

Video Piracy

Before they reach the silver screen, movies are illegally copied and distributed to U.S. companies and military bases abroad

By Don Ray

Days before the motion picture *The Return of the Jedi* was debuted for filmgoers in the United States, high quality film and videotape copies were already on sale or being shipped to black marketeers around the world. The same was true of *Raiders of the Lost Ark*, the *Superman* movies, and practically every other film that is believed will become the next box office blockbuster.

Months, and even years before films are offered for legal sale in videocassette form or shown on subscription television, tens of thousands of illegal copies of varying quality are available to almost anyone in the free world who is willing to ask around and able to pay the asking price.

And while this piracy of films and videotapes may seem innocent and victimless, the motion picture industry in the United States expects to lose more than \$700 million this year because of the problem.

As with other modern crimes, video piracy is becoming, more and more, a refined operation because of the continuing advances in technology. The mass production and distribution of home video equipment has given almost anyone the opportunity to buy and use pirated material—and for that

matter, become video pirates themselves.

In the course of investigating the current video piracy problem, *The Rebel* has learned that a mass distribution system exists that provides unauthorized tapes and films to citizens of foreign countries, U.S. corporations with employees stationed outside this country, and even to U.S. military personnel stationed throughout the world. Most astonishing, one branch of the military, the U.S. Air Force, is knowingly violating U.S. copyright laws by providing its personnel with the equipment and the means to make illegal dubs of copyrighted materials.

Videotape piracy is more than taping a favorite movie off commercial or subscription television and saving it for personal use at a later date. Home taping is a separate issue that is currently being reviewed by the U.S. Supreme Court.

Current federal copyright laws make it illegal to make a copy—be it film-to-film, film-to-tape or tape-to-tape—of any licensed material. In other words, you may be able to legally rent or buy a VHS format copy of *Star Wars*, but you may not make a duplicate of it under any circumstances. The law does allow you to give away, loan or sell the *original* tape you've purchased, just as you have the right to give or sell a

book you've finished reading to a friend.

Most of the major video pirates are making numerous copies of films obtained legally and illegally and selling the copies for profit—profit the makers of the films believe they're entitled to.

Since 1975 the Motion Picture Association of America (MPAA) has been assisting law enforcement officials at all levels in combatting the problem. Two dozen agents work out of major cities throughout the world keeping tabs on the illegal tapes and films coming into foreign countries and reporting back to main offices in Los Angeles and New York City. They're finding certain areas of the world to be fertile areas for pirated film and tape distribution for a variety of reasons.

In the Middle East there are virtually no local laws forbidding tape or film duplication. And in the oil-rich countries, wealthy citizens are willing to pay top dollar for the ever-popular American productions. Also, U.S. corporations have hundreds of operations in the Middle East and buy thousands of taped movies, cartoons, and television broadcast programs for their employees stationed far from home. Strict customs and laws in those countries make it difficult for the American employee there to meet members of the opposite sex or otherwise "let loose" on a Friday night. The pirated movies are ideal for filling the lonely hours.

In other areas, it's the restrictive censorship laws that make the pirated film or tape such a hot item. In South Africa, for exam-



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ple, U.S.-made films are legally available for rent at authorized outlets, but they are heavily censored—much more than the censorship evident when motion pictures are edited for U.S. television. And, in South Africa, there's a delay of sometimes six months or more before the movie is distributed to the legal outlets there. Another factor that adds to the desirability of pirated tapes is the alternatives someone from that country has when it comes to entertainment. The theaters there show only edited films and are not allowed to be open on Sundays. The single television station there only broadcasts five hours each day—and half of the broadcast day is in the Afrikaans language.

Today the fastest growing video-pirate market is Central and South America. Television there is also very limited and motion pictures are, at best, months behind the U.S. in distribution. At the same time, thousands and thousands of videotape players are being smuggled into the area to provide entertainment for entertainment-starved people. Panama, Venezuela, Mexico, and Colombia are popular markets for the video pirate—all too willing to supply where there is a big demand. In some Latin American countries enterprising pirates are even setting up microwave receiving dishes and illegally re-broadcasting U.S. television feeds from satellites.

But how are the pirates getting copies of films that aren't even released to the gen-

eral public? Security specialists for the MPAA say they are finding leaks in security at various levels.

