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TABLE OF CONTENTS



FEATURES

On the Cover

The "Survival Spanish" training program for law enforcement officers developed at Sam Houston State University offers significant advantages to participating agencies: the line officer is better prepared to deal with critical events and defuse dangerous situations, his knowledge of succinct Spanish commands enhances his safety, and the department's good-faith effort to improve communication and interaction with the community's Hispanic population fosters better community relations. (Please see pages 42-47 for an in-depth examination of this program.)

- 8 **President's Message: Strengthening IACP's Voice**
By IACP President Charles A. Gruber

- 10 **1989-90 IACP Executive Committee**

- 21 **Handgun Safety Campaign Initiated** 121346
By Steven L. Davis

- 37 **Hazardous Chemicals from Clandestine Labs Pose Threat to Law Enforcement** 121350
By Edward F. Connors, III

- 42 **Survival Spanish: Needed Training for Police** 121351
By Gene G. Blair and Sam L. Slick

- 42 **Cross-Cultural Communication Guidelines**
By Guadalupe C. Quintanilla

- 47 **FLETC's Law Enforcement Spanish Training Program**

- 48 **The Philadelphia Scene Team Experiment** 121352
By Thomas M. Seamon

- 54 **Legislative Analysis: Justice Department Delays Implementation of Felon Identification System**

- 56 **Models for Management: Confidential Informants**



Survival Spanish 42



Survivors' Club 58

SPECIAL FOCUS: THE FUTURE OF POLICING

- 24 **Strategic Planning for Law Enforcement** 121347
By Donald C. Witham

- 30 **Futures Research: Here and Abroad** 121348
By John Henry Campbell

- 34 **The 1990s: New Days, Old Problems** 121349
By Edward J. Tully

DEPARTMENTS

- 16 SACOP Profiles
53 Position Open
58 Survivors' Club
59 Product Update
62 New Members
66 Index to Advertisers

Hazardous Chemicals from Clandestine Labs Pose Threat to Law Enforcement

By EDWARD F. CONNORS, III, President, Institute for Law and Justice, Alexandria, Virginia

One of the most dangerous emerging trends in narcotics enforcement is the rapid increase in clandestine drug laboratories in the United States. These illicit labs, which manufacture a variety of controlled substances, pose a significant threat to the safety and health of law enforcement officers involved in investigating, searching and seizing the labs. Illegal drug labs also potentially threaten the environment with chemical contamination.

Many clandestine labs contain hazardous toxic chemicals, and exposure to these chemicals can often be life-threatening. Exposure can result from inhaling vapors, getting chemicals in the eyes, absorbing chemicals through the skin, acids burning the skin, accidentally ingesting chemicals and other forms of contact. Some chemicals in these labs are also highly flammable and can explode with slight contact or heat. Ether, a common solvent used to make methamphetamine, explodes with the force of dynamite. Runoff of chemicals from clandestine labs may also contaminate water sources or soil, and toxic vapors may even permeate building structures.

In addition to the health and safety hazards of the clandestine labs, police agencies face the threat of civil liability for lack of training, improper handling and storage of chemical waste and negligent decontamination of the lab sites.

According to a recent survey by the Institute for Law and Justice (ILJ), the presence of clandestine labs is proliferating, particularly in the western and southwestern states. The 10 states contacted reported nearly 1,200 illegal lab seizures in the past 18 months. Administrator John Lawn states that the Drug Enforcement Administration (DEA) investigated 810 clandestine labs in 1988. This is a significant increase over the 184 labs investigated in 1981.

Most clandestine drug labs produce methamphetamine and amphetamine; but labs have also been seized that were manufacturing methadone, phencyclidine (PCP), fentanyl, MDMA ("ecstasy") and other controlled substance analogues.

Many medical experts expect the field of illegal synthetic drugs to increase rapidly as "entrepreneurial chemists" take

advantage of improved technology in computers and communications.¹

Some law enforcement experts in the West think that methamphetamine ("speed" or "crank") will replace crack cocaine as the national drug crisis for the 1990s. Methamphetamine is cheaper than cocaine and produces a longer-lasting euphoria. The number of methamphetamine-related hospital mentions reported nationwide in 1988 increased 110 percent over 1985 totals.² Some police officials estimate that current clandestine labs could produce 25 tons of methamphetamine a year, generating \$3 billion in illegal profits.³

Health and Safety Regulations

Handling hazardous substances is extensively regulated by health and safety agencies because of potential harm to employees and the public.

