

# PREVENTION AND REPRESSION OF CORRUPTION WITHIN A LAW ENFORCEMENT AGENCY

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## I. INTRODUCTION

My remarks today will begin with a description of the FBI's system of internal investigation, discipline and ethics instruction. Please understand that this method of presentation is not intended to present the FBI system as a model to be imitated. Even if it were my intention to persuade an audience to adopt one or more elements of the FBI's internal investigative, disciplinary or ethics instruction approach, the most unpersuasive and counterproductive argument possible would be an arrogant assertion that our system is a model to be copied. In my opinion, the organizational, legal and social realities between countries are so different that a proposal to copy another country's system would be not only insulting but also technically unfeasible. We do believe that our system functions well for us, but only because it is custom designed to serve our agency population and organizational culture, as any system should be. The reason why my remarks first focus on the FBI system is that it is always safest to begin a discussion with a subject you know well, and then to expand the discussion from that point of departure. Describing how the FBI conducts internal investigations, imposes administrative discipline and provides ethics instruction to its employees will provide a convenient frame of reference for discussing how other law enforcement agencies address common

problems and how they solve them.

Because we are a multinational group, it would be helpful to begin our discussion with a comprehensive explanation of the FBI's jurisdiction, to provide a context for a description of its integrity mechanisms. Unfortunately, a comprehensive and logical explanation of that jurisdiction is not feasible, because the allocation of law enforcement responsibilities between the state and federal governments in the United States has developed as a result of historical accidents, rather than in any coherent fashion. Accordingly, the FBI is responsible for an odd mix of violent crimes and offenses against national sovereignty, for espionage investigations and health care fraud offenses. Its drug trafficking jurisdiction is shared with other agencies, and it investigates brutality and corruption by local police agencies.

In an effort to sort some sense out of a very confused jurisdictional situation, the FBI's strategic plan establishes three priorities. Primary importance is dedicated to terrorist, espionage or organized criminal activities which threaten the national security, such as computer intrusions into sensitive systems. Secondary importance is given to criminal enterprises that impact significantly on public safety or government integrity, such as street gangs and public corruption. The least emphasis is assigned to the crimes traditionally associated with the FBI in the popular imagination, which are crimes against individuals and property, such as kidnapping persons for ransom and bank robbery.

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The FBI currently has about 11,700 Special Agents with full law enforcement powers and 16,800 non-law enforcement personnel who perform clerical, technical, scientific, legal or linguistic duties. Reports reflecting disciplinary actions against our employees for Fiscal Year 1997 and 1998 have previously been distributed. To summarize their content, we investigate about 500-600 employees each year for allegations of crime and serious misconduct, screened from among thousands of insubstantial or minor complaints, which are left to our field or other headquarters divisions to address. About half of those serious misconduct inquiries are at least partially substantiated, meaning that we investigate about 2% of our employees per year and discipline about 1%. Among the matters investigated, the incidence of criminal cases is low. 60% of our employees are non-agent support employees, with varying degrees of skill and education, and a number of those will be dismissed each year for commission of state offenses, such as theft, assault and fraud. However, the number of such cases is probably less than 10 per year.

For agents, criminal offenses are sometimes spectacular, but rare. One agent murdered an informant/girlfriend in the late 1980s. Others have been convicted for stealing drug evidence, travel voucher fraud, bribery and using informants to commit cargo thefts. Counting both offenses prosecuted by state authorities and crimes relating to corruption in office, which are investigated internally and prosecuted as federal offenses, only two to three agents per year are prosecuted and dismissed. In the last three years we have had highly publicized federal convictions of three agents for crimes related to their official positions: an agent who spied for Russia for money; a supervisor in Miami who stole \$400,000 in seized currency and

operational funds to support his gambling habit; and a young agent in New Orleans who tried to extort a drug dealer to support his spending habits.

While not numerous, these embarrassing prosecutions and the several hundred administrative punishments imposed yearly reflect that FBI management does not suppress misconduct for public relations motives. A criticism alleged against former FBI Director Hoover, during his tenure from the 1920s to the 1970s, was that an FBI agent caught committing a crime would be allowed to resign rather than be prosecuted, to avoid embarrassing publicity which would damage the image of the organization. That is certainly no longer the practice, if there ever was any truth to the allegation. As a practical matter, we recognize that the proportion of reported to unreported misdeeds is an unknowable mystery. What is important to us is that, to the extent misconduct does go unreported, the reason is because it is concealed by the guilty parties and not because of negligence, tolerance or concealment by the institution.

