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U.S.A. PATRIOT ACT

HOW IT AFFECTS LAW ENFORCEMENT

BY RUSTY FEATHERSTONE

Recently the U.S.A. Patriot Act, one of the first bills to be enacted after the tragedies of 9-11 of 2001, has been the target of much controversy. The issues tend to focus on that part of the law that allows law enforcement to monitor certain activities that some believe are infringements on their rights.

Rusty Featherstone
Director of Information Services, OSBI

A very important aspect of this law that affects the law enforcement community of Oklahoma is the requirement for a Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement as part of a Commercial Drivers License. This requirement, under the Department of Homeland Security, has been assigned to the newly formed Transportation Security Ad-

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CALEA ACCREDIATION

WHAT IT MEANS FOR LAW ENFORCEMENT

BY JANELLE MELIA/OSBI CALEA ACCREDITATION MANAGER

July 27th marks the first anniversary of the Oklahoma State Bureau of Investigation's CALEA accreditation.

What exactly does this accreditation mean to the agency? To quote from CALEA, *"The overall purpose of the Commission's accreditation program is to improve delivery of law enforcement service by offering a body of standards, developed by law enforcement practitioners, covering a wide range of up-to-date law enforcement topics. It recognizes professional achievements by offering an orderly process for addressing and complying with applicable standards*".

The bottom line is that we are given a set of standards, which we are expected to operate by. In doing so, we are held accountable to our policies, and thus we demonstrate voluntarily that we meet professionally recognized criteria for excellence in management and service delivery. We do what we say we do. And we can prove it. We did prove it on July 27, 2002.

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PATRIOT ACT

Demonstration of Livescan

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ministration (TSA).

So far, TSA has been primarily seen at airports, as they are the group that took over the responsibility for airport passenger security. They are also dealing with new efforts within the country's seaports, to improve the searching and overall security of our Ports of Entry.

To implement the "HazMat" part of the new law, TSA has contacted both the International Association of Chiefs of Police and the National Sheriff's Association. Additionally, TSA has been meeting with a somewhat obscure group known as the National Crime Prevention and Privacy Compact Council. The "Council" was created by Congress to address the law and policy issues of access to criminal justice information by non-criminal justice agencies. Previously, the FBI has set the rules and policies for access to national criminal justice information by criminal justice agencies through its Advisory Policy Board (APB).

"As of May 5, (TSA) is moving forward with the first phase…"

Congress recognized that the need to access to this information was growing within the typically "non-criminal" justice agencies for purposes such as employment checks, licensing, access to government housing and many more such issues. As a result, Congress decided there had to be a body to set the rules and policies governing this access.

The Council is represented by individuals from member states, these being states that have passed the Compact. These individuals are criminal justice professionals working in the justice information arena and appointed by the U.S. Attorney General. Oklahoma is such a state, and Rusty Featherstone, Director of Information Services at the OSBI, is the state representative to the Council.

In implementing the Act, TSA is faced with conducting national background checks on all Commercial Drivers wanting the HazMat Endorsement, nationwide. As of May 5th, it is moving forward with the first phase, which is to conduct name searches on over 3.5 million current drivers. While they identify their future "permanent procedures" and infrastructure, the current plan is for these drivers who have had their name search done, to undergo a fingerprint based record check upon the renewal date of their current license.

TSA has agreed with the FBI and the Compact Council that the fingerprint based checks should be made through the states first and then if no hit is made, sent on to the FBI. While the law addresses the need for these checks

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Patriot Act

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and makes reference to possible future funding issues, currently there is nothing that provides funding or any other type of assistance to those expected to capture the fingerprints. The group most probable to be confronted with the task of fingerprinting the applicants is local law enforcement.

Congress does recognize that more Livescans will be necessary to aid in the capture of these prints, however, no new funding has been dedicated solely for this purpose. The impact this fingerprinting may have on local law enforcement is an issue of great concern to the Compact and to the OSBI.

The OSBI, in an effort to better capture and report arrests in the state, has been successful in receiving grant monies to begin providing Livescans to the larger jurisdictions to assist in their criminal bookings and applicant printing. While the current grant awards will supply some of the needed devices, it won't provide enough to outfit each agency that may be impacted by this law. The OSBI will continue to take advantage of any grant money to continue to provide Livescans, but until then, many agencies will be asked to perform this service through their current, manual processes. The good news is that there is currently no restriction on local law enforcement for charging a reasonable fee for these services.

While it would be easy to say, "I don't have the resources to perform these functions, therefore I won't", I would ask you to remember the reason behind these efforts. Currently, there is no better means for us to ensure that the wrong people are not behind the wheel of a vehicle that could quickly become a car bomb or other weapon of mass destruction.

Evidence of where we are working in other areas to address the war on terrorism, the OSBI is going to receive the fingerprints and identification information of the detainees held as a result of the war in Afghanistan and Iraq, as well as domestic criminals who have been involved in terrorist activities. This data from the FBI will be added to the state's Automated Fingerprint Identification System to allow for identifications from arrest records or from crime scene evidence.

Remember, several of the subjects involved in 9-11 and other terrorist acts have had ties to Oklahoma in the past. With the added fact that Oklahoma is at the crossroads where three of our busiest Interstate Highways intersect, officers in Oklahoma could very easily find themselves face to face with someone involved in terrorist activities.

While TSA continues to determine the actual path it is going to take in implementing this rule, I would recommend you follow the activity on the TSA web site at www.tsa.gov/public or the Compact Council's web site at www.fbi.gov/hq/cjisd/cc.htm.

"...there is no better means for us to ensure that the wrong people are not behind the wheel of a vehicle..."

