

554

JULY 1979

# FBI LAW ENFORCEMENT BULLETIN

## The FBI Academy Today



DEDICATED TO  
THOSE WHO PERSIST  
EXCELLENCE IN  
LAW ENFORCEMENT  
THROUGH  
EDUCATION, TRAINING  
AND ACQUISITION OF  
KNOWLEDGE

600568  
60058



# "No Comment..."

## Law Enforcement and the Media

By CHARLES W. STEINMETZ  
*Special Agent*  
*Education and Communication Arts Unit*  
*FBI Academy, Quantico, Va.*

*"If a vacuum exists in popular opinion, ignorant and foolish views will fill the vacuum. No time must be lost in providing accurate facts and sound ideas."*

Alexander Hamilton

In light of the recent commentaries by law enforcement executives throughout the country that advocate a candid and honest dialogue with all facets of the news media, the title of this article seems to be an archaic statement reminiscent of the censorship of both World Wars and even the period of civil disorders of the 1960's. Regardless of our meaningful media policies and our sincere desire to have a legitimate and complementary rapport with the media, these desires and policies occasionally remain unheeded in the heat of serious cases or disturbances within our communities.

Those are exactly the instances when a sound media policy, the presence of qualified media representatives of a department or agency, and total familiarity with media policy by all department members is most important. A part-time media policy which is invoked at the convenience of the department is not satisfactory in dealing with the public's right to know. A free press fulfills an essential role in our democratic society. Irving R. Kaufman, Chief Judge of the U.S. Court of Appeals, Second Judicial Circuit, commented at the 11th Annual James

Madison lecture at New York University Law School that "the First Amendment is basically aimed at regulating the process of exchanging ideas and forming opinions; in a word, at facilitating the freest possible use of channels of communication consistent with public order and safety."<sup>1</sup> This is the foundation of the first amendment, the concept "that government shall not impede the flow of ideas; in addition, there's a positive aspect in that government can and should use its power to ensure a free press toward the goal of providing the widest possible dissemination of information from diverse and antagonistic sources."<sup>2</sup>

The title, "No Comment," is, of course, symbolic and is meant to point out that a thoughtful media policy and training for law enforcement representatives is now necessary in this age of mass communication, whether it be electronic or printed. Certainly there are restrictions that have been provided by various agencies. The U.S. Department of Justice in Title 28, Code of Federal Regulations, Section 50.2 (1978) stipulates procedures which are intended to promote accuracy and fairness in the release of information. Under the release of information guidelines, the Department of Justice states that:

*While the release of information for the purpose of influencing a trial is, of course, always improper, there are valid reasons for making available to the public information about the administration of the law. The task of striking a fair balance between the protection of individuals accused of crime or involved in civil proceedings with the Government and public understanding of the problems of controlling crime and administering government depends largely on the exercise of sound judgment by those responsible for administering the law and by representatives of the press and other media.*

The important concept for law enforcement executives is "sound judgment." There are very few situations which require the finality of a "no comment." If we realize the necessity to society of a complementary relationship between the media and law enforcement, it would be unlikely that a news reporter would be turned away with a terse "no comment." As stated by Frank P. Hayward of the New Orleans, La., Department of Police, "Public information should be distinguished by its candor and completeness. There is a growing awareness among law enforcement personnel of the need for active public information programs and the important role the news media can play in fulfilling this objective."<sup>3</sup>

## A Definition: Public Information v. Public Relations

It is important to make the distinction between public information and public relations. From a managerial standpoint, public relations "is the management function which evaluates public attitudes, identifies the policies and procedures of an organization with the public interest, and executes a program of action (and communication) to earn public understanding and acceptance."<sup>4</sup> Mike Brake, a police reporter for the Oklahoma Journal in Oklahoma City, Okla., speaks of a public information officer as one who "acts as a liaison between the agency and its administration and the media, and hopefully creates goodwill and positive publicity that enhances the agency's image and contributes to public support."<sup>5</sup> Gerald Lipson and George Kroloff summarize the objectives of public relations which, "simply put, is creating an appropriate climate in a community so the goals and programs of your employer or your organization are understood, accepted, and, hopefully, supported."<sup>6</sup>

The foregoing are good substantial definitions of "public relations." However, it is imperative that a fine line of distinction be drawn to separate what might be a policy of obtaining public support and that of providing the public with information. This is why "public information" in law enforcement cannot always be assumed to be "public relations." All information provided the media (and, subsequently, the public) is not necessarily favorable to the law enforcement agency. As a result, the need to provide public information does not necessarily support the public relations function.