The title of our course is "The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials." Corrupt and criminal activities are at the low end of the range of probabilities for FBI employees because of a number of integrity-reinforcing factors and processes. Some of those factors and processes are criminal in nature and some administrative, but they will be discussed together in this presentation because we regard them as inseparably intertwined means of preventing corrupt activities.

**II. INTEGRITY REINFORCING  
AND CONTROL FACTORS RELIED  
UPON BY THE FBI**

Among integrity-reinforcing features, the first which comes to mind is personnel

selection. Despite the many other opportunities available in a boom economy, the FBI still receives 30 applicants for every position, and enjoys a wealth of choice. Every applicant selected, from entry level clerical staff and maintenance workers to senior executives, must undergo a full background investigation justifying the granting of a security clearance. That investigation includes criminal record and credit checks, verification of family, education and employment history, as well as interviews of classmates, former co-workers, relatives, neighbors, ex-wives and former romantic interests about the candidate's honesty, reliability, truthfulness, work ethic, alcohol consumption, drug use, and any vulnerabilities. One condition of employment is successful completion of a pre-employment polygraph, or lie detector, examination on issues such as drug use and contacts with foreign intelligence services.

The age of new Agent Trainees now averages between 29 and 30, depending on the training class, so every one is a known quantity with a proven record of accomplishments as a law enforcement or military officer, as a professional in law, teaching or accounting, or in the fields of business, science or technology. Admittedly, even the most rigorous background investigation cannot guarantee good character, but it can ensure that a candidate has achieved a successful adult career without demonstrating bad character, which is as good a predictor of future conduct as can realistically be achieved.

Once an agent or support employee is hired into the FBI, it is very much in their financial and psychological self interest to avoid misconduct. A senior agent can earn more than USD \$75,000 per year in a metropolitan area with a high cost of living, with salaries of \$100,000 for a mid-level

manager. Agents are eligible for retirement at half pay at age 50 after 20 years of service, and can reach a maximum retirement benefit near 80% with an exceptionally long career. Few stay longer than 25 years because they enjoy outstanding prospects for a second career or part-time employment in the business, financial services or private security fields or in local law enforcement. Support employees are also well compensated, and value the status conferred by their employment so much that many have careers of 35 and even 40 years. Despite cynicism in our society about most institutions, employment by the FBI is still one of the most respected occupations in the United States and confers significant social status on employees and their families.

Our employees almost universally do value and appreciate their positions, and fear the possible loss of both position and respect. That fear is reinforced by the realization that our disciplinary system deals severely with any conduct which may bring discredit on the institution, and is admittedly draconian for integrity offenses. We operate under what is called the Bright Line policy - that lying under oath, cheating, stealing and similar integrity offenses, whether committed on or off duty, are inconsistent with the values of the FBI and can be expected to result in dismissal. If an off-duty employee is caught stealing a small amount of merchandise in a store, what we call shoplifting, and the evidence, such as a confession or a videotape, proves that the employee committed attempted theft, that employee will be dismissed, even if no prosecution results. If an agent commits an offense which normally would be punished by a suspension from duty without pay for five or 10 days, but then lies about the facts during the disciplinary inquiry, we will normally dismiss that agent for having lied under oath, absent

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some exceptional mitigating circumstances. One drunken driving offence, whether involving a government or personally owned vehicle, results in a suspension of thirty days without pay, and a second offence results in dismissal. Everyone knows the rules and demands that they be enforced even handedly. Like the Central Intelligence Agency and other intelligence agencies in our government, we are exempt from the civil service laws which can make it very difficult to successfully discipline most of our government employees. With the exception of a small percentage of employees who have combat military veteran status, our employees have no recourse to the courts against a disciplinary action, including dismissal.

Employees are required to report wrongdoing and are disciplined for failure to do so, particularly if they have supervisory responsibilities. If the wrongdoing constitutes a possible crime, we immediately inform a prosecution office and warn all possible subjects that they need not talk to our investigators because anything they say may be used as criminal evidence against them. Once the prosecutors have decided that no criminal prosecution is possible and the inquiry focuses on whether administrative discipline should be imposed, we compel employees to respond to questioning under oath and will dismiss them for failure to do so. We also regularly use polygraph examinations in aid of both criminal and administrative inquiries.

The July, 1999 Report for the Fiscal Year 1998 by the FBI's Office of Professional Responsibility, reveals that 301 employees were disciplined, of whom 32 were dismissed. Of those dismissed, 11 were Special Agents, or law enforcement officers, and 21 were Support Employees, that is non-law enforcement employees. 26

additional employees were terminated for disciplinary reasons during their period of probationary employment or resigned or retired after receiving notice of proposed discipline. 32 dismissals and 26 other involuntary departures from FBI service total 58 persons, which is approximately 10% of the number of persons investigated yearly.