Since more and more videotape is being used in the production of motion pictures, the ease and speed at which copies can be made enhances the criminal's abilities. One need only "borrow" one of the many taped copies of a film in production long enough to make one copy. That copy then becomes the pirate's master for making hundreds more. The processing lab provides insiders the opportunity of making extra copies, borrowing film copies for duplication or simply stealing copies. At every point in the distribution process there is time for someone to borrow a film long enough for a transfer to videotape. Once one illegal copy is made, security people know there will soon be thousands distributed everywhere. In one case, security agents secretly marked a pre-release screening print of a motion picture two weeks before the film was to be released. Within days, agents were able to purchase copies of the print from six different pirates in Los Angeles, New York, and Chicago.

The MPAA security specialists, many of them ex-FBI agents, do much of the investigating of suspected pirate operations themselves. When they gather sufficient evidence they assist the FBI or local authorities in preparing documentation necessary to obtain search warrants.

One search warrant served in 1982 provided the MPAA and the FBI with some

astounding revelations about just how widespread videotape piracy had become.

On June 28, agents conducted a search of a Newport Beach, California videotape distribution outfit and found invoices, correspondence, shipping labels, and mailing lists that implicated a much larger organization in the illegal transactions—the U.S. military. The confiscated evidence led government, military and industry investigators to West Germany where, in three weeks, they found more than 1,000 illegal video cassettes on 14 military installations. The information gathered resulted in a federal grand jury indictment of the operators of Impact Video on charges they were regularly renting unauthorized, illegal—i.e. pirated—videotapes to service clubs located on U.S. military bases and sponsored by the military. According to a search warrant affidavit obtained by *The Rebel*, MPAA agents were told by a confidential informant in Munich, Germany that "... Impact Video was supplying large quantities of video cassette movies to United States military bases throughout Europe," and that "Impact Video was charging each club \$700 per month in exchange for providing each club with 10 movies per week."

Documents seized from Impact Video named names of dozens of U.S. military officers and numerous service clubs throughout Europe. Among the tapes seized were copies of *The Empire Strikes Back*, *Superman II*, *On Golden Pond*, and *Absence of Malice*—all believed to have been pi-



Yokota Air Base video copying machines in Japan

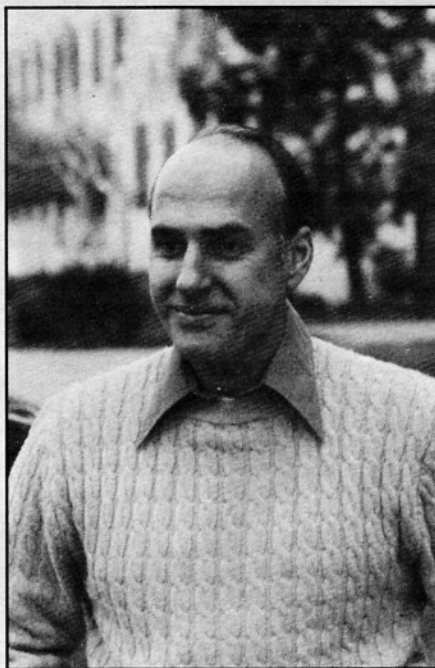
rated before they were made available in authorized tape form. Agents also found copies of *Deep Throat* and other X-rated films being made available to U.S. military bases.

The FBI also pounced on a U.S. Air Force officer at Travis AFB in California for allegedly duplicating and selling pirated videotapes. Capt. Eugene Horvath, a veteran navigator, was known by many of his fellow officers and supervisory officers as "Captain Video." He admittedly made copies of popular motion pictures that were part of his ever-growing "collection." His attorney says that his collection was so popular that other servicemen were constantly approaching him for copies. His collection was so popular, his attorney says, that Horvath decided to charge a \$5 per hour copying fee to offset the cost of the additional video-recorders he needed to make all the copies. A local civilian video store operator blew the whistle that resulted in a search warrant being served on Capt. Horvath's house—complete with an array of television cameras and reporters outside watching.

Capt. Horvath was charged with copyright law violations in U.S. District Court. Because of his clean record and excellent service record, Horvath was offered what's called a deferred entry of judgment. It worked like this: Horvath agreed to plead guilty to the charges and pay a \$7,500 fine plus perform 200 hours of volunteer services in the community. In return, the judge agreed to dismiss the case after the service was completed and after 36 months' probation.