Law enforcement involvement with clandestine drug labs is a hazardous substance response operation that falls under the regulations of the Occupational Safety and Health Administration (OSHA) (29 CFR Part 1910 *et seq.*). OSHA regulations require the following actions by employers to protect employees dealing with hazardous substances:

- *Communicate clear and unambiguous warnings on the hazards and dangers of chemical substances.* These warnings must be reinforced with educational programs. This applies not only to investigators in the field who come in contact with chemicals, but also to technicians and chemists in the crime lab who analyze the seized chemicals.

- *Train all employees exposed to hazardous substances.* These employees must be thoroughly trained in recognizing and dealing with safety and health hazards present in clandestine lab sites, use of protective equipment, safe work practices and other safety measures. An initial 40 hours of safety training is required, coupled with three days of actual field experience. These employees are also required to receive eight hours of refresher training annually. This specialized training must be certified in accordance with OSHA standards.

- *Provide proper protective equipment.* OSHA regulations require a range of safe-

ty equipment for workers exposed to dangerous substances. This equipment must meet specific standards established by the National Institute for Occupational Safety and Health for exposure levels. Examples of standard protective equipment in clandestine lab situations include coveralls (chemical-resistant suits), gloves, respirators, boots, goggles and atmosphere monitors.

- *Examine and monitor the health of employees exposed to hazardous substances.* A continuous medical surveillance program is needed to identify as soon as possible signs and symptoms indicating possible overexposure to hazardous substances. Exposure situations should always be documented carefully and thoroughly for future medical reference. Prior to training or working with clandestine labs, employees should receive thorough medical screening to determine their fitness for the assignments.

In addition to federal OSHA regulations, many state health and labor safety agencies have authority to enforce laws governing hazardous substance operations. Last year, a small police agency in Oregon was fined nearly \$3,000 for a variety of violations of the Oregon Safe Employment Act. The violations included failure to provide adequate warnings, training and protective equipment for employees exposed to hazardous substances in seizing illegal methamphetamine labs.

The U.S. Department of Transportation (DOT) regulates the packaging and transportation of hazardous substances (49 CFR Parts 170-172). Hazardous substance carriers must meet DOT's secure transportation standards before dangerous chemicals can be moved over the highways.

Operations involving hazardous substance storage, disposal and site clean-up are governed by the Environmental Protection Agency (EPA) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (42 U.S.C. 9601 *et seq.*). Costly liability may attach to a hazardous waste generators who allow hazardous substances to release into the soil, water or air.

Investigating Clandestine Labs

Information from informants and the public, such as reports of "strange" odors from residences, probably provide law enforcement with the greatest number of tips on clandestine lab operations, but tracking precursor chemicals and lab glassware may lead to the greatest volume of illegal drug seizures.

In 1988, as part of the omnibus Anti-Drug Abuse Act of 1988, Congress passed the Chemical Diversion and Trafficking Act. Under this law, DEA has recently proposed regulations that, among other things, impose new record-keeping and reporting requirements on chemical supply companies. These companies must keep records (name, address, phone number, form of identification presented) of regulated transactions (including sales) involving listed chemicals, tableting machines and encapsulating machines. Companies must also report to DEA any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery or any other circumstances that the regulated person believes may indicate that the chemical will be used in violation of the act.

DEA also has authority under this law to stop export shipments of listed chemicals if there is sufficient reason to believe the shipment is not destined for le-

gitimate industrial, commercial or scientific use.

A number of states, including California, Oregon, Washington and Texas, also have state laws that require chemical companies to maintain records of the sale of certain precursor chemicals and glassware.⁴ These laws enable law enforcement to track the sale of chemicals and other supplies frequently used in clandestine labs.

Lab Raids and Seizures

Trial and error over the past five years has led a number of police agencies to develop a structured set of procedures for raiding and seizing a clandestine lab.⁵ Pioneered by some key states and DEA, clandestine lab raid and seizure procedures involve the following stages:

- *Preraid planning:* This involves meeting to review intelligence information and coordinate the tactical operation. Many raids on illegal labs involve the presence of law enforcement personnel from different agencies and jurisdictions, as well as back-up support from fire and emergency medical services. The pre-raid plan should include a combination of standard drug raid strategies (e.g., physical layout of building, presence of weapons, tactical approach, communications, perimeter security, etc.) and plans for dealing with hazardous materials (e.g.,

evacuation plans; first aid, etc.)