Perhaps surprisingly, there is very little employee protest against the system and policies which produce these results. One reason why our employees accept such rigor without complaint is that they take pride in their reputation and competence in holding citizens criminally responsible for their actions and are not particularly sympathetic to wrongdoing, even by their co-workers. Collectively, if not always individually, they consider it a point of honor to hold themselves and their colleagues responsible for any deviation from established standards of integrity and performance. They may sometimes disagree with the sanctions we impose for performance errors, for exercises of bad judgment or violations of administrative rules, but they are not in the least tolerant of intentional wrongdoing or dishonesty. When we discuss disciplinary statistics with our employees' advisory and professional groups and explain that a high percentage of dismissals involve integrity offenses, their typical reaction is agreement that we need to remove from the organizations those persons who will not uphold its standards and character. Obviously, cleansing the ranks of dishonest persons as soon as they demonstrate lack of character is far preferable to allowing them to continue as employees until they commit some criminal abuse of their office.

Referring again to the July 1999 report for Fiscal Year 1998, it reveals that inquiries were initiated on 517 employees, which is slightly less than 2% of the present

total workforce of 28,500 employees. Inquiries were closed on 615 employees, of whom 301, or nearly 50%, received some form of discipline. Those 301 employees represent approximately 1% of the total employee population, meaning that the FBI investigates approximately 2% of its employees each year for crimes or serious misconduct and imposes discipline on approximately 1%. Among the 2% of the population who are investigated, the statistics demonstrate that the most common offenses are administrative rather than criminal violations. The most common offense is unprofessional conduct, which covers a multitude of sins not otherwise specified, such as becoming involved in a traffic altercation and drawing a weapon, or a domestic assault not resulting in an arrest. The next most frequent offense category involved false or inaccurate statements or documents, with 42 persons disciplined and four dismissed.

Another unfortunately common offense was driving while intoxicated. 27 out of the 31 persons investigated for driving while intoxicated were disciplined, 25 of whom were suspended for more than 15 days without pay and two of whom were dismissed. I should explain here, that while we use this report for public information purposes, its primary goal is to educate our employees and thereby deter misconduct. Statistics like those involving driving while intoxicated are powerful arguments to persuade our employees to control their alcohol consumption, because drinking to excess is quite obviously a very high risk proposition which will be treated with unforgiving discipline. Of course, while excessive alcohol consumption may lower inhibitions and lead to misconduct, it is not in itself corruption, so you may ask- why is it being discussed in a lecture about how to prevent law enforcement corruption?

The answer is that the entire FBI environment is focused on encouraging conformity with clearly recognized standards of integrity and professionalism, enforced by detailed administrative procedures and safeguards, so that deviant behavior is immediately recognized and corrected or punished, preferably before it escalates to criminal conduct. We feel that if we can succeed in motivating our employees to observe the administrative rules, both by appealing to their self-interest and to their idealism, then criminal or corrupt behavior will be so unusual that it will quickly be recognized and eradicated. Rather than concentrating our resources on corruption once it occurs, the traditional approach in the FBI has been to identify and deter administrative misconduct, such as falsification of reports or covering up minor violations by co-workers, before they lead to or can be used to facilitate corruption. Former Director Hoover may have been a difficult personality, but he was unquestionably an administrative genius. During his nearly five decades heading the FBI he created a seamless, even obsessive, system of manual provisions and performance and quality controls. Particular attention is paid to controlling the riskiest operations - weapons handling, dealing with informants, seizing drugs, custody of evidence and handling of money.

Immense resources are invested in the Inspection Division. The inspection system acts as a Headquarters control on local field office's supervisors and managers, auditing and checking every important operational and administrative aspect of a division's operation at least every three years, or more frequently when warranted. Particular attention is paid to areas of possible misconduct, once again using administrative controls as an early warning system and defense against corruption and criminal conduct.

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Informant payments are verified. Financial and evidence audits are performed. Outside contacts are made with judges, prosecutors and local law enforcement executives to uncover any information which may have come to their attention about misconduct or deficiencies by our employees in the performance of their duties. Both agents and support personnel are interviewed and any indication of sexual harassment, mishandling of evidence, falsification of records or concealment of wrongdoing is reported to our Office of Professional Responsibility. While this comprehensive system of controls and double and triple checks has undoubted costs in administrative resources, and arguable costs in frustrated creativity, it produces an immense integrity dividend, as I will explain.

A commission which investigated corruption in the New York City Police Department years ago categorized corrupt officers as either grass-eaters or meat-eaters. The grass-eater designation was used to refer to situational offenders, police officers who knew right from wrong but were weak-willed and engaged in corruption when exposed to temptation or pressured by corrupt associates. The meat-eater was the predator with no moral scruples or conscience, who saw a law enforcement position as a means to exploit opportunities for profit, sex or other ego gratification, and who often compromised entire groups.

