

Chapter One

Criminal Investigation Defined

Defining what a criminal investigation means, reactive and proactive crime investigations are the two major categories of criminal investigations to be discussed in this book.

This book is intended to be a guide for students in the criminal justice field. It is intended to provide the step-by-step process for gathering facts, information, data, and evidence, which collectively, answer all the questions raised when a violent crime occurs. It also gives the student a set of tools and a process to follow in answering the questions who, what, where, when, why and how that crime was committed.

Before we begin to discuss what criminal investigation means, it is appropriate to provide a little historical perspective so we can understand the primary motivation laid out in the title of this book, “finding the truth.” Criminal investigations, as they are conducted in 21st century and beyond, are less than 100 years old. Modern criminal investigation began as men and women tasked with maintaining and supporting the rule of law in our society began the practice of analyzing criminal conduct with the goal in mind of finding out what happened, why it happened, and who did it. In the United States prior to the American Revolution, the 13 colonies and the counties established therein followed the rules they learned and carried with them from England and elsewhere. The social contract of doing good and avoiding evil, following the golden rule, and abiding by the Judeo-Christian moral code provided the structure for the early sheriffs and magistrates in Colonial America to protect the citizens and punish the criminals who broke the code. This was all done in the name of the King of England and with the power and authority of the Crown. What the early colonists came to believe was that the king was not present and the decisions to honor and support the social contract, or the rule of law, derived from the community that the early criminal justice system served. The authority of the king was primarily manifest in the British Army. Local communities in Colonial America were tasked with ensuring the general welfare and lawful interactions among the populace.

After the Revolution, the focal point of power and authority shifted from the king to the People. This was stated in the Preamble to the US Constitution, which was a summary of the beliefs and philosophy of the colonists, who wanted to be self-governing.

In the Preamble, the framers said “We the People of the United States, in order to form a more perfect union, establish justice and insure domestic tranquility,” thereby stating that the People were now the ultimate authority and justice and domestic tranquility were high on the list of goals to be achieved by the government. The Preamble goes on to prioritize the goals of providing a common defense, the general welfare, and blessings of liberty, but establishing justice and ensuring domestic tranquility gets to the heart of what the framers believed was an essential justification for any government. The revolutionary idea that the power and authority of the People was now a fact and would not be challenged carries on today as shown by most criminal cases in courts across the United States bearing case titles such as *The People of the United States versus the Defendant* or *the People of the State of Maryland (The commonwealth of) Virginia versus the defendant*.



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Just as the US Constitution established the Executive, Judicial, and Legislative branches, each US state or commonwealth followed suit. The Legislative Branch, which contains duly elected representatives of the people, is tasked with passing laws and establishing or defining conduct that is criminal. The Executive Branch in the federal system and in most local jurisdictions is tasked with executing or implementing those laws. The Judicial Branch is then tasked with ensuring that the laws are fair and the administration of executive authority is proper and just in its execution. Criminal procedure, or due process of law, acts as the framework for the execution of the laws passed by the Legislative Branch.

So, for the most part, law enforcement officers, such as sheriffs, police officers, agents, marshals, constables, district attorneys, and prosecutors, are the men and women who are responsible for conducting investigations of criminal activity and crimes against the People. Since law enforcement is serving the People and has to answer for its actions to the community, it is essential that law enforcement follow the path in all investigations to a finding of the truth. In some cases, the criminal justice



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system will short-circuit this search for the truth in favor of fair and proper procedure. The rules of evidence state that the rights of a defendant must not be violated, and they are an impenetrable wall where investigative findings may have to be limited. It is still the responsibility of the law enforcement authorities to complete the task of getting at the truth and working in the system so violations of proper procedure and due process do not occur. Sometimes, this issue will lead to frustration and even distrust of the system. Law enforcement officers need to overcome these negative elements and focus on the task at hand. Investigations in which law enforcement professionals believe they have answered all the questions and found the truth but they still end up with unsatisfactory outcomes should not deter them. Results are important, but protecting the system of justice is vital to the rule of law. There are elements of the criminal justice system, such as decisions made by judges, juries, or even fellow officers, which will lead to unsatisfactory results. These decisions are part of the fabric and texture of a system that is making the effort to implement the will of the People. Sometimes, the will of the People is not necessarily in line with what a law enforcement official believes is right, but it may be just or fair. The People have determined that the power of the state is enormous and that it sometimes needs to be carefully and thoughtfully curtailed. These limitations or binders to criminal investigators are meant to level the playing field and create an environment where the people accused can believe they are receiving just due process and a fair shake. The most prominent example of a limitation and perhaps the most important facet is the fact that the accused has a right to a trial and that during that trial, the state or the government has to prove the case beyond a reasonable doubt. This is a high standard, and it ensures that the criminal investigator has to reach the goal of finding the truth. The truth uncovered needs to be so compelling that judges and jurors are convinced that the defendant is in fact guilty.

To begin our discussion about the process of criminal investigation, it is necessary to provide a realistic definition. Criminal investigation is a multifaceted effort that involves the study of facts presented by a criminal act or pattern of criminal conduct. These facts are then used to identify, locate, and prove the guilt or innocence of a

person or persons. Criminal investigation is usually carried out by a law enforcement agency using all the resources available to the government, local, state, or federal, to discover, locate, or establish evidence proving and verifying the relevant facts for presentation to a court or other judicial authority.

The facts discovered can become evidence and may involve statements from witnesses; documentary or photographic evidence; physical evidence, which are fruits of a crime; instrumentalities of a crime; incidental evidence; and logs, data, and details of analysis that show access to crime scenes. It is characteristic of any criminal investigation that aspects of the crime may manifest in a variety of ways. Therefore, many criminal investigations rely heavily on a logical, organized process, but there are also aspects of crimes that derive from chaos and sheer luck of happenstance. This serendipitous development requires that criminal investigators be both flexible and purposeful in their approach.