If we are to look only toward enhancing our image through public relations, what is to prevent us from avoiding or altering news issues that could be critical to our operations? All information that is allowed to be publicized through the media in accordance with State and local laws and guidelines should be made available to the public. The impact on our public relations may be good or bad, but the connecting thread is that a candid and

open policy is most desirable in a public service agency that aspires to professional status. E. M. Davis, former Chief of the Los Angeles Police Department, succinctly put it when he advised that "a police department should have nothing to hide. It should accept the news media as its best and welcome witness. Its sworn personnel should never cease to invite the scrutiny of the news media and community alike."<sup>7</sup> Our basic responsibility as far as media relations is concerned is that lawful information should be provided.

### "Mutual understanding . . . is clearly in the best interests of both the police and the press, and of the public that is ultimately served by both."

Whether or not the reporting of this information enhances our public image is not a matter to be overly concerned with, if we are sincere in our interest in pursuing a policy of forthrightness and honesty with society.

#### Historical—Legal Implications

When this Nation was being formed as a democratic republic, the controversy over the inclusion of a Bill of Rights in the Constitution prompted Alexander Hamilton to say (in the Federalist Papers) that we do not know what liberty of the press really is. He asked who could give the definition of a free press which did not leave the "utmost latitude for evasion." It must be realized that at that time the press was, in fact, just that—a printed paper with information in it. The men who formulated the Bill of Rights finally decided upon the following wording for the first amendment to the Constitution:

*Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people*

*peaceably to assemble, and to petition the government for a redress of grievances.*

This established the right of the public to know and to be informed. It must be recognized that these Government decrees are not self-explanatory or self-executing and the word "press," for example, meant literally the printed newspaper. There was no concept of electronic mass communication as we know it today. But the press originally was a medium for the transmission of information, just as mass media is today.<sup>8</sup>

In retrospect, the debate over freedom of the press and persuasive impact of news was clearly recognized by the British prior to the American Revolution. "It is significant that the Stamp Act of 1765 alienated two very influential groups—the lawyers and the journalists. The new law placed a heavy duty on paper used in publishing newspapers. There was also a heavy tax on all legal documents. Thus, the lawyer, who swayed people by the spoken word, and the journalist, who had an even wider influence through the written word, were both turned against those who favored the unpopular act."<sup>9</sup>

These conflicts are the underlying basis for much of the tension that exists today in the realm of law enforcement—media relationships. Our founding fathers had no way of knowing the social and technical advances that would be made and therein the arguments over their simple phrase, "freedom of the press." They had no way of anticipating our present day problems.

It is sometimes claimed that the first amendment guarantee of freedom of the press also requires that the news media have a legal right to obtain information.<sup>10</sup> On the basis of U.S. Supreme Court decisions, it appears that the Court has declined to interpret the first amendment as guaranteeing the news media greater access to information than the general public. As Mr. Justice White wrote in 1972:

*It has generally been held that the First Amendment does not guarantee*

*the press a constitutional right of special access to information not available to the public generally. . . . Newsmen have no constitutional right of access to the scenes of crime or disaster when the general public is excluded, and they may be prohibited from attending or publishing information about trials; if such restrictions are necessary to assure a defendant a fair trial before an impartial tribunal.<sup>11</sup>*

In spite of the fact that freedom of speech and press are not absolute, it is imperative that the law enforcement agency have a sound media policy and avoid efforts to thwart the legitimate gathering and reporting of news.

As Jerry Wilson, writing in *The Police and the Media*, notes, "On an even more fundamental level, police administrators should be sensitive to the principle that free and open news media are the bulwark of liberty. Although they may be aggravating to all of us at times, it is the free news media more than anything else which protects Americans from excess of social, economic, and governmental power."<sup>12</sup> Wilson then quotes Thomas Jefferson's famous letter to Col. Edward Carrington in 1787:

*The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left for me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.<sup>13</sup>*

#### The Law Enforcement Media Representative

When the National Advisory Commission on Criminal Justice Standards and Goals addressed the issue of news media relations, they specifically called for every police chief to immediately acknowledge in written policy statements the important role of the news media and the need for the police agency to be open in its relations with the media. In support of this statement, the commission suggested that each police agency designate an officer or unit to maintain regular liaison with the media.<sup>14</sup>

To date, this has not been done in all law enforcement agencies. Recognizing that the chief executive in smaller departments may prefer to handle the media tasks, there are still many shortcomings. It is encouraging to note that 96 percent of those officers taking a graduate-level media course at the FBI National Academy reported, when surveyed, that their agencies had a media policy of some type. These policies were by no means all inclusive, but they were an attempt to provide guidelines for their personnel.