A rigid system of internal transparency and close supervision serves as a defense against misconduct by both types of offenders. The grass-eaters who might yield to temptation when left to their own devices, may, precisely because of their more malleable character, perform creditably in a structured ethical environment with clearly enunciated rules,

conscientious supervisory attention, consistent disciplinary enforcement and peer pressure from honest colleagues of strong character. The predatory meat-eater, on the other hand, is both identified and made vulnerable by a comprehensive, well-supervised administrative system. Carnivores need the freedom to roam. By nature they are unlikely to have the patience and self-control necessary to avoid conflict with rigorous supervisory enforcement of a multitude of administrative regulations. Ultimately these meat eaters are likely to leave the organization, sometimes voluntarily and if necessary by dismissal, because they cannot conform to an environment specifically structured to deny them all those illicit pleasures which the predatory animal seeks.

### **III. INTERNAL INVESTIGATION AND DISCIPLINE**

Turning now to a discussion of how our Office of Professional Responsibility performs its investigative and disciplinary functions, our practice is to respond to any specific and credible allegation of criminal or administrative wrongdoing. Sources include citizen, judicial or legislative complaints, anonymous allegations, referrals from the Inspection Division, reporting by management or individual employees, accusations by hostile ex-spouses or lovers, or derogatory information turned up during the mandatory five-year security re-investigation to which all of our employees are subject.

If an allegation suggests that criminal conduct is ongoing and merits a covert inquiry, we utilize the operational resources of the entire Bureau, bringing in surveillance squads and technical assistance from distant offices to apply whatever resources and tactics are

appropriate to resolve the allegation, including electronic surveillance, ruses or decoys. To furnish an example, we received an allegation several years ago through a defense attorney in New Orleans, Louisiana that his client, a suspected drug dealer, was being extorted by the investigating agent. We approach such allegations with great care, because defendants and their lawyers sometimes fabricate them to provoke an internal investigation which can be manipulated to damage the credibility of the investigator at trial and cast suspicion on the prosecution. So that we cannot be easily manipulated, or accused of rejecting potentially meritorious allegations based upon subjective judgements about their credibility, we utilize a standard procedure in such situations. That procedure is to first ask the person making the allegation to voluntarily submit to a polygraph, or lie detector examination, to screen out unfounded complaints. In the New Orleans case, even though this agent had a good record and reputation and was not believed to be engaged in any impropriety by the management of that division, we followed this standard procedure and requested the drug dealer to submit to a polygraph examination.

To our surprise, the drug dealer's assertions that he had received extortionate demands for money from our agent showed no indications of deception. We then made arrangements to monitor telephone and personal contacts between the witness and our agent. We brought in a surveillance aircraft and a special surveillance squad from other cities, both to limit knowledge of the investigation in the local office and because the agent might recognize fellow agents conducting surveillance of his movements. A scenario was orchestrated at our direction in which the drug dealer requested certain confidential information from FBI files, the

agent was recorded agreeing to provide the information for money, and after overwhelming evidence was secured of his corrupt efforts to secure the information from our records and to trade it for money, he was arrested, convicted and has been imprisoned.

The reality in the FBI is that such meat-eater cases are rare. The vast majority of the misconduct we investigate is the product of human frailty rather than aggressive venality. Most inquiries are reactive and administrative rather than covert and criminal. In overt inquiries we inform our employees promptly when they come under investigation so that they can secure the assistance of counsel, if desired. Interviews are conducted under oath, and polygraph examinations are used to eliminate suspects and to resolve credibility issues, particularly because such examinations frequently result in pre-and post-polygraph admissions of misconduct.

Our staff of approximately 70 in the Office of Professional Responsibility delegates all cases of minor misconduct and 75% of our inquiries into serious administrative misconduct to field divisions or to other headquarters divisions for investigation. We feel that it would be a waste of taxpayers' money to send a team from Washington to Chicago or Los Angeles to investigate a drunken driving arrest of a non-supervisory employee or the theft of \$100 from someone's purse. We reserve our headquarters investigative resources for cases in which the credibility or sensitivity of the inquiry requires that it be conducted with independent resources, such as an allegation against a member of the management of an office or involving criminal activity.

Because we delegate cases to other divisions, and levy on field resources from throughout the country when we conduct

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a criminal inquiry, one must make certain projections and calculations to estimate the total resources dedicated to the FBI's internal integrity program. Adding together Headquarters personnel dedicated exclusively to the disciplinary function, the number of Headquarters' and field resources which we levy upon to support our efforts, and the resources used by the field and other Headquarters divisions to handle delegated investigations would yield a total of about 140 - 150 work years, or about half of one percent of our total personnel resources.