Crimes occur in a human context, meaning there is usually a perpetrator and a victim. Sometimes, there are a number of perpetrators, and sometimes, there are a number of victims. In fact, a crime has not occurred unless and until human actions, as defined by law, are criminal. In other words, a crime has to be defined by legal authority as having certain elements, and those elements have to represent human actions that take something from someone, injure someone, create an atmosphere of danger, or actually cause significant harm to a person or persons and the society in general. In this country, most crime definitions are rooted in our history and tradition of common law. Much of the legal basis for common law derives from ancient legal precepts from the Judeo-Christian tradition, such as the Decalogue (Ten Commandments). Almost all crimes defined in the United States have their origin in English common law. Every state and the federal legislature have more precisely defined criminal conduct in criminal codes or written statutes that take the definitions provided in common law and either expand or narrow the proof required. This is done to make the crimes more applicable to the advances of our society. Common law crimes that required significant and harsh penalties have been modified to include lesser crimes that don't demand penalties that are too harsh for the conduct that is proven. Varying degrees of crimes have been codified to make it more realistic to prove an offense based on actions, without having to prove the full nature and extent of the criminal intent. Burglary, for instance, has been codified in all state codes, which have varied certain elements that fit into more present-day versions of actions that in the past were consistent with the capital crime (a crime demanding a punishment of death) of common law burglary. So the breaking and entering of a commercial establishment with the intent to commit a felony is a kind of burglary, but it doesn't have the element "of the dwelling house of another." In ancient times, if any element of a crime defined in common law was not proved or did not happen, there was no crime. So, in the case of burglary, if the location was not the dwelling house of another, there was no crime; even though there might have been the breaking and entering of a commercial shop with intent to steal goods, there was no crime of burglary. The common law crime of larceny may have occurred, but the actual fact that the crime event was not the breaking and entering of a dwelling house of another meant there was no burglary. Legislatures in England and the United States determined to fix these kinds of loopholes by codifying

or more precisely defining a variety of similar crimes under a variety of headings so more criminal activity could be precisely defined and penalties for these acts could be detailed by the legislature. Statutory definitions of crimes expanded to make the job of government prosecutors more precise and allowed justices to carefully consider all the actions of the defendant.

This “redefining” of crimes became a break from the common law, which permitted states and other appropriate jurisdictions to allow the punishment to fit the crime. In the 18th and 19th centuries, criminal justice reforms led to the use of penitentiaries, jails, and other detention facilities to punish criminal conduct. Under the old common law requirements, many of the serious offenses required a penalty of death, beatings, and even torture. Judeo-Christian values and humanism allowed for the reevaluation of criminal conduct in the context of the belief that all people had some good in their heart and as a society we needed to seek a way to rehabilitate and restore criminals to law-abiding members of society. The first step in the reform process was determined to be time confinement for the criminals to contemplate their conduct and ask for forgiveness from God and society. So prisons were meant to be the places where criminals would evaluate their conduct, fix the moral compass they had inside, and spend the time needed to eventually return to society after a sufficient time of punishment. These lofty goals were met with little success, so recidivism became a serious problem for most government-sponsored incarceration. As criminal justice reform continued in the 20th and 21st centuries, new efforts were made in rehabilitation but with only limited success. Convicted criminals should be taught or trained to make better decisions, but again the early efforts at rehabilitation were not successful. The majority of our society continues to demand punishment, which is a major part of the solution, but rehabilitation and reform also continue to offer some hope to get criminals to turn their lives around. Students of criminology and criminal justice can spend important study on the evolution of rehabilitation and reform, but for purposes of this book, recidivists, or career criminal conduct, should be part of the investigators’ analysis when a suspect is developed. Their past conduct might indicate current or future behavior. So this book will consider only the effects of incarceration and recidivists’ behavior and not the efficacy of prison reform. Further discussion of how an investigator should consider previously incarcerated suspects will be explored in chapter 8 of this book, titled Investigative Plan.

American society has advanced from being too severe in its level of punishment (stealing a horse in 19th-century America was an offense for which the perpetrator could face hanging) to the point where our punishment fits the crime. Concerning ourselves too much with the mens rea, or evil intent of a criminal, allows us to codify offenses with more precision, proving actions instead of delving into the minds of criminals to verify their motives for the conduct. In considering how students of criminal investigations should proceed, it is essential for future law enforcement professionals to understand and master the elements of each crime they are tasked with investigating. Once students become investigators, they must carefully analyze the criminal statutes they are required to apply to their jurisdiction and the community in which they work. Each statute needs to be broken down into the elements that are required to be proved in each case. In chapter 8 of this book, I will provide a spreadsheet that

provides examples of how this can be accomplished. Suffice it to say that, at this point, every crime has more than one basic element. The law, statute, or code is passed by the appropriate legislature and specifically lays out the human conduct that makes human actions a crime. That is why every investigation is an analysis of human conduct and is required to be considered in a human context. The federal or state government or the local community may also assert victimization, so investigators have to concern themselves with the effects on the community at large when conducting an investigation. Given this human context, a crime, such as assault, rape, or even robbery, may have a victim who refuses for some reason to consider himself a victim or to openly admit he was victimized, but since the state or community as whole has an interest in controlling or responding to acts of violence, the alternate victim is that same community. A violent predator who would harm one person is potentially willing to harm any other member of the community. Personal victimization may be difficult to prove in court without a cooperating victim or witness, but that does not lessen the responsibility of the law enforcement officer to investigate and solve the case. Again, the criminal investigator should be seeking the truth in spite of the reluctance on the part of a victim in a serious crime.



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There are, of course, less serious crimes for which the community displays indifference or even tolerance, like the perpetrators and the victims in a barroom brawl or an angry confrontation at a sporting event, but the nature of the injuries and the catalyst that initiated the melee may be the best indicators as to the need for a serious criminal investigation. Most states lessen criminal responsibility if there is an indication that the victim is in some way responsible for what happened. On the other hand, any serious injury to an innocent victim should initiate an intense investigation even if the victim refuses to cooperate.

