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Shhh! Don't Talk (Maybe)

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WASHINGTON, Feb. 16 — The head of the Drug Enforcement Administration got himself into a bit of hot water last week over an issue that confronts Federal investigators nearly every day.

John C. Lawn, the agency's Administrator, was speaking at a club in California and he could not resist the temptation to talk about an agency investigation in which an unnamed airline in the "eastern" United States was cooperating. He said as many as 50 employees of the airline could face charges of cocaine smuggling.

It did not take long for reporters to ferret out that Eastern Airlines, based in Miami, was the carrier involved. Mr. Lawn had stunned some law-enforcement officials, and they anonymously accused him of "blowing" a continuing investigation.

The Rules of the Game

The Washington ways governing when, and whether, to discuss an investigation have always had an Alice-in-Wonderland quality to them. Roughly paraphrased, the rules of the game go this way: You can't ever discuss investigations, except for when you can, which turns out to be a lot of the time.

Justice Department regulations bar officials from talking about any case that is still being actively investigated. But officials break this rule regularly, both anonymously and through veiled comments in "on-the-record" statements.

There are a number of different motivations for all this public talk about supposedly secret matters.

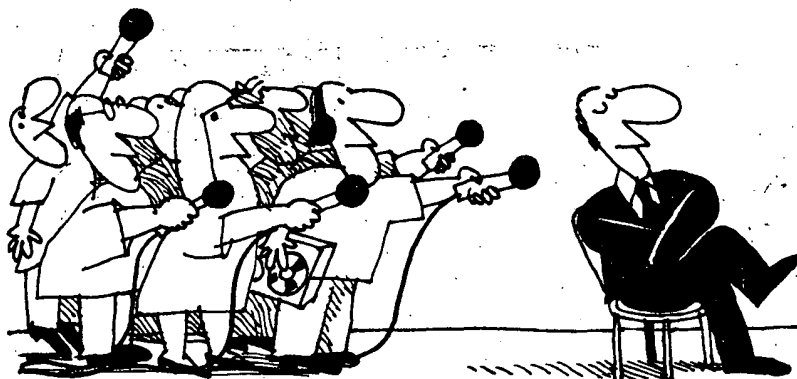
Sometimes, the investigators are trying to force the hand of reluctant prosecutors who may believe the case is not solid enough to support an indictment. Or, prosecutors may be trying to build public pressure to convince their superiors that a case should go forward.

On occasion, material from inquiries finds its way to the press precisely because the investigators cannot make a court case — and they have decided to bring the "truth" about a particular individual to public attention in whatever way they can.

A Way to Counter Criticism

And finally, the tendency to shine the spotlight of public attention on continuing investigations seems to grow stronger both at budget time or when a particular agency is under fire in Congress for not doing enough.

Joseph H. Sherick, the inspector general of the Defense Department, last year surprised some of his field investigators when he gave Representative John D. Dingell, Democrat of Michigan, a list of 45 major military contractors that were under investigation.



Mr. Dingell in turn made portions of the document public, including the names and possible offenses at 36 of the companies; the remainder were kept secret because the companies involved had not yet been told they were the subject of a Pentagon inquiry.

A field investigator working on one of the cases made public in this exchange said last year that he was shocked that Mr. Sherick had supplied the document to Mr. Dingell. But the move was politically shrewd. At the moment that Mr. Sherick and Mr. Dingell were, in essence, tacitly agreeing to release the list, the Pentagon was under sharp criticism for what some members of Congress said was a lackadaisical approach to combating fraud or abuse by military contractors.

Sometimes, even the most senior law-enforcement officials walk close to the edge when it comes to the rules on discussing investigations.

'I'm Saying Too Much'

Last year, for instance, William H. Webster, director of the Federal Bureau of Investigation, was confronted in a corridor on Capital Hill by a group of reporters eager to discuss the case of Edward Lee Howard, a former officer with the Central Intelligence Agency who was suspected of spying for the Soviet Union. Mr. Howard, who is still at large, had fled the country, evading bureau surveillance. Some critics in Congress were questioning whether the bureau had bungled the case.

Asked about the evidence against Mr. Howard, Mr. Webster smiled and said he could not discuss such things. But he recounted an old saying among prosecutors that flight is often an indication of guilt. The interview was abruptly terminated by a tight-lipped F.B.I. official who clamped his hand on Mr. Webster's shoulder and reminded him of pressing appointments.

"That usually means I'm saying too much," Mr. Webster said with a grin.

The bar against discussing the substance of continuing cases persists after an arrest is made, primarily because of concerns about pretrial publicity.

Rules on Pretrial Comments

Further, in some Federal district courts, all parties in the case are banned from making any public comments before trial. The F.B.I.'s Assistant Director for Congressional and Public Affairs, William M. Baker, learned the hard way last year that such rules are in effect in Baltimore.

Shortly after the bureau arrested John A. Walker Jr., a retired Navy man, in suburban Maryland, Mr. Baker gave an interview describing how bureau agents shadowed Mr. Walker for more than six months before arresting him on charges of leading one of the largest spy rings in American history.

All law-enforcement agencies, from local police departments to the F.B.I., like to reap the publicity harvest that surrounds a good case, and Mr. Baker's account added to the gripping spy story that was unfolding around Mr. Walker, who later pleaded guilty. But his comments also ran afoul of the ban on public comments before trial. Mr. Baker quickly found himself the target of a contempt motion filed by Mr. Walker's defense lawyer.

No 'Adverse Effect'

So, as the cloudburst over Mr. Lawn's remarks about the Eastern Airlines drug case was dissipating last week, a spokesman for the D.E.A., Robert Feldkamp, acknowledged that the Administrator "probably inadvertently went beyond the Department of Justice guidelines in this instance."

The matter does not seem to have harmed Mr. Lawn's standing in the law-enforcement community.

"It should be understood that nothing Mr. Lawn has said has had any adverse effect on the case," said Attorney General Edwin Meese 3d in a statement issued Friday. "He retains my absolute confidence and admiration for the work he is doing."