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System For Major Disasters

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Law Enforcement Bulletin

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Washington, DC 20535

William S. Sessions, Director

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The Cover:

The May 11, 1985, fire disaster at England's Bradford City football ground prompted the creation of the CRISIS computer system. (See article p. 8).

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Director's Message

May 1988, is the 27th anniversary of President John F. Kennedy's approval of the law designating May 15 as Peace Officers Memorial Day. The words at Gettysburg of another eloquent, and assassinated, President are appropriate to honor "those who gave their lives that this nation might live."

President Kennedy's predecessor, Dwight D. Eisenhower, had established May 1 as Law Day 3 years before. While the theme of the 1988 Law Day is "legal literacy," one of the purposes of Law Day is to recognize the "support... [of] those... persons charged with law enforcement." In the decade 1977 to 1986, the FBI's Uniform Crime Reporting system has recorded 875 law enforcement officers feloniously killed. While law enforcement has reduced the 1979 high of 106 officers killed to a new low of 66 officers killed in 1986, this is still an unacceptable number, both in terms of the human tragedy involved and in sheer economics.

It is the duty, and the even greater moral obligation, of every law enforcement chief executive to see that the officers in his or her command have the very best training and equipment available to protect themselves in potentially deadly situations. Two of my predecessors, William H. Webster and Clarence M. Kelley, recognized and advocated the use of ballistic vests and training in night use of firearms. "The decline in officers killed is partially a result of technology, the development of Kevlar, the ballistic fiber used in soft body armor," according to FBI Director Webster, writing in this journal. Ten years before, Director Kelley pointed out that nighttime "and dimly lit situations predominate the encounters that prove fatal to law enforcement personnel." For this reason, the FBI then placed greater emphasis on training for these potentially dangerous nighttime encounters.

The loss of 875 officers in a decade is, and should be, sobering to every citizen. This represents more peace officers than all but the largest

communities in this country have on their rolls—it is just under the size of the largest police department in Virginia, for example.

The man who led the FBI's efforts to successfully end the gangster era's bloody reign of terror, J. Edgar Hoover, noted in one of the first Law Day messages, "The effectiveness of law is measured by the fairness, determination, and courage with which it is enforced. . . . Our society demands of the peace officer spotless integrity, uncommon bravery, and constant devotion to duty. It is fitting that Americans pause during the year to acknowledge a debt of gratitude to those who have been faithful to their trust."

It is also fitting that the law enforcement community, represented by 15 law enforcement organizations ranging from the International Association of Chiefs of Police and the National Sheriffs' Association to the Fraternal Order of Police and the National Organization of Black Law Enforcement Executives, has organized the National Law Enforcement Officers Memorial Fund to build a memorial to the thousands of officers who have given their lives to protect their fellow citizens since our Nation began.

I wholeheartedly support this memorial. As I said at the recent dedication of the FBI's Hall of Honor for fallen Special Agents, "... they could have chosen professions that paid far more, demanded much less, and presented few dangers. Instead they chose to carry the badge . . . and accepted the responsibility to do their duty." The same words of tribute apply to every peace officer in this land of ours built on the rule of law.



William S. Sessions
Director

Product Tampering

"Since 1982, 12 people have died from poisoning of over-the-counter drugs and food products."

By
DAVID LANCE

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and
Chairman, Security Committee
National Food Processors Association
Washington, DC

"Tampering is an insidious and terrible crime. It is a form of terrorism not unlike planting a bomb in some public place to gain media attention, notoriety, or some sick sense of control over human life." Dr. Frank E. Young, Commissioner, Food and Drug Administration

In 1986, the Federal Food and Drug Administration (FDA) was involved in nearly 1,700 cases of actual tampering or hoaxes. The FBI investigated over 300 of these incidents for criminal conduct. Suspected tamperings or tampering complaints increased 13-fold. In all such incidents, certain principles apply:

—Rarely is a threat to tamper actually carried out. Experience has shown that those intent on adding poison to a product do so without

warning. "Callers don't kill and killers don't call," the saying goes.

—Tampering is a copycat crime. Sensationalized news accounts about a tampering threat nearly always lead to more threats.

—Nearly two-thirds of the threats are directed at retail stores. Those who make threats also contact food and drug manufacturers, news organizations, and law enforcement agencies.

—Products threatened are usually well-known national brands.

—There is no such thing as a "tamper-proof" package. One who is intent on carrying out the act will find a way to do so.