Case is a designation that is universally accepted for the matter under investigation. A detective, investigator, or agent needs to establish an administrative record of the progress of an investigation, which is the case file. Private investigators, private citizens, defense attorneys, and all other nonsworn investigators create a similar investigative file or administrative depository for the investigation. This administrative designation is very simply a convenient way to distinguish each investigation undertaken by the investigative entity. It is also the best way to compile all the reports, data, interviews, and minutia that are discovered along the way. In chapter 11 of this book, I will discuss the compilation of a case file and how best to create it.

TYPES OF MUNICIPAL AND COUNTY CRIMINAL INVESTIGATORS

Now that we have discussed the definition of criminal investigations and how the origins of our criminal justice system affect the process, it is necessary to identify those persons in our society who are tasked with handling the investigations. Obviously, the first and most important group of persons who investigate crimes are police officers, deputy sheriffs, and detectives working for local communities. At this time, these men and women start out as job applicants for local agencies and are then hired by the communities in which they serve to be the first level of response to any criminal conduct. Generally, they are expected to serve and protect the community in which they work. Most local police agencies, whether they be an urban police department or a county sheriff's office, have two prongs: a patrol function and an investigative function.

Uniform Patrol

In most departments, uniformed officers handle the patrol responsibilities. Nonuniformed officers and detectives handle the investigative responsibilities. Just because uniformed officers have primarily been tasked with patrol responsibility does not mean that they are not expected to conduct a large number of preliminary investigations. In some cases, very fast-moving, serious investigations that happen in the presence of the officers who respond to a call for service and actually personally observe the criminal conduct in whole or in part constitute the bulk of a criminal investigation. Patrol officers are in most cases the first responders to serious crimes, which may require serious, long-term investigations by their cohorts in the investigative branch of their departments. Because of these realities, the patrol officers very often become

astute students of human behavior, advocates for victims and witnesses, and serious experts in the analysis of crime scenes. Young, newly minted police officers will usually find themselves on patrol duty in the beginning of their careers; this work is an excellent postgraduate study program for career detectives. Future patrol officers should consider all the aspects relating to criminal investigations in this book and be prepared to follow the investigative process as it develops until the case is taken over by the appropriate investigative unit. It is likely that the first steps made at a crime scene and the treatment of victims and witnesses by these professional officers will have long-term ramifications on the successful progress of any criminal investigation. The immediate response to fast-moving leads, such as identifying suspects, suspects' vehicles, and additional witnesses who may not be immediately available and gathering the intelligence information the uniformed patrol officers may have about the neighborhood, which may be part of their regular patrol service area, is vital to the successful progress of any investigation.

A substantial number of patrol officers have little or no interest in becoming full-time detectives. Their career paths usually involve crime prevention and the normal patrol efforts to keep the community safe by guarding the community against unsafe drivers and dangerous neighborhood environments and developing and maintaining safe zones for the weakest and most vulnerable in our society. They also wish to act as first responders to help injured persons, sick children, and the elderly. All of these acts of community service should receive the same or, in some cases, higher priority by the police administration. Patrol officers in many jurisdictions are able to see a clear path for promotion because most police departments consider patrol work their primary responsibility. Crime prevention is the hallmark of any successful department, so the patrol officers have a direct path to police administration. Investigators, in many cases, are required to develop the facts presented in a criminal case that is intensive and focused. Their cases are time consuming and, oftentimes, don't have results that are acknowledged by the community as a whole. Their work can become an even higher priority than crime prevention when the result of investigation may allow for the removal of a serious criminal element that is taking advantage of the fact that all crime cannot be thwarted by uniformed patrol. Sophisticated criminals who take the time to hide their activities from normal police scrutiny or violent criminals who cause harm to their victims and take the extra time to create fear and intimidation in the community can be dealt with only by effective criminal investigation. This is the reason that almost every police department and most sheriffs' offices divide their departments into patrol divisions and investigative divisions. So the central figure in criminal investigations in the United States in the 21st century is the police detective.

Detectives

It is not likely that brand-new police officers who were trained to handle uniformed patrol duties will be suddenly turned into detectives. Detectives in large urban police departments and small town departments are usually experienced officers who have been successful in their ability to work on patrol duty. They usually have passed competitive tests to be considered for the elevation to detective and are often required to

pass an interview panel, which tests and evaluates their fitness for the work. For most departments, becoming a detective is a promotion and may carry with it a rank higher than the officers who work routine patrol. In some large departments, there is an investigator rank and a patrol rank. Criminal investigators who have not acquired the rank of detective are an interim investigative level between patrol and detectives. Detectives sometimes carry the rank or equivalent rank of sergeant in the quasi-military structure of a police department. They also may carry the equivalent rank of corporal. Most of the varieties of rank are generally irrelevant. Detectives receive their assignments from their branch or unit commanders, and they are expected to consider the case, examine the crime scene, develop an investigative strategy, follow all the leads, and determine who is responsible for the crime.

The assignments may be distributed using some kind of rotational logic, or they may be provided based on the perceived expertise, experience, or level of training demonstrated by the detective. In large, well-funded departments, detectives will be divided up into general assignment branches, robbery branches, sex crime branches, white collar branches, and homicide branches. Occasionally, these branches are combined, such as in a robbery–homicide branch or a major crimes branch. In some very large urban police departments, each district police division will have detectives assigned who will work a general rotation of assignments that occur inside the geographic parameters of the police district. In large cities, such as New York, Chicago, and Los Angeles, there will be headquarters investigative branches and district detective branches. The distribution of assignments can vary in these departments based on the needs of the investigative effort required. A headquarters investigative branch will usually have more time and resources to bear on a difficult and wide-ranging investigation; therefore, it may be necessary to assign a high-profile or difficult case to that higher-level investigative unit. The expertise, effectiveness, and resourcefulness of the detectives at all levels is not a given based on their assignment as a district detective or a headquarters detective; it may also not even be a given between a general assignment detective and a priority crime investigative branch. Detectives in each of these units or branches can have all the tools, investigative passion, and experience that provide the community with an equal level of proficiency and ultimate success in seeking the truth. Being assigned to a sought-after position as a detective in a big city headquarters homicide unit does preclude the fact that a detective in a district-level or general assignment unit is just as capable as an investigator. Experienced veteran detectives whose case work is shown to be successful and productive are competent professionals and should be sought after as mentors for young law enforcement professionals who wish to advance in their careers to become high-caliber detectives. These same effective detectives need to be willing to share their knowledge and experience with the constant flow of new detectives who advance to the position.