OSBI Acting Dir. Tom Jordan and Janelle Melia review CALEA standards

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We have completed our first year of compliance following initial accreditation. As we embark on the second year, the reflection of the Agency is tinted with a hint of pride. The OSBI is not an agency that stands for what has been done, but an agency that looks to the future of what can be done. Gaining CALEA accreditation was a major accomplishment not to be overshadowed. But we now look to the future of re-accreditation and the benefits that will be reaped due to striving for this excellence.

- **A**ssurance that every aspect of our agency's personnel system is in accord with professional standards.
- **C**urrent, state-of-the-art, impartial guidelines for evaluation and change when necessary.
- **C**ohesion between department and division – greater understanding of agency interaction.
- **R**ecognition that our agency's managerial and operational policies and procedures are in accord with a body of nationally certified and recognized professional standards.
- **E**ncourages relationships with prosecutors, courts, correctional agencies and state and local government officials.
- **D**evelops strong budget justifications through neutral guidelines - especially for personnel and their allocation across function and activities.
- **I**nfluences standardization of policies, thereby increasing efficiency in handling calls for assistance, referrals and joint investigations with other agencies.
- **T**he liability litigation factor is deterred.
- **A**ssures the community that our agency is committed to providing the highest quality services and that its policies and procedures are not only effective and responsive but fair and equitable.
- **T**o further community understanding, cooperation and support of our agency and its role in the community.
- **I**ncreases employee confidence and assures that they are a part of an agency which is nationally recognized as being a provider of truly professional police services.
- **O**ngoing evaluation of whether agency resources are being utilized in the best interest of its mission assignment.
- **N**ationwide recognition of professional excellence.

Legislation Changes Scope of Multi-County Grand Juries

By Jimmy Bunn/OSBI Legal Counsel

Senate Bill 585 was signed by the Governor on June 4, 2003, and is effective November 1, 2003.

The purpose of this bill was to effectively reverse the decision of the Oklahoma Court of Criminal Appeals in *State v. Bezdicek,* 53 P.3d 917, (OK. Ct. Crim. App., 2002). This decision found that the jurisdiction of the multi-county grand jury extended only to serious crimes listed in 22 O.S. 353 that also occurred across or in multiple counties of the state. Until that decision, the Attorney General had used the multi-county grand jury to investigate serious crimes listed in the multi-county grand jury statutes even when the crime occurred only in one county.

Thanks to Senate Bill 585, the statutes regarding multi-county grand juries now clearly allows their use to investigate crimes that occur only in one county. For now, the multi-county grand jury has jurisdiction to investigate and issue subpoenas involving the crimes listed in 22 O.S. 353. It is still, however, unclear what the final effect of this legislation will be.

A large portion of the reasoning of the court in the *Bezdicek* decision rested upon the interpretation of Article II, Section 18 of the Constitution rather than the multi-county grand jury statutes. The constitutional provisions that decision rested upon have not been changed. A future challenge to the changes in Senate Bill 585 might see the Court of Criminal Appeals finding them contrary to Article II, Section 18 and therefore unconstitutional. Until then, however, multi-county grand juries can be used to investigate crimes that are listed within 22 O.S. 353 even if they occur only in one county.

AFIS Upgrade Makes Multiple Hits — Could Point to Unknown Suspects

By Jessica Brown/PIO

OSBI has finished testing its new and improved Automated Fingerprint Identification System. Once on line, the expanded program made 55 hits against latent prints in 40 unsolved cases. This early success rate brings with it great hope for the system's future. "I anticipate us making a lot more latent hits on old case work. The system is that much better. The problem we run up against is the statute of limitations." Jim Stokes, OSBI Latent Print Examiner, says.

In 1993, OSBI spent $6 million for AFIS. The upgrade in hardware and software cost the bureau more than $5 million. The system takes ten prints directly from Livescans. These digital fingerprint scanners download the images directly to AFIS which allows OSBI to search current ten print files, plus latent prints from criminal cases. Currently, the Department of Corrections uses a Livescan as does Cleveland and Tulsa Counties and the Lawton Police Department. The Livescans also allow for mug shots and palm prints to be stored.

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The new system has dramatically increased the speed of processing fingerprint cards into the system. The older system would only allow 350 cards entered each day. Today, OSBI enters 1,000 cards per day. These cards are searched against other ten prints already stored in the system. If the card does not hit there, it can be searched against latent prints from unsolved criminal cases, called a reverse search.

Jim Stokes, OSBI Latent Print Expert, examines a ten print card

To convert to this new system, OSBI sent 875,000 ten print cards to California, so workers for Printrak, a Motorola Company, could convert them to the new hardware. Since the first AFIS, technology has improved to search four fingers at once. The old system only searched two.

OSBI continues to enter data into the system. Right now, criminalists have entered 650 latents from old cases into the system, and we've already had dozens of hits on cases including homicides, sexual assault and kidnapping. Once AFIS indicates a hit, a criminalist compares the prints, then makes an identification if possible. This human touch ensures the system works properly.

Langley Remains Retired,

Awaits A.G. Opinion

By Jessica Brown/PIO

In May, OSBI Commissioners asked retired Director DeWade Langley to return to his post as of July 1. New legislation (SB 673) passed by the state legislature allowed a person who retired on the Oklahoma Law Enforcement Retirement System to return to work under either OLERS or the retirement system for public employees, OPERS.

Langley gave the commission's offer great thought and initially declined the offer. After discussing it further with the members, he decided he would give up retirement and other offers of employment to come back to the OSBI despite looming budget woes and whispers of consolidation with other state investigative agencies.

After Langley gave the nod, a few people in the law enforcement and law making community came out in opposition to Langley's return. To quiet the concerns of so called "double dipping", Langley will not return to OSBI's helm until Oklahoma's Attorney General renders an opinion on the matter. Typically, such opinions take months. Until that time, Tom Jordan will remain OSBI's Acting Director.