Law Enforcement Bulletin

APRIL 1978

WILLIAM H. WEBSTER, DIRECTOR

FBI Law Enforcement Bulletin

APRIL, 1978
VOL. 47, NO. 4

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
Washington, D.C. 20535

WILLIAM H. WEBSTER, DIRECTOR

Published by the Public Affairs Office,
Homer A. Boynton, Jr., Inspector in Charge

Editor
Thomas J. Deakin

Associate Editor
William E. Trible

Staff
Kathryn E. Sulewski
Gino Orsini
Jeffrey L. Summers

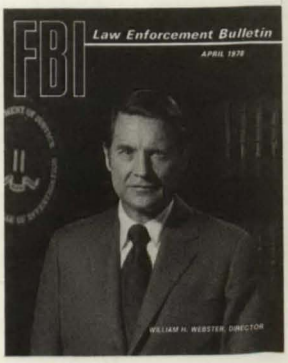
The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through December 27, 1978.

ISSN 0014-5688

CONTENTS

THE COVER

The third Director of the Federal Bureau of Investigation—Judge William H. Webster.



INTRODUCING THE NEW DIRECTOR

"I believe that law enforcement should be vigorous, but it should be with due regard for the rights of citizens."

WILLIAM H. WEBSTER,
U.S. Circuit Judge for
the Eighth Circuit,
January 30, 1978

Judge Webster, who succeeds Clarence M. Kelley as Director of the Federal Bureau of Investigation, thus summed up his philosophy of law enforcement in his confirmation testimony before the Senate Judiciary Committee.

Born March 6, 1924, in St. Louis, Mo., Judge Webster saw service in World War II and then graduated from Amherst College. In 1949, he earned a juris doctor degree from Washington University School of Law in St. Louis.

As a lieutenant in the U.S. Naval Reserve, he also served in the Korean conflict. Private law practice preceded his appointment as U.S. Attorney for the Eastern District of Missouri in 1960. From 1970 to 1973, Judge Webster served as U.S. District Judge in this district and then was named to the appellate bench.

Active in civic affairs, Judge Webster is an honorary (life) president of the Big Brother Organization and a member of the board of trustees of Washington University. He received an honorary LL.D. from Amherst in 1975 and the Distinguished Alumnus Award from Washington University Law School in 1977.

He was married in 1950 to Drue Lane. The Websters have two daughters, Drusilla Busch and Katherine, and a son, William H., Jr.

When news of his appointment was made public, the Judge responded to a reporter's question on why he would accept the job of FBI Director by noting that a sound judicial system begins with "a healthy respect for law and order, and that means law enforcement first." Judge Webster's understanding of the different problems faced by the judiciary and the police in interpreting the law was highlighted in his confirmation testimony when he noted that "a moment of hesitation can be a bad moment in law enforcement."

Testifying about his view of the FBI's role today, the new Director said, "The primary thrust of the Bureau in the future should be to do what local law enforcement agencies cannot do for themselves," specifically to direct nationwide investigative efforts against organized and white-collar crime and terrorism.

Director Webster's first public statement after his nomination noted he hoped "to carry on the fine work of Director Kelley in moving the Bureau forward to meet the challenges of modern law enforcement, to maintain the high standards and traditions of the FBI, and to protect our society within the framework of the Constitution."

"Officer, What *Should* I Do If. . . ?"

Sexual assault is a subject being addressed by professionals in law enforcement, medicine, psychology, and social work. Nonprofessionals, also, are speaking on the topic—neighborhood anticrime groups, feminist organizations, and commercial businesses promoting the sale of whistles, tear gas guns, and "quickie" self-defense courses.

In spite of great diversity in disciplines, these groups have reached general agreement on the correct *proactive* approach to reduce the incidence rate. To avoid an attack situation, the same measures advised for deterring robbery, burglary, and mugging are recommended for sexual assault. These precautions follow traditional "target-hardening" procedures—installing deadbolt locks and security alarms in residences; having adequate lighting in yards, parking lots, and along streets; and warning about the dangers of unlocked cars, hitchhiking, and encounters with strangers.

There is, however, great controversy regarding the correct *reactive* measures which should be employed in the event precautions fail and an attack is imminent or underway. Women are being told: "Scream," "No, don't show fear"; "Fight back," "No, try to talk to him"; "Be aggressive," "No, stay calm and cool."

By
Suzanne Tindall
Dade County Public Safety Department
Miami, Fla.

The public is bewildered because "experts" and laymen write books, produce films, and give speeches which advocate opposing self-defense philosophies. Basically, tactics to avert an assault are considered to be "aggressive" or "passive."

Aggressive tactics are designed to frighten off the assailant. Proponents believe that a large percentage of rapists are insecure—fearful of women and their own sexual inadequacies; that they coerce their victims by threats and intimidation; and that they are likely to flee in the face of aggressive reaction. Recommended resistance includes using karate, judo, and streetfighting techniques such as scratching, biting, kicking; carrying tear gas, hatpins, and nail files for weapons; or running, screaming, and blowing whistles. Feminists, martial arts instructors, and manufacturers of alarm devices and other paraphernalia are usually advocates of this methodology.

Passive techniques are intended to serve a dual purpose—to stall for time and to interrupt the offender's "fantasy trip" without increasing his level of anger. This philosophy is based on the premise that the attacker may be armed, that he is acting out of feelings of rage and hostility, and that aggressive reaction by the victim can escalate the violence and brutality of the assault. Examples of maneuvers in this category are: Talking and questioning, pretending to faint, urinating or vomiting, or crying and pleading. Victims' advocates, medical and psychological personnel, are frequent proponents of this approach to encounter tactics.

Within law enforcement, the aggressive/passive dichotomy is especially evident. While many police officers are demonstrating streetfighting

techniques to groups of women, others are telling audiences that it is far better to be a rape victim than the deceased in a homicide investigation. Departments with common jurisdictional boundaries frequently espouse contradictory tactics against sexual assault.

Police and other professionals are in general agreement on the proper procedures for investigation, evidence collection, treatment, counseling, and legislative reforms. Why, in spite of research and data collection, seminars and conferences, has argument on this one aspect of the crime not been resolved? Why do confused women continue to ask, "Officer, what *should* I do if . . . ?"

The reason is simple. While many rapists can be categorized as insecure/inadequate, many others belong to the rage/hostility group. Therefore, all tactics will work some of the time, but *no* tactic will work *all* of the time. Everyone is right and no one is wrong.

Research on the psychological motivations for sexual assault is sparse. It is frequently based on subjective evaluation and often inconclusive. Although data indicates that approximately 2 percent are homicidal and psychopathic, no consensus has been reached on classifications for the remaining 98 percent. In addition to the insecure/inadequate and rage/hostility groups, there may be other major categories, as well as numerous subgroups.

Nonetheless, during a recent series of interviews with six convicted rapists, the men indicated that both aggressive and passive tactics had been employed against them with relatively equal success.

Each man was asked to relate the details of any specific instance in which his intended victim escaped being sexually assaulted. One said that the only time he fled rather than pursue the attack was when the woman "struggled and screamed." On the other hand, another stated that it was the victim's screaming and struggling which led to her death by strangulation.

Three of the six offenders found physical fighting to be a "turn-on," while two others were more incited by crying and pleading. One rapist ran from the scene when the woman angrily demanded, "What the hell are you doing in my car?" However, when another assailant was smilingly told, "O.K. honey, let's go," he admitted, "With *that* I split!"

As evidenced by this small sampling, everything and anything can deter an attacker—SOMETIMES. The same tactic will not affect two rapists in the same way. What works with one probably will not work with another. Moreover, a specific maneuver may work for one victim but not another, even though used against the same attacker.

"The ultimate conclusion to any encounter is largely determined by the circumstances and interpersonal dynamics between participants."

The ultimate conclusion to any encounter is largely determined by the circumstances and interpersonal dynamics between participants. Therefore, an attempt must be made to analyze three sets of contributory factors influencing an attack—the situation, the victim, and the assailant.

The situation. In any situation, the outcome may depend upon whether it is daytime or night; a deserted or populated area; with advance warning or a surprise attack; in a vehicle, open area, or a residence; in familiar or unknown territory; in connection with another crime or in a social context.