Tampering offenses include the *rare act* in which a product is actually contaminated. Yet, there are additional crimes associated with this offense. For

example, in fake tampering cases, an individual adds a harmful agent to a product to make it appear that someone in his or her household has been the victim of a random tampering. Or, the offender makes false allegations of tampering, alerting the industry, the media, a law enforcement agency, or others to a tampering that has not occurred.

Threats to tamper and/or threats to allege tampering also occur. These cases are often accompanied by an effort to extort money or valuables. Sometimes, a person seeks to have a store or manufacturer take some action (for example, remove a particular product from the shelves). Others threaten that a product has been poisoned. Usually, however, the threat is to falsely inform the news media that a product has been contaminated.



Mr. Lance

Federal regulatory agencies respond to each and every consumer complaint about a food or drug, and they investigate each tampering threat.

Product Seeding

In addition to tampering cases, food and drug manufacturers deal with many false reports by consumers alleging that they were harmed by foreign objects or substances in their products. Last year, in a wave of complaints fueled by extensive media coverage, there were more than 600 reports of glass in baby foods packed by a major baby food producer.

The Food and Drug Administration inspected the company's plants and found them to be state-of-the-art in terms of quality assurance procedures. The agency also inspected more than 50,000 jars of the company's products and found no evidence of a problem in their manufacture. Many of the complaints were false claims by consumers seeking some monetary reward or other gain by claiming that glass in the products had caused them some injury.

The Consumer Claims Division of the National Food Processors Association (NFPA) investigates some 5,000 claims cases every year for NFPA member companies. In the course of investigating the baby food complaints, the industry developed a case against one individual with a prior criminal record who had deliberately fed shards of glass to his retarded child. In another incident, a disturbed woman sought damages after ingesting glass from a broken mirror, claiming that it came from a jar of baby food.

Who Tamperers?

Dr. Park Elliott Dietz, a professor of law and psychiatry at the University of Virginia who has studied the acts and motives of tamperers, commented, "What we know about tampering offenders suggests that the vast majority of adult offenders are ordinary criminals and con artists who commit offenses for a profit, revenge, thrills, and other motives that lead such people to commit other crimes. Despite the occasional terrorist or mentally ill tamperer, the evidence to date suggests that most tampering springs from greed, anger, and hatred among immature and antisocial people, just as is true of other crimes. Product tamperers are part of our criminal population and will not turn their attention elsewhere until they learn that the only goal they can reach through tampering is a crowded jail cell."

Penalties for Tampering

Since 1982, 12 people have died from poisoning of over-the-counter drugs and food products. Cyanide, a poison available from laboratory supply houses and other sources, was used in each of these deaths. To date, one person has been charged in a tampering case which resulted in two deaths in the State of Washington, but there is a growing list of tamperers and hoaxers who have gone to jail.

Many of those serving time were convicted under tough laws enacted by Congress after the Chicago Tylenol murders of 1982. The Federal law carries fines of up to \$250,000 and prison terms ranging from 5 years to life for tampering or falsely reporting tampering.

"Local authorities have jurisdiction over tampering cases because of the inherent threat to community health and safety."

The stiffest penalty to date was given Edward Arlen Marks, who tampered with Contac and other SmithKline Beckman products in an effort to profit from a decline in the company's stock. A Florida judge ordered Marks to serve 27 years under the Federal antitampering statute after a trial resulting from an extensive investigation conducted by the FBI and the FDA.

While the tough, new law is undoubtedly a deterrent to would-be tamperers, it hasn't stopped them.

The Victims of Tampering

FDA Commissioner Young has said that tampering holds us all hostage—consumers, regulatory officials, the news media, and those in law enforcement agencies.

News media representatives are victims of tampering hoaxes, since many of these criminals perform their acts for no reason other than to see coverage of their crimes on television or read about it in newspapers. Law enforcement agencies devote valuable investigative time and resources to tampering hoaxes at the expense of other duties. And, society in general pays a price in terms of lost faith in consumer products and higher retail prices.

The industry has spent millions of dollars to make its packaging tamper-resistant or tamper-evident. Added millions have gone into withdrawing products that have been threatened by calls or letters. Even though virtually every threat is a hoax, the industry must react as if the threats are real until it knows for certain that they are not. SmithKline Beckman's removal of its products after the threats by Mr. Marks cost the company more than \$40 million. And a com-

pany's sales losses may continue long after it has been determined there was never a real risk to the public.

Investigative Allies

Local authorities have jurisdiction over tampering cases because of the inherent threat to community health and safety. They may become involved in an investigation as a result of receiving the threat, learning about it from the media, or being asked for assistance by a retailer or manufacturer.