If there is a general profile of police detectives nationwide, it is usually a police officer with five to eight years of patrol experience who has shown an ability to conduct investigations to his chain of command and has taken written and oral examinations that have demonstrated an ability to be promoted to detective. A college degree is generally not required, but as the modern era of law enforcement continues to evolve, a college degree is more likely to be a requirement. It is necessary for a detective to

understand the statutory requirements of criminal law and to be well versed in an understanding of the constitutional rights of the accused. It is further necessary that a detective have a working knowledge of forensic sciences, especially fingerprinting (crime scene recovery of latent fingerprints and identification techniques), ballistics (firearms and tool mark identification), serology (bodily fluids, including advances in DNA science), trace evidence (hairs, fibers, and materials analysis), and pattern evidence recovery and examination (shoe prints, tire treads, and other physical materials that can lead to class characteristics identification). Another equally important area of competence for a detective is an ability to communicate in conversation and testimony and with the written word. Finally, a detective needs to be curious and have a finely tuned memory. When working detectives reach a point in their investigations when the case appears to be at a dead end, it takes a burning curiosity to find the truth to push the case beyond these points of frustration. Detectives also have to constantly evaluate the information, evidence, and fact patterns they have and recall how all the information fits together. Small details at the beginning of an investigation may become essential facts corroborating proof elements in a crime. Most cases will have serious lag time between the time the crime happened and when the case is set for trial. A competent detective needs to be able to recall the facts and information uncovered during the investigation and the ability to present that information to a jury one to two years after the information was obtained. In the modern era, detectives should also have significant education or academic study in psychology and sociology. Understanding criminal behavior, and especially aberrant patterns of behavior, along with a view of the group dynamics and how these human patterns of behavior affect social interaction can provide the detective with the insight necessary to properly understand motive-triggering mechanisms that may help solve a case.

For the purpose of this book, there are other important assets detectives need to have as part of their profile, but because they are not always relevant to investigative responsibilities, I will mention them only as needed qualities, even though they may have very little to do with the effectiveness of a criminal investigation. Tactical expertise is a necessary asset for a police detective. This quality includes proficiency with firearms and hand-to-hand combat training and the ability to formulate safe and effective plans to execute arrests and search and seizure raids. An appropriate level of courage and tenacity when it comes to confronting and removing violent offenders from the community in the furtherance of completing or wrapping up a successful criminal investigation is also an essential part of the detective's profile. It is the responsibility of a criminal investigator to ensure the safety of witnesses and surviving victims and their families who may be at risk from a violent predatory criminal offender. In the real world of law enforcement, it is often necessary to protect the community by confronting and placing professional law enforcement investigators in harm's way from a criminal underworld that uses violence as a tool of survival. Intelligence and sophistication by criminals is only one aspect of their effort to avoid being caught and continue their criminal conduct. When those nonviolent strategies don't work or are considered ineffective, criminals, especially killers, rapists, robbers, and thieves, will use violence against witnesses and law enforcement officers whom they consider to be

threats. Detectives and all criminal investigators need to be able to effectively protect themselves and the persons they are sworn to defend.

STATE POLICE DETECTIVES

At this point, we have spent a great deal of time discussing police detectives, also known as officers, inspectors, and investigators; that discussion was necessary because there are literally thousands of local police investigators in this country whose profiles and personal characteristics are similar. Many of the assets mentioned above for detectives are universal in their application to other criminal investigators. State police investigators and federal special agents usually need the same background and training that local police detectives have. There are criminal investigators at a number of levels in government whose job it is to conduct internal investigations to detect crimes such as embezzlement, accounting fraud, or corrupt contracting practices. These specialized investigators are generally not involved in crimes against persons or violent criminal conduct; therefore, they won't be discussed in this book. The expertise of these investigators and, therefore, their required backgrounds usually involve computer forensics, auditing, and accounting education along with white collar crime experience and fraud detection. The next category of criminal investigators for consideration in this book are state criminal investigators.

Most of the state police agencies in the United States are primarily concerned with highway patrol. The enormous work of patrolling millions of miles of highways, including the federal interstate highway system, comes under the jurisdictional responsibility of the state police. The origin of many of these agencies developed as the American automobile became the main element of transportation during the early 20th century. As state police agencies were established, state police criminal investigation bureaus were also determined to be necessary divisions in these agencies. Some states, such as California, Kansas, Indiana, and South Carolina, opted to establish separate criminal investigative agencies. Usually, these separate agencies were established to prioritize the investigative work of the state agencies. Additionally, most states used their state police agencies to create state-run forensic laboratories, which can conduct sophisticated criminal forensic science examinations for the state police and all of the local police and sheriff departments in the jurisdiction. There are some large urban jurisdictions in the United States that have their own forensic science laboratories, but for the most part, the state labs conduct most of the forensic work associated with local and state police criminal investigation bureaus. (The Federal Bureau of Investigation [FBI] laboratory in Quantico, Virginia, has always provided forensic science examinations to state and local jurisdictions at no cost, but with the nationwide proliferation of state forensic laboratories, the number of examinations needed by states has been reduced.)