The victim. The victim's choice of tactics will depend upon her values and priorities, personality, age, and physical capabilities or limitations. For some women, the fear of severe physical injury is overwhelming and paramount; for others, the fear of being raped is stronger. Many women have shy, docile personalities, while others are aggressive and quick to vent anger. The elderly and children do not possess the strength and agility of young adults. For the handicapped, mentally retarded, and those under the influence of drugs or alcohol, the response range is severely limited.

The assailant. How he is perceived by the intended victim will greatly influence her reactions, and therefore, the eventual outcome of the attack. He may be a total stranger, casual acquaintance, co-worker, neighbor, or relative. He may be brandishing a weapon or be unarmed. He may be using strong-arm force, beating and striking her, or simply threatening verbally. He may be acting alone or with a companion or group.

"Police departments can take the first step by acknowledging that at the moment of confrontation, no 'expert' will be there to answer the victim's questions."

Therefore, even though all tactics will work if employed in the right set of circumstances and conditions, attempting to determine which one should be used and when becomes an exercise of futility. The variables are too subjective and too numerous. They defy calculation.

For example: You advise a young, aggressive adult in good physical condition to put up active resistance if the assailant is unarmed. How is she to know? If awakened in the middle of the night, the intruder on top of her and tearing at her gown, will you be able to guarantee, either way, that she can make that crucial determination correctly? If face to face with the offender in broad daylight, can you assure her that he won't have a gun in his belt or a knife in his boot? Will he allow her to "frisk" him before deciding whether or not to fight?

If there are no unqualified statements that can be made about tactics to prevent sexual assault—no absolutes, no hard and fast rules to follow—then what role can law enforcement play in educating the general public? Should we simply plead ignorance, or avoid the subject of encounter tactics and stick to what we know best, the target-hardening approach to rape prevention? Certainly not!

Police officers have more credibility on this subject than any other professional group. Law enforcement agencies are the logical and proper source for crime prevention information, and moreover, may be the only viable channel for resolving the conflict. By accepting the responsibility, we can provide an invaluable service to other professionals, as well as to the general public.

Police departments can take the first step by acknowledging that at the moment of confrontation, no "expert" will be there to answer the victim's questions. She will be totally on her own, reacting within microseconds of the initial perception of danger. She will be the only person who can gage the situational factors, her own priorities, and have a sense of the attacker's level of violence. Examining and weighing these factors rapidly and under stress, her response will be selected instinctively rather than methodically. Nonetheless, the intended victim is the best, and only, person who can decide which tactics to use. Although police can neither make the decision nor offer on-the-scene advice, they can aid and assist women in making appropriate choices by asking questions rather than providing answers.

The principle was established some years ago by Dr. Carl Rogers and is termed "nondirective" counseling. Based on the premise that solutions to personal problems must be formulated by the individual himself, the therapist's role is one of guiding the patient through an exploration of his options, leading him to identify and examine each alternative. According to "Rogerian" theory, the person will then evaluate the options and reach an appropriate solution. The process often requires the counselor to answer a question with another question.

When applying the theory to the question of rape prevention tactics, consider this example: Instead of asking you whether or not she should fight, a woman tells you she intends to physically resist any assailant unless he has a knife or gun at her throat. However, after making this unequivocal declaration, she seeks official approval by asking, "That's all right, isn't it?"

Instead of answering the question, the nondirective approach would be to ask in return, "Since weapons are often concealed, how will you know whether or not he is armed?" Your question has served two purposes. It has given her a piece of information and also steered her into looking at the possibility previously unconsidered—the attacker's weapon might be concealed.

Even if we could present women with a set of maneuvers or guidelines to follow, there would be good reason not to do so. In spite of studying our expert advice, a woman might instinctively, automatically react contrary to the "rules," for instance, fight instead of pretending to faint, and if she were badly injured as well as raped, she might then experience unwarranted guilt and self-blame for not having "followed instructions."

Conversely, if the procedures we recommended were closely followed, but were unsuccessful in averting the assault, she might place the blame at the police department's doorstep, feeling antagonism and mistrust toward the very agency responsible for investigating her case.

Fortunately, law enforcement does not need to advocate a specific set of encounter tactics in order to educate the public. Instead, our rape prevention effort can be totally nondirective. This approach is not only logical, it is more viable and productive. In guiding audiences toward awareness of options and selection of their own appropriate alternatives, there are certain basic principles which can be outlined:

1. Fighting or verbal abuse increases one's chance of being injured or killed.

2. In any confrontation, it is easy to escalate violence but difficult to defuse it. Therefore, if passive/stalling tactics fail, a woman can try aggressive resistance. If, however, her initial reaction is one of aggression, she will not be able to resort to passive techniques if fighting fails.

3. Forceful resistance is relatively less dangerous if initiated during a preliminary period of interaction between victim and assailant, prior to the actual physical attack. Whereas, if an attack is launched without prior visual or verbal exchange, a physical counterattack will be more likely to increase her injuries without increasing her chance of escaping rape.

4. If the victim and assailant know each other, aggressive resistance is usually safer than if they are total strangers or have just met in a bar or other social situation involving drug or alcohol consumption. Behavior of total strangers and new acquaintances is the least predictable.

5. Overt demonstrations of fear can increase an assailant's anger. Many offenders indicate that screaming, running, crying, and pleading incite violence. It is interesting to note that the first two reactions are categorized as aggressive, the last two as passive.

6. Actions which increase the attacker's fear of being apprehended or identified can lead to a panic reaction wherein unintended, unwarranted violence is inflicted on the victim.

Police officers should share with the general public any data and information that may help women formulate their own tactical philosophy. For example, a 1975 Dade County sexual assault study indicated: (1) 55 percent occurred in residences; (2) 50 percent were perpetrated by someone known to the victim; (3) 50 percent involved the use of weapons; and (4) 15 percent occurred in vehicles. These are facts that may help women make decisions; there are others.

"Police officers should share with the general public any data and information that may help women formulate their own tactical philosophy."

The vast majority of rapists do not intend, nor want to inflict, serious injury. Only one-fourth of rape victims suffer physical trauma and less than 2 percent face a life-threatening situation.

In 1976, Dade County victims ranged in age from 2 months to 91 years and included significant numbers of young boys and young men. The public needs to know that no one is immune—young or old, male or female.

It is necessary for law enforcement to "tell it like it is" on some aspects of the crime that are not warmly received by the younger female audiences. Primarily, there are three:

1. Hitchhikers and scantily clad women *are* prime targets, at least to most of the offenders interviewed by this writer. It may not be "right" or "fair," but it *is* a fact.

2. Some women send out conflicting messages and some men hear what they want to hear. Therefore, women should be told to say what they mean and mean what they say. Furthermore, they should be warned not to send out "body language" messages that conflict with

"Reluctance to emphasize facts which tend to offend feminists can have serious consequences in the courtroom and be self-defeating to the criminal justice system."

either their words or true intentions.

3. If a women knows the offender, passive tactics combined with no physical injuries are likely to jeopardize a court case. Women must know this in order to determine whether or not they want to fight.

Reluctance to emphasize facts which tend to offend feminists can have serious consequences in the courtroom and be self-defeating to the criminal justice system. Two recent cases illustrate this point.

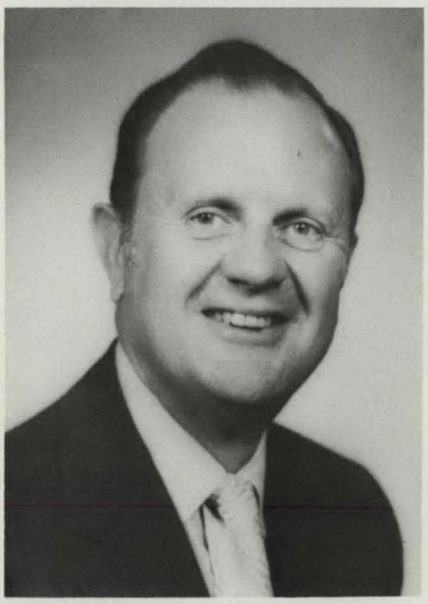
Case A: In the spring of 1977, a Dade County judge directed a verdict of acquittal after a young woman admitted that she offered little resistance when a guidance counselor took her to his apartment and began making advances.

According to the girl's mother in a post-trial statement, "The week before this happened they showed a film at school telling the students . . . don't fight it, your chances of getting out with your life are so much better."

However, the defense attorney, in his successful bid for the directed acquittal, stated, "She made no protestation . . . there's got to be some lack of consent on the part of the victim. She didn't say anything."