Within three months, the judge agreed with Horvath's probation officer that the charges could be dismissed even earlier—this after everyone was convinced the Air Force captain's career could be unnecessarily damaged with anything short of a prompt dismissal of the criminal charges. With a completely clean record, Horvath now faces a January 25 Administrative Board hearing that could result in him being discharged from the Air Force. Horvath's attorney is attempting to prove that some of the captain's superiors reneged on their assurances that he could return to work with a clean slate if the charges were dropped. Instead, the attorney believes, the superior officers were pressured to change their tunes—pressured from higher-ups who were upset about the negative publicity Horvath had caused the Air Force to receive.

But it's the main argument in Horvath's defense that is the most interesting. His attorney is claiming the Air Force waived any impropriety on grounds that it condones the illegal taping and distributing of videotapes among military personnel and their dependents. In fact, the attorney has provided *The Rebel* with documentation that the Air Force is actually running videotape dubbing centers on U.S. bases in Japan, Korea, and in the Philippines.



Capt. Gene Horvath was known as Captain Video until he was caught making copies of his "collection" for other air force officers

This information was confirmed by members of the MPAA who say they've contacted several branches of the U.S. military to advise them that any copying of a copyrighted tape is a clear violation of federal law.

Air Force spokesmen in Japan told *The Rebel* that they, indeed, have copying centers at Yokota AB in Japan, Osan AB in Korea and at one time, at least, had a center at Clark AB in the Philippines.

Everyone we talked to agreed that the centers are located within craft and recreation centers on the bases and consist of from 20 to 40 dubbing stations. Each dubbing station consists of two videotape machines and one television monitor. The serviceman or dependent pays \$2 per hour for use of the copy station and may choose from hundreds of videotaped movies on hand. Air Force spokesmen insist the users are aware that they are not allowed to sell, rent or re-copy the tapes they make. It's for their personal use only.

Capt. Horvath, his attorney, and the MPAA all say this is a blatant violation of the U.S. copyright laws. The U.S. Army caught wind of the controversy and quickly closed down any video centers that could possibly be used to make illegal video copies. A message dispatched by the Adjutant General of the Department of the Army said the Army can't "encourage, condone or facilitate" the "unauthorized" copying of copyrighted sound or video recordings "with government-owned equipment by an individual for his or her private or personal use."

The Navy and the Air Force, though, have continued operating dubbing centers pending word from higher command. Spokesmen for the Air Force told *The*

Rebel that they were very aware of the controversy but were awaiting the outcome of the Supreme Court case involving taping of television programs off the air. They say it's a gray area in the law. The law is fuzzy.

"There's nothing fuzzy about it," says Dick Bloeser, director of MPAA's Film Security Office. "The law doesn't say anything about the outright duplication of tapes. You can't do it!" He adds that the Supreme Court case pending addresses only taping off the air and has nothing whatsoever to do with tape duplication.

This position comes as good news for Capt. Horvath. The way his attorney figures it, as long as the Air Force is in the business of providing illegal copies of motion pictures, they shouldn't be able to justify removing him for doing the same thing.

Although Horvath would not speak directly with *The Rebel* (he doesn't want to malign the Air Force, he says), his attorney raises the question that maybe the government feels Horvath was competing with its own operation. His attorney says Horvath charged \$5 per hour because he had to buy his own equipment. He says the government used subsidized equipment and, therefore, had less overhead. Horvath will apparently waive his right to privacy at the January 25 hearing in order that the news media have a chance to hear his defense.

But while Capt. Horvath and Impact Video are out of business, there are scores—even hundreds of video pirates operating in the U.S. and around the world. Dick Bloeser says the problem gets worse as more and more video machines are sold for home use, creating more and more potential customers for pirated tapes and more and more actual pirates. He estimates there are more than 9 million videotape machines in U.S. homes.

The problem, however, is more than just the proliferation of machines. Bloeser says it's getting harder and harder to prosecute the criminals. A former FBI agent, Bloeser says cases aren't handled as they were when he was in the Bureau. He says more and more attention is being given to narcotics investigations—leaving inadequate enforcement of crimes that are affecting his industry.

"It's a 'Catch 22.' We go to the U.S. Attorney and he says, 'We'll investigate any good case.' Then we go to the FBI and they say, 'We'd investigate, but the U.S. Attorney wouldn't prosecute a case like this.'"

Bloeser cites what's called a blanket declination by the U.S. Attorneys who don't like to risk taking on a case that they aren't assured of winning. "Sometimes," Bloeser says, "there can be too many guidelines and too narrow a target. It's frustrating, but I understand it." ■

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