We consider ourselves unusually fortunate and believe that for the moment our system seems to be working well and cost-effectively, insofar as we can determine. The current scarcity of dangerous internal criminality permits us to concentrate resources on deterrence without having to resort to tactics which would erode employee support for our integrity enforcement efforts. We conduct random and reasonable suspicion drug tests as a condition of continued FBI employment, but we do not use random integrity testing without some specific investigative predicate. By integrity testing I mean such techniques as planting information through an informant that a particular apartment contains large amounts of illegal drugs and money, and installing a concealed video camera to determine if agents steal drugs or money. We do not recruit convert agents-in-place among New Agent Trainees or infiltrate them into the field divisions, both because of the considerable morale costs of such tactics and their immense logistical difficulties. When agencies are tempted to set up such programs, one must consider the problems of documenting and reporting intelligence and information, and of disclosure risk. The longer such an operation runs, and the more operatives it utilizes, the greater the risk of compromise.

The costs of controlling that risk quickly escalate once action is taken based on the information being generated or the personnel who initially organized and operated the program rotate out of internal affairs duties into other operational or managerial assignments.

Nevertheless, our choice not to use such techniques up until now is not a moral conclusion that such tactics might not be necessary if one had to confront pervasive corruption. While we are always concerned about the constant risk and sometimes serious incidents which occur with drug and undercover investigations, and with informants and money, the FBI has simply not yet experienced or perceived integrity problems serious enough to persuade us that random integrity testing tactics would be cost-effective. We hope that vigilant prevention will make recourse to extraordinary tactics unnecessary, but if the incidence of corruption escalated, we would be compelled to consider more dramatic remedies.

#### **IV. COMPARATIVE DISCUSSION**

At this point it may be helpful to compare our system with how other American law enforcement agencies deal with comparable issues. With respect to personnel recruitment and selection, the FBI is blessed with an unusually adequate personnel budget which permits the hiring of persons with professional degrees. By way of contrast, many police departments in the United States and elsewhere recruit employees who have barely passed their teenage years and have minimal educational qualifications. Such hiring policies by a police organization are not necessarily inappropriate, because hiring authorities have to balance the financial resources provided by political authorities with the available labor pool, the nature of the duties to be performed, and many other



factors. Nevertheless, the public and the mass media should recognize that the less selective a police organization can afford to be in choosing its candidates, the more integrity problems the community should expect. Law enforcement agencies will never be able to outbid drug organizations for the loyalty of an officer, but to maintain their integrity they must be able to pay salaries which allow them to build up a cadre of persons with maturity and demonstrated good character, who can set a moral and professional example for the organization.

A current concern to us in the FBI is the experience of police departments which have encountered serious integrity problems as a result of too much urgency in hiring. This typically happens when a budgetary increase or resolution of a litigation dispute, which are unfortunately common in our society, presents the opportunity or the need to hire a large number of officers within a short period of time, which several years later leads to an increase in integrity problems among those hired in haste. Because our Congress has authorized the hiring of additional FBI agents during the last several years to combat domestic and international terrorism and computer crime, we are taking pains to identify and avoid the factors which cause an increase in corruption and misconduct to result from a rapid increase in hiring. The most obvious factor is that many departments lower standards in order to secure enough acceptable candidates quickly. We hope that our increased hiring has been gradual and selective enough to avoid that risk. However, we are also concerned that there may be a more subtle risk, a form of organizational indigestion which makes it difficult for an institution to assimilate, train and properly indoctrinate new recruits with its values if there are too many recruits in comparison to the

experienced cadre. There are sociological studies which speculate about what percentage of immigrants a country can assimilate without social disruption and friction arising from frequent clashes of diverse or inconsistent value systems and customs. We are similarly concerned about the assimilation of large numbers of new recruits, many of whom come in with years of experience in other law enforcement agencies or the military, where they have already formed certain values and habits.

Similarly, we are concerned in the FBI whether we can do an adequate job communicating and ensuring the adoption of our existing value system when more than 20% of our agent population have less than three years experience, and 35% have less than five years experience. When three or four new recruits are assigned to an office with a complement of 100 agents per year, it is relatively easy to find veteran agents with eight or 10 years experience to serve as mentors, what we call a field training agent. That training agent has the official responsibility to offer practical instruction to the new recruit and to oversee their professional development. Normally, that training agent and the recruit's supervisor will be important influences in communicating organizational culture and values. Finding three or four experienced agents who also are good moral examples to serve as mentors is not difficult. However, when the number of new agents to be trained each year increases to six, seven or 10, there are obviously fewer veteran agents available who are not fully occupied with other duties, and correspondingly even fewer veterans who can serve as outstanding examples of both professional competence and good character.