The detectives who are state police officers are in many cases recruited or derived from state highway patrol officers, who have received extensive police training and experience as highway patrol officers. In most cases, the state police investigative

bureaus mandate high school diplomas or equivalency; extensive background investigation; the passing of written examinations; and intense, competitive oral interviews. Applicants with college degrees are required by some states; any educational experience, including college courses, is usually evaluated for the purpose of determining competitiveness among the recruit pool. So state police detectives generally follow the same route as their colleagues in city, town, and county police agencies. They are, therefore, going to have the same kind of profile as the local police detectives mentioned above. Becoming a state police investigator is a sought-after position in most state police agencies, but it is not the only career path for state police officers. Staying in patrol and moving up the ranks as a uniformed supervisor of state police is just as highly prized for officers in those agencies.

FEDERAL AGENCY CRIMINAL INVESTIGATORS

There are a number of differences between federal investigators and state and local detectives, but in general, the day-to-day work is the same or similar. As far as qualifications for the career, most federal agencies require a bachelor's degree or higher from all their applicants. They all have to pass rigorous written and oral examinations and evaluations by managers and peer evaluators; rigorous physical examinations; and rigorous background investigations, which generally lead to high-level security clearances.

Sixteen or more federal agencies have special agent investigators who have arrest power and are sanctioned to carry weapons. These investigators are classified in federal parlance as 1811 series employees. Their responsibility to investigate criminal activity varies with the agency that employs them. They are usually very limited in their jurisdiction and, oftentimes, are responsible for investigations of fraud, corruption, and embezzlement inside the specific agency in which they are employed. Housing and Urban Development, Department of Education, and Department of Veterans Affairs are examples of agencies that have 1811 series investigators working in this capacity. It is likely that these agents are recruited from inside the particular agency because it is extremely helpful for these investigators to be familiar with the bureaucratic processes, rules, and regulations of the agency. It is rare that these investigators widen their inquiries to include outside civilians who are not directly tied to the agency in which they are employed. These investigators rarely concern themselves with any crimes that are not in the realm of white collar crime, such as contract fraud, embezzlement, and bribery. These investigators also rely heavily on the assistance of the FBI, the US Marshals Service, and local and state criminal investigators if their investigations widen to include persons outside of the agencies.

For purposes of this book, federal agents who find themselves involved in the kind of criminal activity that will be discussed herein are detailed below. Violent crime, larceny, car theft, burglary, and other serious crimes can become investigative priorities for the following federal agencies.

US Marshals Service

The oldest federal law enforcement agency is the US Marshals Service. Deputies and marshals are the investigators. Their primary responsibility is similar to a county sheriff's. Marshals have federal court duties, including the service of civil process; executing arrest orders; and acting as court security, such as bailiffs in US district and magistrate courts throughout the country. Deputy marshals must have a college degree, be a US citizen, be 21 years of age or older, qualify for rigorous physical activity, meet criteria in a competitive oral interview, have a valid driver's license, and pass the training academy at Glencoe, Georgia, which is a multiagency federal law enforcement training facility. Most of marshals' investigative responsibility is to locate and arrest interstate fugitives from justice, who can be murderers, thieves, rapists, and robbers with local outstanding arrest warrants that the marshals can develop into interstate fugitive arrest warrants. This investigative responsibility is the evolution of marshals' criminal work dating back to the 19th century, when they were the only law enforcement agents of any kind in vast swaths of territory in the United States, especially in the wide-open Western territory. As a result of their work federal, marshals became legendary peace officers who tried to ensure justice was delivered to a large number of hardened criminals. Marshals continue to work these fugitive cases, but they are very likely to be coordinated with the FBI and state and local police agencies to combine resources and expertise to capture and prosecute violent criminals. US marshals' investigations are thereby limited to search for the criminal once their participation in the crime has been established. Marshals also carry out investigations of threats and violent attacks on the federal judiciary. These investigations may also involve investigations of major organized crimes groups and even terrorist groups who seek to undermine the administration of justice in this country. Finally, the marshals play a significant role in seeking the arrests of suspects investigated by other federal agencies.

US Secret Service

The Secret Service is the second oldest federal law enforcement agency. It is a part of the US Treasury Department. It was established as a security force to protect the president and vice president of the United States and their families. Secret Service agents are drawn from an applicant pool with minimum standards similar to all federal law enforcement: college degree, US citizen, driver's license, and successfully passing a series of written and oral examinations. The applicants for this office are drawn from a large pool of highly competitive persons whose education, life experience, and law enforcement background can be judged to be extraordinary. Local and state agencies and even the US Marshals Service attract excellent applicants, but as you move into the agencies such as the Secret Service; FBI; Drug and Enforcement Agency (DEA); Immigration and Customs Enforcement (ICE); US Postal Service (USPS); and Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), you start to see applicants who have higher levels of education; significant military and or law enforcement experience; and in many cases, some kind of specialty background or experience that separates them from the quality applicants in local law enforcement.

These high-quality applicants have to be competitive against each other, which bolsters the applicant pool beyond the average of other law enforcement. This of course does not mean that federal agents at this level are superior investigators; it just means that the backgrounds, experience, and education are generally superior. Investigative prowess is usually a function of training; on-the-job experience; and a few intangibles, such as investigative passion, communication skills, and curiosity, which are hard to measure in any new applicant. The Secret Service's investigative responsibility is limited to counterfeiting investigations, bank and credit card fraud cases, and related white collar crime matters. Their criminal investigations are usually suspended when they are needed for matters relating to presidential protection. Their investigative areas will not be covered in this text.

FBI

The FBI began its work in 1908; for the first few decades, it was limited to investigations of counterespionage, and it targeted radical extremists and anarchists who wanted to do away with government of all kinds. In the 1920s during the so-called gangster era, the FBI added criminal investigations of interstate criminals who sought to avoid arrest and prosecution from local authorities by "hopscotching" across various states to avoid detection. The federal criminal statute of interstate transportation of stolen motor vehicles gave the FBI useful jurisdiction over those violent criminals who were gun-toting gangsters committing crimes in various states. The FBI was eventually given full authority to carry weapons and exercise discretion over the investigations of violent interstate offenders, such as Baby Face Nelson, John Dillinger, the Barker-Karpis Gang, and Machine Gun Kelly. Federal criminal statutes with additional interstate criminal conduct progressively provided FBI special agents with the authority to pursue these violent gangsters for a number of violations that support and close jurisdictional loopholes in various state criminal statutes.

