summit. The electronic law enforcement seminars are free, one-day seminars that are held several times a year throughout the United States. They bring law enforcement professionals together to learn about the latest computer crime trends. Participants get information on some of the no-cost resources available to help their agencies combat, investigate, and prosecute electronic crime.

The Economic Crime Summit is a major venue to spotlight current global economic crime with a focus on public and private-sector investigation and prevention initiatives. The Economic Crime Summit's exhibit floor, conference program, and workshops offer attendees an exploratory environment dedicated to education and networking. The conference features products, services, and technologies to support fraud prevention, investigation, and prosecution initiatives.

## OTHER NW3C SERVICES

NW3C's Investigative Support Section provides analytical assistance to qualified state and local members. NW3C analysts work closely with police officers, investigators, and prosecutors in developing economic crime cases. Case products can range from preparing a link chart to be used in court that connects suspects with related crimes to in-depth analysis of bank records and transaction reports that may span several years. Once NW3C's board of directors designates a case for assistance, a vast number of technical services are available, ranging from financial analyses, link charts, timelines, and graphs to expert witness testimony.

NW3C also provides limited financial assistance to investigations that cross state lines. NW3C case funding is often used to pay for investigative travel, witness travel, document recovery, and expert witness expenses. To qualify for this assistance, a NW3C member agency must meet certain criteria and must be unable to obtain funding from other sources. NW3C provides free to its members informational support through public records database searches from companies such as LexisNexis, ChoicePoint, and DBT AutoTrak. NW3C public record database searches can potentially provide

new leads, assist in the investigative focus of a case, identify other parties, or reveal other important information on a case.

## INTERNET FRAUD COMPLAINT CENTER REFERRALS

The IFCC is a partnership between the Federal Bureau of Investigation and NW3C. The IFCC's mission is to address fraud committed over the Internet. The IFCC is a resource established *for* law enforcement *by* law enforcement. A dedicated Web site located at [www.ifccfbi.gov](http://www.ifccfbi.gov) provides a mechanism for consumers nationwide to report Internet fraud. For law enforcement, the IFCC enables the development of educational programs aimed at preventing Internet fraud and allows for the sharing of fraud data by all law enforcement and regulatory authorities. All viable complaints, even those that are not specifically Internet fraud related, are taken by the IFCC staff and referred to the appropriate law enforcement agencies on behalf of the individual filing a report based on thresholds preestablished by the respective agencies.

## RESEARCH AND INFORMATION RESOURCES

NW3C strives to achieve its mission of identifying the impact of economic crime in hopes of increasing the public's awareness of the problem and its ability to control it. NW3C researchers are trained to assist officers by developing and presenting legal curricula in computer crime and financial crime investigations. They maintain an economic crime library and an annotated electronic database specific to economic and high-tech crime. The database includes an extensive listing of books, journal articles, newspaper articles, and Web sites about economic crime. NW3C responds to requests for information on different forms of economic crime, statistical data, and preventative measures. It also provides a wide range of additional information from novel and complex legal issues in high-tech crime to case law and legislative developments and other economic-crime-related legal guidance.

Additional information resources include special fraud alerts on scams that are distributed via fax and e-mail to members. These alerts cover a wide range of topics. Since 1994, the NW3C has also published *The Informant*, a quarterly that provides regular features on the latest economic and cyber crime topics and trends. Its coverage of success stories from enforcement agencies across the nation extends ongoing accolades to the professionals who work daily to combat these new-age crimes. *The Informant* also includes articles on specialized investigative support services for law enforcement, economic crime research and legal issues, best practices, invisible crime spotlights, and a list of upcoming fraud training sessions and conferences.

*Richard Johnston*

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## ☞ NATIONAL ZOOLOGICAL PARK (SMITHSONIAN) PROTECTIVE SERVICES

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The Smithsonian National Zoological Park Protective Services (also called the National Zoological Park Police, NZPP) is a small police department that is responsible for the security and protection of zoo animals as well as visitors, staff, and volunteers at the National Zoological Park (NZN) in northwestern Washington, D.C. The zoo is a bureau of the Smithsonian Institution (SI) and houses approximately 2,700 animals of 435 species.

Protective Services is responsible for a wide range of law enforcement and security duties on the grounds of the zoo, which totals 163 acres, including 25 buildings and six entrances. Duties include patrol; emergency response; protection of visitors, staff, animals, and facilities; maintenance of public order; crowd control; loss prevention; traffic management; and the enforcement of zoo rules. Because a large number of children visit the zoo, police officers must be especially aware of crimes

that concern child safety. Admission to the zoo is free; more than 2 million people visited in 2003.

Officers carry firearms and have arrest authority. They also have concurrent arrest authority with the U.S. Park Police in the National Capital Parks area. In 2001, the NZP Protective Services was one of a number of federal police agencies that entered into a cooperative relationship with the Washington, D.C., Metropolitan Police Department to police the city areas surrounding their jurisdictions. This local enforcement authority was granted under the Police Coordination Act that Congress passed in 1997 to address rising levels of crime in Washington, D.C. Protective Services officers patrol areas surrounding the zoo, enforce local laws, and make arrests.

## HISTORY

The NZP was created by Congress in 1889 and became part of the SI a year later. The SI initially appointed two watchmen who performed enforcement duties along with a variety of other tasks. The NZP opened to the public on April 30, 1891, with six officers from the Washington Metropolitan Police Department appointed to enforce laws and regulations. These officers were the foundation for the National Zoological Park Police. In 1951, Congress authorized Title 40 U.S.C. Section 193 n, which authorized the SI to designate its employees as special police officers. In 1984, the NZPP employed 21 permanent law enforcement personnel, five seasonal police officers, and seven summer traffic aids. A captain was the commanding officer, assisted by two lieutenants and four sergeants. SI's requested budget for FY 2004 listed 41 full-time-equivalent employees whose roles are to ensure the optimal safety and protection of facilities, collections, staff, visitors, and the volunteers at the Zoological Park. Current enforcement powers are derived from Title 40 U.S.C. Section 193 t.

Funding for the zoo was split between the federal government and the District of Columbia until 1966, when the entire budget was assigned to the Smithsonian Institution. In 1958, the Friends of the National Zoo was established to support expansion of zoo research programs and facilities; today it

provides additional funds of about \$5 million annually. The federal portion of the zoo's budget is approximately \$24 million and, of that, \$2.7 million is designated for safety and protection of facilities, collections, staff, visitors, and volunteers.

## ORGANIZATION

As part of the Smithsonian Institution, the Zoological Park reports to the secretary of the Smithsonian via the undersecretary for science. The zoo employs 350 employees including police officers and is organized into six major divisions or directorates. Protective Services, in the Facilities Division, is supervised by a chief and a commanding officer who holds the rank of captain. In addition, the Protective Service works closely with the Smithsonian's Office of Protection Services (OPS), which oversees the various security units throughout the SI. Plans are for NZP Protective Services to be placed under the SI's OPS by 2006.

Police officers are hired based on a combination of experience and education. An applicant must be a U.S. citizen, possess a driver's license, be in good physical condition, have good vision, have the ability to distinguish colors, and hear the conversational voice. Basic hiring is done on the GS-5 level, which requires one year of specialized law enforcement experience or a bachelor's degree related to law enforcement, criminal investigation, or criminology. Higher ranks require additional years of specialized experience.

Successful candidates attend a nine-week basic police training program at the Federal Law Enforcement Training Center in Glynco, Georgia. Additional training is provided in park policies and regulations, firearms, defensive tactics, law, and first aid. Inservice training is conducted by zookeepers to acquaint police officers with security procedures and devices in place for the animals to better their understanding of emergency plans, particularly as these relate to confining or moving animals in the event of an emergency.

The zoo police utilize mountain bikes for patrol and emergency response. Bicycles are very maneuverable and can handle crowded paths and uneven

terrain well. They also keep officers close and available to the public. Bike unit officers are certified to patrol on mountain bikes by the International Police Mountain Bike Association. A zoo officer is now a certified instructor.

The zoo also uses closed circuit television for video surveillance of vehicular access gates and some animal enclosures equipped with motion sensors and audible alarms that are monitored around the clock.

The abilities of the police were tested in 2000 when the annual African American Family Celebration Day, held at the zoo on Easter Monday for the past 100 years, turned violent. The event, which draws 15,000 to 20,000 visitors, turned violent when a conflict between two groups of teenage boys resulted in shots being fired into the crowd by a 17-year-old. Seven children were wounded and the youth was convicted and sentenced to 25 years in prison for assault with intent to commit murder. The subsequent investigation concluded that the zoo was inadequately staffed to handle the large crowd and did not have sufficient coordination with surrounding law enforcement agencies. In response, the NZPP initiated agreements with the U.S. Park Police and the Metropolitan Police Department to provide crowd control assistance and also the sharing of intelligence when unusually large crowds were expected. The zoo has also involved community leaders and volunteers from the school security forces to assist in maintaining order.

Prompted by the terrorist attacks on September 11, 2001, a threat assessment and vulnerability study were conducted. The NZP was given additional funding to implement the recommended changes, which included upgrading equipment, revising emergency plans, developing redundant emergency command centers, installing access control and alarm systems in certain buildings, screening vehicles entering the park, and x-raying mail and packages.

*Katherine B. Killoran*

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## NAVAL CRIMINAL INVESTIGATIVE SERVICE

The Naval Criminal Investigative Service (NCIS) is the investigative arm of the Department of the Navy. The NCIS is responsible for investigating crimes committed on navy or marine corps installations (e.g., ships, naval bases) or by navy personnel or their spouses or dependents. The NCIS further provides security for naval officials and naval properties. The NCIS employs approximately 2,300 people, about half of whom are civilian special agents. NCIS personnel can be found in more than 140 locations around the world.

The NCIS began in 1915 when the Office of Naval Intelligence was given the responsibility of investigating espionage. After World War II, the Office of Naval Intelligence changed to a predominantly civilian force and its responsibilities were expanded to include conducting criminal investigations, counterintelligence investigations, and background security investigations of naval personnel. In 1966, the Naval Investigative Service name was adopted to distinguish criminal investigators and counterintelligence officers from the rest of the Office of Naval Intelligence. In 1983, the Naval Investigative Service opened the Navy Antiterrorist Alert Center as an operational intelligence center to track and disseminate information on terrorist activity.

In 1991, the acting navy secretary replaced the Naval Investigative Service's commander with a civilian director and changed the agency's name to the current Naval Criminal Investigative Service.

The change resulted from a Tailhook Association convention in Las Vegas, Nevada. The Tailhook Association was a private group of retired and active-duty carrier pilots. During this convention, many of the pilots became intoxicated and sexually assaulted more than 20 women. The Naval Investigative Service was responsible for investigating the allegations, but the investigation had stalled and naval commanders, including the Naval Investigative Service's commander, appeared to be protecting the accused. The civilian director position still exists today and the director reports to the secretary of the navy, the highest commander in the navy.

NCIS agents can specialize in any of four career paths: general criminal investigations, procurement fraud investigations, foreign counterintelligence, or technical services. Agents conduct investigations against those who are either naval employees or those who commit criminal acts against naval personnel or property. Investigations span a range of criminal acts, including homicide, rape, burglary, robbery, child abuse, arson, domestic violence, and theft of government property. The investigations are conducted in ports, on military bases, and wherever navy and marine corps personnel are present. Agents work closely with the offices of the navy and marine corps Judge Advocate General and the local U.S. attorney for prosecution of these crimes. The accused can thus be prosecuted in either a military tribunal or a civilian federal court.

Since the Department of the Navy relies extensively on the expertise of contractors who build and service highly sophisticated military technological tools and maintain military property, the economic crimes division oversees fraud, arson, and property theft against the navy. Procurement fraud is the major cause of economic loss and takes the form of bribery, kickbacks, product substitution, cost mischarging, and environmental crimes. In 1997, NCIS fraud agents were involved in the investigation of 811 procurement fraud cases. Of the approximately 111 agents who work economic crime cases, the majority are assigned to the Norfolk, Virginia, and San Diego, California, naval bases where the navy does the bulk of its contracting.

In the area of counterintelligence, the NCIS collects and analyzes information about possible

threats and advises military commanders. The counterintelligence mission is focused on protecting naval forces both on- and off-shore and protecting sensitive technologies, such as computers, from foreign intelligence services and terrorist organizations. Agents collect intelligence from criminal databases, surveillance, local and federal law enforcement, and law enforcement agencies overseas. NCIS personnel also train military personnel, civilian employees, and dependents living on naval bases on terrorism awareness, crime prevention, and violence in the workplace.

Finally, the NCIS provides technical support to its field offices, such as polygraph examinations, secure communications, and hidden surveillance cameras. The NCIS maintains two forensic laboratories, again in Norfolk and San Diego, where crime scene evidence is analyzed. Technical and support staff may find careers in chemistry, forensic science, computers, polygraph administration, and administrative support.

A candidate interested in becoming a special agent must possess a four-year college degree, apply to the NCIS, and allow an intensive background investigation due to handling highly sensitive information. Agents train for 15 weeks at the Federal Law Enforcement Training Center in Glynco, Georgia. Once assigned to their field offices, new agents learn additional investigative tools, including interviewing techniques, crime scene processing, search and seizure procedures, and victim sensitivity issues. Agents may spend their assignments in the United States or overseas, including afloat tours and tours in isolated locations.

*Paula Gormley*

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## ☞ NUCLEAR SECURITY, DEPARTMENT OF ENERGY

The security of nuclear materials in the United States is assigned to the Office of Security in the Department of Energy (DOE), which protects facilities, personnel, and classified and sensitive materials from threats from criminals, dissidents, terrorists, and security breaches via foreign intelligence. The plants and laboratories managed by DOE are located throughout the United States, including facilities in Nevada, New Mexico, California, and Tennessee and the agency's headquarters in Washington, D.C.

The Office of Security is divided into a number of areas, including identification of classified and controlled information; executive and dignitary protection; infrastructure security to protect critical assets, including nuclear materials; and an emergency management center located at the Forrestal Emergency Operations Center at the Washington, D.C., headquarters, from which analytical support is provided during all security-related incidents and all emergency management drills and practice exercises.

The security policy staff is responsible for designing policies to protect the physical security of facilities and the assets entrusted to DOE. Staff also manages the DOE Safeguards and Security Technology Development Program and the integration of cyber security, classification and control policy, and safeguards and security. The security policy staff must also provide an independent adversary team that has the capabilities pointed out in the DOE Design Basis Threat. The team, known as the Composite Adversary Team, provides realistic training and emergency management opportunities for staff through realistic performances of security breaches.

An Office of Security Training and Education manages the Nonproliferation and National Security Institute (NNSI), located at Kirkland Air Force Base, Albuquerque, New Mexico, and provides security training and services (e.g., nuclear safeguards and security, protection of the infrastructure, and homeland security counterterrorism measures). Between 1984 and 1998, the NNSI was known as the Safeguards and Security Central Training

Academy. It provided the training necessary to counter threats directed at U.S. nuclear facilities. In those years, programs grew to more than 100 courses in five major areas: information security, materials control and accountability, personnel security, program and planning management along with curriculum development and instructional techniques, and protection program operations.

The NNSI, which is operated by Wackenhut Security Services for the DOE, is comprised of the Safeguards and Security Central Training Academy, the Counterintelligence Training Academy (CITA), the Foreign Interaction Training Academy, and the Professional Development Program. Each performs somewhat different functions.

The CITA, which was established on May 1, 2000, provides counterintelligence training and awareness courses and informs the students of the current structure and responsibilities of the Office of Counterintelligence and the Office of Defense Nuclear Counterintelligence. Students, who include DOE/NNSA (National Nuclear Security Administration) federal and contractor managers and supervisors, are trained to recognize the dangers of the foreign intelligence services threat, the risks and vulnerabilities, and methods of protection for personnel and technology and how to recognize, deflect, and report to DOE/NNSA counterintelligence any attempts by foreign intelligence service personnel to extract information from DOE/NNSA attendees at scientific conferences and business meetings. The practice of economic espionage (types of intellectual property threats and countermeasures) is discussed and analyzed using cases, examples, and the 1996 Economic Espionage Act, as well as the risks involved in scientific collaborative projects. Students are trained in how to spot human behavior and weaknesses that could cause a trusted insider to be recruited by corporate or national intelligence spies. The foreign technical collection documents how threats or how technical espionage (bugging conversations, voice, fax, and data communication, theft of materials, luggage, computer, etc.), technical surveillance, covert searches, and efforts to elicit information can be used against a DOE/NNSA traveler.

The Foreign Interaction Training Academy, which was established in March 2001, develops and provides training for DOE staff and all contractors' personnel who are assigned to activities involving visits by non-U.S. citizens to DOE facilities. Training centers on technology and legal issues surrounding transfer of data may influence national security. The Professional Development Program was established to offset any loss of expertise that may be experienced by staff retirements. This program has not only provided training for current staff, but also maintains an intern program to encourage recent college graduates to pursue careers with the DOE.

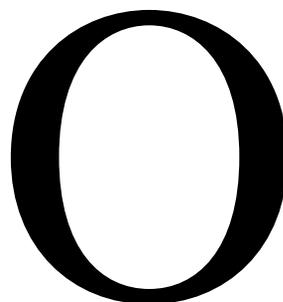
Since its inception, the DOE has relied on armed, private security officers to patrol its facilities, but amid concerns over terrorist threats, particularly to the nuclear weapons program, discussions were initiated in 2004 to create a police force within the department. In addition to replacing its network of private security firms that now guard nuclear weapons material, DOE is considering creation of a mission focused group of specialist officers who would resemble the Army's Delta Force or the Navy's Seals. DOE has

also indicated it will reduce the number of places where weapons fuel is stored and will minimize thefts of classified information by moving to what it termed *diskless* computing by 2010.

*Marvie Brooks*

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## OFFICE OF NATIONAL DRUG CONTROL POLICY

The Office of National Drug Control Policy (ONDCP) was created by the Anti-Drug Abuse Act of 1988. It is the most recent organization established to oversee and plan for the funding, coordination, and evaluation of federal government antidrug activities. The concept of designating a central person or agency as the leading authority on drugs in the federal government dates back to Dr. Hamilton Wright, the State Department's opium commissioner from 1906 to 1914. Wright coordinated efforts in the private and public sectors that eventually, in 1914, led to the Harrison Narcotic Act, the basic antiopiate and anticocaine law of the United States until the Comprehensive Drug Abuse Prevention and Control Act of 1970.

In 1920, Levi G. Nutt was given responsibility for enforcement of the Harrison Act. He was appointed head of the Treasury Department's Narcotic Field Force, a division of the Prohibition Bureau. In 1930, after some scandals, Congress created the Federal Bureau of Narcotics (FBN) in the Treasury Department. President Herbert Hoover appointed Harry J. Anslinger, a Foreign Service officer, as its first head. Anslinger remained atop the FBN for 32 years. Although the U.S. Public Health Service was also deeply involved with narcotics and operated

two prison-like institutions for the treatment of addicts, drug policy leadership remained with Anslinger, whose criminal justice approach harmonized with popular revulsion toward addicts. He maintained a strong hand on the legal controls over drug abuse and could easily have been called the first drug czar. By the 1950s, he had obtained mandatory minimum sentences and even the death penalty for some drug offenders.

During the 1960s when expert opinion shifted toward the medicalization of drug abuse, a new approach and new leaders were sought. The treatment side of addiction was greatly expanded during the administration of President Richard M. Nixon, which created the Special Action Office for Drug Abuse Prevention (SAODAP). Its director, Dr. Jerome Jaffe, was often referred to as the drug czar. The activities of SAODAP balanced treatment and prevention with the government's criminal justice agency that had evolved in 1968 from the FBN to become the Bureau of Narcotics and Dangerous Drugs (BNDD). Federal support of drug treatment programs grew enormously under SAODAP before it closed its doors in 1974. Out of SAODAP in 1973 came two permanent agencies to deal with the medical and legal aspects of the fight against drugs, The National Institute on Drug Abuse and the Drug Enforcement Administration, successor to the BNDD. They joined the U.S.

Customs Service as the three major institutions dealing with drug misuse.

To coordinate the broad spectrum of federal activities—and to control bitter infighting among the agencies—succeeding administrations tried different schemes. In broad terms, the two basic styles of antidrug governance were centralization—keeping leadership clearly in the White House with a designated chief—and the alternative, spreading responsibility among the agencies. In general, Presidents Gerald Ford and Ronald Reagan preferred the latter, which diffused responsibility for lack of success. Congress favored the former, which focused on one responsible person's results.

In the Reagan administration (1981-1989) concern over the drug problem intensified and led to a competition between the two major parties as to which one would more severely confront the issue of drug use. The Anti-Drug Abuse Act of 1986 reintroduced mandatory minimum sentences among other features, and the Anti-Drug Abuse Act of 1988 created the ONDCP, which was not to take effect until the end of the Reagan administration.

Creation of the ONDCP was intended to show the government's resolute determination, with the implication that great authority had been given the director to see that drug abuse would be effectively countered. In the 1988 act, the director was charged with preparation of a national drug control strategy. In September 1989, during a peak of popular concern, President George H. W. Bush introduced the first of these in an address to the nation. The director was also required to report to Congress on the subsequent fate of the strategy, to establish long-range goals, and to report each year on its progress.

The director's greatest power rested in the ability to provide leadership, to capture the public's imagination, and to persuade Congress to take action. The statute actually gave the director less power than the popular term *drug czar* would suggest. The director had the right to analyze the budget and actions of all relevant agencies and to report any noncompliance with the national strategy to the President. This aspect of the director's authority emphasized that the support of the President was

crucial to the success of the ONDCP. Without presidential backing, the director and his staff would confront the powerful and proud governmental departments with little hope of effective coordination.

The first director was William Bennett, a former secretary of education, who pursued an extremely active public role strongly advocating *user accountability* and for a policy of *zero toleration*. After less than two years of service, Bennett resigned. The second director was the former governor of Florida, Robert Martinez, who served quietly until President William J. Clinton took office.

President Clinton's first action regarding drugs was to cut the ONDCP staff by 83%. This appeared to be part of a new policy to deemphasize the War on Drugs. Lee Brown, police commissioner of New York City, accepted the directorship and served until late 1995. In the spring of 1996 General Barry McCaffrey succeeded Brown and brought the office to a higher public awareness. Serving until the end of the Clinton administration, McCaffrey transformed the national strategy from a short perspective to a much longer view, 5 to 10 years, which conveyed more realistically the rate of change in drug use. John Walters was appointed director in 2001 by President George W. Bush, and has emphasized a broadening of drug testing and a media campaign attacking drug use. He has also taken an active role in opposing liberalization of drug policies at the state level. Because the public's concern over drugs tends to ebb and flow with other social and political forces, it is difficult to predict the future direction of an agency such as the ONDCP.

*David F. Musto*

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## OFFICE OF PROTECTIVE SERVICES, NATIONAL GALLERY OF ART

The Office of Protective Services is a primarily uniformed force of almost 200 officers who provide security services at the National Gallery of Art, a federally administered art gallery that was established in March 1941 and has since grown to two buildings and an outdoor sculpture garden. The facilities, located in downtown Washington, D.C., are open 363 days a year and are free to the public, but entry points are staffed by members of the protective services staff.

Officers, who are federal employees and must be U.S. citizens to be hired, are primarily responsible for security for the physical facilities, including entrance and key control and building pass policies. The force has grown considerably from its original staffing of a captain, a senior lieutenant, two additional lieutenants, a senior sergeant, and an additional sergeant. Under the provisions of Administrative Order Number 1, which created the service, initial plans included a force of 79 officers. Since then, the force has grown to several hundred officers who, although they are hired directly by the National Gallery of Art, are considered to be under the jurisdiction of the U.S. Department of the Interior.

As the staff and responsibilities have grown, so has the administration of the force, which is now headed by a chief, assisted by a deputy for operations and a number of majors, to whom captains and various lower ranking officers report. Uniformed officers may be either armed or unarmed. Unarmed gallery guards are primarily assigned to patrol or fixed posts throughout the art galleries, garden, library, and administrative areas. Armed officers, who are special police officers, have powers of arrest and have duties and responsibilities similar to all police officers. Like many uniformed federal police forces, the jurisdiction of the Office of Protective Services is limited to the physical area of the National Gallery. To assist in providing seamless coverage for the many jurisdictions within the District of Columbia, the Office of Protective

Services is one of more than 30 agencies covered by the police coordination act and various cooperative agreements with the Washington, D.C., Metropolitan Police.

National Gallery of Art officers are trained largely in conjunction with the Veterans Administration security officers; they undergo an initial four weeks of training at a facility in Little Rock, Arkansas. For unarmed gallery officers, the initial phase of training lasts for two weeks and is conducted by the force's own trainers. The training that follows varies in duration and continuing education is required. The actual hiring of officers and their certification to provide National Gallery protection is also administered through the National Gallery of Art itself.

*Camille Gibson*

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## OFFICE OF SECURITY, CENTRAL INTELLIGENCE AGENCY

The Office of Security is the investigative and uniformed police force of the Central Intelligence Agency (CIA). It has responsibility for security of personnel, technical and computer data and equipment security, and physical security of CIA facilities. Staff members are responsible for investigating applicants for employment and contractors and for periodic investigations of incumbent employees, investigating personnel suspected of misusing classified information in their possession, and protecting defectors from foreign governments. Additionally, all individuals who need clearance in order to work in secret or covert operations are investigated by the Office of Security.

The Office of Security, which was created in 1950, predates creation of the present-day CIA,

which was established as part of the 1974 National Security Act. The Office of Security interacts with all four of the CIA directorates: Intelligence, Science and Technology, Operations, and Administration. Its personnel are considered staff of the administration directorate. As such, its activities are exempt from the search and review requirements of the Freedom of Information Act, which requires only that the director review once every 10 years any exemptions then in force to determine whether the exemptions may be removed from exempted files or a portion of the exempted files.

## ORGANIZATION AND CAREER OPPORTUNITIES

The Directorate of Administration was reorganized as of June 4, 2001, and separated into five areas: information technology, finance, security, global support, and human resources. Each area chief sits on the CIA's executive board and has equal stature with the directorate administrators. This restructuring was undertaken to allow support personnel to work more closely with the CIA operatives (Directorate of Operations), the CIA analysts (Directorate of Intelligence), and the CIA scientists (Directorate of Science and Technology). The changes have played a role in each of the career paths within the Office of Security, which is divided into a number of law enforcement positions.

All Office of Security employees and their spouses must be U.S. citizens. Applicants must undergo a number of medical and security clearances, must be psychologically tested and evaluated, and must pass a polygraph examination. Applicants need not have a law enforcement background; current areas of specialization that are sought include business, computer science, computer security, criminal justice, economics, English, finance, human resources, journalism, languages, psychology, sociology, and systems analysis.

The Office of Security has professional and paraprofessional positions. Professional personnel, who must have a four-year college degree for consideration, may be assigned within the United States or overseas. CIA policy emphasizes rotation of job

assignments, requiring employees to move frequently during the course of their careers. Professional positions include security officer generalist, polygraph examiner, electrical engineer, and computer security specialist. Requirements for each position differ. Many applicants for the security officer generalist positions have previous military or investigative experience in addition to education in the social sciences.

Polygraph examiner applicants must have at least two years of experience and certification from the American Polygraph Association or an accredited polygraph school in addition to a bachelor degree. Electrical engineer applicants must have a BSEE degree. Both experienced electrical engineers and recent graduates may apply; however, the beginning salary will match the applicant's ability and experience. The position involves developing technical solutions in the areas of technical surveillance countermeasures, communications, and computer security.

Paraprofessional positions include security protective officers and electronic technicians. The educational criteria range from a high school diploma to a two-year associate degree. Applicants should have at least one of the following skills in their background: bachelor or an associate college degree (criminal justice or a related field), military experience (military police or Marine security guard is preferred), or police or significant security job experience. Security protective officers must be at least 21 years old, have a valid driver's license, and qualify for top secret security clearance. Security protective officers attend the Mixed Basic Police Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia.

Security protective officers are the Office of Security's closest equivalent to police officers. All work in uniform, are armed, and exercise arrest powers only on CIA owned or leased properties. Officers are primarily assigned to protection of personnel, property, and resources and maintain access control at fixed posts at building entrances and exits, process visitors, and perform security checks of offices and buildings and related duties. Those who work at least 36 months in the position are eligible to apply to a variety of other positions in the

CIA, including higher ranks in uniform, with the supervisory ranks of sergeant, lieutenant, captain, and major, and such special duty assignments as explosive ordinance disposal, K-9, security operations center, or visitors control center.

Electronic technicians are primarily assigned to maintain technical security and countermeasures equipment to prevent unauthorized penetration of the agency's computer systems and to block any attempts to steal documents, deposit listening devices, or use other types of technology for espionage. They install mechanical, electromechanical, and electronic systems; work with the electronic engineers on assignments; and perform troubleshooting duties.

*Marvie Brooks*

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## OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement—usually abbreviated OSM, though sometimes abbreviated OSMRE in government publications. Operating as part of the Department of the Interior, the office has

two missions. One is overseeing coal mining activity to ensure that both people and the environment are protected during mining activity and that land is restored to beneficial use when mining operations are completed. The second mission, through the Abandoned Mine Land program, is to protect public health, safety, and general welfare by correcting problems associated with past mining practices such as underground fires, acid mine drainage, subsidences, landslides, highwalls, and open shafts.

With fewer than 525 employees across the country, the office partners with 31 states and a number of Native American tribes that exercise responsibility for enforcing, permitting, and bonding. OSM assumes direct responsibility for these functions on federal lands and in states that have not established regulatory programs of their own, including Tennessee and Washington. On occasion, OSM steps in where states fail to act. This occurred in August 2003, for example, when the office took over in Missouri when the state legislature failed to adequately fund inspection, enforcement, and other aspects of Missouri's mining regulatory program. Federal funding finances about half of each state's program and in Missouri, the state failed to match the federal funds as required so federal enforcement was implemented. Alternatively, OSM could have withdrawn its approval of the Missouri program, a more drastic step, but declined to do so because the state said it would take steps to address its funding and staffing responsibilities.

OSM investigators can order a cessation of surface coal mining or reclamation operation if they determine that there is an imminent danger to the health or safety of the public; if the activity is causing or could reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources; or if the operation is being undertaken without a valid permit. Depending on the type of violation and whether there has been a pattern of violations by the operator, enforcement procedures include informal or formal public hearings and an on-site compliance conference before taking a case to court if necessary. Federal authority may also be exercised when state permits are issued improvidently.

In actuality, most enforcement is done at the state level by state authorities, with policies and procedures varying slightly among the states. In instances when federal authorities assume enforcement responsibilities, such as when the OSM issues violations in Washington or Tennessee, the cases are handled by administrative law judges.

In the first 25 years after SMCRA was enacted, OSM gave more than \$1 billion in grants to states and Indian tribes to fund regulation of active coal mines and more than \$3 billion to clean up mine sites abandoned prior to 1977. In the Abandoned Mines Program, fees paid by active coal mining companies fund the restoration of abandoned mine lands. More than 8,109 acres of pre-1977 abandoned mine waste piles have been restored to productive use, while more than 2.8 million linear feet (or in excess of 530 miles) of cliff-like highwalls left by contour mining have been eliminated. In addition, more than 25,307 dangerous portals and hazardous vertical openings have been sealed. Yet, as recently as June 2003, there were an estimated 6,000 abandoned coal mines in this country, 1,700 of which were in the state of Pennsylvania alone, with 3.5 million people living within a mile of a hazardous abandoned mine. Fires in slag heaps and in underground mines were common in coalfields before SMCRA took effect, and though less common today, they still pose threats. One of the largest and longest out-of-control mine fires has been burning since 1962 under the town of Centralia, Pennsylvania; it is estimated to have enough fuel to burn for more than two more centuries. Because cost estimates to extinguish the blaze exceed \$600 million, authorities in Washington, D.C., have opted to evacuate people from Centralia permanently, compensating them for their homes and businesses.

The Interstate Mining Compact Commission, which does not possess regulatory or enforcement power, and which also concerns itself with other mineral mining besides coal, represents states on regulatory implementation including such issues as primacy, federal oversight, enforcement, the applicant–violator system, bonding, citizen participation, and environmental protection standards.

*David P. Schulz*

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## ☞ OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

The Omnibus Crime Control and Safe Streets Act, signed into law on June 19, 1968, by President Lyndon B. Johnson, was intended to assist state and local governments in improving the coordination and effectiveness of criminal justice systems throughout the United States. Reflecting the views of the president, Congress, and others that crime was an issue best handled by state and local governments, the law nonetheless brought the federal government into local crime control in ways the country had not seen since Prohibition.

A large portion of the Safe Streets Act dealt with providing federal funds to local police. Title I established a Law Enforcement Assistance Administration, which authorized the U.S. attorney general to establish and fund state law enforcement planning agencies, which were responsible for developing plans to improve law enforcement at the state and local level and for awarding grants intended to improve law enforcement providing funds for the recruitment and training of law enforcement personnel. Funds were also provided for the construction of buildings and other physical facilities, for special training to combat organized crime, and for riot control.

Title I also established the National Institute of Law Enforcement and Criminal Justice, whose mission was to encourage research and development to improve and strengthen law enforcement. The institute granted funds to public agencies, private organizations, and institutions of higher learning to discover new or improved approaches, techniques, systems, equipment, and devices for law enforcement. It represented the first time that the federal government had encouraged and paid for research into police systems and methods.

The other portions of the act, titles II to IV, dealt with more traditional law enforcement areas. Title II was concerned with the admissibility of confessions, evidence, and eyewitness testimony in state prosecutions and with procedures for obtaining writs of habeas corpus. It limited the federal court's ability to reverse state criminal convictions and also limited the federal courts from ruling against eyewitness admissibility at both the state and the federal levels.

Title III standardized the use of wiretaps and electronic surveillance by requiring law enforcement officials to obtain a court order prior to the surveillance of a particular subject and by limiting to 30 days the length of time a particular surveillance could take place without obtaining an extension from the court. Two exceptions permitted surveillance without a court order under the authority of the president when the subject involved national security and also allowed more generally for a law enforcement official in an emergency situation to conduct surveillance without a court order, although the latter exception required court approval within 48 hours.

Title IV prohibited the sale of handguns, pistols, and revolvers by interstate mail to anyone who was not a dealer and limited the counter sales to residents of the state in which the sale took place. Although rifles and shotguns were exempted, the law was an attempt to keep firearms out of the hands of people who are not legally entitled to possess them, such as juveniles, criminals, and those who had been determined mentally incompetent.

## MOTIVATION FOR THE ACT

The federalization of crime had become a major issue by the 1964 presidential campaign. The Federal Bureau of Investigation's (FBI's) Uniform Crime Reports showed a 13% increase in the levels of crime in the preceding years. It was also reported that since 1958 the crime rate had increased six times faster than the nation's population growth. Arizona senator Barry Goldwater, the Republican running for president against incumbent Johnson, made street crime a major political issue, and although Johnson

won the presidential race by an overwhelming margin, the crime issue remained important enough to him to raise it in his State of the Union speech in 1965 and to promise that crime control would remain on the national agenda. In September 1965, President Johnson's Commission on Law Enforcement and the Administration of Justice met for the first time to discuss how to address the crime problem. The commission, which consisted of 19 members headed by then attorney general Nicholas Katzenbach, attempted to assess the crime problem by studying the police, courts, and correctional systems. Its 1967 report, *The Challenge of Crime in a Free Society*, explored the commission's research and offered explanations for criminal behavior and alternative methods to prevent crime. The report clearly indicated the need for a greater commitment to be given to a largely overworked and misunderstood criminal justice system. The findings of the report formed the basis of the legislation Johnson sent to Congress the same year.

The continuing rise in crime did not ensure passage of the act, parts of which were originally voted down in Senate subcommittee hearings. However, on April 4, 1968, Dr. Martin Luther King, Jr. was assassinated and riots broke out in cities across the nation, including Washington, D.C. Two days later on April 6, 1968, title IV was passed, and in October, after the assassination of New York senator Robert Kennedy (brother of slain President John F. Kennedy who was running for president at the time), Congress passed the Gun Control Act of 1968. Many, including President Johnson, considered that title IV was a half measured step toward firearms control. Title IV only addressed handguns and ignored rifles and shotguns. The Gun Control Act of 1968 proved to be a comprehensive legislative approach to firearms control.

Almost immediately after passage of the Omnibus Crime Control and Safe Streets Act, the high level of federal involvement that it brought to local crime fighting was criticized. Critics complained about reliance on the FBI's Uniform Crime Reports, citing a number of flaws in the reporting system. This led some observers to question whether crime had really increased or if it was the

method of recording criminal incidents that had changed.

Others questioned whether crime was really out of control all over America or whether it was primarily an urban problem. The president's commission had reported that most crimes were committed in cities by boys and young men and that the causes were rooted in social and economic conditions. To address these issues would require a national commitment to all levels of our society. Some have suggested that this law had hidden racial overtones. Title I provided funds to state and local police agencies for training and equipment. However, title I also exempted law enforcement agencies from title VI of the 1964 Civil Rights Act, which allowed the federal government to withhold funds from any agency that practiced discrimination.

The legislative challenge to the Supreme Court decisions had many people concerned about the balance of power at the federal level and the legitimacy of the law itself. Last, a number of critics questioned the 48-hour rule that was embedded into title III, believing it would empower low-level prosecutors to snoop into the affairs of everyday citizens without any judicial oversight. At the same time that some people felt title III gave the government too much powers, others complained that although title IV was a first step to control firearm sales, it did not go far enough.

Despite these criticisms, the Omnibus Crime Control and Safe Streets Act of 1968 is a watershed

in the federal government's attempt to reduce crime at the local level and to respond to the public's perception of rising crime rates. The public's fear of crime played an important role in the passing of the law and created a situation that forced politicians to act in what had previously been viewed as strictly local areas of concern, specifically combating local crime.

*John D. Beckmann*

*See also* Gun Control Act, Law Enforcement Assistance Administration, President's Commission on Law Enforcement and the Administration of Justice

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## ✎ PENTAGON POLICE

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Located in Washington, D.C., the Pentagon is the headquarters of the Department of Defense (DoD) and is one of the world's largest office buildings. Renowned as a national monument and architectural marvel, the building was constructed in 16 months beginning on September 11, 1941, and was completed on January 15, 1943. The cost of the building was about \$40 million and the project's total cost was almost \$83 million. About 23,000 employees, both military and civilian, work in the Pentagon, including the more than 500 officers of the Pentagon Police Department (PPD; whose formal name is the Pentagon Force Protection Agency). The mission of the PPD is to promote a high level of law enforcement and security services to provide a safe and orderly work environment for the Department of Defense community located within the Pentagon and in the larger National Capitol Region.

Providing security for the Pentagon has remained a constant problem throughout its history. As the repository of war plans and technical secrets and the site of communications and operations centers of the U.S. military establishment, secure and controlled access were required in many areas within the building. Still, the large number of visitors other than Department of Defense employees, including

contractors, consultants, officials from other agencies, and foreign dignitaries, had to be accommodated expeditiously.

Prior to 1971, the General Service Administration's (GSA) U.S. Special Police conducted all law enforcement and security functions at the Pentagon. In response to a growing number of incidents affecting federal facilities throughout the country, attention to the security program was reexamined. As a result of mass demonstrations, bombings, and bomb threats within the country, the Federal Protective Service was established and became responsible for the protection of the Pentagon and its personnel, as well as the United States assets housed therein.

In 1987, the GSA administrator delegated authority for protecting the Pentagon to the DoD. To carry out the new mission, the DoD established the Defense Protective Service as a new organization within the Washington Headquarters Service. Within this organization it became necessary to contract for additional guards from civilian security companies. The regular force became more professional as a result of higher levels of initial and ongoing training. A criminal investigation unit was added to facilitate inquiries into crime in and around the building, and special weapons and tactics teams were also formed for use in emergency situations.

The present police force is a direct result of the terrorist attack on the Pentagon on September 11,

2001, in which 125 people at the Pentagon were killed or unaccounted for and 46 passengers and crew of American Airlines Flight 77 were also killed when the plane crashed into the building. At the time of the attack, the existing force numbered fewer than 200 officers; in late 2004, the new Pentagon Police, which officially came into existence in 2002, was composed of more than 500 officers responsible for patrol and physical security of the building and its grounds. Although the force might seem large for only one building, its grounds, and a few miscellaneous military locations within the Capitol region, the Pentagon's land area is almost 600 acres. There are 150 stairways, almost 300 restrooms, more than 4,000 clocks, and a 5.5-acre center courtyard, in addition to 17.5 miles of corridors that are patrolled regularly. The Pentagon also features a shopping corridor, medical and dental offices, a post office, and financial institutions, all of which receive police services from the Pentagon Police. Officers are also closely involved in crime prevention through environmental design projects and in terrorism prevention activities surrounding visual and electronic checks of all mail and packages that are received at the building.

Plans to increase the size and scope of the force and to improve Pentagon security had begun before September 11, 2001, but were speeded up in its aftermath. Active and National Guard Army military police units worked with Pentagon police officers from September 12, 2001, until May 17, 2004, to augment security until the new Pentagon Police force was considered at full strength. Today the Pentagon Police has a wider range of career opportunities that it did in the past. The motorized, bicycle, and motorcycle patrols, Emergency Response Team, K-9, Protective Service, Criminal Investigations, Training Division, Court Liaison, and Recruiting Division are all units that allow for officer career enhancement. Pentagon Police K-9 explosive detection teams provide their expertise to the entire DoD community in the Washington, D.C., area. They conduct security sweeps of vehicles and packages and area sweeps for dignitary protection, respond to bomb threats, and also provide security at official ceremonies. An officer trains with his or her assigned dog,

which lives with the officer and the officer's family when the team is not on duty. Motorcycle patrol, which includes traffic enforcement within the Pentagon's grounds, was instituted in 2002. Applicants for positions in the Pentagon Police must be U.S. citizens who possess a high school diploma or equivalent and are able to obtain secret security clearance. Each must possess a driver's license, have a clean driving record, and have not been convicted of a felony or certain misdemeanor offenses. An applicant must also undergo an oral interview, a medical examination that includes drug testing, a physical fitness evaluation, and a background check. Applicants with military service must have been honorably discharged.

Pentagon Police officers receive their 10-week basic police training program at the Federal Law Enforcement Training Center (FLETC) located in Glynco, Georgia, although some officers are also trained at the FLETC center at Artesian Springs, New Mexico. This course is followed by an in-house 12-week training and evaluation program after the officers return to the Pentagon.

Recent evaluations of the Pentagon Police Department's plan to deal with civil disturbances and terrorist acts have been highly rated. It was also noted that the Federal Bureau of Investigation has identified the plan as a model for all federal agencies to follow.

*Kelly Renee Webb*

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## PINKERTON NATIONAL DETECTIVE AGENCY

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Allan Pinkerton established his National Detective Agency in 1850, a time when public policing was

only beginning to resemble the organized police departments that are common today and well before the federal government played a role in policing. Based on his experiences in public law enforcement, he was able to establish a business that, like the Burns Detective Agency, crossed public and private boundaries in its investigative work for private companies and for the fledgling federal government. When the Bureau of Investigation, the forerunner of the modern Federal Bureau of Investigation, was formed in 1908 it relied on the investigative methods employed by both the Pinkerton National Detective Agency and the Burns Detective Agency as its model.

Pinkerton, a native of Scotland, came to the United States in 1842, in part fleeing from arrest in Glasgow for his membership in the Chartists, a revolutionary group that was demanding a greater voice in government for those at the bottom of the economic ladder. He settled in Chicago and worked as a barrelmaker, but soon moved to Dundee, a small community 40 miles from Chicago that was heavily populated by Scots. After observing evidence of a number of crimes and reporting this to the Kane County sheriff, he was named a deputy by the sheriff and eventually paid to work on a local counterfeiting case. The successful resolution of the matter is said to have led the Cook County sheriff in 1846 to offer him a full-time job as an investigator, which resulted in his return to Chicago. By 1848, he had amassed an impressive number of arrests for burglaries and homicides, which led to the U.S. Post Office hiring him in Chicago as a special agent to investigate mail fraud and theft.

Chicago was growing rapidly and crime grew with it. Pinkerton's reputation as a skilled investigator continued to grow when he was employed by the Chicago Police Department, which had not yet formed into the recognizable 24-hour police force that it would become in 1855. Chicago had already become a hub of industry, and officials of a number of companies of one of the leading industries, the railroads, were plagued by theft and vandalism. They approached Pinkerton to form the nucleus of what would become his life's work. On February 1, 1855, he signed a contract with the Illinois Central Railroad, Rock Island, the Burlington, the Galena,

and Chicago Union (later to be incorporated into the Chicago & North Western) and other roads that eventually became part of the New York Central and Milwaukee Road systems to form the North West Police Agency. Operating initially with nothing more than a citizen's power to arrest, agents quickly made their first arrest of a trespasser charged with derailing trains. At a time when police departments were disorganized and state and federal policing were virtually nonexistent, Pinkerton understood the need for systematic investigations of crimes and was able to prosper by providing a service that the government was unable to provide.

Pinkerton operatives were also assigned as spotters to catch conductors who were not charging some travelers or who were stealing fare receipts. Among these were some of the first women employed in investigative roles. Pinkerton also used women spies during the Civil War, including Kate Warner, who began working for Pinkerton in Chicago in 1856 after walking in and asking for a job. When Pinkerton offered a clerical position, she said she wanted to be an agent. Eventually she became the supervisor of all Pinkerton's women agents. After the agency had changed its name to reflect its famous president, it also developed the motto "We Never Sleep" and the logo of an open eye. These graphics are believed to have resulted in the term *private eye* to describe private investigators and detectives.

## A WIDE VARIETY OF CLIENTS

Through his work for the Illinois Central, Pinkerton had befriended its president, George B. McClellan, and one of its attorneys, Abraham Lincoln. When Lincoln became president, Pinkerton was asked to personally guard him at his inauguration, and when McClellan, a West Point graduate who had been a Mexican War hero, was selected by Lincoln to lead the Union Army, the former railroad president asked Pinkerton to set up the army's counterintelligence task force. The small number of employees of the federal government in all areas, but particularly in law enforcement, resulted in these tasks

being assigned to private individuals, rather than employees of the government. When McClellan was relieved of command in 1862, Pinkerton changed his focus to investigating suppliers who had been overcharging the government.

The agency continued to grow in the post-Civil War years and by the 1870s was said to have amassed the largest collection of photos of known criminals (mug shots) in the world. Although the Pinkerton Detective Agency had been closely linked to the railroads, when Allan Pinkerton turned the agency over to his sons, William and Robert, after his near-fatal stroke in 1869, the agency changed its focus, becoming involved in industrial espionage and property protection during labor strife. By that time, many of the railroads had also formed their own police departments, which by 1861 had begun to receive legal recognition.

Despite Pinkerton's own efforts on behalf of workers in Scotland, and his vocal opposition to slavery in the United States, the National Detective Agency came to be vilified by labor organizers for its role in labor espionage and policing of labor disputes. From 1872 until 1876, James McPartland, a Pinkerton operative, infiltrated the Molly Maguires, a violent group that was causing problems in the Pennsylvania coal mining regions. McPartland's testimony against the group destroyed it, and brought both publicity and criticism to Pinkerton. Between 1866 and 1892, Pinkerton agents protected property in more than 70 strikes around the country. The company received particular criticism for its handling of a labor dispute at the Carnegie Company's Homestead, Pennsylvania, steel plant in 1892 that resulted in the deaths of a number of picketers and some of its own agents. The firm became so closely associated with this type of activity that Congress in 1893 enacted the Pinkerton Law, which barred private security agents from working for the U.S. government, a law that was revised in 1966. Today a number of private firms provide security services to local, state, and federal government agencies.

After World War I, and especially after World War II, the private policing system that Pinkerton established had been replaced by growth in federal law

enforcement. The company eventually separated itself from both quasi-public work and labor policing to concentrate on more traditional private security assignments, providing advice and preventive advice to banks, mail services, and other businesses that dealt primarily with the handling and movement of money and securities. In 2000, the Pinkerton National Detective Agency celebrated 150 years of its existence by donating much of its archival material to the Smithsonian Institute in Washington, D.C. Included were files, photographs, and documents on some of the nation's best-known criminals, including Jesse James and Butch Cassidy and the Sundance Kid. The company continues to exist as part of Securitas AB, a Stockholm company that is one of the world's largest security businesses.

*Dorothy Moses Schulz*

*See also* Burns Detective Agency, Railroad Policing

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## **POLICE EXECUTIVE RESEARCH FORUM**

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The Police Executive Research Forum (PERF) was formally established in 1977 by a group of a dozen large city police chiefs who saw the need for an organization that would explore issues and establish a research agenda for municipal policing.

PERF's main goals are to enhance the capabilities of the police, to improve crime control nationwide,

to encourage debate in the law enforcement community about police issues, to promote the use of law enforcement research, and finally, to provide leadership, assistance, and management services to police agencies nationwide. In order to satisfy these goals, PERF employs a staff comprised of former police executives, criminal justice experts, and professionals with expertise in research, training, and policy analysis. Continuity has been maintained by a long-serving executive director, Chuck Wexler, who was appointed in 1993 and has continued in that role for more than a decade.

Since its inception, PERF has partnered with private foundations and has received governmental support through research grants and consulting contracts. This has resulted in a national membership that is no longer limited to just large city police chiefs and that also includes executives from smaller cities and from county and state law enforcement agencies. Membership requirements are stringent and differ substantially from other police organizations. PERF members must hold a four-year degree from an accredited institution and they also must be approved by current members. To be eligible for general membership, an applicant must be a police executive who heads a department of at least 100 full-time employees or oversees a jurisdiction of at least 50,000 people. To broaden the membership base and achieve a diversity of law enforcement viewpoints, PERF has two additional membership categories. Sustaining or subscribing members are typically academicians, law enforcement personnel from smaller jurisdictions, police professionals below the rank of chief executive, and former general members who have retired from police executive positions.

## PRINCIPLES GUIDING THE RESEARCH AGENDA

PERF's principles are based on fostering research and an exchange of ideas through public discussion and debate, the idea that academic study is a necessity for adding to and understanding police management, maintenance of the highest standards of

integrity and ethics is fundamental in improving policing, the police are responsible and accountable to the citizens, and finally, the principles within the Constitution are the foundation of policing. These principles are put into practice by PERF's active research agenda, which since 2000 has included 39 projects ranging from workplace violence reduction to local law enforcement and the terrorist threat, both of which were funded by the National Institute of Justice and the Centers for Disease Control and Prevention. The workplace violence study investigated the impact of police practices on the rates at which officers are killed or assaulted, while the local law enforcement study was geared to developing a detailed research agenda for law enforcement on terrorism responses. Other, past research has been toward direct application to urban crime problems, the police response to people with mental illness, and the police response to the homeless. Research is aimed at police professionals, policy makers, students, and the research community itself.

PERF has expanded since its original handful of police chiefs that started the group and has continued to sponsor conferences that promote research and a full exchange of ideas among police executives and between the police and the academic communities. It also offers problem-solving training for police and communities and holds a three-week training course for senior police executives. PERF believes that through its training, research, and membership requirements, the organization is fulfilling its main objectives of improving policing and ultimately reducing crime.

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## POLICE FOUNDATION

The Police Foundation is a private, nonpartisan, nonprofit organization dedicated to supporting innovation and improvement in policing through its research, technical assistance, training, and communications programs. Established in 1970 through a grant from the Ford Foundation, the Police Foundation has conducted seminal research in police behavior, policy, and procedure and works to transfer to local agencies the best new information about practices for dealing effectively with a range of important police operational and administrative concerns.

One of the guiding principles of the Police Foundation is that thorough, unbiased, empirical research is necessary to advance and improve the field of policing. Furthermore, the connection to the law enforcement and the academic and scientific communities will provide the impetus for new ideas that will help stimulate the field and provide solutions to the complex problems facing policing.

The Police Foundation's focus and perspective is the whole of American policing, rather than any single facet. Motivating all of the foundation's efforts is the goal of efficient, effective, humane policing that operates within the framework of democratic principles and standards including openness, impartiality, freedom, responsibility, and accountability.

Sometimes foundation research findings have challenged police traditions and beliefs. When police agencies employed routine preventive patrol as a principal anticrime strategy, a foundation experiment in Kansas City showed that routine patrol in marked patrol cars did not significantly affect crime rates. When police officials expressed reservations about using women on patrol, foundation research in Washington, D.C., showed that gender was not a barrier to performing patrol work. Foundation research on the use of deadly force was cited at length in a landmark 1985 U.S. Supreme Court decision, *Tennessee v. Garner*. The court ruled that the police may use deadly force only against persons whose actions constitute a threat to life.

The Police Foundation has done much of the research that led to questioning the traditional model of professional law enforcement and to a new view

of policing—one emphasizing a community orientation—that is widely embraced today. For example, research on foot patrol and on fear of crime demonstrated the importance to crime control efforts of frequent police–citizen contacts made in a positive, nonthreatening way.

The Police Foundation is a partner in the Community Policing Consortium, along with four other leading national law enforcement organizations including the International Association of Chiefs of Police, Police Executive Research Forum, National Organization of Black Law Enforcement Executives, and the National Sheriffs' Association. In that capacity, the Police Foundation plays a principal role in the development of community policing research, training, and technical assistance.

The Police Foundation's Crime Mapping and Problem Analysis Laboratory works to advance the understanding of computer mapping, to support problem analysis in policing, to pioneer new applications of mapping, and to explore the spatial element of all Police Foundation research.

The Police Foundation has completed significant work in the areas of accountability and ethics, performance, abuse of authority, use of force, domestic violence, community-oriented policing, organizational culture, racial profiling, and civil disorders. Seminal research includes (chronologically) the Kansas City preventive patrol experiment; the big six report on Chicago, Detroit, Houston, Los Angeles, New York, and Philadelphia; the Los Angeles civil disorder report; the national study of use of force; and the national survey of abuse of authority. The Police Foundation frequently invites scholars to present their ideas in a publication series known as *Ideas in American Policing*. The Police Foundation is headed by a president who serves under the direction of the board of directors, composed of leaders and scholars from public service, education, and private industry.

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## ☞ POLICE AND SECURITY SERVICE, DEPARTMENT OF VETERANS AFFAIRS

The Veterans Administration (VA) Police and Security Service is responsible for protecting patients (former military personnel), visitors, employees, and property at department facilities, which include 172 medical centers, 551 clinics, and 115 national cemeteries in all 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and the Philippines.

The Police and Security Service is one of three sections under the Office of Security and Law Enforcement (OS&LE). The OS&LE provides guidance, consultation, investigative, and direct operational support to the VA. A deputy assistant secretary for security and law enforcement heads the unit and oversees and develops policy and procedures related to VA security as well as officer training. More than 2,000 officers are assigned specifically to medical facilities. Officers are empowered under Title 38, Chapter 9, *United States Code*, and are authorized to detain and to arrest individuals committing violations of any federal laws on department property. The service was created to meet the special needs of the veterans seeking medical treatments at its facilities. It prescribes a training program that provides special emphasis on dealing with or involving patients.

In addition to the legislation, VA policy itself spells out the specific protective duties that enable VA officers to render courteous assistance to patients, visitors, and employees at all times and to avoid the use of arrest powers unless unable to do so. Officers are trained to use a minimum of force in cases involving mental and emotional illnesses while awaiting medical assistance. This nontraditional training involves the officers as part of a treatment team; in many cases they are in a standby or take charge mode until patients can be safely returned to medical staff.

Because most people at VA facilities are there to receive medical services, the majority of the activities of VA police officers' time is spent on crime prevention rather than on arrest-related activities. Relying on physical security and a policy of visible, uniformed deterrence, officers are trained to emphasize correcting improper behavior instead of enforcing action for minor offenses. Policies are geared to minimize arrests for violations of law or regulations, although this policy does not extend to felonies or serious misdemeanors committed by mentally unimpaired individuals in which normal law enforcement action would be used.

When first employed by the VA, security personnel were hired as guards without police authority, but in 1971 the Office of Personnel Management upgraded officers to police officer status. At the time, the Federal Bureau of Investigation was instructed to hold one-week orientations in Washington, D.C. In late 1971, the site training was moved to historic Fort Roots in Little Rock, Arkansas, an Army post since 1880.

Because officers must often handle extremely volatile situations involving patients who may be suffering from military-related physical or mental problems, the VA in 1972 created its own specialized training facility, the Law Enforcement Training Center (LETC). The LETC administers training of officers on a national level for the VA. Its mission includes handling patients and others with diminished capacity. This unique service-oriented enforcement training is consistent with similar training needs of other federal law enforcement agencies. Additional changes resulted in increased

training in 1987. The LETC has set the standard for law enforcement training in a health care environment and is a highly successful fee-for-service pilot. The pilot project concept gives the LETC the capability to extend its training to other government agencies in the enforcement arena and therefore these agencies lower their own training costs.

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## ☞ POSSE COMITATUS ACT

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The American presidential election of 1876 was marred by allegations of violence, intimidation, and stuffed ballot boxes and resulted in one of the closest and most controversial elections to the nation's highest office. Republican president Ulysses S. Grant dispatched federal troops to polling places in several Southern states ostensibly to maintain order, but Democrats contended that he was trying to fix the election for Rutherford B. Hayes. By the time a special panel that was established to oversee the count voted 8 to 7 to award one more electoral vote to Hayes than his Democratic opponent Samuel Tilden, the nation was torn and the validity of the election was to be forever in doubt.

In 1878, congressional Democrats enacted, over the veto of President Hayes, the Posse Comitatus Act (PCA), which banned the use of the Army for domestic law enforcement unless specifically authorized by the Constitution or an act of Congress. Use of troops to enforce the law had long been a source of friction, especially in the southern United States, where local sheriffs and U.S. Marshals and their deputies frequently organized posses (posse comitatus is Latin for “force of the county”) to arrest wrongdoers and slaves under the

Fugitive Slave Act. It was common practice for local military commanders to make their troops available to the lawmen for use in these operations.

The PCA provided, “Whoever, except in cases and circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years, or both.”

The statute, 18 U.S.C. 1835, has been construed as a near total ban on the use of service members in domestic law enforcement activities. Today, the act covers not only Army troops, but members of the Air Force (a department spun off from the Army in 1947) and members of the Navy and Marine Corps who have been included by executive fiat. The Coast Guard, a civilian law enforcement agency, is not restricted by the PCA nor are peacetime National Guard soldiers whose units ordinarily report to state governors. Department of Defense operations conducted outside of the United States are also outside the reach of the PCA.

The act specifically empowers Congress to carve out exceptions to the prohibitions contained in 18 U.S.C. 1835, and Congress has authorized the Department of Defense to play a role in narrowly circumscribed situations. For example, the Stafford Act of 1984 provides for military assistance rendered during times of natural disasters such as floods or earthquakes. Congress has also designated the military to play a significant role in preventing and responding to domestic nuclear, biological, high-yield explosive, or chemical weapons attacks. Perhaps the most significant and controversial modern era congressional action in this area was the 1981 decision to direct the use of military resources in domestic antidrug efforts.

The PCA notwithstanding, the military may be called in during times of insurrection or invasion under doctrines of martial law, to execute federal laws, or to protect federal property. Federal troops have been used to replace striking coal miners and postal workers and to take over the air traffic control system after the dismissal of striking controllers. The military maintained a massive presence at the 2002 Winter Olympics in Utah in case of

a terrorist attack, but left at the conclusion of the games without having played any direct role in the event. The military has also been deployed in a number of southern states to assist in federal desegregation efforts in the 1950s and to aid in police enforcement during the Los Angeles riots of 1992.

The Posse Comitatus statute is criminal in nature and provides for imprisonment, a fine, or both for those in violation. There has never been a criminal prosecution of anyone for its breach. In interpreting the law, courts have devised several tests to determine whether assistance can permissibly be provided to law enforcement agencies. For the most part, the formulation has allowed the military to provide passive assistance and support, but forbids more direct and active involvement in law enforcement. The Department of Defense has promulgated extensive regulations that set forth what types of assistance it will provide to local law enforcement, including technical assistance, training, and equipment.

In the period after the events of September 11, 2001, there has been a renewed debate in Congress, in the administration, and among legal scholars about whether some of the restrictions imposed by the PCA should be reconsidered. Some have suggested that the modern-day threat of mass casualty terrorism provides the impetus for a fresh look at the traditional American preference for separating the military from civilian law enforcement.

The PCA was in the news in the fall of 2002, when police officials requested that the Pentagon make available sophisticated RC-7 surveillance aircraft to fly over the region. Defense Secretary Donald Rumsfeld authorized use of the planes, renewing debate about the extent of military insertion into police matters. In an arrangement that typifies the operational restraints of the PCA, the Pentagon agreed to provide military aircraft and pilots with the proviso that local police would be the observers.

Some critics of the federal government have complained that the PCA is being eroded and have warned of a threat to the nation's civil liberties. Several commentators have called the act a myth, and an insufficient check on the power of the national

government. Some harsh critics of the act have operated Web sites that warn of excessive federal intervention in the lives of citizens. At least one of these groups, Posse Comitatus, has been identified by the Federal Bureau of Investigation as a hate group that it has acknowledged investigating for years.

For the immediate future, it does not appear that political leaders of either major party have any interest in drastically changing the Posse Comitatus Act. Indeed, military leaders are on record as saying that the act works fine and they are not anxious to become local law enforcers.

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## ✎ PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE

In the 1960s a police crisis was sparked by a series of events including several Supreme Court decisions that impacted due process and standard police procedures, the civil rights movement, antiwar protests during the time of the Vietnam War, and an increase in violent crime rates across the United States. In response to the social unrest, President Lyndon B. Johnson created the President's Commission on Law Enforcement and the Administration of Justice (also referred to as the President's Crime

Commission) in 1965. More than three decades after the Wickersham Commission (1931), the President's Crime Commission would once again examine the state of crime and the administration of justice in the United States.