One response to this concern is our ethics training program, which in the past was administered by our Training Division, but

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early this year was placed under the management of our Office of Professional Responsibility. The purpose for that change was to better integrate our practical disciplinary experience into what we teach our recruits. FBI New Agent Trainees undergo 16 weeks of law enforcement training, and those 16 weeks include 16 hours of ethics instruction. We recognize that one cannot teach an adult to be honest. What we do communicate during our 16 hours of instruction are the ethical standards which are important to a federal law enforcement officer and what our duties are under our Constitution and our legal system. We insist that our agents understand why society has authorized them to lie in an undercover assignment but not as a witness in court. We also try to inform our employees about the practical problems they will face in reality, so that they will not make mistakes or be compromised through failure to foresee the consequences of their actions.

We remind our agents that any personal or professional compromise with an informant, such as accepting gifts or engaging in a sexual relationship, places the agent at the mercy of that informant or of others who may learn of the relationship. Some confidential sources are sincerely motivated citizens, but those with the most knowledge of underworld activities are usually seeking personal advantage by betraying their criminal associates. It should come as no surprise that a person who would betray their criminal associates for personal advantage would do the same to the officer who is their contact in law enforcement. Consequently we urge our agents to focus on the practical risk, as well as the moral consequences, of allowing their integrity to be compromised in any way by a personal relationship with a confidential source.

Similarly, we urge them to think ahead and to discuss the thousand ethical dilemmas which may arise in the course of their career. It is not enough to avoid personal wrongdoing. If colleagues falsify the hour at which they begin or leave work, should a new agent make a report to a superior? Perhaps not, because we should not concern ourselves with *de minimis* violations, because the primary responsibility for enforcing time and attendance rules lies with a supervisor, and because one agent may not know if someone who leaves work early is being given compensatory time off for a night surveillance or extra-long work days, or has experienced a family emergency. On the other hand, if colleagues falsify the chain of custody for a piece of evidence or testify falsely in court, what should the new agent do? If fellow agents or a police officer were to strike a handcuffed prisoner, and the victim filed no official complaint, what should an agent who witnessed the violence do?

We want our people to think through these problems so they will not make a wrong decision based on panic or a failure to recognize what duties are paramount. We attempt to educate them about what ethical values are most important. We would consider it normal that an agent did not report another agent leaving work early, absent some personal knowledge of serious intentional abuse. Because our agents work such long hours, particularly in emergencies, even proof of an isolated intentional abuse would normally be considered primarily a performance issue to be addressed by the agent's supervisor, and we in the Office of Professional Responsibility would not be greatly interested unless a pattern of abuse existed. We insist, however, that our agents recognize their individual and independent responsibility to protect our citizens and the integrity of our criminal

justice system. That responsibility means that they must intervene to stop any clearly unnecessary use of force, must immediately report conduct which they believe may constitute a falsification of evidence or brutality by their colleagues, and that they will be punished for failing to do so.

Returning to a discussion of differences between FBI practices and those of other large American law enforcement agencies, a significant distinction exists with respect to the staffing and conduct of internal investigations. While the FBI's Office of Professional Responsibility devises the strategy for a corruption inquiry, selects the resources to implement that strategy, oversees its tactical execution and normally conducts the crucial interviews, we do not hesitate to levy upon operational assets from our investigative divisions. That approach differs from most American police departments and other federal agencies, which create wholly self-sufficient internal investigative units. Such units are staffed with sufficient personnel and resources, including technical equipment and expertise, to conduct investigations without the knowledge or participation of personnel from the operational divisions of the organization. The United States Drug Enforcement Administration and Customs Agency Service have internal affairs field offices distributed geographically throughout the country, and do not rely on investigative assistance from operational offices to the same extent as we do in the FBI.

The FBI has never felt the need to create a standalone operational capability to conduct disciplinary inquiries without the assistance of field resources for two reasons. The first is that cases of serious, meat-eater type corruption are still comparatively rare. It would not be cost-effective to staff, equip and pay the travel costs of a Headquarters surveillance squad

or technical team to work four or five corruption cases a year, when that number of cases can be staffed far more efficiently by commandeering field resources from another office. The second related reason is that we have no history of investigations being jeopardized by security breaches from within, resulting from the use of resources borrowed from field divisions. Utilizing the operational resources of the entire system is also consistent with our organizational philosophy, which regards a vigilant response to any suggestion of corruption as an overriding responsibility of every field and Headquarters division. Even though our office exercises decisional authority in an internal investigation, the operational managers in our field divisions normally want to be involved to demonstrate that they individually, and the divisions which they head, are intolerant of any form of corruption.