### "The advantages of fostering a candid, open-door policy . . . may lead to a much more fulfilling police-media relationship."

Conceivably, a sheriff or chief of police could handle media responsibilities in his respective department, but it is not likely that this department would have a comprehensive media program.

A public information officer (PIO) or media representative could easily be appointed to handle these duties. It is not necessary that this individual be someone with a journalism background or even be a sworn officer—the critical element is that he is willing to undertake a challenging and service-oriented role for his department. Qualities that students in the FBI National Academy have identified as being desirable in a media representative are:

Experience in law enforcement,  
Civilian professional/sworn officer,  
Maturity,  
Sensitivity to problems,  
Willingness to learn,  
Communicative abilities,  
Ability to establish rapport,  
Loyalty to agency,  
Knowledge of pertinent issues,  
Appearance,  
Journalistic knowledge,  
Positive attitude,  
Flexibility,  
Personal integrity, and  
Initiative.

Obviously, we would be hard-pressed to find an individual who displayed all of these traits. It is reasonable to assume that each individual agency would evaluate its own needs and select someone to fill their particular goals.

The media representative program of the Federal Bureau of Investigation was devised in 1975 to enable each of its 59 field offices to respond to news inquiries. In keeping with a public information policy rather than public relations, FBI Director Webster emphasizes that he encourages an "open stance" with the media and has tried to guide the Bureau away from undue sensitivity to media praise or criticism.

The PIO can lift much of the burden from the shoulders of an already heavily committed law enforcement executive. The corollary duties of such a valuable representative can include such sophisticated responsibilities as organizing and coordinating television productions for the department.

On the other hand, a PIO can merely be a spokesman for his department. The range of duties the PIO might be responsible for have been clearly articulated by others, but a brief review might prove to be of assistance. Public information officer duties might include:

1. Spokesman for the department,
2. Relations with the media,
3. Media training for department members,
4. Development of public service documentaries,
5. Counsel to departmental staff on media issues,
6. Publication of internal newsletters or video tape "roll call" commentaries,
7. Coordination of news media passes, and
8. Setting up exchange visits between law enforcement agency staff and media leaders of the community.

The PIO can easily become an indispensable person to a department, but it would be wise to delineate carefully that person's duties in order to prevent the PIO from expanding into community relations or public relations areas. The PIO is not a community relations officer. Mike Brake, writing in the *FBI Law Enforcement Bulletin*, recognizes that the PIO's role is distinct and cannot be blended with more traditional police-community relations functions, which will only dilute his effectiveness as media liaison.<sup>15</sup> The PIO's media duties must be clearly established and adhered to whether they are full- or part-time. A carefully selected and informed PIO with a proper attitude and understanding of police-media relations would not be likely to create animosity by hiding behind the infamous "no comment" response.

#### Preparing the News Release

A major responsibility of the departmental media representative (or PIO) will be to prepare what is commonly called a "press release." It is preferable for law enforcement officials to begin to think in terms of a "news" release, "news" conference, and the media, instead of the more limited word "press." In fairness to all media representatives, "press" is somewhat limited and specifically refers to newspapers. By expanding the term to "news releases" et al., we afford professional courtesy and include all of the printed and electronic media.

Regarding the all-important news release, some guidelines will be offered to assist PIO's in their writing responsibility. What might be considered a chore can become a much more pleasant duty if some simple principles are followed.

To begin with, most PIO's are sworn policemen and are not necessarily journalists. A PIO might have had the opportunity to attend a course or two in the journalism field or he might even have a media background, but that is an exception. Regardless, the PIO is responsible for providing information about police activities.

The first principle that must be adhered to is that the information that is being released must be written in a clear, easy to understand style. It should be simply organized and the language should be simple and direct.<sup>16</sup>

Journalists may argue about which particular style may be appropriate for which type news, but the PIO must remember that he is not in the business of "storytelling"—he is concerned basically with "newstelling."<sup>17</sup>

**“ . . . it is imperative that law enforcement agencies consider the orientation of their personnel to the media.”**

#### The Inverted Pyramid

One of the most convenient forms of news structure is the inverted pyramid. This simply is a style that places facts in diminishing order of importance. The most important facts are on top (or in the beginning) where they will attract attention. The lesser facts are placed in order of descending importance so that they will meet the media's demands of space, time, and editorial operation.<sup>18</sup> Normally, a police story will fit neatly into this format and may be used for issuance to the newspapers, wire services, or radio and television.