Research was conducted by some of the leading experts in criminal justice and law on behalf of the crime commission. There were several areas of research examined by consultants, including crime and its impact on American society, narcotics and drug abuse, drunkenness, science and technology used by agencies within the criminal justice system, juvenile delinquency and youth crime, and an in-depth look at the organization and management of the police, courts, and corrections.

The results of the President's Crime Commission studies were published in 1967 in a general report titled *The Challenge of Crime in a Free Society*. This report outlined more than 200 recommendations for improving the administration of justice in the United States. Some of the most notable recommendations from the crime commission's final report include the following: The crime commission recognized the importance of exploring crimes that are not reported to the police. The efforts of the crime commission would later result in the creation of the National Crime Victimization Survey, which has become a major source of data and information on crimes not reported to the police. The report also popularized the idea of criminal justice being a *system*. The interplay between the police, courts, and corrections became important as research consultants pointed out how decisions or actions taken by one agency would impact the actions of the other two criminal justice agencies.

In regard to the police, the crime commission report noted concern over the quality of police personnel, police management, use of science and technology by the police, and police-community relations.

## **RECOMMENDATIONS FOR PERSONNEL ISSUES**

The crime commission made several recommendations to increase the quality of police personnel

in American police agencies. In general, the recommendations involved changes to police recruitment and training standards, improvement of police salaries and benefits, and the establishment of police standards commissions. The crime commission suggested that police recruitment focus on surrounding colleges and universities to increase the education level of police officers and that police officers promoted to supervisory positions should be required to have at least a bachelor's degree. The commission also suggested increased standardized police training (such as a minimum of 400 training hours in police academies) and that new police officers should be placed on probation for 12-18 months after they were hired by police agencies. Members of the commission believed that this longer probationary period would permit agencies to terminate officers more easily if they were found to be inadequate to meet the demands of a police career.

Changes were also suggested for improving residency, physical agility, and age requirements for police personnel. Similar to the Wickersham Commission, the crime commission suggested that the salaries and benefit packages offered to police officers be enough to provide a quality standard of living. In addition, the crime commission suggested that police standard commissions be created to ensure that police administrators nationwide were taking steps to improve the quality of personnel in their agencies.

## **RECOMMENDATIONS FOR POLICE-COMMUNITY RELATIONS**

Because of the social unrest that took place during the late 1960s, the crime commission suggested that police agencies become more concerned with community relations, specifically with minority populations within their communities. The creation of community relations units and citizen advisory committees, the inclusion of a community relations course in police academy training, and the implementation of adequate procedures for processing citizen complaints were among the 200 recommendations outlined in the final report. It was also

recommended that police agencies recruit and hire more minority officers so the police agencies could better reflect the communities they served. These recommendations came at a time when the relationships between the police and minority groups were in severe need of repair.

## RECOMMENDATIONS FOR OPERATIONS AND TECHNOLOGY

The improvement of police operations, police use of technology, and police integrity were also key issues in several of the recommendations made by the crime commission. For example, the commission suggested that police administrators create department policies to serve as guidelines for police officers' use of discretion (specifically for use of firearms and questioning of suspects). It was also suggested that police agencies should employ police legal advisers to keep all police personnel abreast of any changes to criminal law that could impact their jobs. In an effort to advance police use of technology and science, the crime commission also suggested that police agencies pool resources to provide wider access to crime laboratories, to provide additional police support to small police agencies that become involved in large scale investigations, and to create communication and information exchange systems that would allow police agencies to communicate more effectively. The commission's final report also noted that the police should become more active in community planning strategies and that they should experiment with team policing to further strengthen police-community relations. And finally, the crime commission suggested that police agencies establish strong internal affairs units to maintain a high level of police integrity. All of these recommendations came from the President's Crime Commission during a time in American policing when change and innovation were necessary.

*Carol A. Archbold*

*See also* National Commission on Law Observance and Enforcement (Wickersham Commission), National Crime Victimization Survey

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## PRIVACY ACT

The Privacy Act of 1974 (5 U.S.C. 552a) is a federal law that requires each federal agency to follow privacy and records management rules for most compilations of personal information maintained by the agency. Changes in information technology have made significant parts of the act outdated.

The Privacy Act of 1974 has sometimes been called a Watergate reform because it became law at the end of the Congress that served during the resignation of President Richard Nixon. However, concerns about privacy and computers were widespread by the early 1970s, and the law's intellectual origins are deeper than a response to political events. Congressional hearings on privacy and computers date back to the mid-1960s.

In 1972, Elliot Richardson, then secretary of the Department of Health, Education and Welfare, established the Advisory Committee on Automated Personal Data Systems. Richardson worried that automated personal data systems presented a serious potential for harmful consequences, including infringement of basic liberties. The committee issued its report in July 1973. The report was influential in two major ways. First, the committee proposed for the first time the notion of a Code of Fair Information Practices as a redefinition of the somewhat confused concept of personal privacy. Later in the decade, European policy makers refined and adopted fair information practices as an organizing

principle for privacy (or data protection) laws. Fair information practices remain a core international privacy concept into the 21st century, with the 1980 restatement by the Organization for Economic Cooperation and Development being the most important document. The committee also recommended the enactment of a federal law to establish a code of fair information practices to govern federal agency record keeping. The law that emerged is directly based on the committee's recommendations. Congress adopted many of the committee's ideas verbatim.

The Privacy Act of 1974 applies to federal agencies and can be applied to federal contractors maintaining systems of records on behalf of agencies. The act does not apply to recipients of federal funds, to tax-exempt organizations, or to components of the Executive Office of the President that advise the president.

An important term in the act is *system of records*. The law mostly applies to systems of records that contain identifiable information about individuals that is retrieved by identifier. The test for whether personal records are a system is a factual test. Federal agencies maintain most, but not all, personal information in systems of records. Each agency must publish in the Federal Register descriptive notices for all systems of records. No agency or system is exempt from the publication requirement. The policy is that there should be no secret government record keeping.

Other general requirements include limitations on the maintenance and collection of personal data; notice requirements for personal information collection instruments; standards for accuracy, relevance, timeliness, and completeness; rules of conduct for agency personnel; and administrative, technical, and physical safeguards to ensure security and confidentiality of records.

The act limits disclosure, but it gives agencies broad authority to define for each system of records *routine uses* that authorize specific types of disclosure. The routine use provision offers considerable flexibility for applying a policy of limited disclosure to the wide range of federal record-keeping activities. However, agencies have been regularly

criticized for abusing the authority to establish routine uses. The act's disclosure limits do not conflict with the Freedom of Information Act (5 U.S.C. 552). Each act recognizes and accommodates policies of openness and privacy.

The Privacy Act gives individuals the right to see and to amend their records. Individuals can enforce these and some other privacy rights through civil actions, but recovery of damages has been very difficult to achieve. The government can enforce the act through criminal penalties, but prosecutions have been rare. Some systems of record can be exempted from some of the act's requirements. Records of the Central Intelligence Agency and some law enforcement agencies or components can be exempted from many requirements, and some federal employment testing and investigations systems can be exempted from some requirements.

The Privacy Act's approach to privacy largely reflects the technology in use at the time of its passage in 1974. However, the law's mainframe computer model has been long since outdated by personal computers, database technology, the Internet, and electronic government. Technology now allows agencies to create, change, or merge databases without the difficulty or planning required for mainframe computers. The system of records concept at the heart of the act is partially obsolete.

The only major amendment to the act came in 1988 with the Computer Matching and Privacy Protection Act. The amendment establishes requirements for agencies that seek to share or use data to establish or verify eligibility for benefit programs or for similar purposes. The matching restrictions are wholly procedural. They regulate but do not authorize or restrict matching activities allowed by other laws. The matching amendments were marginally effective, and they too are out of date.

Congress assigned the Office of Management and Budget (OMB) responsibility for guiding and overseeing agency implementation of the act. OMB's initial work on the act in 1975 was generally well received. However, OMB generally showed diminished interest in subsequent years, with only occasional spikes of activity and subsequent interpretative guidance. The computer matching

amendments required some agencies to establish data integrity boards to oversee matching activities, but the boards have not been significant influences for privacy protection.

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## PROHIBITION LAW ENFORCEMENT

Although the term *prohibition* can refer to a variety of legally banned activities including narcotics manufacture, sale, and possession, it is commonly understood to mean the period between 1920 and 1933 during which the Eighteenth Amendment to the U.S. Constitution was in effect. Prohibition was intended to reduce the consumption of alcohol, seen by prohibition advocates as a major cause of crime, poverty, high death rates, a weakening economy, and declining quality of life. It is interesting to note, however, that the first state laws prohibiting the manufacture and sale of alcoholic beverages were enacted as early as 1838 in Tennessee and in 1846 in Maine. By 1900, 18 states had enacted prohibition laws and many states maintained laws banning the manufacture and sale of liquor after the repeal

of the Eighteenth Amendment until 1959 when Oklahoma, the last dry state, repealed its prohibition laws. The terms *wet* and *dry* were commonly used to identify states and groups that were, respectively, in favor of or against prohibition.

### PASSAGE OF THE VOLSTEAD ACT

Shortly after the ratification of the Eighteenth Amendment, Congress, overriding a veto of President Woodrow Wilson, passed the National Prohibition Act (commonly known as the Volstead Act, named after its author, Congressman Andrew J. Volstead (R-MN), who was chairman of the Judiciary Committee at the time of the law's enactment and who, indicating how quickly the law became unpopular, was defeated in 1922 when he ran for reelection). This act prohibited the importing, exporting, transporting, selling, and manufacturing of intoxicating liquor. Intoxicating liquor was defined as anything having an alcoholic content of more than 0.5%. Exceptions were made for alcohol used for religious purposes as well as for liquor that had been purchased for home use prior to July 1919 and alcohol prescribed for medicinal use. However, in 1921, because of abuses by many physicians, Congress enacted a law that established limits on how much liquor a doctor could prescribe for a patient; no more than one pint per patient during a 10-day period.

The first year of prohibition witnessed a substantial decline in the consumption of alcoholic beverages; however, this was not the result of a reduction in demand but because legitimate sources of alcohol were terminated. During the Prohibition Era the demand for alcohol actually increased. Consequently, a number of illegal supply channels were created to satisfy that demand.

### PROHIBITION ENFORCEMENT

The Volstead Act also set up guidelines for enforcement. In 1920, Congress appropriated \$2 million for enforcement of the Volstead Act and another \$6.5 million in 1921. Federal responsibility for enforcement of the Volstead Act was assigned to the

Prohibition Unit of the Treasury Department. This existing unit had been created to enforce the Harrison Act of 1914 that prohibited the sale and use of narcotics. A Narcotics Division was created within the Prohibition Unit to separate the enforcement of narcotic and liquor laws. In 1927 the office of Commissioner of Prohibition, consisting of 27 administrative districts, was created. Each district was headed by a chief administrator and contained an enforcement office that was divided into three sections: General Enforcement, Major Investigations, and Case Reports. Almost 18,000 agents were appointed during the Prohibition Era. Of that number more than 13,000 were either terminated for cause or resigned, leaving an annual staffing of between 1,500 and 2,300 agents. These agents were authorized to enforce all violations of the Volstead Act. They focused primarily on illicit distilleries (stills), smuggling, and bootlegging; however, because of limited resources they relied on local law enforcement for support. They were ill prepared to do their jobs, however. There were no standard qualifications; training was optional and a large number were political patronage appointments.

Illegal distilleries had always operated in wooded, rural areas of the country. They were relatively inexpensive to construct and the raw materials, primarily corn and other grains, were readily available, thus providing the farmers with additional income. After the passage of Prohibition, the increasing demand for illegal alcohol resulted in a proliferation of stills throughout the country. With an initial investment of about \$500, a still could pay for itself within a few weeks. However, the smoke and odor emanating from stills made them relatively easy to locate. Federal agents routinely located and destroyed illegal stills. Yet, because of relatively light fines, short jail sentences, and the appeal of an enormous potential for profits, the stills soon reappeared.

Although illegal stills provided most of the liquor for American consumption, substantial amounts of superior quality liquor were smuggled over land and sea. Large-scale smuggling, primarily from Canada, supplied the major markets in New York, Illinois, and other northern states. Entrepreneurial criminals also smuggled alcohol into Canada for processing

into liquor that was eventually smuggled back into the United States. U.S. Customs agents, state police, and the newly established U.S. Immigration Border Patrol patrolled these borders. Smuggling had been successful on a large scale for a number of reasons, particularly the thousands of miles bordering Canada and Mexico and the thousands of miles of ocean coastline. Also, Canada and Mexico did not have laws banning the manufacture or export of alcoholic beverages. The liquor brought across the line at the north or at the south found its way hundreds of miles into the interior of the United States. Bootleggers maintained large fleets of trucks and automobiles running on regular schedules between Mexican and Canadian points and cities such as St. Louis, Kansas City, and Denver.

In addition to the Canadian and Mexican borders, federal enforcement had to deal with smugglers bringing liquor into the country by ship. Under the Volstead Act, the U.S. Coast Guard and U.S. Customs Marine Patrol had primary responsibility for patrolling the coastline for smugglers. Although the U.S. Navy was also considered for use in this effort, the attorney general of the United States ruled that such enforcement would be unconstitutional.

The island of Nassau in the Bahamas became a major source of supply for the eastern coast of the United States. During Prohibition, imports to Nassau from Europe increased from 50,000 quarts to 10 million quarts annually. Fleets consisting of ships with liquor from Bermuda, Nassau, and even Europe remained anchored outside the 12-mile limit (the limit of U.S. jurisdiction) off the New York and New Jersey coasts awaiting their contacts from the mainland. Smugglers, using high-speed motorboats, would make their runs to the liquor ships after nightfall to ferry the illegal cargo to waiting outlets throughout the northeastern states. Although many were caught by either the Coast Guard or other enforcement officers, sufficient numbers were able to get through, thereby providing a constant supply of liquor.

Urban production of alcohol was also used to supplement the major suppliers. Small, portable stills could be purchased for about \$7. Their use as well as the operation of larger stills was quite

common in cities and residential areas; thousands of inner city residents were organized to form into microbreweries. Outlets for most of the supplies of illegal liquor were referred to as speakeasies. These businesses, which were hidden in basements, behind legitimate storefronts, and anywhere that could accommodate them, admitted only those who were known to the proprietors. They had modern alarm systems to avoid being shut down. By 1925, there were more than 100,000 speakeasies operating in New York City alone. When such establishments were located, the Volstead Act provided procedures for locking-up any building or part thereof where alcoholic beverages were manufactured, stored, or sold. This procedure, commonly referred to as *padlocking*, required a court order from a federal judge declaring the premises a common nuisance under the National Prohibition Act. From 1921 through 1925 more than 11,000 padlock injunctions were issued nationwide.

The Prohibition Era also witnessed the first use of wiretaps in the nation. The U.S. Supreme Court (*Olmstead v. US*, 1928) ruled that wiretaps on telephones did not violate either the Fourth or the Fifth Amendments to the U.S. Constitution regarding search and seizure.

## ENFORCEMENT, POLITICS, AND CORRUPTION

To simply state that prohibition was a controversial issue would be an understatement. Because law enforcement relies to a great degree on voluntary compliance and because prohibition was so unpopular with a significant proportion of Americans, federal enforcement efforts were constantly being frustrated. There were complaints that local law enforcement was reluctant to identify and stop illegal liquor operations because of collusion between local officials and criminals. Opposition came from the state level as well. The New York State Legislature, for example, passed a law in 1920 authorizing the sale of beer with 2.75% alcohol (substantially higher than the Volstead Act allowed) and in 1923, the legislature repealed the state's only prohibition law.

Fiorella H. LaGuardia, a prominent New York politician who served several terms in the House of Representatives and later became mayor of New York, testified on the National Prohibition Law hearings before the Committee on the Judiciary. He stated, "It is impossible to tell whether prohibition is a good thing or a bad thing. It has never been enforced in this country. . . . At least 1,000,000 quarts of liquor is consumed each day in the United States. In my opinion such an enormous traffic in liquor could not be carried on without the knowledge, if not the connivance of the officials entrusted with the enforcement of the law."

Instances of corruption by federal agents, state and local law enforcement, and political figures were voluminous. Because of the enormous profits involved in the illegal liquor trade, bootleggers and smugglers were able to offer substantial bribes to federal and local law enforcement for their cooperation. The relatively low salaries of those officers together with the public's general indifference to alcohol consumption made those bribes even more attractive. For example, William Dwyer, one of the most successful smugglers in the New York City area, had bribed a large number of police and Coast Guard personnel in order to conduct his smuggling enterprise. Also, in Chicago, a sheriff was prosecuted for coordinating the activities of a large number of bootleggers and allowing prisoners to do business from jail. Corruption even reached the highest offices of the federal government with a conspiracy to sell liquor permits from the Treasury Department in exchange for political contributions.

In addition to the effects of corruption on the overall enforcement effort, there were regularly occurring conflicts between federal and local law enforcement officers. Local enforcement, particularly during the 1920s, relied on cooperation between local, small town law enforcement officers and their communities. Sheriffs often recruited volunteers and deputized them as needed for short-term enforcement objectives. These relationships were complicated and compromised when federal agents called upon local authorities for their cooperation in raids on illegal stills in their jurisdiction. Because of the unpopularity of prohibition in

many of these communities, the illegal stills usually operated with the tacit approval of local law enforcement. This situation was further complicated when federal agents enforced the law violently leaving local enforcement with the resulting community outrage.

## ORGANIZED CRIME

The Prohibition Era opened opportunities for illegal profits for those who could meet the public's demands for alcoholic beverages. Local gangs found that enormous profits could be made from the bootlegging and sale of beer and liquor. These gangs, particularly in the larger cities, used violent methods including bombings, arson, and murder to intimidate speakeasy owners into purchasing from them. Gang violence also included the waging of turf wars against rival gangs who attempted to do business in disputed territories. These armed conflicts often resulted in the loss of innocent life and the terrorizing of neighborhoods. Estimates are that, in Chicago alone, more than 400 murders a year were reported.

Although gangs operated in many of the larger urban areas, Chicago gangs under the leadership of such notorious criminals as Al Capone, "Bugsy" Moran, the O'Banions and others established a model for organizing their criminal behavior. While gangs in other cities were competing violently for territory, the Chicago gangs coordinated their efforts by dividing the city along agreed upon boundaries. Thus, they were free to operate with little or no interference from rival gangs.

Al Capone had a particularly strong hold on Chicago government. With an estimated 30% of his profits going to graft and protection, Capone became so powerful that he could control local police and politicians and even influence local elections. Because he was virtually immune from local law enforcement, Capone became a target for the team of nine Federal Bureau of Investigation agents supervised by Eliot Ness. Capone attempted to bribe Ness and two members of his team with \$2,000 per week (agents at that time earned between \$2,000 and \$3,000 per year). After publicly

announcing their rejection of the attempted bribes, the team of agents became known in the press as the "Untouchables." Although Capone was never convicted of his infamous crimes, in 1931 he was convicted on several counts of tax evasion and sentenced to 11 years in Leavenworth prison. The government decided to postpone prosecution for Prohibition violations in the event that Capone was able to overturn his tax evasion conviction. Capone died in prison before completing his sentence.

Prohibition organized crime continued to provide a model structure that influenced criminal activity even after the repeal of the Eighteenth Amendment. Modern organized crime operations still provide legally prohibited goods and services to meet public demands.

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*See also* Volstead Act

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## PURE FOOD, DRINK, AND DRUG ACT

As late as the closing decades of the 19th century, no effective government legislation existed to protect the consumer against hazardous foods, drinks, and drugs. Contamination and adulteration and fraudulent advertising and labeling were so widespread that consumers could not determine which products were safe to use. Drug addiction was reaching alarming proportions. These conditions were undermining the physical, mental, and moral health of the nation and no one seemed able or willing to do anything constructive to remedy the situation. The few existing national laws dealt mostly with protecting business interests. Local statutes could not prevent the trafficking of undesirable products between states.

The Pure Food, Drink, and Drug Act, officially titled “An Act for Preventing the Manufacture, Sale or Transportation of Adulterated or Misbranded or Poisonous or Deleterious Foods, Drugs, Medicines, and Liquors, for Regulating Traffic Therein, and for Other Purposes,” and its companion legislation, the Meat Inspection Act, also enacted in 1906, were designed to ensure the purity, safety, and truthful labeling of food, drink, and drugs and to regulate their interstate commerce and importation. Originally administration of the law fell under the jurisdiction of the U.S. Department of Agriculture’s Bureau of Chemistry, but during the presidency of William H. Taft a combination of mismanagement and political in-fighting led to the transfer of most of its regulatory functions to an arbitration board and later to other federal divisions.

Federal agencies now administering the act include the Food and Drug Administration; U.S. Postal Service; Environmental Protection Agency; Consumer Product Safety Commission; Bureau of Alcohol, Tobacco, Firearms, and Explosives; Occupational Safety and Health Administration; Federal Trade Commission; and Drug Enforcement Administration (DEA). State boards regulate medical practice and pharmacies. Local and state health departments oversee restaurant food and sanitation. Each agency sets its own requirements for employees.

For example the DEA trains its special agents, diversion investigators, intelligence research specialists, forensic chemists, and other personnel at the DEA Training Academy in Quantico, Virginia. Trainees are required to have a bachelor’s degree and some postgraduate educational experience. A large percentage of trainees have prior law enforcement or military experience. Basic courses include training in use of firearms, physical defensive tactics, defensive driving, leadership, ethics, and practical applications. Specialized courses concentrate on specific law enforcement areas such as forensic chemistry laboratory operations and asset forfeiture. Students must maintain an academic average of 80% on academic studies, pass firearms qualification and strenuous physical ability tests, and demonstrate leadership and sound decision making in practical situations. Upon graduation the trainees are sworn in as special agents and assigned to various field offices.

Until the late 1990s, passage of the Pure Food, Drink, and Drug Law of 1906 had been attributed to the efforts of Harvey Washington Wiley (at that time chief of the Bureau of Chemistry), the support of Theodore Roosevelt, the publicity created by national magazines and publication of Upton Sinclair’s *The Jungle*, or the efforts of large business interests to limit competition. Despite the influence of each of the above, and although some authorities still disagree, recent scholarship and more extensive research have revealed that the law was enacted more as a response by American consumers, particularly women but also some reform-oriented men, to the threats that dangerous substances imposed upon themselves, their families, their neighbors, and their society.

To fight these conditions, millions of concerned American women organized themselves into local, state, and national departments within the General Federation of Women’s Clubs, the National Consumers’ League, the Woman’s Christian Temperance Union (WCTU), reform leagues, and other organizations. It was these women who initiated the crusade for pure food, drink, and drugs; defined its objectives; took the lead in influencing public opinion; nourished the issue through discouraging times; forged the necessary connecting links between consumer, professional, media, and legislative forces

to consolidate support for general, nondiscriminatory legislation; aided enforcement once the law passed; and endured in their commitment. The most notable leaders who emerged from their ranks were Helen McNabb Miller, Alice Lakey, and a succession of WCTU leaders, including Ella Kellogg, Mary H. Hunt, Martha Allen, and Louise C. Purington.

They encountered powerful opposition both from the industries that stood to be regulated and from members of Congress who feared that pure food, drink, and drug legislation might discriminate against certain industries or who opposed passing any social legislation on the premise that it violated states' rights. When it became clear that public opinion demanded a pure food, drink, and drug law, representatives of each industry tried to exempt their industries from the law's regulations and amend its provisions to benefit their specific interests. After the law passed, they found ways to circumvent its conditions or bend them to their advantage.

Although it was the type of omnibus legislation for which consumers had hoped, the 1906 law fell short of meeting many of their expectations. It emerged from committee partly as a compromise brokered between Harvey W. Wiley and the business interests involved. It did not protect consumers against products that were marketed in the same state as their manufacture. Congress made inadequate provisions for its funding and determining its standards. Its enforcement was hampered by cumbersome boards under the direction of the secretaries of agriculture, treasury, and commerce and labor who formulated regulations for prosecution. It did not require dangerous substances to be listed on the labels of whiskey, restrict the sale of addictive or dangerous drugs, or address issues of sanitation in dairies, bakeries, and food handling. Regardless of its inadequacies, organized women supported its passage in anticipation that it would be strengthened and expanded through amendments they intended to sponsor. Many of their expectations were realized, and in some cases exceeded, but only after a span of almost an entire century. From the beginning the law generated certain noticeable improvements and over the years shortcomings of the 1906 law were remedied by numerous amendments and acts, among which the most important

were the Harrison Narcotic Act (1914), the Federal Food, Drug, and Cosmetic Act (1938), the Kefauver-Harris Amendments and the Drug Abuse Control Amendments (1962, 1965), the Comprehensive Drug Abuse and Control Act (1970), and the Anti-Drug Abuse Acts (1986, 1988).

In addition to providing the public considerable protection against adulterated, dangerous, and fraudulent foodstuffs and dangerous drugs, the Pure Food, Drink, and Drug Act of 1906 holds particular significance because (a) it promoted the passage of more uniform and effective pure food, drink, and drug laws in the states; (b) it set a precedence for other federal social legislation that in the past had been considered the sole jurisdiction of states, such as the Mann Act (1910), which prohibited the transport of women across state lines for the purposes of prostitution, the Eighteenth (Prohibition) Amendment (1919), and Nineteenth Amendment (1920), which gave women the right to vote; (c) it was the first major federal legislation successfully sponsored by organized women; and (d) it was a prime example of participatory democracy that arose at the grassroots level.

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*See also* Comprehensive Drug Abuse Prevention and Control Act, Drug Enforcement Administration, Food and Drug Administration, Harrison Act, Mann Act

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## ☞ RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

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The criminal justice system was historically designed to prosecute an individual for committing a crime at a particular place and time and against a single victim. The system was not well equipped to deal with crimes committed by structured, layered, organized groups of individuals who engaged in crimes for profit.

In 1970, to address this shortcoming in the law, Congress passed the Racketeer Influenced and Corrupt Organizations (RICO) Act. This act is found in Title 18 of the *United States Code*, Part I, Chapter 96, Sections 1961 through 1968, and is part of the Organized Crime Control Act. The act is composed of eight sections dealing with definitions, prohibited activities, criminal penalties, civil remedies, venue and process, expedition of actions, evidence, and civil investigative demand. The act provides for the criminal prosecution and punishment of violators and for civil forfeiture and recovery of property and assets resulting from RICO activities.

The act defines covered violations of the law in great detail. Under the act, racketeering activity includes involvement in the behaviors of murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, dealing in a

controlled substance, bribery, sports bribery, counterfeiting, theft of interstate shipments, and embezzlement from pension and welfare funds. Also included are credit card extortions, identification fraud, mail fraud, wire fraud, unlawful procurement or sale of citizenship, obstruction of criminal investigations, witness tampering, misuse of passports or visas, money laundering, interstate transportation of stolen motor vehicles and other stolen property, trafficking in counterfeit computer programs and motion pictures, copyright infringement, trafficking in contraband cigarettes, embezzlement of union funds, and improper securities dealings.

Prohibited activities under this law include (1) receiving any income derived, directly or indirectly, from a *pattern* of racketeering activity or through collection of an unlawful debt or using such income to acquire any interest in a criminal enterprise; (2) acquiring or maintaining any interest or control of an enterprise engaged in interstate or foreign commerce; and (3) conspiring to violate the RICO Act. An enterprise is defined as any individual, partnership, corporation, association, or other entity and any union or group of individuals associated in fact although not a legal entity.

For the law to be successfully applied to a criminal violation, certain specifics must be met. The major legal issues are the existence of an enterprise that was engaged in interstate or foreign commerce; a pattern

of racketeering activity; a connection between the individuals involved in the racketeering activity and the enterprise; and in civil cases, proof that the harm suffered was directly caused by the racketeering acts. An important requirement of the act is the necessity that a *pattern* of racketeering activity be proven. Within the act, *pattern* is defined as at least two racketeering instances occurring within 10 years of each other. As cases passed through the courts over the years, it became important to distinctly prove that there was an actual connection between the individuals involved in the allegations of racketeering and the criminal enterprise. The mere existence of one does not infer the presence of the other.

The original motivation for the design of the act was to provide a means for combating the problem of traditional organized crime; specifically the Mafia. Thus, the law addresses the bulk of the activities that the Mafia has been active in for several decades. Initially, use of the law by authorities met with limited success because of its complexity and newness within the criminal justice system. As law enforcement became more experienced in the use of the provisions of the statute, prosecutors became more adept at presenting their cases and judges became more proficient at interpreting the intent of the statute, RICO evolved into a highly effective tool in dismantling the leadership of the traditional Mafia families. In particular, the RICO Act has been used to prosecute money laundering cases to severely impact the ability of organized crime families to conduct much of their common business. Today, RICO continues to be used against the Mafia as well as other organizations such as Chinese Triads, Columbian Cartels, and Russian organized crime.

Because the act was written in rather broad terms, over the years it has been effectively used to address other criminal behaviors and, more recently, civil violations. In 1985, the U.S. Supreme Court, in *Sedima, S.P.R.L. v. Imrex Co., Inc.*, concluded the use of RICO is not restricted to organized crime and may be applied to legitimate businesses. RICO has been used in successful prosecutions of labor racketeering, narcotics organizations, abortion clinic protestors, mail fraud, terrorist organizations, medical fraud, securities fraud, political corruption, pension fraud, and white collar and economic crimes.

In the 1980s, civil attorneys began to use the broad wording of the RICO Act to bring civil claims, since the law provides for judgments in the amount of three times the actual damages sustained, plus costs and attorneys' fees. In the late 1990s, several state attorneys and a number of private insurance companies used RICO claims against major U.S. tobacco companies to recover increased health insurance and welfare system costs. And, in 1995, a New York City attorney successfully interpreted and used the RICO Act against slumlords who had allowed their federally subsidized buildings to deteriorate.

One commonly used allowable defense in RICO cases is *withdrawal from the conspiracy*. To apply this defense, the defendant must prove that affirmative steps were taken to disavow or defeat the objectives of the enterprise.

RICO has withstood many constitutional challenges and continues to be an effective law enforcement tool. The provisions of the act allow for broad use to prosecute individuals who conspire to profit through a variety of means. When the government can show that these individuals worked in consort for at least two actions within 10 years of each other, severe penalties can be imposed and gains or assets used to further the criminal activity can be seized and forfeited.

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## RAILROAD POLICING

Private railroad companies established their own police forces as early as 1847. The construction of railroads contributed to trespassing and thievery and

the layouts of rail yards and storage material led to placing value goods distant from established communities, many of which lacked organized police forces. Even in cities that had begun to develop their own police forces after the 1850s and 1860s, railroads were concerned with the safety of passengers and their luggage. After the Civil War, hobos took to rail facilities, setting up squatter camps, traveling at no cost, and often taking whatever they could along the way, and although train robberies occurred throughout the nation, in the years after the 1880s until the turn of the century they became closely associated with banditry in the American West. Railroad police, who were recognized as commissioned police officers in the states and territories in which they worked, cooperated with the few local police, sheriffs, and U.S. Marshals to prevent robberies and then track those who perpetrated them.

In 1847, when the Baltimore & Ohio appointed a railroad police officer to keep order at its Pratt Street Depot in Baltimore, the city had been faced with numerous mob disturbances but did not establish a viable day police force until 1857. In the Midwest, where city building lagged behind the East Coast, railroads traveling out of Chicago were frequent targets of thieves and vandals and almost immediately became the preferred mode of travel for tramps and hobos. Within a year of running its first train in 1854, the Milwaukee Road employed policemen, and in 1855 the president of the Illinois Central Railroad, whose railroad had been in existence only four years, complained about vandals tampering with equipment and noted the need for daily protection. Responding to this need, on February 1, 1855, a number of railroads signed a contract with Allan Pinkerton, who had earned an enviable reputation as a public police officer, a private detective, and a special agent for the Chicago Post Office. Pinkerton established a police agency in Chicago that was devoted to the IC, the Rock Island, the Burlington, the Galena and Chicago Union (later to be incorporated into the Chicago & North Western), and others that eventually became part of the New York Central and Milwaukee Road systems.

The contract establishing the North West Police Agency called for its work to be to the exclusion of other business by Pinkerton. Operating initially

with nothing more than citizen's power to arrest, the North West Police Agency was in full swing three months before the Chicago Police Department combined its day and night forces into a 24-hour police operation. Even the development of municipal policing did not help the railroads, because the localized nature of policing prevented city police from protecting the railroads as soon as they left the city's jurisdiction. At a time when local police were fairly new, state police nonexistent, and the federal government weak, railroads were on their own in protecting themselves. Pinkerton understood this and prospered, devoting his personal attention to the railroads until 1860.

The Pinkerton Detective Agency remained closely associated with the railroads until 1869, but many railroads also formed their own departments, which quickly received legal recognition. In 1861, Nevada territory passed the first law recognizing railroad police, granting county sheriffs the authority to appoint deputies for the railroad. Pennsylvania in 1865 became the first state to sanction railroad police when it passed the Railroad Police Act, which authorized the governor to grant police power to any individual for whom the employing railroad petitioned. Officers were given the same powers as Philadelphia police officers in regard to detaining suspects and making arrests. Because the railroad traveled beyond Philadelphia, railroad police had more extensive powers than city police; they were authorized to arrest not only on company property but anywhere in the county where their commissions were recorded. In many states, the legislation was similar, permitting officers to carry weapons, effect arrests, and enforce laws anywhere the railroad owned property. This situation continues to exist to the present time.

Railroad police are the largest group of surviving private police, but they were not the first. As early as 1838, Boston had conveyed police powers on officers employed by local merchants. In some parts of the country, the coal and iron industry also established private police, in the West many cattle associations employed their own police officers to prevent livestock thefts, and Wells Fargo employed special agents whose duties were similar to railroad police. Multiple deputizations by states,

county sheriffs, and sometimes by U.S. Marshals, who swore in the officers as deputy marshals, allowed railroad police to cross state lines with ease, which encouraged them to concentrate on after-the-fact investigation of serious crimes, rather than on developing uniformed forces. This was particularly true in the West, where most railroad police continue to work in plainclothes and to be called special agents, as they originally were. In the East, where uniformed police were a common sight by the 1880s, the tradition of uniformed railroad forces developed, and officers were called police rather than special agents, with detective reserved for those who did investigative work out of uniform.

Although their existence has often been attributed to labor unrest, the origins of railroad police are similar to municipal police and are centered on concerns by the railroads about public order and theft. While some railroad police were assigned to labor disputes during major depressions, including 1873, 1877, 1893, and 1922, their portrayal as spies and strikebreakers is exaggerated; much of this work was done by outside undercover agents who were less likely to be known to other railroad employees. In addition to having many of the same concerns as all police, railroad officials were also worried about hobos, and many East Coast railroads began employing guards and watchmen in the 1870s to work in rail yards, on bridges, and to walk the tracks to minimize theft and vandalism and to dissuade trespassers from riding trains or setting up campsites along the tracks. Charity workers, business leaders, and legislators in a number of states had discovered what came to be called *the tramp problem* and the development of railroad police coincides with the adoption of tramp acts in many states in the 1870s and 1880s. These laws outlawed travel without visible means of support. Because many of the laws placed burdens on local police, passing tramp control onto the railroads was a cost-savings measure for many communities.

## WESTERN RAILROADS

As the railroads moved west, the major concern was that they were entering areas that were sparsely populated and lacked police departments. Except

for Nebraska and Colorado, railroad service was available in the territories at least a decade before they became states, and in the case of the last five contiguous states (Wyoming, Utah, Oklahoma, New Mexico, and Arizona) railroads preceded statehood by more than 20 years. Often railroad police (generally called secret service) departments were the best organized and best equipped, and sometimes the only, officers in the territories. Companies such as the Union Pacific, Denver and Rio Grande, Santa Fe, Southern Pacific, and the St. Louis and San Francisco had special agents operating in the west by the 1870s. The best known of the Western chief special agents was Bat Masterson, who claimed that in 1878 he had received a monthly salary of \$10,000 from the Santa Fe to serve as its first chief special agent. This was about the time he was the sheriff of Ford County, Kansas, which included the notorious Dodge City.

Less well-known was William T. Canada, the Union Pacific's first chief and the creator of the Union Pacific's force of Rangers. Developed in response to a number of well-publicized train robberies, they were probably America's first Special Weapons and Tactics team. The Rangers, men and horses skilled at hard riding and difficult tracking, were transported by boxcars to locations of major train robberies for the purpose of finding and returning, often alive but sometimes dead, train robbers. Although Pinkerton agents worked on some of the robbery cases, their efforts were in conjunction with and under the direction of the railroads' chief special agents, but they often captured the spotlight and claimed credit for the resolution of many cases. By 1896, chief special agents had formed the International Association of Railway Special Agents and Police and met annually to discuss problems, just as the International Association of Chiefs of Police does currently. Cooperation was vital, since a special agent of a western railroad might have been responsible for policing thousands of miles of track. Cooperation extended to local sheriffs' departments, U.S. Marshals, special agents of Well Fargo, and the federal government's Postal Inspection Service, whose agents worked on cases of mail theft or pilfering from trains.

The agents' association, under the leadership of Missouri Pacific Lines chief special agent Robert

S. Mitchell, also lobbied actively for passage of the Carlin Act, which became law on February 13, 1913. The act (formally known as the Interact Theft Act, 18 U.S.C. 660) made it a federal felony to break into railcars containing interstate shipments. It allowed for prosecution of an individual placed under arrest in any jurisdiction in which the individual may have been in possession of the stolen property, which aided prosecutions for such thefts.

## HOBOS IN HISTORY

Despite the attention given to train robberies, the more prevalent concerns were with hobos, a problem that led many to conclude that large numbers of petty thefts, track obstructions, and fires could be attributed to this group. Hobos, trains, and railroad police have been inextricably linked. Tramping via the rails became an established institution immediately after the Civil War, emerging once again in the years following the Great Depression. Some estimates were that the railroad tramp population was as high as 60,000 in the 1890s. There also existed a group of lawyers who sought out tramps injured on railroad property so that they might bring suits against the railroads. Thus, another impetus to creating police forces was to minimize the litigation facing the railroads due to a variety of injury, damage, and trespass suits. One of the attorneys who worked on retainer for the Illinois Central and the Mississippi & Missouri Railroad in the 1850s was Abraham Lincoln, who as president of the United States signed the law authorizing creation of the transcontinental network created by the Union Pacific and the Central Pacific. Another well-known lawyer-politician who took a negative view of tramps was Wisconsin's Robert La Follette. Concerns about tramps centered on the dangers to themselves and to railroad employees, but there were also instances of groups of tramps actually stealing entire trains from crew members. More common, though, were injuries and deaths as a result of trespassing. In the 1860s, Massachusetts reported an average of almost 90 people a year killed by trains in the state; by the 1870s the number had risen to 143, and by the 1880s it passed the 200 mark. National estimates were that almost 24,000 trespassers were killed and

more than 25,000 injured on the railroads between 1901 and 1905.

Wrecks were another concern for the railroads, not only because of the liability claims they were paying to injured passengers or consignees whose freight deliveries never arrived, but also because of bad publicity. In the belief that many of the obstructions were caused by tramps and trespassers, railroad police were encouraged to deal harshly with those found on the tracks or in yards. Yet because of the vast amount of territory they covered and the relatively small number of special agents, the chance of a hobo actually running into an officer was rare. Tramp literature often mentions how easy it was to ride the rails for free and mentions specific freight yards and even specific special agents to avoid.

## NATIONALIZATION AND CURRENT ISSUES

The railroads were nationalized during World War I and the railroad police were placed under the control of the U.S. Railroad Administration's Secret Service and Police Section, making them, for all practical purposes, a federalized force of uniformed and plainclothes officers. A number of railroad chief special agents were loaned to the federal government during this period, and although a few had hoped that the government would retain control for railroad policing, this did not occur and the officers were returned to the employ of their individual departments, where they have remained since then.

No industry before or since the railroads (with the possible exception of today's Internet-related crime) has spawned such distinctive forms of crime. Despite the disappearance of many of the private police who once traversed the country, the railroad police are the largest surviving group, numbering about 5,000 officers across the country. Collectively they police almost 200,000 miles of railroad, equipment, and cargo shipments exceeding a net investment of \$55 billion. Mail theft has been replaced by theft of high-value goods; hobos have been replaced by fugitive criminals. Smuggling, including narcotics, and crime prevention through environmental design to harden targets are also major concerns.

Although for the past few decades they have worked in obscurity in comparison to their earlier history, concern about terrorist activity since September 11, 2001, has brought renewed interest in possible sabotage to railroad facilities and the numbers of illegal entrants into the country through trains running from Mexico into the West and Southwest and via a train tunnel that runs under the river separating Canada from Port Huron, Michigan, which has been a point of entry for large numbers of Asian migrants. Railroads have become less visible to many Americans, particularly for passenger travel, but they continue to provide a network for goods to be transported and to represent a vital link for government, the military, and commerce, ensuring that even if they are out of the limelight, railroad police will continue to be actively involved in American policing initiatives.

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## SECRET SERVICE

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The Secret Service was instituted as a bureau under the Treasury Department on July 5, 1865. At the time of its creation, the Secret Service bore sole responsibility for investigating the counterfeiting of American paper currency, which had steadily been on the rise since the beginning of the Civil War. Gradually throughout the late 19th and early 20th centuries, the authority of the service expanded to include investigations of the Teapot Dome oil scandal (1921–1922), the Ku Klux Klan, and government land frauds. The service was also active in the area of counterespionage during the Spanish-American War and World War I.

The modern Secret Service continues to investigate counterfeiting of American currency, as well as fraud and forgery of U.S. checks, bonds, and other financial obligations. The Secret Service also has jurisdiction to investigate fraud relating to credit and debit cards, as well as computers and electronic funds transfers. In addition, it has assumed duties in the area of protection of public officials and is authorized by legislation to protect the president and vice president of the United States and their immediate families, the president and vice president elect and their immediate families, former presidents and their spouses, visiting foreign heads of state, major presidential and vice presidential

candidates, and any individual at the direction of the president.

Through its Uniform Division, the Secret Service is also responsible for providing security at the White House, the vice presidential residence, all federal buildings in which presidential offices are located, the U.S. Treasury, and the Treasury Annex. These security duties began in 1922, during the presidency of Warren G. Harding; however, the Secret Service was not officially given these security functions until 1930, when it absorbed the White House Police Force. Since then, the role of the Uniformed Division, as it came to be known, has remained central to presidential protection at the Executive Mansion and the White House Complex.

Since the terrorist attacks on New York City, on the Pentagon, and in Pennsylvania on September 11, 2001, the role of the Secret Service has continued to expand based on the enactment of new counterterrorism legislation. Specifically, the role of the Secret Service in investigating financial fraud related to computer activity has been significantly extended. The USA PATRIOT Act of 2001 directed the Secret Service to take enforcement action in protection of the United States's financial payment systems and against transnational financial crimes directed by terrorists or other criminals, both domestically and internationally. In 2002, the

Secret Service was transferred, via legislation, from the Treasury Department to the Department of Homeland Security, where its resources will continue to be used in targeting financial crimes instigated by terrorist organizations. The Secret Service officially began operating under the Department of Homeland Security on March 1, 2003.

## HISTORY OF THE SECRET SERVICE

When the Civil War ended in 1865, it was estimated that between one third and one half of all U.S. paper currency in circulation was counterfeit. To combat this growing problem, Congress authorized the establishment of an investigative branch to operate under the Treasury Department. The Secret Service was officially born on July 5, 1865. Chief William P. Wood was sworn in as the head of the new bureau that same year. In 1883, the Secret Service officially became an independent and distinct organization under the Treasury Department.

In 1867, the Secret Service's authority was broadened to include investigation of any persons perpetrating frauds against the government. Given the Secret Service's record of proficiency and its status as the only general law enforcement investigative body in the federal government, Congress invested it with broad authority to pursue all manner of federal crimes. As a result, it became responsible for investigations into the operations of the Ku Klux Klan, smuggling, the illegal distilling of alcohol, mail robbery, land fraud, and other breaches of federal law. In 1915, this investigative role grew even further when President Woodrow Wilson directed the secretary of the treasury to authorize the Secret Service to investigate domestic espionage in the United States. Due to the lack of a counterespionage division within the federal government, the Secret Service assumed this duty, as well. As the federal government gradually expanded to include a broader variety of investigative and law enforcement agencies, the Secret Service's investigative focus was once again returned to counterfeiting and financial crimes.

The Secret Service's protection duties began informally in 1894, when it assumed responsibility for the part-time protection of President Grover

Cleveland. This service was provided largely at Cleveland's request, due to a number of personal threats against him and his family, and not as an official duty mandated by legislation. It was not until the assassination of President William McKinley in 1901 that the Secret Service assumed full-time responsibility for guarding the president on an unofficial basis. The following year, the Service officially assumed this duty, assigning two agents to the White House detail.

Prior to Cleveland's presidency, personal security for the president was provided either through private sources or the Washington, D.C., Metropolitan Police Force. Franklin Pierce was the first president to employ a personal bodyguard from 1853 to 1857, and Abraham Lincoln was provided personal security at the White House throughout his presidency (1860–1865). In 1864, Lincoln's personal security detail expanded to include four Metropolitan police officers who accompanied him in public, making him the first president to be protected by more than one individual simultaneously. Following Lincoln's assassination in 1865, presidential security was no longer a major priority, despite the successful attempt upon the life of President James A. Garfield in 1881. It was not until the beginning of the Spanish American War in 1898, when President McKinley's life was threatened by groups opposed to the war, that presidential security once again became a focus.

Following McKinley's assassination in 1901, concerns for presidential security continued to grow, and in 1913 Congress made the Secret Service permanently responsible for protection of the president and president elect. The protection mandate grew even further in 1917 to include the president's immediate family. That same year, federal legislation made threats against the president a criminal offense, the investigation of which was placed under Secret Service authority. During the presidency of Franklin D. Roosevelt (1933–1945), the Secret Service's involvement in presidential protection grew dramatically. The demands of wartime security, in addition to Roosevelt's frequent domestic and foreign travel, made protection of the First Family the service's primary mandate. In 1962,

the service's protection mandate expanded again to include the vice president and vice president elect. Following the assassination of New York's Democratic senator Robert F. Kennedy in 1968 while he was campaigning for his party's presidential nomination, Congress extended this role even further to include all major presidential and vice presidential candidates. Since the Secret Service assumed the duty of presidential protection in 1901, there has been only one successful assassination attempt of an individual under its protection, President John F. Kennedy in 1963.

In addition to these protective functions, the Secret Service also provides security to several federal buildings and offices through its Uniformed Division. The inception of the Secret Service Uniform Division occurred in 1922, when, at the request of President Warren G. Harding, the White House Police Force was formed for purposes of guarding the presidential residence. Harding requested the formation of the force at the urging of his wife, Florence K. Harding, following an incident in which a stranger wandered into the White House dining room. Mrs. Harding was instrumental in organizing the force, going so far as to help design the uniform, which was based upon naval regalia of the day. Initially, the White House Police Force operated as an independent security force, giving the president and the Secret Service very little control over its movements. To better synchronize presidential security, the Secret Service was granted authority over the White House Police Force in 1930.

Prior to the creation of the White House Police Force, security at the Executive Mansion was of minimal concern. President James Monroe (1817–1825) was the first president to employ private security following the War of 1812. As with the president himself, protection of the Executive Mansion was at that time left primarily to the Washington, D.C., Metropolitan Police Force. Many of Monroe's successors continued to utilize the Metropolitan Police Force, but refused to expand the presence of a security detail at the White House, fearing that a uniformed brigade might lend the Executive Mansion a military feel that separated the president from the public. The growing

necessity of presidential security eventually suppressed these fears, and White House security has grown steadily since 1922.

In 1962, the White House Police Force assumed responsibility for protecting any building in which White House offices are located. By 1970, its duties were broadened to include the vice presidential residence, and its name was changed to the Executive Protection Service (EPS) in order to reflect this new status. In 1974, Congress vested the EPS with protection of all foreign diplomatic missions in the United States in cities other than Washington, D.C. The EPS acquired its current name, the Secret Service Uniformed Division, in 1977 and was divided into three distinct branches: the White House Protection Branch, the Foreign Missions Branch, and the Administrative Program Support Branch. In 1985, a fourth section, the Emergency Response Team, was added to provide a specialized unit for immediate reaction to emergencies at the White House Complex. By 1986, there was an increasing need for organized, uniform security within the Treasury Department. To help streamline operations, the Treasury Police Force was merged into the Uniformed Division that year, and the Secret Service became responsible for security at the Treasury Building and the Treasury Annex.

In 1994, the Uniformed Division came under heavy congressional scrutiny following three breaches of security at the White House in as many months. Between September and December 1994, three separate individuals managed to breach the perimeter of the White House Complex, one by crashing a plane onto the South Lawn and two by gaining access to the White House grounds or Executive Residence with firearms. As a result of an inquiry, the Secret Service made several recommendations to increase security at the White House Complex. These included constructing barricades to certain portions of the property, closing traffic on city streets running adjacent to the Executive Mansion, and increasing the number of uniformed officers on duty at the complex.

Despite its important role in presidential protection and the investigation of financial crimes, fraud, counterfeiting, and espionage, the Secret Service

operated very informally for the first 100 years of its existence. The first agents were recruited at the director's discretion and had little, if any, formal training. Agents were not even issued official badges until 1873. Prior to that time, agents purchased badges of their choice using their own funds. In 1875, the first badge featuring the Service Star was issued, and it has been the official agency badge since that time.

The first formal training offered to Secret Service operatives consisted of a security course for the White House Police Force, which was implemented in 1941. Originally meant as a crash course in field security during wartime, this training has evolved substantially since then. Likewise, training for special agents was implemented relatively late in the Secret Service's history. The first training course for field agents was held from October 19 to November 6, 1953. In the 1970s, specialized training courses in protection, fraud investigation, emergency response, and other areas were offered for the first time.

## THE SECRET SERVICE TODAY

In 2003, the Secret Service employed more than 5,000 people, including approximately 2,100 special agents, operating throughout the United States. The service also operated liaison offices in France, England, Germany, Italy, China, Canada, Cyprus, Colombia, Thailand, and the Philippines. It employed specialists in the areas of electronics engineering, communications technology, research psychology, computers, intelligence analysis, polygraph examination, and forensic analysis. Its primary missions remain protection and fraud investigation.

The Secret Service's investigative jurisdiction includes the counterfeiting of U.S. currency; the forgery of U.S. checks, bonds, and other financial obligations, including food stamps; the forging of identification documents; and fraud related to credit cards, debit cards, computers, and electronic funds transfers. In 1990, Congress granted the Secret Service jurisdiction to investigate savings and loan institutions.

The Secret Service still maintains its protection duties through the assignment of both officers from the Uniformed Division and nonuniformed agents

to those individuals entitled to its services. Special Agents are rotated between investigative and permanent protection assignments. In addition, investigative agents serve on protection details on an as-needed basis, such as at special events involving candidates or visiting foreign dignitaries.

An applicant for the position of special agent must be a U.S. citizen between the ages of 21 and 37 who possesses both a bachelor's degree and three years of experience in law enforcement or investigations work. In addition, applicants must be in good physical condition, have uncorrected vision of 20/60 or better, and must pass the Treasury Enforcement Agent Exam. A complete background check, including in-depth interviews, drug screening, medical examinations, and a polygraph examination, are conducted as a condition of employment. Second language proficiency, although not required as a term of employment, is highly encouraged and may result in substantial hiring bonuses and on-the-job cash awards.

Once cleared, all special agent candidates must complete 11 weeks of training at the Federal Law Enforcement Training Center (FLETC) at Glynco, Georgia, or Artesia, New Mexico. When training has been completed at FLETC, each candidate must undergo 11 more weeks of specialized instruction at the James J. Rowley Training Center in Laurel, Maryland. After graduating from training, all new special agents must complete a one-year probationary period in a field office. At the end of this year, the special agent in charge of the field office determines if the service should retain the agent.

A person seeking employment in the Uniformed Division must be a U.S. citizen between the ages of 18 and 37 who is in possession of a high school diploma or general education degree. In addition, he or she must be able to pass a written test and submit to a background investigation that includes driving record, drug screening, and medical and polygraph examinations. Candidates should be in good physical condition and have uncorrected vision of at least 20/60. Unlike special agents' assignments, positions with the Uniformed Division are available only in the Washington, D.C., area. The service is willing to relocate those individuals who qualify and successfully complete the required

training, which consists of 8 weeks of instruction at FLETC, followed by 11 weeks of instruction at the James J. Rowley Training Center in Laurel, Maryland.

In addition to investigative and protective functions, the Secret Service also partners with state and local law enforcement, as well as public and private organizations, in efforts to combat stalking, workplace violence, and school-based violence. These efforts are directed through the National Threat Assessment Center (NTAC). In conjunction with Carnegie Mellon University, the NTAC is developing the Critical Systems Protection Initiative, which is designed to detect breaches in cyber security. As the war on terrorism continues, the Secret Service's role in spearheading new electronic and cyber security measures is expected to expand.

On March 2, 2003, the Secret Service began operating under the supervision of the Department of Homeland Security, where its role continued to be redefined. Its investigative function continues to focus upon computer-related crime, forgery, and financial fraud, especially in cases with a direct and obvious connection to domestic or foreign terrorism, cases that pose a threat to the nation's critical infrastructure, and transnational cases. Since its transfer into the Department of Homeland Security, the Secret Service has not announced any plans to alter the employment qualifications for special agent positions or the Uniformed Division, nor to change training for either group of employees.

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## SECURITIES AND EXCHANGE COMMISSION

The Securities and Exchange Commission (SEC), created by the Securities Exchange Act of 1934, consists of five commissioners serving five-year terms, appointed by the president. One of the commissioners is designated chair, and no more than three commissioners can be from the same political party at any given time. The commission's duties include interpreting federal securities law, amending existing rules, proposing new rules to address changing market conditions, and enforcing rules and laws. The day-to-day activities of the SEC are under the supervision of the executive director, who oversees four divisions, 18 offices within those divisions, and approximately 3,100 employees at headquarters in Washington, D.C., and 11 regional and district offices around the country.

The SEC's primary mission is to protect the investing public by regulating the securities business and certain financial practices including accounting procedures and the buying and selling of stocks, bonds, and other investment instruments. The SEC regulates stock exchanges, broker-dealers, investment advisers, mutual funds, and public utility holding companies as well as corporations that issue securities held by public investors. The scope of the SEC's regulatory activities broadened greatly in the early years of the 21st century to include greater oversight of mutual funds; auditing activities of major accounting firms; investment activities of hedge funds, which are private entities similar to mutual funds; and the obligations and responsibilities of public companies vis-à-vis their shareholders.

It was during this period that the SEC became involved in a number of high-profile cases, most of which involved civil actions, but some of which resulted in criminal charges. Among these were the ImClone Systems insider trading case which involved chair and founder Sam Waksal as well as investor Martha Stewart. The SEC also investigated activities leading to the bankruptcies of Enron and WorldCom, the latter of which resulted in the commission collecting \$500 million, the single largest penalty in SEC history. Accounting issues included

fraud at such businesses as Tyco International and Rite Aid drugstores and abrogation of duties by such accounting firms as Arthur Andersen, KPMG, and Ernst & Young involving publicly held corporate clients. In 2003, the SEC received its highest budget appropriation ever, including funds for the newly created Public Company Accounting Oversight Board and the authorization to hire more than 800 new staff.

Not all cases involve activities and individuals at the highest levels of corporate management. In May 2003, the SEC successfully concluded an insider trading case involving individuals who obtained information from employees of a plant where a weekly business magazine was printed. The information involved stock market tips from a column in the magazine, which was relayed by the employees to the individuals who were able to buy stocks that were written about before the magazine was available to the public. They then sold the shares after the prices rose once readers reacted to the magazine's tips. SEC investigators in New York uncovered the scheme while reviewing trading records in another, unrelated, case. The insider trading based on the magazine information went on for 18 months and involved stock trading profits of more than \$1.4 million on 160 different securities.

The Division of Enforcement, which reports directly to the executive director of the SEC, was created in 1972 by consolidating enforcement activities that had previously been scattered among the commission's various offices and operating divisions. The enforcement division investigates possible violations of federal laws and SEC regulations, prosecuting civil suits in federal court and in administrative proceedings. Approximately 500 to 600 civil enforcement actions are brought each year against individuals and companies violating laws or not in compliance with regulations. Typical infractions include insider trading, misrepresenting or omitting significant information regarding securities, manipulating market prices of securities, violating broker-dealers' responsibilities to treat clients fairly, stealing customers' funds or securities, and selling securities without proper registration. The division may also respond to complaints from

investors and the public and on occasion has made unannounced inspections of brokers and dealers to ensure compliance. Large or unexpected fluctuations in the price of a particular security may also trigger an investigation to determine the reason for the sudden rise, drop, or erratic trading pattern.

There are four primary enforcement actions the SEC makes: (1) civil lawsuits brought in federal court, (2) orders and related materials that are made public when administrative proceedings are instituted or settled or both, (3) opinions issued by administrative law judges in contested administrative proceedings, and (4) opinions issued by the commission on appeal of initial decisions or disciplinary decisions issued by such self-regulatory organizations as the New York Stock Exchange or the National Association of Securities Dealers. Decisions rendered by the SEC may be appealed to the U.S. courts of appeals.

SEC Division of Enforcement investigators include lawyers, accountants, economists, and compliance examiners with accounting or auditing experience, and many traditionally have performed investigative work in other government agencies. Personnel in the Division of Enforcement, which has civil enforcement authority only, do work with a variety of criminal law enforcement agencies throughout the country, both federal and local, in order to develop and bring criminal cases when the law- or rule-breaking activities warrant more severe action. SEC investigators do not make arrests, do not execute search and seizure warrants, and do not carry firearms, activities for which the Department of Justice is relied upon.

*David Schulz*

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# T

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## ☞ TENNESSEE VALLEY AUTHORITY POLICE

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The Tennessee Valley Authority Police (TVAP) is a federally commissioned, internationally accredited law enforcement agency that provides protection for the Tennessee Valley Authority (TVA) properties and employees as well as the 100 million annual users of TVA recreation facilities. The TVA is the largest public power company in the United States, with 30,365 megawatts of dependable generating capacity. TVA's power facilities include 11 fossil plants, 29 hydroelectric dams, three nuclear plants, a pumped-storage facility, and 17,000 miles of transmission lines. Through 158 locally owned distributors, TVA provides power to nearly 8.3 million residents in the Tennessee Valley. TVA also manages the Tennessee River, the nation's fifth-largest river, to control floods, make rivers easier to travel, provide recreation, and keep the water clean.

Since 1933, the Tennessee Valley Authority has employed public safety officers who have law enforcement responsibilities. Agency officers have provided security during times of war. They also provided emergency medical and firefighting services during the agency's construction phases and have staffed visitors' centers throughout the TVA system. The TVAP are responsible for covering an

80,000-square-mile service area in parts of seven states, which includes 29 hydroelectric dams, 11 coal plants, three nuclear plants, and a pump storage site at Raccoon Mountain, Tennessee. TVAP is organized into four districts that encompass the seven-state area. It has motor, marine, and bicycle patrols, as well as investigative personnel and victim/witness representatives. TVAP deals with the same kinds of issues other law enforcement agencies deal with, except sometimes they must respond on water. TVAP are routinely called to respond to drownings and disturbances at area campgrounds and sometimes respond to an occasional call from a fisherman stranded on a sandbar in the middle of the lake at night. Another service provided by TVAP is the enforcement of the Archaeological Resources Protection Act. Examples of violations include the excavation and removal of arrowheads, pottery shards, or other artifacts. Unauthorized digging or collecting can result in fines up to \$100,000 and jail terms of up to five years. As part of its community policing program, TVAP coordinates and assists in providing training to TVA employees and community groups. This training includes: first aid, cardiopulmonary resuscitation, and automated external defibrillation; defensive driving; gang awareness; rape aggression defense; workplace violence prevention; and an overview of methamphetamine labs.

## QUALIFICATIONS

Prospective TVAP officers must meet a number of standards to qualify for the force. Applicants must be at least 21 years of age, must be U.S. citizens without any prior criminal convictions, may not have been dishonorably discharged from military service, must have either an associate's degree (or a minimum of 65 semester hours) and two years of related law enforcement experience or a bachelor's degree, must have basic computer skills, and must be able to pass a background investigation and successfully complete all required tests. When hired, all potential officers must successfully complete the 16-week officer training program at the Federal Law Enforcement Training Center in Glynco, Georgia, as well as a 10-week field-training program at their assigned TVA location and a one-year probationary period from the date they are placed in the police officer position. By the mid-1990s, the agency employed 500 public safety officers. That number was reduced to 150, however, after 1994 when Congress passed legislation creating the TVAP. Officers are now required to complete a 16-week federal training program at the Federal Law Enforcement Training Center in Glynco, Georgia, in addition to a 10-week field-training program.

Since the September 11, 2001, terrorist attacks and the subsequent creation of the Department of Homeland Security, TVA security has been intensified. Measures taken to increase security include establishing direct links to the National Guard, closing some of the visitors' centers, increasing the number of security guards at the nuclear plants, increasing the number of patrols, and extending the boundaries at the nuclear sites.

Although it is one of the federal government's relatively unknown police forces, TVAP is the lead agency in providing safety and security at TVA public-use areas and campgrounds and they work closely with civilian members of the TVA to keep the public parks, lakes, and other public areas of the TVA safe and crime-free.

