



U. S. Department of Justice

Office of Investigative Agency Policies

Washington, D.C. 20530

RESOLUTION 20

Pursuant to the Attorney General's Order Number 1814-93, dated November 18, 1993, and in my capacity as Director of Investigative Agency Policies, I hereby issue the following resolution regarding Federal Law Enforcement Agencies' issuance of warnings to persons, and notification to other law enforcement agencies, of threats to life or of serious bodily injury.

Background

The Deputy Attorney General requested the Office of Investigative Agency Policies ("OIAP") to address this issue.¹ This Resolution, which includes the guidelines set forth in Attachment A hereto, is the product of consensus recommendations of the OIAP Executive Advisory Board ("EAB").

Discussion

According to the terms of the Order creating the OIAP, I have been authorized, "in the areas of overlapping jurisdiction of the criminal investigative agencies," to:

- (1) Take all steps necessary to improve coordination among the criminal investigative agencies of the Department [of Justice], both within the United States and abroad;
- (2) Assure, to the extent appropriate, consistent operational guidelines for the criminal investigative agencies of the Department [of Justice]; ...
- (9) Provide advice to the Attorney General and the Deputy Attorney General on all investigative policies, procedures and activities that warrant uniform treatment or coordination among the criminal investigative agencies of the Department [of

¹The Treasury Department's investigative agencies, as well as the office of the Assistant Secretary of the Treasury for Enforcement, fully participated in the discussions about this issue. Those agencies are considering the guidelines set forth in Attachment A and, if they endorse them, will seek any necessary approvals of them within the Treasury Department.

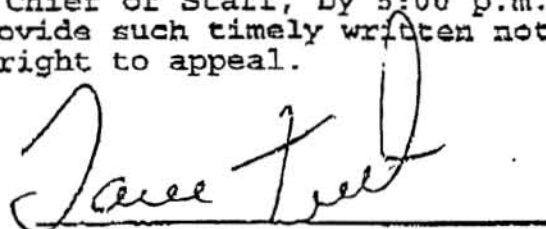
Justice]; [and] ... (11) Perform such other functions as may be necessary for the effective policy-level coordination of criminal investigations by the criminal investigative agencies of the Department [of Justice] ...

Order Number 1814-93, Section (b).

The guidelines set forth at Attachment A provide an appropriate standard for Federal Law Enforcement Agencies to warn affected people of threats to life or serious bodily injury and, where appropriate, to notify other law enforcement agencies of such threats.

Conclusion

As I noted above, this Resolution has been approved by the EAB. Nevertheless, if any agency wishes to appeal this Resolution, it must provide written notice of its decision to appeal to James R. Bucknam, OIAP Chief of Staff, by 5:00 p.m. on December 18, 1996. Failure to provide such timely written notice shall constitute a waiver of the right to appeal.



LOUIS J. FREEH
Director of Investigative
Agency Policies

Dated: December 16, 1996
Washington, D.C.

**Guidelines on Warning Persons and Notifying Law
Enforcement Agencies of Threats to
Life or of Serious Bodily Injury**

I. Purpose. The purpose of these guidelines is to set policy regarding Federal Law Enforcement Agencies' issuance of warnings to persons, and notification to other law enforcement agencies, of threats to life or of serious bodily injury.

II. Scope.

A. This policy applies to the following Federal Law Enforcement Agencies:

- (1) Federal Bureau of Investigation;
- (2) Drug Enforcement Administration;
- (3) United States Marshals Service;
- (4) Immigration and Naturalization Service;
- (5) Bureau of Prisons;
- (6) Department of Justice Office of the Inspector General;
- (7) United States Customs Service;
- (8) Bureau of Alcohol, Tobacco and Firearms;
- (9) United States Secret Service;
- (10) Internal Revenue Service (Criminal Investigation and Internal Security divisions); and
- (11) Department of the Treasury Office of the Inspector General.

B. These guidelines do not, and are not intended to, supersede any inconsistent statutes or case law. Specifically excluded from the application of these guidelines are matters governed by Title 26, United States Code, Section 6103 (Confidentiality and Disclosure of Returns and Return Information).

C. All of the warning and notification guidelines set forth in paragraph III must be considered.

D. In weighing the factors set forth in paragraph III below, a Federal Law Enforcement Agency shall not refrain from providing a warning or taking other appropriate action merely because the warning or action may result in the disclosure or disruption of a Federal investigation.

III. Guidelines.

A. Warning to the Person.

(1) ~~Expeditious Warnings~~ to Identifiable Persons.