- *Initial entry:* An initial entry team, similar to a SWAT unit, is used to secure the lab site, arrest suspects and remove them to an uncontaminated location. This entry team wears safety equipment that protects against hazardous chemical exposure and violence by the suspects, yet does not restrict necessary movement. The entry team must be trained to recognize lab-related dangerous situations such as a highly flammable manufacturing process or the presence of booby traps. For example, the back door of a lab recently raided in Oklahoma was guarded with a trip wire connected to a hand grenade.

- *Site assessment:* Once the lab is secure, an assessment team enters the lab to assess the hazards. *This team must always include a qualified chemist.* The team also wears adequate protective equipment and, since the initial danger is unknown, often wears self-contained breathing apparatus. It is responsible for determining the presence and levels of toxic or explosive gases or vapors, determining oxygen levels and deactivating and ventilating the lab.

- *Processing and dismantling the lab:* The processing team consists of experienced chemists and crime lab personnel. This team, which also wears adequate protective equipment, is used to identify,

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document and collect evidence of criminal activity. Some of the activities of the processing personnel include taking samples of chemicals, labeling chemical containers (placing warning signs on hazardous chemicals), photographing or videotaping the scene and original setup and lifting of latent fingerprints, if required.

As the last two stages indicate, chemists are an integral part of clandestine lab raids and seizures. Trained chemists are necessary to determine the potential hazards associated with exposure to toxic substances and document the manufacturing process used in the illegal lab.

Chemists have also been used to interview suspects outside the lab to obtain an accurate history of the manufacturing process. Sometimes a "chemist" engaged in illegal drug manufacturing is more likely to open up to another chemist.

Care must be taken in storing hazardous substance evidence recovered from a clandestine lab. The storage facility, which should be away from the regular evidence storage area, must meet EPA and OSHA standards.

One of the key positions recommended to oversee clandestine lab raids and seizures is a safety officer. This officer ensures that essential personnel wear adequate protective equipment, reports exposure situations and supervises the trans-

portation of hazardous substances, decontamination of personnel and site clean-up. This position should compile a report of the hazardous substances found and forward it to the appropriate local or state health/environmental agency or to a regional EPA office.

It is recommended that, as part of the pre-raid planning, the raid coordinator ensure that the team has adequate backup from fire and emergency medical services personnel.⁶ In fact, one of the better clandestine lab programs in the nation is a joint police-fire approach by the city of Portland, Oregon. While police agencies are just now training to deal with hazardous substances, fire service agencies have been training and using hazardous materials units for years.

The final aspect of an agency's clandestine lab operating procedures must deal with site clean-up and disposal of contaminated materials.

Clean-up and Disposal

The aspect of clandestine labs that may cause the most problems and expense for law enforcement in the future is hazardous waste clean-up and disposal. Responsibility for hazardous waste clean-up and disposal ultimately rests with the individual or organization that produced the waste, or first caused the waste to become subject to regulation. EPA has

ruled that DEA is the "generator" of hazardous wastes from clandestine labs it handles, making DEA legally liable for clean-up and disposal.

In response to this problem, DEA contracts with a licensed hazardous waste disposal company to remove chemicals, equipment and glassware from the lab site.⁷ The hazardous substances are carefully packed and transported to storage or disposal facilities. Nonevidentiary hazardous substances are destroyed. DEA procedures recommend treating all drug lab chemicals, glassware and equipment as if they are hazardous wastes. The contractor may also assist in decontaminating all individuals exposed to the hazardous substances in the clandestine lab and in cleaning up the site.

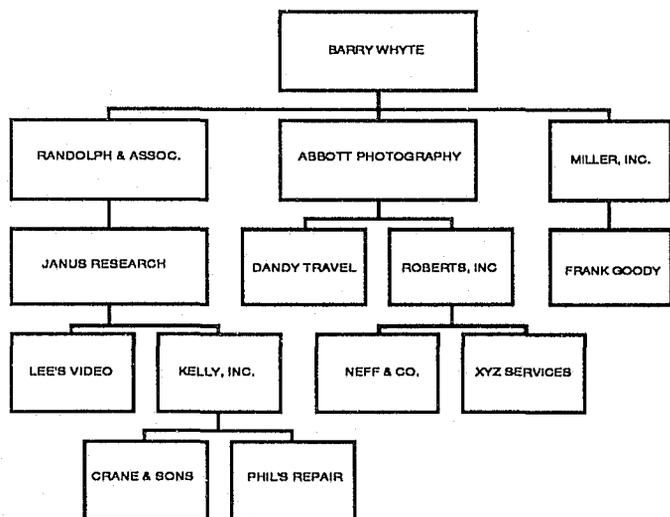
As an additional measure to protect the public, DEA posts a warning sign on the site notifying others that hazardous substances or waste products may still be present in the buildings or ground. The agency also notifies the legal owner of the property as to the condition of the property.