*Aviva Twersky-Glasner*

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## **TRANSPORTATION SECURITY ADMINISTRATION**

The Aviation and Transportation Security Act (ATSA), signed into law by President George W. Bush on November 19, 2001 (Pub. L. No. 107-01), established the Transportation Security Administration (TSA) within the Department of Transportation. The TSA, the creation of which was a direct result of the terrorist attacks of September 11, 2001, and the subsequent demands for a higher level of security at domestic airports, is responsible for securing the movement of people and commerce in all modes of transportation—aviation, maritime, and land—as well as for leading research and development into security technology to aid in safeguarding the nation's transportation facilities and infrastructure. In March 2003, the TSA was moved to the Department of Homeland Security (DHS) as part of the Border and Security Directorate, which was intended to integrate into one agency all government operations for securing U.S. borders and transportation systems.

The ATSA transferred responsibility for civil aviation security from the Federal Aviation Administration (FAA) to TSA personnel. The FAA had permitted individual airlines to determine the level of security screening of passengers and baggage and, in the aftermath of September 11, this system, which relied overwhelmingly on private sector security officers who earned minimum pay levels, was deemed inadequate. Working under very tight deadlines, the federalization of screeners of baggage and passengers at 429 commercial airports in the United States was accomplished within 60 days by the TSA, becoming effective in December 2002. This included the hiring and training of employees to perform the screening of baggage and passengers, raising the employee selection and training criteria, and elevating the standard to 100% checked baggage screening.

In addition to federalizing the workforce of airport screeners, the TSA was mandated to radically

change the preemployment policies surrounding these employees, who, during the time they were employed by private security firms, were often hired with virtually no prescreening or training. In contrast, TSA employees undergo extensive background investigations similar to those performed on other federal law enforcement personnel. Additionally, an analysis is done to determine whether the candidate poses a potential terrorist threat or may have been associated with anyone who poses such a threat.

Educational requirements for screeners were upgraded to include a minimum of a high school diploma, a general education degree, or the equivalent. Applicants were also required to be U.S. citizens and to be fluent in English. Preference is given to those with law enforcement backgrounds. Federal screeners at all airports were also required to receive a minimum of 40 hours of classroom training and 60 hours of on-the-job training before they are permitted to work alone at a screening station.

## NEW AIRPORT SECURITY POSITIONS

Although the initial focus of the TSA was on hiring, training, and assigning screeners, the enabling legislation created a number of additional new law enforcement positions, including federal security directors and law enforcement officers (known as LEOs). The Office of Intelligence, located in the FAA Office of Civil Aviation Security, was transferred to the TSA and renamed the Transportation Security Intelligence Service (TSIS). It is responsible for receiving, evaluating, and disseminating information on threats to a wide segment of the transportation industry.

The ATSA specified that all airports larger than a certain size have an on-site federal security director. As of November 2002, almost 175 security directors had been appointed, and many large airports also appointed deputy directors. These security directors are responsible for protecting passengers and employees and for securing the reliability and integrity of the air transportation system. Although a TSA employee, the director is expected to interact regularly with airport stakeholders, including passengers, airport and airline employees, concession operators, and local government representatives.

Security directors, many of whom have prior law enforcement experience, are expected to establish a system to identify threats, to secure the airport facility and the aircraft, and to ensure employee accountability by communicating with the airport operator and the aviation operations administrator regarding risks and the costs of preventing, mitigating, and recovering from potential recognized threats. The security director is also responsible for all TSA resources at the facility, including budgeting for personnel and equipment.

Security directors are mandated to share information with federal, state, and local law enforcement agencies; direct LEOs on transportation security activities; serve as a liaison between TSA and the local law enforcement agencies; maintain coordination between TSA personnel and local law enforcement agencies; work with law enforcement agencies to implement security countermeasures; and take charge of federal law enforcement activities within the purview of the TSA. In addition, directors have oversight responsibility for the screening of passengers, baggage, and air cargo; for the implementation, performance, and enhancement of the standards for security and screening for airport employees and passengers; and for training all airport employees in security awareness. Security directors must also organize and implement federal security crisis management response plans and coordinate these activities with the other relevant federal, state, and local law enforcement and other government agencies and with airport and airline carrier managers. The security director is considered the lead employee for assessing the airport security risk level and for the protection and recovery of the communications network.

The ATSA also created LEOs, who work at fixed posts at baggage and passenger screening checkpoints. They enforce the federal aviation security laws and regulations at the checkpoints and perimeter areas of the airports. The law permits LEOs to undertake various types of surveillance work and to respond to incidents at the checkpoints, although until mid-2004 their work outside the screening areas was limited.

Because the TSA was unable to meet a November 2002 deadline for hiring, training, and deploying

LEOs at each checkpoint area, many of those working in the positions were contract employees from a variety of federal, state, and local law enforcement agencies. TSA is permitted to deputize state or local law enforcement officers as federal officers so that they may carry out federal security duties at the airports and to reimburse agencies for the costs of the deputized officers. Although it is not considered part of their regular duties, LEOs may fly armed if there is a need. They are required to comply with preexisting rules pertaining to armed law enforcement officers, although the regulations surrounding law enforcement officers flying with their firearms have been tightened from the old FAA regulations.

### **TRANSPORTATION SECURITY INTELLIGENCE SERVICE**

The TSIS includes a central command center where employees collect and synthesize information from various transportation entities. Although originally planned solely to meet the needs of TSA, since its transfer into the DHS the central command center serves the entire DHS by identifying and forwarding to agencies that make up the intelligence community the kinds of information needed to secure the nation's transportation network.

The TSIS keeps liaison officers at the Federal Bureau of Investigation headquarters, the Central Intelligence Agency Counterterrorism Center, and Diplomatic Security's Office of Intelligence and Threat Analysis. Its analysts have been assigned to various terrorism task forces. Liaison officers must meet the same professional and personal criteria as the employees at the agency to which they are sent. They are integrated into the agency and have the same access and restrictions as the regular employees of the agencies with which they share information.

The TSA sends intelligence information on aviation security to law enforcement agencies at local, state, and federal levels and to affected private sector entities. The TSA may also send strategic assessments and overviews of the threat environment. TSA maintains a 24-hour intelligence watch that alerts the industry to events of potential interest. The information is designed to assist transportation industry

leaders to better understand the threat and context for the mandated security procedures.

### **ARMING AIRLINE PILOTS**

A controversial section of the ATSA has been the issue of arming pilots as a way to prevent air piracy or other disturbances on in-flight aircraft. The law was written to permit members of a the flight crew to carry less-than-lethal weapons to be used to defend the aircraft against terrorism and to authorize the pilots of commercial aircraft to carry approved firearms into the cockpit if they have received TSA-mandated training and have received the approval of the TSA and their employing agencies.

The volunteer pilots were to be designated as federal flight deck officers (FFDOs) and the legislation removed air carriers from liability in federal or state courts arising out any officer's use or failure to use a firearm, unless gross negligence or willful conduct can be shown. The law specified that if legal actions are brought against the United States, the FFDOs will be treated as an employee of the federal government. The first group was trained at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. The new training site is now at the FLETC in Artesia, New Mexico, which has been controversial due to its somewhat remote and inaccessible location. Despite this, the TSA has maintained that the site can accommodate a larger number of pilots and allows them to be trained at the same location where federal air marshals are trained and where facilities exist that permit simulating tactical maneuvers in jet planes. The program requires FFDOs to transport firearms in locked boxes when they are traveling to and from the cockpit of the aircraft and forbids taking firearms out except behind the closed doors of cockpits. After a series of legislative changes, the law was determined to also permit the arming of cargo pilots, who had previously been extended this privilege in 1993, through the Century of Aviation Reauthorization Act.

### **AIR CARGO SECURITY**

Although initial efforts by the TSA concentrated on passenger air safety, the arming of cargo pilots is

not the only freight-transportation initiative undertaken by the agency.

A report by the Aviation Security Advisory Committee's air cargo working group, which was established in 1989 in the wake of the crash of Pan Am flight 103 over Lockerbie, Scotland, in October 2003 recommended a number of changes to better safeguard air cargo security. Recommendations that have been enacted include screening all cargo transported in cargo-only aircraft and broadening security related to general aviation, which includes a vast range of aircraft such as business planes, sports aircraft, crop-dusting aircraft, and air carriers used by police and firefighters. The size of these aircraft may vary from helicopters and single-person planes to large jets. New security measures included mandatory photo identification cards for all crew and passengers, indication of type of baggage and cargo, and security checks, including criminal history, of all staff involved in cargo handling.

Although the TSA determined that inspection of all cargo traveling within the country was not feasible, rules were tightened surrounding shippers or freight forwarders. Names of known shippers will check against appropriate government watch lists and will be electronically linked to a variety of government and commercial databases. In conjunction with this effort, at the end of 2003, Customs and Border Protection agents began identifying high-risk shipments before they reached the United States. Agents must have prior notice, through electronic means, of all information on ground, air cargo, and food shipments entering and leaving the country and all may be stopped and searched prior to arrival.

Additional general aviation security measures pertained to instructors, flight students, and aircraft rentals. The recommendations generally tightened access to ground areas and the aircraft and required photo identification of those with access to ground areas and aircraft.

## STILL A WORK IN PROGRESS

Due in part to its large mandate and the speed with which it was created, TSA faced a number of

unresolved issues that impact air safety. One area of the law that remained untested was the so-called opt-out provision that at the end of 2004 was intended to permit a number of airports to discontinue use of LEOs and return to using private security screeners for preflight security. A major change under this provision from pre-TSA procedures was that the private screeners would not be paid by the individual air carriers, but would be paid by TSA and would be expected to adhere to the higher levels of preemployment screening and work procedures established by the TSA for its own employees. Previously, private screeners did not meet the personnel requirements that they be high school or equivalent graduates, fluent English speakers, and U.S. citizens. Five airports were selected to participate in the pilot program: San Francisco, California; Kansas City, Missouri; Rochester, New York; Jackson Hole, Wyoming; and Tupelo, Mississippi. Although the private screeners are supervised by the federal security directors, some airport managers believe the contract employees will shorten the time of the security screening process, thereby saving travelers' waiting times and making air travel more customer friendly.

Another issue that generated controversy was the Computer-Assisted Passenger Pre-Screening System (CAPPS II), which would allow airlines to determine a passenger's identity and threat risk prior to boarding the aircraft. Numerous groups that are concerned with government intrusions into personal privacy, including the American Civil Liberties Union, have voiced concern over this program and its absence of safeguards to limit abuse. Similar concerns have been raised over the Trusted Traveler Program, which was designed to permit those who might travel frequently to register to avoid random screening. Individuals who agreed to this prescreening and who successfully passed the various background checks would be given a unique identifier that would speed them through security check lines.

The TSA also responded to complaints that its focus on air transportation had ignored the vulnerabilities of train travel. The agency began testing a modified version of its passenger search procedures

at a train station in New Carrollton, Maryland, in an attempt to determine whether the higher volume of travelers permitted this type of screening or would create such intense scheduling problems as to make it impossible to implement. The program, called Transit and Rail Inspection Pilot, involved Amtrak and the Maryland Rail Commuter line to evaluate whether it was feasible to screen rail passengers and their carry-on items for explosives. The program does not screen travelers as closely as airport screening and will not result in a prohibition on such items as scissors and pocketknives, nor will commuters be expected to remove items of clothing such as outerwear, belts, and shoes.

*Marvie Brooks*

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## TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

The Treasury Inspector General for Tax Administration (TIGTA) is an independent office of inspector general within the Department of the Treasury. TIGTA focuses on tax administration and exercises all duties and responsibilities on matters relating to the Internal Revenue Service (IRS). TIGTA is under the supervision of the secretary of treasury, with certain additional responsibilities left to the IRS Oversight Board and Congress.

TIGTA was established in January 1999, in accordance with the Inspector General Act of 1978, as amended (Section 2 and Section 8D), and the Internal Revenue Service Restructuring and Reform Act of 1998 signed by President William J. Clinton on July 22, 1998. The act made structural changes in the management and oversight of IRS activities, with the intent of achieving a more efficient and responsive IRS. Sections 1102(a) and 1103 of the act explain the establishment of a new, independent TIGTA. As mandated by the act, the IRS Office of the Chief Inspector transferred all of its powers and responsibilities to TIGTA. TIGTA has the powers and responsibilities granted to inspectors general under the Inspector General Act of 1978, but without the limitations that apply to the Treasury Office of the Inspector General. The existing Treasury Department's Office of the Inspector General exercises all duties and responsibilities other than the duties and responsibilities exercised by TIGTA.

In order to promote economic, efficient, and effective administration of the nation's tax laws, TIGTA has sole authority under the act to conduct audits, investigations, and evaluations of IRS programs and operations. TIGTA is responsible for enforcing criminal provisions under section 7608(b)

of the Internal Revenue Code of 1986 to detect and deter fraud and abuse in IRS programs and operations. TIGTA is committed to resolving systemic weaknesses and deficiencies in the operations of the IRS. In addition, TIGTA is responsible for protecting the IRS against external attempts to corrupt or threaten its employees. TIGTA reports to the secretary of the treasury and Congress on serious problems facing the IRS and the IRS's progress in resolving them. There are no restrictions on TIGTA's reporting to the Department of Justice. Thus, TIGTA is able to report to the attorney general whenever it has any reasonable grounds to believe that there has been a violation of federal criminal law. The act also requires TIGTA to make congressional reports, including semiannual and annual reports to Congress regarding IRS compliance with restrictions and regulations.

The inspector general of TIGTA is appointed by the president, with the advice and approval of the Senate. TIGTA, its deputy inspector general, and the assistant inspectors general of audit and investigations may not be employed by the IRS within the two years preceding and the five years following their appointments. The staff consists of approximately 960 auditors, investigators, attorneys, and support personnel.

The missions of TIGTA are completed through proactive and reactive investigations. TIGTA conducts comprehensive, independent, and objective audits and investigations to ensure the highest degree of integrity and ethics in the IRS workforce and its operations. The TIGTA Office of Audit conducts comprehensive statutory reviews to identify

opportunities to improve the administration of the nation's tax laws and to ensure compliance with applicable laws and regulations. It also undertakes financial reviews and performance audits of IRS programs, operations, and other activities to ensure that resources are distributed to the areas of highest vulnerability to the nation's tax system. TIGTA presents its program in the Annual Audit Plan, which is published at the beginning of each fiscal year.

The TIGTA Office of Investigation is concerned with activities related to fraud, waste, abuse, and mismanagement concerning activities of the IRS and related entities such as the IRS Oversight Board and chief counsel. It investigates threats, assaults, and corrupt interference in the work of IRS employees, its facilities, and data infrastructure. TIGTA staff members also investigate allegations of administrative and criminal misconduct of IRS employees (Section 1203) and provide training for IRS employees on ethics and integrity. Each of these tasks aids TIGTA in its mandate to safeguard the nation's tax system by protecting the ability of IRS and the treasury to collect revenues and to ensure fair tax administration.

*Yi Sheng*

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## ✎ UNDERCOVER OPERATIONS

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The term *undercover operations* includes various proactive investigative techniques that require law enforcement officers to assume false identities to observe crime or to create an opportunity for criminal activity to take place. There are many kinds of undercover operations, but all have in common that officers mask their true identities in an effort to uncover criminal activity. Generally, the phrase *decoy unit* is used when an officer assumes the identity of a victim and the phrase *undercover operation* is used when an officer assumes the identity of a criminal. A distinct type of undercover operation that involves some surprise deception is termed a *sting*.

Decoy units are more closely associated with street crimes enforcement than with white collar crime and are, therefore, less likely to be used by federal law enforcement officers than by local police. A classic decoy ploy is for an officer to act drunk or incapacitated in a public place while displaying a wallet or other potentially valuable item and waiting to see if someone attempts to take the item. If the potential offender takes the bait, backup officers move in and make the arrest. In drug enforcement, these activities, particularly at the street level, have come to be termed *buy and bust operations*, because the sellers are arrested (busted) after the illegal item is purchased.

Various kinds of stings are also classified as undercover operations. Many are of short-term duration, but some stings can be quite elaborate and run for years. Short-term stings include officers posing as customers of drug dealers, of illegal firearms dealers, or of prostitutes or other sex workers. When an offender offers the service to the undercover officer, the offender is arrested, usually by backup officers to maintain the hidden identity of the undercover officer. Sometimes, particularly in vice investigations, these roles are reversed. Here officers pose not as customers, but as purveyors of the illegal activity. An example of this would be officers posing as drug dealers, as illegal firearms merchants, or as prostitutes or other sex workers with the aim of attracting customers to their illegal wares.

Longer term stings might involve police setting up a business to purchase stolen goods or setting up a business with the aim of seeing whether bribes are offered by related businesses, whether organized crime attempts to take over or influence operation of the business, or whether bribes are solicited by politicians or government employees who may be in a position to aid the business. Another type of sting has involved tricking fugitives into appearing at a particular location so that law enforcement officers can arrest them without having to go into the field to locate each one separately. An example of

this type of sting occurred in the District of Columbia, when a number of wanted individuals were advised that tickets to a Washington Redskins football game were being held for them at a certain address. All those who responded to pick up tickets were then placed under arrest.

Even more elaborate undercover operations are in many ways logical outgrowths of sting operations. While sting operations use a moderate amount of deception over a brief period of time to achieve law enforcement objectives, undercover operations may be conducted over a period of years, with elaborate and expensive levels of support. Such support is usually referred to as *backstopping* and may include the creation of one or more false identities, with appropriate education, credit, and vocational histories; the rental, lease, or purchase of vehicles, properties, airplanes, or boats; the use of state-of-the-art electronic recording and tracking devices; the support of other U.S. or foreign governmental and law enforcement agencies; extensive preoperational review by superiors and prosecutors, and periodic status review by superiors and prosecutors during the operational phase. One of the key decisions superiors and prosecutors must make at the outset of such operations is if there is adequate predication to undertake the operation. For reasons of length and complexity, cost, danger, and legal issues surrounding entrapment, undercover operations should not be “fishing expeditions;” they should have a target and a purpose from the outset.

Undercover operations are also likely to raise issues of sensitivity. The target of the operation may be a politician, judge, attorney, clergyperson, law enforcement officer, member of the media, or prominent business or public figure. Likewise, elements of danger may be anticipated from the outset if the operation’s target is a drug cartel, organized crime group, street or motorcycle gang, or domestic or foreign terrorist organization. Some undercover operations are expensive from the beginning, whereas others may become very expensive during the course of the operation as it moves to higher and higher levels of criminal enterprise.

Expense is only one of a number of factors that may change during the course of an undercover operation. In fact, change is one of the most

frequent characteristics of many operations. As penetration is made into the underworld or target group, it is not unusual to discover that the target is engaged in other criminal enterprises unknown at the outset or that other associates are also involved. Also, the level of activity may pick up quite suddenly, either as a target of opportunity for the criminal group (e.g., a mid-level fence may happen upon an opportunity to unload a hundred million dollars of stolen securities) or as a test of the authenticity of the undercover operative(s) (e.g., an undercover operative posing as a fence may be asked to beat up a loan shark victim to prove a willingness to participate in criminal activity or to prove loyalty to the criminal group).

Because of the length, danger, and sensitivity of undercover operations, considerable time goes into assessing and training personnel for such assignments. Not only are ethnic, gender, and language considerations important, but the ability of the operative to handle the stress of such an assignment over a period of many months or many years is crucial. Usually, good undercover operatives are persons with substantial amounts of law enforcement experience and prior experience in sting operations or more simple undercover operations.

Due to the demands of the undercover role, one of the key decisions in planning an undercover operation is selecting the contact for the undercover operative. This person is often the operative’s only link to the real world for an extended period of time, and the viability of this relationship is crucial to both the operation’s success and the operative’s health and safety. Most contacts perform a variety of duties in supporting an operative. These might be acting as the initial contact point in the event of an emergency; debriefing the operative; informing the operative of changes in the operation’s direction, objectives, or backstopping; being a counselor and coach for the operative; assessing the operative’s health, effectiveness, and degree of exposure to danger; being a conduit between the operative and his or her family; performing gofer chores for the operative; and providing technical and financial support. In extremely long or dangerous operations, there is often an alternate contact for the operative in case the primary contact is unavailable.

Just as considerable time and effort is spent when starting an undercover operation, completed operations may be followed by many years of trials and appeals. In some instances the safety of the undercover operative(s) may be an issue. Plans for protection or relocation of the operative are often complicated by family considerations. Likewise, the psyche of the operative(s) must be carefully assessed by professionals, since coming out of an operational environment after many months or years is not like discarding a suit of clothes. Many undercover operatives unconsciously assume parts of their role's persona during their time in it and will need time and guidance to readjust to their normal lives and routines.

Undercover operations may start with a law enforcement objective, but oftentimes that objective is supplemented by an intelligence function. Often an undercover operation will develop intelligence, if not actual criminal cases, on other persons and organizations. At that point, superiors and prosecutors must decide whether to redirect the operation toward the new, possibly more important, targets; save the information for future enforcement action; or attempt to launch a new, collateral, undercover operation directed at the new targets. One of the best-known examples of how an undercover operation can change directions was the Federal Bureau of Investigation's ABSCAM case in the 1980s, which resulted in the conviction of several members of Congress for accepting bribes. ABSCAM was a classic undercover operation in that it was initially targeted at fencing activities on Long Island, shifted its focus, ran for several years, was highly sensitive, was expensive (a rented townhouse in an exclusive area of Washington, D.C., among other things), used a lot of high-tech equipment, and involved numerous undercover and contact agents.

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## UNIFORM CRIME REPORTING PROGRAM

Introduced in 1930 as the first nationwide system for reporting crime information, the Uniform Crime Reporting Program (UCR) was established to provide a standardized crime reporting system to aid law enforcement administration, operation, and management. State, city, county, and other law enforcement agencies throughout the United States voluntarily submit summary-level reports of crimes known to the police and arrests made by the police to the Federal Bureau of Investigation (FBI).

The UCR is divided into two groups of offenses: Part I and Part II. Part I offenses include both reported incidents and arrests and serve as the primary source for reporting crime rates and monitoring crime trends. The offenses are structured on a scale of presumptive seriousness and represent the national Crime Index. The index includes the violent crimes of murder and manslaughter, rape, robbery, aggravated assault, and property-related offenses of burglary, larceny, motor vehicle theft, and arson. Part II offenses include 21 additional crimes for which only arrests made by the police are submitted. In addition to the number of arrests for each of the 21 offenses, demographic information such as the age, gender, and race of the arrestee is reported.

Each year the FBI publishes *Crime in the United States* (CIUS), a summary report of all collected UCR data. CIUS is a widely used source of crime information and provides the information for monitoring trends and fluctuations in crime nationwide and within states, counties, and cities. In 2001, CIUS reported data on considerably more than 17,000 law enforcement agencies covering about 94% of the population. In addition to crime counts and trends, this report includes data on crimes cleared, persons arrested (age, sex, and race), law enforcement personnel (including the number of sworn officers killed

or assaulted), and the characteristics of homicides (including age, sex, and race of victims and offenders, victim-offender relationships, weapons used, and circumstances surrounding the homicides).

## **HISTORY OF THE UCR**

The International Association of Chiefs of Police (IACP) is credited with developing the original UCR structure. In January 1930, the IACP published the first Uniform Crime Bulletin with information from 400 cities in 23 states covering a population of more than 20 million. The basic structure of the original IACP design has remained intact for more than 70 years. Also in 1930, Congress enacted legislation authorizing the attorney general of the United States to collect and report national crime information. The FBI was designated to serve as the national clearinghouse for the crime information. In September 1930, the FBI assumed responsibility for the UCR and has maintained that responsibility since.

In an attempt to improve the structure for agency reporting, a system of state-level UCRs was established in the late 1960s. The change in the reporting methodology generated renewed interest in the program. Within a period of 10 years the program grew from slightly more than 4,000 agencies reporting data directly to the FBI to considerably more than 16,000 agencies reporting data through their states' UCRs. There have been relatively few changes in the original design as it was developed by the IACP in the late 1920s. Statutory rape, included as one of the original Part I offenses, was removed from the list and in 1979 arson was added. Traffic offenses and parking violations were removed from the list of Part II offenses, and narcotics offenses, vandalism, and curfew violations were added to the list of Part II offenses.

In 1960 the FBI introduced the Supplemental Homicide Reports (SHR). With the introduction of the SHR the FBI broke away from summary-level reports and ventured into the collection of incident-specific details. As the name implies, the SHR is a supplement to the original UCR. The SHR collects incident details on all homicides reported by the police. Included are victim demographics, incident circumstances, and offender demographics.

## **CRITICISMS OF THE UCR**

As data collection for the UCR grew so did the uses and users of the data. In addition to serving law enforcement, the UCR has become a primary data source for academic researchers, news media, urban planners, and many others. With the increased interest in the UCR many people began to raise questions as to the overall reliability, accuracy, and coverage of the UCR. One criticism of the UCR focuses on the state and local interpretations of certain offenses such as aggravated assault. The FBI has a definition it uses to define the crime of aggravated assault. Unfortunately, many state statutes differ from the FBI's definition. Researchers have tested the differences in the various definitions and found significant discrepancies in the way aggravated assaults are reported. These types of reliability issues with the UCR raise serious questions as to its utility for measuring crime between jurisdictions.

Other criticisms focused on reporting consistency. There can be large variations between the numbers of agencies reporting UCR data from year to year. In addition, individual jurisdictions may report only partial data for the year. To compensate for the variations in reporting between years and gaps in coverage due to partial reporting, the FBI implemented a process to estimate the missing information. Thus, the total number of crimes reported or arrests made in any given year is an imputed estimate of the total, not an actual total. The main criticism of the imputation process is that the reliability of the estimates is dependent upon the total number of crimes reported. Thus at the national level, with large numbers of crime reported, the estimation is fairly reliable. At the state and county level, where considerably fewer crimes may be reported, the estimation may not be quite so reliable. This can have a significant impact on research and funding decisions dependant upon the crimes reported through the UCR.

## **FUTURE DIRECTION OF THE UCR**

In September 1982 a special Bureau of Justice Statistics (BJS)-FBI task force undertook a study to

review the crime reporting system and if possible make suggestions for improvement. After nearly three years of planning, meetings, and conferences the BJS-FBI task force released the *Blueprint for the Future of the Uniform Crime Reporting Program*—the blueprint for the National Incident-Based Reporting System (NIBRS). The UCR is currently being converted to the more comprehensive and detailed NIBRS, which will provide information about each criminal incident for 46 offenses.

The FBI began collecting data through the NIBRS program in 1991. As of May 2003 approximately 4,500 law enforcement agencies were reporting NIBRS data through their state UCRs instead of the summary-level UCR. The transition process to NIBRS will take many years, as did the original UCR. Consequently, the original summary-level UCR data will remain the primary source for measuring crime patterns and trends in the United States for the near future.

*Donald Faggiani*

*See also* International Association of Chiefs of Police, National Crime Victimization Survey, National Incident-Based Reporting System

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## ✎ U.S. AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS

The Air Force Office of Special Investigations (AFOSI) is the investigative field operating agency of the U.S. Air Force. Its primary responsibilities are criminal investigative and counterintelligence services. AFOSI performs as a federal law enforcement agency with security functions concerned primarily

with defensive and protective activities for national security. AFOSI seeks to detect, investigate, and neutralize allegations of espionage, sabotage, fraud, sedition, terrorism, and other criminal activities that endanger the Air Force and Department of Defense resources.

The four major priorities of the AFOSI command are to detect and provide early warning of global threats to the air force, identify and resolve crime impacting air force readiness or good order and discipline, combat threats to air force information systems and technologies, and defeat and deter acquisition fraud of Air Force prioritized weapons systems.

### HISTORY

AFOSI was founded on August 1, 1948, at the suggestion of Congress to consolidate investigative activities in the U.S. Air Force. AFOSI was the creation of Secretary of the Air Force W. Stuart Symington. Secretary Symington appointed Special Agent Joseph Carroll, an assistant to Federal Bureau of Investigation Director J. Edgar Hoover, as the first AFOSI commander, who was charged with providing independent and unbiased investigations of criminal activity in the Air Force. Wartime conditions contributed to and hastened AFOSI's evolution as an investigative agency.

In May 1949, Chief of Staff Hoyt S. Vandenberg issued a directive requiring overseas commands to establish AFOSI offices under their inspectors general. AFOSI commanders report to the secretary of the Air Force, inspector general. AFOSI commanders remain vested with the authority to initiate and conduct independent criminal investigations, as well as exercise authority over assigned personnel, facilities, and funds of the agency. Throughout the 1950s, AFOSI's expansion overseas helped transform the counterintelligence mission into an effective network. The initial mission of AFOSI's counterintelligence activities is still the essential element of today's AFOSI focus. Major Catherine Moran, class of 1949, who broke down many of the gender barriers that existed, was one of the first female graduates of the academy and became the first female operational division chief.

## AFOSI ACTIVITIES

Criminal investigations are the focus of most of the AFOSI investigative activities. These include felony offenses such as arson, assault, rape, robbery, major burglaries, drug use, drug trafficking, black market activities, and other criminal offenses. Like any investigative agency, AFOSI relies on behavioral scientists, forensic specialists, polygraphers, technical specialists, and computer experts for the resolution of complex crimes. AFOSI investigations also include economic crime, technology and information security, cyber defense, and personnel security.

AFOSI command's counterintelligence capabilities have evolved with the times. The objective of counterintelligence activities is to counter threats to air force security. AFOSI uses offensive and defensive strategies to identify, counter, and eliminate terrorist groups and foreign intelligence activities. Counterintelligence activities include investigating crimes of espionage, terrorism, technology sabotage, computer infiltration, and other specialized counterintelligence operations. Providing personal protective services for senior U.S. Department of Defense, Air Force, and allied officials is also a counterintelligence activity. AFOSI's antiterrorism and counterintelligence activities have increased as terrorism has become more prevalent. Antiterrorism teams have been created, including a group of highly trained and specialized agents who may be deployed globally at a moment's notice to provide antiterrorism, counterintelligence data, and investigative services to air force personnel and units. Another recent antiterrorism program, The Eagle Eyes, was named to echo AFOSI's own motto, "Eyes of the Eagle." This program enlists the eyes and ears of air force members and citizens in the war against terrorism and provides individuals with 24-hour phone numbers to call to report suspicious activity.

## TRAINING AND QUALIFICATIONS

All AFOSI recruits receive their entry-level investigative training at the U.S. Air Force Special Investigations Academy. The academy is located on

the grounds of the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. AFOSI special agent recruits begin a 10-week course called the Criminal Investigator Training Program at FLETC. The coursework includes basic investigative training in law, interviewing, defensive tactics, protective services, emergency driving, evidence collection, weapons training, firearms, search and seizure, arrest techniques, report writing, testifying, and surveillance. That training is followed by six and a half weeks of AFOSI-specific coursework.

Depending upon AFOSI career choices, some agents go on to receive additional specialized and technical training after graduation and completion of the 12-month probationary period. Those fields of specialized training include economic crime, antiterrorism, counterintelligence, computer crimes and other criminal investigative operations. Qualified special agents interested in polygraph, photography, and electronics receive additional technical training to support those skills.

In 2004, AFOSI was comprised of approximately 2,600 active-duty personnel, including officer, enlisted, reserve, and civilian candidates. AFOSI personnel are assigned to work at any of the eight field investigations regions, seven field investigation squadrons, or 160-plus detachments and operating locations throughout the world.

Active-duty air force officers are eligible for reassignments into AFOSI from most air force career fields. Each year approximately 20 AFOSI officer-agent positions are available to Reserve Officers' Training Corps cadets. Enlisted master sergeants, staff sergeants, and technical sergeants with fewer than 12 years of military service and senior airmen with less than 6 years of service can cross-train for AFOSI after they have served in another career field. Reservists with the rank of senior airman, staff sergeant, technical sergeant, captain, second lieutenant, or first lieutenant having served fewer than 12 years are also eligible. Civilian applicants with law-enforcement experience and college graduates are also allowed to apply for special agent, entry-level positions.

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## U.S. AIR FORCE SECURITY FORCES

The U.S. Army Air Forces (USAAF), from which the modern U.S. Air Force (USAF) is derived, formed its own law enforcement organization in November 1941, only months after the USAAF was created as a semiautonomous organization within the U.S. Army. In 1942, the organization was placed under the new office of the Air Provost Marshal and its units were designated as either military police companies or air base security battalions. After a number of changes in its name and the scope of its responsibilities, on July 1, 1997, air force police were officially redesignated the Air Force Security Forces Directorate.

### HISTORY

The Air Base Security (ABS) Battalions have what is easily the most unusual history of all military police units. In 1941, when the U.S. armed forces were still segregated on the basis of race, the first troops to serve in the battalions were black enlisted men who reported to an all white officer corps. The ABS Battalion units were comprised of the first black Americans to be assigned to air force units. Their original training was at Fort Rucker, Alabama, and they eventually served in North Africa, Italy, and throughout the Pacific. In addition, base law enforcement was also performed by USAAF Military Police units; overseas they were designated as Military Police Companies, Aviation, and within the nation's borders they were called Guard companies.

By 1948, a year after official separation of the U.S. Air Force from the Army, the Military Police name was changed to Air Police. In 1966, it was changed to Security Police, and in 1997 it was changed again to its present designation. Whatever

their titles, the men and now women have been an integral part of air force deployments. They were usually the only armed fighting force on air force bases during the Korean War and were heavily involved in protection of bases around the world during the Cold War. During the Vietnam War, as base protection requirements escalated, specially trained and equipped units became known as the Blue Berets in recognition of their distinctive headgear. In recognition of the almost 2,000 members of the 7th Air Force's Air Police and Security Police Squadrons who died in Vietnam and the almost 3,500 who were wounded, the Vietnam Security Police Association (USAF) was formed in 1995 to honor those who served in Vietnam and Thailand.

### CHANGING RESPONSIBILITIES

Each of the name changes has been based on changing duties, but the most recent change, in 1997, especially reflects the new responsibilities that are much broader than traditional policing. Since this most recent name change, the security forces represent the merger of the combat arms training, maintenance, law enforcement, and security career fields in the air force. The aim is to create a cadre of highly skilled ground weapons experts who will retain their military policing missions but will also be capable of securing bases and other facilities in the event of outside attacks. Rationales for the changes were developed in the aftermath of the 1996 bombing of the Khobar Towers in Saudi Arabia. New tactics, which are geared more to the possibility that lethal force may be required to dispel an attack, have resulted in changes in training that place a higher priority on responding to incidents that were once viewed solely as crimes but now might be viewed as terrorist-related incidents.

Current responsibilities of USAF security personnel include protecting critical weapon systems and securing the three operational wings of Minuteman III and Peacekeeper missiles. Both ground vehicles and a small fleet of helicopters carry security teams to field sites in response to alarms. In recent years, forces have responded to an average of 21,000 launch facility alarms, often in full body armor and with the possibility that they

could become involved in a “covered wagon” (siege) situation instantly. In security vernacular, a covered wagon scenario would involve troops pinned down by an enemy force.

Since 1997, security forces, all of whom are military personnel, have also participated in the Air Mobility Command’s (AMC’s) Phoenix Raven program, which provides security for aircraft traveling in high terrorist or criminal threat areas. Training for this highly specialized assignment takes place at the Air Mobility Warfare Center at Fort Dix, New Jersey. Since its inception, more than 700 officers have graduated from the program and have accompanied close to 2,000 AMC missions to international hot spots around the world. The Phoenix Raven program is the latest example of how the Air Force Security Forces have kept abreast of changes in the air force and in world events as each name change has reflected new and more complex responsibilities for members of the force.

The security forces also continue to enhance the overall security training of its officers. In 2004, the forces’ director announced an agreement with ASIS International for more than 1,000 officers, senior noncommissioned officers, and civilian personnel to begin study for ASIS’s Certified Protection Professional designation, which requires applicants to take a course of training and pass an exam that is based on best practices in the security industry in such areas as security management, investigations, legal issues, personnel and physical security, protection of sensitive information, and emergency management. The training and certification, which will be open to air force officers with at least 10 years of security experience, an advanced degree, and completion of other military training courses, are the latest element in the security forces’ attempts to upgrade and professionalize its personnel and to ensure that its level of expertise is comparable to the best trained private sector management-level personnel.

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## U.S. CAPITOL POLICE

The U.S. Capitol Police (USCP) traces its history to John Golding, a watchman who was hired at an annual salary of \$371.75 in 1801, a few months after the seat of government had moved from Philadelphia to Washington, D.C. Golding had no specified legal authority or arrest powers other than a citizen’s right to temporarily detain a suspect until assistance was provided by the marshal of the District of Columbia. In 1823, a detachment of U.S. Marines supplemented the watchman during reconstruction of the Capitol, which was completed in 1827, the year that President John Quincy Adams expanded the watch staff to four: James Knotts, J. A. French, Samuel Goldsmith, and Ignatius Wheatley.

Their primary duties were to protect members of Congress and to separate vagrants, thieves, and persons of ill reputation from other visitors to the Capitol building. Their duties were subsequently expanded to include protection of the grounds of the Capitol and control of the traffic through and around Capitol Square, particularly after local residents had breached a fence to allow cattle to graze on the grounds. When President Adams’s son was beaten in the Capitol rotunda, Washington’s municipal statutes were extended to the Capitol and the federally owned grounds around it. This occurred in 1828, the year the USCP cites as its founding, even though personnel were not yet referred to as the Capitol police.

The first use of the phrase *Capitol police* was in an appropriations act for the fiscal year ending June 30, 1852. A few months later, Representative George Washington Jones (D-TN) recounted on the floor of the House that the Capitol Police consisted

of a chief making \$1,450 a year, four assistant police officers, each with annual salaries of \$1,100, and two individuals hired to patrol the grounds and gardens at a rate of \$3 per day. While pay for the force was included in appropriations bills, operating funds came out of contingent expenses for the House of Representatives and, later, the Senate. The officers of this period paid for their own uniforms and were armed with only hickory canes. Badges were not issued until the Civil War.

After the Civil War, in the Appropriations Act of March 2, 1867, the size and annual compensation of the Capitol police was spelled out: \$2,088 for one captain; \$1,800 for a lieutenant; \$1,584 each for 29 privates, and \$1,150 for a watchman. The impeachment of President Andrew Johnson in 1868 increased awareness of the Capitol police, who provided security throughout the tumultuous proceedings. In 1873, administration of the Capitol police was assigned to the sergeant-at-arms of each house of Congress and the architect of the Capitol Extension, a panel that is called the Capitol Police Board today. The authorized strength of the force fluctuated between 32 and 49 until 1898, when Congress, after declaring war on Spain, increased it to 67.

Legislation passed in the mid-1870s gave the Capitol police powers to arrest and detain violators, but they were still obligated to pay for their own uniforms, although they were provided arms at government's expense. It was also at this time that special monies were provided to the police for extra work when the House of Representatives became involved in the controversy over popular votes and electoral votes in the presidential election of 1876 between Samuel J. Tilden of New York and Rutherford B. Hayes of Ohio. Two decades later, funds were appropriated for Capitol police protection involving the 1897 inauguration ceremonies of President William McKinley and Vice President Garret A. Hobart, setting a precedent for future inaugurations.

As the nation's population continued to grow, and additional states joined the Union, Congress expanded accordingly. The House reached 435 members and the Senate 96 members following the admission of New Mexico and Arizona to the Union

in 1912. The Capitol police strength was increased to 109, in part to provide protection in new office buildings housing the legislators. While the force was still the Capitol police, for the first time some personnel were assigned to the Senate police force and others to the police force for the House of Representatives. Prior to World War I, the strength of the force dipped below 100 and stayed there until the 1930s. During the Depression, physical requirements were established by the Capitol Police Board and uniform allowances were extended. Funding for motor vehicles, in this instance motorcycles, was appropriated in 1926. There was another growth spurt in the size of the force during World War II, reaching 144 in 1946. Twenty years later when there was a growing threat of domestic terrorism from the likes of the Weather Underground and other radicals, the force grew to 297. After attacks on the Capitol, the USCP force grew to more than 1,000 in the early 1970s.

The Capitol building was the target of bomb attacks in 1915, 1971, and 1983. In 1954 the gallery of the House of Representatives was the site of assassination attempts by Puerto Rican nationalists, who were able to wound individuals on the floor of the House.

Today, the Capitol police number approximately 1,250, more than 200 of whom are women. They are responsible for 190 acres of congressional buildings, parks, and thoroughfares, as well as protecting members and officers of Congress and their families, which by statute can extend to the entire country, as well as its territories and possessions. The professionalism of the USCP has progressively improved since the 1970s, when Congress ended the patronage system and officers no longer had to rely on political contacts to join the force. Training, including physical conditioning at the USCP facility in Washington, is followed by 10 additional weeks at the Federal Law Enforcement Training Center in Glynco, Georgia. Assignment areas include dignitary protection, criminal investigations, intelligence, threats, emergency response and containment, K-9, communications, motorized and mountain bicycle patrol, hazardous devices, and electronic countermeasures. In 2002, the starting salary was \$39,427

(\$40,808 after training), and after 30 months, it was \$44,682 for a private first class.

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## **U.S. CRIMINAL INVESTIGATION COMMAND, DEPARTMENT OF THE ARMY, DEPARTMENT OF DEFENSE**

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The U.S. Army Criminal Investigation Command (USACIDC) houses all major U.S. Army investigative operations. The Criminal Investigation Command (CID) is the major component of the USACIDC and is its primary criminal investigative organization. The creation of USACIDC and CID can be traced back to the mid-1800s with the creation of the Continental Army and the creation of the Office of the Provost Marshal in 1776, followed two years later by the organization of the Provost Corps. This was followed by passage of the Enrollment Act in March 1863, the first draft law, which forced Secretary of War Edwin Stanton to create a police force to enforce the unpopular law and to arrest those who attempted to desert.

During the Civil War the newly created Army Police Force only investigated criminal acts based on the Enrollment Act. All other criminal acts, such as theft or murder, were investigated by various private detective agencies, including the Pinkerton Detective Agency. The army soon commissioned Alan Pinkerton, owner and operator of the Pinkerton Detective Agency, a major. He utilized his military and law enforcement background to create the army's first criminal division. This newly created investigative branch not only investigated draft issues but also all criminal acts within the army, including payroll theft and violent crimes.

The Criminal Division of the army remained unchanged until 1917. When the United States entered into World War I, the demand for American soldiers to fight in France increased dramatically, causing a need for a larger military police force. In October 1917 the Military Police Corps was established. The Military Police Corps functioned well as a law enforcement body during that time; however, an increase in the crime rate also established a need for an investigative component of the police corps. In November 1918, General John Pershing, provost marshal general of the American Expeditionary Forces, organized the first official Criminal Investigation Division of the Military Police Corps. The CID's original purpose was to detect and prevent crimes within the territory occupied by the American Expeditionary Forces. It was intended to bring order to the investigations conducted within the army, which had previously been inconsistent, due in part to the discretionary powers of the provost marshals, who had wide latitude in the management of their units.

Originally the division chief reported directly to the provost marshal general and directed the CID. However, operational control of the Criminal Investigation Division remained with the various provost marshals. This allowed for no centralized control of investigative efforts within the CID; nor was there any centralized training or equipment. CID was relatively successful; however, the lack of centralization and training prevented the agency from accomplishing its full mission. Despite these organizational improvements, the unit was relatively inactive in the years between World War I and World War II.

As the army expanded, though, military installations faced new criminal challenges, and in 1964, as a result of Project Security Shield, the Department of Defense realized the need for increased training within CID as well as a more centralized focus for the army's criminal intelligence. It was not until 1969, however, that most centralizing activities took place. The agency was placed directly under the supervision of the provost marshal, who was charged with supervising and guiding all investigative elements of the CID. In March 1971 the secretary

of defense directed the secretary of the army to officially centralize a CID command that had authority and control over all army CID assets.

On September 17, 1971, the U.S. Army Criminal Investigation Command was established as a major army command. It was from this command that the current Criminal Investigation Command was developed. The modern Criminal Investigation Command is responsible for conducting all criminal investigations in which the U.S. Army may have an interest. The mission of the command is the same for both the installation and the battlefield environment, namely, to support the army through deployment, in peace and conflict, with highly trained soldier and government service special agents and support personnel who focus on the investigation of serious crimes; conducting sensitive and serious investigations; collecting, analyzing, and disseminating criminal intelligence; conducting protective service operations; providing forensic laboratory support and logistical security; and maintaining U.S. Army criminal records.

Headquartered in Fort Belvoir, Virginia, CID is directed by a major general. CID operates throughout the United States and abroad and employs more than 2,000 people, 514 civilian and 1,056 active duty, 49 National Guard, and 408 Army Reserve, in six major divisions: Procurement and Fraud, Protective Services, Field Investigative, Computer Crime Investigative, Criminal Records, and the Criminal Investigative Laboratory. Additional responsibilities include logistical security for the transportation of equipment to the battlefield, criminal intelligence, and criminal investigations of war crimes. Specialized training of personnel has led to advances in investigations of procurement fraud and computer crimes.

Throughout its history the Criminal Investigation Division of the U.S. Army has gone through significant changes in its organizational structure and its abilities to detect and prevent crime. However, throughout these changes, the common purpose and principle of CID has remained steady. It is in the stability of its motto, "Do what has to be done," that the CID detectives of the past can be linked with the agents of the future.

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*See also* Military Police, Department of the Army, Department of Defense; Military Policing; Pinkerton National Detective Agency

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## U.S. COAST GUARD

The modern-day U.S. Coast Guard, created by an act of Congress in 1915, represents the combination of the Revenue Marine Service (later the Rescue Cutter Service), the Lifesaving Service, and the Lighthouse Service, which was added in 1939. The coast guard, which until 2003 was within the Department of Transportation, is both a law enforcement agency and one of the nation's five military services. In 2003, the coast guard was transferred to the Department of Homeland Security. In time of war, the coast guard reports to the Department of the Navy. Its members have served in every war since ratification of the Constitution.

The mission of the coast guard was altered dramatically by the events of September 11, 2001. In the immediate wake of the attacks on New York City and Washington, D.C., the service, which traditionally expended about 1% of its budget on port security, increased that expenditure 50-fold. Operation Noble Eagle redeployed active duty personnel and about 3,000 reserve personnel to secure the nation's ports as the service struggled to adapt to the new challenges of sophisticated foreign terrorists operating within the United States.

The coast guard is currently undertaking a major examination of its capabilities to secure American seaborne commerce. Approximately 95% of all trade is conducted by ship, and almost \$1 trillion worth of goods is shipped into the United States annually. It has been estimated that only about 2% of shipping containers entering the United States

each year is inspected. The coast guard has created a sea marshal program so that armed personnel are on board larger ships, or vessels transporting hazardous materials, and can deter potential terrorist actions. The bombing in 2000 of the U.S.S. Cole in Yemen heightened awareness about the vulnerability of marine traffic to terrorist sabotage.

In addition to its signature search and rescue services, the coast guard performs an ever-expanding list of missions, including maritime safety and security, protection of fisheries and natural resources, pollution detection and response, aids to navigation, vessel traffic control, polar ice breaking, and national defense. As a military service, the coast guard must maintain an adequate level of military readiness.

## HISTORY

The coast guard, the nation's oldest seagoing service, older even than the navy, was founded as the Revenue Marine Service in 1790 by Treasury Secretary Alexander Hamilton at a cost of \$10,000. Its first mission was to deter smuggling, which threatened to deprive the fledgling, cash-starved nation of import duties. While the coast guard's roots are traceable to the Revenue Cutter Service and the Lifesaving Service, the latter service was actually established much later and consisted of 137 lifeboat stations staffed by volunteers. The first paid lifesaving crews were commissioned in 1871.

The early coast guard performed much of its search and rescue service from shoreline and beaches. The service employed surfmen who were responsible, according to a 1916 manual, for keeping "a record of all passing vessels and the number and each class" and for undertaking rescues from shore using specially created equipment.

Coast guardsmen played key roles in both world wars. In World War I, the service lost a larger percentage of its men than either the navy or the army as a whole. The high seas provided routes for the bootlegging of liquor and the coast guard swelled in size during Prohibition as it struggled to intercept thousands of rumrunners. A crucial World War II function was antisubmarine patrols performed on

beaches, either on foot or on horseback. The coast guard operated under the navy for almost five years in the 1940s, and coast guard ships sank 11 enemy submarines. Coast guard personnel landed during the invasions in North Africa, Italy, France, and the Pacific. In World War II, one third of those killed in these invasions were "Coasties." At home, more than 10,000 women, known as SPARS (from the U.S. Coast Guard motto "Semper Paratus," or always ready), served in functions that permitted freeing up men for combat-related duties. Coast guard personnel were also deployed during the Korean conflict and the coast guard commenced its involvement in Vietnam in 1965.

## LAW ENFORCEMENT ROLES

Peacetime activities have involved the coast guard in a number of law enforcement functions. During the 1980s the coast guard struggled with interdicting undocumented individuals and narcotics. In 1980, the service deployed personnel to respond to a massive exodus of refugees from Fidel Castro's Cuba. The resultant Mariel Boatlift consisted of a flotilla of more than 100,000 Cubans entering the Florida Straits. Later in the decade, the service was faced with similar mass migrations of undocumented refugees from Haiti and other Caribbean nations. In March 1989, the coast guard was confronted with an unprecedented environmental disaster when the oil tanker *Exxon Valdez* ran aground, spilling thousands of gallons of crude oil over a huge area in and near Prince William Sound, Alaska.

The 1990s coast guard mission seemed broader than ever. Members of the coast guard continued to deal with drug smugglers and undocumented aliens, while providing fisheries patrols, aiding recreational boaters in distress, performing numerous regulatory and inspection functions, and providing bridge administration for waterways under U.S. jurisdiction, as well as aiding military and intelligence operations. In addition, coast guard units and reservists were activated during the first Persian Gulf War of 1990-1991.

Today, the coast guard enforces all federal laws on, under, and over the high seas and waters subject

to the jurisdiction of the United States. The service is responsible for the safety and security of inland waterways, ports and harbors, and more than 95,000 miles of U.S. coastlines, U.S. territorial seas, 3.4 miles of ocean defining the exclusive economic zones, and international waters and maritime regions with strategic interest to the United States. Although the Posse Comitatus Act forbids the navy from engaging in civilian law enforcement operations inside the United States or within its territorial waters, the coast guard operates free of those restrictions. Because its ships are designated war ships, the service is permitted under various international conventions and practices to approach any vessel to ascertain its identity and country of origin. Coast guard ships operate under sovereign immunity with respect to the laws of other nations. The coast guard maintains a close relationship with the Department of Defense and coast guard personnel frequently train in, or deploy to, navy programs.

In the wake of the 2001 attacks, coast guard ships have been deployed to Europe and the Arabian Gulf and some security functions are being performed by coast guard reservists at the U.S. Navy base at Guantanamo, Cuba, where terrorist suspects were being housed.

The head of the coast guard is an admiral who is designated commandant and serves a four-year term. The service is headquartered in Washington, D.C. Coast guard ranks parallel those of the navy and uniforms and insignia are similar. The coast guard also consists of a reserve component and an auxiliary made up of volunteers who augment such coast guard duties as boating safety and registration. The coast guard academy, which is set up and operates much like other military academies, is located in New London, Connecticut. Unlike the army, navy and air force academies, which require a congressional nomination for admission, admission to the New London program is based on SAT and ACT scores, with eligibility limited to unmarried men and women between the ages of 17 and 22. In 1975, the coast guard became the first service to admit women into its academy. Members of the coast guard are subject to the Uniform Code of Military Justice and are protected

by and required to follow the dictates of the Geneva Convention.

To accomplish its mission, the coast guard is divided into 17 districts that are spread across the United States. Coast guard personnel are stationed worldwide, from Europe to the Pacific and from the Caribbean to Antarctica. The coast guard fleet includes helicopters and fixed wing aircraft, small boats, and cutters.

Coast guard law enforcement functions are described in 14 U.S.C. 2. The coast guard is authorized to make inquiries, examinations, inspections, searches, seizures, and arrests on the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of U.S. law. Authorized coast guard staff have broad latitude to board vessels and inspect documents and conduct searches. A principal responsibility of the coast guard is enforcement of boating safety and regulations.

Like other law enforcement organizations, the agency has attempted to find nonlethal methods to conduct routine law enforcement. Instead of opening fire on vessels that refuse to stop on the high seas, the coast guard has developed the capacity for disabling suspect-boat rudders.

Coast guard leaders have complained for years about underfunding and have pointed out that some of the service's ships are more than 50 years old. In recent years, Congress has responded by providing additional budget allocations and the 2003 coast guard budget is almost double what it was six years earlier. Still, with 40,000 members, it has only slightly more enforcement personnel than the New York City Police Department had at the beginning of the 21st century, a number many believe is inadequate considering the complexities of its roles, its responsibility to protect a vast nation, and its global reach.

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## ☞ U.S. CUSTOMS SERVICE

The U.S. Customs Service is one of the oldest federal agencies in existence, predating the Constitution. The first Congress created the customs service by passing the Tariff Act on July 4, 1789. This legislation, the brainchild of James Madison in response to the needs of the new nation for revenue, established a series of tariffs on imported goods and a design for collection of these duties. This new system would replace the customs scheme under the Articles of Confederation, which relied upon the states for collection of duties and funding of the national treasury. This state scheme, inherited from the British during the colonial period, was clearly ineffective to fund the newly created federal government. To allow for the operation of these new tariffs, enabling legislation was passed on July 31, 1789, that established 59 customs districts in 11 states and authorized President George Washington to nominate 59 collectors of customs. The new service was placed under the Treasury Department and the management of Alexander Hamilton, the first secretary of the treasury and a pillar of the Federalist Party.

Within days of its creation the new service was busy assisting in funding the new government. The first duties on imported goods collected by the U.S. Customs Service was \$774.71, on August 5, 1789, at the Port of New York from the brigantine *Persis* arriving from Livorno, Italy. This process of funding the federal government and protection of U.S. borders was to be the principal duty of the service. Until 1913, with the creation of the federal income tax, duties collected by Customs were virtually the only source of revenue to the federal government.

As one of the first federal law enforcement agencies, Customs had the distinction of being the first on many fronts. The new central government turned to it on numerous occasions to fund and manage the necessary programs and responsibilities of government even though many of these tasks were unrelated to tariff collection. Customs became the first Lighthouse Service in 1791 when Congress saw the need for these navigational aids. Until 1850, when a separate service was formed, Customs funded and supervised more than 300 lighthouses. To honor the promises made to soldiers in the Revolutionary War, Customs was authorized to fund and administer a system of pensions to these veterans, the precursor of today's Veterans Administration. Likewise, when Congress realized a need to provide care for sick and disabled seamen, it authorized Customs to fund and administer this function, which has evolved into the U.S. Public Health Service. During the various waves of immigration to U.S. shores, Congress turned to Customs to fund and administer a system to manage and monitor these immigrants and in effect created the Immigration Service.

One of the principal duties, since its inception, of the customs service was the protection of the borders and the prevention of smuggling. Congress authorized the funding and administration of a Cutter Service, later to become the U.S. Coast Guard, to protect the marine borders. The often-told story of one of the first federal executions was for the murder of officers of this division. In 1808, in an effort to suppress smuggling along the Canadian border, a U.S. cutter, the *Fly*, was sent to Lake Champlain to intercept a boat, the *Black Snake*. This vessel had been painted with tar to hide it in moonlit night as it sailed across the border. On August 2, 1808, the U.S. vessel, under the command of a Lieutenant Farrington, intercepted and boarded the *Black Snake*. Three of the U.S. officers were killed and Farrington was severely wounded. However, government forces prevailed and the ship and all its crew were arrested. In a subsequent trial for the murder of the three federal officers, Cyrus B. Dean, the leader of the smuggling gang, was found guilty and hanged.

Responding to the territory and the needs of enforcement, Customs was authorized, in 1853, to

appoint a force of mounted customs inspectors for the Mexican border. This force was the only law enforcement present in many areas of the country. Its members went on to serve in both the Texas and the Arizona Rangers and in Teddy Roosevelt's Rough Riders. It was the foundation on which the present day U.S. Border Patrol is based.

U.S. Customs has been in the forefront of federal policies since its founding. In the Embargo Crisis of 1807, President Thomas Jefferson used the customs service to enforce this widely unpopular measure to block all trade with the United Kingdom, including Canada (which was not yet an independent nation and was still part of Great Britain). Because of the huge land border with Canada, the law was impossible to police and the embargoes failed. The large amount of maritime traffic also hampered enforcement. Indeed, the Port of Sag Harbor, Long Island, was a center for trade with the United Kingdom, through the use of a mother ship (a large vessel that stays offshore and feeds the smuggled merchandise to small vessels, a concept still used by Colombian drug operations today). Jefferson's attempts to keep the United States from war with England were to prove unsuccessful. However, Customs had shown itself to be a valuable instrument of national policy.

The Nullification Crisis during President Andrew Jackson's administration was another example of the service acting as a cornerstone of the federal government. In an early example of states' rights, South Carolina had refused to comply with the Tariff Act of 1828, which had raised import tariffs to an extraordinarily high level. The state authorities refused to comply with, assist, or protect the customs authorities in enforcing these measures. Indeed in 1832, South Carolina issued a statement that an act "authorizing the employment of . . . force against the State of South Carolina . . . or obstructing the free [access] of vessels to or from [its] ports . . . [is] null and void." President Jackson responding by authorizing the military to assist and protect the customs service in South Carolina and ordered federal forces in South Carolina on full alert. Faced with the threat of military force, the state authorities relented and the federal government prevailed.

U.S. Customs continued to have a vital role in the collection of revenue and funding of government operations. In fact, the position of collector of customs was a highly sought after political appointment for the party in power. Huge amounts of money would flow through the officer's control. In the period from 1830 to 1850 the Port of New York was the scene of a series of corruption practices and inquiries. As part of the patronage system, President Jackson appointed Samuel Swartout to the position of collector of customs for the Port of New York. Within a few years of his appointment, Swartout acquired a reputation for ineptness and corruption. By 1838, he fled to London, after amassing a huge fortune from his corrupt practices. High-level corruption continued for some time; a number of officers who succeeded Swartout in the position also followed his corruption practices, regardless of the political party in power. Jesse Hoyt, a Democrat and Swartout's successor, fled his office after corruption inquiries, as did his successor, Edward Curtis, a Whig, and his successor, Cornelius Van Ness, a Democrat. The corruption in just the Port of New York amounted to millions of dollars lost to the public coffers.

In an attempt to control corruption and protect the public funds, the secretary of the treasury, in 1846, appointed two special agents to examine both violations of the Tariff Act and the operation of the collectors. These officers were to prove invaluable both in frauds against the revenue and in rooting out corruption in the customs service. During the Civil War, the officers proved an important arm of the Union in suppressing smuggling to the Confederacy. These agents were the beginning of law enforcement in the service. Based on their successes, in 1870 the position of special agent was made a permanent part of the customs service, as it is today. Congress authorized the secretary of the treasury to appoint 53 special agents to examine the service's records and detect and prevent frauds against the revenue.

## LAW ENFORCEMENT

The appointment of special agents led to a new emphasis on the enforcement of federal laws within

the service. Customs special agents moved quickly to enforce the many laws and regulations that Congress had passed. One of the principal areas of concern was the enforcement of the Chinese Exclusion Act and the suppression of the sex slave trade in Chinese women. Special agents in San Francisco were so successful in the investigation and prosecution of these crimes that the smugglers were forced to move their operations to Mexico and later to Canada, a practice still common today. Customs was to have its authority expanded through a variety of legislation to face the social ills of narcotics and alcohol.

Customs was given primary jurisdiction to regulate and investigate any and all controlled substances and was the mainstay in the “noble experiment” of Prohibition. Prior to the creation of the Bureau of Prohibition, which later became the Bureau of Alcohol, Tobacco and Firearms, in 1927, Customs attempted to defend U.S. borders from bootleggers and rumrunners and undertook investigations of these criminal gangs. Legislation passed in March 1927 reorganized Customs and created the Bureau of Customs, which consolidated the agency under a commissioner, appointed by the secretary of the treasury. It also established a Special Agency Service, headed by an assistant commissioner. This organization remained basically unchanged until 1965.

During this 38-year period, the United States and the rest of the world changed. Narcotics trafficking changed from the smuggling of opium by Asian gangs to the wholesale trafficking in heroin and cocaine by the myriad criminal gangs and political groups of today. U.S. Customs moved to investigate these groups and, as it had early in its existence, became again an agency of firsts. It was the first federal law enforcement agency to use airplanes to patrol the borders and for surveillance in these various investigations. During World War II, it enforced the Neutrality Laws, interning enemy aliens and identifying enemy assets for seizure and forfeiture. Following the war, the service returned to the general enforcement of the more than 400 federal laws that it is charged with in the Tariff Act of 1930. This act outlined a threefold mission for the service:

- To assess and collect customs duties on imported merchandise
- To prevent fraud and smuggling
- To control carriers, persons, and articles entering and departing the United States.

This mission is a huge task with more than 96,000 miles of land, sea, and air borders and more than 300 ports of entry to patrol.

Customs’ primacy in the field of narcotics enforcement was diminished in 1930 by the creation of the Federal Bureau of Narcotics. The agencies were, at times, fierce rivals. Responding to stories of working against each other, spiking cases, stealing informers, and so on, President Lyndon B. Johnson in 1965 reorganized the customs service. All presidential appointees were removed, the service was restructured into four divisions, and the overseas law enforcement operations were expanded. In a further consolidation in 1968, several agencies with narcotics jurisdiction were merged to create the Bureau of Narcotics and Dangerous Drugs (BNDD) and transferred to the Department of Justice. This consolidation and the expansion of BNDD’s overseas operations led to highly counterproductive competition and infighting. Despite several very successful investigations, for example, the French Connection and August Ricord, the South American ingpin, continued calls from the administration for a united front on the War on Drugs and consolidation of policing functions in the Justice Department led to the Reorganization Plan of 1973, which created the Drug Enforcement Administration (DEA). This super agency took over all the staff of the BNDD, 509 Customs special agents and 200 support and intelligence staff positions from the customs service. It also took all investigation of narcotics violations from Customs. Customs was relegated to searches and seizure of narcotics in connection with regular inspections at the ports of entry. The Customs Service was not happy with its position in this reorganization. In response to this, the service completed an internal reorganization of its law enforcement operations.