An important point is illustrated: Even though a course of action is outlined as a possible alternative rather than a recommended choice, the probable results of that action must also be clearly stated. In this particular case, the victim and her mother had failed to realize that total lack of physical and verbal resistance might be interpreted in a court as being total acquiescence. Had she known this, she might have elected to refuse more aggressively. At least, she would have been more aware of the ramifications of her decision.

Case B: In Los Angeles, a court of appeal reversed a rape conviction in August 1977 on the technical ground of faulty jury instruction. In its opinion, however, the court stated that: "A lone female hitchhiker . . . advises all who pass by that she is willing to enter the vehicle with anyone who stops and, in so doing, advertises that she has less concern for the consequences than the average female. Under such circumstances, it would not be unreasonable for a man . . . to believe that the female would consent to sexual relations."



Director E. Wilson Purdy
Dade County Public Safety Department

In her own testimony, the victim admitted that she cooperated in and initiated sexual acts after the driver became sexually suggestive. The defendant did not resort to physical force nor did he expressly threaten bodily harm.

Consequently, even though the victim might have feared that he would kill her, and the prosecution based its case upon implied threats from the situation in which she found herself, the court concluded that by entering the car willingly, she was responsible for making her lack of consent manifest.

This case illustrates the importance for: (1) Honesty about the probable consequences of exercising the "right" to hitchhike; and (2) frankness in telling women that convictions often hinge upon proving that lack of consent was clear, unequivocal, and adamant.

Many of the realities of rape prevention and prosecution do not seem "fair" to some women, and therefore, generate controversy. Nonetheless, police will be avoiding their responsibility if they do not provide these same women with candid, factual information.

To summarize, rape/sexual assault crime prevention programs can be handled most effectively by taking a dual approach—dividing the subject into two distinct segments—precautions and tactics.

In outlining precautionary measures, law enforcement can be directive and specific when recommending proactive measures to prevent being selected as a target for victimization. However, tactics to employ in the event precautions fail and an attack is imminent cannot be specifically outlined.

Even though no one can answer the question of what anyone else should do in a case of attempted rape, the public is floundering in a sea of conflicting advice, and it is only proper that police departments use their credibility and knowledge to resolve the confusion and endless debate.

To accomplish this, law enforcement can be the first professional group to:

1. Acknowledge that the intended victim is the *only* person who can know and weigh the elements of an attack situation;
2. Adopt the Rogerian nondirective approach which will allow, encourage, and even insist that each woman reach her own conclusion; and
3. Assist and guide women toward appropriate decisions through education and information about basic principles and data, including facts they may not want to hear.

Women who are knowledgeable and aware, women who have been encouraged to develop and act upon their perceptions and instincts, each according to her own needs and priorities, will no longer need to ask, "Officer, what *should* I do if . . . ?"

A Call for Nominations

American Society for Public Administration Washington, DC

The Association of Former Agents of the U.S. Secret Service, Inc. (AFAUSSS) has announced that it will again present an annual cash award to a deserving law enforcement officer, alive or deceased, for exemplary performance in the field of law enforcement.

Any sworn, full-time officer below the rank of chief, who is serving in a city, county, State police, or Federal law enforcement agency in the United States, is eligible for consideration. Exceptional achievement in any law enforcement endeavor, including but not limited to, extraordinary valor, crime prevention, drug control and prevention, investigative work, traffic safety, juvenile programs, community relations, training programs, and innovative approaches to law enforcement, qualifies an individual for nomination. The act or incident for which the nomination is made must have occurred during calendar year 1977.

Law enforcement personnel may be nominated by any source, but must have the endorsement of the chief of police or agency head. Each nomination must also be accompanied by a brief statement of specific circumstances involving the distinguished law enforcement performance, supplemented by supporting documentation such as departmental citations, letters of commendation, newspaper clippings, or copies of reports.

The Board of Directors of AFAUSSS will review each nomination and select the final winner, who will be announced at an annual conference to be held in September 1978.

Letters of nomination should be mailed to the Association of Former Agents of the U.S. Secret Service, Inc., P.O. Box 31073, Washington, D.C. 20031, and must be received no later than June 30, 1978.

Search by Consent

By
DONALD J. McLAUGHLIN
Special Agent
Legal Counsel Division
Federal Bureau of Investigation
Washington, D.C.

PART V

Deception, Fraud, and Misrepresentation

There is little doubt that entry into premises protected by the fourth amendment which is accomplished by deceit and subterfuge can violate the possessor's constitutional rights. And further, any search conducted thereafter is fatally infected by the manner of entry. *Gouled* v. *United States*, 255 U.S. 298 (1921). More recently, Justice Stewart pointed out that the fourth amendment "can certainly be violated by guileful as well as by forcible intrusions into a constitutionally protected area." *Hoffa* v. *United States*, 385 U.S. 293, 301 (1966).

In *People* v. *Coghlan*, 537 P. 2d 745 (Colo. 1975) (en banc), the defendant was a burglary suspect. Police initially gained admittance to her apartment on the pretext that they wanted to discuss with her an unsolved and unrelated crime (assault) in which she was the victim. Once inside, consent to search was obtained, and incriminating evidence found and seized. The court held that such consent was not given freely and voluntarily. See also *United States* v. *Griffin*, 530 F. 2d 739, 743 (7th Cir. 1976) (trickery, fraud, or misrepresentation on the part of police to gain entry undermines the voluntariness of any consent); *Smith* v. *Rhay*, 419 F. 2d 160 (9th Cir. 1969) (use of parole officer's extraordinary search authority to gain entry violates parolee's fourth amendment right when officer acts on behalf of sheriff in criminal investigation).

The result will be the same whether the deception induces permission to enter or goes directly to the consent. As stated by the Maine Supreme Court:

> "It is a well established rule in the federal courts that a consent search is unreasonable under the Fourth Amendment if the consent was induced by deceit, trickery or misrepresentation of the officials making the search." *State* v. *Barlow*, 320 A. 2d 895, 900 (Me. 1974).

See also *United States* v. *Berkowitz*, 429 F. 2d 921, 925 (1st Cir. 1970) (dictum) (when consent is given, courts must inquire whether consent was the product of deceit); *United States* v. *Pugh*, 417 F. Supp. 1019 (W. D. Mich. 1976) (consent to agent's request to copy and audit pharmacy records is not a voluntary consent to search and seize prescriptions for criminal prosecutions).

Some courts have held that there must be an affirmative or positive act of misrepresentation on the part of an officer to vitiate the consent to enter or search. *United States* v. *Robson*, 477 F. 2d 13 (9th Cir. 1973) (failure of IRS agents to disclose potential criminal ramifications of tax audit did not rise to an "affirmative misrepre-

sentation" nullifying a voluntary consent); *Mann* v. *Superior Court of San Bernardino County*, 472 P. 2d 468, 472–73 (Cal. 1970) (en banc), cert. denied 400 U.S. 1023 (1971) (consent voluntary where no active deception, such as officer claiming to be friend or delivery man, or otherwise conceals identity); *People* v. *Gurley*, 100 Cal. Rptr. 407 (Cal. App. 1972) (in absence of fraud, ruse, or subterfuge by officers, fact that accused may have been under subjective misapprehension as to officers' intent will not invalidate his consent to search).

The recognized exception to the general rule is found in cases involving undercover operations. In considering the problem of entry to an occupied hotel room by an undercover agent and the subsequent "seizure" of conversations therein, the Supreme Court has said the agent does not enter by stealth, but rather by invitation. Such authorization to enter is nothing more than the result of a wrongdoer's misplaced confidence. The agent's failure to disclose his role as an informer does not invalidate the consent to enter. *Hoffa* v. *United States, supra.* See also *Lopez* v. *United States*, 373 U.S. 427 (1963) (consent entry of Federal undercover agent); *Brantley* v. *State*, 317 So. 2d 337 (Ala. Crim. App. 1974), rev'd on other grounds 317 So. 2d 345 (Ala. 1975) (undercover operation, entry under guise of friendship does not vitiate subsequent consent to search, officers may use deception and artifice when acting in good faith to detect crime); *Commonwealth* v. *Brown*, 261 A. 2d 879 (Pa. 1970) (presence of deception or misrepresentation in undercover dealings with suspect does not require suppression; officers need not be completely open and truthful).