It is suggested then, as principle number two, that the writer of police news adhere to a simple and traditional format—such as the inverted pyramid.

#### Lead (Opening Sentences)

It should be noted that the five W's and H (Who, What, Where, When, Why, and How) might be difficult to place in the lead or opening of a news release. This could make the story unwieldy or anticlimatic, but even more realistically for the PIO, all of the five W's and H might not be available for publication. An investigation could still be under way or such information might jeopardize the conclusion of a case and cannot be released at the time of writing.

Principle three for the writer of the

news release, then, is that the opening "lead" may consist of several sentences (not to exceed 25 words in length each), but does not necessarily have to include each of the five W's or H. In a police news report, the single key element might be merely the "who?"

#### Advantages and Disadvantages of the Inverted Pyramid Format

For law enforcement purposes, the inverted pyramid is a suitable guide. Journalists, on the other hand, may be more conscious of other methods of organizing a news story. It is recommended that the PIO (or the individual preparing news releases) select a type compatible with his organization and local media agencies and continue to write in that style. The advantages of a simply written, explicit news release outweighs the stinging and lingering aftermath of a "no comment."

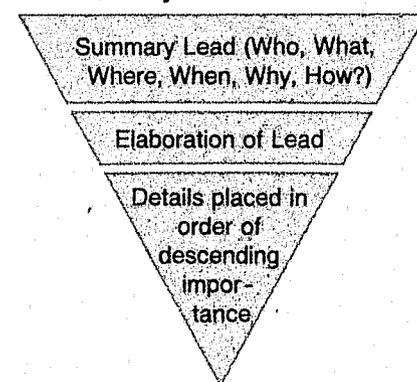
#### Advantages of the Inverted Pyramid Format

1. Covers essential facts,
2. Requires little editing,
3. Adjusts to media space considerations,
4. Average reader can read article rapidly, and
5. Important points are not left out.

#### Disadvantages of the Inverted Pyramid Format

1. Anticlimatic in reading,
2. Top-heavy (too much in lead),
3. Discourages reader interest,
4. Not adapted to logical and interesting order, and
5. Old-fashioned.

#### Inverted Pyramid



There is no question that the inverted pyramid format may be unsuitable for certain types of news reporting. Journalists are encouraged to be original and to get away from routine styles of writing. This can be entertaining to a media-oriented society. It is obvious, though, that a news release by a law enforcement agency must abide by restrictions and laws. In that respect, the inverted pyramid can be a stable guide and a useful tool for the law enforcement information officer.

To avoid confusion of styles and rules, the PIO might consider the following passage from *Alice in Wonderland*, which has been called the greatest rule in writing yet set forth:

*The White Rabbit put on his spectacles. "Where shall I begin, please Your Majesty?" he asked. "Begin at the beginning," the King said very gravely, "and go on till you come to the end: then stop."*<sup>19</sup>

#### Media Training for the Law Enforcement Agency

In this age of instant communication, it is imperative that law enforcement agencies consider the orientation of their personnel to the media. It may be advantageous to have the training officer, in conjunction with the PIO, offer a brief period of instruction to individuals within a department. Hopefully, all personnel would be apprised of the departmental media policy and the chief's position in regard to public information, discuss any applicable laws, and perhaps participate in a group conference with a member of the working media.

Each person in a law enforcement agency may face the distinct possibility of an impromptu media conference at the scene of a crime or other violation. It would pay dividends to let department members know what is and is not expected of them. Although a training session might be brief, the topic of media relations should be included in basic recruit training and any inservice courses that a department may be offering.

The type of policy regarding release of information that a department may wish to follow usually depends on how much information the department head is willing to let his officers release. Considering the high level of police education and the desire to reinforce individual initiative, it would probably be detrimental to morale and performance to insist upon a closed mouth or "no comment" policy. Wilson identifies a second type of policy that states it is permissible to give out information so long as it does not embarrass the department. Another policy allows only those in the command and staff structure to give out information. Again, based on the intelligence of law enforcement personnel today and the need to inspire trust and loyalty, it would be a sensible procedure to allow any member of a department to speak about a matter in which he might be involved. This type of policy requires guidance and support by the chief executive. It also may create difficulty, should an individual comment erroneously. The advantages of fostering a candid, open-door policy, however, may lead to a much more fulfilling police-media relationship.