The FBI also established the first interstate data collection of arrest records and fingerprints, the first nationwide forensic laboratory, and other records management that assisted the FBI and other law enforcement. The FBI then began to expand its jurisdiction to include more than 200 federal crimes. The interstate nature of crimes expanded to include crimes that affected interstate commerce. In the 1950s and 1960s, the FBI expanded its investigative responsibility in the area of nationally recognized organized crime. In the mid-1980s, the FBI again expanded its jurisdiction to include all manner of illegal drug crimes. (It joined the in a coordinated effort to cripple the international and national illegal drug trafficking conspiracies.) Finally, the FBI has also established primary jurisdiction for all crimes related to national and international terrorism. With all of this evolution, the FBI has become the primary federal law enforcement agency.

The FBI has developed the National Crime Information Center (NCIC), Combined DNA Index System (CODIS), National Integrated Ballistic Information Network (NIBIN), and Integrated Automated Fingerprint Identification System (IAFIS), all of which maintain identification data and scientific information on many violent crimes committed across the United States. With all of these developments and the training

and significant background of special agents, the FBI's investigative responsibility is very similar to local or state detectives'. FBI special agents have become the go-to federal agency for responding to all sorts of criminal conduct. FBI special agents in large divisions or field offices may be limited to a single jurisdictional area, but investigations and routine transfers will expand the involvement of individual FBI special agents to a wide variety of investigative areas just like local police detectives. Because of these circumstances, FBI special agents need to improve their exposure to all manner of effective investigative skills to develop successful approaches to solving criminal cases in an ever-broadening range of crime. In spite of the fact that the FBI is one of the largest investigative agencies in the federal government (approximately 14,000 agents and another 20,000 professional, nonsworn law enforcement employees), special agent applicants are drawn from an equally large pool of highly qualified persons. Lawyers, accountants, engineers, and scientists with impressive educational backgrounds usually beyond master's level along with experienced law enforcement officers and military veterans with substantial and successful careers are very often the base line of qualified candidates to become FBI special agents. This impressive pool of candidates does not ensure that these persons will be successful criminal investigators, but it does set a standard of high-quality people who can advance to that goal. The FBI has a fine reputation and a well-earned status of success, so the applicants hope to become a part of that reputation and success.

DEA Special Agents

DEA criminal investigators are also federal special agents assigned to conduct criminal investigations. Like their colleagues in ATF and Internal Revenue Service (IRS) and inspectors for the USPS, they share administrative oversight responsibilities in controlling the legal distribution of the material for which their agency was designed. The DEA is responsible for the administrative control of legal drugs used for medical purposes. It oversees licensing policies for doctors who prescribe drugs and monitors the manufacture and distribution of pharmaceuticals, which can be abused and used to create a serious black market involving the illegal distribution network of pain killers and other highly addictive legal medicines.

DEA criminal investigators work in the United States and in a variety of countries worldwide on major cases in which illegal drugs; heroin; cocaine; marijuana; methamphetamine; large quantities of illegally manufactured opioids; and designer drugs, such as ecstasy, are distributed by criminal conspiracies, gangs, cartels, organized crime entities, and terrorist organizations. DEA special agents are focused on crimes relating to drug dealing and money laundering and the violence related to these crimes. In this capacity, they may become intricately involved in investigating the violent crimes addressed in this text, but more often, DEA special agents rely on investigative support and coordination with state and local authorities on these matters.

DEA special agents have to meet significant educational requirements, and in many cases, they need to have significant language ability in Spanish, Portuguese, Farsi, and other Middle Eastern languages along with Chinese and Japanese. DEA applicants

also have a highly competitive hiring process in which special skills and background experience (such as prior law enforcement experience and training) are required to be chosen for the position.

ATF Special Agents

ATF special agents' criminal cases are focused on illegal sale and distribution of firearms, explosives, alcohol, and tobacco products. During the 1920s, bootlegging illegal alcohol was investigated under the purview of Treasury agents, or T men, who made every effort to enforce the 18th Amendment to the US Constitution and its accompanying statute, the Volstead Act. This group of federal agents were the beginnings of the ATF. Currently, ATF special agents are reassigned from the Treasury Department, though they keep their taxation and administrative responsibilities over alcohol, tobacco, and firearms, to the Department of Justice. ATF special agents investigate gun running, arson cases, and the use of explosives in cases not related to terrorism. They continue to have responsibility for tracing ownership records of firearms and the investigation of rural and urban "moonshine," or "untaxed" liquor, which continues to be a persistent health problem nationwide.

Again, as is the case with their other federal colleagues, applicants for the position of special agent are well educated (bachelor's degree or higher) with significant experience in law enforcement or related careers. ATF agents also draw from arson experts with experience with local fire departments along with scientists who have expertise in explosive materials. ATF special agents are occasionally involved in violent crime investigation, but just as their colleagues in the DEA, they are usually supported by state and local police authorities in these matters.

USPS Inspectors, IRS Special Agents, and ICE Special Agents

Special agents from the USPS, IRS, and ICE are involved in significant criminal investigations directly related to their agency's responsibilities. But for the most part, they don't usually become concerned with violent crime investigations unless there are specific statutes that give them jurisdiction, for example, armed robbery of a postal employee or station. These professionals are highly skilled federal agents with impressive educational backgrounds and experience who have met very competitive standards to be chosen by these agencies for the criminal investigator position.

Department of Defense (DOD) Special Agents

DOD special agents are found in the US Army Criminal Investigation Command, Naval Criminal Investigative Service, US Air Force Office of Special Investigations, US Coast Guard Investigative Service, and Department of Homeland Security. They are assigned to work on criminal investigations directly related to their military branches. They become involved in a variety of violent crime investigations, such as murder, rape, robbery, larceny, and burglary, on military bases and facilities. Their investigative priorities and requirements are very similar to state and local detectives'.