Physical and Mental Condition—Age, Background, and Experience

Among the important factors bearing on the issue of voluntariness is the physical or mental condition of the consenting party. A mentally incompetent person simply is incapable of granting officers permission to search. He must have sufficient mental awareness to know what he is doing and appreciate the nature and significance of his action. Even if the officers have a genuine belief that the consenting party is of sound mind and acting deliberately, the consent fails if a court later determines that he lacked mental capacity. *United States* v. *Elrod*, 441 F. 2d 353 (5th Cir. 1971). See also *Manning* v. *Jarnigan*, 501 F. 2d 408, 412 (6th Cir. 1974) (recognition that previous commitment to State mental hospital on six occasions is relevant factor in determining voluntariness); *United States ex rel. Daley* v. *Yeager*, 415 F. 2d 779 (3d Cir. 1969), cert. denied 397 U.S. 924 (1970) (consent involuntary where obtained from one in a weakened condition from loss of sleep and history of schizophrenia).

"Among the important factors bearing on the issue of voluntariness is the physical or mental condition of the consenting party."

The validity of a consent has occasionally been attacked on grounds that the consenting party was intoxicated. The general rule is that drinking or even intoxication alone will not necessarily destroy the effectiveness of a consent. *United States* v. *Leland*, 376 F. Supp. 1193 (D. Del. 1974) (defendant intoxicated to extent he was unfit to drive, unsteady, and difficult to rouse, was sufficiently rational to give voluntary consent); *Allen* v. *State*, 297 So. 2d 391 (Ala. Crim. App. 1974) (defendant who had been drinking not suffering from impairment of mind sufficient to negate voluntary consent); *State* v. *Strange*, 334 So. 2d 182 (La. 1976) (drinking alone not sufficient to render consent involuntary); *State* v. *Berry*, 526 S.W. 2d 92 (Mo. App. 1975) (consent voluntary when obtained from defendant who was "intoxicated to some extent"). In each of the foregoing cases, the court made reference to and applied the test used to determine the admissibility of a confession obtained from an intoxicated person.

The *degree* of intoxication, of course, is the critical point, and where the evidence shows the consent was not the product of a rational intellect and free will, it will be disallowed as involuntary. *United States* v. *Shropshire*, 271 F. Supp. 521 (E.D. La. 1967) (defendant drinking heavily for hours and intoxicated to some degree); *State* v. *Smith*, 178 N.W. 2d 329 (Iowa 1970) (intoxicated for 3 days); *State* v. *Gordon*, 549 P. 2d 886 (Kan. 1976) (in semiconscious state at hospital following accident).

Nothing should preclude an officer from seeking consent to search simply because the party asked has been drinking. But where it is apparent that the individual is so intoxicated that he does not know the nature and consequences of his act, the prudent approach, absent an emergency, is to allow for a period of recovery or "sobering up" before requesting consent. The same general rule would apply equally to cases where the consenting party is under the influence of narcotics.

The age, background, and experience of the consenting party are relevant considerations in judging volun-

"The age, background, and experience of the consenting party are relevant considerations in judging voluntariness."

tariness. The case of the younger and more inexperienced accused will receive more careful scrutiny than that of the hardened, inveterate offender. *Mobley* v. *State*, 335 So. 2d 880 (Fla. App. 1976) is illustrative. The court held that the consent obtained by police from a youth barely 18 years old and with very little education was involuntary. The court noted that such a person was "impressionable and vulnerable," particularly since the consent was secured at police headquarters. See also *In the Interest of R.L.J.* 336 So. 2d 132 (Fla. App. 1976) (consent from 14-year-old suspect of no unusual maturity not the result of a free and unconstrained choice); *People* v. *Gonzalez*, 347 N.E. 2d 575 (N.Y. 1976) (newlyweds under 20 years of age with very limited prior contact with police did not give voluntary consents; they were not "case-hardened sophisticate[s] in crime, calloused in dealing with police. . . ."). Compare these decisions with *Earls* v. *State of Tennessee*, 379 F. Supp. 576 (E.D. Tenn. 1974) (49-year-old male with some college education and who had served in two wars, consent voluntary); *Mack* v. *State*, 298 So. 2d 509 (Fla. App. 1974) (24-year-old with 3 years of college and prior arrest record, consent voluntary); *State* v. *Evans*, 533 P. 2d 1392 (Ore. App. 1975) (17-year-old with prior contacts with police and familiarity with his rights in criminal matters, consent voluntary); *Commonwealth* v. *Dressner*, 336 A. 2d 414 (Pa. Super. Ct. 1975) (education, intelligence, and experience of consenter should be considered; defendant police officer with understanding of investigative procedures and constitutional rights gave voluntary consent).

Number of Officers

Simply because a person is accosted by several officers does not mean a consent subsequently obtained is coerced and involuntary. What they say and how they act will be as important as the number of officers. Thus, 2 officers who threaten and intimidate a suspect may invalidate a consent, whereas 10 officers who act with deference and restraint may achieve the opposite result.

Cases in which the court has seized upon sheer numbers as a coercive factor usually disclose other exacerbating circumstances. See *United States* v. *West*, 486 F. 2d 468 (6th Cir. 1973), cert. denied 416 U.S. 955 (1974) (dictum) (eight officers who pointed shotgun at defendant and falsely advised they could obtain warrant); *United States* v. *Whitlock*, 418 F. Supp. 138 (E.D. Mich. 1976) (five Federal agents surrounding handcuffed accused at gunpoint); *United States* v. *Edmond*, 413 F. Supp. 1388 (E.D. Mich. 1976) (between 5 and 10 officers with open display of weapons); *People* v. *Gonzalez*, 347 N.E. 2d 575 (N.Y. 1976) (nine Federal agents "swarming" over small apartment of youthful defendants).

"Where aggravating factors are not evident, the number of officers alone will not have an adverse effect on the consent."

Where aggravating factors are not evident, the number of officers alone will not have an adverse effect on the consent. The presence of a large number of officers in an apartment does not present a situation which is *per se* coercive. *People* v. *Reed*, 224 N.W. 2d 867, 878 (Mich. 1975), cert. denied 422 U.S. 1044 (1975). Other decisions reaching the same conclusion are *United States* v. *Peterson*, 524 F. 2d 167 (4th Cir. 1975), cert. denied 423 U.S. 1088 (1976) (mere presence of officers and FBI Agents, absent any indication of coercion, does not vitiate consent); *United States* v. *Boston*, 508 F. 2d 1171 (2d Cir. 1974), cert. denied 421 U.S. 1001 (1975) (consent voluntary despite presence of four armed FBI Agents); *United States* v. *Jones*, 475 F. 2d 723 (5th Cir. 1973), cert. denied 414 U.S. 841 (1973) (five to seven FBI Agents, consent voluntary); *State* v. *O'Conner*, 320 So. 2d 188 (La. 1975) (consent voluntary in presence of 10 officers).

Time of Search

The time of day can be a relevant circumstance in deciding the voluntariness of consent. Arousal of a family by police in the dead of night is a practice abhorred by the law, and is condemned even when a search of the dwelling is authorized by warrant (absent special circumstances). *United States ex rel. Boyance* v. *Myers*, 398 F. 2d 896 (3d Cir. 1968). The late Justice Frankfurter had this to say:

> "Modern totalitarianisms have been a stark reminder, but did not newly teach, that the kicked-in door is the symbol of a rule of fear and violence fatal to institutions founded on respect for the integrity of man . . . . Searches of the dwelling house were the special object of this universal condemnation of official intrusion. Nighttime search was the evil in its most obnoxious form." *Monroe* v. *Pape*, 365 U.S. 167, 209–10 (1961) (dissent).

An unusual hour alone will not taint an otherwise voluntary consent to search. *People* v. *Johnson*, 329 N.E. 2d 464 (Ill. App. 1975) (2 a.m.); *State* v. *O'Conner*, 320 So. 2d 188 (La. 1975) (3 a.m.). But the time of search will be examined carefully by a reviewing court, and can be highly damaging when combined with other

factors suggesting coercion. Thus, where six armed officers entered a women's dormitory for migrant workers at 4:30 a.m. while the undressed residents were asleep, went into darkened rooms with flashlights, and demanded the occupants' papers, all of this without warrant, the actions could not be approved as the product of voluntary consent. *Illinois Migrant Council* v. *Pilliod*, 398 F. Supp. 882 (N.D. Ill. 1975), aff'd 540 F. 2d 1062 (7th Cir. 1976).

As a general rule, officers should avoid seeking consent to search during nighttime hours. Only in extraordinary circumstances, as where evidence sought is in imminent danger of destruction or removal, should such an effort be made.