Except as provided below in paragraph IIIA(3), when a Federal Law Enforcement Agency has information that a person who is identified or can be identified through reasonable means is subject to a credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to warn that person of the nature and extent of the threat.

(2) Manner, Means, and Documentation of Warning.

a. The Agency may determine the means and manner of the warning, using the method most likely to provide direct notice to the intended victim. In some cases, this may require the assistance of a third party. The Agency must document in writing in its files the content of the warning, and when and where, and by whom it was delivered to the intended victim.

b. An Agency may seek the assistance of another law enforcement agency to provide the warning. If this is done, the Agency must document in writing in its files the notification of the threat, and when, where, and the name of the other agency's representative to whom it was delivered, along with the other agency's agreement to provide a timely warning.

(3) Exceptions.

a. A Federal Law Enforcement Agency need not attempt to warn an intended victim of a threat to his/her life or of serious bodily injury in the following circumstances:



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(ii) when the intended victim knows the nature and extent of the specific threat against him/her; or



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(iii) when the intended victim is: (a) a public official who, because of his/her official position, is provided a protective detail;

[redacted] or (c) detained or incarcerated. See paragraph IIIB(1).

b. Whenever time and circumstances permit, an Agency's decision not to provide a warning in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager.² In all cases, the reasons for an Agency's decision not to provide a warning must be documented in writing in the Agency's files.

Note: this paragraph does not apply to the agencies directly responsible for providing the security for the individuals referred to in paragraph IIIA(3)a(iii), above, when the threat is to the referenced individual. In such cases, documentation, if any, should be created in accordance with agency procedures.

B. Notification to Law Enforcement Agencies With Protective or Custodial Jurisdiction.

(1) **Expeditious Notification.** When a Federal Law Enforcement Agency has information that a person described above in paragraph IIIA(3)a(iii) is subject to any threat to his/her life or of serious bodily injury, the Agency must expeditiously notify other law enforcement agencies that have protective or custodial jurisdiction.

(2) **Means, Manner, and Documentation of Notification.** The notifying Agency may determine the means and manner of the notification. When providing notification, the notifying Agency shall provide as much information as possible regarding the threat and the credibility of the threat. The notifying Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

C. Notification to Law Enforcement Agencies That Have Investigative Jurisdiction.

(1) **Expeditious Notification.** Except as provided below in paragraph IIIC(4), when a Federal Law Enforcement Agency has information that a person (other than a person described above in paragraph IIIA(3)a(iii)) who is identified or can be

²As used in these guidelines, "Senior Field Manager" refers to a Federal Law Enforcement Agency operational field manager of the GS-15 rank or higher, or the person serving in that capacity in his or her absence.

identified through reasonable means is subject to a credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to notify other law enforcement agencies that have investigative jurisdiction concerning the threat.

(2) Threats to occupied Structures or Conveyances.

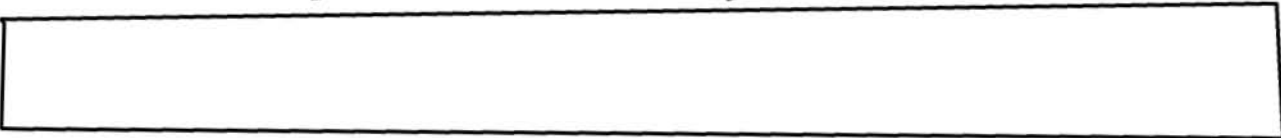
When a Federal Law Enforcement Agency has information that a structure or conveyance which can be identified through reasonable means is subject to a credible threat which could cause loss of life or serious bodily injury to its occupants, the Agency should provide expeditious notification to other law enforcement agencies that have jurisdiction concerning the threat.

(3) Means, Manner, and Documentation of Notification.

The Agency may determine the means and manner of the notification. The Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

(4) Exceptions.

a. A Federal Law Enforcement Agency need not attempt to notify another law enforcement agency that has investigative jurisdiction concerning a threat:



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(ii) when the other law enforcement agency knows the nature and extent of the specific threat to the intended victim.

b. Whenever time and circumstances permit, an Agency's decision not to provide notification to another law enforcement agency in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. In all cases, the reasons for an agency's decision not to provide notification should be documented in writing in the Agency's files.

IV. Rights of Third Parties.

Nothing in these guidelines is intended to create, or does create, an enforceable legal right or private right of action.

V. Implementation of these Guidelines.

Within 90 days of the issuance of these guidelines, each Federal Law Enforcement Agency shall issue specific policies that implement them.