Generally, they are civilian 1811 series investigators, but they can be on-duty military personnel in their respective branches. Because of their unique position in the various military branches, they will usually have significant experience with that branch before they are deemed qualified for the career. These special agent positions are also staffed by well-qualified applicants with significant experience and training from other federal, state, and local law enforcement agencies.

In a profile similar to FBI special agents, DOD special agents will have significant counterintelligence and counterespionage responsibilities along with their criminal investigative responsibilities. Again, these special agents most closely align with state and local police detectives, but their jurisdiction is much more controlled given their relationship with the military branch to which they are assigned.



Source: AP Photo 9808070487/Sayyid Azim

DEFENSE/PRIVATE INVESTIGATORS

Nonsworn investigators who work for the defendants in criminal cases or for private persons or entities with an interest in proving the innocence of a particular defendant or determining facts and discovering evidence in a crime event are nongovernmental criminal investigators. They can consider many of the factors presented in this text, but they are usually relegated to reviewing reports and reading statements provided by witnesses before they can actually develop significant insight into a particular case. These investigators can be well-qualified former law enforcement officers or well-educated but inexperienced interns, support staff, and newly minted attorneys working for experience in a law firm and assigned to defend a criminal suspect. Once they have established a legitimate reason for their inquiry, they will be given access to information in the hands of the government so they can follow their own line of inquiry in the case. All too often, defense investigators spend most of their time looking for errors by government investigators. It is usually easier to find flaws in a case than make the effort to determine if the government's investigation is accurate and has reached the proper conclusion. From the perspective of a defense attorney, a fatal flaw by the

government's investigators is the most direct method of winning in a trial and securing the release of the client. Proving guilt or innocence is a much more difficult process with a number of difficulties that may frustrate these private investigators. This text is about trying to explain the process of solving a crime, uncovering the truth, and making sure the right person is charged with the criminal conduct alleged. Looking for errors in procedure is not an essential part of the process.

SCOPE OF THIS BOOK

In this book, I will limit my discussion to violent crimes or offenses when a victim has suffered injury or death as the result of the actions of another. I will consider burglary and some larcenous crimes in my discussion. Violence or injury by the perpetrator on a particular victim will be considered for study in this text. Burglary and larceny act as gateway crimes to violent criminals, and as such, it is essential that any study of the criminal conduct of violent offenders should be viewed in the proper context. Does a rapist who attacks women in their homes learn techniques of breaking and entering when he begins his "career" as a rapist, or does he break into and steal from houses as a way to practice what he is ultimately preparing himself to do. Just as drug use is a predicate criminal pattern for a number of violent crimes, car theft, residential burglary, and larceny by stealth are the practice field for violent criminals. Residential burglaries can develop into sophisticated art thieves, and snatch-and-grab pocketbook thieves can turn into armed robbers. Any evolution of criminal conduct can include an inherent desire to become rich without working, but in many cases, a warped sense of values and violent or abusive upbringing can create monsters who learn their methods and then apply those methods to their real calling in life. Serial offenders, like most people, advance and evolve to meet their own goals and satisfy their own needs. Sometimes, their needs involve money, power, and psychosexual gratification. Successful criminal investigators need to understand the evolution of criminal activity to put immediate observations in the proper context. They need to see a career criminal in the same way they look at noncriminal citizens who learn and advance in their careers. People evolve with certain goals in mind. A professional baseball player can usually benefit from time in high school and college playing varsity baseball; then, they will also learn from minor league experiences to the point when they are ready for the big leagues. Career criminals develop along these same lines, so as criminal investigators, we also learn from our experiences and the investigation of less serious crimes to the point that we become highly skilled investigators who begin to be able to anticipate behavior, understand motive, and develop successful investigative strategies that allow us to remove the career criminal from our community.

White collar crime, fraud, and computer crime, which can be devastating to large numbers of victims and devastating to a community as a whole, should be discussed in a broader, more expansive context. Examining the broad range of statutory definitions, details about internal security, control of computerized data, and the difficulties

in establishing how the loss and “larceny after trust” occur would be the subject of an extensive text on white collar crime. Explaining how victims sometimes act as perpetrators and determining how the evidence can be discovered in the context of very sophisticated human relationships in which these cases occur are also too wide ranging for this text.

TYPES OF INVESTIGATIONS

Reactive Investigations

In very general terms criminal investigations focused on crimes against persons or violent crimes are broken down into two categories. *Reactive* investigations are police or law enforcement’s response to a criminal incident. Examples of reactive cases are homicides, robberies, rapes, burglaries, thefts, assaults. These crimes are reported directly to the police or other appropriate jurisdiction by a citizen, a victim, another police officer or other interested parties as an event that requires immediate investigation. Following are some specific examples of reactive crimes:

- A person arrives home and discovers their house has been broken into and property has been stolen.
- A person discovers their car has been stolen from its normal parking location.
- A person is attacked by a known or unknown assailant and sexually assaulted the victim then calls for law enforcement to come to their aid.
- A person discovers an unconscious body of a person on the street, in a house, or in a commercial establishment.



Source: Dmitrii Melnikov / Alamy Stock Photo P3YY05

First Responders

First responders are, in most cases, patrol officers who, as a result of their proximity and immediate availability, are the first officers on the scene. I will refer to them and their responsibilities several times in this text when it is logical to explain how the criminal investigative process occurs. These officers are well trained in police academies to handle their duties, and they receive further training in this important function from their training officer and chain of command. So, in reactive crime investigations, first responders will begin the investigative process. When the call goes out for these cases, law enforcement will respond with the appropriate resources to investigate the crime that has occurred. The response and initial investigative plan will be driven by the reporting person. Usually, the first officer on the scene then acts as the “gatekeeper,” or security, for the crime scene until investigators and crime scene specialists arrive to take over the scene. First responders’ responsibility is to render aid to any injured persons and notify and ensure that emergency medical personnel are called to the scene if needed. First responders then have the responsibility to protect the physical evidence on the scene and identify witnesses and separate and hold them for investigators, who will interview them and release them to return to their normal activities. First responders will obtain preliminary statements from witnesses to be able to brief investigative personnel when they arrive. In emergency situations when evidence is in danger of being lost, destroyed, or otherwise altered by conditions, first responders will secure and protect that evidence. Because of this responsibility, first responders may also need to be prepared to photograph and otherwise record the scene, again, if there is a danger of losing or contaminating evidence.