Manner of Request

Mistreatment of a person from whom permission to search is sought will jeopardize the voluntariness of consent. An overbearing and intimidating attitude by the officer will elicit nothing more than acquiescence, which falls far short of the free relinquishment of rights required for valid consent.

In *State* v. *Ahern*, 227 N.W. 2d 164 (Iowa 1975), the State attempted to justify a consent to search following a forcible, warrantless entry. An officer kicked in an apartment door and immediately arrested the person inside for possession of marihuana observed in plain view. He then told the prisoner that he was going to search the place for narcotics, and that the prisoner "would save everybody a lot of trouble" by disclosing the location of the contraband. The arrestee cooperated. The court ruled the consent involuntary.

A Federal appellate court likewise held consent to search a suitcase involuntary where the consenting party was ordered out of the bus in which he was riding by Federal officers, and "told" to open his suitcase. Compliance with this command did not amount to a voluntary consent. *United States* v. *Rodriguez*, 525 F. 2d 1313 (10th Cir. 1975).

A particularly egregious case of coercion and duress is found in *United States* v. *Brennan*, 251 F. Supp. 99 (N.D. Ohio 1966). Noisy entry was made to defendant's premises at 5 a.m. by officers in a number of cars with flashing lights. The defendant was roused, encircled by agents with guns, and advised six times he was under arrest. He executed a consent to search form when told, "Sign this and we won't disturb the kids." The Federal court condemned the consent as involuntary, describing such tactics as "a clever method of depriving people of their constitutional rights by terrorizing them and their families in the darkness of the night with lights, guns, intimidation, false accusations, and a suggestion to go into the house of the victim." *Id.* at 106. (See also decisions cited in Use of Force and Threats, Submission to Authority, Number of Officers, and Time of Search, *supra*.)

The words and manner chosen by an officer are important in obtaining truly voluntary consent. The language must convey a request, not a command; the demeanor of the officer must be such as to allow a free choice, not surrender to the inevitable. It serves the officer best when the request for consent is simple and direct, and where he avoids intimidation by the volume, inflection, or ambiguous meaning of his words.

"The words and manner chosen by an officer are important in obtaining truly voluntary consent. The language must convey a request, not a command; the demeanor of the officer must be such as to allow a free choice, not surrender to the inevitable."

Cooperation of Consenting Party

The prosecution's burden of proof to show voluntary consent is more easily satisfied when permission is obtained from a cooperative defendant who actively assists in the search. The principle has been summarized as follows:

> "When a defendant not only consents to a search, but actively assists the officers, either by directing them to the evidence sought or by voluntarily providing a key or other means to gain access to the place to be searched, his consent will generally be regarded as voluntary, especially if he expressly cooperates to get a 'break.' There is hardly better evidence of voluntariness than that which shows that the defendant did more than was requested of him." 9 ALR 3d 858, 883 (1966).

In *State* v. *Knaubert*, 550 P. 2d 1095 (Ariz. App. 1976), the defendant was taken into custody in connection with several rapes, a robbery, and murder. Shortly after, he confessed. Following the confession, police asked defendant about the location of a gun used in the commission of the crimes. The defendant offered considerable assistance in locating the weapon, but later challenged the police search on grounds that his consent was involuntary. The court rejected his argument, holding the "degree of affirmative assistance given to the police is relevant in determining whether consent exists." The defendant's active coopera-

tion persuaded the court that consent was freely given.

Numerous decisions have reached the same conclusion. See, e.g., *United States* v. *Ciovacco*, 518 F. 2d 29 (1st Cir. 1975); *United States* v. *Torres*, 354 F. 2d 633 (7th Cir. 1966); *Connelly* v. *Parkinson*, 405 F. Supp. 811 (D.S.D. 1975); *Santos* v. *Bayley*, 400 F. Supp. 784 (M.D. Pa. 1975); *State* v. *Page*, 206 So. 2d 503 (La. 1968); *Commonwealth* v. *Aguiar*, 350 N.E. 2d 436 (Mass. 1976). Other cases are collected at 9 ALR 3d 874, 883.

What prompts the consenting party to assist police in conducting the search is of little consequence. Thus where the consenter volunteers his help to police in locating evidence in order to implicate another and to shift the blame from himself, *People* v. *Cannon*, 323 N.E. 2d 846 (Ill. App. 1975); or assists officers with confidence that the evidence sought is too well concealed to be found, *State* v. *Sherron*, 463 P. 2d 533 (Ariz. 1970), *Commonwealth* v. *Dressner*, 336 A. 2d 414 (Pa. Super. Ct. 1975); or tries to "bluff" his way out of a difficult situation, *People* v. *Benson*, 544 P. 2d 646 (Colo. App. 1975), *State* v. *Rush*, 497 S.W. 2d 213 (Mo. App. 1973); or denies ownership of the evidence sought, *United States* v. *Katz*, 238 F. Supp. 689 (S.D. N.Y. 1965), the consent has been deemed voluntary.

By contrast, the refusal, resistance, or protestation of a person which precedes a search is compelling evidence of an involuntary consent. *Sarga* v. *State*, 322 So. 2d 592 (Fla. App. 1975) (compliance with officer's third demand after two earlier refusals, consent involuntary); *Samuels* v. *State*, 318 So. 2d 190 (Fla. App. 1975) (consent involuntary where defendant initially denied permission and even contested officer's authority to search); *People* v. *Taylor*, 333 N.E. 2d 41 (Ill. App. 1975) (search unlawful after express assertion of right to bar search until warrant obtained).

A Federal appellate court recently found a consent to search premises involuntary where the consenting party initially refused and later, under heavy pressure, changed her mind. Based on an informant's tip, officers went to the home of a robbery suspect's girlfriend, where he was reported living. They had neither arrest nor search warrants. The suspect was unexpectedly found there, arrested, and removed to a patrol car. The girlfriend, an 18-year-old grade school dropout, was asked for permission to search the premises. She denied the request. Two officers then took her "crying" and "scared to death" to the kitchen, where after 20 to 30 minutes, she yielded. The court held the consent coerced, nothing more than submission to authority. *United States* v. *Mayes*, 552 F. 2d 729 (6th Cir. 1977).

Summary

The test is simple. If the consent is voluntary, considering all the circumstances, the search is lawful. The problem arises, of course, in the application of this "simple" test. Given the myriad of factors which generally surround the granting of consent, and considering the understandably diverse reactions of the courts to different fact patterns, it is a most difficult task to predict how an individual judge is apt to respond to a claim of involuntary consent. Yet that is what is expected of an officer. He must: (1) Anticipate that a consent to search is an attractive target for the defense and will be challenged routinely; (2) be able to recognize the bases upon which the defense will attack; and (3) be prepared to overcome each and every claim of the defense.

Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

Effective courtroom testimony of an officer is vital if voluntary consent is to be proven. Yet the testimony reflects nothing more than what the officer did or did not do at the scene of the search. So the concern shifts from the courtroom to the house or hotel or roominghouse where the search was made and where the officer applied his knowledge of constitutional law. *Knowledge is the key.*

Court decisions that carefully analyze consent searches identify the problem areas and inform the officer what he must avoid to assure voluntariness. Consider the case of *People* v. *Gonzalez*, 347 N.E. 2d 575 (N.Y. 1976). The New York Court of Appeals provides a checklist of factors relating to voluntariness and discusses each at some length: (1) Custody; (2) resistance of arrestee; (3) number of officers; (4) handcuffing; (5) isolation; (6) background and experience; (7) cooperation; (8) evasiveness; and (9) warning of rights. *United States* v. *Mayes*, 552 F. 2d 729 (6th Cir. 1977); and *Commonwealth* v. *Dressner*, 336 A. 2d 414 (Pa. Super. Ct. 1975), are similar cases.

There is a close parallel in the law between consents and confessions. The circumstances that give rise to a coerced confession will likewise cause an involuntary consent. Indeed, the Supreme Court has borrowed heavily from the large body of confession law to decide consent search cases. *Schneckloth* v. *Bustamonte*, 412 U.S. 218, 226 (1973). Thus the officer burdened with securing and later proving a voluntary consent has ample materials available to guide him.

(Continued Next Month)

Police Uniform: *A Study of Change*

By

DR. DENNIS F. GUNDERSEN

Assistant Professor of Speech Communication
The University of Alabama
Law Enforcement Training Academy
Tuscaloosa, Ala.