Moreover, involving the management of an FBI field division when we must conduct an investigation of one of that division's employees parallels the way the FBI approaches its responsibility to investigate corruption in state and local police agencies. The FBI functions as an oversight mechanism for other police agencies because, by federal statutes, we are assigned the legal competence to investigate brutality and other abuses of civil rights. Moreover, almost any form of police corruption would violate federal racketeering, extortion, fraud, bribery or other laws. In combating police corruption, our field divisions regularly encounter situations wherein corruption involves a number of police officers, and may reach up the chain of command within an organization. In such circumstances, one must assume that anyone in that agency could be a potential conduit of information back to the subjects of the inquiry, not all of whom would be known in the early investigative stages. Despite that need for

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secrecy and caution, our field executives normally make great efforts to find a trustworthy representative of that organization at the executive level, or if necessary at the political oversight level, who can safely be notified of the existence of the investigation, and who can eventually be given public credit for cooperating in the investigation.

You may ask, why is that symbolic contact considered important? There are a number of reasons to enlist someone at the executive or political level of a target agency. If a responsible executive can be trusted, the investigation thereby gains information and access to the internal mechanics of the target group, which may be crucial in creating investigative opportunities, protecting evidence and witnesses, and focusing the inquiry along productive lines. The courteous gesture of sharing credit with a representative of the organization whose members are being investigated also helps to avoid or to heal the resentment which otherwise may come from prosecution of well liked local police officers and impede future cooperation with that department or agency. Perhaps most important, however, is the fact that sharing credit with an honest representative of the local police agency expresses our institutional belief that public confidence is essential to the performance of a law enforcement agency's mission.

Even if a local police organization is being investigated for systemic corruption by an FBI field divisions, organizationally we recognize that at the end of the prosecution, our agents will move onto other cases, and that the local police department will still be responsible for public security within its jurisdiction. When the FBI is confronted with evidence of corruption in a local police agency, it would be foolish to expect spontaneous reformation. Outside intervention is

necessary, and aggressive tactics may be required, including decoys, integrity testing, surreptitious electronic surveillance, forcing colleagues to spy on and incriminate each other, and all the techniques used to secure evidence against ordinary criminals. Ultimately, however, that police agency needs to regain the confidence of the citizens in its community in order to gain their cooperation and assistance. Yet citizens cannot realistically be expected to have confidence in a police force if they are led to believe that it is totally corrupt and that only the FBI or some other outside agency can be trusted to effectively confront its corruption. That is why we try, whenever feasible, to preserve an image of cooperation with some element or representative of a local police agency being investigated, in order to communicate the message that there are trustworthy elements within every organization in whom citizens can place their confidence. Maintaining some degree of public confidence in a police agency is the first step toward its rehabilitation in public opinion, which ultimately will be necessary for that agency to stand on its own in protecting the community.

This approach of attempting to preserve some degree of public trust in police agencies whose officers are under investigation by the FBI is unquestionably influenced by the reality that the FBI only intervenes occasionally against police corruption in a given community. Our oversight role is essentially episodic, a part-time endeavor with regard to any particular community or police agency, because we are a general purpose law enforcement body with many other responsibilities and priorities. We also recognize, however, the emergence of a trend in other contexts toward single-purpose control agencies with the full-time mission to monitor, displace or even totally replace the internal integrity mechanisms

of a particular police organization. Often modeled on the Hong Kong Independent Commission Against Corruption, these agencies may also have powers of public education and program auditing for the police and other government agencies. In Australia, the Police Integrity Commission of New South Wales and the Criminal Justice Commission in Queensland, together with Ombudsman offices and other bodies, have been given substantial jurisdiction over police corruption and misconduct. Such bodies are typically created after a governmental investigative commission has revealed entrenched corruption of such a magnitude that the public loses trust in the integrity of the offending police agency. In such circumstances, drastic measures are necessary to neutralize the citizens' suspicion sufficiently so that public order can be maintained and some minimal respect for governmental authority restored.

The measures chosen to reassure public opinion in Hong Kong and Australia were to subject the police to extremely close oversight by a permanent independent and parallel authority with sufficient competence and investigative resources to oversee or take over any significant police investigations of internal criminality or misconduct. My impression in studying those institutions is that they also try to work in partnership with the police agency employing the suspected officer. There are many practical reasons which may call for cooperation, but it would be interesting to know if those Independent Commissions also consider a need to maintain public confidence in the agency they oversee as a reason to work in partnership with that agency's management or internal affairs component.