Finally, first responders may also be called upon to initiate legal action to establish control of the scene. When a crime occurs in a location that is legally under the control of a third party, such as a third party’s home, car, or property, it may be necessary to obtain a court-ordered search warrant so law enforcement will have exclusive control of the scene. If law enforcement was called to the scene of a crime by a responsible



Source: iStock 123370972

party who is legally present at a crime scene, first responders can establish dominion and control of the scene, but to conduct an effective examination of the crime scene, they may need to obtain permission of the owner of the property or obtain an emergency court-approved warrant to have all the legal access needed. If there are exigent circumstances and law enforcement is legally present on the scene, a warrant may not be immediately necessary, but any subsequent actions and especially seizure of evidence is subject to judicial review and may become tainted. So it is best to immediately move forward to obtain a warrant. (Exigent circumstances and how they affect this stage of an investigation will be discussed further in this text in chapter 9.) Obviously, if the third-person owner is the victim or the family of the victim, she can certainly authorize law enforcement to conduct all the appropriate examinations needed.

If the crime event happens on public space, sidewalks, streets, or open fields owned by the jurisdiction, the police can proceed with the examination without any further legal authorization. As long as the first officer on the scene and subsequent responsible law enforcement officials are acting reasonably and have an articulable basis for believing they are conducting the crime scene with proper authority, the recovery of physical evidence should not be challenged. In this manner the actions of the first officer on the scene are an integral part of the investigation and should be adopted by the assigned investigator as a part of her case.

It should also be remembered that any third persons who claims that law enforcement acted improperly will have to demonstrate that they were in some way injured by the actions and that they have some interest in the outcome of the investigation. The evidence recovered can be suppressed only by a legal action brought by the defendant in the case. In other words, the third persons have to have standing to have the evidence suppressed, withheld, or otherwise tainted. The key distinction is law enforcement needs to act properly with good intentions and not disregard the constitutional rights of a suspect or potential suspect.

Jurisdictional control of the crime scene is the first potential stumbling block to an effective reactive crime investigation.

Proactive Investigations

The second major type of criminal investigation is a *proactive* investigation. Instead of a particular act of criminal conduct the law enforcement agency may conduct an investigation of a person or group of persons whom the agency has reason to believe are involved in an ongoing criminal pattern. Some of the examples of this kind of investigation would be the targeting of career criminals who are serial offenders, targeting of a violent street gang, targeting of an armed robbery gang whose offenses are characterized by extreme violence, or very high financial losses. The essential distinction is the fact that the perpetrators are targeted before the offense is actually committed or the targets' lives and daily routine are scrutinized in an attempt to discover facts and evidence proving their involvement in past crimes.

In many ways, proactive investigations are attempts by law enforcement to detect patterns of criminal activity, anticipate behavior, and develop evidence leading to the

successful prosecution of a community's most proficient criminals. Proactive investigations rely heavily on intelligence and covert investigative steps, such as surveillance and undercover operations or the use of deception to trick the targets into revealing their methods and practices.

Proactive crime examples are patterns of all of the known crimes listed above with the addition of organized criminal enterprises, drug enterprises, terrorist cells, and any significant major conspiracies. The main distinction is proactive investigations target the criminals, not one event. (Conspiracies are crimes defined as an agreement among two or more persons to commit a criminal act or a number of criminal acts with at least one act in the furtherance of the conspiracy.) Conspiracy and patterns of criminal conduct are usually based or predicated on the commission of one or more of the crimes under discussion in this text.

As a result, information leading to the initiation of a proactive investigation requires solid law enforcement intelligence demonstrating the need for the investigators to protect the community against the targets of the case or the pattern of criminal conduct. This text will spend time explaining how proactive investigations use standard investigative procedures and coordinate all of the investigative resources available to determine if the targets are in fact involved in the criminal conduct alleged. In a proactive investigation, the following list of investigative steps are applied:

1. Understanding how particular crimes and their elements are proven
2. Constitutional considerations
3. Crime scene analysis
4. Forensic science support for an investigation
5. Establishing an investigative plan
6. Interviews and interrogations
7. The use of confidential sources
8. Tactical considerations
9. Intelligence support and digital data mining
10. Covert investigative operations

These steps are the same as those followed for reactive crime investigations, but there is a requirement to sort out the information from multiple crimes and find out if there are direct connections or uniformity in the method of operations or other factors that provide another layer of proof that the crimes were all associated with the targets. In these proactive investigations, investigators may not have a firsthand relationship with each crime under consideration, so they need to rely on written reports and notes from a variety of other investigators. Therefore, it is in the interest of investigators to develop a positive relationship with all previous investigators so there is a firsthand connection with each crime that is connected by the intelligence that was the predicate basis for targeting the suspect or suspects.

A successful proactive investigation should result in the closure or solution to a number of related offenses, thereby, streamlining the use of investigative resources and closing or solving the unsolved. Conducting proactive investigations can become a next step for a reactive crime that has hit a brick wall and seems to elude the pos-

sibility of finding the truth. Finally, proactive investigations are most helpful in serial investigations (serial killers, armed robbery rings, burglary rings, and sex trafficking gangs that use violence to intimidate the victims) street gang violence investigations, and conspiracy investigations (traditional and nontraditional organized crime operations) involving the use of violence.