One state responding to ILJ's survey reported spending as much as \$70,000 to clean up and dispose of hazardous waste at a single clandestine lab site.

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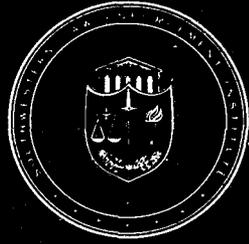
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from clandestine labs, Congress created a federal interagency task force to address the problem. Under authority of the Anti-Drug Abuse Act of 1988, the task force is to formulate, test and implement a program for clean-up and disposal of hazardous wastes produced by clandestine labs. The task force consists of representatives from DEA, EPA and the Coast Guard.

This joint task force has produced proposed guidelines to help state and local law enforcement agencies better manage the clean-up and disposal of hazardous wastes from illegal drug labs.⁸ In terms of site clean-up, the joint task force recommends that the local or state law enforcement agency complete its responsibility after disposing of all contaminated materials and turn the oversight of the clean-up of "residual contamination" to the "lead state agency" responsible for hazardous waste clean-up. Such a relationship must be worked out on a state-by-state basis.

Conclusion

The investigation and handling of clandestine drug labs poses special problems for law enforcement. The hazardous waste law is new for police. It is also an area of the law that holds a significant potential of civil liability for police employers in terms of claims by injured workers, fines by OSHA and EPA and lawsuits by the public.

While law enforcement is struggling to deal with hazardous substance issues and laws, some of the programs implemented by DEA and a few of the states may be helpful. BJA has funded four states and one city to develop model clandestine lab programs: California, Washington, New Jersey, Pennsylvania and Portland, Oregon. Several of these states have worked with DEA to develop certified safety training programs.

Proposed guidelines in lab clean-up and hazardous waste disposal are available from the DEA/EPA task force. In addition, ILJ and the National Sheriffs' Association provide overview training on investigating and handling clandestine labs.

In summary, law enforcement must better prepare to deal with clandestine drug labs. Few comprehensive guidelines for law enforcement exist.¹⁰

The objective of police agencies investigating and handling clandestine labs should be to ensure the safety of employees and the public by reducing or avoiding exposure to hazardous chemicals. Some recommendations gleaned from agencies successfully dealing with the problems posed by illegal drug labs are as follows:

- Develop and document policy and procedure for investigating and handling clandestine drug labs. Several agencies have accomplished this by creating an ongoing

safety committee chaired by a hazardous materials coordinator. If possible, the approach should be multijurisdictional, since the problem typically overlaps jurisdictions. The approach should also include coordinating with fire and emergency medical services and state agencies responsible for enforcing worker health and safety and environmental laws.

- *Develop safety training and medical screening and surveillance for employees exposed to hazardous substances that meet OSHA standards.* Police departments should work with state and federal agencies involved in enforcing worker safety regulations to develop certified training programs that meet OSHA standards for training employees exposed to hazardous substances (29 CFR 1910.120(e)). Fire department HAZMAT personnel may also help with this training. Personnel involved with hazardous substances should also be medically screened and their health continuously observed.

- *Provide adequate protective equipment for employees exposed to hazardous substances.* Proper safety equipment is critical for the health and safety of employees exposed to hazardous chemicals. Employers have an affirmative duty to warn and educate employees about the dangers of hazardous substances in the workplace.

- *Contract with a licensed hazardous waste disposal company for clandestine lab site clean-up, decontamination and storage and disposal of hazardous substances.* Hazardous waste clean-up and disposal is a highly technical field and law enforcement should rely on private industry to help in this area. Law enforcement cannot assume the burden alone of cleaning up hazardous waste caused by clandestine drug labs. State agencies responsible for environmental protection and for workers' health and safety must be involved in the problem. ★

¹Terra Ziphoryn, "A Growing Industry and Menace: Makeshift Laboratory's Designer Drugs," *Journal of the American Medical Association*, Vol. 256, No. 22, 1986, p. 3063.