The Customs Agency Service was renamed the Office of Investigations and divided into two

sections. The Patrol Division was established as a uniformed force to patrol the unguarded sections of the border. The remaining section, composed of the special agents, was to investigate all the laws enforced by U.S. Customs, except narcotics. Over the next 10 years, the Patrol Division was expanded to include marine and air units for patrol and interception. Many agreed that this was a strategy to try and outmaneuver the DEA reorganization. If it was, it worked. The customs service continued to move into a more aggressive role in both the investigation and the interception of drugs. A second prong in this strategy was the expansion of the customs service's efforts to investigate money laundering under the Bank Secrecy Act.

This legislation gave the customs service and its sister treasury agency, the Internal Revenue Service (IRS), the foundation to move against the drug cartels and their support operations both in the United States and overseas. Over the next several years, Customs continued to reclaim its place in narcotics enforcement. Customs special agents were cross-designated to investigate a variety of narcotics laws. This and friction with the U.S. Border Patrol led to the abolition of the Patrol Division and the centering of all law enforcement in the Office of Investigations, which has a number of investigative responsibilities that are unrelated to narcotics enforcement.

Customs has also been the primary enforcer of the Arms Export Control Act and the Export Administration Act, which put the agency in the forefront of the Cold War effort to control weapons and technology and weapons of mass destruction. Customs special agents, through various sting operations, were able in 1986 to arrest and prosecute 17 individuals for attempts to sell \$2 billion in various weapons to the Islamic fundamentalist regime of Iran. These individuals were described, by then commissioner William von Rabb, as "brokers of death who operated a terrorist flea market."

### AFTER SEPTEMBER 11, 2001

The events of September 11, 2001, have affected all federal law enforcement agencies. The most

immediate effect on U.S. Customs was the destruction of its New York headquarters, the U.S. Customhouse, which was located at 6 World Trade Center. Other changes followed almost immediately. Passage of the USA PATRIOT Act brought Customs into counterterrorist enforcement, leading to the creation of Operation Green Quest. This operation is meant to augment existing counterterrorist efforts through the identification of systems, individuals, and organizations that serve as sources of terrorist funding. The initiative relies on Customs' expertise to identify and prosecute underground financial systems, illicit charities, and corrupt financial institutions that may be assisting terrorist activities.

Faced with these events and these new initiatives, Customs has moved forward on several fronts, including hiring 900 new inspectors and special agents, raising the total number of its armed federal officers to 11,400. While special agents have been stationed overseas for most of the 20th century, for the first time customs inspectors are now stationed in European and Asian ports as part of the Container Security Initiative to inspect and identify dangerous or suspicious cargo before arrival in the United States. Customs has also developed other inspection-based initiatives for control of passengers and cargo.

The Department of Homeland Security (DHS), signed into law by President George W. Bush on September 25, 2002, absorbed the functions of and personnel from many existing federal agencies, including Customs. As part of this plan, the Treasury Department was stripped of almost all of its law enforcement functions. Along with Customs, the U.S. Secret Service and its former sister Treasury agency, the U.S. Coast Guard, were moved into the new department. The Bureau of Alcohol, Tobacco, and Firearms was renamed and transferred to the Department of Justice, leaving the IRS Criminal Division as the only law enforcement component in the Treasury Department.

The DHS has been characterized as the widest and largest change in federal law enforcement since the creation of the Federal Bureau of Investigation. On January 31, 2003, the newly appointed undersecretary for Border and Transportation Security,

Asa Hutchinson, issued the official plans for the reorganization of the law enforcement entities that were INS and U.S. Customs. Effective on March 1, 2003, the inspectional units of INS and Customs, along with the border patrol, were unified under a new Bureau of Customs and Border Protection and reorganized to report to the commissioner of Customs.

The investigative arms of both INS and Customs were merged, along with the Federal Protective Service (formerly known as the General Services Administration Police), into a new Bureau of Immigration and Customs Enforcement (ICE), which is primarily charged with the investigation and enforcement of all Customs and INS laws and duties. An assistant secretary heads this bureau.

Many of these changes will have long-term effects on federal law enforcement. These new bureaus will continue under DHS to be responsible for preventing attacks by terrorists within the United States, for reducing America's vulnerability to terrorism, and for minimizing the damage from potential attacks.

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## ☞ U.S. MARSHALS SERVICE

The U.S. Marshals Service is the oldest federal law enforcement agency in the United States. Established on September 24, 1789, under provisions of the Judiciary Act that created the federal court system (Senate Bill 1), the service was created with a mandate to provide marshals and deputy marshals to support the federal courts within their judicial districts and to carry out all lawful orders issued by judges, Congress, or the president.

The first 13 U.S. marshals, one for each of the original states, were appointed by President George

Washington. This set in motion a precedent that has continued for more than 200 years; U.S. marshals are political appointees of the president of the United States confirmed by the U.S. Senate, although deputy marshals, also once political appointees, have worked under some federal civil service protections since 1941. Although marshals may recruit deputies directly, the deputies retain job protection beyond the term of the individual marshal who selected them. Selection of deputy marshals is based on the results of a written exam; an oral interview; and physical, medical, and background examinations. Applicants must have prior law enforcement experience or a four-year college degree and must complete training at the Federal Law Enforcement Training Center, in Glynco, Georgia, and an additional course specific to the service. They are subject to be assigned to any office and to be transferred based on the needs of the service.

Historically, U.S. marshals were empowered to hire as many deputies as needed, including deputizing citizens to assist in crime control. This power has been immortalized in books and films about the American West, where a posse (a group of deputized citizens) was created to search for criminals. Initially, U.S. marshals reported to the secretary of the Treasury, but in 1861 the attorney general was given supervisory powers over them, a change that was recognized legislatively on June 22, 1870, when the Department of Justice was created. As presidential appointees, marshals are appointed for four-year terms and can be removed only by the president. Because they are appointees, they have retained a high degree of independence, although attempts at centralization resulted in creation of the Marshals Service and the appointment of a director, who reports to the attorney general, and establishment of a headquarters operation in 1969. Additional centralization was achieved with creation of a Special Operations Group (SOG) in 1971 and a Fugitive Task Force in 1983. In 1997, Senator Strom Thurmond (R-SC) was unable to convince his Senate colleagues to vote for legislation strengthening the power of the director despite similar legislation having passed in the House of Representatives. Even if the

Senate were to pass the legislation, the change could not be effective until 2005, the year that a new presidential term would begin.

By 2002, there were 95 U.S. marshals. They supervised the activities of more than 4,200 deputies and other employees assigned to 94 district offices with more than 350 locations throughout the 50 states, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. Each of the 94 districts, plus the District of Columbia, is headed by a marshal. Marshals enforce edicts for the federal district courts and the U.S. Supreme Court; transport defendants from federal corrections centers and other places of incarceration or detention; provide security to federal judges, prosecutors, and jurors; arrest defendants indicted by federal grand juries; manage the witness protection program, police insurrections or riots on federal land and reservations; and perform additional functions specified by federal statutes or requested by the attorney general.

## EARLY DIVERSIFICATION

The responsibilities of early U.S. marshals were even more diverse than they are today. Beginning in 1790 and continuing until 1870, marshals acted as the nation's census takers, traveling around the country every 10 years to count the number of free citizens and slaves. They also distributed presidential proclamations, collected statistical information on commerce and manufacturing, and kept track of the names of government employees. They fulfilled a number of these tasks until 1880, when Congress created a civilian census office that in 1902 became the Bureau of the Census, part of the Department of the Interior until it was moved into the Department of Commerce in 1913.

In addition to these non-law enforcement duties, during the first half of the 19th century marshals enforced federal laws on counterfeiting, theft of mail and other government property, and fugitive slave laws. But despite all these activities, marshals and their deputies are probably best known for their exploits in the late 19th and early 20th centuries

during settlement of the American West, in Indian Territory (the current state of Oklahoma), and later in the territories of Alaska and Hawaii, where they were for many years the only visible symbols of federal control. Their tasks included court administration; payment of court-related fees including witness fees, salaries of attorneys, court clerks, and bailiffs; and protection of judges and officers of the court. Many of these duties were federal versions of the tasks that sheriffs performed for counties, a similarity that persists into modern times.

It is ironic that some of the best-known western marshals, including Virgil and Wyatt Earp and Bat Masterson, spent at least part of their careers on the wrong side of the law. Most marshals labored in relative obscurity; they spent less time chasing outlaws and engaging in close-draw shootouts than serving federal court documents and lodging prisoners. Because they received no fixed salaries and relied on fees to make their living, it was these less dramatic activities that paid their wages and those of their deputies. These more mundane tasks also led to confusion of their roles with many local peace officers, because the local police officers in many western towns were also called marshals.

Marshals were authorized to execute all federal laws, which often brought them into conflict with local authorities. Deputies arrested individuals whom local police refused to take into custody. Groups with local support were violators of unpopular laws (such as liquor and tax laws), fugitive slaves in non-slave states, and abolitionists who aided the fleeing slaves. Deputies were sometimes arrested by local police and, despite rulings by district courts in their favor, the battle of federal supremacy over state law remained unresolved until 1890, when the Supreme Court established the primacy of federal police powers over local law.

In that case, David Neagle, a deputy appointed by J. C. Franks, marshal for the Northern District of California, was assigned to protect Supreme Court Justice Stephen J. Field, who, in the course of his duties as circuit court judge for the district, had been threatened by a husband and wife whose case he had adjudicated. On August 14, 1889, Neagle, who traveled with Justice Field as he heard cases

throughout the district, shot and killed David S. Terry, who had made threats and attacked Justice Field while he and Neagle were dining while traveling by train from Los Angeles to San Francisco. Neagle was arrested by San Joaquin County Sheriff Thomas Cunningham and indicted for murder. While lodged in the county jail, Neagle filed a writ of habeas corpus. In deciding to release him, the Supreme Court ruled that Neagle's defense of Justice Field was within his duty as an officer of the United States and that, as such, he could not be guilty of murder under the laws of California or held to answer in a state court for an act he was authorized to perform under law. Justice Field did not participate in the decision of his Supreme Court colleagues, and despite the dissent of two justices, Neagle was freed and the precedent was established that states could not charge federal officers for actions based on their duties under federal law (*In re Neagle*).

In part because the marshals were able to select employees without regard to civil service, the marshals service is the only federal law enforcement agency that has employed women and African Americans throughout its history. F. M. Miller, commissioned out of the federal court at Paris, Texas, was reported in late 1891 to have been the only female deputy working in the Indian Territory and to have aided in transporting prisoners. Also in Oklahoma Territory, Ada Curnutt, who in 1893 served as a deputy to Marshal William Grimes (in office from 1889 to 1893), was reputed to have boarded a train in Norman with arrest warrants for two men located in Oklahoma City, placed them under arrest shortly after her arrival, and brought them back to Norman. Women have also served in the position of U.S. marshal since the 19th century. Phoebe Wilson Couzins, the third woman allowed to practice law in the United States, was appointed the U.S. marshal for Missouri in 1887 by President Grover Cleveland. Succeeding her late father, she held the position for only two months. Recently, other women have served much longer, some for the full two terms of the president who appointed them.

The first African American marshal was better known than any of these women. Frederick

Douglass, the abolitionist leader who served as an adviser to President Abraham Lincoln during the Civil War, was appointed U.S. marshal for Washington, D.C., in 1877 by President Rutherford Hayes. Even earlier, Bass Reeves, a slave who escaped to Indian Territory after beating his master, became the first black deputy west of the Mississippi River. He was appointed in 1875 by Judge Isaac C. Parker of the Western District Court at Fort Smith, Arkansas. Reeves served until 1907, retiring at the age of 83.

### TODAY'S MARSHALS SERVICE

Modern marshals and their deputies still perform a vast array of tasks and the primacy of federal law over state statutes remained as controversial in the 1960s as it had been in 1899 when deputy Neagle was arrested. In 1965, when Martin Luther King, Jr. marched from Selma to Montgomery, Alabama, to publicize resistance to registering black voters, 100 deputy marshals, other federal agents, and 4,000 troops marched with him and his followers to ensure their safety. On September 26, 1962, when state officials attempted to prevent James Meredith from becoming the first black man to enroll at the University of Mississippi at Oxford, a U.S. marshal was at Meredith's side when he was refused entry to the school. After protests that involved attacks on the deputy marshals by citizens and their response with teargas canisters, Meredith registered on October 1. Deputies remained with him through the school year. One hundred years earlier deputy marshals had also been attacked while enforcing federal laws pertaining to race, except then they were taking slaves and their abolitionist supporters into custody.

Marshals were the pioneer officers in the Sky Marshal Program, which was managed by the service from 1969 until 1973. The program, which began amid considerable publicity and then faded into oblivion only to be resurrected in the wake of terrorist activities on September 11, 2001, placed armed marshals on commercial aircraft after a series of hijackings of American aircraft raised concerns about the safety of air travel. By the time the program was transferred to the Federal Aviation Administration in

1973, deputies had made a total of 3,457 arrests, of which 348 were of passengers attempting to conceal firearms when boarding flights.

Marshals' court-related functions continue to involve security at U.S. federal courts, protecting court personnel, protecting federal witnesses, providing custody of federal prisoners, apprehending federal fugitives, and ensuring that federal laws are enforced throughout the country. Marshals and their staffs continue to occupy a central role in court security and the protection of judicial officials, including judges, attorneys, and jurors. Relying on court security officers, specialized deputized officers with full law enforcement authority, marshals provided security at almost 800 court facilities in 2002. To help ensure that courthouses are kept free of such prohibited items as guns, knives, and other dangerous weapons, marshals are involved in courthouse construction projects from design through completion, relying on principles of crime prevention through environmental design to minimize risk.

Marshals have primary responsibility for apprehension of federal fugitives. In 2001, more than 50% of all such fugitives were apprehended by the Marshals Service, whose officers execute more arrests warrants than all other federal law enforcement officers combined. Formal memoranda of understanding with local, state, federal, and international police agencies facilitate these arrests. International cooperation is vital because the Department of Justice has designated the Marshals Service to apprehend fugitives wanted by other countries and to track fugitives from American justice who are apprehended anywhere in the world.

Two other responsibilities of the Marshals Service have resulted in the creation and maintenance of its own air service. One of these is the Witness Security Program. This program, authorized by the Organized Crime Control Act of 1970 and amended by the Comprehensive Crime Control Act of 1984, assigns to deputy marshals the safety of witnesses who testify for the government in cases involving organized crime or other criminal endeavors that might place their lives in danger. In addition to moving these people around the United States, the Marshals Service has given new identities to more than 7,000

witnesses and, in some cases, their families and others dependent on those witnesses. The second responsibility, to oversee care and custody of federal prisoners and detainees, requires that the service also lodge as many as 35,000 persons each day in federal, state, and local jails. Because only about 30% of these individuals are housed by the Federal Bureau of Prisons, the others must be moved from state, local, or private jails for security or space-related reasons. This need to transport prisoners and criminal aliens resulted in 1995 in the merger of the air fleets of the Marshals Service and the Immigration and Naturalization Service to create the Justice Prisoner and Alien Transportation Service (JPATS). JPATS, known colloquially among those in law enforcement as "Con Air," maintains a fleet of jets and turboprop airplanes and is the equivalent of a small U.S. airline. By 2002, it served 40 cities and was responsible for moving more than 250,000 people annually between judicial districts and correctional institutions and into and out of countries with which the United States has extradition agreements. The service also relies on JPATS to move prisoners who require medical care that cannot be provided at prison facilities. The Missile Escort Program is another highly specialized and highly mobilized group of deputies who assist the Department of Defense and the U.S. Air Force during the movement of nuclear warheads between military facilities.

Marshals have primary jurisdiction in investigations involving federal fugitives, including escaped prisoners; probation, parole, and bond default violators; warrants generated for drug investigations; and certain other related felony cases. In 1983, in conjunction with the creation of its Fugitive Task Force, the service instituted its own 15 Most Wanted fugitives list. This is separate from the Federal Bureau of Investigation's (FBI's) better-known 10 Most Wanted list instituted in 1950. Of the 143 individuals whose names appeared on the list between 1982 and 2002, 128 have been captured. They represent only a small portion of the approximately 30,000 fugitives apprehended each year from 1997 to 2002 by deputy marshals, often working as part of multiagency task forces involving federal, state, and local agency personnel.

There are a number of other highly mobile units within the service. The oldest of these is the SOG, created in 1971 as an emergency response, tactical unit. One of its first assignments was evicting members of the American Indian Movement (AIM) in late 1971 after a 19-month occupation of Alcatraz Island in San Francisco Bay to publicize demands for better treatment of Native Americans. The SOG, additional deputy marshals, and members of the FBI and the national guard clashed with AIM members again in spring 1973 at Wounded Knee, South Dakota. On March 12, 1973, members of AIM declared Wounded Knee a sovereign territory of the Oglala Sioux Nation. The 71-day siege was ended by negotiation on May 8, but not before two people were killed, 12 wounded (including two deputies), and 1,200 people arrested. Ultimately, 185 people were indicted by federal grand juries, with only 15 convicted.

Since passage by Congress in 1984 of the Comprehensive Crime Control Act, the marshals service has also played a large role in the federal government's assets forfeiture programs. The Department of Justice's Assets Forfeiture Fund is the product of the sale of cars, real estate, jewelry, and other forms of property that have been determined to be of criminal origin. Tainted cash, as well as cash obtained by the sale of real property, is deposited into the fund and reinvested into law enforcement activities. Although many facets of the fund and uses of its assets by law enforcement agencies have created controversy, the Marshals Service has relied on the forfeiture funds primarily to pay the costs incurred while maintaining the properties that are eventually sold. Since the program's inception, the service has had custody of more than \$8.6 billion in assets, some of which were costly to keep until their disposition could be determined. In addition to cars, boats, jewelry, and houses, some of the more difficult items to maintain have included aircraft, fine art, livestock, apartment buildings, and restaurants. One reason for the high value of the goods is that the Marshals Service maintains the property service for a number of federal agencies.

Although their exploits are less publicized than previously, U.S. marshals and the deputies continue

to fulfill a vast array of assignments for a variety of federal agencies and to have greater freedom of staff selection and assignment than most other federal law enforcement employees.

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## ☉ U.S. MINT POLICE

The U.S. Mint, created by Congress on April 2, 1792, is responsible for keeping enough coinage in circulation to allow the nation to conduct day-to-day business. The Mint, headquartered in Washington, D.C., engraves and produces coins and medals at facilities in Philadelphia, Denver, San Francisco, and West Point, New York, and is responsible for storing and protecting silver, gold, and platinum bullion at West Point and Fort Knox, Kentucky.

The Mint Police force was created by the Mint in 1792, making it one of the oldest federal law enforcement agencies. The force, credited with creating the standard "as safe as Fort Knox," is responsible for enforcing federal and local laws at the

Mint's six locations. The Mint Police use as a recruiting slogan the fact that the force protects more than \$100 billion worth of Treasury Department and other government assets, the bulk of which is stored at Fort Knox, where "no visitors are permitted and no exceptions are made."

As recently as 1999, the Mint Police force was described by its chief as a "boutique police department," which was staffed largely by officers retired from local police departments. In addition, the agency used contract police at its Washington facilities through 1999. This resulted in a force disproportionately older, white, and male. Since then, the number of minority and female applicants and officers has increased significantly. Recruitment of all applicants had to be stepped up in 2002, when nearly half the Mint Police officers transferred out of the force to join the Federal Air Marshal Service and other agencies that had been enlarged, or created, in the wake of the September 11, 2001, terrorist attacks.

Authorized strength of the force is approximately 400 sworn personnel, including officers, sergeants, lieutenants, deputy chiefs, and field chiefs. At the end of the 2002 federal fiscal year, 52 of the Mint Police's officers were stationed in Washington. Each field location has a detective at lieutenant's pay, while headquarters in Washington has three lieutenants assigned to the Economic Crimes Unit (ECU). The ECU investigates financial crimes against the Mint; handles internal affairs investigations, and functions as a liaison with other law enforcement agencies. In addition, a training lieutenant is assigned to the Federal Law Enforcement Training Center (FLETC) at Glynco, Georgia, and each field location in order to coordinate all required training for that duty station. The department received the National Law Enforcement Officers Memorial's Distinguished Service Award in 2001.

The U.S. Mint field offices have special response teams consisting of officers who volunteer for special weapons and tactics training and then train on a regular and recurring basis, often with other law enforcement agencies.

Among the types of incidents Mint Police routinely handle are credit card fraud, check fraud,

internal theft, security threats, and computer crimes. The Mint Police assist other agencies during major events, such as presidential inaugurations. During the 2002 Winter Olympics in Salt Lake City, 60 to 70 Mint Police personnel assisted the U.S. Secret Service in securing the venue. Unlike most other federal police agencies, the Mint Police do not divulge the annual number of incidents its personnel handle or the number of investigations they conduct.

Mint Police officers must have a bachelor's degree in police science, criminal justice, or a comparable discipline or three years of creditable law enforcement experience. The sworn officers receive 10 weeks of training at FLETC, followed by five weeks of additional training at their field facilities. Assignments include bike patrol, special response team, instructional training, and firearms. In 2003, entry level officers' pay averaged \$38,862 annually. The agency can also provide performance-based cash awards, quality step increases, honorary and informal recognition awards, time-off awards, and tuition assistance for continuing education.

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## U.S. PARK POLICE

The U.S. Park Police (USPP) is an urban, uniformed law enforcement agency that is part of the National Park Service (NPS) under the Department of the Interior (DOI). Although the USPP has jurisdiction throughout the NPS and certain other federal and state lands, it primarily provides law enforcement services in the Washington, D.C.,

metropolitan area, Gateway National Recreation Area, Ellis Island, and the Statue of Liberty in New York and New Jersey and the Presidio Trust Area and Golden Gate National Recreation Area in San Francisco. In the District of Columbia, USPP officers provide protective services for many national monuments, memorials, park areas, the Mall, historic residences, and highways. Although concentrated in the above areas, park police personnel can be detailed elsewhere in the national park system if required.

The mission of the USPP is to maintain public order and safety; prevent and investigate crime; protect both property and visitors; provide crowd control for special events and demonstrations; provide presidential and dignitary protection; enforce traffic law; and handle traffic accidents, violations, and so forth. Their duties also include the investigation and detention of persons suspected of committing offenses against the United States. The USPP utilizes several methods of patrol to protect visitors including undercover, foot, bicycle, cruiser, horse-mounted, motorcycle, and motor-scooter. In addition, the USPP has a canine unit, marine resources (in New York), and three helicopters for aerial observation, rescue, and emergency response services. The USPP budget request for fiscal year 2005 of \$79 million represents a \$4 million increase for additional security of monuments and the 2005 presidential inaugural.

## HISTORY

The U.S. Park Police claims to be America's oldest federal uniformed law enforcement agency. Its origins harken back to 1791 when President George Washington appointed park watchmen to patrol and protect Washington's evolving parklands and federal buildings. Police authority created for the capital city did not extend to federal property until 1834 when the city was given full responsibility for protecting federal grounds. By 1854, however, Congress was not satisfied with the attention paid to federal grounds by the city and so it began hiring additional federal watchmen to protect the areas surrounding the Capitol and the White House. These

watchmen were civilians under the administrative supervision of the army's commissioner of public buildings.

In the next 30 years, public monuments and federal park areas grew rapidly, as did their usage. In 1880, Congress appointed an additional dozen watchmen to expand the numbers of the emerging federal park grounds police force. Park watchmen were given the same powers and duties as Washington's Metropolitan Police Force by congressional legislation in 1882. Their activities at this time were overseen by the chief of the Army Corps of Engineers, with direct supervision from the public gardener, since in addition to their protection duties, they also performed landscaping and gardening activities. By 1903, the force had grown to 30 watchmen and their duties increasingly focused on enforcement of laws and regulations.

In 1919, Congress officially named the 60 park watchmen the U.S. Park Police. In the next 11 years, Congress expanded park police jurisdiction beyond Washington to encompass the Mount Vernon and George Washington Memorial parkways. In 1933, the USPP was assigned to be part of the NPS under the Department of the Interior. The next year, a horse-mounted unit was established to aid in large crowd-control situations, making it one of the oldest police equestrian organizations in the country. The USPP again increased its jurisdiction in 1948 to cover federal lands within six counties in Virginia, the city of Alexandria, and four counties in Maryland. For the next 20 years the USPP shared responsibility for general policing around the Washington, D.C., area with particular emphasis on the public parks and monuments.

The late 1960s brought a period of increasing civil unrest in the country and, in 1970, Yosemite National Park experienced riots and crowd control problems with a large gathering of youth that resulted in 170 arrests. Because the park police had significant experience in handling civil disobedience at the Capitol Mall and the White House, officers were sent to aid in stabilizing Yosemite and to evaluate the National Park Service's handling of the incident. Subsequently, the park police received eight new law enforcement specialist assignments

located in each of the NPS regional offices to advise regional directors on crowd control issues. These law enforcement specialist positions were filled by park police sergeants, lieutenants, and later captains but were not part of the Ranger Force and were not responsible in the NPS law enforcement chain of command.

Since the USPP has always been interested in expanding its area of influence, in 1974 the USPP secured two additional areas of jurisdiction outside of the metropolitan Washington area. Park police officers were assigned to provide law enforcement services for the newly established Gateway National Recreation Area, Ellis Island, and the Statue of Liberty in the New York and New Jersey area and the Golden Gate National Recreation Area in San Francisco.

## ORGANIZATION

As a result of an increased need for homeland security and a 2002 study by the inspector general, the secretary of the Department of the Interior established a new deputy assistant secretary with responsibility for law enforcement and security to coordinate and improve training and supervision of its five bureaus with law enforcement personnel. Each bureau was then directed to appoint a director of law enforcement who would establish a separate law enforcement chain of command. The NPS altered its reporting structure so that the chief of the park police reported directly to the NPS deputy director rather than through the national capital regional director.

USPP headquarters is located in Washington, D.C., with field offices in New York and San Francisco. A chief, assisted by an assistant chief and two deputy chiefs, and a manager responsible for fiscal management and development lead the force. One deputy chief oversees the Field Offices Division and the other supervises the Operations Division, which is responsible for park police activities in the Washington, D.C., metropolitan area. The latter has three branches: the Criminal Investigations Branch, the Special Forces Branch, and the Patrol Branch. Its largest branch is the Patrol Branch, which manages three geographic

patrol districts and supervises the civilian guard force. The Criminal Investigations Branch is the investigative arm for crime in all three districts and includes a vice and narcotics unit. The Special Forces Branch includes specialized units such as aviation and motorcycle units, and the SWAT teams, and is the liaison with the U.S. Secret Service on dignitary protection duties. The Operations Branch also includes the Support Services Group, which includes the horse-mounted and canine units.

Although authorized for a force of 793 officers, in 2002 the USPP had 598 sworn officers in the ranks of major, captain, lieutenant, sergeant, detective, and private, 90% of whom were men and 20% with origins in minority groups with African Americans representing the largest portion at 13%. In addition, 99 civilian employees and 27 civilian uniformed guards were employed. Approximately 110 officers served out of the New York field office and 66 officers were assigned to the San Francisco field office. In 2004, the force consisted of 620 officers.

## QUALIFICATIONS AND TRAINING

Candidates for USPP officers must be U.S. citizens between the ages of 21 and 31 years old, have good vision, and hold a valid driver's license. Entry-level candidates must pass written and physical examinations and an oral interview and possess two years of experience or postsecondary education or a combination of the two.

Training for new officers takes place at the Federal Law Enforcement Training Center in Glynco, Georgia, for 19 weeks. The program includes 8 weeks of basic law enforcement training and 11 weeks of specialized training by USPP staff. New officers then enter a 12-week field-training program in which they partner with instructors and conduct supervised patrol operations. New officers are initially assigned to the Washington, D.C., area, where the largest contingent of park police officers is needed.

Guards serve at fixed posts or patrol assigned areas to prevent theft, damage, or trespass around national monuments in Washington, D.C. These are civil service positions that are primarily permanent part-time, although a few full-time positions exist.

Guards do not have law enforcement authority and do not carry weapons but do carry radios in order to contact patrolling park police officers. Guards receive one week of classroom training followed by on-the-job training.

## RECENT DEVELOPMENTS

In recent years, Congress has become increasingly dissatisfied with the state of law enforcement in the Department of the Interior—especially with the U.S. Park Police—due to escalating budgetary needs required to meet their specified missions. In response to these rising costs, Congress directed the NPS, as part of the Department of the Interior’s appropriations act for the 2001 fiscal year, to contract with the National Academy of Public Administration (NAPA) for an independent review of USPP missions, accountability, staffing needs, and spending. The review panel found that the USPP is well-respected as a professional law enforcement agency with qualified and dedicated personnel.

However, NAPA recommended narrowing the USPP’s mission to focus exclusively on the federal lands in the Washington, D.C., area; called for a reexamination of park police participation in dignitary protection, drug prevention, and drug investigation activities; and suggested contracting out the policing of area highways to state and local law enforcement entities. Neither the NPS nor the USPP reacted willingly to these recommendations. After the September 11, 2001, terrorist attacks, increasing pressure was placed on the park police by the Department of Homeland Security to increase security at major national monuments by doubling the number of park police officers assigned to them. This mandate exacerbated an already weak staffing situation, which required a shift to the monument area at the expense of other areas in the USPP jurisdictions and increased overspending for overtime.

To increase accountability, NAPA recommended streamlining the chain of command so the USPP chief is directly responsible to the chief of the NPS, which has been accomplished with a reorganization of DOI, NPS, and USPP law enforcement reporting

structures. In addition, the USPP hired its first female chief in 1992, Teresa Chambers.

Recommendations were also made regarding the need for a unified USPP budget in which the chief had control over the allotment of resources and field personnel are accountable for operating within their designated budgets. Significant shortfalls existed in patrol staffing that had gone unaddressed due to financial constraints and the USPP was \$12 million over budget in 2003. The USPP is a top-heavy organization with a ratio in 2001 of one higher-level officer to every two lower-level officers rather than a typical law enforcement staff ratio of 1:4 or 1:6. The report also recommended civilianizing positions that did not require specific law enforcement training and expertise. As of 2004, 11 staff positions had been civilianized and the agency was working on increasing its staffing ratio. The report also recommended hiring armed contract guard personnel who would primarily operate detection equipment at national monuments and increase security presence. These armed guards, a small number of whom were hired in the New York field office, were not intended to replace park police officers.

Continuing tension existed between the Department of the Interior, the NPS, and the USPP over its mission priorities, staffing levels, and funding. Congress called for a status report on the implementation of the recommendations made by NAPA. In 2003, Chief Chambers publicly aired, in a *Washington Post* interview, her frustration with the lack of adequate budget and staffing resources her agency was receiving and expressed her concern that some areas were being underserved. She believed the park police needed at least double the number of officers and an additional \$8 million in funding to carry out its current missions. Shortly after the interview’s publication, she was suspended and notified she would be dismissed for violating federal rules forbidding public statements on budget and staffing issues. She was subsequently dismissed, but Chambers and supporters continued to fight for her reinstatement. In early 2004, the progress report by NAPA was issued and reported limited progress in most areas addressed by the 2001 study. Congress continued to resist increasing

funding for the USPP as the involved governmental agencies continued to resist change.

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Police K-9 Association and the United States K-9 Association, united. The Police K-9 Association was originally known as the Florida Police K-9 Association but was renamed in 1968 in order to include other southeastern states. The United States K-9 Association, which was founded a few years after the Police K-9 Association's name-change, drew its membership from residents of the northeastern states. A short time after the inauguration of the United States K-9 Association, both organizations realized that strength would be gained by uniting.

The USPCA established its National Executive Committee at the time of its creation. The committee is comprised of a national president and vice president, past national presidents, a secretary, a treasurer, and a board of trustees. National Executive Committee members are elected to two-year terms of office by the general membership. Additionally, each region elects its own officers and oversees its own activities. The presidents of each region become members of the National Executive Committee. Both full members and associate members possess voting privileges, but associate members may not run in national or regional elections. Full membership in the USPCA is open to any active, full-time, paid law enforcement officer at the federal, state, county, or municipal level, who is a canine handler, trainer, or administrator. Associate membership, which is contingent upon the approval of regional officers, is open to those who train canines for established law enforcement agencies and to retired law enforcement officers who formerly were full-time, paid canine handlers, trainers, or administrators. Membership is also open to members of the armed forces who work with canines when approved by the regional elected officers. As of early 2003, national membership was approximately 4,000. The association is comprised of regions representing distinct geographical areas throughout the United States and Canada. As of early 2003, the organization was comprised of 26 areas: 25 located within the United States and one in Canada.

The USPCA, as a whole, holds two week-long meetings per year. In the spring, the organization meets during the National Detector Dog Trial and

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## U.S. POLICE CANINE ASSOCIATION, INC.

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The U.S. Police Canine Association (USPCA) was founded in 1971 in Washington, D.C., when two existing organizations with similar values, the

Seminar, and in the fall, it meets during the National Police Dog Field Trial and Seminar. During the USPCA's meetings, the National Executive Committee convenes to determine organizational policies, and members from all regions discuss innovative training approaches and exchange information to better prepare themselves to meet modern law enforcement challenges. The organization is dedicated to promoting a sense of camaraderie among those who train and use canines to prevent and detect crime and it endeavors to promote a minimum working standard for canines in police work in order to better serve the community and maintain a positive public image for the working police canine. The USPCA publishes a newspaper, *The Canine Courier*, throughout the year and provides information to law enforcement agencies interested in establishing canine units. The association provides death benefits for both human members and canines killed in the line of duty and has a legal defense fund to support members who face canine-related litigation.

The USPCA offers three main certifications for officers and their canine partners: the Police Dog I Certification, the Police Dog II/Tracking Certification, and the Detection Certification. The test for the Police Dog I Certification evaluates canines and their handlers in the areas of obedience, agility, evidence and suspect search, and criminal apprehension. The Police Dog II/Tracking Certification is composed of a three-part track that is 150 to 300 yards in length and 30 to 60 minutes old. The USPCA offers Detection Certifications in four areas: narcotics, explosives, liquid accelerants, and human and animal cadavers. The organization's Detection Certifications for narcotics and explosives are the most commonly sought, and the tests for both require that canine and handler successfully locate the substances indoors and out.

USPCA certifications employ strict testing standards. All tests use multiple evaluators so that both the officer's and the canine's performances are being fairly evaluated at any given instant. The association prides itself on its utilization of measured evaluations (i.e., precise scores), rather than the pass-fail standards used by other canine certifying

bodies, and, unlike other organizations offering canine certifications, it does not permit the use of electric or pinch collars during testing. Additionally, all USPCA certifications must be renewed annually.

The USPCA also offers certifications for canine trainers. Among the certifications it offers are Certified Trainer-Level I (Patrol), Certified Trainer-Level II (Detector), Certified Trainer-Level III, Certified Regional Trainer (Patrol), and Certified Detector Dog Trainer. USPCA trainer certifications require that applicants be members in good standing of the organization and that, among other criteria, depending on the particular certification, they have from 5 to 15 years of full-time canine handling experience.

In recent years, several court decisions from around the country have ruled that the use of properly trained police canines is a less-lethal force alternative (i.e., it does not carry the risk of causing death or serious bodily harm). In one of the hallmark cases, *Robinette v. Barnes*, a federal court recognized the USPCA's training standards. In *Robinette*, the court considered the defendant's receipt of the USPCA's Police Dog I Certification evidence that the canine in question was properly trained.

Nicole R. Green

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## U.S. POSTAL INSPECTION SERVICE

The U.S. Postal Inspection Service traces its history to 1772, when Postmaster General Benjamin Franklin created the position of surveyor to assist him in regulating and auditing postal functions. In 1801 the title was changed to special agent and in 1830 the investigative functions of the agents were centralized as the Office of Instructions and Mail

Depredations even though the agents continued to be assigned to specific geographic areas of the country. They worked closely with stagecoach, steamboat, express, and railroad companies responsible for transporting the mail and also visited mail distributing centers and examined postal accounts for theft and fraud.

From this small, decentralized force of agents, the U.S. Postal Inspection Service has grown to approximately 2,000 postal inspectors stationed throughout the country who enforce more than 200 federal laws covering investigations of crimes involving use of the U.S. mail and the postal system. They were assisted in 2002 by a security force of about 1,500 uniformed postal police officers who provided perimeter security, escorted high-value mail shipments, and performed a variety of other protective functions at major postal facilities throughout the United States.

## HISTORY

The origins of the Postal Inspection Service can be traced to colonial times. Some who question the claim of the U.S. marshals to be the first federal law enforcement agency argue that when Benjamin Franklin was appointed postmaster at Philadelphia in 1737, part of his duties involved regulating the several post offices and bringing the postmasters to account. By 1753, Franklin had been promoted by the British monarch to deputy postmaster general of the American colonies. That year, his additional duties took him on inspection tours of the colonies to visit every post office except Charleston, South Carolina. Because such periodic inspections of post offices to ensure compliance with rules and regulations and to ferret out theft or corruption are now associated with police and inspectors' general roles, some have made the claim that Franklin himself was the first postal inspector and that his appointment of a surveyor in 1772 was merely recognition of the fact that he could no longer single-handedly regulate and audit postal functions. Hugh Finley, the first surveyor, had previously worked for the Canadian postal system. He investigated thefts of mail or postal funds and audited the accounts of

postmasters to ensure that revenues were properly collected and reported.

When the colonial postal system became the U.S. Postal Service on July 26, 1775, Benjamin Franklin was elected postmaster general and William Goddard, a former colonial postmaster, was named the first surveyor. By 1801, when the title was changed to special agent, the number of laws pertaining to use of the mail had increased and so had the responsibilities of the agents. The Office of Instructions and Mail Depredations, formed in 1830, defined the dual investigative and inspectional roles of the agents. Investigation of internal theft in those early years may have been even more difficult than today, for internal did not mean only individuals employed directly by the post office, but applied to the many contractors who carried the mails across a rapidly expanding nation.

In 1849, the supervisor of special agents, William H. Dundas, and one of his agents, Thomas P. Shallcross, determined that Otho Hinton, the general manager of the Ohio Stage Company, which had a monopoly on Ohio mail routes, was involved in a series of thefts throughout the state. Arrested but released on \$10,000 bail, Hinton failed to appear for trial. Although it took years, Shallcross traced Hinton to Cuba, from whence he could not be transported because no extradition treaty existed between the United States and Cuba. Hinton returned to the United States, but before Shallcross could catch up with him, he again fled, this time to the Sandwich Islands, as Hawaii was known before the United States took jurisdiction in the 1890s. The United States had no extradition treaty with the islands, which seemed to ensure Hinton's safety, although he eventually fled further to Australia, where he died. Though this case was more far flung than most others, it is indicative of the vast jurisdiction of the postal agents. By 1853, the number of agents had been increased to 18 and they were assigned geographically throughout the United States. They were responsible for reporting on the conditions of stagecoaches, steamboats, railroads, and horses used to transport the mail, for visiting all mail distributing offices within their territories, and for examining postal accounts for fraud or mismanagement.

The job was difficult; the nation was expanding west, and as stagecoaches began to carry mail in 1849, followed shortly thereafter by the railroads, special agents found themselves in parts of the country that lacked visible symbols of government and where the mails were known to carry cash and other valuables. By 1866 the number of special agents increased to 36; less than a decade later, in 1873, the number reached 63. On June 11, 1880, Congress established the title of chief post office inspector and changed the title special agent, a title that was used commonly in the West by railroads, express companies, and cattle associations to describe their police officers. Other major changes occurred in the years 1887 and 1888, when the service was reorganized into 12 divisions and the number of inspectors was increased to 75. In conjunction with this growth in staffing, the postal inspectors were placed under the civil service system, providing far greater employment stability than the previous 12-month appointments with annual reappointments.

After the Civil War, when train robberies became common, postal inspectors worked closely with Wells Fargo and railroad company special agents to protect the mails from the external threats of armed robbers and from internal frauds. Fraud was so prevalent after the Civil War that in 1872 Congress specifically enacted a statute to combat the outbreak of swindles that relied on using the mails to perpetrate various frauds. An even greater fraudulent use of the mails occurred in the 1920s, with large numbers of fake lotteries, medical advertisements, and get-rich-quick schemes that relied on the mails to shield tricksters from police and to reach the largest possible number of potential victims.

One of the best-known, longest running, and costliest cases that involved the postal inspectors was the 1923 Great Gold Holdup, when Southern Pacific Train No. 13 was held up near Siskiyou, Oregon, on October 11 on its way to San Francisco and one postal worker and three railroad employees were killed. The case lasted more than three and a half years and cost more than \$500,000 to solve, but in 1927 the De Autremont brothers, who had stopped and dynamited the train because they believed it had been carrying \$500,000 in gold,

were apprehended. Prior to their arrests, convictions, and sentences to life imprisonment, the three brothers, Roy, Ray, and Hugh, had been followed by postal inspectors and Southern Pacific Railroad special agents to Canada, Mexico, South America, and western Europe. Hugh was arrested in the Philippines, the other two in Ohio.

The agents' close connection with railroads continued until routine handling of first-class mail was transferred to the airlines beginning in the 1950s. The assignment did not always involve theft. In 1937, Fort Knox, located in Tennessee, became the nation's gold depository, and between 1937 and 1941, postal inspectors were involved with the movement and protection of more than 500 railroad cars that transported more than \$15.5 billion in gold between New York and Fort Knox.

## THE MODERN INSPECTION SERVICE

A major reorganization of the post office in 1970—the Postal Reorganization Act—resulted in the renaming in 1971 of the Bureau of the Chief Postal Inspector to the current Postal Inspection Service. It was at this time that the uniformed Security Force was added to what until then had been composed solely of plainclothes investigative personnel. Members of this uniformed force are responsible for patrolling major postal facilities and escorting shipments of valuable mail between postal facilities and airports. Another change was the opening of the ranks to women officers, making the inspection service among the first federal law enforcement agencies to employ women as sworn officers.

By 2000, the Postal Inspector Service employed approximately 3,600 individuals who were authorized to carry firearms and make arrests, about 2,200 of whom were postal inspectors and another 1,400 of whom were uniformed postal police officers.

Postal inspectors receive their law enforcement authority under Title 18 of the *United States Code*. They are authorized to service warrants and subpoenas and make arrests without warrants for any federal offense committed in their presence or based on probable cause. Applicants must be between the ages of 21 and 36 and must pass written tests, an interview,

a polygraph, a physical exam, and drug screening. A four-year college degree is required; since January 2003, no work experience is required, although previously various types of experience, in addition to college training, was required. Those who are hired and complete training are assigned to any one of the 18 field divisions across the country, but may also expect to travel frequently for investigations and to be transferred between regions at any time. Postal police officers who are a part of the Postal Inspection Service are uniformed officers assigned to major facilities around the country. Although they are generally assigned to a particular postal installation to provide perimeter security and uniformed patrol and may expect to travel less than postal inspectors, they may escort high-value mail shipments between or among regions and perform other protective functions outside their regularly assigned locations.

Postal inspectors are trained at the Postal Service's William F. Bolger Center for Leadership Development located in Potomac, Maryland, a full-service training center that contains classrooms, fitness and firearms training facilities, dining rooms, and dormitories. The 14-week program covers investigative techniques, legal studies, the laws of search and seizure, arrest techniques, court testimony procedures, defensive tactics, and study of the many federal laws the service is empowered to enforce. The uniformed postal police officers undergo the basic law enforcement officers' course at the Federal Law Enforcement Training Center at Glynco, Georgia.

The jurisdiction of the postal inspectors is vast, not only in the number of laws they enforce, but in the range of activities in which they participate. In addition to such obvious areas as crimes by and against Postal Service employees and federal laws on burglary, robbery, and mailbox destruction, inspectors also enforce laws against child pornography; obscene advertising or other mailings; controlled substances transported through the mails; mail bombs; drugs or other illegal substances; counterfeit stamps and money orders; identity fraud (which often begins with stolen mail); theft, delay, or destruction of mail; money laundering; embezzlement or

use of the mails to send extortion demands for ransoms or rewards; and many other offenses that rely on use of the mail to perpetrate.

Because of the wide range of their responsibilities, postal inspectors often share jurisdiction with other federal, state, or local law enforcement agencies and their involvement in many cases is often behind the scenes. Cases may be solely domestic or may involve law enforcement agencies of many countries and the frauds are often limited only by the imaginations of the criminals. Between 1995 and 1997 a small investment firm known as the Ostrich Group used the mail to defraud more than 80 investors of more than \$800,000 by claiming to sell and care for income-producing ostriches and their eggs. More recently, one individual who created phony Internet auction sites was able to use other people's credit cards to order hundreds of computer-related items and printers that were shipped from the United States to at least four other countries. By failing to deliver items that buyers had purchased, the schemer committed mail fraud. Resolution of the case eventually involved not only the Postal Inspection Service, but the U.S. Customs Service, security and loss prevention managers of a number of U.S. companies, and police and consular officials in Singapore, Pakistan, Dubai, and the United Arab Emirates.

Inspectors have been responsible for investigating the rash of shootings by disgruntled postal employees that occurred in the 1990s. The prevalence of these violent confrontations in a number of postal facilities around the nation led to the coining of the phrase *to go postal* to describe a violent employee who attacks coworkers or supervisors at a job site.

Mail theft, while less dramatic than train robberies, continues to be a focus of the inspection service. In 2003, the postal service handled an average of 668 million pieces of mail daily. Thieves may attempt to steal a portion of this mail from collection boxes and home mailboxes. Although they receive little attention nationally, there also continue to be periodic robberies from postal trucks and even from individual mail carriers on their routes. One way in which thefts from home mailboxes

have been minimized is by direct deposit of government checks and payments from many large corporations, which minimizes the probability that residential mailboxes in apartment buildings or in front of person's homes will contain checks.

Some thieves are also interested in mail leaving people's homes. By hunting for envelopes that might contain personal checks, thieves hope to wash the checks with cleaning products so that they can erase the name and amount and rewrite the checks to themselves. Theft of credit cards, credit card information, or communications from banks or financial institutions also aid identity theft, encouraging thieves to look for mail that might contain names, addresses, and social security numbers. The Postal Inspection Service estimated that in 2002, almost 10 million Americans were victims of identity theft, at a cost of \$5 billion. In 2003, there were estimates that more than 2,000 people a week were victimized by identity theft, much of it facilitated by mail theft.

An extension of the first inspection service crime lab that was established in 1946, the Forensic and Technical Services Division has grown to include units specializing in questioned documents, fingerprints, controlled substances, digital evidence (recovered from computers and other electronic media), polygraphs, and technical services. Employing more than 100 inspectors and about 900 nonpolice forensic specialists, financial analysts, and others, this unit provides scientific and technical support to agents in the field. Its main laboratory is located in Virginia with satellite labs in New York, Chicago, Memphis, and San Francisco in addition to five technical service field offices located around the country. Two of its busiest sections are the questioned documents and chemistry units. Inspectors in the questioned document unit determine the authenticity of disputed documents, including comparing handwriting, type-writing, and commercial printing; analyzing paper and ink types; and restoring altered impressions. Forensic chemists analyze materials sent through the mail that are suspected of being controlled substances. They have positively identified virtually all types of illegal drugs as having been transported through the mail.

Bombs, whether sent through the mail or used in attempts to deter the mail, are also a major concern of the postal service. The need for postal inspectors to become trained in bomb investigations was first recognized in 1955, when a bomb exploded on an aircraft that was transporting mail. In recent years, though, concerns about explosives have centered on domestic and foreign terrorists sending either bombs, or such lethal bacteria as anthrax, through the mail. Letter bombs and other explosives being sent through the mails have a long history. But this type of crime received public attention during the case of Theodore Kaczynski, the Unabomber, who was responsible for a string of bombings from 1978 to 1996. During those years, Kaczynski mailed or delivered 16 bombs to various targets, many of which appeared to have no connection with one another. Three people were killed and 23 injured. The first bomb, on May 25, 1978, injured one person at Northwestern University in Chicago; the last one killed Gilbert Murray, a timber industry lobbyist who on April 25, 1995, opened a package that had been mailed to his Sacramento, California, office from Oakland, California. Kaczynski was captured by postal inspectors and Federal Bureau of Investigation agents only after he insisted that a 35,000-word manifesto be published by the news media, resulting in his brother recognizing his writing style and informing the federal government. He was tracked down and arrested on April 3, 1966, at a mountain cabin where he lived without running water or electricity. In January 1998, after being declared competent to stand trial, Kaczynski agreed to a plea bargain that sent him to prison for life.

Although the public often perceives mail bombers to be driven by politics, postal inspectors have also investigated cases involving jilted spouses or lovers seeking revenge or business associates or employees getting even after business failures or setbacks. Although anthrax attacks and scares gained attention in the wake of the September 11, 2001, terrorist attacks, about 175 such threats had been investigated during 1999 and 2000, most involving threats to courthouses, abortion clinics, churches, and post offices. Threats to spread death or disease via the mail are more numerous than mail

bomb threats, which have averaged fewer than 20 annually for the past few years compared to about 170 billion pieces of mail.

Reflecting the vast jurisdiction of the postal inspectors, in the years between 1988 and 2002, they made between 10,000 and 12,000 arrests annually, with between 1,400 and 2,000 of these for mail fraud. Conviction rates for mail fraud and for all other crimes are more than 80%. An employee magazine, *The Bulletin*, describes many of the service's more unusual cases and is available for review on the service's Web site.

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## U.S. SUPREME COURT POLICE

The U.S. Supreme Court Police (USSCP) has primary responsibility for protecting the chief justice, associate justices, and any official guests of the Supreme Court. The USSCP monitors the Supreme Court Building and grounds and adjacent streets to protect the employees and visitors of the Court as well as its property. Additional responsibilities include courtroom security and emergency response.

Despite the overwhelming majesty and complexity that the Supreme Court Building imposes on its

visitors, it houses fewer than 400 employees, with the 121 USSCP officers being the largest organized group among them. Although the U.S. Supreme Court (established in 1789) is more than 200 years old, it did not get its own police force until 1935, when it occupied a separate building located at One First Street, N.E., Washington, D.C., across from the U.S. Congress. Before that, from 1800 until 1935, the U.S. Capitol Police provided some security for the Supreme Court justices when they were meeting in the Capitol. Initially, the USSCP had only 33 officers on force. This small federal police agency was established by statute on August 18, 1949.

In 1981, Congress passed legislation authorizing the USSCP to protect justices and other designated persons outside the Court premises, granting them a nationwide jurisdiction for this responsibility and giving them clear authority to carry firearms and make arrests for any violation of federal or state law and any regulation under federal or state law. With these broader powers given to the USSCP, the Court is able to determine its protective requirements away from its building and grounds, create its own rules and criteria, and initiate its own decisions. The Supreme Court reports annually to the Congress about the cost of its security.

The USSCP chief has a captain's rank and is responsible to the marshal of the Supreme Court. The marshal of the Court is its general manager, its chief financial officer, and the supervisor of its police force. The Supreme Court marshal has no official connection with the U.S. Marshals Service in the Justice Department, which provides security for lower federal courts. Under 40 U.S.C. 6122, the marshal of the Supreme Court may designate employees of the Supreme Court as members of the USSCP, without additional compensation. In July 2001, Pamela Talkin assumed responsibilities as the first female marshal of the Supreme Court.

In the early 1980s, an increased level of terrorist threats, assassination attempts, and street crime around Washington, D.C., prompted new security measures in the Court. The police officers started to inspect purses and briefcases carried by people, including staff, into the building. Those entering the building must now walk through an airport-type

metal detector. The marshal of the Court has issued regulations governing the Supreme Court Building and grounds, including reasons for denying entry, expulsion, and arrest. Federal law prohibits demonstrations on the steps of the Supreme Court Building (18 U.S.C. 1507), although the Court may grant permission for the use of the perimeter sidewalks on its grounds for picketing or parading. Any violator may be subject to a fine or imprisonment.

In 1999, USSCP was given 36 additional officers in order to provide an adequate level of security to the building. The force has a plan for emergency situations but does not make it public. Under emergency circumstances, justices are escorted to one of several secure locations along with leaders of Congress and cabinet members. Although security protection of the Supreme Court justices includes a provision that all nine judges are escorted by the USSCP to and from work, several judges drive themselves and a few use a small pool of government-owned cars with drivers. The judges also refused a plan of the USSCP to protect the building with boards that would impede an attack from a truck bomb. They were concerned that the boards would convey an image of inaccessibility. As a result of the anthrax contamination of the building in October 2001, all court mail is now irradiated in Ohio.

The budget of the Supreme Court is modest relative to that of other government offices. In fiscal year 1998, the Congress approved \$37.5 million to pay for the salaries and expenses, including care of the Supreme Court building and grounds. After the September 11 attacks, the marshal received an additional \$1.25 million to install protective film on the windows and \$10 million for the protection of the building and its grounds.

As of 2003, the USSCP required that candidates be mature and responsible individuals with a high school diploma and have other law enforcement experience or a bachelor's degree. Prospective candidates undergo a medical and psychological examination, background investigation, and interview. New police officers complete an eight-week Basic Police Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia, and then agency-specific training conducted by

senior USSCP officers. The entry-level salary was in the low \$ 40,000s.

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## USA PATRIOT ACT

The USA PATRIOT Act (USAPA) is the shorthand term for Public Law 107-56, federal legislation that is also known by its complete name, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act. This legislation was signed into law by President George W. Bush on October 26, 2001, less than two months after the U.S. Department of Justice (DOJ) proposed an initial version days after September 11, 2001. The 342-page bill was meant, according to the legislation, to provide the president and DOJ with the “tools and resources necessary to disrupt, weaken, thwart, and eliminate the infrastructure of terrorist organizations, to prevent or thwart terrorist attacks, and to punish perpetrators of terrorist acts.”

The original proposal, crafted by DOJ with representatives of a number of federal agencies, sought to expand the investigative and surveillance techniques available to law enforcement. It was presented to the House Judiciary Committee by Attorney General John Ashcroft on September 24, 2001, and to the Senate Committee on the Judiciary on the next day. The Senate approved its version, Senate Bill 1510, on October 11, 2001, and the House of Representatives approved H.R. 2975 two days later after incorporating pending money laundering provisions. On October 25, 2001, the final version

of the act, which incorporated provisions of the pending Financial Anti-Terrorism Act of 2001, was passed by Congress and became law the next day.

The USAPA consists of 10 separate sections, each of which addresses a distinct topic, including domestic security, surveillance procedures, money laundering and currency crimes, border protection, information sharing, and intelligence collection, as well as providing funding for victims of terrorism, first responders, and other public safety officers; training for certain agencies; limiting hazardous materials licenses; and establishing a grant program for domestic preparedness support. Rather than setting out a comprehensive statement of applicable law, the USAPA amended a number of existing federal laws; thus its terms are found throughout the *United States Code*. The laws amended include those that deal with federal crimes, immigration and naturalization, banks and banking, money and finance, educational institutions, public health and welfare, communications, transportation, war, national defense and espionage—including the Foreign Intelligence Surveillance Act (FISA)—and provisions relating to the Central Intelligence Agency (CIA). The wide-ranging application of the USAPA to federal law reflects the broad range of topics that are addressed under the rubric of a response to terrorism. This act has not been the only federal legislative response to modern terrorism; rather, it joins the Antiterrorism and Effective Death Penalty Act of 1996 and the Omnibus Crime Control and Safe Streets Act of 1968, and their amendments, which also contain provisions directed to both domestic and international terrorism.

## ENHANCED SURVEILLANCE PROCEDURES

The USAPA is most known for its significant expansion of the information it makes available to law enforcement, the methods allowed for the collection of that information, and the permissible exchange of information between law enforcement and other governmental and investigative agencies. This expansion of tactics and targets, provisions for which are found in Title II, eviscerates many of the previous constraints on domestic investigations.

The expansion was accomplished primarily by enlarging the application of FISA to cover investigations in which foreign intelligence information is merely *a significant purpose* as opposed to the previous requirement that obtaining such information be *the purpose* for obtaining the order and seizure. Because USAPA §218 expands FISA to encompass investigations in which foreign intelligence is not the primary purpose, USAPA tools may be used even when the primary purpose of the investigation is everyday law enforcement. FISA orders are not permissible when the basis lies solely in a person's exercise of First Amendment rights.

The broadest access to information is provided by §215, which amends FISA to allow access to any tangible things (including books, records, papers, documents, and other items) for an investigation to obtain foreign intelligence information or to protect against international terrorism or clandestine intelligence activities. These things may be taken from any person, business, or agency, not only from the target of an investigation. There is no restriction on the type of material available, including medical records; library records; computer disks; DNA or biological material; and legal, business, or financial records. An order must be obtained from a designated FISA judicial officer to allow seizure of the material, but the judicial officer has no discretion to deny the order once the requisite application is made by the director of the Federal Bureau of Investigation (FBI) or a high-ranking designee. It is not necessary to set out facts in support of the request nor to establish any threshold showing—such as probable cause or reasonable suspicion—to justify the seizure. Once a seizure is ordered, no one may disclose that the items have been sought by or produced to the FBI. Thus, a person about whom information has been seized will have no notification of the seizure or any opportunity to challenge it.

Title II of the USAPA broadens the permissible use of several traditional forms of surveillance. Nationwide installation and use of “pen register” and “trap and trace” devices are allowed under §214 and §216 of the USAPA, amending FISA, when an attorney for the federal government certifies to a court that the information likely to be obtained is

“relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities.” These orders can compel any person or entity providing wire or electronic communication anywhere in the United States to provide information concerning a user, including routing and addressing information about Internet communications and such non-Internet communications as voicemail. The user whose information is obtained need not be the target of the investigation. More geographically limited orders under §214 are available to state law enforcement and investigative agencies.

The USAPA, in §206 and §207, allows the “roving wiretap” in a FISA investigation, with the order allowing such surveillance obtainable under the relaxed FISA standards. This surveillance can include intercepts on all phones, computers, and so on that the target of the investigation may have used. The order allowing such surveillance may direct any person to assist in the surveillance; it is not limited to the service provider.

The notification of the existence or execution of any warrant or order allowing the search or seizure of anything “that constitutes evidence of a criminal offense” may be delayed pursuant to USAPA §213, allowing “sneak and peek” searches with no notice to the target or to the person or entity searched. However, once an investigation has obtained “foreign intelligence information,” USAPA §203 allows the sharing of that information, as well as federal grand jury information, with domestic and foreign agencies.

Title II, §224, of the USAPA contains a sunset provision that causes several of the sections to expire on December 31, 2005. Additional legislation will be required to extend these provisions, and thus their adequacy, efficacy, and legality will be assessed in the political arena.

Title III includes provisions regarding money laundering, bank secrecy, and currency crimes. It expands U.S. jurisdiction over certain financial crimes and adds administrative regulations applicable to certain parts of the financial industry. These provisions generally expand government entitlement to the financial information of individuals,

organizations, or entities engaged in or reasonably suspected of engaging in terrorist acts or money laundering activities. There is no requirement that the suspected money laundering activities have any relationship to terrorism; thus, this section is applicable to general law enforcement and to any investigation that may involve money laundering. The law expands the categories of businesses required to file reports of suspicious financial transactions or activity, whether or not they are terrorism related. The contents of those reports can be made available in employment references to other financial institutions, as well as to intelligence agencies, together with the files of consumer reporting agencies. This disclosure is to be made upon certification by the agency that the file is necessary for its conduct or investigation, activity, or analysis. This provision makes financial information of citizens broadly available to intelligence agencies without any notification to the person whose information is disclosed.

Title IV addresses administrative issues regarding the status of aliens affected by the events of September 11, 2001. In addition, §411 broadens the categories of aliens who are deportable from and inadmissible to the United States now, including aliens, their spouses, and children when the alien has ties to a terrorist organization. Ties include advocacy, fundraising, and providing material support to such an organization or to persons involved in terrorist activity. The provision gives the secretary of state authority to designate domestic or international terrorist organizations. The broad definition of terrorist activity potentially could include many domestic activist groups having no relationship to international political terrorism.

Under §412, the attorney general may certify aliens lawfully in the United States as terrorists when there is reasonable grounds to believe that the person is affiliated with a terrorist organization or engaged in terrorist activities as broadly defined in the statute. Once certified, the individuals may be detained indefinitely with no review other than habeas corpus proceedings if the attorney general determines that they threaten national security or the safety of the community or any person. Another immigration provision includes information sharing

that gives immigration authorities access to FBI and other criminal history data in connection with the visa approval process. The information in the “visa-lookout” database and information on individual aliens may also be shared, with few limitations, with foreign governments to “combat terrorism and trafficking in controlled substances, persons or weapons.”

A number of sections of the law are concerned with tracking foreign students who are in the United States. Title IV, §416, directs the attorney general to implement and expand a foreign student tracking system, including a student database that includes port and date of entry. Title V, in §507 and §508, authorizes federal law enforcement agencies to obtain student records from educational agencies and institutions and to retain, disseminate, and use the records as evidence in administrative or judicial proceedings, regardless of preexisting privacy rights in those records and restrictions on disclosure. In addition, information that has been collected from individuals under the National Education Statistics Act, including individually identifiable information, may be obtained by law enforcement agencies upon an order issued by a judicial officer who has no discretion to deny the application.