It is a matter of continuing conjecture whether the fashion in which someone dresses actually *changes* his behavior or whether it *reflects* his behavior; yet there is little doubt that dress is strongly linked in some positive manner to the behavior of the wearer. There are two ways to view this relationship. The first would assume that when an officer puts on the normal military-style police uniform, he or she modifies his or her self-image to correspond to the stereotypes associated with this uniform. This view would hold that the uniform actually causes behavior associated with its stereotypes. The second position holds that those officers who do not feel their behavior to be in accord with the stereotypes of the uniform will not wear it—that over a period of time only those officers who are comfortable with the image created by their uniforms will remain in the job. In either case, the assumption is that if you put a person in a different uniform, one that does not carry with it a century of stereotypes, the behavior of the officer and the perceptions of the citizens he protects will be modified.

Certainly the adoption of a new uniform is not a single act. It involves the changing of a deeply rooted set of

The author appreciates the assistance of Chief Albert M. Rose of the University of Alabama Police Force, Chief Robert Dawson of the Auburn University Police Force, and the University of Alabama Faculty Research Grants Committee who sponsored this research.

Director R. E. Summerlin
Law Enforcement Training Academy
The University of Alabama

Dr. Dennis F. Gundersen

"[T]he assumption is that if you put a person in a different uniform . . . the behavior of the officer and the perceptions of the citizens he protects will be modified."

values on the part of the police administration. The uniform change is in reality only the most obvious public symbol of this change of values. This complex process is well-documented in "A New Image for Campus Police," an article by Floyd A. Mann featured in the February 1973 issue of the FBI Law Enforcement Bulletin. In this article, the change of uniform at the University of Alabama is discussed.

For the past 5 years, the officers at the University of Alabama have been uniformed in blazers and slacks. Though they are armed, the handgun is concealed and no leather and brass are in evidence. This uniform style has been in effect long enough that the students on campus now think of this as the "traditional" uniform for their university police. Few, if any, undergraduates remember a time when the police dressed other than they do now.

The University of Alabama seems unique in that it is one of the few communities in the country where the "new" look in police uniforms is not viewed as new. The uniform is no novelty in Tuscaloosa. Many of the officers and nearly all of the students think of it as "the way things always were." No longer can differences in behavior and perceptions at the University of Alabama be attributed to the mere novelty of a new uniform. In fact, after 5 years, such changes should most certainly be attributed to the uniform and the policy changes it reflects.

A study was recently undertaken to determine the differences in perceptions this uniform elicited, both in those officers wearing it and the students who were in daily contact with them. For comparison purposes, the police and students at the University of Alabama and at nearby Auburn University were questioned. At Auburn officers wear an attractive traditional police uniform, while at Alabama the blazer and slacks uniform mentioned is the norm. Questionnaires were distributed to students and police at these two similar campuses.

Students used a form to report their perceptions of the trustworthiness, professionalism, objectivity, and dynamism of their particular police force. The officers at each school were asked to rank themselves on these same items, as well as filling out a scale which measured their self-image or personal concept. A sizable, representative population of students and police were contacted at both institutions.

Before discussing the findings of this research it is interesting to note that students and police at both institutions ranked their campus police forces as relatively high in all categories. Though the computerized analysis of the data did reflect differences, these differences were at the high end of the scales; that is, the differences reported do not indicate negative findings for one campus or the other, but rather a more positive set of attitudes at one institution. Students' attitudes and officers' morale are high at both campuses, and the differences occur at the good-to-excellent end of the scale.

Students at Auburn viewed their police as quite trustworthy, while those at Alabama saw their officers as very highly trustworthy. This difference was statistically significant.

A similar difference existed in the students' perception of professionalism. The Alabama students viewed their officers as being significantly more professional than the already positively ranked Auburn officers.

The students reported the opposite concerning the perceived dynamism of their respective officers. Auburn students perceived their officers as highly active and dynamic, while the Alabama students thought of their police as positively dynamic, but significantly less so than their Auburn counterparts.

The students ranked the Alabama officers as significantly more objective than the Auburn officers, though again both sets of perceptions were positive.

The perceptions of the officers at the two schools seemed to reflect belief that the officers, in spite of their uniforms, are indeed much the same at both universities. There were differences in professionalism and trustworthiness, with the Alabama officers seeing themselves as somewhat higher on these scales, but there were no significant differences in the objectivity, dynamism, or self-esteem variables.

These findings speak well for both campus police forces. Now, only a

few years after some of the most wrenching student unrest in our history, it seems that students hold positive attitudes about their police forces no matter what their uniform.

The data also reflect that officers have a healthy set of attitudes about their profession. The noted differences lead to speculation that police forces might increase community acceptance by altering their image with a less stereotyped uniform.

At least for campus forces it would seem evident that there are advantages to the adoption of a new uniform. This 5-year change in uniforms at Alabama has bolstered the image of the officers to the point that officers are now seen as *very* trustworthy, professional, and objective. The single reverse finding indicates a significant lowering of perceptions of dynamism or activity on the part of students. It is up to individual police administrators to determine whether this is a positive or negative change and to determine whether this lowering of perception of dynamism is worth the increase in the other three measures.

Police administrators should also consider that in this study nothing was lost in terms of the officer's self-esteem, his perceptions of his own dynamism and objectivity, and there was a significant increase in perceptions of trustworthiness and professionalism. It is quite possible that after 5 years of dealing with students who feel their police are highly trustworthy and professional, officers have unknowingly raised their own opinion of themselves. This could prove to be a valuable morale booster for campus police organizations.

Further research should be encouraged to determine whether specific uniform changes will bring about positive attitudes, and if so, what sort of changes are advisable. The data from Alabama and Auburn indicate that there is more to the power of a uniform change than the simple novelty of a new look—the changes have lasted too long for that.

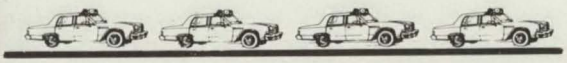
"At least for campus forces it would seem evident that there are advantages to the adoption of a new uniform."

We should determine whether these changes are advisable, or even feasible, on the municipal level. Each of the campuses studied has a population larger than many municipalities, so the potential assets of a uniform change on the mass level should not be dismissed too quickly. There is the potential problem of officer visibility, and the need for instant recognition of the police uniform. These problems certainly deserve study.

Though it would be hasty to generalize immediately from this data to recommend a uniform change for all municipal police forces, one additional benefit of campus use should be considered. If this uniform change brings about a change of attitudes on the part of students of college age, the long term effects could be gratifying. Our college populations are the physicians, clergymen, lawyers, and other professionals of tomorrow. Anything which would send these graduates to these positions of leadership with increased understanding and respect for law enforcement could have positive ramifications. If tomorrow's leaders could be brought to think positively about police the benefits should be inestimable to all.

The problem of where these changes began and will end is still perplexing. Certainly a new and different philosophy of law enforcement is necessary for a police administration to alter drastically its uniform. This will be most evident to the public in terms of the uniform itself, but changes in duties, regulations, and selection will certainly be part of this philosophical change. These changes lead the public (students in this case) to view the officer in a different light and to react to him more positively. The continued positive reactions from the public will lead the officer to alter perceptions of self and uniform and to become a different sort of officer than he or she previously was. These subtle changes in behavior will bring the officer very close to the philosophy advocated by the administration in its original guidelines. And so the process comes full circle. We could begin this positive, healthy cycle at any point, but at Alabama it all began with a change in uniform.

SPECIAL MOBILE AUTOMATED REMOTE TERMINAL CARS



By
SGT. WILLIAM ALEXANDER,
SGT. GEORGE BANKS,
and
SGT. JAMES STAPNICK
Research and Development Division,
Chicago Police Department,
Chicago, Ill.

This past summer two officers on routine patrol in Chicago's sixth district observed a suspicious-looking vehicle traveling through an alley. The officers followed the car and entered its Louisiana license plate number into their mobile terminal. Within 8 to 10 seconds, a response from the department's communications center confirmed their initial suspicions that the plate had been reported stolen. They approached the vehicle and placed the driver under arrest. Subsequent investigation revealed the automobile had been stolen in California.