In carrying out its investigation, the local law enforcement agency has a number of allies. The Food and Drug Administration investigates all complaints of tampering with foods, drugs, and cosmetics. The U.S. Department of Agriculture oversees meat, poultry, and egg products. The Federal Bureau of Investigation, the FDA, and the USDA share investigative responsibilities under the antitampering act. The three agencies regularly exchange information and coordinate investigative activity. The FDA and the manufacturer should be among the first to be contacted during a tampering investigation.

The manufacturer of the product also can be a strong ally in tampering investigations. Manufacturers can provide valuable information, ranging from facts about codes used on the product to information about how the product was processed and packaged that may have a direct bearing on whether a tampering threat should be taken seriously.

All manufacturers employ a series of screening processes to detect objects which may have found their way into the product prior to the final closure. This information may also assist the law enforcement investigation.

Using the manufacturer's codes and other records, local investigators can determine when and where the product was manufactured and to which part of the country it was distributed. It is not uncommon for a hoax caller to claim that a product with a particular code has been contaminated in a certain city when the product was never even shipped to that area.

In jurisdictions where it is legal, manufacturers and store operators often record incoming telephone calls. They may have valuable tape recordings of threats and other suspicious communications that can be used in a criminal investigation.

The National Food Processors Association maintains a "repeater" list of "people" who have filed numerous complaints about food products with the association's member companies. Law enforcement agencies can consult with NFPA regarding the list and its contents.

Working with Retailers

Since most tampering threats are hoaxes, it is important that the investigation at the local food or retail outlet be handled in a way that doesn't call attention to the threat.

The Food Marketing Institute (FMI), a national association whose members operate supermarkets, trains store employees in the proper ways to deal with tampering threats. FMI teaches supermarket operators that the first responsibility is protection of the public. Customers must not have access to threatened products. If a threatener has identified a particular product as "contaminated," the first step is to take that product from store shelves.

The FMI recommends that store employees handle the product in a manner consistent with standard rules for collection and preservation of evidence, because these events may result in criminal prosecutions. The successful outcome of these cases may be determined by fingerprint analysis of the packaging and laboratory testing of the product, provided that the evidence is handled properly and the claim of custody is maintained.

A product that has been removed from shelves should be replaced as quickly as possible with the same product, bearing a different code, from the store's stock room or warehouse. Removal of products from store shelves should be limited only to the affected product and codes, instead of simply sweeping the shelves clean of entire categories of products.

Products should be removed quietly and calmly so as not to panic customers. It may be explained to shoppers that the store is taking inventory or simply a routine restocking of shelves is taking place. If the customer wants a package of the product being removed, FMI suggests that a store employee personally provide the customer with the same item from the stock room.

Closing the store is a last resort, a drastic action that nearly always is a mistake. Not only does such action cause lost revenue for the store, but it also is upsetting to shoppers and is sure to draw media attention.

Samples of the threatened product should undergo complete laboratory analysis as quickly as possible. In addition to the laboratories operated by the FDA, USDA, and FBI, many food

and drug manufacturing companies have sizeable laboratories. Manufacturers also employ independent testing facilities and laboratories operated by organizations like the National Food Processors Association.

Minimizing Imitators

How a tampering investigation is conducted can directly affect the outcome of a given case and help determine if the community will be victimized by "copycat" criminals. To help assure their own freedom of action, investigators should avoid media attention until the facts are known.

When the media become aware of a tampering threat, the natural reaction is to send reporters (and camera crews) to cover the incident. This can cause the incident to mushroom, ultimately generating new threats and spreading the event beyond the initial crime scene to additional locations.

Premature release of information to the media can cause undue alarm and failure to apprehend the perpetrator. It may also hinder efforts to locate contaminated items.

Many law enforcement agencies handle their initial response to a tampering call as they might handle a bomb threat. Instead of normal radio transmissions, they might use codes or other means of communications. Instead of sending uniformed police to the crime scene, they might rely upon plainclothes investigators.

While there is a need to protect the public from the risks of actual tampering episodes, premature or sensational press coverage of the thousands of hoax threats only serves to cause panic and encourage more fake tamperings by the criminals in our society.

Summary

Product tampering poses serious threats to society's well-being. However, Federal agencies, law enforcement, manufacturers, and retailers are actively involved in protecting the public from the dangers associated with these threats. By working together to reduce the number of tampering claims, disprove claimants, and apprehend the offenders, these organizations are counteracting the tactics of the product tamperer.

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