## CRIMINAL LAW APPLICATIONS

The USAPA, in §802, includes in the definition of domestic terrorism an act “dangerous to human life” that is a violation of the criminal laws of a state or the United States, if the act appears to be intended to intimidate or coerce a civilian population; influence the policy of a government by intimidation or coercion; or affect the conduct of a government by mass destruction, assassination, or kidnapping, and the act occurs primarily within the territorial jurisdiction of the United States. Such acts that occur outside the country or that “transcend national boundaries” were previously defined in 18 U.S.C. 2331 as international terrorism and remain so. The inclusion of acts that only *appear* intended to intimidate or coerce includes many domestic individual or group activities that are now subject to prosecution as terrorism. The broadening

of the concept of terrorism in the USAPA is also evident in §806, which includes in the definition of “material support to terrorists” the providing of “monetary instruments” and “expert advice and assistance” without any specification that such support be directed at the terrorist activities. In light of the broad definitions throughout the USAPA, this prohibition encompasses a wide range of support to an even wider range of groups, many of which might have numerous nonterrorist functions and activities.

In §806, the USAPA allows the seizure and civil forfeiture of all assets, foreign and domestic, of a terrorist organization without any allegation of any crime. Assets subject to forfeiture are those of any individual, entity, or organization engaged in planning or perpetrating any act of domestic or international terrorism against the United States, its citizens, or their property. Assets can be seized before any hearing, and without notice to the owner, who may then be deprived of the use of those assets for an extended period of time pending a full forfeiture hearing. The basis of forfeiture is a showing, by a preponderance of the evidence, that the assets or the owners have the necessary connection to terrorism. Again, the inclusion here of the very broadly defined domestic terrorism exposes a wide variety of groups to this provision. Other forfeiture provisions, found in §106 of USAPA, apply to property owned by a foreign person or entity with some relationship to an attack on the United States.

The USAPA also makes a variety of amendments to technical aspects of terrorism prosecutions, for example, statutes of limitations and sentencing provisions, and expands definitions of several offenses, including cyberterrorism and biological weapons offenses. Likewise, the attorney general is given primary investigative authority over all federal crimes of terrorism.

Title VI of the USAPA contains provisions concerning aid to the families of public safety officers and amendments to the Victims of Crime Act of 1984. Title VII authorizes certain information sharing in connection with critical infrastructure protection. Title IX expands the role of the CIA by allowing the dissemination of all information from

electronic surveillance or physical searches under FISA, which under USAPA now includes investigations in which foreign intelligence issues are not primary. In addition, Title IX allows the attorney general, the director of the CIA, and the secretary of defense to defer the submission of intelligence reports to Congress. Finally, the USAPA includes provisions such as Drug Enforcement Administration funding, telemarketing and consumer fraud legislation, crime identification technology and biometrics, and critical infrastructure protection funding. It provides immunity from civil liability to various third parties who cooperate with the investigative process.

### CONTROVERSIES REGARDING THE USAPA

The USAPA has stirred a variety of controversies. From the point of view of federal law enforcement, supplementary legislation has been discussed to remedy perceived weaknesses in the USAPA. Opposition to the act has been multifaceted and arguments have been made that invoke the fundamental guarantees of the U.S. Constitution. The expansion of executive power over investigations and commensurate reduction of judicial control over such investigations have given rise to criticism that the USAPA violates core principles of separation of powers, checks and balances, and due process. The breadth of the statutory language that allows the use of expanded law enforcement power has generated criticism that the expanded powers may allow widespread avoidance of the traditional Fourth Amendment restrictions on search and seizure. Vague definitions of key terms such as *domestic terrorism* and *material support* give rise to fears that even those portions of the law that are focused on terrorism might be applied to traditional criminal activity as well as to political protest. The unprecedented access afforded to all forms of private material has generated concern for the preservation of privacy interests. In particular, the broad access to domestic information afforded to the CIA has led critics to invoke past abuses by that agency. Extremely severe penalties for mere advocacy or association with suspect organizations have chilled

fundamental First Amendment rights of expression. Increased reporting obligations regarding financial transactions have imposed a burden on private businesses.

Critics have charged that this multitude of amendments approved by Congress in the immediacy of the events of September 11, 2001, was actually unnecessary and that effective use of existing law enforcement tools and intelligence resources could have detected, and even prevented, the attack. Some cynics view the USAPA as nothing more than a long-standing law enforcement wish list that was opportunistically proposed to Congress for its approval during the shock and horror of those days. Proponents of the legislation argue that the new tools and techniques afforded to law enforcement and intelligence agencies will help achieve the goals of national security and prevention of terrorism.

Some of the dissention regarding the USAPA has been fueled by misconceptions that ascribe all aspects of the War on Terror to this legislation. In fact, the USAPA does not provide for the designation of “enemy combatants” whether or not they are U.S. citizens, nor does it establish the Guantanamo Bay or any other detention facility, or provide for military tribunals. U.S. military operations in Afghanistan and Iraq are authorized separately from the USAPA. Many controversial law enforcement actions, such as the widespread detentions of certain aliens who are out of lawful immigration status, represent merely the more stringent enforcement of preexisting laws, rather than the implementation of new laws under the USAPA. The expanded secrecy provisions of the USAPA have compounded the confusion regarding the exact parameters of this legislation; because it allows investigations to proceed in secret, the public is unable to assess its true impact.

The ongoing debate over the USAPA represents a modern manifestation of the struggle to achieve an equilibrium between the need for security and the guarantee of fundamental civil liberties, while maintaining the core principles of our constitutional system.

Mary Gibbons

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# V

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## ☞ VIOLENCE AGAINST WOMEN ACT

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Responding to the harm to women caused by domestic abuse, rape, stalking, sexual assault, and other forms of violence, in 1994 Congress enacted the Violence Against Women Act (VAWA). VAWA contained numerous provisions designed to reduce the frequency of violence against women, to hold perpetrators accountable for their actions, and to provide greater relief to victims. It also authorized \$1.62 billion in federal funds over six years for these purposes. The most innovative provision of VAWA created a civil rights remedy allowing victims of violent crimes motivated by gender to bring a legal action against their perpetrators for monetary damages and other relief. However, in 2000, in *United States v. Morrison*, the Supreme Court of the United States held that the civil rights provision of VAWA was unconstitutional.

### BACKGROUND AND KEY PROVISIONS

Congress enacted VAWA following extensive hearings on the pervasiveness of violence committed by men in the United States against women. Congress found that a principle effect of this gender-based violence was to exclude women from full participation in the economic sphere, including by undermining the

ability of women to maintain employment and forcing many women into poverty and welfare dependency. Congress determined that existing state laws were inadequate to address the systematic violence against women because such laws often exempted marital rape and precluded recovery for torts committed by a victim's spouse or parent and because police, prosecutors, and judges tended to trivialize domestic violence, rape, and other crimes in which women were victims. Moreover, existing laws did not remedy crimes motivated specifically by gender bias that undermined the place of women as equal citizens.

VAWA used a multipronged approach to address violence against women. Subtitle A, labeled Safe Streets for Women, increased prisons sentences for perpetrators of federal sex crimes and imposed mandatory restitution to victims; provided funding for states to investigate and prosecute violent crimes against women and to improve the safety of parks and public transportation; allowed the use of federal funds for rape prevention and educational programs; and amended the federal rules of evidence to prohibit introducing evidence about a victim's sexual behavior or history in rape trials and other cases. Subtitle B (Safe Homes for Women) funded a national domestic violence hotline, criminalized domestic violence committed across state lines, required states to recognize orders of protection

issued in other states, required the collection of data at a federal level on sexual and domestic violence, and increased funding for women's shelters and to educate young people.

Subtitle C of VAWA (Civil Rights for Women), the provision at issue in the *Morrison* case, made certain gender-based crimes federal civil rights violations. This provision empowered victims of violent crimes motivated by gender to sue their attackers in federal or state court for compensatory and punitive damages, injunctive relief, and other remedies. VAWA defined a crime of violence broadly to include any felony under federal or state law against a person or against property if it entailed a serious risk of physical injury to a person. Such crimes were deemed motivated by gender, and therefore subject to a civil action, if committed because of the victim's gender or on the basis of gender and due to an animus toward the victim's gender. This provision made relief available to victims even if the perpetrator of gender-based violence had never been prosecuted under criminal law.

Subtitle D (Equal Justice for Women in the Courts) provided grants to educate judges and court personnel about rape and domestic violence and to study gender bias in the federal courts. Subtitle E (Violence Against Women Act Improvements) increased penalties for federal sex offenses, allowed victims of sexual assault free testing for sexually transmitted diseases, and funded studies about campus-based violence and battered women's syndrome. Subtitle F (National Stalker and Domestic Violence Reduction) enhanced record keeping and information sharing among federal, state, and local government on domestic violence and stalking offenses. Subtitle G (Protections for Battered Immigrant Women and Children) allowed battered immigrant women to seek lawful immigration status without the cooperation of an abusive spouse. Together, these provisions made VAWA a far-reaching response to violence against women.

## MORRISON AND ITS AFTERMATH

*United States v. Morrison* involved a lawsuit brought by a woman under Subtitle C, the civil

rights provision of VAWA, against two men she claimed had raped her when they were all students at a Virginia university. In a 5-4 decision by Chief Justice William H. Rehnquist, the Supreme Court invalidated Subtitle C on federalism grounds, thereby denying the plaintiff and victims like her the VAWA remedy. The Court held that Congress lacked constitutional authority to enact the civil rights provision of VAWA because it addressed matters of violent crime that under the U.S. Constitution were traditionally and properly the province of state, not national, government.

Although Congress had found that violence undermined the ability of women to participate fully in economic life, the Court in *Morrison* ruled that Article I of the Constitution, which empowers Congress to regulate interstate commerce, could not sustain VAWA's civil provision. Violence against women involved a noneconomic activity that was too removed from Congress' interstate commerce powers. The Court reasoned that violence against women did not become a matter of federal concern just because such violence may have economic effects; allowing Congress power to legislate in this manner would undermine the role of state governments. The Court also ruled that the civil rights provision of VAWA could not be upheld as a valid exercise of Congress's power, under Section 5 of the Fourteenth Amendment, to enforce the constitutional guarantee that no state shall deprive any person of life, liberty, or property, without due process of law, nor deny any person equal protection of the laws. While recognizing that Section 5 gives Congress broad legislative authority, the Court held that it only allows Congress to address governmental violations of civil rights. By giving victims a remedy against private individuals who commit crimes of violence, Congress had exceeded its constitutional powers. The plaintiff's remedy therefore lay under Virginia and not federal law.

The *Morrison* case only dealt with the single portion of VAWA that provided victims with a civil remedy against perpetrators of gender-based violence. Without this provision, however, victims who seek civil remedies must depend on the availability and reach of state laws—laws that Congress had

found inadequate at the time it enacted VAWA. The Supreme Court's decision in *Morrison* may also portend limitations on Congress's ability to enact future laws protecting people from violations of their civil rights.

Jason Mazzone

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## VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT

The Violent Crime Control and Law Enforcement Act was first referred to the House Committee on Judiciary on October 26, 1993, and was eventually signed by President William J. Clinton on September 13, 1994. It became the largest crime fighting bill passed by Congress, with provisions for spending almost \$30.2 billion from 1995 through 2000.

The Violent Crime Control and Law Enforcement Act of 1994 (Crime Control Bill) (Publ. L. No. 103-322) amended the Omnibus Crime Control and Safe Streets Act of 1968, the first federal program deliberately designed as a block grant to assist state and local law enforcement agencies in crime reduction. The Crime Control Bill was a comprehensive bill that affected a variety of crime-fighting legislation. There was grant funding to be dispersed across governments and agencies, in addition to many substantive provisions.

### GRANT FUNDING

The law provided more than \$30 billion to state, local, and Indian tribal governments, both public and private

agencies, and other multijurisdictional associations to enhance public safety and combat crime. This included \$3 billion in immigration initiatives and the remaining funding was spent on a multitude of grants.

The immigration funding was spent on various aspects of immigration control, such as border control, deportations, tracking and monitoring the influx of aliens, and provided \$1.8 billion for reimbursement to states that comprehensively criminalized illegal immigration, also known as the State Criminal Alien Assistance Program.

The remaining grant initiatives totaled around \$27.2 billion and encompassed an array of programs and initiatives. These include, but are not limited to, crime prevention block grants, the Brady Handgun Violence Prevention Act, Byrne grants, violence against women, DNA analysis, education and prevention programs to help reduce sexual assaults, National Domestic Violence Hotline, battered women's shelters, delinquent and at-risk youth, drug courts, drug treatment, crime prevention, community and family endeavor schools, crime prevention in public parks, police corps, rural law enforcement, community policing, and correctional facilities and boot camps.

The greatest contribution was provided to a competitive grant called the Community Oriented Policing Services program. This program was to receive a total of \$8.8 billion between 1995 and 2000 to increase police presence by 100,000 officers and to improve communication and collaboration between law enforcement agencies and community members. This initiative was also known as "cops on the beat." The next largest contribution of almost \$8 billion was to go to correctional facilities, boot camps, and alternative correctional facilities in an attempt to increase prison space for the more violent criminals.

### SUBSTANTIVE PROVISIONS

The Crime Control Act also had substantive criminal provisions. It greatly impacted the way in which states prosecuted their criminals. It called for harsher punishments for a variety of crimes, as well as enacting new legislation to control certain crimes.

### *The Federal Death Penalty Act of 1994*

The law expanded death penalty sentencing to an additional 60 offenses. These additional crimes included some acts of espionage, terrorist acts, homicide, murder of federal law enforcement officers, and if death should occur during certain crimes, such as hostage situations, kidnapping, genocide, and carjacking.

### *Violent Offender Sentencing*

The Crime Control Act required that states mandate that their violent prisoners complete at least 85% of their sentence or be ineligible to receive incarceration funding. This was part of the Truth-in-Sentencing initiative. In addition, federal repeat offenders who were convicted of violent crimes or drug trafficking were subject to three strikes mandatory life-imprisonment sentencing.

### *Sex Offender Legislation*

Sex offender legislation was amended so that offenders would be punished more harshly and could be supervised more effectively. For repeat sex offenders convicted of federal sex crimes, the new legislation doubled the maximum term of imprisonment. The Crime Control Act also required states to enact legislation that would require sexually violent predators and those convicted of violent sexual offenses to register with law enforcement for 10 years postrelease from prison. This has also become known as the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. Furthermore, the bill required community notification. It also provided the stipulation that states that did not execute these registration and notification systems would lose 10% of their allotted share of federal crime-fighting funds.

### *Punishment for Young Offenders*

The statute required that juveniles receive more severe punishments. For example, the act allowed for individuals age 13 and older who were charged with possessing a firearm during an offense to be prosecuted as an adult.

### *Public Safety and Recreational Firearms Use Protection Act*

The act also called for greater gun control. It banned the manufacturing, transfer, and possession of 19 styles of semiautomatic assault weapons and certain firearms with ammunition magazines that held more than 10 rounds. It also made it illegal to sell assault weapons and firearms to, or for them to be possessed by, domestic abusers and juveniles. The act also strengthened federal licensing requirements for gun dealers, requiring that they obtain both a photograph and fingerprints with the applicant's license request. Last, it enhanced penalties involving possession and use of firearms, especially in crimes involving drug trafficking and violence.

### *Violence Against Women Act*

According to President Clinton, this Crime Control Act also became the first comprehensive federal effort to focus on violence against women. It accomplished this by prosecuting offenders more harshly and providing victims assistance programs. The act called for various measures, such as mandatory restitution to victims of sex crimes, the employment of victim/witness counselors for the prosecution of sex crimes and domestic violence crimes, and the revision of Rule 412 of the Federal Rules of Evidence, which made certain evidence inadmissible, such as the alleged victim's past sexual behavior.

*Amy D'Olivio*

*See also* Brady Handgun Violence Prevention Act, Law Enforcement Assistance Administration, Omnibus Crime Control and Safe Streets Act, Violence Against Women Act

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## ☞ VOLSTEAD ACT

The Volstead Act, also known as the National Prohibition Act, was established to prohibit the manufacture of intoxicating beverages and also to regulate the production, transportation, use, and sale of alcoholic beverages containing more than one-half of 1% alcohol. Andrew Volstead (R-MN) was the chief sponsor of the act, which was initially ratified on January 16, 1919, but was vetoed by President Woodrow Wilson. Congress overrode him and passed the law on October 28, 1919. The Volstead Act became effective as the Eighteenth Amendment to the U.S. Constitution on January 17, 1920.

Alcohol consumption became a social issue in the 19th century and the temperance movement was ubiquitous in the United States. People were concerned about the excessive use of alcoholic beverages causing moral delinquency through family violence, poverty, crime, disorder, and incompetence in the workplace. The call for prohibition of alcohol grew in the United States and expanded largely as a result of the coalition of temperance movements. The leading groups struggling to outlaw drinking were the Women's Christian Temperance Union, the Anti-Saloon League, and the American Temperance Society. Women were particularly strong supporters of the temperance movement since alcohol was seen as a key factor in the destruction of families and marriages. The Anti-Saloon League was founded in 1893 and became an influential political advocacy group for passing national prohibition on alcohol. Between 1905 and 1917, many states across the nation passed laws that prohibited the manufacture and sale of intoxicating beverages. By 1914, 14 states had adopted prohibition; by 1919 the number had risen to 26. With the outbreak of World War I, the coalition of temperance movements was able to win passage of various federal prohibitory laws, the War Prohibition for instance, as part of the war effort to outlaw alcohol. Thus, the Volstead Act extended the wartime law to peacetime.

In 1917, the temperance movement activists began to move forward to ban alcohol through legislation and the House of Representatives proposed Prohibition as the Eighteenth Amendment to the

Constitution. Congress sent the amendment to the states for approval, where it needed three-fourths approval. In just 13 months, 36 of 48 state legislatures had ratified the amendment that would prohibit the manufacture, sale, and transportation of alcoholic beverages.

### ENFORCEMENT PROBLEMS

The enactment of the Eighteenth Amendment marked the end of a long struggle for prohibition legislation, but it was just the beginning of a new struggle for enforcement of the law. Although overall drinking was thought to have declined in the Volstead Act's early years, it continued uninterrupted in many parts of the country, particularly in large cities. Speakeasies, defined as clubs in which illegal drinking flourished, soon mushroomed across the country. In 1925, there were estimated to be about 100,000 speakeasies in New York City alone. People hid liquor in many ways such as hip flasks, hollowed canes, and false books. The act did just the opposite of what people expected. It rapidly created a black market for liquor that spawned organized crime, bootlegging, and corruption among the police. Even the health of people who drank alcoholic beverages deteriorated. Because liquor was no longer available to the public, people turned to gangsters operating the bootlegging industry and sold liquor with no quality control on the black market.

The failure of enforcement of the act and the increase in crime related to Prohibition led public opinion to turn against the Volstead Act. Calls for repeal of the Eighteenth Amendment began as early as 1923. President Herbert Hoover ordered an investigation in 1929, which was completed in 1931. It confirmed that the Eighteenth Amendment remained largely unenforced in many parts of the nation. In 1932, the Democrats came out for the repeal of the Eighteenth Amendment. On March 22, the Volstead Act was revised to permit the sale of 3.2% beer and wine. On December 5, 1933, prohibition was repealed by the adoption of the Twenty-first Amendment. It was the first and only time in U.S. history that a constitutional amendment was repealed. The Volstead Act was withdrawn.

A number of factors contributed to the repeal of the Eighteenth Amendment. First, the enforcement of the prohibition was extremely difficult. It made society more violent, with open rebellion against the law, especially by organized crime. The government was unable to suppress crime, which increased public dissatisfaction. Second, the influence of the Anti-Saloon League decreased after the death of its leader, Wayne Wheeler, in 1927, while the groups that opposed the prohibition became stronger and better organized. Third, the start of the Great Depression in 1929 changed the political atmosphere in the United States and

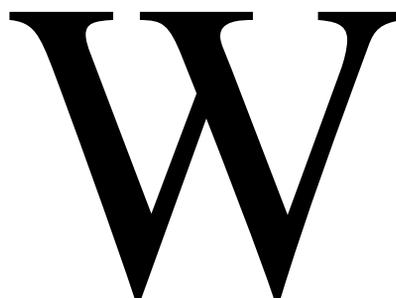
President-elect Franklin D. Roosevelt supported the repeal.

*Yi Sheng*

*See also* Prohibition Law Enforcement

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## WACKENHUT CORPORATION

Formed in 1954 by George R. Wackenhut and three other former special agents of the Federal Bureau of Investigation, the Wackenhut Corporation provides security services to a vast number of private and government agencies. Its involvement with so many federal agencies is unique among private security firms, particularly in its role as a provider of uniformed security officers for U.S. State Department facilities around the world and for nuclear power plants and transit agencies within the United States.

Much like the development of both the Pinkerton and the Burns detective agencies in the 19th century, the Wackenhut Corporation in the 21st century remains closely associated with its founder and his family. By 1958, a number of smaller companies in which he was involved were combined under the name of Wackenhut Corporation, and George W. Wackenhut remained as president and chief executive officer of the company for more than 30 years, after which his son became president. The family remains closely associated with the firm, which is headquartered in south Florida and has been publicly traded since 1966 with its stock traded on the New York Stock Exchange from 1980 until it merged with Group 4 Falck, a Danish security firm, in May 2002. Although it became a wholly owned subsidiary of Falck, Wackenhut continues to operate

as a separate company, even though its stock is no longer publicly traded.

The Wackenhut Corporation is one of the largest private security companies in the world; it employs more than 67,000 people, about 50,000 of whom provide direct security services, around the globe. Revenues in 2001 were approximately \$1.8 billion, not all of which were directly related to the security portion of the business. The firm's first international office opened in Caracas, Venezuela, in 1966. Currently, in addition to more than 150 domestic offices, it operates on six continents, with offices in Canada, the United Kingdom, Indonesia, many Western European and Middle Eastern countries, and in South American and the Caribbean, and claims operational capabilities through association with other firms in more than 85 countries. While many of its clients are private, such as banks, office buildings, and industrial complexes, it also provides security services to government and quasi-government agencies in many of these countries.

Beginning in 1978, through acquisition of another security firm, Wackenhut began providing technical and consulting services to the nuclear industry. Through its nuclear services division it provides security at close to 30 nuclear generating plants in the United States, including plant protection, access control, and fire and emergency medical services. Among the federal installations that rely on

Wackenhut for security and related services are the Department of Energy's Savannah River Site in South Carolina and its Nuclear Test Site in Nevada, the Rocky Flats Environmental Technology Center in Colorado, the Oak Ridge complex in Tennessee, the Kennedy Space Center in Florida, the Johnson Space Center in Texas, and a number of Department of Defense facilities and Army ammunition plants around the country. It has also provided a range of security services at Hoover Dam. Wackenhut's federal contracts have been estimated to be worth about \$200 million annually. Since the terrorist attacks of September 11, 2001, Wackenhut has been contracted to provide passenger security screening for the Circle Line-Statute of Liberty ferry in New York City.

Through its custom protection division, initiated in 1989, it provides uniformed officers for a number of bus and rail systems around the country. Agencies may contract for either armed or unarmed officers or some combination of the two based on local firearms licensing laws or crime conditions. Officers hired for custom protection assignments are retired military or law enforcement personnel or criminal justice students who hope to enter public law enforcement. Wackenhut is also the single largest company providing security for U.S. embassies overseas. While the number fluctuates based on annual contracts, it has guarded embassies and missions in a number of countries during times of civil unrest, including in Chile, Greece, and El Salvador. Since September 11, 2001, its State Department assignments are not as publicized as in earlier years.

In the early 1980s, Wackenhut developed a subsidiary that is active in the private prison construction and management industry. Originally known as the Wackenhut Corrections Corporation, the company, which in 2003 managed more than 50 correctional or detention facilities, is no longer associated with the Wackenhut Corporation and in 2003 changed its name to the GEO Group.

Another way in which the Wackenhut Corporation has followed the traditions of the Pinkerton and Burns agencies has been the controversies that have surrounded it. Possibly because George Wackenhut is known to hold conservative political views and because many former Central Intelligence Agency

(CIA) officials have been on its board of directors, the firm has been accused of having been involved in a number of CIA-sponsored activities and of having allowed the CIA to use its international offices to conduct investigations. None of these allegations have been proven, and company officials deny all such claims.

*Dorothy Moses Schulz*

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## WEAPONS OF MASS DESTRUCTION

Weapons of mass destruction (WMD) are chemical, biological, radiological, nuclear, and large explosive (CBRNE) means used as a terrorist tool. Several terrorist groups are known to have used, acquired, or attempted to acquire WMD. These include Aum Shinrikyo, perpetrator of the 1995 Tokyo Sarin attack and al-Qaeda, which seeks chemical, biological, radiological, and nuclear weapons to further its self-proclaimed global terrorist jihad. Additionally, after the terrorist attacks on the World Trade Center in New York City and the Pentagon on September 11, 2001, an unknown actor or actors conducted an anthrax attack via mailed envelopes to media and government officials, yielding 22 cases of anthrax infection, which ultimately resulted in five deaths.

### DEFINING WEAPONS OF MASS DESTRUCTION

The label *weapons of mass destruction* is considered to include chemical warfare agents, biological or biologic warfare agents, nuclear materials and radiological isotopes, or the intentional release of industrial agents as a weapon. A number of federal statutes provide criminal jurisdiction over the use of biological,

nuclear, chemical, or other weapons of mass destruction. These sections are found at 18 U.S.C. §§ 175, 831, 2332c, 2332a. Specifically, biological terrorism is covered at § 175, chemical at § 2332c, nuclear at § 831, and other weapons of mass destruction at § 2332a. These cover use or threatened use of WMD within the United States or extraterritorially whenever the perpetrator or a victim is a U.S. national.

### *Chemical and Biological Weapons*

Chemical or biological weapons can be utilized as unconventional weapons by a variety of actors and can include military agents or the intentional release of industrial agents. Dissemination methods mentioned in a chemical or bioterrorism context include aerosol dissemination, water contamination, food contamination, direct application, and insect vectors. Attacks against water or food supply are also possible with certain chemical and biological agents. For example, in 1984 the Rajneeshee cult attacked local salad bars with *Salmonella typhimurium* in The Dalles, Oregon, causing illness among approximately 751 people.

Many toxic substances can be potential chemical weapons, although far fewer have actually been turned into weapons (or weaponized). Examples of military chemical weapons include toxic industrial chemicals, such as chlorine, hydrogen cyanide, and phosgene; sulfur- and nitrogen-mustards selected for their blistering (vesicating) effects; and nerve agents, such as sarin and VX. Typical industrial chemicals can also be intentionally released.

Many pathogens can be potential biological weapons. These include the bacteria responsible for anthrax, cholera, and bubonic plague; the viruses responsible for encephalitis, hemorrhagic fevers (such as Ebola), and smallpox; the *Rickettsiae* responsible for typhus and Q-fever; and various toxins. Toxins are poisonous substances that occur naturally in animals, bacteria, fungi, and plants. Examples include botulinum toxin (BTX) and ricin, a plant toxin occurring in the castor bean that has recently been produced by Islamist extremists in Great Britain for potential terrorist use. Biological weapons can be used against persons or as economic

weapons against agriculture (agrorterrorism) directed against animals or plants.

### *Nuclear and Radiological Weapons*

Nuclear and radiological weapons present a novel threat in the civilian setting. Prior to the disintegration of the Soviet Union, nuclear issues were viewed as elements of conventional military operations. The few instances raising cause for alarm involved nuclear extortion. In mid-October 1995, Chechen rebel leader Shamil Basayev threatened to deploy radiological dispersion devices (RDDs) in Russia. Subsequently, a radioactive package was found in Moscow's Ismailov Park. More recently, in May 2002, José Padilla, a former Chicago gang member alleged to be affiliated with al-Qaeda, was arrested for alleged participation in a conspiracy to use RDDs in the United States.

Attacks on nuclear facilities or shipments of nuclear or radiological materials are one means of causing a nuclear or radiological incident. Another threat is the diversion and deployment of conventional military nuclear weapons. While considered a remote possibility by most analysts, reports of fissile material leakage, and attempts by rogue nations and nonstate terrorist actors to obtain nuclear capabilities show that it may be possible. Diversion of actual weapons (a loose nuke) or of fissionable material—known as special nuclear material—via theft, seizure, or clandestine purchase could make nuclear terrorism a reality. Numerous open source reports refer to the desire of Osama bin Laden, al-Qaeda, and its affiliates to pursue this option. Crude nuclear explosives known as improvised nuclear devices (INDs) are also a potential threat. The impact of a loose or crude nuclear device in an urban area would be devastating.

Radiological dispersal weapons (RDWs) include RDDs and simple radiological dispersal (SRD). RDWs spread radioactive material, contaminating people, equipment, and the environment. RDWs do not release radiation in a massive burst of energy. Rather, isotopes are dispersed (by an explosive or mechanical means) exposing persons to radiation. Terrorists can construct RDWs by obtaining radiological isotopes or sources used in industrial or medical

applications. RDWs are not likely to cause large numbers of immediate deaths, but may be responsible for excess cancer in the exposed population. Despite the low casualty-generating potential of most RDW scenarios, fear of radiation could cause significant disruption.

## LAW ENFORCEMENT ACTION

Law enforcement action to address WMDs includes intelligence toward prevention or interdiction, as well as response to and investigation of actual incidents. In the United States, the Federal Bureau of Investigation (FBI) is the lead federal agency for WMD investigations. Each FBI field office has a designated WMD coordinator who works closely with local officials to address WMD issues. The Department of Homeland Security performs many roles related to preparing for, and responding to, WMD incidents, including border and maritime security, intelligence sharing, training, equipment, and grant support to local response agencies and technology development for response.

Local police missions include containment (perimeter and area closure), evacuation, traffic control, area security, force protection (protecting fire and health personnel), crime scene management and evidence collection, and investigation (in coordination with the FBI and public health authorities). WMD incidents are crimes that require skilled law enforcement intervention and management. They may combine elements of hazardous materials response and public health emergencies; response from local, state, and federal agencies necessitating special skills; and a high degree of interagency coordination.

*John P. Sullivan*

*See also* Chemical and Biological Terrorism; Department of Homeland Security; Emergency Preparedness; Federal Bureau of Investigation; Nuclear Security, Department of Energy

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## WELLS FARGO

Wells Fargo was not the first express company in the United States, but it became synonymous with the American West and with the fight against the robbers who called to drivers to “throw down that box,” the iron-bound green box that contained money, gold, mail, and whatever else people might need to send from one place to another. Despite its association with the West, particularly in relationship to law enforcement, Wells Fargo was formed in 1852 by two Easterners, Henry Wells and William G. Fargo, to serve the west by offering banking and express package delivery. In 1845, the two had previously formed Wells & Co.'s Western Express to provide express and package service west of Buffalo, New York, to Cincinnati, Ohio; St. Louis, Missouri; and Chicago, Illinois. Its modern equivalents would be the United Parcel Service and Federal Express.

After 1866, Wells Fargo combined all the major western stagecoach lines and its distinctive coaches began to travel over 3,000 miles of territory from Nebraska west to California. Wells Fargo carried passengers, mail, and packages in its stagecoaches; valuables were locked in Wells Fargo's easily identifiable green iron boxes. The boxes were always placed on the driver's bench of the stagecoaches and protected by shotgun messengers, virtually all of whom were crack shots with a rifle and many of whom were peace officers before, during, or after their employment with Wells Fargo.

At a time when there were few local police and no federal law enforcement, the shotgun messengers, undercover agents, and special agents employed by

Wells Fargo constituted a police system set up not only to combat bandits but also to investigate internal theft and fraud within the company. This system was the model of policing that would be followed by the railroads when they set up their policing system and by many federal agencies that also relied on a combination of plainclothes special agents and internal auditors for their policing, with the addition of uniformed officers at their primary locations later in their development.

In 1858, Wells Fargo was estimated to have carried between 70 and 90% of the mail in California, making the coaches immediate targets for some of the famous western robbers. To combat these thefts and robberies, the company employed a vast network of stagecoach shotgun messengers, who rode in the passenger seat of the stagecoach to protect goods and lives and were expected to shoot to kill any would-be robbers. On some particularly dangerous routes, the stagecoaches traveled in caravans with armed riders in front and behind the coaches that carried bullion during the gold rush years. The value of the packages carried by Wells Fargo would be difficult to estimate at current value. Between 1870 and 1877, one messenger was estimated to have carried \$4 million worth of gold solely within the state of California.

The shotgun messengers who also had careers as public law enforcement officers included Wyatt Earp, later a deputy U.S. marshal, and both his brothers, Virgil, later a city marshal of Tombstone, Arizona, and Morgan, a Tombstone police officer; and Bob Paul, later sheriff of Pima County, Arizona, and U.S. marshal of Arizona Territory. Less well-known was "Old Charlie" Parkhurst, a messenger who died in 1897 and was only then discovered to have been a woman.

## OLD CASES WERE NOT COLD CASES

Although many of the detectives are less famous, their reputation as the force who never forgets reinforced their technique of expending money and manpower to hunt down those who robbed them. One of Wells Fargo's best-known detectives was James B. Hume. Although Wells Fargo employed special

agents prior to Hume, he has been credited with establishing its pattern of tenacious retroactive investigation of past crimes that would be followed by railroad police, private detective agencies, and municipal and federal police agencies until the present time. Typical of the movement from public to private policing that existed at the time, Hume had been a deputy tax collector; an elected city marshal in Placerville, California; an undersheriff; and the elected sheriff of El Dorado County, California. Elected in 1868, he was defeated for reelection in September 1871 and was then hired by Wells Fargo, although he briefly left the express company to serve as deputy warden of the Nevada State Prison. By 1873 he had returned to Wells Fargo, where he worked until he was well into his sixties. He died in 1904 at the age of 77. By then he had been replaced by his long-time deputy, John Thacker, who had been elected sheriff of Humboldt County, Nevada, in 1868, but moved to California and began working as a shotgun messenger for Wells Fargo in 1875. Thacker retired from Wells Fargo in 1907; he died in 1913.

Hume developed modus operandi files, mug shot books of suspects and past robbers, and made use of the developing science of ballistic recognition. Wells Fargo also made extensive use of wanted posters, generally indicating the details of the crime and posting a generous reward for information about or capture of the robbers dead or alive. Hume, Thacker, and other members of the special agents force were often photographed after completion of some of their more publicized cases. Each was always well dressed, with long dark jackets, string ties, and large cowboy or bowler-style hats, looking like prosperous gentlemen of their era.

Although the heyday of stagecoach robberies began to draw to a close with the establishment of cross-country train service on May 10, 1869, it continued until long after train robbery had replaced it as a primary source of income for western criminals looking for large paydays. Between 1869 and 1884, more than 300 stagecoaches were robbed, 16 robbers were killed, 7 were hanged by citizens, and 8 guards were killed or wounded. The total amount of money and goods stolen was more than \$400,000.

In addition to making good on the loss to customers, the company spent more than the amount stolen for rewards, prosecutions, and salaries to guards, shot-gun messengers, and special agents. Salary alone for those years was more than \$326,000.

After 1888, as the railroads replaced stagecoaches, Wells Fargo continued to operate its services by transporting mail, money, and packages in railcars attached to the railroads' own passenger and package cars. The plan did not eliminate robberies; the first robbery of a Wells Fargo car attached to a train occurred in Nevada on November 4, 1870. Despite these crimes, the plan remained in effect; years later the U.S. Post Office would also attach its own railcars to regularly scheduled train runs.

The last big armed robbery attempted against a Wells Fargo shipment carried by train occurred in Texas, about 300 miles east of El Paso, in 1912, when the messenger was confronted by an armed man he killed by smashing him in the head with a wooden mallet. A second bandit was also killed. The last documented stagecoach robbery occurred near Jarbidge, a one-street town in Elko County, Nevada, in December 1916. Signifying the end of one era of American law enforcement and the beginning of another, the trial of one of the suspects was the first to rely on a palm print of the accused. The print was used to convict Ben Kuhl of the murder of stagecoach driver Fred Searcy. Although sentenced to death, Kuhl's confession just before his scheduled execution in 1918 resulted in his sentence being commuted to life. He was released at age 60 and died in 1944. It was, though, far from the last robbery of a Wells Fargo shipment. In September 1983 militant Puerto Rican nationalists led by Filiberto Ojeda-Riso held up the Wells Fargo depot in Hartford, Connecticut, and got away with about \$7 million.

The Wells Fargo company still exists, but it is no longer in the express business. It is one of the largest banks in the United States and has also become a diversified financial services company. It has retained the stagecoach as a symbol of its historic role in transportation and law enforcement.

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## WHITE-COLLAR CRIME ENFORCEMENT

White-collar crime is most often defined as crime committed by individuals who are engaged in professional activities and who participate in criminal activity to benefit either themselves or their employers. Because white-collar criminals are persons in professional occupations, the phrase *white collar* is used to differentiate the offenders and their offenses from the more traditional violent crimes such as robbery or assault. White-collar crime is often also called corporate crime or more informally *suite crime*, again in contrast to street crime. Offenses might include bribe taking, price gouging, fraud, mislabeling products, or violations of tax or other regulatory agency prohibitions. Despite the problems in defining white-collar crime and in enforcing against it, many federal law enforcement agencies have traditionally been created to deal specifically with such crimes, rather than street crime, which is more commonly the responsibility of local police forces.

## HISTORY OF WHITE-COLLAR CRIME ENFORCEMENT

The Commerce Clause of the U.S. Constitution gives the federal government the power to regulate white-collar crime. Regulations have existed in the United States controlling such crimes since 1890, with passage of the Sherman Antitrust Act, designed to outlaw monopolies and price fixing. Articles in the early 1900s by investigative journalists who came to be known as *muckrakers* brought to the public's attention crimes and other exploitations committed by industrial elites and resulted in a number of regulatory laws. The Clayton Act of 1914, which was revised in 1950, was designed to control business practices that had a profoundly negative impact on the economy, and the Federal Trade Commission Act of 1914 was designed to control interstate commerce and established the Federal Trade Commission. Although the Sherman Antitrust Act is a criminal statute whose violation results in heavy fines or prison time, the Clayton Act and the Federal Trade Commission Act are civil statutes that allow victims to sue the violator for damages up to three times their actual losses. In addition to being held in violation of these acts, violators may be charged with such crimes as perjury, obstruction of justice, making false statements to the government, and conspiracy (a crime that has recently been expanded). In addition, state governments regulate white-collar crime, in many cases in collaboration with federal agencies.

Following the stock market crash of 1929, the nation witnessed a growing governmental concern over white-collar crime. Corporations were increasingly held accountable for their deceptive activities. The Securities Act of 1933 required that public organizations openly and honestly provide reliable information to allow investors and affected bodies to make informed decisions. In the following year, the Securities and Exchange Commission (SEC) was created by the Securities Exchange Act of 1934 to monitor the securities market and investigate unusual market activity, including what has come to be known as insider trading, which occurs when stock is traded on the open market with advance

knowledge of events that may affect the stock's value. The SEC most commonly investigates the crimes of insider trading, accounting fraud, and misrepresentation. Other acts legislated to control white-collar crime during this time include the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Act of 1940, and the Investment Advisors Act of 1940.

The study of white-collar crime by criminologists was advanced by Edwin Sutherland, who, in an attempt to develop a general theory of crime, began to focus on the crimes of professional and powerful individuals. In 1939, in his presidential address to the 34th annual meeting of the American Sociological Society, he coined the term *white-collar criminal*. By 1949, Sutherland had developed his argument, empirically tested it, and published *White Collar Criminal*, the most cited work on the subject. The largest dilemma in the study of white-collar crime has been the development of an acceptable definition. According to Sutherland's definition, "white-collar crime may be defined approximately as a crime committed by a person of respectability and high social status in the course of his occupation." Sutherland also believed that white-collar criminals were well organized because they had the economic and political power to control legislation and administrators and to impact the enforcement of the laws controlling white-collar crime. As such, Sutherland believed that white-collar crime was extremely damaging to society.

Due to the failure to agree on a definitive concept of white-collar crime, researchers have further developed it to include four categories: occupational crime, which involves crimes for the benefit of an organization; state authority occupational crime, which includes crimes committed by officials as a result of an abuse of government power; professional occupational crime, which includes crimes committed by professionals in the course of their occupation and in violation of the trust given to them; and individual occupational crime, which involves crimes committed by individuals who are not government officials or professional elites and who commit these crimes through their occupation for individual benefit.

The diversity of crimes fitting into the category of white-collar crime has also made it difficult to categorize and measure by the criminal justice system. Such crimes include antitrust violations, bank fraud, bankruptcy fraud, bribery, credit card fraud, computer and Internet fraud, counterfeiting, economic espionage, embezzlement, environmental law violations, financial fraud, government fraud, health care fraud, insurance fraud, insider trading, kickbacks, mail and wire fraud, money laundering, phone and telemarketing fraud, public corruption, tax evasion, and trade secret theft. White-collar crime, although sometimes violent, is more likely to be used primarily to include property or financial crimes. In 1989, the U.S. Department of Justice defined white-collar crime as “those illegal acts which are characterized by deceit, concealment, or violation of trust and which are not dependent upon the application or threat of physical force or violence. Individuals and organizations commit these acts to obtain money, property, or services; to avoid the payment or loss of money or services; or to secure personal or business advantage.”

### **WHITE-COLLAR CRIME ENFORCEMENT EFFORTS**

A number of political and business scandals in the 1960s and 1970s drew public and law enforcement attention to white-collar crime. National attitude studies revealed that public trust and confidence in the government and other American institutions were at an all-time low. In the late 1950s, public trust in the government was positive among more than 70% of the U.S. population. By the late 1970s, this had dropped to 30% and white-collar crime became a major focus of government enforcement agencies. The Federal Bureau of Investigations (FBI) declared white-collar crime and public corruption to be serious problems whose prosecution was necessary to restore legitimacy. While the U.S. attorney's office and FBI were already engaged in investigating and prosecuting white-collar crimes, they moved to establish formal white-collar crime programs and increase resources to their enforcement. By 1980, 15% of the FBI's budget was allocated to white-collar

crime enforcement. However, resource allocation decreased by the mid-1980s. Despite shifts in resources since that time, concerns with terrorism since September 11, 2001, have again resulted in fewer resources being expended by the FBI on investigation of white-collar offenders.

Interest in white-collar crime increased in 2001 and 2002, with the occurrence of four of the largest corporate bankruptcies in U.S. history, including Enron's Chapter 11 bankruptcy protection request of \$63.3 billion, Global Crossing's of \$25.5 billion, Adelphia's of \$24.4 billion, and Worldcom's record filing of \$107 billion. In each case the organization allegedly hid its actual financial condition in violation of a number of federal regulations, including the Securities and Exchange Act and Employee Retirement Income Security Act (ERISA). In each case, corporate authorities claimed false profits and inflated the actual value of their stocks to encourage employees and the public to buy or established pension fund blackout periods, while top executives aggressively sold off their shares, profiting in the billions. This left employees with worthless retirement plans and has been estimated to have caused economic damage of more than \$7 trillion.

### **CURRENT WHITE-COLLAR CRIME LEGISLATION**

In response to these events, Congress passed a number of antitrust bills, including the Emergency Securities Response Act of 2001, the Sarbanes-Oxley Act of 2002, the Corporate and Criminal Fraud Accountability Act of 2002, and the White-Collar Crime Penalty Enhancement Act of 2002 (WCCPA). President George W. Bush also created the Corporate Fraud Task Force to oversee corporate financial crimes investigation, prosecution, and policy through interagency collaboration. The task force is chaired by the deputy attorney general and includes the FBI and the Criminal and Tax Divisions of the U.S. attorney's office. Enforcement and regulation are enforced in collaboration with the Securities and Exchange Commission, the Department of the Treasury, the Department of Labor, the Commodities Futures Trading Commission,

the Federal Communications Commission, the Federal Energy Regulatory Commission, and the U.S. Postal Inspection Service.

The focus is on both individual criminal accountability and corporate accountability. The Sarbanes-Oxley Act of 2002 was designed to control accounting oversight, auditor independence, insider trading, corporate responsibility, honesty in financial information, conflicts of interest among analysts, the resource needs of the SEC, criminal fraud accountability, and criminal penalty enhancements. It also expanded the resources of the SEC and created the Public Company Accounting Oversight Board to monitor auditors.

The Sarbanes-Oxley Act included the WCCPA, which increased the maximum prison sentence of white-collar criminals for violations of the ERISA, fraud, and conspiracies to commit fraud by up to 10 times the prior sentencing statutes. The WCCPA also mandated that the U.S. Sentencing Commission alter its sentencing guidelines for these offenders to reflect the seriousness of the crime.

## CURRENT ENFORCEMENT PATTERNS

Measurement of white-collar crime continues to be problematic, in part because of the imprecision of the definition and in part because a large number of regulatory agencies have primary responsibility for the crimes included in the definition. These agencies include the Consumer Product Safety Commission, Food and Drug Administration, the Federal Trade Commission, the Environmental Protection Agency, the Occupational Safety and Health Administrations, and the SEC. Though the FBI is responsible for an increasingly large number of white-collar crime investigations, most of the other agencies have administrative, rather than criminal, jurisdiction, which means that although they are able to impose financial penalties, they cannot bring criminal charges against offenders. Furthermore, since regulation of these crimes is overseen by so many different agencies, there is no central database that measures the frequency and characteristics of these crimes and criminals.

This decentralization poses a great problem to the understanding and control of white-collar

crime. While the FBI releases its annual Uniform Crime Report (UCR), the crimes included in the UCR are largely street crimes, although the UCR does include such white-collar crimes such as embezzlement, fraud, forgery and counterfeiting, and larceny. A recent attempt to improve white-collar crime reporting by the FBI is the revised UCR, the National Incident-Based Reporting System (NIBRS), which includes many more crime types and characteristics of criminal activity than does the UCR. NIBRS has the potential to increase statistics reporting of white-collar crime through the more detailed reporting of computer crime, location of the offense, value of the property stolen and recovered, victims of white-collar crime, and law enforcement responses.

## FUTURE DIRECTIONS

Though inroads to criminal prosecution of white-collar criminals have been made, many barriers remain in the investigation, prosecution, and disposition of white-collar crime include defining and measuring white-collar crime, policing and prosecuting white-collar crime, and maintaining a crime approach in the face of much administrative oversight. The ambiguity in defining white-collar crime does not allow for accurate measurement. The economic emphasis of white-collar crime law enforcement has allowed for control to be achieved through many administrative, as well as criminal, agencies. This practice allows for decentralization, inconsistency, and potential problems of collaboration when monitoring, controlling, and measuring white-collar crime. This practice also detracts from the seriousness and potential violence of white-collar crime. The true nature and frequency of white-collar crime in the United States has yet to be realized.

Detection and investigation of white-collar crime is complex. Although historically white-collar crime has been investigated primarily at the federal level, state and local police and prosecuting agencies are increasingly engaging in white-collar crime enforcement. The problem that presents itself is the lack of training in investigating these crime types. State and local police officers are trained primarily

in combating street crimes and often prosecutors on the local level do not have the resources to investigate and prosecute such complex cases whose verdicts are uncertain. State and local police and prosecutors often find themselves up against highly paid and highly qualified corporate lawyers.

Even federal law enforcement agents may be ill-equipped to investigate the most sophisticated types of white-collar crime, which may involve organized crime or international cartels and be well beyond the technical sophistication of today's police agencies. Finally, the complexity of these crimes may result in only the least serious being successfully prosecuted, whereas others are able to continue out of the public purview.

The passage of the Sarbanes-Oxley Act of 2002 and the White-Collar Crime Penalty Enhancement Act of 2002 and the creation of the Public Company Accounting Oversight Board and the President's Corporate Fraud Task Force create the potential for the redefinition of white-collar crime and more intense efforts to police it. The dramatically increased sentencing penalties, the mandates to the U.S. Sentencing Commission, and the constraints to prosecutorial charging and bargaining have the potential to increase government effectiveness in prosecution of white collar criminals and may result in a reassessment of the treatment of these offenders.

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*See also* Securities and Exchange Commission

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## WOMEN IN FEDERAL AGENCY LAW ENFORCEMENT

The modern history of women special agents in federal law enforcement agencies began in 1971, when President Richard M. Nixon issued Executive Order No. 11478. The order, Equal Employment Opportunity in the Federal Government, prohibited discrimination in employment at the federal level because of race, color, religion, sex, national origin, handicap, or age and effectively ended the ban on employing women in the title of special agent. It also opened up to women positions in GS-1811 status, or criminal investigative positions, from which they had previously been barred. Agencies that hired women that same year included the Secret Service and the Postal Inspection Service. Others, including the Federal Bureau of Investigation (FBI), did not implement this change until 1972.

Although women continue to have a difficult time establishing credibility among their male peers and have filed numerous lawsuits against virtually all the federal law enforcement agencies, it did not take long for them to begin to establish firsts. Within a year of their appointments, five women in the U.S. Secret Service became the first women assigned to guard a presidential candidate when they were assigned to protect Representative Shirley Chisholm (D-NY), the first woman to campaign for a major party presidential designation. By 1993, when fewer than 200 of the Secret Service's 2,000 special agents were women, a small number of women had been assigned to guarding not only presidential relatives, but the president himself.

The FBI hired its modern female agents in 1972, after the death of J. Edgar Hoover, when acting director L. Patrick Gray III ordered that women be accepted as agents. The first women began training at the FBI Academy in Quantico, Virginia, in the summer of 1972. One of the women, Sheila Horan, who was a graduate student in education and psychology when she decided to change careers, years later became one of the highest ranking women in the agency. Indicative of how difficult it is to measure progress on the basis of the careers of individual women, in 1994 one of the earliest women

agents sued the agency upon her retirement. Although the numbers of women in the FBI have increased, they still comprise a small percentage of agents. From June 30, 1974, to December 31, 1976, the number rose from 30 to 70; at the time women were still less than 1% of the agent force. By 1986, about 650 women made up 7.3% of the total force of just fewer than 9,000 special agents, and by 1991, women were just more than 10% of the somewhat larger force of just fewer than 10,000 agents.

The overall percentages of women in federal policing have not been increasing rapidly. From 1996 until 2000, women accounted for slightly over 14% of federal sworn officers. By 2000, the Internal Revenue Service (IRS) had the largest percentage, about 25%. Of agencies under the Department of Justice, the FBI had the largest percentage in 2000 (almost 16%) and the Drug Enforcement Administration (DEA) had the smallest (just under 8%). The figures had not changed much by 2002, when women were still less than 15% of all federal officers with arrest and firearms authorization, and the IRS continued to employ the largest percentage (28%) and the DEA continued to employ one of the smallest percentages (8.6%).

Despite its small percentage of women, the DEA was the first federal agency to name a female director. In 2003, Karen P. Tandy, a federal drug prosecutor who was an associate deputy attorney general and director of the Organized Crime Drug Enforcement Task Force at the time of her appointment, was selected to run the agency, assisted by Michele M. Leonhart as her deputy. Leonhart, a career DEA special agent who was in charge of its Los Angeles field office, was the first woman in her agency to come from the agents' rank to a top management position. Previously, a few women had risen from special agents to high-level management positions in the FBI, beginning in 1993 when veteran agent Burdena Pasenelli was named the first female assistant director.

A number of other agencies, including U.S. Customs; the Border Patrol; the Secret Service; and the Bureau of Alcohol, Tobacco, Firearms, and Explosives have also promoted women to the assistant director or assistant commissioner levels. In 2002, the Central Intelligence Agency placed a woman in charge of intelligence analysis. Also in 2002, Theresa Chambers was named chief of the

U.S. Park Police, but by 2004 she was embroiled in a controversy within the agency that had resulted in her being placed on administrative leave and then fired despite her having filed a number of lawsuits disputing the events leading to her termination.

Women have had greater success in increasing their numbers in many of the Offices of Inspectors General than in the older federal law enforcement agencies. Many of these agencies are more investigatory than arrest-oriented, which may have accounted for women's greater acceptance in the ranks. As of mid-2002, women agents comprised almost 30% of special agent and investigatory staff in more than one office, including Agriculture, Education, Health and Human Services, Interior, Small Business Administration, and Treasury (Tax Administration).

## EARLY WOMEN LAW ENFORCERS

The only federal law enforcement agency to have employed women throughout its history is the U.S. Marshals Service. Deputies were appointed by the U.S. marshals, and many, particularly in the West, were willing to appoint women to their staffs. The first woman positively identified as working for the marshals service, F. M. Miller, was commissioned out of the federal court at Paris, Texas, sometime prior to 1891 and was reported at the end of that year to have been the only female deputy working in the Indian (Oklahoma) Territory and to have aided in transporting prisoners. Also in Oklahoma Territory, Ada Curnutt, who in 1893 served as a deputy to Marshal William Grimes (in office from 1889 to 1893) traveled by train from Norman to Oklahoma City, where she arrested two men and brought them back to Norman. Curnutt, the 20-year-old daughter of a Methodist clergyman, also held the title of district court clerk in Norman. S. M. Burche and Mamie Fossett worked as deputies for U.S. Marshal Canada H. Thompson, who was the marshal of Oklahoma Territory from late 1897 to January 1902. Other women, most of them office deputies, also worked in Oklahoma Territory. Later, in 1929, Deputy Dorothy Rose, 21, guarded female prisoners in Chicago and Deputy Norma Haugan assisted in the arrest of Al Capone in 1931.

Women have served in the position of U.S. marshal since the 19th century. Phoebe Wilson Couzins, the third woman allowed to practice law in the United States, was appointed the U.S. marshal for Missouri in 1887 by President Grover Cleveland. Succeeding her late father, she held the position for only two months. Katherine Battle Gordy had a much longer tenure; she was the U.S. marshal for the Southern District of Alabama from 1936 until 1952. More recently, President Ronald Reagan in August 1982 named Faith Evans to head the District of Hawaii. In 1985, Lydia Glover became marshal for the District of South Carolina; a number of other women have been appointed by presidents of both parties since then. In 2003, one former U.S. marshal, Nannette Hegerty, was named chief of the Milwaukee, Wisconsin, Police Department, where she had begun her policing career and where she returned when her appointment as marshal was not continued by President George W. Bush.

Women also served in the Bureau of Investigation (BOI), the forerunner of the FBI. Alaska Davidson was appointed a special investigator on October 11, 1922. The first female special agent, Jessie Duckstein, was appointed on November 6, 1923, followed by Lenore Houston, who on January 14, 1924, was given the title of special employee. Their careers were short; by 1935, when the BOI became the FBI, they were dismissed by new director J. Edgar Hoover, who removed a large number of political appointees and who did not believe women should be employed in direct policing positions, but only as clerical support staff for male agents.

These women's backgrounds differed considerably from modern women agents. Duckstein had joined the BOI in August 1921 as a steno/typist. In July 1923 she was promoted to confidential secretary to then-Director William J. Burns. Shortly after, at her request, Burns ordered her title changed to special agent. A 37-year-old high school graduate, she was sent to New York City for training, after which she was assigned to the Washington, D.C., office. In May 1924, Special Agent in Charge E. R. Bohner wrote to acting director Hoover that it was not advisable to have a woman agent assigned to that office.

Davidson was 54 years old when she was appointed a special investigator. She had no prior

law enforcement experience and also received her training in the New York office. Shortly after she was assigned to Washington, Bohner advised Hoover that there was no work for her. On May 26, 1924, Hoover requested both their resignations based on a reduction in the number of agents' positions. Duckstein resigned effective May 24 and Davidson effective June 24. Houston, a 45-year-old high school graduate who had completed three years of college and a business course and who had been designated a special agent by Hoover on November 26, 1926, worked in Philadelphia and Washington, D.C., until she resigned on October 10, 1928. By 1930, she was confined to a hospital suffering from hallucinations and threatening to shoot Hoover upon her release. No other women are known to have served in the FBI outside of clerical positions until 1972.

### WILL THE NUMBERS INCREASE?

It is difficult to determine whether the numbers of women in federal law enforcement will increase substantially. Much of the growth of federal law enforcement has been in agencies that have not substantially increased their numbers or percentages of women, and recent research into work-related issues reinforces that positions that require training away from home are not conducive to career breaks and positions that require frequent transfer are not attracting increasing numbers of women. At a time when members of the first generation of women special agents are retiring, although a small percentage have moved up in rank into visible leadership positions, recruitment and human resources personnel are unsure whether a new generation of women will fill the vacancies created by the retirees.

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## WOMEN IN FEDERAL LAW ENFORCEMENT

Women in Federal Law Enforcement (WIFLE) began in 1978 as the Interagency Committee on Women in Federal Law Enforcement (ICWIFLE), a task force formed by the U.S. Office of Personnel Management to study the reasons women were not becoming or remaining federal law enforcement officers. In 1983 its sponsorship was transferred to the Department of Justice and the Department of the Treasury, with each agency represented by a cochair. In June 1999, leaders of the group decided to achieve greater independence by incorporating outside the interagency committee and changed the group's name to Women in Federal Law Enforcement.

Mindful of the fact that until 1971 women were prohibited from holding most federal law enforcement positions that required carrying a firearm, WIFLE's primary aim has been to achieve equity for women in law enforcement. It encourages the recruitment, retention, and promotion of women in federal law enforcement and it recommends solutions to existing barriers. To assist agencies in locating applicants, WIFLE has established a network to mentor women who are interested in or are currently employed in federal law enforcement. Last, WIFLE is concerned with enhancing the image of law enforcement in the community and promoting collaborative and cooperative leadership styles. To meet their goals, members of the organization have gathered statistics on women in individual agencies, have recommended solutions to barriers facing women in federal law enforcement (particularly transfer policies that are disadvantageous to dual career families), and have

promoted equitable treatment of women in entry and promotion processes.

Annual conferences, which until 2000 were each cosponsored by a different federal law enforcement agency in cooperating with ICWIFLE, draw more than 1,000 women from across the spectrum of federal law enforcement, including large and small agencies and investigative and uniformed personnel. Major awards are announced at the conference. The Julie Y. Cross Memorial Award commemorates Secret Service Special Agent Cross, who was killed in the line of duty while on surveillance near Los Angeles International Airport on June 4, 1980. The recipient must have displayed unusual courage during an especially heroic act. The Doris R. McCrossen Manager Award is named in memory of the late Department of Justice Federal Women's Program manager and it recognizes a federal official who has contributed to the recruitment and advancement of women in law enforcement. The Outstanding Advocate for Women in Law Enforcement Award honors an individual who has worked to eliminate systemic barriers to career opportunities for women in federal service.

Through its Washington, D.C., headquarters and local chapters around the country, WIFLE also conducts fund-raising events to support college scholarships for women interested in federal law enforcement careers. Members also hold forums aimed at advising women of the requirements, benefits, and typical tasks associated with federal policing. Enhancing its efforts to publicize federal law enforcement generally and women federal law enforcers specifically, in 1996 WIFLE produced a 35-minute documentary film based on interviews with a dozen women in 10 different federal agencies.

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# Appendix

*Law Enforcement News*

15 Years in Review (1989–2003)

*Marie Simonetti Rosen*

# 1989 IN REVIEW

## New Players in the Safety Game, New Challenges for Police

With its record-breaking levels of violence and a commensurate increase of concern on the part of the public, the media and government at all levels—in short, on the part of just about every American—1989 can stand on its own in the catalog of years, yet it is impossible to set aside the fact that the year ends a decade of dramatic change for law enforcement and begins a decade of dramatic challenges. Whether viewed as a year in isolation or as the culmination of a decade, 1989 bore witness to portentous changes in the role of the police in the overall production of public safety.

Ten years ago, the police were seen as the authority on crime. They were the experts. In many respects the profession thought of itself as having a monopoly on safety and public order. Over the past ten years, however, the field has gradually acknowledged that it cannot shoulder this responsibility alone, and other segments of society have started to participate in crime prevention and protection. Perhaps the single most significant manifestation of this change in 1989 came with the official entry of the military into the drug war.

### THE IRONY OF MILITARY INVOLVEMENT

There is a certain irony to the notion that, at a time when police departments are increasingly moving away from the military model of management, branches of the military have joined with local, state and Federal law enforcement officers, who to date have been the only line of defense on the nation's streets and borders. In at least 48 states and the District of Columbia, the National Guard was called upon to provide radar and air surveillance, eradicate domestic marijuana crops, and assist the Customs Service with cargo checks at border crossings and airports. Whether helping Washington, D.C., police with searches or getting involved with police efforts against gangs and illegal drugs, as was

reported in Portland, Ore., thus far Guard units have worked under the direction of local and Federal law enforcement agencies. As the year progressed, however, the temptation to change that picture appeared to be growing. The Miami chapter of the NAACP had requested the involvement of the Guard in patrol duties, citing unsubstantiated fears of a “look-the-other-way” response from police protesting the conviction of a fellow officer for the shooting of a civilian. In New York and Detroit, local elected officials called for deployment of the Guard to address street-level drug dealing in their high-crime neighborhoods. San Francisco considered calling in the Guard to free police for patrol duties as a result of increasing gang violence. Army doctors in Los Angeles received their training by working in inner-city hospitals on gunshot wounds incurred in gang wars. As the year ended, the contingent of 50 Marines assigned to assist the Border Patrol exchanged fire with drug smugglers for the first time.

With lobbying efforts already underway in Washington to allocate the so-called “peace dividend”—as much as \$10 billion by some reports—the military's entry into the war on drugs comes at an opportune time for the armed forces to justify retaining certain resources—including high tech, big-ticket items—by redeploying.

Congressional officials are already on record when it comes to the drug war and the military. Said one committee chairman, “With all the billions spent on the military, if they can't help us, then we don't need them.” Policing in America has traditionally been decentralized—fragmented, some would say—and while the debate on consolidation of small departments ebbs and flows on the waves of demographics and politics, local police authority has remained part of the American bedrock. Could the use of the National Guard be seen as a dent in the armor of local law enforcement control? Regardless of the answer, the future holds increased interaction between the military and law enforcement.