Similarly, officers assigned to a tactical team in Chicago's second district received information that known criminals were attending a meeting in a local motel. They secreted their squad car in a dimly lighted area of the motel's parking lot and proceeded to record the license number of each of the 35 cars in the lot. Upon returning to their car, they checked each of the vehicles for steals and registration, and using the registration information, checked the owners for wants and warrants. Thirty minutes later, when the subjects returned to their autos,

Sergeants Alexander, Banks, and Stapnick (left to right).

the officers approached two of the vehicles, and after identifying the drivers as the registered owners, placed them under arrest for outstanding warrants. Two more offenders were snared by S.M.A.R.T. (Special Mobile Automated Remote Terminal) Cars; similar occurrences have become commonplace since the recent deployment of mobile terminal vehicles in Chicago.

The Chicago Police Department's Communications Center enjoys a reputation as one of the most sophisticated and intricate networks of radio, telephone, and computer links in the law enforcement profession. Methods of receiving citizen complaints and dispatching officers have been studied and favorably reported in a variety of publications. The implementation of S.M.A.R.T. cars has reinforced that reputation and lent additional support to the field forces by providing direct access to computer files on wanted persons and stolen property, without the necessity of relaying information to and from a dispatcher.

From its inception in 1961, the new Chicago Police Department Communications Center has been a model system, in that dispatchers could be in simultaneous contact with complainants and police officers on the street. The center initially consisted of nine tactical radio frequencies transmitting from the second floor of the headquarters complex. As the number of incoming calls increased, a saturation point was reached and delays in answering citizen calls resulted. The percentage of available air time was considerably less than the minimum standards for American Public Safety Communications officers. Thus, the number of radio frequencies was increased from 9 to 11 in 1974. Further workload increases led to additional requests to the Federal Communications Commission for even more frequencies; two more were granted in 1976. At that time, some zones were experiencing 96 percent use or actual air time, but no additional allocation requests could be granted since the department's share of the public service radio spectrum was completely filled.

Operating position of mobile terminal in patrol vehicle.

Anticipating this diminution of available frequencies in the 460 megahertz range, alternative methods of conducting the traditional checks for wants, warrants, and stolen property were studied. It was determined that nonvoice digital transmission in the proposed 900 megahertz range which required no dispatcher intervention would be feasible. An extensive 5-year study was undertaken in cooperation with a major supplier of radio equipment and a computer vendor, the result of which was the development of a vehicular-operated computer inquiry system.

The system is comprised of a vehicle-mounted computer terminal, a logic unit, and a radio transmitter with receiver sites located atop several of the city's tallest buildings. At the communications center, a small computer acts as a message switch, routing inquiries to the local data base, which in turn routes the inquiry

to State data banks and the National Crime Information Center (NCIC). It returns responses to the inquiring terminal, while simultaneously determining channel assignments and keeping transmission traffic balanced. At present, the system is operating at 25 percent of its planned capacity with 54 vehicles. The department anticipates a future total of 216 units. At full strength, all vehicles which operate 24 hours per day in the patrol forces and selected investigative vehicles will be equipped with terminals.

Officers are given 8 hours of training on the operation of the system prior to assignment to a mobile terminal vehicle. Instruction consists of 4 hours introductory background information and 4 hours of "hands-on" practice with live files. Training is conducted in a classroom equipped with four live terminals so that each officer is allowed adequate time to become fully familiarized with the equipment.

Operating instructions are kept as simple as is possible. Inquiries require the entry of a single code letter followed by the information sought. From the moment the inquiry is transmitted, the system requires no further human intervention. License or vehicle identification number (VIN) inquiries and local, State, and NCIC checks for steals are performed. Vehicle registration information is provided if the State is an NLETS (National Law Enforcement Tele-Communications System) member. Local, State, and NCIC are also queried for name checks, wants, and warrants.

In addition, the system allows communication between vehicles, independent of the voice channel dispatchers. With the proliferation of channel scanners and transistorized receivers, few traditional voice communications are secure from interception. With the message being transmitted in digital hexadecimal form, in a much higher frequency range, the possibility of interception and/or "decoding" is greatly reduced. Equipment capable of intercepting and decoding the digital messages is very costly. Thus, the possibility of interception is reduced and the security of tactical undercover or surveillance communications is enhanced.

"[T]he possibility of interception is reduced and the security of tactical undercover or surveillance communications is enhanced."

Sergeants Alexander (left) and Stapnick run a vehicle check.

The following data were collected regarding 54 S.M.A.R.T. cars in operation on a recent date selected at random.

41,886 inquiries in the same 24-hour period. This magnitude of inquiry is beyond the capability of the present voice channel radios. Skeptics might

car from each sector in the 10 affected patrol districts was chosen by headquarters personnel who had no prior knowledge of the personnel assigned.

TABLE I

Watch	Type of lic/plate	Inquiry name	VIN	Drivers license	City vehicle lic.	Adminis. messages	Total
1.....	423	117	18	18	3	1,442	2,021
2.....	510	89	28	10	3	1,439	2,079
3.....	737	110	17	21	2	2,065	2,952
Total.....	1,670	316	63	49	8	4,946	7,052

Administrative messages	4,946
Total inquiries	2,106
Total	7,052

Table I indicates that the gathering of statistical data is greatly facilitated since it is automatically machine calculated. Table II (below), on the other hand, required a one-man day of sorting dispatch cards and human judgment to arrive at this level of analysis. To sort the data by watch would have required an additional man-day of work.

A comparison of the data discloses an important finding. Chicago has 337 beat patrol cars assigned to its first watch, 345 on the second watch, and 554 on the third watch. The 54 terminal-equipped vehicles performed 2,106 checks of persons and vehicles. The remaining 1,074 vehicles of the fleet performed the following checks on all watches:

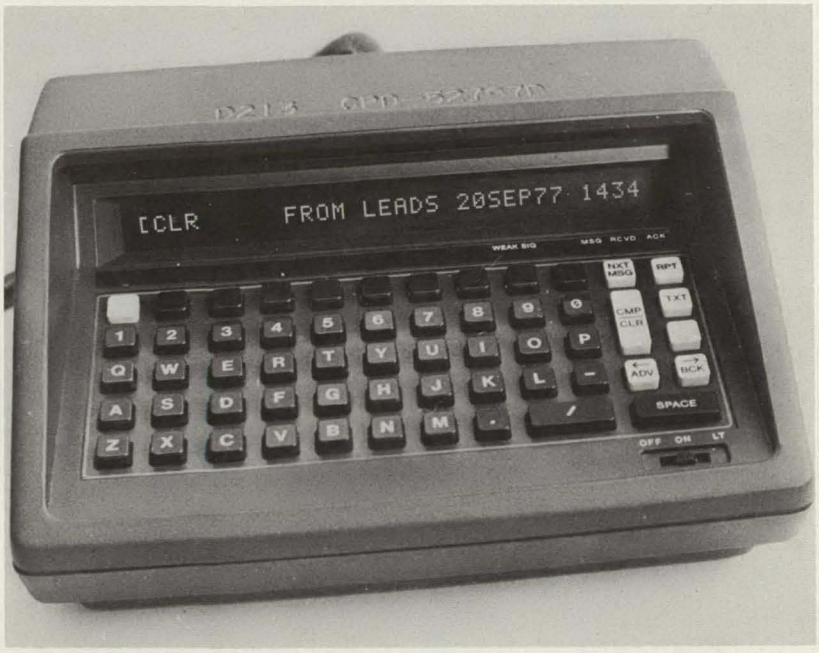


TABLE II

Type of inquiry: License/all	Names	VIN	Total
819	151	85	1,055

To match the average achieved by the terminal vehicles, the nonterminal vehicles would have had to make

say that the result was achieved by assigning more highly motivated men to the terminal vehicles. In fact, 1

The primary criterion in selecting specific beat cars was geographic distribution to insure that maximum

coverage of the area would be achieved.

An additional factor to be considered is the speed with which the computer responses are returned. By voice channel, we found the following times from inquiry to response:

[In minutes]

Type of inquiry / Lic/hot/cold only	Registration	VIN	Name (warrant)
6.08	8. 58	8. 93	10. 2

By contrast, with no dispatcher involvement, the terminal vehicles showed the following times for all types of inquiries as charted below:

ALL CATEGORIES OF INQUIRIES

Response time (seconds)	Percentage of total	Percent of cumulative total
1 to 5	68. 1	68. 1
6 to 10	17. 1	85. 6
11 to 15	5. 1	90. 7
16 to 20	2. 6	93. 3
21 to 25	1. 6	94. 9
26 to 30	1. 0	95. 9
30+	3. 8	99. 7

Officer acceptance of the system was immediate. Beat officers feel it is one of the most beneficial tools to be made available since the department switched from vehicle-mounted to personal portable radios. Frequent inquiries are received from officers regarding projected installation dates in their district.