As indicated previously, we consider ourselves fortunate to have a relatively low

current incidence of corruption and criminality in the FBI, but recognize that an influx of new agents could upset the ethical equilibrium of the organization and cause more serious problems in the future. If that were to occur, we would have to consider techniques which we now do not employ, but which have been successful when used by other police organizations. For example, we use integrity testing only on the basis of reasonable suspicion. The London Metropolitan Police Service has used such tests to uncover corruption among experienced detectives and retired officers, and is now considering their use on a routine basis. Such an approach requires new and innovative thinking and expectations. The goal of targeted integrity testing is to come very close to a 100% success rate, since only persons seriously implicated in corruption by confidential information or circumstantial evidence will be tested, and numerous tests which revealed no corruption would be both expensive and would cast doubt on the intelligence or evaluation techniques of the integrity unit.

To the contrary, the institutional goal of routine testing is to devise a cost-efficient manner of random, universal testing with the ultimate goal of achieving a high rate of non-incriminating results as a result of ethics training and the deterrent effect of publicizing the routine testing technique. To my surprise, I understand the Metropolitan Police Service labor organization has received this proposal favorably, which would be a farsighted response. If a police organization could demonstrate to a policymaker and to the public that nine out of 10, or 95 out of a hundred officers will refuse the opportunity to steal or to be bribed, I think that much public cynicism and suspicion about the police would be cured.

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The concept of integrity testing can be also expanded to other contexts. The New York City Police Department has suffered terribly in the last year from adverse publicity about brutality and the use of excessive force. In response, it has experimented with an imaginative approach of brutality testing. As the technique has been described to me, an officer whose record demonstrates repeated use of excessive force is assigned to respond to a violent domestic dispute in an apartment. On arrival the officer is confronted by a subject who is verbally abusive but neither uses nor threatens violence, and who in reality is an undercover Internal Affairs Division officer attempting to learn if the officer will overreact to verbal abuse by using unnecessary violence. The scene is recorded and carefully monitored in a way so as to minimize the risk of serious injury to the undercover officer, with other officers ready to intervene immediately if the suspect officer begins to use unnecessary force. Fortunately, the nature of our work in the FBI does not require us to confront routine allegations of physical brutality, but difficult and dangerous techniques are sometimes necessary to confront serious abuses.

## V. CONCLUSION

Earlier in this paper reference was made to the inability of any police organization to compete financially with a drug dealer in bidding for the loyalty of an officer or agent. We are public servants and we recognize that the taxpayers will never pay their guardians as much for our honest services as criminals would pay to corrupt us. The officers or agents of some law enforcement organizations are comparatively well compensated, but most are not so fortunate. However, financial calculations alone do not determine the ability to resist temptation. We have found

to our sorrow that even well-paid FBI agents have betrayed their country and their institution for money. At the same time, police officers who are paid much less generously resist opportunities for corruption, undergo hardships daily, and forego many pleasures and advantages for themselves and their families, because they believe that serving and protecting their fellow citizens is valuable, important work. A decent living wage is essential to honest law enforcement, but it is not enough to achieve integrity.

The old proverb, that man does not live by bread alone, expresses the concept that material considerations cannot explain all human decisions. That concept is extremely relevant to police work. Rational persons cannot be paid enough money to make a purely financial choice to risk their life by confronting armed robbers. There is no monetary calculation which explains why an honest law enforcement officer is immune to bribe offers worth many times a year's salary. The only reasons which can justify such dedication and honesty are non-material ideals. Such ideals can result in unselfish, altruistic sacrifices, and can inspire whole institutions. Different societies at different times have recognized codes of conduct which rose above individual self-interest, ennobled the humans who observed them, and benefitted all of society. Those codes of conduct may have been called chivalry in Western Europe, Bushido in Japan, or honor and duty in military organizations, but their common element is that they recognize and harness the idealism of the human spirit. My observation of police organizations is that the most successful are those which capture that idealism, both to stimulate performance and to avoid misconduct and corruption. No system of internal affairs and discipline can realistically hope to repress misconduct among persons with the power, discretion and investigative

training and practical experience of police officers, absent some system of shared values and the internal motivation to observe those values. Accordingly, the concept which I would like to emphasize in closing today's presentation is the importance of pride, self-respect, community status, and a sense of honor and duty in preventing corruption. Very frankly, my impression is that many other societies traditionally recognize and appreciate this concept much more than we materialistic Americans do. Consequently, I hope that during our discussion time we can explore examples of how other countries foster an *esprit de corps*, a sense of pride and even elitism, to bring out values and performance in their law enforcement officers far beyond that which can be accounted for by mere material rewards.