## FEAR, VIOLENCE STALK THE STREETS

For local communities, the battlegrounds of the drug war, the year was fearful at best and violent at worse. One poll published in October indicated that more than 70 percent of Americans feared becoming a victim of drug-related violence. Media reports in five U.S. cities compared sections of those cities to Beirut on the basis of having reached a stage of “civil insurrection.” With increasing frequency in 1989, the community took matters into hand. In Berkeley tenants found a way to evict drug dealers through legal proceedings in small claims courts. In some of the nation’s public housing developments, the U.S. Department of Housing and Urban Development stepped in with streamlined eviction procedures and help from the U.S. Marshals Service to eject drug dealers. Communities formed patrols, they engaged in activities ranging from prayer vigils to burning down crack houses. Nor was extreme action limited to residential properties; it was also to be found in the schools. The increase in handguns carried by adolescents prompted six of the ten largest school districts in the country to make use of metal detectors. Drug-free zones were created around schools to permit higher penalties for drug offenses. And, to be sure, it took the murder of five schoolchildren and the wounding of numerous others in Stockton, Calif., to rivet public attention on the issue of assault rifles.

But whether or not one lived in a high-crime area, the media brought the crime issue, particularly drug-related crime, into almost every household on a daily basis, dramatically increasing the regular coverage of criminal justice issues. Print and broadcast media alike not only expanded their news coverage, but added expanded feature stories on the problems of drugs and crime. For television, law enforcement issues also ranked high on the list of prime-time entertainment formats. From controversial “fact-based” dramas of particularly heinous crimes, to “realistic” police shows, television has moved to capitalize on Americans’ growing fear of crime. Syndicated shows like “America’s Most Wanted” and “Unsolved Mysteries” have joined local Crime Stopper shows in providing a forum for community involvement in apprehending offenders, while at the same time proving a profitable cog in the entertainment machinery.

## FOR SOME, CRIME IS GOOD FOR BUSINESS

Private-sector endeavors against crime are increasing as well, with evidence of dramatic growth in the number of persons employed in private security. By some estimates, more than 1.2 million Americans were employed in the private security field in 1989—1.6 percent of the workforce. (Sworn officers and civilians in state and local police agencies are estimated to number about 758,000.) While labor experts express concern over the productivity lag that such employees create—by adding to the cost of products without aiding in their production—police experts fear that an unequal ability to purchase protection creates unequal protection. Civil libertarians, for their part, point to some small

private companies whose marketing pitches boast that they do not operate under the same legal restraints as the police. With the 1989 Supreme Court decision, drug-testing companies are quickly becoming a growth industry. Prison construction industries are booming. From proliferating locks and alarms, to high-fashion bulletproof clothing, to the more than 4 million firearms produced in 1989 alone, private industries are growing up and prospering on public fear and high crime rates.

[Even public-sector employment has prospered. Helped by increases in correctional jobs, more Americans are said to be employed by government than at any other time in the nation’s history. Over the past six years, the Justice Department experienced the highest level of staff increases of any Federal agency—some 30 percent. (The Department of Education, meanwhile, experienced a 30-percent decrease in manpower.)]

The economic dimensions of crime and criminal justice received more attention in 1989. Surpluses in several branches of the Federal Reserve Bank were attributed to drug-related proceeds. Compared to 1988, public safety costs rose by an average of nearly 33 percent in the country’s 50 largest cities and by 14 percent for the states. For police departments nationwide, new sources of funding were found in the assets seized from record-breaking drug busts. The forfeited assets were applied to the luxury items that police departments, particularly those in tight financial straits, cannot readily afford, from four-color slick departmental magazines to helicopters. All of these forfeited assets, and the means by which they are obtained, are making some police officials uneasy. Although taking the property and money away from criminals is widely regarded as a worthwhile endeavor that has the added benefit of promoting interagency cooperation, local law enforcement initiatives are being influenced more and more by revenue-raising rather than by community needs like foot patrol. Some fear that police agencies are in danger of having a monkey on their backs: an addiction to drug money.

While the Federal Government concerns itself with the economic dependency of Latin American countries on illegal drugs, it is ignoring the economic dependencies that are emerging under its own doorstep. The combination of a redeployed military, the volume of resources devoted to public and private security, regional economies bolstered by laundered drug money and the growing reliance of law enforcement on forfeited assets to supplement dwindling budgets risks creating a vicious cycle of social and economic dependency on crime. A paraphrasing of President Eisenhower’s one-time admonition regarding the military may be apt: Beware the growing public safety-industrial complex.

## THE 24-HOUR-A-DAY PUBLIC OPINION POLL

Now that law enforcement has been joined by the community, the private sector and the military, why aren’t things

getting better? Some experts are of the opinion that more coordination is needed, but at what level and under whose direction are questions that remain unanswered. A more immediate issue for law enforcement, however, is the overall allocation of resources now that these other segments of society are engaging in public safety work, because despite the growing number of participants in public safety and the recognition that law enforcement alone cannot solve the crime problem, the public still wants a greater police presence. To that end, 1989 was a year of enormous pressure to put more police on the street. In recognition of this increased pressure, departments continually grappled with juggling calls for service versus high-pressure anti-crime tactics versus foot patrol. For that matter 1989 found law enforcement executives re-examining the question of what really constitutes essential services.

There is probably no escaping the issue of 911 when essential services are mentioned. In the past, police experts have thought of calls for service as “the tail wagging the dog,” and yet the information that can be gleaned from these calls can provide a deep perspective into the demographics and needs of a neighborhood. To be sure, analyses of 911 calls placed in the hands of community members and problem-oriented police officers could serve as valuable tools for ascertaining the needs of those in the community who do not participate in civic activities. In essence, calls for service are an ongoing opinion poll of what the community wants and needs. Irrespective of police feelings about calls for service, the fact remains that the public likes 911. And why shouldn't they? It provides 24-hour access to local government that the public cannot get through other means. While the 1980's saw police departments assessing, ranking and redirecting their calls for service, the future will demand the speedy analysis and dissemination of information from the calls as a priority in itself.

In the face of escalating crime, however, many departments had to redirect personnel in order to handle the increased load of calls for service and to staff the high-pressure approaches that became popular around 1987 and 1988. These tactics were successful insofar as providing relief, if only temporarily, for crime-ridden neighborhoods, but they resulted in paralyzed local courts and prisons. The revolving door speeded up. While some experts argued that tough punishment for first offenders was a deterrent, others argued that the system cannot even hold all the violent repeat offenders. And clearly, the police were being asked to deal with increasingly violent criminals whose fear of the legal system was questionable at best. To enhance visibility, police departments used a variety of means, some traditional, some innovative.

Efforts were made in Dallas and Cleveland to implement one-officer patrols. Mandatory overtime was tried in Washington, D.C. The nation's capital also tried putting supervisory or desk-bound personnel back on the streets, as did Philadelphia. In Houston, a police shooting was attributed to the reassignment of an officer from desk duty to street patrol. Video arraignment proved successful in

helping Port Authority of New York police officers get back to patrol more quickly. Philadelphia started a mobile precinct. In Fort Myers, Fla., forfeited assets were used to hire retired officers for school-based anti-drug programs, thus freeing full-time officers for patrol work.

## POLICE RECRUITMENT IN THE NEW AGE

When it comes to increasing police visibility, however, hiring new officers remained the most straightforward approach. Such an approach will no doubt be a temptation for many departments in the immediate future, notwithstanding the pitfalls of hasty recruitment, as has been demonstrated by Miami in recent years. The need to recruit will be exacerbated by the retirement of baby-boom police officers who were hired in the middle to late 1960's and will soon have put in their 20 or 25 years. For those departments with the fiscal luxury to hire, the recruitment pool will require careful scrutiny.

The labor market will contain a significant portion of the population who cannot read. It has been reported that 1 of 5 adults are functionally illiterate (although many of them have high school diplomas). Thirty-eight percent of the 118 companies examined in one private-sector survey asserted that high school graduates were not prepared for the world of work. In the face of increasingly complex police work, and spurred perhaps by low levels of literacy even among high school graduates, more and more departments are adopting college requirements either for entry or as part of promotion. With 1989 seeing the lowest jobless rate in 15 years, employment analysts predict that the current low unemployment rate is a sign of labor shortages in the future.

At a time when police recruitment efforts will be more complicated than ever, the changing role of the armed forces will have its effect. With military bases closing down both here and abroad, the troops will be coming home. Reports issued last spring estimated that as many as 1.5 million G.I.'s will be discharged in the next 10 years. They will be armed with higher educational benefits and they will need jobs. Not since what some police chiefs have called the good old days of military disciplined recruits in the early 1970's has the law enforcement profession had access to such an employment pool. It is rather ironic that, at a time when the military model of policing is more diluted than ever, the profession will likely be drawing its future recruits from military trained personnel. Yet for many law enforcement administrators this will be a blessing, since departments that took cuts in the mid-to-late 70's and rehired in the late 80's have reported declining levels of maturity and a resulting increase in officer misconduct.

For the profession, the last 10 years have been nothing less than a metamorphosis. The beginning of the decade saw most of the country's police departments viewing themselves purely as law enforcers—as separate from the community. They reacted to crime. By the end of the decade, earlier experiments in team policing turned into

proactive community-oriented policing. What began as crime prevention has turned into problem-oriented policing. Victims' rights advocates emerged as a political force. Science and technology reshaped evidence-gathering, identification and communication. Computerization allowed departments to gather and analyze information as never before. National broad-based research efforts became more focused and localized. Along the way, the profession saw the growing acceptance of national accreditation, a changing workforce with the increased representation of minorities and women and growing higher levels of education. The decade witnessed declining acceptability of the use of force, but a growing public outcry for police intervention. While drugs have always influenced the crime rate, the types of drugs that grew in popularity in the mid-to-late 80's—those like crack and crack—had the additional disadvantage of producing staggering amounts of illegal profits and accelerated levels of violence, a phenomenon that has contributed to the crisis that is engulfing the criminal justice system. Yet for all the professional changes that have occurred over the decade, public safety continues to decline and the decade ended as it began, with record-breaking levels of crime. Literally and figuratively, the 80's went out with a bang.

## MAINTAINING POLICING'S LEADERSHIP ROLE

The decade ahead, meanwhile, will no doubt see changes in the field of law enforcement, particularly in the role it will play. Whether or not police will maintain a position of leadership in the area of public safety will very much depend on the decisions made in the immediate future to handle the demographic changes that are largely outside the realm of police control. The

United States is going through a spreading-out process. Since 1986 the rural and suburban populations are growing more rapidly than the urban population. The urban village is taking hold from Los Angeles to New York as the economy moves from manufacturing to service-based industries. As this trend continues, the public safety needs of these evolving and growing communities could overwhelm existing levels of police resources. With crime going up in small communities, interagency task forces are springing up at the state, county and local levels. At present 80 percent of America's police departments have less than 10 sworn officers. In the future, police observers predict somewhat larger departments and a mix of county policing with local enforcement.

Another immediate socioeconomic problem police will have to contend with is the effect of a widening income gap. Although 1989 saw some of the lowest levels of unemployment in recent memory, the income disparity is greater now than at any time in the past 42 years, with 32 million people living below the poverty level. In addition, immigration policies will influence the communities police will serve, particularly in California, New York, Florida, Massachusetts and Texas. Ethnic and racial population shifts will occur, with minorities becoming majorities in some localities and the likelihood increasing for interethnic competition for a piece of the American dream. Police futurists and marketing experts alike predict an age of activism, anger and urban decay. For the law enforcement field, that translates to a decade of turbulence. In the face of growing social problems and static or shrinking budgets, the police profession will have to muster all available resolve and apply the lessons learned amid civic turmoil from the 1960's onward if it is to withstand a challenge to its leadership role in the production of public safety.

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# 1990 IN REVIEW

## Amid Gloom, Hunkering Down

War is not only hell—it can also be frightfully costly. Consider one recent conflict: At least 20,000 civilians killed, with many thousands more wounded; more than 600,000 people confronted by guns in enemy hands; hundreds of front-line troops killed or wounded; more than \$60 billion spent.

This is not the war in the Persian Gulf; it was the war being waged against crime on the streets of America in 1990. The damage assessments coming in from the front clearly show that, unlike the war in the Gulf, America is losing the war on crime.

By the summer of 1990, the year was already proving to be one of the deadliest in recent memory. Homicide records were being broken in cities, suburbs and rural communities. Even the nation's park and wilderness lands witnessed dramatic increases in criminal activity. Despite reports—frequently challenged—that drug use was declining, crime soared. One explanation is a criminological convergence—the deadly synergism of the “baby boomerang” generation committing crimes at earlier ages, a declining economy characterized by an increase in joblessness, depressed public spirits, increased racial tensions, and an abundance of easily obtained firearms.

In a nutshell, said one observer, 1990 saw an America that was “gloomy, less rich, less safe, and less certain of the future.”

### HUNKERING DOWN

To make matters worse for law enforcement, the historically severe crime wave was compounded by unprecedented budget cuts. The profession's reaction to these conditions can best be described as “hunkering down,” as budget cuts and increased workloads became the two preoccupations of the year. While the nation's economy was spinning into decline, the ranks of law enforcement

underwent a general shrinkage: Attrition increased as “baby-boom” officers retired in growing numbers, and departments found themselves generally unable to get the funds to maintain personnel levels. To a great extent, small counties lost proportionately larger numbers of officers, but cities also felt the decline. The Chicago Police Department, for one, fell to its lowest sworn strength in 20 years as a result of attrition, hiring freezes, and budget cuts. The attrition-versus-hiring standoff in many jurisdictions is not likely to improve significantly into the early 90's.

Law enforcement agencies of all sizes struggled to accommodate budget reductions by cutting services, and the ways in which police and sheriffs' departments responded were as different as the localities they served. Some police agencies stopped having officers testify in court on minor traffic tickets; sold off unaffordable equipment such as aircraft; ordered officers to gas up and maintain their own patrol cars; or transferred large numbers of sworn personnel from desk or plainclothes jobs back to the streets. Illegal aliens arrested in one Kansas county were routinely dropped off across the border in the next county because of a lack of prosecutorial resources. Police in San Diego “unarrested” indigents who needed medical attention and left them in hospitals to relieve the city from picking up the tab for medical expenses. And, to be sure, more than a few police departments shifted certain responsibilities to other public agencies.

### SPEND LESS OR MAKE MORE

In balancing a budget, of course, the alternative to cutting expenses is to bring in more money, and again the approaches were many and diverse. In one particularly drastic move, California police departments were told that they will be charged as much as \$200 per prisoner when booking arrestees into county correctional facilities. As a

result, some departments in that state have refused to book all but the most serious felons. Police in Chicago began charging lawyers a fee for responding to subpoenas. Where fines or fees were increased, many law enforcement agencies found themselves in the precarious position of having to emphasize activities that raise funds—often to the dismay of communities that desperately wanted more foot patrol.

Significantly, in cities ranging in size from Jackson City, Mo., to New York City, tax increases were proposed that were specifically earmarked for crime-fighting purposes, and law enforcement officials in some cases found themselves in the delicate role of political lobbyist. Deputy sheriffs in Mohave County, Ariz., for example, went door to door to rally public support for a budget override that would permit new hiring for the department. The catch, however, is that when taxpayers are told to go deeper into their pockets with the promise of increased public safety, they will expect something for their money. In areas where increased taxes are set aside exclusively for law enforcement agencies, police administrators would do well to give some thought to how to demonstrate to the public that their money has been well spent. The expanding use of public safety-specific taxes will no doubt require an accounting in years ahead.

## WHITHER COMMUNITY-ORIENTED POLICING?

Citizens paying more for increased public safety are as likely as not to expect increased police presence in their neighborhoods. For a growing number of police departments, this translates into community-oriented policing. For as popular as COP is, however, it also has a small but vocal cadre of critics and skeptics. There are those who claim that although it is a laudable philosophy, it is difficult to implement in definable and measurable practices, especially on a large scale. Others feel that there are definitional problems. Who is the community and who represents it? In New York, where community-oriented policing is now the official guiding principle, the city's layered and diverse neighborhoods almost defy community definition. There is also a growing professional concern that community leaders could be misled into believing that they alone will determine the agenda for the police. More importantly to some, the public is being led to believe that crime will go down as a result of community-oriented policing programs. Another, more tangible criticism is that the approach is expensive, and at a time of recession such talk invites intensified scrutiny—and certainly community-oriented policing is too new, in relative terms, to have demonstrated that it can bring about meaningful reductions in violent crime.

Within the context of community-oriented policing, and in light of increased budget scrutiny, officer productivity measures will become ever more critical in the near future.

Traditionally, police departments have been centralized organizations with strict pyramidal structures. Employee advancement has been a vertical ladder climbed by a combination of testing, number of arrests and personal contacts. Eventually the ladder leads to a desk. Just how the field adapts to accommodate a community-oriented approach, with its need for decentralization, without changing its productivity measures will be an important challenge. As importantly, how can patrol work be made more desirable for the officer, many of whom aspire to a desk assignment within their first weeks on the job? As one researcher put it: "We need to set up a system for police departments whereby officers can grow in income, status and perhaps even authority while they are actually doing police work."

## PRESSING THEIR SUITS

But measuring productivity isn't the only personnel issue of topical concern to the profession. Affirmative action practices, in some departments now 20 years old, continued to be challenged by all sides. A decade ago, most of the lawsuits were brought by minority officers; now white officers are claiming reverse discrimination in promotional matters. There is probably no more highly competitive aspect of the job than promotional testing, where police careers can be made or broken on the basis of one point. For many departments, the method used to achieve departmental affirmative-action goals is to put less emphasis on strict numerical scores and, in effect, create two separate lists. To many officers, these departmental "goals" are nothing more than semantically disguised "quotas," and a trail of court cases attests to their discontent. In Dallas, for the fourth time since 1988, white lieutenants filed a suit claiming that they were passed over for promotion in favor of black and Hispanic candidates who were lower on the list. White sergeants in Grand Rapids, Mich., filed a \$7.5-million lawsuit for discrimination in promotions. In Dayton, Ohio, the FOP brought a reverse-discrimination case on behalf of two white officers who were denied promotion to sergeant. In St. Paul, Minn., the Chief made a videotaped roll-call message for his officers to reassure them that promotions were not rigged in favor of minorities.

## TACTICS AND SANCTIONS

On the front lines, police continue to use high-pressure tactics and a variety of problem-oriented techniques to control crime while responding to the never-ending calls for service. The year saw increased attention placed on the nation's highways and housing projects. Numerous jurisdictions increased DWI penalties and enforcement efforts. Thirteen states are testing a new device to measure alcohol levels. Video cameras are becoming popular additions to patrol cars (in some cases provided to economically strapped departments by insurance companies). In jurisdiction after

jurisdiction, drivers licenses are being seized or revoked for those who refuse to take or who fail a breath-alcohol test. The cars of repeat offenders are being confiscated or emblazoned with special license plates. And the U.S. Supreme Court gave its official blessing to sobriety checkpoints, a practice that had become popular in the late 1980's.

In the area of criminal sanctions, 1990 saw a resurgence in the age-old practices of public humiliation, ostracism and banishment. The names and offenses of wrongdoers in some localities are now published in newspapers—often becoming popular reading material. In Miami Beach, employers may be notified of an employee's arrest on drug charges. Landlords and tenant groups in some areas have been granted access to criminal records in an effort to reduce crime in housing projects by keeping out undesirables. Pilot programs have begun to deny Federal benefits to drug offenders. Proponents of such practices hope they will provide punishment without consuming valuable jail space. For civil libertarians, it is a nightmare.

And what of 1991? At least in part, the forecast would seem to be bad news, good news and then more bad news. The bad news: Unemployment may grow to 7 percent, bringing with it a host of social ills that affect police work. The good news: Increasing unemployment, coupled with the new Police Recruitment and Education Program, will enable law enforcement agencies to be more competitive and selective when recruiting. [See story, Page 1.] The second dose of bad news: Most localities will not have the money in their budgets to hire.

## POLICING A CHANGING LANDSCAPE

The landscape that police face will change. For starters, the median age of the population continues to rise. The continuing population shift away from the country's older cities, particularly in the Northeast, to the Sun Belt and to suburbs in general, will have many departments recalculating their officer/population ratios. Immigration patterns will change from Asian and Latin American countries to European countries. And, in light of reports that the income gap is growing, with the total income of the top 1 percent of the population equaling that of the bottom 40 percent, it appears law enforcement will find itself policing a poorer population as well.

From January until August of last year, the public's attention was directed toward crime and the economy—and thence will it return when the war in the Persian Gulf is over. In fact, it may be argued that the onset of trouble in the Middle East turned around the sense of gloom that pervaded the public's mood for much of last year, by focusing attention away from weighty social and economic ills at home. It remains to be seen whether the zeal and sense of purpose accompanying U.S. actions in the Gulf will ultimately be translatable to domestic issues, and whether America will discover a way to police itself with the kind of success that characterizes recent efforts at playing "global policeman."

Source: From *Law Enforcement News*, Jan. 15/31, 1991, Vol. XVII, No. 329.

## 1991 IN REVIEW

### Graphic Images Paint a None-Too-Pretty Picture

More than most years, 1991 lent itself to graphic video images. It began with the pictures of the Persian Gulf war in scenes that bore a striking if artificially benign resemblance to fireworks and video games. As gripping as those images were, though, the pictures from America's streets were far more terrifying. There was an officer shot and killed during a traffic stop in Nacogdoches, Tex., as his dashboard-mounted camera recorded the event. In Detroit, a mob engaged in a bias-motivated beating. In New York City, a gang of teenagers videotaped themselves as they beat a man with a hammer. In Chattanooga, Tenn., a hidden video camera recorded a baby-sitter beating a child.

While these pictures visually demonstrate growing levels of violence in this country, the video that had the greatest influence on law enforcement in 1991 was that of the beating of Rodney King by Los Angeles police officers. The amateur videotape, played over and over on TV news programs, sent a shock wave through law enforcement that touched all levels. Police departments from Hawaii to Maine reviewed use-of-force policies and modified or expanded training. Officers were made to watch the tape as an example of what not to do. Many localities considered—or reconsidered—civilian review. Some departments devised computerized systems to keep closer track of complaints against officers. After March 3, the use of force was scrutinized in a way unlike anything one has seen in more than a decade. Even the Justice Department got caught up in the furor and promised to conduct a national study of police brutality.

More than simply contributing to growing levels of public anxiety about crime, these home videos of gratuitous violence also demonstrated the evolving nature of surveillance. No longer is it dominated by the criminal justice system and private investigators. As one legal scholar put it, "Big Brother is now your neighbor." Such a development

does not come problem-free, however. Among lawyers there is palpable concern about such videos and their impact on individual privacy rights and pretrial publicity. Worried public-policy analysts, for their part, question whether local officials are responding to the get-tough wishes of constituents by relying more and more on surveillance as a cheaper alternative to increasing police and other criminal justice services. In Newark, N.J., for example, 24-hour camera surveillance was installed in a two-square-mile section of the city—an action that just a few years ago would have seemed more at home in an Iron Curtain country. But as the public mood becomes increasingly fearful and frustrated, some observers see signs of an attitude of resigned acceptance with respect to such surveillance efforts.

#### CRIME AND POLITICS

While the national agenda turned from the war to domestic economic woes in 1991, on the local level the spotlight continued to focus on crime. Many political careers across the country were made or broken on the basis of public safety issues. In cities such as San Francisco, Houston, Indianapolis, Philadelphia, Columbus, Ohio, and Savannah, Ga., citizens cast their vote on the basis of real or perceived levels of danger. Strikingly, in comparison to previous election years that had an emphasis on crime, a number of winning candidates emerged from the criminal justice ranks. Newly elected mayors and county managers came from such backgrounds as that of police chief in San Francisco, a county prosecutor in Indianapolis, a former district attorney in Philadelphia, a police sergeant in Brockton, Mass., and a former FBI agent in Suffolk County, N.Y. As public concern about crime continues to mount, there would seem

to be a growing role in politics for criminal justice professionals.

Voters spoke their minds in other ways as well, as referendums capped a year that brought numerous pieces of local and state legislation concerning criminal justice issues. Voters cast their ballots in favor of increased victims rights in New Jersey, bonds for new jails and drug centers in Texas, taxes for 911 in Washington, and holding gun makers and dealers in Washington, D.C., liable for damages and injuries that firearms cause. In the meantime, and much to law enforcement's dismay, 1991 was a year without national crime legislation, as Congress failed to pass its omnibus crime bill. In an eleventh-hour vote, senators and representatives found themselves unable to reconcile differences about the life-and-death provisions of the legislative package, notably gun control and habeas corpus.

## COMMUNITY-ORIENTED POLICING AND POLITICAL CORRECTNESS

At one time, community-oriented policing came into a department at the instigation of a progressive police chief. Aided by a handful of researchers, the department would conduct a pilot test, usually, but not always, tied to a specific geographic area. If the community and the police were satisfied, and if budget considerations allowed, community-oriented policing would be expanded to include a larger segment of the department and the city. Inevitably, as community-oriented policing grew in popularity and use, questions arose: Just who is "the community," and who represents it? Can COP and its decentralized, "bottoms-up" style, fit into policing's tradition-bound, heavily hierarchical structure? What is the happy medium between officer discretion and accountability? How does one balance COP with calls for service? Will it create a potentially dangerous division within a department, where one group of officers answers calls for service while another makes acquaintances? Such questions were openly discussed throughout the law enforcement and academic communities, with believers, skeptics and non-believers alike all engaged in the debate. That is how it used to be.

COP has now entered the political arena. These days, one frequently finds community-oriented policing recommended by management consultants hired by a mayor. In the past year, outside consultants hired to analyze police departments in such cities as Milwaukee, Chicago, Los Angeles and Boston urged implementation of a community-oriented policing approach. Just how COP will fare with the vagaries of electoral politics remains to be seen. Bridled by political influence, some observers fear, COP will be used to create unrealistic public expectations. One researcher, a long-time believer in COP, observed, "Pretty soon they'll be saying it cures the common cold." There are also concerns that COP will become primarily a lip-service approach for the sake of public relations, and its longevity

(if not impact) will be limited to the term of office of a mayor or police chief.

The evolution of COP is characterized by more than simply the way in which it is introduced into a community; the nature of debate about the concept has also changed. The issues that are raised now concern primarily cost and evaluation. Community-oriented policing still has its believers, skeptics and non-believers, but observers say with increasing frequency that it is becoming politically incorrect to question the viability or implementation of COP in some jurisdictions.

## YOUTHFUL OFFENDERS

A 14-year-old shot a cop. A 12-year-old shot a taxi driver. A 15-year-old tried to poison another child. A 10-year-old was arrested for a second-offense armed robbery (this time for putting a .38 to an 8-year-old's head while demanding a yo-yo). Five teenagers (two of them 14) gang-raped and shot a woman in the presence of her four children. An 18- and a 15-year-old were charged with killing a sheriff's deputy while he was writing out a report on their alleged shoplifting. While these cases are just a handful of the 2.3 million arrests for serious crime, they and many more like them demonstrate the growing concern over juvenile crime. Law enforcement officials in some jurisdictions estimate that as many as 40 percent of those arrested for serious crime are juveniles. Twenty percent of high school students regularly carry weapons, according to the Federal Centers for Disease Control. (One can only wonder at how high the number would be if the estimate included dropouts.) Figures such as these have given rise to a re-examination of juvenile justice in many areas around the country. Of particular focus was the tracking of criminal records and the circumstances under which juveniles should be prosecuted as adults. The method most used in 1991 for controlling youth crime, however, was the imposition of a curfew. In numerous localities large and small, curfews were adopted in response to public fear. While some local officials felt that curfews complemented and reinforced parental initiatives, civil libertarians, along with some law enforcement officials, criticized such action for diminishing civil rights with little impact on safety.

The bottom line, in the opinion of one researcher, is that as long as youthful offenders perceive there to be little or no risk of punishment, the crime rate in the United States will continue to go up. His research indicates that this perception differs among groups and is influenced by a young person's friends, peers and family. When it is observed that criminal behavior goes unpunished, young people expect that they too can get away with crime. The frightening conclusion of this research is that not only is the overburdened, "revolving-door" criminal justice system not helping to reduce crime, it is actually contributing to an increase in crime.

## CRIMES, CLEARANCES AND CUTS

Law enforcement practitioners did not need to wait for national crime statistics to be released in order to know that violence was increasing. Local reports, whether from both urban or rural areas, showed that 1991 was yet another year of matching or breaking murder records, with an end-of-year estimate of 24,000 nationwide. But as the number of homicides continued to mount, the clearance rate has dropped significantly, from 86 percent in 1970 to 68 percent in 1989. Experts offer a smorgasbord of reasons to explain the decline: an overall increase in the number of homicides with a growing level of stranger-to-stranger violence; the mobility of career criminals; few and/or fearful witnesses; increased availability of high-powered weapons; skeptical, increasingly hard-to-convince juries, and a shortage of investigative personnel (the latter a problem that will not be alleviated any time soon).

In 1990, police departments cut muscle; in 1991 they cut bone. Few departments went unscathed by the budget ax. Budgetary coping methods used in 1990, such as redeployment of personnel and imposition of user fees, gave way in 1991 to layoffs, furloughs, givebacks, deferred hiring, consolidations and mergers. A growing number of one-person departments simply disappeared. In departments large and small, the ranks of sworn officers dwindled. Nearly every part of the country was hit in some way. Some departments turned to the ranks of reserves and auxiliaries; sometimes the slack was picked up by private security. More often than not, services simply diminished. While the recession continues, these cuts will come at a time when demand for police service is dramatically increasing.

## SUPPLY AND DEMAND

In the last national election, the Willie Horton gambit enabled the Republicans to make the crime issue—or, more accurately, fear of crime—a key campaign theme. The 1992 campaign, at least on a national level, will be dominated by economic issues. At best, crime will be relegated to a back seat. Recent opinion polls suggest that crime and drugs are

no better than halfway up the list of leading public concerns. That's not to say that the economic situation, and policies adopted to deal with it, won't affect law enforcement. Rising unemployment will have a two-pronged impact on policing. It will require that more services be directed to hard-hit areas, and at the same time it will diminish the tax base, the source of police funding. (The only positive effect one may see in the continuing recession is that it may lead to lower attrition rates due to retirement.) High unemployment will also exacerbate the problem of homelessness in America, which reportedly rose by 7 percent in major cities last year. Tighter public-sector budgets have also taken a toll on the mental-health care system, and some officials are saying that as many as one-third of the homeless are mentally ill.

Police will find themselves responding to significantly greater numbers of emergency calls in 1992. Diminished resources, increased societal violence, and a spillover effect from unabated social problems will force law enforcement to make tough choices in setting priorities. These problems, individually or in combination, are by no means new to policing. What is different is that the current demand for police services far outstrips the ability of police to supply such services. This dire imbalance, coupled with gloom about the economy and continued fears for one's safety, have given rise to a trend already spotted and labeled by marketing forecasters: the "Armored Cocoon." It is marked by an increased in gun ownership among women and growth opportunities in so-called "paranoia industries."

Growth opportunities in the private sector are of little benefit to the police in this instance. While such growth opportunities point out the importance that the public attaches to crime and safety concerns, they also demonstrate a disturbing propensity to find solutions that do not involve public-sector law enforcement. Cocoons, armored or otherwise, may provide security to those on the inside. The police, however, risk being caught on the outside looking in—in more ways than one.

Source: From *Law Enforcement News*, Jan. 31, 1992, Vol. XVIII, No. 351.

# 1992 IN REVIEW

## Eruptions, Aftershocks and a Shifting Landscape

On April 29 at 3:30 P.M. Pacific time, the law enforcement community went into red alert as riots erupted in response to the acquittal of four Los Angeles police officers accused in the beating of Rodney King. At the epicenter of this man-made disaster, South Central Los Angeles, some 1,000 fires burned out of control, 52 people were killed, 2,383 were injured, more than 16,000 were arrested, and damages were estimated to be as much as \$1 billion. With local law enforcement personnel unable to control the upheaval, the National Guard and the U.S. military were called in to handle what appeared to be a complete breakdown of law and order. The rioting was called the nation's worst civil disorder in this century. Indeed, the nation had not experienced anything even remotely close in the area of civil unrest in more than 20 years.

While Los Angeles clearly suffered the worst of the riotous upheaval, the controversial verdict triggered a shock wave of disturbances in many other cities as well, and police departments often found themselves less than ideally prepared for the surges of violence that ensued. Thus, just as 1991 saw a re-examination of police policies and practices on the use of force, 1992 saw the law enforcement profession hastily reviewing, revising or making up policies for handling civil unrest.

For those cities that experienced violent unrest firsthand, evaluations of police response to such disturbances were very often sharply critical of the lack of communication and coordination—internally as well as with other agencies—political indecision, and a lack of preparedness on the part of line officers. The situation was exacerbated by the fact that most officers serving today have an average of about seven years experience and, therefore, have no experience with civil disturbances.

In October, the F.B.I. released a handbook titled "Prevention and Control of Civil Disturbance: Time for Review," which was based on concerns voiced by a number of major city chiefs. In the document, the contributors cite

such problems as out-of-date equipment, a lack of officer training, the failure to develop new tactics to deal with the increased use of firearms by rioters, threats to innocent people, and the role of arson in urban riots. The question police chiefs and other public officials had to grapple with was whether it was better to deal swiftly and aggressively with disturbances or take a slower, more measured approach. For a number of police officials the consensus was that it was better "to take quick and decisive action rather than to let the situation defuse itself." The F.B.I. handbook notes that recent experience with civil disorders tends to suggest that slow or ineffective first response by the police contributes to a significant increase in property damage, additional loss of life, and an increase in the number of neighborhoods involved in civil disorder. In some cities, of course, mass violence seemed inevitable but never occurred, due in part to the police use of various mechanisms for letting off steam—hot lines, open dialogue with constituents, and access to information to dispel rumors. Generous doses of luck didn't hurt, either.

### CONSEQUENCES OF UNREST

The riots of 1992 were not limited to those that occurred in reaction to the Los Angeles verdict. In Chicago a riot was triggered by fans celebrating a basketball championship. In Belmar, N.J., violence grew out of a pop music concert. Police shootings sparked riots in Mobile, Ala., and in New York. Whatever the cause, for many cities the cost of rioting included a scarred political landscape. In Los Angeles both the mayor and the police chief paid the price. The political response to a police shooting in New York caused what some say is the deepest schism in 20 years between the mayor and the rank and file. The mayor displayed what some perceived as undue sympathy to the family of the man who had been shot—an armed drug

dealer—thereby leaving many with the impression that the officer had acted improperly, even criminally. The officer was later exonerated by a grand jury, and the prosecution witnesses—relatives of the drug dealer—were said to have committed perjury. In light of the rioting that accompanied the original shooting, the department did plan for the worse when the grand jury's decision was announced. Snippets of the testimony and evidence were released over a period of time, and the timing of the actual announcement even took into consideration the phase of the moon. The city remained calm, but the repercussions didn't end there. The demoralization of many officers over the mayor's response to the situation was a significant undercurrent to a raucous police demonstration later in the year.

Even as civil unrest was a constant underlying concern for law enforcement in 1992, the use of force continued to dominate many agendas. The Justice Department's review of police brutality, ordered in 1991 in the aftermath of the Rodney King beating, was met with sharp Congressional criticism for its failure to take a critical, discerning look at police misconduct. That shortcoming, however, was said to stem largely from the irregular nature of record-keeping for such incidents. Issues of civilian oversight of police, which resurfaced on the local agenda in 1991, came under the spotlight once again in 1992. At least 10 cities considered civilian-review proposals as police chiefs and others argued that civilian review boards would not help to reduce police wrongdoing. The general public, however, had its own views on the subject. In a national poll conducted by Louis Harris and Associates Inc., and John Jay College of Criminal Justice, 8 of 10 Americans said they favored a board with a mixed composition of both police and civilians. Seen against the backdrop of the times, this surprising result—one that cut across demographic and racial lines—should prompt localities to look closely at public attitudes when the issue of civilian review comes to the fore.

## BACK TO THE COMMUNITY

Just what impact these spasmodic events have had on community policing—whether a mild temblor or a major tectonic shift—is difficult to determine. With many aspects of community policing, there are simply no generally accepted measuring methods. As important, now that scores of the country's largest cities have begun to adopt the philosophy, there is still no consensus definition of community policing. How does one know if the policing style of a particular city is indeed community-oriented? Assuming that it is, how can one assess the impact? In the biggest cities, there is growing concern that the adoption of the community-oriented approach is more difficult than may have been believed at the outset. The cynicism of officers at all levels, the amorphous nature of community policing, the media consciousness of political officials—all have helped to slow the process. In some instances, these factors and others lead to little more than a community-policing charade.

In some localities, community policing is being credited with declines in crime. In other areas, where crime has gone up, community policing is being offered as an explanation because increased interaction between officers and the community has fostered increased reporting of crime. One police researcher put it simply: "The question is how do we disentangle the crime stats." Others say crime rates cannot be used at all to measure community policing. Different measures will have to be used, but such measures are as yet unformulated.

Yet notwithstanding the lack of measurements and a simmering sub-surface skepticism, community policing did receive an endorsement last year from the Law Enforcement Steering Committee, a coalition of 11 major law enforcement organizations. The community-based approach was also incorporated into the "seed" portion of the Justice Department's Weed & Seed program for reducing local violence. Although community policing continues to reshape law enforcement to varying degrees, the most dramatic transformation of the profession—at least over the short term, and possibly for many years to come—is occurring because of unprecedented changes in the ranks of police executives.

## A CHANGING OF THE GUARD

"All is change; all yields its place and goes." This ancient saying was amply applicable to law enforcement in 1992. Not in the 17-year history of Law Enforcement News has there been a year with such movement at the top. More than one-third of nation's 50 largest cities experienced changes in police leadership: New York, Los Angeles, Chicago, Houston, Philadelphia, Detroit, San Diego, San Francisco, Washington, Denver, Austin, Long Beach, Pittsburgh, Tulsa, Cincinnati, Tucson and Oakland. The wave of departures and new appointments washed ashore in many other cities as well: Salt Lake City, Portsmouth, Va., Elizabeth, N.J., Tampa, St. Petersburg, and Birmingham. Such change was almost epidemic in the New York metropolitan area, affecting the NYPD along with the New York Transit Police and the Nassau and Suffolk County police forces. As a result, nearly 40,000 officers in a radius of less than 50 miles are now working under new leadership.

Political differences between police executives and elected officials underscored many of the departures, while others left because it was simply their time. In some instances, new chiefs lasted just a matter of weeks. Suffolk County, N.Y., and San Francisco each went through four top cops in one year. The gain will be new people with fresh ideas; the loss is a wealth of experience and talent. The extent to which this dramatic change in leadership will influence the public safety agenda remains to be seen. There will be no small number of chiefs who will need to get in touch quickly with the needs of their constituencies. The large number of new chiefs on the block, combined with numerous new Federal appointees, will necessitate the

forging of new professional relationships—what usually would be called an “old boy network.” But the network will be neither old nor solely male.

1992 proved to be a good one for women in law enforcement. Four women were appointed as police chiefs in major cities—in Tucson, Austin, Elizabeth, N.J. and Portsmouth, Va. Two came up through the ranks of the departments they now head. Two others were career officers who relocated from other departments. Even the FBI got into the act, appointing its first female as head of a field office. These appointments, while statistically insignificant among the more than 16,000 police departments nationwide, mark the first time that more than one woman at a time has occupied the chief’s office in major cities. While their numbers are few, they are the first generation.

Regardless of gender, new police executives will find themselves facing officers who feel overly scrutinized and who are trying to contend with community-oriented policing. These chiefs will be dealing with elected officials who want more say on issues of public safety than they have had in the past. They will face budgets that continue to be inadequate. They will face a public that is frustrated, frightened and criminally victimized at the rate of more than 1 out of every 4 households. And, if some reports are correct, it is a public that is increasingly arming itself in response to such events as the Los Angeles riots and the election of Bill Clinton (who favors a Federal waiting period on the purchase of handguns).

## WHEN IS AN ISSUE NOT AN ISSUE?

As law enforcement prepared for the possibility of civil unrest last year, the country prepared for a Presidential

election. Yet despite the heightened tensions on the streets, and even though the country’s domestic agenda had center stage during the campaign, law and order issues were not high on the list of public priorities. With the nation’s attention focused on the economy, President Bush and Governor Clinton offered only occasional passing remarks on criminal justices issues. As the country’s second largest city was partially destroyed by rioters, a collective amnesia seemed to set in, as if the scene were too disturbing to contemplate for very long. To an extent, the election served as an almost welcome diversion from the sight of U.S. troops patrolling the streets of a devastated American city.

The resources and energies of the country are being focused, for the moment, on major economic issues. That should please the police officials and criminal justice theorists who believe that improvements in the areas of poverty, joblessness, and education will help reduce crime. Of course, many experts are just as hopeful that the new Administration will provide greater support for local law enforcement, with less bureaucracy to get in the way. They want gun-control legislation, assistance with community policing efforts, and increased funding for research, technical assistance, officer education and training enhancements. Before any of these things can be accomplished, however, law enforcement must first get the ear of the new Administration. On the score, the line forms to the left.

Will the Administration eventually turn its attention to issues of public safety? Obviously time will tell.

Source: From *Law Enforcement News*, Jan. 15/31, 1993, Vol. XIX, No. 373.

# 1993 IN REVIEW

## Mega-Events and the Fears of Everyday Life

By all reasonable measures, 1993 marked an about-face for law enforcement when compared to the previous year. Issues of public safety, which struggled for attention during the 1992 Presidential campaign, had moved foursquare into the spotlight by the end of 1993. The Federal attitude toward local law enforcement, only recently marked by a hands-off posture, took a hands-on turn that in some cases bordered on outright intervention (as witness Congress's federalization of certain crimes). Police departments, which were frequently scrutinized in 1992 for the excessive use of force, found themselves under the microscope for corruption in 1993. Federal law enforcement agencies went from being praised for their actions to being criticized for their failures.

At last, it appeared, 1993 saw a nation whose attention was galvanized on issues of public safety and seemed poised to do something about them. In citizen-generated actions, in legislation, in elections, in opinion surveys and in numerous other ways, the public gave voice to its growing fear and frustration over violence. The convergence of this increased public attention with a new Administration in Washington provided the critical mass necessary to get a Federal gun law enacted, and may yet lead to passage of the first significant crime legislation in years.

### THE BIG-BANG SCENARIO

It was a year highlighted by mega-events: a titanic bomb blast; a prolonged and deadly siege; the worst floods in hundreds of years; wind-driven wildfires aided by the hands of arsonists. The magnitude of these events stunned and mobilized the law enforcement community in ways that heretofore were only contemplated. And it all started, both figuratively and literally, with a bang that symbolized the type of year it would turn out to be.

Of the thousands of bombing incidents that occurred in 1993, one stood above all others. At lunchtime on a snowy Feb. 26, a terrorist bomb rocked New York's World Trade Center, one of the largest office-building complexes in the country. More than 1,000 people were injured. Six people were killed, and it was generally agreed that it was miraculous that the number of fatalities was not far greater. Thousands of uniformed personnel—Federal, state, local, even private security officers—sprang into action, joining forces for both the rescue and the ensuing investigation. The blast created a 200-foot-wide, five-story-deep crater, which in weeks to come would be visited by police personnel from around the country who sought some insight from a first-hand look at a crime scene that defied description. What differentiated this bombing from others in 1993 was not simply the size of the blast, but the fact that those who allegedly planted the explosives were not homegrown extremists. With this incident, international terrorism on American soil, which had long been predicted, had come to pass.

Had the bombing of the World Trade Center been 1993's only shocking act of extremist religious fundamentalism, it would have been more than enough. But just two days after the bombing, yet another horrific situation unfolded, this time in Waco, Texas. On Feb. 28, agents of the Bureau of Alcohol, Tobacco and Firearms, attempting to serve a warrant for weapons violations, stormed the compound that was home to the Branch Davidians, until then a little known religious cult. It proved to be the darkest day in ATF's history, as four agents were killed in the raid.

Yet even this deadly episode was but a prelude. The FBI took command of the scene, and for nearly two months waffled between negotiating and applying tactical pressure on the cultists to leave the compound. At length, tactical measures won out as the bureau's patience wore thin. On

April 19, the tanks rolled in, punching holes in the compound's flimsy walls and pumping in canisters of CS gas. Abruptly, the compound exploded into flames, apparently set by the cult members inside. In short order, the fire—fed by the compound's wooden construction, the kerosene and ammunition stored within, and a brisk wind—reduced the compound and its occupants to ashes. While public opinion felt it manifestly clear that David Koresh and his followers brought this frenzy of lethal violence upon themselves, police experts were privately critical of how the siege was handled. In the space of only two months, the praise that had been heaped on the ATF and the FBI for their response to the World Trade Center bombing turned into harsh criticism of the Waco debacle.

## THE SMOKING GUN

As riveting as these mega-events were, on a day-to-day basis the country was bombarded with reports of violence, making gun-control legislation increasingly popular. A once-unthinkable stream of politicians reexamined their relationships with the National Rifle Association, with many concluding that continued support for the NRA could mean a loss of voters. Although polls indicate that public support for gun regulation has been growing for years, it was not until this past year that gun control finally found a friend in the White House. The Clinton Administration's support of gun control—a radical policy shift from the past—helped to bring about the eleventh-hour passage of the Brady Bill, which has been lingering in Congress for years. With it, it would seem, a corner has been turned on gun control. By the end of the year, talk turned to regulating or taxing ammunition and enacting other controls on firearms, those who sell them, and those who use them.

The new Federal agenda is more than just gun control, however. The appointment of an Attorney General who had been a local prosecutor and thus had worked closely with police was viewed as a indication that violent crime would be an overriding concern of the Department of Justice—much to the delight and relief of law enforcement personnel. Attorney General Janet Reno's agenda is nothing less than comprehensive. She has stated that she wants to: take the politics out of policing; provide "truth in sentencing"; build more prisons; come to grips with mandatory sentencing that has non-violent offenders serving longer sentences than violent criminals; deport illegal aliens who are taking up space in American prisons; crack down on juvenile crime; create a shared, comprehensive information base; stop interagency turf wars; have Federal law enforcement agencies share more information with their local counterparts, and create partnerships with other social-service providers. Still, the new Federal agenda doesn't stop there.

## THE CORPS OF AN IDEA

For years, local law enforcement has asked the Federal Government to provide additional front-line resources to fight crime, and the Clinton Administration appears ready to do just that. Of course, along with those funds will come no shortage of attached strings as to how the dollars are to be used. The two most obvious examples of this are the proposed creation of a national Police Corps and providing funds for the local hiring of community police officers. Both of these initiatives will have direct implications for local policing in the years ahead. No doubt many departments will benefit from these programs, but there is a growing feeling on the part of police chiefs that local autonomy is being eroded.

Not since the so-called "good old days" of the late 1960's and 70's has policing benefited directly from an infusion of funds to encourage higher education. Through the Law Enforcement Education Program—known far and wide simply as LEEP—those funds primarily went to those who were already sworn officers, and the beneficiaries of that program have gone on to lead police departments throughout the country. LEEP funds also spurred a growth in criminal justice education programs—an effect that the new initiatives are likely to repeat. Like the LEEP program, the Police Corps will also affect a generation of officers—future officers. Therein lies the difficulty.

Unlike LEEP, the Police Corps concept raises questions of whom to hire and when to hire—issues that have traditionally been within the purview of local authorities. The fear on the part of many police chiefs is that the Police Corps will infringe on that self-determination. Over the course of more than 10 years, the Police Corps has been debated, even tried in a handful of jurisdictions, and it has consistently run into the same obstacles. Whether the national Police Corps is modified to address local concerns remains to be seen. What is clear, however, is that another hopeful step will be taken toward the 1967 goal of a college-educated police service.

## COMMUNITY-MINDEDNESS

The latest step in the evolution of community policing is occurring on the Federal level. In the late 1970's and early 1980's, community policing was typically brought in by a chief; by the late 1980's it was often the result of a mayor's will or other political mandate. We are now witnessing the direct infusion of resources through the Justice Department, to the tune of \$150 million that will be used to pay for officers' salaries and benefits for three years in cities over 150,000 population. The appeal of such funding is undeniable, as witness the traffic jam of Federal Express trucks at the Justice Department on the day grant applications were due. Nonetheless, there remain a number of concerns on the part of many police executives. What criteria were used to

judge the grant applications? After three years, how will cities pay to keep these newly appointed officers on the job (particularly when 53 percent of all cities are running deficits)? If these officers incur job-related injuries, who will foot the bill for potentially lifelong disability benefits? Despite these and other serious reservations, some chiefs felt pressured by their local government to apply for these additional officers. Even state police agencies have applied for community-police funds.

Adding a sprinkling of more police officers around the country is not the only Federal measure to incorporate community policing. The Justice Department is underwriting five to nine community policing experiments in larger cities that will seek to integrate the concept, evaluate outcomes and disseminate the information. Community policing continues to thrive in some jurisdictions, while in others it remains maddeningly elusive. Police supervisors complain that officers are talking with community members and writing reports about how they spend their time, but nothing in the way of better policing is being produced. In the estimation of some scholars, there is no validity to the idea that more cops equals less crime. As one observer put it, "To prevent crime, the police must become inventive, not simply more numerous."

## CRACKS IN THE BADGE

In the face of deadly serious crime problems, police found themselves dealing with communities that felt increasingly unsafe—and all too frequently, the sense of unease was intensified by reports of drug-related police corruption.

In 1991 and 1992, police departments found themselves taking a hard look at excessive force and riot control. This year, the emergence of several major-city scandals prompted departments to reassess their vulnerability to corruption. It is not the type of corruption that rocked policing in the 1960's, which emphasized payoffs for looking the other way to cover illegal vice activities. Contemporary corruption is far more aggressive, far more vicious, with rogue police officers stealing and reselling drugs, indiscriminately beating people, even participating in drug-related murders.

Police observers attribute the current wave of corruption, at least in part, to lowered entry standards, accelerated hiring that led to inadequate background and psychological checks, and institutional environments that do not actively weed out corruption. Many departments around the country will attach a paramount importance to integrity issues in 1994. As local finances improve to permit renewed hiring, and with the Federal Government standing by to infuse tens of thousands of additional local officers, agencies will have to summon the will not to skimp on background checks and psychological screens. More than ever, it seems, organizational environments are needed that promote integrity, and seek out and combat corruption—however unpleasant a task that may be.

## THE ONLY THING WE HAVE TO FEAR?

In 1993, Americans 'fessed up: They were scared. In the course of one year, public priorities appeared to shift. At the end of 1992 the nation was riding out a Presidential election in which one campaign mantra was "It's the economy, stupid." This year, public and, at last, political attention focused on public safety—or the lack of it. Official statistics suggested that crime was declining slightly, but Americans just didn't feel safe. (And, to be sure, their fears were borne out by end-of-year data showing new homicide records in nearly two dozen major cities.)

More and more communities found themselves facing increasingly violent, increasingly visible gang activity. Some localities tried gang summits, others enacted get-tough legislation. The extent of the problem was underscored by an edict issued by a prison gang in California, warning local gang members to stop drive-by shootings because they were proving bad for business. Violent crime by the young increased, and by some estimates it has doubled in the last five years. Many experts note that young people value life less than they had in previous generations when a car, not a handgun, was the dominant status symbol.

Another catch phrase was added to the lexicon of fear: sexual predator. With evidence increasingly indicating that many sex offenders cannot be rehabilitated, the year saw a crackdown on them and their crimes. Many communities required convicted child molesters and other sex offenders to register with police. In some areas, released offenders were run out of town, sometimes before they could even settle in. Anti-stalker laws became a fact of life for many localities. In some states, prison terms were lengthened—to the point of indefinite confinement—for incorrigible offenders deemed likely to commit more sex crimes upon release.

Where possible, Americans took action to deal with their fears. They voiced their fear in the voting booth during numerous local elections where crime was a major issue. There were increased calls for curbs on the pervasive violence in TV programs and movies. In the main, though, people changed their habits and tried to put themselves out of harm's way—a phenomenon that is not accounted for in crime statistics. If possible, they moved to safer areas. Stores were encouraged to close early. Vacation plans were changed or canceled. Christmas Eve midnight masses were canceled or moved up to earlier starting times to cut the risk to parishioners. Some communities sacrificed a measure of their privacy in order to use surveillance cameras; others blockaded themselves from outsiders. City residents in particular altered their daily habits or, at a minimum, lived in a state of constant alert. The cocooning of America, a trend that began in the past few years, has in some neighborhoods turned into self-imposed imprisonment.

More and more, the American habitat is threatened by violence. The simple truth is that, in setting after setting, people do not feel safe. They do not feel safe in the

workplace; on the highways; in the post office; in schools; in shopping malls; in parking lots; in taxis; at convenience stores; in fast-food restaurants; on the streets; on commuter trains. And, for too many people, they do not feel safe in their own homes.

Could it be that the country is finally fed up with violence?

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## 1994 IN REVIEW

### Frustrated, Angry & Ready to Get Tough

#### *Americans Roll Up Their Sleeves & Say 'Enough is Enough'*

There weren't urban riots as in 1992. There wasn't a foreign terrorist bombing or cult-related fiery inferno of the kind that galvanized 1993. Still, 1994 will be remembered as a watershed year in criminal justice, as a public that was becoming angrier and more frustrated about crime insisted that something be done. The increasing levels of fear that have dominated the 1990's turned into action in 1994 as America rolled up its sleeves and got tough.

Nowhere was this toughness more evident than in the legislative arena. There was, of course, the passage of the Federal crime bill, the most comprehensive crime legislation in a generation. But there was also an avalanche of criminal justice lawmaking on the local and state levels. Scarcely a week went by without some legislative body considering laws aimed at improving community quality of life and getting violent offenders out of society for as long as possible. The phrase "three strikes and you're out" may have been missing from ball parks after August, but it was a year-long battle cry that reverberated nationwide among those who had had their fill of violence.

#### THROWING AWAY THE KEY

In part, the public's ire was an outgrowth of the perceived growing disparity between court-imposed sentences and actual time served—what has come to be known in the criminal justice lexicon as "truth in sentencing." By late February, 30 states were considering three-strikes laws. This approach is not without its critics, with some criminal justice experts pointing to enormous costs that in California alone could run as high as \$5.5 billion a year.

Such expenditures, it is argued, could seriously undermine government funding of other essential services like education. The three-strikes approach might also turn prisons into old-age homes for those violent offenders who grow out of crime, as well as intensify the pressure to plead down the charges for first or second violent offenses.

For other critics, three strikes is not tough enough. (In Georgia, the law allows only two strikes.) Three strikes would leave no prison space for misdemeanor offenders. Thieves and drug dealers would no longer be dealt with harshly enough, they say. These criticisms notwithstanding, proponents say that with as few as 7 percent of violent offenders committing 70 percent of the crimes, three-strikes legislation and its focus on repeat offenders will reduce the human and economic costs of crime.

In the move to get tough, states also increased prison time by curtailing or abandoning parole and good time, and by moving prisoners from halfway houses back to secure cells. In some jurisdictions, violent offenders will now have to serve up to 85 percent of their sentence. And while offenders spend more time behind bars, the quality of that time has been diminished as well, as legislators took away such prison perks as cable television, entertainment equipment, and physical fitness gear—over the objections of prison officials who fear an escalation of prison violence.

One specific crime category demonstrated the get-tough mood more than any other—sex offenses. Coupled with, and fueled by, several nationally publicized cases, a growing public awareness that rehabilitation is often impossible led to an onslaught of legislation aimed at serial sex offenders—criminals who by some estimates commit 30 offenses for every time they are caught. Taking the lead

from the state of Washington, many jurisdictions opted to keep sexual predators incarcerated for longer periods by mandating indefinite prison terms, parole denials or civil commitments.

Authorities are keeping tabs on such offenders as never before. More states joined the ranks of those requiring DNA samples from offenders, and 1994 also saw the growing popularity of requirements that sex offenders register with local police upon release, and that the public be notified of their whereabouts. (One released sex offender in Nevada asked to be returned to jail because his presence sparked protests by neighborhood residents.) Soon Californians will even have the ability to call a state-run telephone hotline to get information on the whereabouts of paroled child molesters. Local school officials, for their part, are demanding to know about juvenile sex offenders who sit in their classrooms. Law enforcement agencies are sharing more information with each other and with the public in the investigation of serial rapists and killers, and some departments even use the information superhighway in their efforts.

## MAKING A FEDERAL CASE OUT OF DOMESTIC VIOLENCE

Domestic violence, like sex crimes, deals primarily with female victims, and like sex crimes, was a major focus of increased public attention, with much of the activity again taking place in the legislative arena. Under Title IV of the 1994 crime control act, gender-based violence is now a Federal civil rights violation, and under certain circumstances violating a court order of protection is a Federal offense. (The law also imposes a ban on gun possession by domestic abusers.) Some states are already convicting batterers under bias-crime statutes, thereby allowing for added sanctions. Police policies requiring mandatory or preferred arrest were initiated by legislation in numerous jurisdictions, while in other areas police departments zeroed in on repeat domestic offenders, forming a coordinated front with prosecutors, courts and social service agencies to deal with such cases. One major Midwestern department even launched a program to address domestic violence within its own ranks. It appears that law enforcement will continue its decade-long increased focus on domestic violence.

Early in the year Federal officials reported that two-thirds of the 2.5 million women who were victims of violent crime were attacked by friends, family or acquaintances. As happens so often, however, there was one highly publicized incident that drove the issue into the spotlight—the O.J. Simpson case. Reports of domestic violence surged almost everywhere at once. Yet while the legal proceedings against Simpson continue to captivate the public and the news media, there always seems to be room in the headlines for a particularly heinous crime committed by a child.

## NEVER TOO YOUNG TO BEGIN A LIFE OF CRIME

A 7-year-old selling crack. . . . Two 9-year-old boys charged with sexually assaulting a 4-year-old girl. . . . Two 12-year-old boys accused of murdering a transient. . . . From one coast to another, in cities, suburbs and rural hamlets, no region of the country was spared the tide of juvenile violence that seemed to involve ever-younger criminals and increasingly vicious crimes. In some areas the number of youths charged with murder has doubled in the past 10 years. Confronting this disheartening increase in violent crime committed by children is a juvenile justice system that is largely the product of another era and was not designed to handle this kind of shock wave—a wave that researchers say will get worse. Consequently, more and more localities are opting to put violent juvenile offenders in the hands of the adult criminal justice system. Prosecutors sought and usually got legislative changes aimed at getting tough on violent juveniles.

A number of experts see dysfunctional families and the easy access to firearms as the primary causes of rising juvenile violence. There is no question that one of the most frightening elements of youth crime is the arsenal of firearms at their disposal. For law enforcement personnel everywhere, concern about gun-related violence among the young is paramount. In one major-city, a survey found that one in five high school students carries a weapon. The arming of juveniles, it seems, has gone beyond those who deal drugs or belong to gangs. It now permeates the youth culture itself.

## HEEDING THE PUBLIC'S CALL TO CURB WEAPONS

More so than in recent years, 1994 brought an uncompromising focus on getting illegal weapons off the street. Backed by surveys indicating that a significant percentage of the population favors restrictions on weapons, legislators called for curbs on gun possession and increased penalties for firearms misuse, while police in many localities stepped up enforcement of existing laws.

In the main, local law enforcement's response to the proliferation of guns came in the form of stepped-up efforts against violators. (Of course, one cannot overlook the handful of challenges filed by county sheriffs against the 1993 Brady Law, questioning whether the Federal Government could mandate local compliance in conducting background checks of handgun purchasers.) Nationwide, search-and-seizure practices were bolstered in a variety of ways. In a crime-ridden Chicago housing project, the community applauded the city's housing police for going into apartments to conduct warrantless searches for weapons—a practice civil libertarians were quick to stop. St. Louis police tried a different tack, with consensual searches at the

homes of suspected youth gang members. In Kansas City and Indianapolis, officers assigned to patrol “hot spots” are using “reasonable belief” as a basis for stopping cars for weapons searches—an experimental initiative that so far is proving successful in cracking down on illegal weapons and their owners. Rhode Island set up what was described as the nation’s first gun court to fast-track offenders into prison. In New York City, police were ordered to aggressively pursue the origin of a weapon when making an arrest.

But the battle against illegal weapons is far from joined. Many police agencies have no idea how many firearms their officers seize annually because they don’t keep records on the subject. Just how far there is to go in tracking illegal guns was demonstrated on Oct. 29 when a Colorado man fired a semiautomatic rifle at the White House. He had lied on his gun-purchase form about a prison record and his dishonorable discharge, but there is currently no mechanism for checking the truth or accuracy of the information at the point of purchase. Still, while there remains a long way to go in getting illegal weapons out of circulation, it is clear that the public has made weapons violations a priority.

## ANYBODY REMEMBER THE DRUG WAR?

Even as the country was taking aim at violent offenders, domestic abusers, weapons violators and sexual predators, the get-tough mood did not extend to drugs. That’s not say that there weren’t hundreds of thousands of drug busts, increasingly huge drug seizures, and hundreds of acres of crops burned, but drug issues were booted from the front pages by the bloody appeal of violent crime.

Among the headlines that did crop up were the likes of: “The War on Drugs is Over (Drugs Won)”;

“The Phony War/The Real Crisis”;

“End War on Drugs/Too Many Casualties”;

and “Forget the War on Drugs.” And if donations to pet causes are any indication, consider the following: In July the Partnership for a Drug Free America reported that contributions have fallen 20 percent in the last two years. That same month, the Drug Policy Foundation, an organization which promotes alternatives to current drug policies, announced it had received a \$6-million philanthropic donation. To be sure, a small but growing number of people in the legal profession are voicing objections to the war on drugs. In California, a judge refused to sentence a man to a 6-year mandatory term for a drug offense. The current president of the American Bar Association supports decriminalization, and a special committee of the Association of the Bar of the City of New York has come out in favor of dropping current prohibitions. What critics of U.S. drug policy have in common is the view that existing enforcement-based strategies have not worked. In their view, drug use is primarily a public health issue and should be treated as such.