²*Methamphetamine Abuse in the United States*, National Institute on Drug Abuse, U.S. Department of Health and Human Services, September 1988, p. 6.

³"Rural Drug Users Spur Comeback of 'Crank,'" *Washington Post*, February 20, 1989, p. A1.

⁴National Narcotics Intelligence Consumers Committee, *The Supply of Illicit Drugs to the United States*, 1988, p. 56.

⁵*Clandestine Laboratory Manual of Instruction and Procedure*, State of California, Department of Justice, 1987 (updated in 1988).

⁶Phillip L. Currance, "EMS Crosses Hazmat Lines," *Journal of Emergency Medical Services*, February 1989, p. 58.

⁷Randolph D. James, "Hazards of Clandestine Drug Laboratories," *FBI Law Enforcement Bulletin*, April 1989, p. 16.

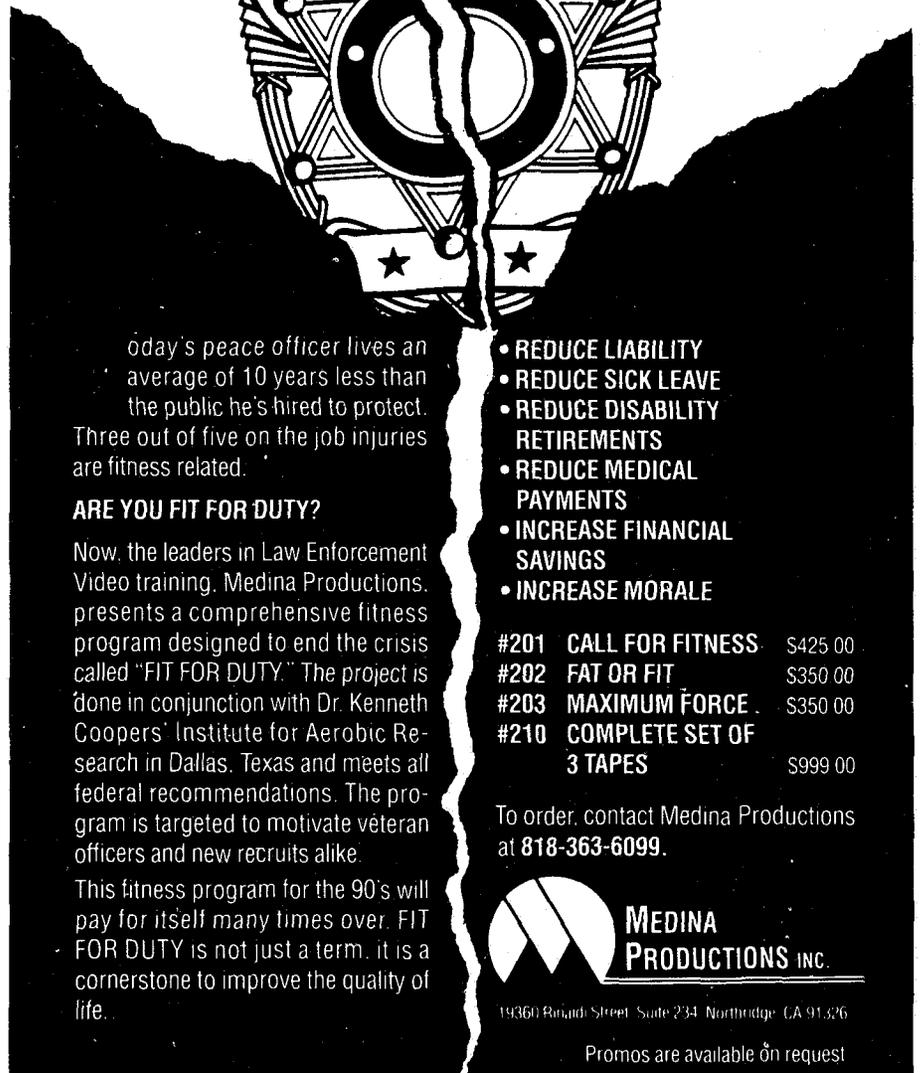
⁸Joint Federal Task Force, *Proposed Guidelines for the Clean-up of Clandestine Drug Laboratories*, May 8, 1989.

⁹*Ibid.*, p. 11.

¹⁰See Training Key #388, "Clandestine Laboratories," *International Association of Chiefs of Police*, 1989.

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