#### Conclusion

This article has tried to be descriptive (Historical-Legal Implications), prescriptive (Media Training), theoretical (Public Information v. Public Relations), and pragmatic (Preparing the News Release). But this survey would not be complete if it were meant only for the eyes of the law enforcement representative. It is intended both for the media and law enforcement as one interpretation of the state of the art. Although most of the commentary has been directed at the law enforcement agency, there are insights for media professionals. A comment which may address an area of concern for both groups is the challenge by Herbert Strentz, professor of journalism at Drake University:

1. The reporter must resist temptations to become part of news events himself or herself at the expense of responsibility to the news audience.

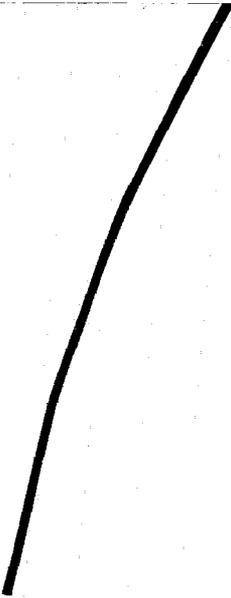
2. The reporter must recognize that the selection of news sources and the questions he or she asks will not only affect the story itself but may also shape the outcome of the issue being reported.<sup>20</sup>

Hopefully, we realize the mutual benefits to the law enforcement agency and the media when relations between the two are characterized by candor, cooperation, and mutual respect. As eloquently stated by journalist David Shaw, the major point raised by police and reporters alike in discussing police-press relations is the need for each side to try to get to know the other, to try to understand the function—and problems—of the other. "Mutual understanding, it is generally agreed, is clearly in the best interests of both the police and the press, and of the public that is ultimately served by both."<sup>21</sup>

FBI

#### Footnotes

- <sup>1</sup>Irving Kaufman, "The Medium, the Message and the First Amendment," *New York University Law Review*, Vol. 45, No. 4, October 1970, pp. 783-84.
- <sup>2</sup>William E. Francois, *Mass Media Law and Regulation* (Columbus, Ohio: Grid, Inc., 1975), p. 19.
- <sup>3</sup>Sgt. Frank P. Hayward, "Developing the Public Information Function," *FBI Law Enforcement Bulletin*, (February 1975) p. 13.
- <sup>4</sup>Raymond Simon, *Public Relations: Concepts and Practice* (Columbus, Ohio: Grid Inc., 1976), p. 4.
- <sup>5</sup>Mike Brake, "Establishing a Public Information Office," *FBI Law Enforcement Bulletin* (October 1976), p. 23.
- <sup>6</sup>Gerald Lipson and George Krolloff, *Understanding the News Media and Public Relations in Washington* (Washington, D.C., The Washington Information Group, 1977), p. 37.
- <sup>7</sup>E. M. Davis, *A Press Relations Guide for Peace Officers*, Report by the 1970-71 Public Relations and Mass Communications Committee of the International Association of Chiefs of Police (IACP).
- <sup>8</sup>William E. Francois, *Introduction to Mass Communications and Mass Media* (Columbus, Ohio: Grid, Inc., 1977), p. 6.
- <sup>9</sup>Edwin Emery and Michael Emery, *The Press and America* (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1978), p. 52.
- <sup>10</sup>Jerry V. Wilson and Paul Q. Fuqua, *The Police and the Media* (Boston: Little, Brown and Company, 1975), p. 16.
- <sup>11</sup>*Houchins v. KQED*, 57 L. Ed. 2d 553 (1978).
- <sup>12</sup>Wilson and Fuqua, *The Police and the Media*, p. 18.
- <sup>13</sup>*Ibid.*
- <sup>14</sup>*The Police*, National Advisory Commission on Criminal Justice Standards and Goals (Washington, D.C., 1973), p. 44.
- <sup>15</sup>Brake, "Establishing a Public Information Office," p. 23.
- <sup>16</sup>John Hohenberg, *The Professional Journalist* (New York: Holt, Rinehart and Winson, Inc., 1969), p. 73.
- <sup>17</sup>Louis M. Lyons, *Reporting the News* (Cambridge: Harvard University Press, 1965), p. 282.
- <sup>18</sup>John Hohenberg, *The Professional Journalist*, p. 111.
- <sup>19</sup>Lewis Carroll, *Alice in Wonderland*, quoted in Louis M. Lyons, *Reporting the News*, p. 280.
- <sup>20</sup>Herbert Strentz, *News Reporters and News Sources* (Ames, Iowa: Iowa State University Press, 1978), p. 10.
- <sup>21</sup>David Shaw, *Journalism Today* (New York: Harper's College Press, 1977), p. 71.



**END**