It has been reported that more than 300,000 Americans are behind bars for drug offenses, and that one out of every

five Federal prisoners is a first-time nonviolent drug offender. Although most Americans oppose decriminalization—and clearly do not want drug dealing on their streets—they are vexed and perplexed when mandatory sentencing policies mean that drug offenders serve longer terms than do violent criminals. Now, with the recent crack-down on violent crime, prison space has become an even more valuable commodity. To accommodate get-tough policies like “three strikes,” the criminal justice system will have to make room. Even with the building of additional prisons, many states have had to diminish sentences for some non-violent offenses—like drug possession. In Texas, for example, a plan was adopted which requires, among other things, that all violent and sexual offenders serve at least half of their sentences. In order to accomplish that, state legislators decided to significantly reduce the sentences for certain drug offenses.

## CHARGING AHEAD WITH COMMUNITY POLICING

One undeniable feature of 1994 has less to do with getting tough than with getting smart—the continued popularity of community policing. Just about every police department in the country, if asked, would likely say it had some variety of community policing in effect, yet some pioneers of the concept fear that it has become little more than an overused catchphrase—where officials do nothing more than talk about it.

Law enforcement practitioners and researchers, having had little success in resolving the definitional dilemma of community policing, have moved on to the issue of measurement. But evaluating community policing is proving just as elusive as defining it. Some feel that measurements ought to be taken of things like fear, crime reduction, problem solving, officer effectiveness, customer satisfaction and police/community civility indicators. So far, though, there are no standardized yardsticks. And as one scholar noted, the Federal Government is “putting 100,000 more cops out there to do [community policing] . . . without a clue to its effectiveness.” Community policing is moving full speed ahead.

Even before the passage of the crime bill, the Justice Department pipeline for applying for more officers was jammed, and the department realized early on that properly evaluating the applications from potentially thousands of police departments would prove nearly impossible and politically unwise. It’s been said that some applications didn’t even include the phrase “community policing.” Whether or not police chiefs really wanted more officers or were politically pressured into applying for the extra personnel, they couldn’t queue up fast enough. To expedite matters, the Justice Department achieved a minor bureaucratic breakthrough with the streamlined “COPS Fast” application kit for small departments that is one of the simplest forms ever created by the Federal Government.

Locally, community policing continues to evolve. For those departments that have been at it awhile, a decentralization and flattening of the command structure has occurred. The San Diego Police Department, one of the leaders in community policing, announced in April that the city would be divided into 21 communities to be served by mini-police departments. In Tempe, Ariz., the Police Department went citywide with an approach known as “geographic deployment,” where each of the city’s 15 beats, under the direction of a sergeant, controls its own scheduling and deployment. In departments where community policing is still in its embryonic stages, such as in Los Angeles and Chicago, academic experts and institutions have been brought on board to help steer the initiative from the outset and evaluate outcomes.

The kind of community policing a locality gets is in large part determined by the officers it has—their level of enthusiasm, the nature and extent of middle management involvement in the process, their training and education, and last but certainly not least, their level of experience. In New York, the average age of officers is 23; in Chicago, it’s 42. The type of community policing that evolves in these two cities will be greatly determined by officer age.

The “community,” however defined, is supposed to be a partner in the production of public safety. And variations in communities are part and parcel of American society. Communities want and need different things, amid day-to-day problems that can range from shootings, robberies and drug dealing to drag racing, panhandling and quarreling neighbors. If departments know nothing else about community policing, they know that residents want quality-of-life improvements.

But what happens to community policing when a community wants something that is unenforceable, even unconstitutional? One New Jersey borough passed an ordinance outlawing cursing in public, but the police chief has refused to enforce the law. Beyond that, what happens when one segment of the community wants to be rid of another? Consider the recent passage of Proposition 187 in California. Many police chiefs in the Southwest and elsewhere have worked long and hard to establish good relationships with all residents—legal and otherwise—of their communities and have had tenuous relations with immigration officials. If police are required to report illegal aliens,

cooperation from witnesses and victims would certainly become problematic, as would community involvement in improving the quality of life. Some believe bias crime will increase and the overall level of civility may drop. Community policing has had its share of police organizational and resource problems that threaten its existence. But what happens to community policing when a community tries to pull itself apart?

## THE FORECAST: KEEPING BUSY, WITH PARTNERS

Among the commitments made by Attorney General Janet Reno after she took office in 1993 was to have Federal law enforcement agencies share more information with their local counterparts, and to create partnerships with other social service providers. Reno has made significant headway thus far; there is hardly a group that she has yet to reach out to. In this respect, one of the hallmarks of 1994 was the improved working relationships among different agencies, within the Justice Department itself, within the law enforcement profession generally, and between policing and other government entities.

Seven Cabinet-level agencies have joined forces in a sweeping initiative to address youth violence. And, in another interagency milestone, the departments of Justice and Defense have linked up in a research and development-sharing venture that could open the doors to new technologies for law enforcement. (Of course, even as high-tech military technologies slowly make their way into the police market, there are still police agencies operating with rudimentary, even primitive equipment. One department in the Northeast only recently made the step up to copying machines from manual typewriters and carbon paper.)

The partnership approach to tackling crime will likely result (with the help, no doubt, of crime-bill funding) in a flurry of activity in law enforcement and in allied research and academic institutions. They’ll have their hands full with hiring, training, educating, upgrading, implementing, analyzing, researching, evaluating, disseminating, assessing and reporting. 1995 will be a busy year.

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## 1995 IN REVIEW

### The Sweet Smell of Success, the Sour Taste of Bad Apples

Charles Dickens was referring to the late 18th century when he wrote, “It was the best of times, it was the worst of times.” He might as well have been talking about American law enforcement at the close of the 20th century. Few would argue that the times have rarely been as good as they were in 1995, in light of policing’s overriding success story of the year—the dramatic, almost unimaginable reductions in serious crime. At the same time, one would be hard-pressed to recall another time filled with such frequent reports of police wrongdoing, enough to cast a yearlong shadow over law enforcement’s image and its otherwise remarkable record of accomplishment.

This was more than a tale of just two cities. In one locality after another, the bottom fell out of the crime rate, and especially so in the case of homicide. This was apparently no blip, no product of creative number-crunching; it was a genuine and major drop. Preliminary figures for the first half of the year showed murder rates dropping by more than 25 percent in San Diego, Miami, Las Vegas, and Long Beach, among other cities; by more than 30 percent in Hartford, Houston, New York, Tampa, Kansas City, Mo., and Seattle, and by an astounding 40 percent or more in Bridgeport, Louisville, Buffalo, and Fresno.

Confronted with these numbers, the first question many people tended to ask was “How did this happen?” The answer depended largely on whom one asked. Success, it seemed, had many potential parents.

Politicians, predictably, wanted their due for the sharp reduction in crime. Officials from the President of the United States to local council members, aldermen and free-holders all claimed credit, citing the enactment of “get-tough” legislation such as the Crime Bill, three-strikes, registration of sex offenders, adult treatment for juvenile offenders, and the implementation of curfews. Some officials said increased sentences made the difference by

keeping would-be recidivists off the streets longer. Others thought it had to do with toughening the kinds of sentences served, such as the re-emergence of chain gangs.

Community residents, for their part, say it is their increased participation in public safety issues that has made the difference in the crime rate. Others, more sanguine, say they simply have learned to adapt to hostile environments.

#### DOING THE UNTHINKABLE

It was no surprise that politicians would take some credit for a decrease in crime. The shocker was that some police chiefs actually did the unthinkable—they publicly ascribed credit for the decrease to good police work. Conventional wisdom has always held that you don’t take credit for a drop in crime if you’re not prepared to take the heat for an increase—crime happens, for whatever the reason, and police react to it. They have little or nothing to do with how much occurred. As one police planner put it, “We leave [that] to the social scientists and psychologists.” But with the proactive stance that has taken hold in recent years, it seems more and more police executives believe that crime prevention through policing is possible. (Some chiefs have gone so far as to put a statement atop their résumés proclaiming that crime reduction is their top priority.)

In assessing the sharp drop in crime, police executives have pointed to increased community policing efforts and/or improved problem-solving techniques. Yet whether or not police departments are actually “doing” community policing—and most departments claim that they are—there is an enhanced, almost palpable “can do” feeling taking hold throughout law enforcement. In the not-too-distant past, many police were of the view that they can’t prevent crime, don’t do a very effective job of solving crime, and

have little or no responsibility for allaying public fear. There was a general sense of ineffectiveness and resignation in the face of rising crime and victimization. But that was then, and police now are assuming increasingly active—and thoughtful—roles in dealing with problems like domestic violence, school safety, child abuse, truancy, street-level drug dealing, gun crimes and gang activity.

Consider, for example, the nation's largest police department. New York City police officials credit the crime decreases there to increased precinct-level command accountability, backed up by the use of enhanced crime information and mapping systems, quick dissemination of the information, an increased emphasis on quality-of-life crimes, and strategies that focus on specific crime hot spots. Weekly early-morning meetings of borough-based commanders with top brass are becoming the stuff of legend. (The sessions in the headquarters "war room" are an amorphous mix of statistics, strategy, and stress.) The Police Department is spurred by a mayor who is an ex-Federal prosecutor and for whom crime-fighting is a top priority. It also doesn't hurt to have had many thousands of officers appointed in the last five years. One veteran police manager concedes: "I don't know why it [crime] is going down; I just know that we're paying more attention to it."

## CRIME-TREND CASSANDRAS?

Taking credit for crime decreases is laudable, even brave. But will the police be as willing to bear some of the responsibility when crime goes up, as crime forecasters predict it will in 10 years with an explosion in the juvenile population?

Those forecasters—social scientists, demographers and others—were hard pressed to offer a definitive explanation for the crime decrease, but that didn't stop many from trying. Some cited a drop in the population of 18-year-old males (although that doesn't hold true for all cities.) Other criminologists speculate that crime dropped in major cities due to maturing drug rings engaging in fewer turf battles.

For the most part, however, criminologists did not see this decline coming. When crime rates in some major cities began to slowly decline a few years ago, analysts dismissed the reductions as being too low to have any significance. Curiously, though, now that the decreases in crime are great enough to command attention, there is still little in the way of definitive analysis—despite a crying need. For example, when it comes to homicide, we don't know who didn't die, or why. Were there fewer innocent bystanders caught in crossfires? Fewer drug dealers or gang members settling disputes with lethal consequences? Fewer victims of domestic violence? Could improved medical and paramedic response be responsible for vicious assaults not turning into murders? (Heaven knows it's not a lack of availability of lethal weapons.) With robbery down by 10 percent nationwide in the first half of 1995, could it be that one-time victims of murder-robberies are the ones who

aren't dying because would-be robbers are turning instead to larceny—the only offense that showed an increase, one of 7 percent. Are criminals, cowed by increased penalties, opting for less serious, less violent offenses? Have classifications and reporting criteria changed? Could the drop in homicide be a result of more aggressive policing, like SWAT teams on patrol in Fresno?

The picture would be a whole lot clearer if the National Incident-Based Reporting System—a perfect adjunct to problem-oriented policing—were in wider use. It's not that police departments cannot generate incident-based information; for the most part, it simply cannot be gotten expeditiously. It's said that a deep-seated lack of enthusiasm for NIBRS within some high-level law enforcement circles is hampering the project. NIBRS, and the study of declining crime, do not seem to be a high priority in the Justice Department's research agenda. While there is always an abundance of information about crime increases, there is typically much less available as to why crime goes down. Still, a small but growing number of departments are dropping out of the Uniform Crime Reporting program and turning, agency by agency, to the NIBRS format because it provides them with valuable "hot spot" information that allows them to tailor policing efforts to community needs. Had there been more departments participating—especially the larger ones—for the past several years, a clearer picture would have emerged by now as to why crime is down so dramatically.

## FROM HUBCAP THEFT TO MURDER

In a nutshell, then, many residents of large cities felt safer in 1995 than in the recent past. Sadly, though, law enforcement found itself unable to capitalize more fully on the diminishing fear of crime. For the reasons why, one must turn to the year's failures, a variety of events that tarnished law enforcement's image in the eyes of the general public.

Even as hundreds of thousands of officers carry on bravely, professionally and, sadly, in anonymity, one—Mark Fuhrman—became a household name, if for all the wrong reasons. Yet with that, Fuhrman was but one manifestation of police misconduct in 1995, as scandals great and small erupted on a seemingly recurring basis. In New York, Philadelphia, Atlanta, New Orleans and numerous other jurisdictions, incidents were reported that involved a virtual laundry list of offenses by police: stealing hubcaps, child abuse, domestic violence, sexual assault, robbery, fraud, bribery, drug dealing, even murder. Granted, police are generally held to higher standards of conduct and tend to be the most scrutinized of all occupational groups. As such, incidents of wrongdoing tend to make the headlines when they occur, and easily overshadow all the good that is done. To the profession's credit, some of the year's wrongdoing was uncovered by the departments on their own, providing hopeful signs that police can police themselves.

(Of course, even with increasing reports of wrongdoing, it is hard to know for certain if the incidence of misconduct has in fact risen, or merely the reporting of such acts. One police veteran points out that in the relatively recent past, corruption and misconduct was often overlooked or covered up, for fear that even the smallest eruption could kill a commander's career. Thus, while police misconduct may indeed be rising, it seems just as likely that police departments and individual officers are edging ever closer toward zero-tolerance of such acts.)

One aspect of police wrongdoing that continues to haunt the profession, but is the subject of increased attention, is the use of excessive force. Acting on a mandate built into the 1994 Crime Control Act, the Bureau of Justice Statistics has said it will begin collecting national data on the use of force by police (once issues pertaining to definitions of terms and uses of the data are settled). The likelihood is that the information will derive at least in part from the addition of questions to the annual victimization survey. In conjunction with this, the IACP has announced plans to create a comprehensive national data base modeled on one used by the Virginia chiefs' association.

## FOCUS ON THE FEDS

Over the years, tens of millions of dollars have been awarded in damages to the victims of police abuse, and it has typically been local law enforcement authorities who were in the hot seat for questionable uses of force. What made 1995 different by anyone's measure was that the glare of official and media scrutiny was focused, for a change, on Federal law enforcement, most notably in the form of televised Congressional hearings on Waco and Ruby Ridge. In a rare admission of error, the Justice Department agreed to pay \$3.1 million to white separatist Randy Weaver, members of whose family were shot and killed at the Ruby Ridge siege. And through the entire episode, Federal law enforcement officials got a no-nonsense reminder of the consequences of cavalierly disregarding policies governing the use of deadly force. In some cases, officials paid for the errors with their careers.

The scrutiny of Federal law enforcement agencies for their handling of right-wing extremists was not without its irony, however, coming as it did in the wake of the literal explosion of such fringe groups onto the scene. In the blink of an eye, the right-wing movement was linked to the most lethal terrorist incident in American history, the bombing of the Alfred P. Murrah Federal Building in Oklahoma City.

As horrifying as the April 19 bombing was, with its 169 victims, what made it all the more troubling—shocking, even—to the American public was that those suspected of committing the crime were not some international terrorists, but a cadre of home-grown extremists. In this instance, not only was the terrorist incident committed on American soil, but the alleged perpetrators were themselves American. In truth, heavily armed right-wing extremists are

nothing new to law enforcement, as witness the showdowns in the 1980s with such groups as the CSA, the Order and the Posse Comitatus. Still, Federal agents and local authorities alike are now feeling the threat of such groups more frequently. There have been bomb threats and attacks on Federal personnel, outright confrontation with police and sheriff's deputies in Montana, and numerous other threats against the lives of law enforcers.

Such extremists, whether anti-abortionist, white supremacist or constitutionalist, tend toward local and regional organizations, and some have fragmented further in the aftermath of the Oklahoma City bombing. Nonetheless, through optimal use of the means of mass communication, such as faxes, e-mail and the Internet, even the smallest group can engage in far-reaching networking. (More than one teen-ager has been reported to have cooked up a homemade bomb using instructions found on the Internet.) The hard-to-take realization that the enemy is within has changed things. There are even reports that a group called Police Against the New World Order is actively trying to recruit members from the ranks of law enforcement. The changing order of things is clearly seen in the FBI's process of conducting background checks on potential personnel. The question once asked regarding applicants was, "Is he now or has he ever been a member of the Communist Party?" That question now ends with "... a member of a militia."

## THE ROAD AHEAD

The successes and failures of the past year almost set the tone for what lies ahead in 1996. Certainly community policing, which continues to thrive and is given partial credit for the recent reductions in crime, remains a high priority for the Clinton Administration as well as for local jurisdictions. The Justice Department's Office of Community Oriented Policing Services—the COPS Shop—went full throttle in putting officers on the streets. To date, more than 30,000 community policing officers have been hired with Federal funds under the 1994 Crime Act. But the program, which also provides funding for technology that would free officers' time for community policing efforts, has been in political danger from the start, with the Republican majority in Congress attempting to scrap the COPS program in favor of no-strings block grants to the states. As the year ended, legislation that would have done just that was vetoed by President Clinton.

The National Institute of Justice awarded a \$2.5-million grant to the Urban Institute for a thorough evaluation of community policing, while the COPS office took over the funding of the Community Policing Consortium, to the tune of \$4 million. This consortium, which comprises the Police Foundation, the National Organization of Black Law Enforcement Executives, the National Sheriff's Association, the Police Executive Research Forum and the International Association of Chiefs of Police, is intended to

provide training and technical assistance to departments that have received community police funding through the COPS office. The NIJ also funded nearly \$5 million in community policing projects and evaluation efforts. If for no other reason than the substantial amount of money now available in this area, it is no great surprise that most police chiefs are indicating that community policing is the mainstay of their departments.

## BUILDING A BETTER POLICE FORCE

One can also expect in the coming year that police misconduct and the use of excessive force—or, more accurately, how to prevent them—will remain high-priority items. The BJS effort to collect national statistics on use of force, which doubtless will receive its share of media attention, will require police chiefs to become acquainted with the reporting system—that is, if they wish to have meaningful input into the process.

There also appears to be increased attention being given to “conduct unbecoming,” and to this end departments are becoming more sophisticated in keeping an eye on officers—tracking civilian complaints, monitoring off-duty behavior, and more. The police image took a battering in the course of the O.J. Simpson trial, and the public will be expecting police personnel to do a significantly better job when it comes to gathering and protecting evidence and testifying. (“Testilying” became part of the police vernacular in 1995.) Many departments are already training and retraining in these areas.

Policing has learned from past scandals that selection, screening, training and supervision are among the keys to preventing police wrongdoing. Departments can’t be too careful, too rigorous. To that end, many departments are taking a long, hard look at entry standards, whether it’s requiring college (as the NYPD finally said it would, beginning in 1997) or raising the minimum age. What

departments hope to gain is a more mature individual who is less prone to wrongdoing and more inclined toward personal accountability. One would hope that policing has also learned from past scandals that, in the midst of expanded or accelerated hiring, the selection process is not something that can be short-changed in a rush to meet deadlines. As is now well documented, all too often the seeds of corruption scandals are found to have been sown in selection.

## DO IT AGAIN

As to the No. 1 police success of 1995, the crime-rate reductions, an inescapable truth is that one is usually expected to repeat the success. For those departments that have enjoyed significant crime-rate decreases, the pressure will be on to continue the trend. 1996 will no doubt bring increased efforts to bring the crime rate down even further, but given some of the large declines in homicide, it may be difficult to maintain such dramatic results. For some, it would even seem likely that some leveling off may occur.

Repeating the successes may be made more difficult by the lack of an absolute, definitive explanation as to why crime went down so dramatically in the first place. (In the long run, the answer will probably be found in a combination of good police work, get-tough legislation, community involvement and demographic variables.) Sadly, though, law enforcement, politicians, researchers and governmental agencies continue to be more concerned with what’s going wrong than with what’s going right. Wherever the answer may lie, one can say without fear of challenge that the recent crime-rate successes have tasted sweet, and law enforcement is not likely to be eager to return to the way things were. That fact alone—coupled with the emerging “can do” attitude of the 1990s-era problem-solving cop—may provide all the impetus that’s needed.

Source: From *Law Enforcement News*, Dec. 31, 1995, Vol. XXI, No. 437.

## 1996 IN REVIEW

### Forget Events in the Spotlight—Local PD's are Where the Action Is

#### *Working Harder & Smarter Pays Off In Continuing Crime Declines*

It was a year punctuated by events that captured the national spotlight: the Freeman standoff in Montana; the capture of the alleged Unabomber; the crash of TWA flight 800, and the terrorist bombing at the Olympic games. It was also an election year with all the usual prerequisite law and-order campaigning.

But while public attention focused in one direction, on these and other events, the real action was elsewhere, as local police departments, usually with little notice, were busy—very busy.

Police departments drew increasingly upon past research—especially in the area of problem solving. They incorporated new technologies, and shared information about what works. They looked to other jurisdictions where successful strategies had been implemented and duplicated them. Day-to-day operations were reformulated with a view to reducing crime. In growing numbers, police executives are convinced that effective policing can decrease crime, and even a growing cohort of criminologists is conceding that police work is responsible for the recent notable decline in crime. Nationwide, there are clear signs of departments reorganizing, refocusing and implementing anti-crime strategies, targeting problems and attacking them with verve. And from all indications it appears that their efforts are paying off, as 1996, like the years immediately preceding it, witnessed significant drops in the crime rate.

#### HOT SPOTS AND COLD CASES

Police went after drug-dealing hot-spots and public housing crime. They tracked down guns, mounted camera surveillance devices and notified the community of burglars

working in the area. They went after stolen goods and set up telephone hot lines that residents could call for crime information. Fugitive and warrant units and cold-case squads were set up or reinvigorated. (In Houston, for example, warrant enforcement has reportedly generated 8,860 arrests and cleared 38,126 cases. The New York City Police Department, with help from the U.S. Marshals Service and the FBI, will be going after as many 87,000 fugitive felons and 403,000 misdemeanor offenders.) Many departments redirected resources to high-crime areas and peak activity periods. Some departments, such as those in Bridgeport, Conn., Gary, Ind., Camden, N.J., and Minneapolis, got temporary reinforcement from state police units.

Clearly, 1996 was the year of the crackdown, but perhaps the most common approach was a crackdown on quality-of-life crime. In city after city, quality-of-life enforcement became a priority, in part because such a focus was desired by the community, but as important, because evidence increasingly points to the fact that going after minor violators contributes directly to reductions in major crime.

#### IN WITH THE NEW

When it comes to reducing crime, increased innovation and accountability rule, with many large and mid-sized departments continuing to undergo significant organizational transformations. LEN's People-of-the-Year award is testimony to the kinds of structural changes that are going on around the country. The San Diego Police Department has brought all of its divisions on-line and given its lieutenants

24-hour responsibility and commensurate increases in accountability. Boston officials attribute the city's recent drop in crime to increased accountability throughout the ranks and the reorganization of the city into two-block-square reporting areas, so that emergency calls can be routed to the line officer responsible for a given neighborhood. In Montgomery County, Md., police district boundaries have been redrawn to provide a fairer, more realistic distribution of police workloads and greater success in preventing crime. And supplementing local efforts in organization change, the National Institute of Justice has provided Federal funds to export the NYPD's ground-breaking Compstat process to Indianapolis and Prince George's County, Md.

As internal changes sweep the nation's police departments, the role of supervisory personnel, notably lieutenants and captains, is coming under renewed scrutiny. Since the advent of community policing, the focus has been on the beat cop, on how well he knew and interacted with his neighborhood, and on foot patrol, substations and mini-precincts, community meetings and the like. In 1996, the focus has been on the supervisory ranks, with redefinition of their roles and increases in their responsibilities and accountability. No longer are they mere conduits that filter information upward and commands, directives and influence downward. Supervision and middle management are now bound more closely than ever to their geographic areas and what goes on there. Specifically, supervisors and managers have been charged with problem identification, tactical and strategic planning, and problem-solving that directly lead to crime reduction.

The impact of these changes on crime is clear. But what about the impact on the middle management ranks themselves?

While many departments credit "re-engineering" for crime reduction and enhanced community policing, such changes have not come without a price, in the form of organizational tension. In Austin, for example, lieutenants became the "power rank," when sectors were put under their control. This change has become a linchpin of community policing efforts in the Texas capital, and is considered a success, but one of the negatives is that the captains are miffed because they feel they are no longer in the loop.

In New York, the focus of community policing—the "power rank"—is the captain. But with power comes pressure—lots of it. Scores of captains and other precinct commanders have been reassigned for failing to meet their basic responsibility for bringing neighborhood crime rates down. Even those who do deliver are subjected to high-stress debriefings at the regular Compstat meetings. At least one possible result of these changes is that fewer lieutenants than usual are applying to take the recently announced captains' exam, and that even many of those who are taking it are ambivalent about wanting the rank. Captain's bars may no longer be as desirable as they once were for many NYPD lieutenants (although one could also surmise that a kind of "Darwinian policing"—survival of the fittest—is

taking hold, with new, more intense demands on captains helping to screen out candidates).

Austin's police chief, Betsy Watson, summed up the ambiguities that are taking hold in middle management: "What is it that a captain can do that a lieutenant should not or cannot do? What is it that a deputy chief can do that a captain should not or cannot do . . .? We haven't defined roles and responsibilities that are commensurate with each rank in the organization and then we bemoan our inability to hold folks accountable. Accountable for what? For a job that was never defined, never clearly explained and for which people have never been formally prepared. It is not a problem of our people. It is a problem of structure."

Once again, the military-based structure of departments, while good for some things, doesn't often accommodate community policing, department restructuring or teamwork.

## THEN AND NOW

Nearly 30 years ago, the Federal Government stepped in to foster police professionalism through the Law Enforcement Assistance Administration. The enactment of the Crime Control Act of 1994, with the resources it has provided and the role it is playing in police work, is very much akin to the golden days of LEAA. There is a great deal of Federal assistance for police departments, for new technology, for research, for finding out what works, for training, and more.

The striking difference between the LEAA days and today is that the Federal Government is now putting far greater emphasis on putting more officers on the street. To date, the Office of Community Oriented Policing Services—the COPS shop—has made commitments for 50,000 new officers. In the LEAA days, on the other hand, the Federal Government invested in the officers we already had by providing educational benefits for in-service personnel through the LEEP program, and many of today's police leaders point to that educational incentive as a key stepping stone for their careers. According to a Bureau of Justice Statistics survey released this year, the number of police departments that require recruits to have some level of higher education doubled from 6 percent in 1990 to 12 percent in 1993—still a far cry from the recommendation of the 1967 President's Commission report, which said "the ultimate aim of all police departments should be that all personnel with general enforcement powers have baccalaureate degrees." Granted, more officers today than ever before have college educations, but it remains regrettable that the 1994 crime act's provisions regarding educational benefits for in-service personnel are underemphasized, underutilized and, to be sure, parsimonious.

As the COPS shop continues to fulfill its goal of putting 100,000 community policing officers on the nation's streets, there is no doubt that the public safety field has grown. This is especially true if one includes private security forces under the heading of public safety. Forbes magazine reported that as of 1995 the number of police and

security guards had grown to 1.8 million, ranking 11th among the country's top 30 job classifications. In 1960 it ranked number 22, with 500,000. According to BJS, approximately 374,000 sworn, full-time officers are currently at work in more than 12,000 county and municipal police departments.

## GROWING PAINS

While expanding in size, the field has also grown philosophically. It has been struggling with the concepts and the practice of community policing, which has helped to change how police do what they do. Consider the late 1980's, when many big-city departments unveiled operations known by catchy names like TNT, Clean Sweep and SNIP to crack down on drug hot-spots. Even the Feds got into the act with the "Weed" component of the Weed and Seed program. But eventually, these and other crackdowns were back-burnered because they cost too much, they generated huge numbers of arrests that strangled the courts, and they often angered the very communities they were meant to help. What's different this time? For one thing, the 1996 crackdowns have been better coordinated with the court system, there is far more jail space now than in the late 1980s, and alternatives to incarceration are getting a renewed look. As important, police point to greater input from the community in developing aggressive anti-crime tactics. Through community policing, the police and the public have gained a greater mutual familiarity—and, arguably, trust—thus making today's crackdowns different from those of the past.

Still, there are those who fear for the future of community policing, concerned that high-pressure police tactics signal the concept's abandonment. There is also concern that community policing's intent has become too convoluted, making evaluation and research projects now underway all the more difficult to measure.

That's not to say impossible to measure. One recent study offered a dose of good news, finding that community police officers in Richmond, Va., while less likely to make an arrest, had a much higher probability of having people do what the officers told them to do. The study's author observed: "The pro-community policing officers were much more likely to engage and stop suspects on the street, to be a little more active. While they had a lower batting average, they got to bat a lot more." In view of the problems of excessive force that so often plague law enforcement—often as a result of individuals not responding to officers' commands—the Richmond finding is all the more significant.

## ALL HANDS ON DECK

There is no longer much doubt among practitioners that police strategies and tactics can reduce crime; there is also a growing confidence that community activism can play a

major role in crime reduction. Such activism comes in a variety of forms: loud protest marches in front of known drug locations; midnight barbecues on street corners known for drug dealing; watchdog groups, sometimes armed with cellular phones donated by departments; increased volunteerism; more information being provided to police.

But it's not just neighborhood residents who are taking on a greater role in public safety. In the broadest sense, society is taking action with policies aimed at deterrence, collectively telling criminals, "We know who you are and we know where you live."

More than ever, communities have access to information concerning the status and location of offenders. Computerized telephone systems in numerous localities can now inform residents as to where ex-offenders live. In Northern Virginia, communities for the first time made public a list of the names and addresses of about 9,500 people on parole for crimes such as burglary, drunken driving, drug dealing, sexual assault and murder. Registries for released sex offenders have grown in popularity, despite court challenges. In California, a molester hot line has received thousands of calls since its inception in July 1995. More newspapers routinely publish photos of wanted fugitives. (That's not to say that the approach is without problems, as was seen in Minnesota when a privately published anti-crime newspaper had to print a retraction after it mistakenly identified a number of St. Paul residents as child molesters.) And, of course, perhaps the most visible sign of the "we know who you are" trend was the rescue of the TV show "America's Most Wanted" through an appeal from the public and the law enforcement community.

A better-informed public was not the only example of community involvement in crime reduction. The concept of penalty has broadened as well. In addition to imprisonment, an offender now risks losing housing, welfare and educational benefits. Criminal background checks are being conducted with increasing frequency, and are being used to bar ex-offenders from a growing list of occupations. A number of states are expanding the definitions of criminal behavior, such as Florida, which added deadbeat parents into its state crime computers. In response to the growing national concern over underage single-family households, many jurisdictions are once again enforcing statutory rape charges that for years had been collecting dust.

## IMPACT STATEMENT

The increased crime-fighting capability of police, better coordination with other criminal justice and social agencies, community action, improved economic conditions and the linkage of criminal deterrents and entitlement programs are now starting to coalesce. And just what impact has this energetic, synergistic trend had? For many, it is the combination of factors that has led to a decreasing crime rate.

The latest Uniform Crime Reports and BJS victimization study show nationwide declines in the violent-crime

rate of 3 percent and 9 percent, respectively. Adult crime is down. Domestic crime is down. The number of burglaries is at its lowest level in the past two decades. Even juvenile crime dipped slightly for the first time in a decade.

Granted, throughout most of the year, criminologists continued their warnings regarding a coming surge in juvenile crime. As the year ended, however, several experts changed their tune and now say that the future with respect to juvenile criminality is not as dire as they had previously predicted.

But despite the good news, there are still concerns that juvenile crime remains at particularly high levels, and police departments around the country—perhaps acting on the earlier gloomy forecast—focused their attention on young offenders. Many departments worked more closely with schools, and developed strategies for dealing with truancy. The Los Angeles Police Department, for example, developed a program that fines parents \$135 for a child's first truancy offense, with subsequent violations carrying fines up to \$675. The police also give parenting "how-to" classes. They report that within 180 days of launching the program, burglary dropped 6 percent, car theft, 12 percent, and shoplifting, 18 percent.

The International Association of Chiefs of Police, for its part, issued a report on youth violence that recommends, among other things, the development of closer relationships between law enforcement and schools. The issue of education was enough of a hot button to prompt a number of police officials and organizations to publicly voice their opposition to a bill in Congress that would deny public schooling to the children of illegal immigrants. And one survey found that most police chiefs believe that for the crime problem to experience a permanent downward shift, more resources have to be put into addressing the needs of children.

The focus on juveniles is not limited to the police. In the past two years, at least 44 states have changed their juvenile laws or are considering statutory changes—usually with an eye toward making proceedings and penalties tougher. Teen courts, designed for first-time minor offenses, have grown in popularity, with 280 of them now in operation in 31 states and the District of Columbia. Although the year ended with some criminologists retreating from their earlier dire predictions, educators are becoming more worried about the teen-agers of tomorrow. It was recently reported that there is a wider gap in the skills of children entering kindergarten this year than 20 years ago. One facet of this disadvantage, experts say, is that such children develop little ability to tolerate frustrations—a phenomenon with troubling implications for educators and the police alike.

## THE HOME FRONT

Domestic violence, long considered a crime about which police could do little or nothing, has seen its share of

increased police attention of late. Police departments, spurred in part by Federal resources made available under the Violence Against Women Act, are actively developing a variety of domestic violence programs: computerized offender histories, specialized units and officer training programs, relationships with social agencies, and streamlined protocols for dealing with prosecutors and the courts. The police have been giving out cellular phones and alarm pendants to victims. Specialized courts have sprung up in numerous areas with simplified processes for obtaining orders of protection. Hot lines have been set up to notify victims when attackers are released from jail.

One development on the domestic front that carries the potential for significant impact was the enactment in 1996 of Federal legislation that prohibits the possession of a gun by anyone convicted of a misdemeanor domestic violence offense. With no exception built in for law enforcement or military personnel, the new law has forced police agencies to take a hard look at their internal policies and practices. In mid-December, for example, the NYPD changed its selection process to exclude those with a history of domestic violence. But what about officers already on the job who have domestic violence convictions? Colorado has begun exploring whether any State Patrol or state Bureau of Investigation officers must turn in their guns because of the law. The Denver Police Department reportedly has placed some officers on desk duty until the department figures out how to comply with the Federal law—a scenario likely to play out in many departments around the country. Local police unions and national police organizations have signaled their discomfort with the new law, and a number of them are considering challenging it. But it bears keeping in mind that with all the efforts police departments are making to deal with domestic violence, it would be politically, legally and ethically tricky for police to enforce a law from which they were exempted.

## PUTTING TECHNOLOGY TO WORK

Clearly, many of the achievements of the year were made possible through technology—specifically, information technology. The mapping software now being used by a number of departments has given crime maps the look of fine art. In Baltimore County, Md., for example, police warned residents about a series of burglaries through a calling network connected to the department's mapping system. Many departments have set up home pages on the World Wide Web to provide information to citizens. In Florida, at least 52 police and sheriffs departments have home pages that can be accessed through the Citizen Safety Center of the Attorney General's office.

The FBI is in the throes of a massive overhaul of its crime files—entailing some 40 million records in 17 data bases. The vaunted NCIC 2000 project got off to a rocky start, with delays and cost overruns, but officials now say

things are back on track. As planned, NCIC 2000 will have an increased capacity, allow for greater integration and cross-referencing (e.g., mug shots with fingerprints), integrate state systems that don't talk to each other, and reduce from minutes to mere seconds the time it takes for information transactions. (At present, NCIC handles over 1.7 million transactions per day, an average of 1,183 per minute, compared to roughly 158 transactions per minute 20 years ago.)

For its part, the Bureau of Justice Statistics announced that \$33 million would go to 48 states and Washington, D.C., to improve criminal history records, with a view toward keeping felons from purchasing handguns, preventing sex offenders from working with children and the elderly, and identifying repeat offenders who may be subject to three-strikes laws.

Scientific and technological advances have not occurred without a price. Forensic labs cannot meet demands currently being placed on them. The level of refinement for evidence analysis has never been greater, yet such increased precision remains underutilized largely because crime labs are overwhelmed. A survey reported last August found that eight out of 10 lab directors believe their caseload has grown faster than their budgets, their staffs or both. Delays in evidence analysis, according to some observers, have

created a major bottleneck in the system. For the FBI, the wait is nine months to a year. Some hope looms. Plans are in the works for a new \$150-million lab at the FBI Academy in Quantico, Va. In addition, the National Institute of Justice announced that it would provide funds to develop ways of bringing down the price of DNA testing from several hundred dollars to \$20.

## **KEEP IT UP**

In 1996, the police community benefited in no small way from the resources of the Crime Act of 1994, enhanced technology and a renewed sense of determination to bring down the crime rate. While there is a growing belief that policing can have a significant impact on crime, there remain a number of specific reasons that were credited for crime reductions in various localities (see sidebar, above). The common denominator in many of the explanations, however, was the vigorous way police have targeted specific problems and focused creative energy and resources on them. The police are working harder and working smarter, and their efforts, at least for now, are paying off.

Source: From *Law Enforcement News*, Dec. 31, 1996, Vol. XXII, No. 458.

# 1997 IN REVIEW

## Policing Moves Along Parallel Tracks of Introspection & Outreach

### *Community Policing Comes of Age in '97, Although Critics Still Abound*

Generally speaking, 1997 was a relatively quiet year on the national scene for policing. It lacked the large-scale terrorist bombings, raging crime rates, major riots and other galvanizing events that have seemed the cornerstones of recent past years. That's not to say that the year didn't have its moments for law enforcement, as many local agencies will quickly attest. For the most part, though, it was a time for introspection and outreach—assessing where the field of policing is going as the millennium approaches, and then building the road that will get it there.

Moving along the first of these parallel tracks, law enforcement, with the help of the research community, paused to visit some of the more sensitive and nagging issues that have long dogged policing: the use of force; civilian complaints; corruption and integrity. Crime trends remained under the microscope as well, with particular attention being paid to what's driving crime down.

Along the adjacent track, community policing has continued to evolve, arguably coming of age in 1997. As it has, two schools of thought appear to be emerging. On the one hand are those who see community policing as “adrift,” seriously threatened by the variety of methods being applied under its rubric. Others believe just as passionately that it is the nebulous and open-ended nature of community policing that is responsible for its growth. Its diversity is an essential piece of the philosophy, a source of its strength, and allows for local tailoring, increased creativity and, ultimately, expansion.

#### GROWTH CHART

Community policing has come a long way since it first began to emerge from the primordial ooze of law enforcement thinking more than 20 years ago. Just about every police agency in the country has been exposed to it in some way, and many have tapped into the recent abundance of Federal resources to implement it. But just how far departments have come along the development continuum of community policing depends on who they are, when and how they got started, how they define the concept, and the level of resources they've committed. For some departments, community policing means more officers and equipment; for others it's a brand new way of doing business—a philosophical underpinning that permeates nearly all aspects of policing. Some departments continue to vest community-policing responsibilities in specialized units, while others are satisfied with nothing less than a department-wide embrace.

Problem-solving—which many view as a key element of, or adjunct to, community policing—can be anything from implementing a bicycle patrol to the sophisticated use of the S.A.R.A. model. Take the Glendale, Calif., Police Department, which won the 1997 Herman Goldstein Award from the Police Executive Research Forum for its insightful and effective problem-solving approach to chronic nuisance problems brought about by day laborers. The Police Department's solution was to spearhead a vigorous effort that involved partnerships with the community, local

businesses and other government agencies. To be sure, the growing tendency of criminal justice agencies in general to form problem-solving partnerships was a development of particular importance in 1997. Certainly task forces are nothing new to police departments, which have usually formed them with other law enforcement agencies for limited periods of time and specific purposes. The partnerships that are now emerging, however, involve a closer relationship with other branches of the system.

## SYSTEMATIC GAINS

For years, the phrase “criminal justice system” has been derided as a misnomer, a kind of cruel irony. It’s not a system, critics say, but rather an assortment of agencies with an on-again, off-again mutual dependence that, more often than not, translates into working in isolation from each other and at cross-purposes. In the context of community policing, more than a few observers have pondered how police would ever succeed in getting other governmental agencies and the community to work with them when it was so problematic to form productive relationships with prosecutors, courts, prisons, probation and parole and other branches of “the system.” However, the Law Enforcement News People of the Year Award for 1997 is testimony to what can be achieved when the various components of the criminal justice system work together toward a common goal, namely stopping juvenile gun violence. The Boston Gun Project—now known to some as “the Boston Miracle”—has been responsible for driving juvenile firearms deaths to near zero over a period of more than two years.

But juvenile crime is not the only issue that is being tackled successfully through the collaborative efforts of criminal justice agencies. A growing variety of crime problems are being addressed by closely networked components of the system focusing on a common purpose. Domestic violence offers a particularly telling example, with police, prosecutors, courts, probation and social work agencies in some areas working together with such a degree of refinement that they are able to deal with different types of batterers in different ways. Other localities are moving successfully to establish community prosecution and community court programs. The financial encouragement of the National Institute of Justice and the Office of Community Oriented Policing Services is also helping to promote partnerships, with 39 grants currently supporting joint police-university research efforts. No doubt that when it comes to building partnerships, a key ingredient of community policing, 1997 was a good year.

## BUMPS IN THE ROAD

Despite the successes of community policing, and the application of some of its precepts by other branches of the

criminal justice system, there are still those—including some of the staunchest advocates of community policing—who are concerned that it is adrift and in danger of being watered down. One criminologist, a former practitioner, went so far as to warn that community policing is threatened by “trivialization, perversion and replacement.” Moreover, some fear, because problem-solving was often introduced at the bottom of the organizations as a first stage in community policing, the ability of either concept to permeate all ranks is limited.

A particular sore spot to many community-policing advocates is the term “zero tolerance.” They point to the increasing use of crackdowns, particularly on quality-of-life offenses, as reverting to a law enforcement-dominated kind of problem-solving with no attempt to identify and analyze the underlying conditions. No less a figure than Herman Goldstein, the pioneer of problem-oriented policing, says of zero-tolerance: “It’s not surgical and creates more dependence on the criminal justice system. It implies less discretion and is unrefined.” Such criticisms may have taken hold. There are signs that those who favor an emphasis on quality-of-life crime are backing away from the term “zero-tolerance,” claiming that such an emphasis does not necessarily mean a heavy-handed approach.

For all of its recent gains, community policing is still having a tough time fitting into the typical organizational structure of law enforcement. The quasi-military framework of policing has not changed in any fundamental way since the inception of community policing. For that matter, to some observers it hasn’t changed all that much since Sir Robert Peel created the London police nearly 170 years ago. The police culture itself is seen as a barrier to organizational modification, and for policing to fundamentally change it first needs to determine its core values and then modify or rebuild its structure to suit. But for all the discussion in recent years about organizational structure and its relationship with community policing, most practitioners agree that with the exception of some flattening of ranks, the quasi-military structure of policing will not change any time soon.

Another example of the troublesome fit between community policing and police organizations concerns performance evaluations—which are difficult enough in most cases, and all the more so when done in the context of a loosely and varyingly defined concept like community policing. Different evaluation methods are under consideration throughout the country, with departments developing core competencies for each rank and assessing an officer’s ability to acquire knowledge, skills and attitudes. Once this is established, an officer is required to do a problem-solving project, to be judged by the community result. For the most part, though, departments are trying to supplement long-standing evaluation criteria by simply grafting on a community-policing component. Reports indicate that officers are skeptical about all such approaches because they believe the criteria to be subjective. Their skepticism may be warranted. After all, training in community policing is

fairly new and it would seem unfair, if not impossible, to test officers on that which they haven't learned.

## LEARNING CURVES

A recent NIJ-sponsored study found that departments are in need of training that deals with the general concepts of community policing, problem-solving, cultural diversity and conflict resolution. Even departments that have already offered such training identified such a need—an indication that such training should be enhanced and periodically reinforced. Most police academies put community policing precepts into existing training modules—or, at best, have added new modules while leaving much of the curriculum intact. A handful of agencies have tried approaches that are more radical in concept and design, and there are those police chiefs who feel radical change is just what police academies need. As one chief put it: “Academies should not be run like boot camps. They should be more like officer candidate schools used by the military.”

The quality of recruits has improved in recent years, according to some chiefs. Most recruits now have at least some college background, and a growing number of police departments now require at least a two-year degree for entry. Yet while many departments require a bachelor's degree to advance in rank, there are still only a relative few where it is needed for employment. This past year the Portland, Ore., and Tulsa, Okla., police departments joined the small cadre of such departments, and Tulsa Police Chief Ron Palmer summed up the prevailing thinking on the subject when he observed that officers with four-year degrees “come to you a little bit more mature, they're a little more aware of diversity issues, and they're more prone to use their minds to problem-solve than those who don't have that type of background.”

## IN THE KNOW

But a larger issue has also begun to surface in this respect, with a growing number of practitioners and researchers asking the same fundamental question: What is it police should know?

Some criminologists believe that police, particularly those involved in problem-solving, should become familiar with such concepts as environmental criminology, situational crime prevention, repeat victimization and routine-activity theory—all concepts that would aid practitioners in hot-spot analysis, crime mapping and reducing opportunities for crime. In growing numbers, researchers are looking at crime in the context in which it occurs rather than focusing on the offenders. Such an emphasis cannot help but make their research more valuable to law enforcement policy-makers. Even under the auspices of community policing, after all, there is little that police do about influencing an individual's criminal behavior. The study of criminal

offenders, while valuable in itself, has only a limited benefit for the cop on the street or behind a desk. But with the popularity of mapping and hot-spot analysis, police can do something about the context in which crime happens.

## GOING DOWN

There is no shortage of crime-reduction strategies and programs being implemented and replicated throughout the country, and the continuing sharp drop in crime rates makes every successful program that much more appealing to those scanning the landscape for new ideas. There has been virtually no let-up, for example, in the number of departments adapting and adopting Compstat, the system that figures so prominently in New York City's dramatic crime downturn of recent years. Many departments increased their attention to quality-of-life crime and truancy. Cities installed surveillance cameras, roadblocks and gates. They launched resident officer programs (and the Federal Government is now aboard that bandwagon). Police substations have sprouted up in a seemingly endless array of unlikely places, including convenience stores and fast-food restaurants.

Police departments went after problems where they existed, and when they had to improvise, they did so. Such was the case with sex-offender registries and community-notification laws, which departments had to figure out how to implement, sometimes with very little guidance. How they did it ranged from hosting good old-fashioned town meetings to creating CD-ROMs and Internet sites.

Explanations abound as to why crime continues to drop, yet one group that has remained strangely silent in the discussion has been those criminologists who believe there to be a significant, inextricable link between poverty and crime. One might have thought that such criminologists would be crowing “I told you so” during the past year. After all, the economy is booming, and crime is down. Some suggest that the poverty-and-crime proponents have held back because they attribute the economic boom to low-paying jobs that do not lead to the mainstream.

## CAUSAL FACTORS

More significant, perhaps, was an analysis released this year by the National Institute of Justice that deals a sharp blow to the notion of a significant connection between crime and poverty. The NIJ research, which looked at homicide trends in eight cities between 1985 and 1994, shows there to be a weak link at best between overall homicide trends and poverty and employment levels.

The research also found a clear link between juveniles, crack cocaine and guns that caused the sharp spike in crime from the late 1980s to the mid-1990s. In addition, intra-group homicide was found to be the norm, with black-on-black crime the most dominant. Inmate flows in and out

of prison did have some effect on homicide rates, with prison detentions linked to declines and prison releases linked to increases (although the research data was admittedly limited).

Another study analyzed police policy and practice and found that what made a difference in the localities studied was aggressive law enforcement (often targeted deployment), particularly when it comes to its emphasis on misdemeanor offenses. Such enforcement usually comes with the blessing of the community, whose tolerance for heavier-handed approaches is higher during times of rising crime. (Of course, when crime goes down, as it has been doing, such tolerance might wear thin.)

There are still other views on the decline in homicide, with some suggesting that it's the result of the end of drug-trafficking turf wars, and because crack is a single-generation drug whose users are aging out of the crime-prone years. Others say that there are fewer domestic homicides due to a decline in domesticity. (Indeed, some go so far as to suggest that the divorce level and the decrease in marriage have helped to reduce domestic violence.)

Opinions differ on whether or not a wave of juvenile crime is looming on the horizon, but a study released in 1997 by the Child Welfare League found a strong correlation between having an incarcerated parent and the likelihood that a child will later be arrested for a crime. (This finding would seem to bode ominously for the future, given the 1.5 million parents currently incarcerated and the 1.6 million children they have.) The study also found that abused or neglected children are 67 times more likely to be arrested between the ages of 9 and 12 than those who aren't—thus giving statistical muscle to the long-held belief that family violence is transmittable through generations. Such information was not lost on a growing number of police executives, who continue to beseech Congress to “invest in kids” by allocating more for early-childhood programs.

## WARNING SIGNALS

As policing and police agencies turn some of their attentions inward, meanwhile, one of the year's most notable trends was the increased emphasis on monitoring personnel. More than a few departments put in computerized “flagging” systems to identify potential problem officers. Most such systems were sold to the rank and file as early-warning systems aimed at permitting prompt intervention as needed. To the extent that an early-warning system is used to that end, of course, it would be of considerable value to both the officer and the department. Following the “stitch in time” adage, such systems could prevent an officer from destroying his career, embarrassing himself and the department, incurring enormous liability and damning public faith in the police.

But just how these systems will be used is still, for the most part, unknown. A number of issues remain to be

ironed out. Just what information goes into this system? How is it acquired? How does it get into the system? What is the threshold for intervention? What form will intervention take? Who is responsible for it? Who has access to the information and under what circumstances? At what point do the civil rights of an officer come into conflict with the department's standards and managerial prerogatives?

A hint of an answer to these questions was provided as the year ended when the New York Police Department announced that 500 officers who were the subject of domestic-violence complaints, whether substantiated or not, would be made to undergo two eight-hour training sessions. Even the New York Civil Liberties Union, not usually known for pro-police stances, is troubled by the possible impact that an unsubstantiated and possibly false report could have on an officer's career. (The NYPD is also taking monitoring efforts to another level by looking into any officer who has fired his weapon on three or more occasions. The action was prompted by an end-of-year police shooting of an unarmed man by an officer who had been involved in eight prior shootings during his 14-year career.)

Beyond local efforts, computerized monitoring systems are also being supplemented by NIJ's Office of Science and Technology, which is working to identify and develop early-warning systems for identifying officers with potential problems. Other NIJ efforts include a five-department study of the use-of-force and a longitudinal study of New York officers who were dismissed, resigned or forced to resign because of corruption or brutality. An organizational integrity study is also underway in three cities. Perhaps tellingly, it seems the field no longer studies “corruption”; it studies “integrity.”

## UNPRECEDENTED INTROSPECTION

While incidents of corruption and brutality litter policing's past, rarely, if ever, has the profession undergone the level of introspection in these areas that is now underway. In November, the Bureau of Justice Statistics released an unprecedented study that showed that about 1 percent of those who had contact with police alleged that force was threatened or used during the contact. The survey estimated that 45 million adults had face-to-face contact with police, and of those 500,000 reported that force was threatened or used during the contact. (The finding begs the question, of course, as to which is the more consequential statistic: that 500,000 Americans experienced some level of police use of force, or that force was a factor in only 1 percent of all contacts.)

Those involved in the area of police use of force welcomed the study, which was required by the 1994 Crime Control Act, and expressed hope that there would be future studies in order to ascertain trends. At present, however, BJS has not been funded to do another survey and observers are concerned that what might be a useful tool for determining levels of use of force will be abandoned.

Within the next few months, statistics should be available from IACP's newly developed national data base on police use of force. In addition, over the next few years research results will become available from the 17 police departments nationwide that are currently involved in NIJ-sponsored corruption and use-of-force studies. That so many departments are involved in these efforts (a record number, according to NIJ Director Jeremy Travis) speaks loudly to the sea change that policing has undergone. Receptiveness to such study would have been unheard of just 10 years ago.

### AVERTING A "BIG ONE"

Will 1998 be a year that allows for the kind of self-analysis that occurred in 1997? Who can say? As most practitioners agree, you never know when a "big one" can go off on your doorstep, bringing it with the kind of high-level scrutiny that can divert attention from more useful analyses that can make policing better. Still, as many departments are realizing, the risks of a "big one"—especially one that

results from police action—can be minimized by the kind of research and self-monitoring that is now underway.

In sum, it was a good year for law enforcement. Police demonstrated that they can make a difference in reducing crime by focusing on specific problems and dealing with them. Police continued to make partnerships with the community, business and with other public agencies, most notably other branches of the criminal justice system. Community policing will continue to flourish, with the economy good and crime down. Federal resources continue to be abundant, in terms of funding for new officers and equipment as well as for research. Call it a golden age, a renaissance, of police development. Not since the days of the Law Enforcement Assistance Administration has the field been given this kind of boost.

Just how long it will last is unclear, of course. But with any luck crime rates will continue to drop, the economy will continue to prosper, and Federal resources will continue to flow. At least for now, then, let the good times roll.

Source: From *Law Enforcement News*, Dec. 31, 1997, Vol. XXIII, No. 480.

# 1998 IN REVIEW

## Getting Nice & Comfy? Don't.

### *From Manpower Levels to Crime Stats, Numbers That Look Good Now May Yet Haunt Law Enforcement*

You can't get too comfortable.

On its surface, 1998 seemed like a good year. The economic picture remains favorable, as does the crime rate, which continues to drop. Crime slipped from the spotlight as the nation's attention focused on pocketbook issues and, almost unavoidably, sordid intimacies in government. There were more Americans at work than ever before, according to the Labor Department, and the poverty rate is falling, especially among blacks and Hispanics. Generally speaking, as a nation we appear to be richer and safer.

Still, the very attributes that made 1998 a good year for police and the communities they serve have given rise to some specters that very well may haunt law enforcement in the years ahead. Rising prosperity and increased public safety are contributing to a labor shortage the likes of which the field has not experienced since the late 1970s, and its impact is already being felt in a growing number of departments from coast to coast. If the past is prologue, then today's labor shortage will likely affect policing for years to come. Despite hiring efforts catalyzed by the Office of Community Oriented Policing Services, which so far has added a reported 88,000 officers to 12,000 communities, and reports that the number of sworn officers in state and local departments rose by 10 percent between 1992 and 1996, to more than 660,000, many police agencies find themselves shrinking.

#### THE MORE THINGS CHANGE . . .

Twenty-five years ago, the officers and recruits were there but the resources needed to hire them were not. The country

was in recession, officers were being laid off and hiring came to a virtual standstill. As the economy gradually improved and police hiring resumed, departments rushed to increase their ranks, in some cases skimping on the recruit screening process—often with dire results. Some of the officers recruited at the time proved especially vulnerable to the influence of the violence and drug money that abounded in the mid-80s. To make matters worse, the bubble in hiring also led to corresponding gaps in the supervisory ranks—a situation that would eventually play a role in numerous major police scandals.

Now, however, the resources are there but the recruits are not. Exacerbating the problem is the growing wave of retirements of the baby-boomer cops who now have more than 20 years of service. In Washington, D.C., for example, more than 25 percent of the department is expected to retire in the next two years. In Washington state, the Seattle Police Department, which is already operating at 10 percent below authorized strength, is bracing for a wave of retirements that could mean the loss of 150 veteran officers by the end of 1999. In Atlanta, the department's vacancy rate, which is estimated to be 19 percent, became a legal issue when the Mayor's office refused to release the number of sworn officers to a major newspaper. And the manpower problem is not just limited to large departments. In Washington Township, N.J., for example, police officials are concerned about filling five positions, which represents almost 18 percent of the department.

Departments attribute the problem to an nationwide unemployment rate that is currently at a 25-year low and the increased competition from the private sector as well as

from other law enforcement agencies. (Some departments are now billing officers for the cost of training if they leave prematurely.) Low pay and the preference of applicants for small towns and suburban departments are making it all the more difficult for large departments to fill vacancies. The Charlotte-Mecklenburg Police Department in North Carolina has seen a 16-percent drop in applicants. In New York City, where announcements of police entry exams have typically drawn 30,000 or more applicants, only 2,500 signed up for the most recent test, the lowest number in 20 years. Agencies that provide services for remote areas, such as the New Mexico State Police, are also having a hard time recruiting. When you factor in the chronic difficulty of recruiting women and minorities, the problem only becomes that much more acute.

Far wider nets are now being cast to fill police positions, as departments look well beyond jurisdictional boundaries to woo applicants. Recruiters from the Delaware State Police, for example, traveled out of state to find minority candidates, offering such enticements as opportunities for advancement, tuition reimbursement, and liberal vacation and leave policies. The DSP is also using a private consultant who will assist in recruiting by building long-term relationships with college and university officials.

## THE TIDE TURNS

A generation ago, police recruits came to the job with military experience and often, thanks to the GI Bill, a college education. Beginning with the early 1980s, police departments found themselves faced with recruits who had neither. At least in terms of education, the tide is turning once again, as a growing number of law enforcement agencies are now requiring some college education. At the upper ranks, a college degree is becoming a virtual necessity. A survey by the Police Executive Research Forum of police chiefs in medium and large cities found that 87 percent have bachelor's degrees and about half have master's degrees, doctorates or law degrees—compare that to the estimated 15 percent who had bachelor's degrees and 4.3 percent who had advanced degrees in 1975. The overwhelming majority of big-city chiefs have degrees in criminology, criminal justice, justice administration, public policy, political science and government. Perhaps predictably, the renewed emphasis on college at the entry level and in the executive ranks has fueled a growth in criminal justice education programs. U.S. News & World Report magazine took note of the trend this year, when, for the first time, it included the academic field of criminal justice policy among its rankings of more traditional graduate disciplines. (The No. 1 program in this area, according to the magazine, is John Jay College of Criminal Justice.)

With recruitment lagging and attrition rates escalating, many police managers find themselves juggling resources. In Seattle, officers were shifted during the summer months from their regular duties to handling emergency calls for

service. Police in Memphis and Indianapolis, like many other departments, relied on overtime budgets to get crime down. The understaffed police force in Santa Fe, N.M., is taking longer to answer calls for service; burglaries are not handled for three to four hours. Will the shortage of personnel affect community-oriented policing efforts? To the extent that community policing is labor intensive, as many observers believe it to be, the answer would appear to be, "Don't bet against it." There is little doubt that a sustained labor crisis will put limits on what police can do.

## THINGS ARE LOOKING DOWN

And police are expected to do a lot these days, not least of which is bringing down the crime rate, which was long believed to be beyond their control. To that extent, 1998 was a good year for police, with yet another overall decline in the crime rate. From New York to Los Angeles, police departments reported the lowest homicide rates in more than 30 years. For the seventh year in a row, crime is down, with murder and robbery leading the slide. Departments enjoying this continued downturn credit such factors as the economy, the abatement of the violence associated with the crack trade, community policing, the elimination of parole, more police on the streets, aggressive police work, and better trained officers employing the latest technology. Of course, the downward trend is by no means all-encompassing. Some rural areas are reporting crime increases, and even some large cities are not faring too well.

In some notable cases, crime statistics have been intentionally manipulated to make localities appear to be safer than they are, and the anecdotal evidence was enough to make the overall validity of crime statistics a primary issue in 1998. As the year began, New York police officials reported that subway crime statistics had been improperly collected, and were forced to admit that subway crime was about 20 percent higher than first believed. The problem, which was discovered by the department during a routine audit, led to the transfer of a deputy inspector, who may yet face departmental charges. In Philadelphia, it was reported that thousands of nonviolent crimes were simply omitted from the statistics submitted to the FBI for the 1997 Uniform Crime Reports. Burglaries, thefts and robberies were downgraded to reports of missing property; some crimes were downgraded to hospital cases or tossed aside as unfounded, and rapes were entered as "investigative persons." One police official there called crime reporting a "creative writing exercise."

In Baltimore, police officials were accused of doctoring the numbers of non-fatal shootings by consolidating multiple-victim incidents into a single report. In New Orleans sexual assaults were being categorized as "aggravated burglary." While that city's Office of Municipal Investigation cleared the department of altering crime statistics, it did find enough problems to warrant an in-depth audit of Police Department records. An audit of the Atlanta Police

Department was conducted by the Georgia Bureau of Investigation after allegations by a high-ranking police official that supervisors misreported numbers and reclassified violent crimes to make it appear that crime had decreased.

When crime was going up, the validity of crime statistics was largely a problem for researchers and department number-crunchers. But when crime started dropping and, more importantly, when police began taking some of the credit for the decline, the accuracy of crime statistics became a significant issue for police executives and fair game for critics. As the pressure increases on police to reduce crime, so, too, does the temptation for police personnel to tamper with the numbers—sometimes at the cost of their careers. More and more departments are implementing internal auditing procedures, but to some observers, internal audits are not enough. A growing number of critics are calling for outside audits of crime statistics, with some even demanding laws that would require such scrutiny. As one long-time researcher noted, “We wouldn’t let hospitals report their own health statistics.”

## WHAT THE PUBLIC THINKS

Even allowing for the variety of recipes being used to “cook the books,” the fact remains that crime is going down. But what about public perception? If information from the private sector is any indication, people have become much more cautious over the years. Some research indicates that as many as 8 million Americans live behind gates in more than 20,000 secured communities. Fourteen percent of homes now have alarm systems—double the number of a decade ago. Surveillance cameras in public places have grown in popularity with little community outcry, and crime prevention through environmental design has become more commonplace for developers. It would appear that a richer country has more to protect.

Still, a USA Today/CNN/Gallup poll released in November indicates that the declining crime rate is beginning to register with the public. The results of the survey suggest that many Americans still fear crime, but for the first time in 10 years more Americans say crime in their area is declining than say it is on the rise. The poll also showed more confidence in the ability of police to shield people from violent crime. Fifty-five percent of those surveyed say they have a lot of trust that police can do so, a 10-point increase over five years ago.

There may be far fewer crimes, but that development may be lost on the electronic media, as the USA Today survey also showed. The overwhelming majority of Americans, 82 percent, agree that TV news and entertainment

programs show more crime and violence than they did five years ago. The Center for Media and Public Affairs, a TV news monitoring group, found that network coverage of murder rose by 336 percent from 1990 to 1995 (not even counting the O.J. Simpson case). During the same period, homicides fell by 13 percent. On the other hand, there have been some changes in print. An analysis by The New York Times of news stories appearing in the city’s three major newspapers in May found that there were only one-third as many articles about crime as there were four years ago. Some in the media attribute the decline to the fact that there is simply less crime, while others believe that police are less forthcoming with information and less cooperative than they used to be.

## ANOTHER MONKEY WRENCH

As law enforcement grapples with a labor shortage that may get worse before it gets better, and with the potential impact of this problem on crime rates, service delivery and community satisfaction, there is also one other monkey wrench to contend with: the future of the COPS office. The largest federally funded police buildup in U.S. history is scheduled to shut down in two years, and many police chiefs and sheriffs are already concerned. As one chief put it, “Never before has local law enforcement had such a powerful voice in Washington. Many of the positive changes we have made in the past four years will endure, but we will lose . . . a venue for sharing important information about local problems.” During the past four years, the amount of Federal money devoted to policing has been substantial. At no time in the nation’s history has the Federal Government been more generous to police, and for many in the field this booster shot has yielded results. It has put more cops on the street, it has brought the field out of the technological dark ages, it has produced useful research, it has focused on crimes, such as domestic violence, which heretofore were not a priority, and it has fostered information-sharing. It is probably impossible to establish a direct relationship between these additional Federal resources and the declining crime rate, yet it seems unlikely that the two phenomena are merely coincidental. For most of the reasons cited by officials for the decline in crime, resources were necessary, and the resources were there in 1998. The same cannot yet be said with any certainty for next year and the years to come.

Source: From *Law Enforcement News*, Dec. 15/31, 1998, Vol. XXIV, Nos. 501, 502.

# 1999 IN REVIEW

## The High Price of Success

### *Despite Gains for Police, Troubles Still Abound*

It was not all that long ago that the term “profiling” had a certain cachet within law enforcement, as investigative luminaries such as Robert Ressler, John Douglas and Pierce Brooks popularized the practice of getting inside the heads of serial killers, rapists and arsonists to create psychological pictures of unidentified offenders.

But, as they say, that was then, and this is now. In 1999, “profiling” was once again a term that cast a huge shadow over law enforcement, with a spillover into many other segments of society. But the connotation this time, unlike the mid to late 1980s, was dramatically different. Just ask most black or Hispanic males—or, for that matter, almost any sworn member of the New Jersey State Police and several other police departments.

The great irony of 1999 is that, at a time of diminishing crime rates and a vigorous economy, police departments across the country found themselves unable to enjoy any complacency or self-satisfaction. There was the need to prepare for and respond to large-scale criminal acts: school shootings, terrorism and, of course, bigger-than-ever New Year’s Eve celebrations. Agencies and personnel responded to natural disasters and geared up for the frightening possibility of man-made computer disasters. These and other preparations were frequently made in the midst of growing, often painfully intense scrutiny from Federal authorities, state and local prosecutors and civilian oversight boards. And through it all was the nagging, unsettling issue of racial profiling—an issue that had been percolating for at least a year and would not go away easily.

For policing, it appeared, the price of recent successes was going to be high. The abundance of riches that should have come with sharp and continuing decreases in crime would translate instead to an uneasy affluence at best.

#### PROFILE—A ONE-SIDED PICTURE?

The year was barely underway when the racial profiling issue managed to find a new high-water mark, with the firing of Supt. Carl Williams of the New Jersey State Police for published remarks on profiling and criminality that were deemed racially insensitive. His firing on Feb. 28 came just a few weeks after the state reluctantly released information showing that blacks represented a hugely disproportionate share of those motorists searched and arrested by troopers.

In short order profiling would take center stage not only in New Jersey but nationwide. Attorney General Janet Reno announced in April that she planned to add questions about police behavior to the annual National Crime Victimization Survey. And in a development that made most of the law enforcement community sit up and take notice, a bill was introduced in Congress that would require

police to collect racial data on motorists stopped for traffic violations, with the data then to be analyzed by the Justice Department. Numerous line organizations voiced their concern about the bill. The International Association of Chiefs of Police found little support among its members for federally mandated data-collection but called for the funding of state and local data bases. The Police Executive Research Forum, for its part, is looking at the development of a national standard. Even the National Organization of Black Law Enforcement Executives, while supporting the legislation, did not feel it necessary for officers to ask drivers their race or ethnicity, but instead suggested that they rely on observation. This notion cut to the heart of one of the central issues of the data-collection debate. Police, who know all too well that there is no such thing as a “routine

traffic stop,” strongly felt that asking drivers for the desired information would inevitably and unnecessarily intensify an already tense situation, possibly to the point of violence.

Despite the concerns, numerous jurisdictions went ahead on their own to undertake the task—and not without some cost. The Florida Highway Patrol, for example, estimated that its efforts on data collection would cost between \$1.1 million and \$4.7 million, depending upon the method selected to record and analyze the information.

Profiling has long been a practice of businesses ranging from insurance to banking to marketing. It has been used by law enforcement to intercept airplane hijackers, hassle hippies and thwart drug couriers. But recent developments are now showing law enforcement what portrait artists have long known—a profile presents just one side of a picture, not the full face, and the other side of the picture can be strikingly different from the one that is presented. Some police policy-makers have lamented the looseness or complete absence of any generally accepted definition of the profiling problem. One chief went so far as to suggest that racial profiling “has come to mean all things which inconvenience people of color involving the police.” Until a definition of the problem can be reached, a solution will remain elusive.

Police agencies are forced to grapple with the question of whether crime-suppression efforts are worth a distrustful, even hostile relationship with the minority community. Granted, many of the recent high-profile examples of improper racial profiling have come from agencies that patrol the nation’s highways, where there are striking differences from patrolling the neighborhood streets of a city or town. For highway patrol agencies, the “community,” as it were, tends to be just passing through on the way to somewhere else. Municipal policing, however, is generally less anonymous, and police stops in the age of computerized crime-mapping are often based on detailed information about a neighborhood and its hot spots. As important, said one lieutenant, “Profiling is just another fancy word for experience.” Still, there is always the risk that this could fall into the category of unacceptable police practice.

The racial-profiling debate was not without its political overtones. One chief observed that for some people “there is much mileage to be gained by marginalizing the police and using [them] to mobilize their constituencies.” Others refer to a kind of “modern-day McCarthyism,” and note that one cannot ignore the fact that in some areas drug buyers are white and sellers are black. Still, police departments today know that community perceptions count—whether real, imagined or stirred up—and so many police officials have undertaken an examination of the problem, as have other outside entities. Not least of these is the Justice Department, which in December reached agreement with the State of New Jersey on a consent decree that includes the appointment of a monitor for the State Police, who will report directly to a Federal judge on just about any police function.

A lingering question that emerged from the year’s focus on racial profiling and other controversial police practices

is just what impact heightened public scrutiny of police will have on the level of drug interdiction on interstate routes. Although a final answer has yet to be arrived at, anecdotal evidence suggests cause for concern. As the year ended, reports from various jurisdictions indicated that arrests were dropping. For example, through September arrests by the New Jersey State Police had decreased by 42 percent compared to the same period in 1998. Certainly one explanation was that the attention to profiling was forcing some officers to change their racially driven ways. Some police union officials, however, contend that the decline is due to troopers’ fear of being falsely accused of racial profiling. Officers with good intentions and honorable records, it would seem, are not taking any chances.

## LOOKING OVER COPS’ SHOULDERS

In all likelihood, at any given time there is always an investigation of a police department going on somewhere in the country. If 1999 seemed to bring an inordinate number of such investigations—Chicago, Los Angeles, Detroit, Cincinnati, Seattle and Hartford, to name several—it may be a reflection of the prevailing philosophy of the Justice Department, a penchant for more thorough self-examination by police and, to be sure, politics.

The New York City Police Department began the year still reeling from the August 1998 torture of Abner Louima by police, and on Feb. 4, the proverbial “other shoe” dropped. An unarmed peddler named Amadou Diallo was killed in a hail of police bullets, and in short order there were no fewer than five outside agencies investigating the incident. The four officers involved in the shooting were indicted for murder. Despite statistics showing that police shootings were declining, a poll conducted just weeks after the Diallo shooting indicated that 72 percent of blacks, 62 percent of Hispanics and 33 percent of whites believed that most officers used excessive force. (On the other hand, a survey commissioned by the NYPD found that most residents, including a majority of blacks and Hispanics, respect the police.)

The notoriety surrounding the Diallo shooting focused not only on the particulars of the incident itself, but on the whole notion of quality-of-life crime enforcement, with its critics saying such efforts are excessive and tend to violate civil rights. Defenders focused on what they saw as the opportunistic and political nature of the criticism, calling it “an ideological attack on a successful philosophy of policing.” Quality-of-life enforcement, they argued, did indeed prevent crime and they had the stats to prove it.

In recent years the Justice Department and its agencies have been very generous to law enforcement, but they have also been tough, as demonstrated by the sharp increase in the number of police officers serving prison terms—from 107 in 1994 to 655 in June 1999. While some chiefs welcome and even invite Federal authorities, and have used their investigations to advantage, many chiefs have

complained that Federal probes have been initiated without their knowledge, thus leaving them to operate in a vacuum. It undermines the responsibility of the chief and the municipality, they say. Some even question whether direct intervention is a proper role for the Federal Government to play. Federal authorities have not done the best job investigating themselves, some critics point out, as shown by the reopening of the Waco investigation. The Columbus, Ohio, Police Division is one agency that has told the Feds, in effect, to buzz off, refusing to enter into a consent decree with the Justice Department. Columbus officials told Federal prosecutors that they will have to prove in court their allegations that police engaged in a pattern of abuses ranging from excessive force to improper search and seizure.

The irony of these investigations and the attention they received, of course, is that in general police around the country use very little force. Through the efforts of the Justice Department and various professional organizations, a national picture is starting to emerge, highlighted by a first-of-its-kind report released in October, which found that only 1 percent of people who had face-to-face encounters with police said that officers used or threatened force, and that firearms are used in just 0.2 percent of arrests. While emphasizing that more study is needed, the report also states with “modest confidence” that use of force is more likely to occur when they are dealing with persons under the influence of alcohol or drugs or with the mentally ill, and that only a small percentage of officers are involved disproportionately in use-of-force incidents. Not even addressed was the question of whether or not the use of force was wrongful—a statistical shading that would seem likely to make the report even more favorable to law enforcement.

## THE NUMBER CRUNCH

A personnel drought has begun to spread its withering heat across the field of policing, confronting agencies with the prospect of operating short-handed in the years ahead. Overtime will be a fact of life. Labor-intensive initiatives may have to be cut back. Supervisory skills will go begging. Pressure will increase in some quarters to reduce standards.

The truth is, America’s booming economy is not good for policing. Competition for recruits has been fiercely

competitive, with some departments gaining at the expense of others. The Seattle Police Department, for example, visited some 10 cities to recruit; one of them, Atlanta, was chosen because it has well trained officers with low morale. The NYPD spent \$9 million on a recruiting campaign that yielded a smaller applicant pool than officials had hoped for. Departments went overseas to scour military bases for recruits.

Nationwide, seasoned officers are leaving, including a growing number in the upper ranks. With police salaries growing more slowly than those in the private sector, many sworn personnel take a moment to calculate pensions and other benefits and find they can make almost as much money by not working. Weighed against a backdrop of increased pressure from superiors, the public and the press, retirement has a distinct appeal. Departments will find themselves getting younger and less experienced. Officers make an average of roughly \$33,000. Should localities consider increasing salaries to make staying on the job more lucrative? Do they have the ability and the will to do so? Should they consider the potential adverse consequences of having an unusually young and inexperienced work force?

## STILL MAKING A DIFFERENCE

Through it all, police have continued to drive down crime rates, and that drop in crime in some areas has given police free time that allows them to focus more attention on things like investigating computer crime and backlogged warrants. They’ve developed after-school programs; they’ve trained landlords to spot drug labs. They’ve worked with residents to make a difference. And despite publicity that was often harshly critical, appreciation of police by their “clients” is strong. In a landmark Justice Department study of 12 cities, roughly 85 percent of residents reported that they were well served by their police, notwithstanding higher than average victimization. There were differences in the approval ratings given by white and nonwhite residents—roughly 14 percentage points on average. There’s room for improvement, but it’s certainly not bad.

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# 2000 IN REVIEW

## 2000: A Year in Profile

### *Sometimes Bad Things Happen to Good Professions*

Despite the best efforts of well-intentioned people, some problems just seem to get worse. Consider two recent examples: In February, the Riverside, Calif., Police Department added civilian support staff to free up officers for enhanced recruitment efforts. That same month, half a continent away, the St. Louis County Police Board revised its police manual, adding a provision forbidding racial profiling.

By year's end, police departments from one end of the country to another found themselves grappling with the issues of personnel and racial profiling simultaneously and with increasing urgency. By no means are these problems new to law enforcement; in 2000 they simply took center stage. In terms of racial profiling, the overriding issue was data collection: whether to do it, how to do it, what forces are driving it, and what the results mean. The major concerns with respect to personnel, on the other hand, were the simultaneous problems of declining recruitment and increasing attrition. When it came to people, departments had to figure out how to get them and how to keep them.

#### THE PEOPLE PUZZLE

We all know the reasons why there is a labor shortage in American policing: the primary culprits appear to be high employment rates, competition from both the private sector and other law enforcement agencies, and the demonization of the police in the public eye. Reciting this litany became a ritual repeated time and again throughout the country and throughout the year. While there have been recruiting success stories, for the most part the efforts of police departments have fallen short of expectations. It has not been for

lack of trying. Departments took up the challenge with zest. They gave recruitment a higher priority within the organization. They jazzed up their promotional materials. They sent their representatives far and wide, sometimes to explore previously untapped manpower pools. They implemented or enhanced lateral mobility provisions. Some jurisdictions even bit the bullet and increased starting salaries for officers.

Despite a host of such efforts, though, the problem remains and in many areas it is worsening. The serious implications of such a labor shortage beg the question of whether it is time to deal with the problem on a national level. Police organizations should consider forming partnerships with leading marketing firms to put together a generic advertising campaign that would have the net result of assisting the field as a whole. That's not to say that departments would or should reduce their own efforts as a result, but a nationwide campaign would provide policing with a necessary boost at this critical point in time. Such an effort, carefully done, might also have the added result of improving the overall public image of police.

In any profession, a labor shortage puts a squeeze on qualifications and standards. Although some professions can get away with cutting corners and trying to make due, many feel that when it comes to law enforcement, there's simply too much at stake. Of course, that didn't stop a number of jurisdictions from rethinking college requirements out of concern for being able to fill positions. But before departments reduce their standards in this area, they should consider the recent experience of one Northeast jurisdiction that requires just a high school diploma. More

than 100 high school graduates could not pass the police test with its 10th-grade reading level.

The shortage of personnel has also put a damper on the issue of residency requirements, at least for now. In an ideal world, the police recruit comes from the community and stays in it. But with departments searching far and wide for candidates, such an ideal applicant may not be possible these days. Casting a wider net for recruits has added a whole new dimension to conducting background checks. Interviewing family, friends and neighbors is a more time-consuming, complicated and costly affair when candidates come from hundreds, if not thousands of miles away. (That is, if it's done correctly—and recent history is replete with examples of jurisdictions willing to cut corners on background checks, and then later paying dearly for their shortsightedness.)

Even the role of municipal civil service was widely called into question, particularly on the issue of who has the final say on a candidate—the department or the municipality, through its civil service commission. Like any employer, police departments want to have the final say on who works for them, since the actions of individual officers are ultimately the responsibility of the agencies they serve. Attendant questions abound: Should police have access to the sealed criminal records of juveniles? Should police applicants be required to waive the confidentiality of such records? Do departments have the means to deal with the specifics of individual cases?

Hand in hand with the knotty issue of recruitment has been an escalation in attrition, a trend that shows every indication of continuing, if not worsening. There are short- and long-term consequences to a dwindling number of experienced supervisors and officers. With authority and responsibility having become more localized at the lower ranks than in the past for many departments, supervisory inexperience may have the reverse effect of moving levels of accountability higher up the chain of command. If time in rank is reduced when filling supervisory positions, will inexperienced officers be able to handle the pressure of an environment that increasingly stresses officer monitoring?

Communities will have to ask themselves how much experience is worth? Are there incentives that could be used to keep experienced officers from leaving? How much would such incentives cost? Are they affordable? What is the price in human terms if such incentives are not applied? In addition to finding ways to keep experienced officers on the job, departments should consider whether they are unwittingly contributing to their own attrition problems. One veteran observer has noted that overtime-based high-intensity operations can lead to a substantial increase in retirements, since many police pensions are based on the final year's salary. Since high-intensity tactics like New York's Operation Condor are employed throughout the country, particularly when it comes to purging neighborhoods of quality-of-life crime, departments may find themselves achieving productivity gains in the present by mortgaging their future.

## STOP SIGNS

A look at the centerfold of this issue will show just how the issue of racial profiling landed on the doorsteps of law enforcement agencies throughout the country, where it was handled in a variety of ways. Police chiefs in some places signed agreements to voluntarily collect information on motorists they stopped, while others had the task mandated for them. In some localities, such data were analyzed by the departments themselves or with the help of outside researchers, while in other areas the local news media analyzed police stops, sometimes aided by civil liberties groups. Legislators scurried to draft and pass relevant laws, while the courts took on a growing volume of lawsuits spawned by racial profiling. Taken together, such events gave greater dimension and urgency to the issue of race relations in 2000.

Some police chiefs look back to the 1980's when profiling first hit drug enforcement. Aided and encouraged by federal law enforcement, notably the Drug Enforcement Administration, state and local police used race-based information to improve interdiction efforts, particularly on the interstate highways. When 91,000 pages of information on racial profiling were released this fall in New Jersey, many of the documents were found to call attention to the role of federal law enforcement agencies that used racial profiling as a weapon in the war on drugs. But in any arsenal used to defeat an enemy, there are some arms that are just too lethal to be deployed in most combat situations. It begs the question of whether the perception—or the reality—of civil-liberties infringement is simply too much firepower to use in this war.

A recent survey by the Police Executive Research Forum, presented at a forum on racial profiling in the fall, indicated that over 15 percent of departments are involved in some way with collecting data on race. A number of departments reported having been advised by legal experts not to count. The reason is that counting traffic stops by race gives a number that is without context. Social science researchers contend that without "contextuality," as they like to call it, results are questionable, if not utterly invalid. For example, since the total number of traffic violators broken down by race is not known, researchers rely on "proxy" data like residential information, census data, access to autos by race, racial breakdowns of traffic accidents, and visual observations of driving patterns in order to measure the number of stops made by police. Yet getting even the best information in these categories can be misleading.

Experts feel that departments collecting traffic-stop data would do well to arrange with a research entity to analyze and interpret the results. And, since counting seemed to have been central to the year 2000 in politics and well as in policing, much depends on who is doing the arithmetic. For a number of jurisdictions, particularly in states with expansive sunshine laws, the counting was done by the press and/or civil liberties groups. Often in these situations, news coverage leaves out information as to what level of analysis

and what “proxy” data is being used, thereby giving the public a picture that is as unclear as it is potentially inflammatory.

At the PERF forum, legal advocates who believe police should collect racial data pointed to the necessity of building and maintaining community trust, without which police undermine their essential mission. As evidence, they point to juries and judges declining to give police the benefit of the doubt—thereby eroding what has been a fundamental, if unstated pillar of the criminal justice system. Whether racial profiling is real or merely perceptual, police should tackle the issue head-on. Arrest and incarceration rates may be higher for African Americans and Latinos, but they are not an accurate reflection of overall offending behavior. These groups are arrested more often for consensual crimes where there is no individual victim, when police have not been called, and when police are exercising a high degree of discretion. It therefore proceeds, the analysts say, that arrest rates are about police activity rather than offending behavior. Statistically, blacks are stopped more often than whites although they represent a smaller portion of the population and although their level of drug use is less than that of whites. In addition, the “hit” rate—when contraband is actually found—is the same for both blacks and whites. Therefore, these experts maintain, disproportionate stops demonstrate racial profiling.

Police officials retort that a discussion of racial profiling must address the issue of the substantially disproportionate racial breakdowns in victimization and in those identified as perpetrators. Officers and are sent “where crime is,” police officials maintain—particularly since the advent of community policing, problem solving and the focus on quality of life. Such factors as where the calls for service come from, how vocal the community is about wanting police presence, and where crime analysis determines a criminal pattern exists will determine police activity in any given locality. Looking for a match between demographics and stops is basically flawed. Simply comparing the number of stops to the racial demographics of a locality, as is usually done, does not necessarily mean a department is engaged in racist activity. As one African American police official put it, “Sixty-one percent of my city’s population is black, homicide victims are 92 percent black, and 98 percent of the suspects are black. So what am I supposed to do, look for an Asian?”

For some police executives, any discussion about data collection is really political. Officers in one department came up with a values statement and brought it to the community—a community that was more interested in greater enforcement of quality-of-life crime connected to drug activity. Some months later, after the department had accommodated the community and had received numerous accolades for its efforts, a call came for the collection of data. As the chief of this department put it, “In the same week the department received a letter of praise for its efforts from the community, the NAACP called for the collection of numbers, and I realized that I had just spent

the summer generating statistics that would be held against the department.”

Others see the issue of racial profiling as being about weeding out racist cops and requiring greater civility on the part of officers when stops are made. Increasingly, departments require officers to articulate, sometimes in writing, the reason for making a stop. The personal dynamics of the traffic and street stops have become critical to the perception of fairness. There is some information, researchers say, that shows well meaning officers can also act with inadvertent insensitivity. To address this, departments implemented or enhanced training on making a stop—or at least they tried to. The paucity of training available in this area—training that balances caution and command with courtesy—remains a matter of concern for many police administrators.

Data collection has been shown to have more chilling consequences, as one city experienced when traffic accidents increased after data collection began—largely because officers became “gun shy” about making even legitimate traffic stops. In a rush to make good public policy in the sensitive area of racial profiling, legislators may have failed to realized, or willfully ignored, the impact in these very human terms. Will more people be hurt on the nation’s roads? While there is no really trustworthy information on bad driving habits, sorted by race, there are indications that fewer African Americans wear seat belts. Should efforts to crack down on lack of seat-belt use be curtailed? If such efforts are minimized, will more people be injured, or worse? The current state of affairs puts police in the difficult predicament of collecting data by race to “do the right thing,” as it were, a decision that may ultimately lead to an erosion in public safety.

## POLITICAL WINDS

For the last eight years, the Department of Justice has been sensitive to the needs of policing on the local level. Through its various branches, it gave to the field copious resources in terms of personnel, research, information, technology and equipment. Just as importantly, it provided a voice to police. Having an Attorney General with recent practical experience working with local police certainly helps to explain the emphasis that the Justice Department put on the community level. Some see it as a golden age of policing—a time that will influence events in the future. That’s not to say that the field has always been approving of Janet Reno’s actions. As one police chief put it, referring to the issue of federal monitoring, “I don’t know whether I’m dealing with ‘Justice-the-Good’ or ‘Justice-the-Bad.’” For the most part, however, the Justice Department under Reno tried and often succeeded in delivering a coordinated approach to problems. It promised to deliver increased interagency cooperation, and for the most part it did. It was uncommonly active in supporting some measure of gun control. It dealt directly with local law enforcement agencies, particularly in the area of funding. Such local

interest did not come without a good deal of local scrutiny, of course. It was also a Justice Department that emphasized police monitoring, some would say to a fault.

At the juncture between two administrations, particularly with a change in the party in power, it is hard to say what the future will bring for law enforcement. In the 2000 presidential campaign, crime was simply not on the agenda. Will the new administration continue the activist role of the federal government in scrutinizing local police departments, or will it back off? Some departments, notably those in New York and Columbus, Ohio, have a significant vested interest in the answer. Will police departments continue to receive federal resources directly, or will they once again engage in a statewide competition through a resurgence in block grants—a situation that had led to interagency

competitiveness rather than cooperation? Will the new government maintain the same degree of emphasis on keeping track of the country's firearms? Will local law enforcement maintain the same level of access to the feds? Will the resources be there?

Given the close and contentious nature of the last election, it is difficult to predict what the future might hold for law enforcement at the federal level. Locally, though, police will still be dealing with the everyday realities of crime, which is bound to begin creeping up again soon, with keeping their ranks filled, and trying to get a grip on the slippery issue of race relations.

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# 2001 IN REVIEW

## 2001: A Year in Profile

### *Life in Law Enforcement, Before and After 9/11*

It took only 78 minutes on the morning of Sept. 11 to alter the very nature of law enforcement in this country. At 8:48 A.M. on a beautiful, late-summer morning, an act of war occurred on American soil. It was unthinkable, shocking, horrific.

Foreign invaders—Islamic militants who apparently had been in this country for some time—had hijacked commercial jetliners and turned them into guided missiles to strike the World Trade New York City and the Pentagon. A third target was avoided only by the courageous acts of American civilians. The death toll was unimaginable, the repercussions both enormous and ongoing. These attackers made good on past threats—threats that, in retrospect, had not been taken seriously.

In the hours after the attacks, the country, caught napping, began preparing for war at home and abroad. Nearly everything stopped. Transportation ground to a halt. Businesses shut down. The borders were sealed. Even crime dropped in the immediate aftermath of the attack. The country was in a self-imposed lockdown. The military began to mobilize and appear en masse. And as if that weren't enough, just one week later a chain of events began at a New Jersey post office that would ultimately point to a new threat—biological weapons. The threat, in the form of letters that were later found to contain anthrax spores, seemed to be aimed primarily against Congress and the news media, and would eventually leave five people dead, 18 others infected and thousands obtaining antibiotics for protection.

America became a country transformed in 2001. A confident nation had been made painfully aware of its vulnerabilities, of which there were many. While just about every

segment of society was touched in some way by the attack on Sept. 11, the country's law enforcement community was changed almost overnight. Its mission was fundamentally recast.

#### A CHANGE IN EMPHASIS

“To protect and serve” is a catch phrase at the heart of American policing. The words are found in mottoes, mission statements, painted on patrol cars, sewn into insignias, and would seem to embody the feelings of most police personnel. In retrospect, though, it appears that police have long had the luxury of being able to concentrate on the “serve” portion of that motto. That's not to say that police haven't had their dealings with truly bad people—organized crime figures, street gangs, serial killers, child killers, mass murderers, even terrorists. Nevertheless, with the advent of community policing more than two decades ago, police over time have been able to improve service for their communities by solving problems. They have been able to deal with quality-of-life crime and have had a significant impact on bringing down the crime rate. Agencies have even had the time to go into cold cases.

On Sept. 11, however, the emphasis in the phrase “to protect and serve” suddenly switched to the word “protect.” Things change when the battlefield is your own backyard or mail box and the enemy is somewhere in your midst. Information gleaned about the attackers clearly demonstrated to law enforcement just how invisible the enemy can be—hiding within plain sight, as it were, in many sections of the country.

## STRETCHED TO THE MAX

Police worked long hours protecting airports and other transportation hubs, buildings, bridges, reservoirs, crops, nuclear power plants, government buildings and other facilities, often working closely with the National Guard and military reservists. Already facing an ambitious if not overwhelming national investigation, an additional and unnecessary burden came with the dramatic increases in the occurrence of hoaxes, both for bombs and anthrax. (In New York City in just one day, police dealt with more than 90 reports of suspicious packages and bomb threats.) Almost immediately, jurisdictions imposed harsher penalties on the hoaxers. When biological weapons were introduced into the mix, the nature of the hoaxes became even more complicated, requiring both a public health and a law enforcement response—a response that was not always well coordinated.

Overtime reached record-breaking levels in the course of an effort never before undertaken by the country's law enforcement agencies—an effort that cannot be maintained indefinitely at such high levels of intensity. As the year ended, police found themselves stretched to the max. Increases in responsibilities of this magnitude do not come without a price. Just as the declining crime rate is beginning to plateau and even go up in some places, police are finding themselves faced with lots to do amid changing priorities.

To make matters worse, recruitment is still down and attrition is mounting in many departments, sometimes as a direct result of the overtime produced by the terrorist attacks. As the nation ratcheted up its military defenses, law enforcement agencies were hit by the call-up of military reservists thereby further depleting police ranks. Even before Sept. 11, policing wrestled with the serious problem of dwindling ranks, forcing departments to cast an ever-widening net for recruits. The temptation to lower standards, always a recipe for trouble, continued. A number of departments dropped or modified college requirements. Residency requirements received a second look and were often dropped.

While personnel shortages were bad and getting worse prior to Sept. 11, the almost overnight growth of jobs in federal law enforcement and private security also took their toll on local policing. More entry level and management positions became available in both fields, drawing growing numbers of seasoned personnel from local police ranks. As luck would have it, though, increased joblessness in other sectors of the economy may ultimately help to increase the ranks of the many police departments. Yet even if applications go up, it will have little immediate impact on the loss of supervisory personnel, a precarious situation sure to unfold in the near future.

Despite new and expanded responsibilities for police, there remains the job of handling routine crime-fighting activities and investigation. No one wants a return to the early 1990s, when crime in the United States peaked with

more than 20,000 homicides. With some localities already seeing signs of crime-rate creep, there is the danger that the current set of overshadowing priorities will take time and personnel away from effective crime-reduction strategies and quality-of-life crime initiatives. Compounding the problem, the economic slowdown that occurred early in 2001 was already necessitating cuts in many departments well before Sept. 11. It is clear the future will not be easy.

But “help is on the way,” insists Tom Ridge, the former governor of Pennsylvania who heads the new White House Office of Homeland Defense. The alerts announced by his office, while sensible, have yet to be translated into practical deployment issues on the ground and in the pocketbook. So far, the Sept. 11 attacks have cost \$700 million in added public safety costs. Making war is costly and it became all too clear to many cities that federal money is urgently needed for the law enforcement effort at home. While Ridge has conceded that it could take months, even years, to build a truly viable homeland defense program, policing's more immediate needs include help in protecting vulnerable targets, training, equipment and enhanced border control. Data bases need to be integrated, coordinated and, in some cases, built from scratch. But one of the most important elements of warfare, whether foreign or at home, is good and timely intelligence. The events of Sept. 11 magnified the urgent need for information on the local level and the need for enhanced coordination at the federal level. Law enforcement agencies nationwide desperately needed information. They didn't always get it.

## LEARNING TO SHARE

Law enforcement's “dirty little secret”—that intelligence is not often shared—became household news and a matter of vital importance to the country's homeland security. To be sure, the FBI had been having a bad year even before Sept. 11: Congressional oversight hearings; a pending reorganization; a document foul-up that forced a delay in the execution of Oklahoma City bomber Timothy McVeigh, and the discovery of an agent who had been spying for the Russians.

Many in New York law enforcement will recall the FBI's attempt to discredit the ATF agent who had found the vehicle identification number—a crucial piece of evidence—from the truck involved in the 1993 bombing of the World Trade Center, as a telling example of the bureau's steamrolling over a major investigations. It certainly did not help the bureau's image when it was learned in the aftermath of the Sept. 11 attacks that FBI officials refused to approve a wiretap on the computer of Zacarias Moussaoui, the alleged 20th hijacker. After the attacks, numerous police officials bitterly complained that they were kept in the dark and not provided with enough information to adequately protect the public. At year's end, relations between the bureau and local law enforcement had improved in

some areas, but for the most part signs of strain were never far from the surface.

## A DIFFERENT PERSPECTIVE ON PROFILING

Although the tensions between local and federal law enforcement often ran high, it still came as a shock to many in policing when the Portland, Ore., Police Bureau and a handful of other departments announced that they would not assist in the efforts of federal agents to interview thousands of Middle Eastern subjects. Some viewed this action as nothing less than a dereliction of duty—a case of political correctness gone too far. After all, some maintain, while two cities were attacked, the operatives lived, trained and conspired in many regions of the country. Nationwide criminal investigations have always been part of police work and, despite rivalries, a fair amount of cooperation takes place regularly in law enforcement. Given the current threat level, inattention in one place can lead to devastation in another.

Still, it is not surprising that racial profiling, which has dominated policing in the last few years, remains a sensitive topic even through this period of emergency. Prior to the attacks, departments across the country continued to be obsessed with counting stops by race and issuing policy directives. But just how valuable the numbers will be remains to be seen [see Page 11]. What did become clear during the year was that in the aftermath of a racially charged incident or some kind of accusation of racism, police engage in what is now known as “depolicing.” Arrests go down and crime goes up largely because officers simply do not want to put themselves in harm’s way. While it is easy for some to say that police should continue to do their work without regard for the media blitz that can envelop them, that would appear to be unrealistic.

The issue of racial profiling was transformed on Sept. 11. In the aftermath of the attacks, pollsters repeatedly asked the public about the issue of profiling—specifically as it applies to Middle Eastern men. Those queried have consistently responded that law enforcement should not ignore the obvious similarities among those who have been already identified in connection with the recent threats and attacks against this country. Solid majorities of respondents to two polls said they want Arab-looking travelers singled out for extra scrutiny at airports. Even in Detroit, which is home to a large Arab-American population, a local newspaper reported that 61 percent felt “extra questioning or inspections are justified.” One cannot ignore the fact that the Sept. 11 attacks, as well as other attacks against Americans here and abroad, were all committed by male Islamic militants of Middle Eastern descent. It would be foolish and potentially fatal to minimize the realities of this threat. As then-Supreme Court Justice Arthur Goldberg stated in 1963, echoing the view of former Justice Robert Jackson, “while the Constitution protects against invasions of individual rights, it is not a suicide pact.”

## MAY I SEE YOUR PAPERS, PLEASE?

The issue of identifying wrongdoers, now taking on new definition and urgency, was on the police agenda even before the attack. When Tampa used sophisticated facial-recognition surveillance during the Super Bowl, public opinion was accepting but cautious. In today’s environment, such systems have gained in popularity and are a welcome asset to a security system.

The year also brought a surge in the popularity of handheld wireless devices that allow officers to quickly and unobtrusively check criminal data bases. Yet of all the issues of identification that arose in 2001, primary concern focused on the rapid identification of spores and microbes, and the growing problem of identity theft and fake IDs. Given the prevalence of fake identification throughout the country, a number of states began to improve the quality of their driver’s licenses in hopes of making them more difficult to counterfeit. One idea being given serious consideration in the aftermath of Sept. 11 is a high-tech national identification card for all American citizens. A variation of this theme is already being practiced at the Mexican border. A new “laser visa,” which among its features includes fingerprints and data encrypted in magnetic strips, is required of Mexicans who cross the 1,952-mile border.

The thorny issue of immigration and border control, long a concern to federal and local jurisdictions alike, also took on added dimensions after Sept. 11, as it became eminently clear that the government is clueless when it comes to accurate and up-to-date knowledge of non-citizens in the United States. Inadequate State Department and INS policies and procedures, a lack of enforcement and, to be sure, a lack of will gave the United States a border more porous than the mountains of Afghanistan.

Cooperation with the INS has been a mixed bag for local police. For some departments, illegal immigrants are often victims of crimes and in an effort to keep crime down, departments have refused to report illegal aliens to federal authorities. In some other localities, complaints to federal authorities about illegal aliens have tended to fall on deaf ears, so the locals think, “Why bother?” To address current concerns, the Justice Department has elected to split INS into two parts: one to provide service to immigrants and the other to patrol the nation’s borders to block the entry of terrorists. The attack on the homeland will no doubt influence future relations between local law enforcement and federal Immigration and State Department officials, particularly in terms of countries that overtly or covertly support violence against America.

In the post-9/11 era, though, reinforced borders and revised immigration policies might seem superfluous without an accompanying beef-up in air safety and security. The long-dormant Sky Marshal program was quickly revived. A new law enforcement entity was created with the federalization of airport passenger- and baggage-screening personnel, who have been the focus of increasing public outcry

over repeated (and sometimes egregious) lapses of security. Planes large and small were scrutinized, as even low-flying crop dusters became a source of concern amid the growing specter of bioterrorism. AWACS surveillance planes, used overseas and in the Caribbean, now fly missions over sensitive targets in the U.S., and the rules of engagement have been changed for fighter pilots who might have to deal with another commercial jetliner being used in a terrorist attack.

A well known adage warns that those who fail to learn from history are condemned to repeat it. In that context, consider that in 1993, when the World Trade Center was bombed the first time, the Immigration and Naturalization Service was ordered by Congress to track more than half a million foreign students attending colleges in the United States. At the time, civil libertarians successfully opposed this initiative, along with other measures intended to keep America safe. Since then, Palestinian terrorists have been arrested in Brooklyn for conspiring to set off a bomb in the New York City subway system. Plots were thwarted to bomb the Los Angeles airport and the Space Needle in Seattle on the eve of the millennium. Then came Sept. 11 and, predictably, civil libertarians once again rose up in righteous indignation. Their arguments revolve around the idea that it is inappropriate to closely look at the many in order to catch the few. Should they prevail again, the consequences could be mean death and injury to thousands. After all, it took only 19 hijackers to kill more than 3,000.

It is unfathomable what 500 or 1,000 terrorists on American soil could do.

## WHAT A DIFFERENCE A YEAR MAKES

It's hard to believe that just 12 months ago crime was down, public safety was not atop the public agenda, the economy was relatively good and the country was at peace. How things change. The police role as first responders, for instance, now means dealing with the terrifying possibility of biological and nuclear weapons. Law enforcement enters 2002 facing a new world with a new and unconventional enemy posing threats that must be anticipated and prevented. By some estimates, more than 50,000 people have passed through the Al Qaeda terrorist training camps. The terrorist network reportedly operates in 60 countries, and no doubt some of its operatives are still living here. Many experts believe a wave of terrorist acts is likely in the near future. In the months ahead, routine will reassert itself in many parts of the country, and law enforcement's daily tasks will dominate the day. But as time goes by, it will be important to bear in mind that—for police as well as for the military—the war on terrorism can be won through good intelligence and vigilance, just as it can be lost through complacency and naiveté

Source: From *Law Enforcement News*, December 15/31, 2001, Vol. XXVII, Nos. 567, 568.

# 2002 IN REVIEW

## 2002: A Year in Retrospect

### *What a Difference 12 Months Can Make for Law Enforcement*

What a difference a year makes. 2002 began with a sense of resolve and clarity of mission born of the Sept. 11, 2001, terrorist attacks, coupled with classically American optimism and “can-do” spirit. The year proceeded amid flurries of activity as law enforcement agencies on all levels scrambled to incorporate homeland security and anti-terrorism measures into their agendas, despite problems of understaffing and underfunding. Departments sought equipment and training—both commodities in short supply—and did their best to implement or improve internal and external communications networks.

As the year ended, however, the grim reality of dwindling resources seemed more dire than ever, with states and localities facing what some describe as the gravest fiscal crisis in the past half-century. Moreover, the promise of federal funding has gone unfulfilled. The once-clear mission has become muddied, and the sense of urgency has in many places turned into little more than heightened consciousness.

Certainly, some departments have done more to prepare than others—or have done so more visibly. New York City, notably and for obvious reasons, has probably done the most. As Police Commissioner Raymond W. Kelly noted, “We’re all on the front lines here, so to speak”—and he wasn’t being metaphorical. To defend this front line, the department created new positions and filled them with former high-ranking officials from the Central Intelligence Agency and the Marine Corps. Like other departments, it sent officers to Israel to learn more about suicide bombers, and planned to have some officers work in concert with intelligence agencies throughout the world. New equipment, such as radiation-detection gear and bio-hazard suits,

is on hand or on order. While continuing its emphasis on quality-of-life offenses and dousing the periodic crime hot-spot, the department appears to be spending its crime “peace dividend,” generated by its declining crime rates, on actively protecting the city from another terrorist attack.

For many localities, however, prevention and preparedness efforts fell short, in many cases because the promise of federal funding had failed to fully materialize by year’s end. The Bush administration bottled up \$1.5 billion in law enforcement and antiterrorism assistance, citing Congress’s inability to pass appropriations bills (although some surmise that it may have more to do with the White House’s desire to have more control over the fate and fortunes of the Office of Community Oriented Policing Services).

Even with lean resources, however, police departments managed to get in some training, frequently in the form of joint haz-mat response exercises with other emergency personnel. New joint anti-terrorist task forces emerged from improved communications between the FBI and state and local departments. Statewide communication systems were enhanced; public terrorist tip lines were established. A number of states are now putting visa expiration dates on driver’s licenses. Although not widely publicized, plans were developed by some local governments for evacuation and quarantine scenarios. For personnel in some larger departments, training in intelligence analysis took priority—only to be met with a glaring lack of expertise in this critical area. But for all the initiatives that were undertaken, and all the practitioners for whom anti-terrorism activities have become a full-time job, law enforcement preparedness is not what it could or should be, some experts contend.

Amid improved communications between local and federal law enforcement agencies, there remain thorny issues concerning the extent to which police should go in interacting with illegal immigrants. To a large extent, the debate centered on whether or not local law enforcement should shoulder some of the enforcement duties that have long been the province of the beleaguered Immigration and Naturalization Service. The Florida Department of Law Enforcement entered into a partnership with INS to train 35 municipal officers, sheriff's deputies and FDLE agents, who would be assigned to regional anti-terrorism task forces and authorized to stop, question and detain illegal aliens. Other jurisdictions flirted with the idea. Still, there were clear divisions among law enforcement officials on the issue, with some placing local priorities over the national interest. Many departments, such as Houston and Tulsa, pointed to the help illegal immigrants give them with investigations and how difficult the job would become if officers had to aggressively target those in this country illegally. Some, such as Pasadena, Calif., have taken a more moderate approach, allowing officers under certain conditions to arrest and detain illegal immigrants for a prescribed period, pending notification of the INS. By June, the Justice Department had backed away from its plan to have police enforce general immigration laws. Not lost on some police observers was the irony that local police, who are often quick to accuse the FBI of not sharing information and other resources in the aftermath of the terrorist attacks, are now themselves unwilling to share information with the bureau.

One protocol that has been worked out, which does not require changes to existing local law enforcement practices, would focus on those who enter from specially designated countries, linking their admission documents to a National Security Entry-Exit Registration System. Failure to complete the required registration within 30 days would be considered a federal misdemeanor, and the names of those aliens will be entered into the NCIC as "Wanted," to be handled by local officers as a "hit." Such hits require that local INS offices respond in a timely manner. Given the track record of INS and its chronic shortage of personnel, with some 1,800 agents to handle 8 million illegal immigrants, it is not surprising that this protocol allows federal authorities to ask local law enforcement agencies to detain the individual, for which they would be reimbursed. Whether locals respond affirmatively when asked remains to be seen, but given the number of federal agents assigned to the task, without local cooperation on some level, it would appear that INS, no matter how it is reconstituted, will continue to have its hands full, if not tied.

As Congressional scrutiny bore down on the nation's intelligence community and its pre-9/11 lapses and shortcomings, the phrase "connect-the-dots" became a part of regular news copy. Inquiries revealed an intelligence community whose components don't communicate with each other and, as importantly, don't communicate within their own agencies. Political correctness and legal restraints

are said to have hampered the FBI's ability to go forward with investigations or share information with other intelligence agencies. The hearings also showed the FBI to lack focus when it came to terrorism, compounded by insufficient personnel and inadequate technology (with agents using 386-level computers with no external e-mail).

There were a number of agents who uncovered evidence of potential terrorist threats and issued warnings to their superiors—warnings that went unheeded. As one FBI field agent recently put it, "Headquarters is like a black hole. Information goes in but nothing comes out." Just what happened to their warnings remains unclear, with some members of Congress asserting that the bureau and the CIA were still covering up those who had impeded pre-9/11 investigations. To be sure, the inquiries did not go far enough, having failed to look into lapses by such agencies as INS, the State Department, motor vehicle offices and the Federal Aviation Administration, all of which made critical mistakes. Yet another investigation began as the year ended, and the FBI found itself in the embarrassing position of having to remind some field offices that their top priority should be terrorism, while at the same time fending off suggestions that another agency similar to England's MI-5 be created to deal with domestic intelligence-gathering. With almost two dozen federal entities already collecting intelligence of various kinds, it is clear that channeling relevant information to one place—a so-called "fusion room"—is still far from reality.

The year did witness the creation of a new super-agency, a Cabinet-level department whose work force of 170,000 would come from the ranks of 22 agencies and take years to fully implement. The Department of Homeland Security, which represents the largest government overhaul in decades, would not include the FBI, CIA or National Security Agency, which many criticized as a serious omission. Although most agree that the integration of federal agencies was necessary to speed and streamline the dissemination of information and services, significant questions and concerns remain. Just how will this new department interact with the multitude of intelligence agencies, and with local law enforcement? Will pre-existing agency loyalties and priorities affect the interaction of the workforce? As important, will the diminution of collective bargaining rights for workers—an issue that delayed legislation to create the new agency—lead to deflated employee morale? Can an agency with so much responsibility in such a critical area afford to have employees that are unhappy?

Things remain murky on the legal front, although some pragmatic clarity was provided when Justice Department guidelines were amended in May to allow the FBI to use commercial databases in investigations. Prior to the change, agents could not even use a common search engine like Google to look for terrorist activity. In November a decision by a special appellate panel of the Foreign Intelligence Court of Review validated the broad surveillance powers under anti-terrorism laws passed in 2001. For federal law enforcement officials, this decision razed what some called

an “artificial barrier” between investigation and intelligence that had deterred the sharing of information. Even prior to the ruling, the CIA had begun increasing its presence at FBI field offices.

At the local level, however, such barriers still exist, as demonstrated in New York, where the NYPD asked a federal district court judge in September to lift 17-year-old restrictions that curtail police monitoring of political activity. These restrictions require investigators to have specific information that a crime will be committed or is being planned before they can monitor such political activities. Such restrictions exist elsewhere, as in Seattle, but even when these fetters are loosened, as was the case in Chicago last year, police remain reluctant to use the authority.

If police needed any reminders, a number of arrests, accomplished with varying degrees of local input, served notice that terrorist threats can take root and grow in one’s own backyard. Suspects with links to the al Qaeda terrorist network were rounded up in Portland, Seattle, Detroit and Lackawanna, N.Y., while the arrest of one-time Chicago gang-banger Jose Padilla helped assure that the words “dirty bomb” would be added to the law enforcement lexicon for the foreseeable future.

Terror of a different, more conventional kind seized the nation’s attention in October, beginning with a seemingly random sniper shooting in a Maryland suburb of Washington, D.C. Over the next three weeks, a total of 10 people would die and 3 more would be wounded, all while engaging in patterns and practices of everyday life. As the sprawling, complex investigation would later reveal, the spree began in effect in Washington state, spanning thousands of miles and going on to claim lives in Louisiana and Alabama as well as Maryland and Virginia. The investigation that led to the arrests of John Allen Muhammad, 41, and John Lee Malvo, 17, inevitably focused attention on the ability of law enforcement agencies at a variety of levels to work cooperatively, a task that was accomplished for the most part. It also focused attention on the difficulties police confront when sifting through thousands of tips, some of which, in hindsight, would have proven to be valuable, while others turned out to be red herrings. Law enforcement used the three-week reign of terror as a test of local preparedness for handling emergencies, demonstrating yet again that locals will be the first to respond when the public faces imminent danger. The killings also rekindled debate about the usefulness of ballistic fingerprinting and the importance of maintaining and sending information to the nation’s crime databases.

The Beltway sniper shootings left a number of criminal profilers sporting egg on their faces, as some predictions proved to be wildly off the mark. There were two suspects, not one; they were black, not white; they drove a dark sedan, not a white van; they were out-of-state drifters, not local residents with mundane jobs.

Distinct from criminal profiling and its role in such crimes as the Beltway shootings, racial profiling still crept into the year’s news in some jurisdictions, often with the first issuance and analysis of traffic-stop data. New Jersey reluctantly made such data public in March, only to leave officials rattled when researchers found that black drivers tended to speed more than whites on a certain stretches of highway. Officials tried unsuccessfully to blame the researchers for a flawed methodology, which included using teams to determine the race of motorists from more than 26,000 photos taken of speeders and non-speeders alike. Even with many other localities releasing the first analyses of traffic-stop data, the once-heated rhetoric surrounding racial profiling was more muted in 2002 than it had been in years—perhaps an outgrowth of 9/11.

It would be an understatement to say that law enforcement faces a challenge in the year ahead. Declining budgets, severe labor shortages, continuing terrorist threats and, for some, resurgent Part I crime all combine to equal hard times. With local governments experiencing their worst financial straits in decades, the resources are simply not there to get up to speed. Personnel shortages remain a source of concern as officers continue to be called up for National Guard and military reserve duty. And, to the consternation of some officials, local departments will also have to pick up the slack as the FBI divests itself of some former responsibilities.

Law enforcement continues to be frustrated by local and regional computer systems, many representing large investments of time and money, that fail to live up to expectations and are difficult to use and maintain. Many major federal databases are antiquated and still cannot communicate with each other in any meaningful way. While this is not a new problem for law enforcement, it does take on a higher priority in the aftermath of Sept. 11. This hodgepodge network of information creates an acute vulnerability that will be difficult to correct. Nor is the problem limited to computer systems; emergency radio communications in many areas are dire need of integration and improvements to their interoperability, as a number of post-9/11 studies concluded.

That’s not to say that law enforcement isn’t better off now than it was 15 months ago. Agencies were able to put in improvements with whatever meager resources were available. Just as dangerous as a lack of resources, however, is a lack of will. An attitude that “it can’t happen in our town” may be a luxury in which civilians naively indulge, but one that the government and, by extension, the police cannot afford. A basic premise for the existence and legitimacy of government is its ability to protect its citizens. Has American law enforcement improved its level of prevention and preparedness? Yes. Is it enough to keep America safe? Not yet.

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## 2003 IN REVIEW

### 2003: A Year in Retrospect

#### *Can Criminal Justice Tame the “Monster” That’s Eating It?*

“Terrorism,” in the estimation of Massachusetts Public Safety Secretary Edward Flynn, “is the monster that ate criminal justice.” Combating this Hydra-like creature has commandeered much of the national agenda in law enforcement, as local and federal agencies expend increasing amounts of time and money on detecting it, preventing it and responding to it.

All that attention notwithstanding, however, local law enforcement in this country is still trying to define its role in the larger scheme of things, particularly when it comes to intelligence gathering and sharing and sorting out inter-agency relationships. Add to this the changes that have been occurring at the federal level and, clearly, the whole field is in motion. Yet for all the activity, numerous reports issued this year have pointed to the fact that more than two years after the Sept. 11 terrorist attacks, law enforcement and intelligence gathering agencies are still not sharing information to a degree that would prevent another attack.

Numerous examples underscored the nation’s vulnerability: weapons smuggled onto airplanes; an undetected radiation device in a ship’s cargo container; undercover agents carrying false identification who were able to get circumvent all manner of security checks, to name just a few. While no level of preparedness offers an airtight guarantee of complete safety, it seems apparent that the country’s level of preparedness still leaves a lot to be desired.

Despite the voracious appetite of this shape-shifting giant, the funds that are being devoted to addressing the terrorist threat remain unequal to the task at hand, particularly since the added demand comes at a time when local budgets are woefully stretched. Federal dollars have been slow to

reach local agencies, but it is also the method of funding that is troubling to many police executives. As in the late 1980s and early ’90s, federal dollars are being funneled through the states. It is a method favored by Republican administrations—less bureaucracy at the top, more bureaucracy at the bottom. This process, however, can turn local departments into competitors just when they should be working together. To mitigate the problem, Massachusetts officials implemented a policy requiring police departments to develop their plans and present them to the state as a region. While this approach may not solve the problem of regions that transcend state lines, it does require just the kind of cooperation that would be necessary in a disaster situation.

#### THE POLITICS OF FUNDING

To many officials, the issue of funding is bigger than simply one of how much money there is, what it is being used for and how it is doled out. It is a question of fairness. In one of the numerous reports issued this year on the nation’s preparedness—or lack of it—for a terrorist attack, a panel led by former Senator Warren Rudman, whose previous report on terrorism foreshadowed the 9/11 attack, warned that funding allocations for homeland security that were not based on vulnerability, as opposed to political considerations, would undermine public safety. His fears were borne out as federal allocations were finally made, with New York City receiving a \$5-per-capita share of federal first-responder funds while Wyoming received \$35 and North Dakota received \$29. New York City Police

Commissioner Raymond W. Kelly called the federal formula “blind to the threats this country faces and blind to the consequences of an attack.” One can scarcely blame him.

The federal funding that did get through the pipeline to local departments continues to be spent, for the most part, on emergency equipment, protective gear, voice communications systems and data-sharing technology. The interoperability of voice communications remains a problem. A “report card” issued in April by the Public Safety Wireless Network indicated that there is still a long way to go in this area despite improvements in some jurisdictions. One of the major stumbling blocks is the lack of sufficient radio frequencies to accommodate public safety needs. With too few to go around, agencies often find themselves competing for a place on the radio band. The other stumbling block, of course, is money; communications upgrades are a very costly proposition. One agency, the Chesterfield County, Va., Police Department spent approximately \$70 million to put in a state-of-the-art system. Outdated equipment, the lack of redundant systems, new systems that are unable to communicate with old ones, and decades of localized implementation and purchasing have made a patchwork of systems that desperately need to be integrated.

## SEARCHING FOR THE GRAIL

Interoperability failings also plague public safety data-sharing. An enormous amount of information currently exists (as imperfect as it may be) that law enforcement agencies have a legal right to, but the process of retrieving the information from myriad non-networked systems of varying ages is simply too slow and painstaking. Law enforcement has always known that criminals and terrorists are often able to exploit the boundaries of geography and jurisdiction. Finding the solution to this incompatibility problem—which can exist among agencies within an individual locality, among neighboring localities, and among state and federal agencies—has been a virtual search for the Holy Grail. Some law enforcement officials in Louisiana felt they had found the grail in a database-linking system developed by a software entrepreneur who practically donated it to a number of sheriff departments. Florida and more than a dozen other states hoped to find the grail in the Matrix, a system whose parent company was able to identify five of the Sept. 11 hijackers before the federal authorities had done so. The program has been in use for more than a year in Florida where law enforcement officials sing its praise. As the year ended, however, a number of states have dropped out, with most citing the cost, but some worried about privacy issues highlighted by other corporate rivals and civil libertarians.

(The concerns of civil libertarians were also directed toward the USA Patriot Act, the sweeping anti-terrorism legislation that is due for reauthorization next year. To address some of this concern, Attorney General John

Ashcroft took to the road in a series of appearances aimed at defending the expanded powers that the act gives law enforcement. The country still appears to strongly support the act, with a poll taken in September indicating that 71 percent think the government has either struck the right balance or has not gone far enough to fight terrorism. Nonetheless, the poll also found a slow, steady increase in those who believe the legislation has gone too far—their concern fueled by fears that the powers of the Patriot Act will be used on routine types of criminal activity rather than just terrorism.)

Early in the year a Terrorist Threat Integration Center was announced that would provide federal anti-terrorist screeners with “one-stop shopping.” As of August, however, 12 separate terrorist watch lists maintained by at least nine federal agencies had not yet been consolidated. As the year wound down, and after much public criticism, officials subsequently announced that the center would be operational by December 1.

## WHO'S WHO

Spotting potential terrorists has become an increasingly thorny problem as law enforcement practitioners wrestle with the growing phenomenon of identity theft. With cases of identity theft already at alarming levels and continuing to skyrocket, the situation bodes ill for the cop on patrol as well as for society at large. To the average officer, checking identity usually means scrutinizing a driver's license. This ritual, carried out thousands of times each day, remains fraught with tension and peril. Since 9/11, driver's licenses have assumed added importance and many states are still trying to make their licenses more foolproof, and in some cases have also adopted measures to link licenses with information on the holder's immigration status. In many areas of the country, notably California, debate continues to swirl around the acceptance of Mexican ID cards—the *matricula consular*—as valid proof of identification for obtaining a driver's license.

This form of ID is currently accepted in at least 13 states. Some law enforcement officials support the policy as a practical matter, noting that illegal Mexican immigrants in this country are already driving illegally anyway, that some identification is better than none, and that the use of the ID card will increase the number of insured drivers on the road. Others criticize what they see as the security risks inherent in acceptance of the cards. According to the FBI, the *matricula consular* IDs have become “a major item on the product list” of fraudulent documents around the world. They are easy to forge and there is some indication that the consulates that issue them are not taking even cursory steps to assure their validity. They are subject to corruption and Mexican authorities do not keep track of those to whom the identity cards are issued. Critics of their use also point to the fact that the driver's license is in essence a pass-key into other forms of identification fraud.

Disagreement over the acceptance of Mexican ID cards is no less a factor among federal agencies as it is within local and state law enforcement. While the Justice Department remains firmly opposed to the practice on security grounds, the Treasury Department supports it as a way of making it easier for illegal immigrants to put their money in American banks. The controversy over the ID cards is symptomatic of the schizophrenic attitude the country feels towards illegal aliens. Federal officials estimate that there are 8 million to 9 million undocumented immigrants currently living in the US, a stunning increase of between 1 million and 2 million from the number estimated in 2000. The increase comes despite figures indicating that new arrivals in this country are dropping. What may be at work is a change in deportation policy, as the emphasis shifts away from Mexicans. Federal officials reported that in 2002, 75 percent more undocumented immigrants from Arabic and Muslim nations were deported than the year before—this despite a 16-percent decrease in the overall number of deportations of illegal immigrants.

In the first eight months of the year alone, the Department of Homeland Security raised the nation's terrorism alert level to "orange" on four occasions. Initially, editorial cartoonists and late-night comics had a field day making jokes about duct tape and plastic window sheeting, but to local police it was no laughing matter, as they complained that the alerts were overly vague and put added pressure on local overtime budgets that were already under enormous strain. The Department of Homeland Security promised to rethink the issue and by November it reported that the system had been fine-tuned, with a more refined stream of information furnished to local agencies. Not all problems were addressed or eliminated. Local officials in Las Vegas were furious when they were not informed about photos of the city that turned up in a federal terrorist investigation. And amid the clamor over the type of information supplied to local law enforcement, left unanswered was the question of how the information will get to the public.

## MEANWHILE, LIFE GOES ON

With all the re-sorting and redefinition of local and federal anti-terrorism roles, and the local resources that have had to be devoted to anti-terrorism efforts, the day-to-day business of law enforcement goes on undiminished: answering calls for service, trying to prevent crime, and responding to and investigating those crimes already committed. Beyond the added burden of counterterrorism responsibilities, many local and state agencies find themselves stretching budgets even further as they pick up the slack in areas that the feds have backed away from, especially drug enforcement and bank robbery investigations. While many FBI agents were reassigned to anti-terrorism activities, the Drug Enforcement Administration has yet to get additional resources, and the burden has been passed along to localities. In

June, the General Accounting Office reported that the number of FBI assigned to drugs had fallen by more than half and that new investigations fell to only 310 by midyear. The White House drug policy office released data showing that the 25 largest cities are the sites of 40 percent of all drug-induced deaths and drug-related arrests. In drug enforcement as well as bank-robbery investigation, the feds are offering "cooperation," but what localities really need are resources, and little of that appears to be forthcoming. Bank robbery has soared in many localities, frequently committed by perpetrators who defy conventional profiling. In the absence of federal assistance, localities were left to appeal to the banking industry to play a more vigorous and vigilant role in its protection.

## DOING MORE WITH LESS

The monster was also on the prowl as local spending was seriously curtailed amid historic budget deficits. Some small departments all but disappeared. Community policing efforts were scaled back and officers who had been dedicated to the purpose were redeployed to answer calls for service. Officers were laid off, retirements continued to accelerate, and recruit classes were rescheduled. In some localities, station houses were closed at night. To cope with dwindling resources, some departments, like Richmond, Va., gave volunteers more responsibility for such things as taking reports for nonviolent crime. New York City assigned rookies fresh from the academy to work in high-crime areas. While crime rates have not returned to the level of the early 1990s, there is a nagging and uneasy sensation in the police community that things are not going as well as they had been. Quality-of-life crime is on the rise in some areas, while other areas are experiencing significant and disturbing increases in homicides. One leading police expert described it as "watching 'broken windows' in reverse." All in all, it's not a good sign.

With budgets stretched to the limit, a number of departments have tried to recapture control of the personnel time lost to answering false alarms. The Salt Lake City Police Department implemented a policy in 2000—over vigorous opposition from private security companies—that mandates verified response to alarms. The policy change resulted almost immediately in a 90-percent reduction in police dispatches to alarms. It replicates an approach—and the results—previously achieved by the Las Vegas Metropolitan Police Department in the early '90s. Yet taking on the private security industry and its burglar-alarm clientele can be a dicey proposition, as was demonstrated in Los Angeles when the police tried to tinker with the response policy and the City Council stepped in to assert jurisdiction over the issue. Help in dealing with false alarms is available from the Justice Department's COPS Office, which has produced a continuing series of guides on this and other issues, including the benefits and consequences of police crackdowns, financial crimes against the elderly, and check and

credit-card fraud. The problem-oriented guides currently cover more than 20 topics, with more on the way.

During the course of 2003, public safety personnel have been confronted with blizzards and hurricanes, fires and floods, computer network hackers, a major power blackout that blanketed the Northeast and Midwest, heightened anti-terrorism alerts, patrol cars that explode and body armor that doesn't stop bullets—and all the while dealing with the day-to-day business of policing.

Law enforcement personnel must be prepared to handle disasters of all types, both natural and man-made. That includes a terrorist attack, for, as Shakespeare's Hamlet observed: "If it be not now, yet it will come. The readiness is all."

We are still not ready.

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