The benefits of the system are readily apparent. Motivated street officers who challenge large numbers of persons on the street are frequently stymied in making checks for wants, warrants, and steals, especially during hours of peak activity. They often find it necessary to refrain from requesting name checks or registration to insure sufficient air time for routine transmissions. In addition, dispatchers tend to discourage officers from performing street stops of suspicious persons and subsequent checks for wants and warrants during busy periods. The result often is a fundamental difference in the perceptions of the dispatchers and field officers. Dispatchers perceive the necessity of preventing dispatch backlogs, while street officers are primarily interested in indicators of productivity, such as the number of street challenges leading to arrests.

The vehicle-mounted terminal has resolved the conflict.

"The Securities and Exchange Commission's Pilot Program"

With the revision of the Securities Exchange Act of 1934, a pilot program was developed by the Securities and Exchange Commission (SEC) for the reporting of and making inquiries concerning lost, stolen, missing, and counterfeit securities. Brokers, dealers, banks, transfer agents, and other financial institutions are now required by law to report securities falling in the preceding categories on form X–17F–1A.

Reports and inquiries concerning governmental securities must be directed to Federal Reserve banks. The Federal Reserve banks in the 12 Federal Districts forward all reports and inquiries to the computer data bank maintained by New York Federal Reserve Bank, New York City. However, reports and inquiries concerning private sector securities must be directed to the computer data bank maintained by the Securities Information Center, Inc., Wellesley, Mass.

This pilot program will terminate December 31, 1978. For additional information call the SEC at 202–755–7826.

Run—to Protect Citizens and Yourself

By
STEPHEN D. GLADIS
Special Agent
Federal Bureau of Investigation
Washington, D.C.

Part I

Why Running?

Police garages are glutted with the sleek chariots of today's centurions. Where once the beat was walked by the solitary blue coat, the police car now carries the officer. Tires have replaced the shoe leather and the call-box has given way to the walkie-talkie. Computers access information from central files at the touch of a finger. Everywhere you look in the modern police department, pneumatic tubes and electronics have reduced the amount of work the police have to do physically, except when the officer has to physically intervene to protect his own life or that of a citizen.

> **"There are numerous occupations that depend upon physical fitness for the proper performance of duty and law enforcement is such a profession."**

There are numerous occupations that depend upon physical fitness for the proper performance of duty and law enforcement is such a profession. It is not only a factor but also a necessity—one that could mean the difference between life and death and the welfare of the citizenry.[1] Most Federal, State, and local agencies require trainees at their academies to pass certain physical fitness tests which meet minimum standards of preparedness to carry out the duties of law enforcement. After the initial exposure at the training centers, however, policemen and law enforcement personnel are often left to their own devices to sustain their levels of fitness.

When an officer needs to respond in an all-out effort to save a life, the success rate of the performance of that duty is directly proportionate to the

"When an officer needs to respond in an all-out effort to save a life, the success rate of the performance of that duty is directly proportionate to the fitness level of the officer; namely, cardiorespiratory endurance, muscular strength, flexibility, speed, agility, and optimal body composition."

fitness level of the officer; namely, cardiorespiratory endurance, muscular strength, flexibility, speed, agility, and optimal body composition. Perhaps the most devastating thing that can be done to a heart is to take it from its resting state and hurl it to maximum output. When football players move from the bench into action without proper warmup, the results are pulled muscles. The heart is also a muscle supported by coronary arteries, which can rupture when put to the strain of sudden all-out performance without prior conditioning, and immediate all-out performance is the very activity that every policeman must be ready to do. During these times of maximum exertions, the heart is put under unusual stress, and it is not unusual to hear of an officer having a heart attack under these circumstances. According to Dr. Tom Collingwood, formerly with the Dallas, Tex., Police Department, law enforcement has had a high incidence of heart disease for some time.[2]

Body composition has a very important effect on physical conditioning. Having the proper ratio of body fat to total body weight is necessary for maintaining top performance by the police officer. Optimal body weight will improve speed, agility, endurance, and cardiovascular response. Body weight is also related to incidence of heart disease.[3] It is estimated that over 80 million Americans today are overweight. The first place a person turns when he is overweight is to his diet. While that approach is certainly helpful, it does not answer the problem entirely. Dr. Jean Mayer, who has been described by some as the "superstar of America's nutrition," stated in an article in *U.S. News and World Report* that the best evidence suggests that it is not the eating but rather the total lack of exercise of so many Americans that causes weight problems.

> "Our big problem is exercise—the fact that since 1900 Henry Ford started mass producing automobiles, and principally since World War II we have produced an enormous amount of labor-saving devices for both industry and the home. The physical activity of men and later of women has dropped drastically since 1900. For most people, inactivity is the single most important factor in their slowly accumulating weight over the years. In other words, most people who have a weight problem at age 45 would not have had a weight problem in 1630 when they would have walked everywhere, split wood, tilled their fields, and so on." [4]

" '[I]n 1850, human muscles provided nearly 33 percent of the energy used by workshops, factories, and farms. Today, the comparable figure is less than 1 percent. . .'."

Dr. Richard O. Keelor, Director of Program Development for the President's Council on Physical Fitness and Sports explains that "In 1850, human muscles provided nearly 33 percent of the energy used by workshops, factories, and farms. Today, the comparable figure is less than 1 percent . . . ." The consequences of unfitness and disuse include heart disease, stroke, hypertension, and premature aging. Keelor states, "Experiments have shown that prolonged bed rest or chair rest can transform a robust young man into a feeble fellow with weak muscles and the unsteady gait of an old man." Sedentary work tends to have the same effects. Though the ravages are not quite so rapid, they are nonetheless as fatal, and often mistaken for the normal ravages of time and therefore much more insidious. The effects of inactivity go beyond the victim.[5]

The loss to American industry for sedentary-related diseases, such as heart problems and low back disability, is an astronomical $50 billion per year [6] and the law enforcement community is not immune. In a recent study conducted by the International Association of Chiefs of Police, back pain, permanent injury in the line of duty, and heart and cardiovascular diseases represented over 50 percent of early retirements (see chart).[7] The costs associated with early retirements are devastating to police department budgets.

It is generally accepted by the medical profession and the public that a better state of physical fitness is usually associated with a lower occurrence of heart disease. Physical fitness tests administered by the Dallas Police Department revealed that the average Dallas police officer scored lower in cardiovascular efficiency than the accepted average for the general American population. So, it stands

POLICE DISABILITY RETIREMENTS*

CITY SIZE:	100,000 plus		25,000 to 99,999		2,500 to 24,999		State Agencies		County Agencies	
	I		II		III		IV		V	
	N	%	N	%	N	%	N	%	N	%
Back Trouble	90	22.6	4	16.0	0	–	20	22.7	0	–
Permanent Injury In Line of Duty	88	22.1	6	24.0	1	25.0	18	20.4	0	–
Heart Attack	70	17.6	2	8.0	2	50.0	13	14.8	2	33.3
Psychological/Psychiatric Reasons	35	8.8	3	12.0	1	25.0	7	8.0	1	16.7
High Blood Pressure	23	5.8	1	4.0	0	–	4	4.5	0	–
Terminal Disease	12	3.0	0	–	0	–	4	4.5	2	33.3
Permanent Injury Off-Duty	14	3.5	1	4.0	0	–	0	–	0	–
Circulatory Disease	11	2.8	1	4.0	0	–	2	2.3	0	–
Arthritis	6	1.5	1	4.0	0	–	5	5.7	0	–
Lung Disease	8	2.0	1	4.0	0	–	2	2.3	0	–
Stroke	2	0.5	0	–	0	–	1	1.1	0	–
Diabetes	1	0.2	0	–	0	–	1	1.1	1	16.7
Peptic Ulcer	1	0.2	1	4.0	0	–	0	–	0	–
Liver Disease	0	–	0	–	0	–	1	1.1	0	–
Other	37	9.3	4	16.0	0	–	10	11.4	0	–
Total	398	99.9	25	100	4	100	88	99.9	6	100

* Clifford Price, et al, "Physical Fitness Programs For Law Enforcement Officers," an LEAA study, International Association of Chiefs of Police, 1977.

to reason that police officers, who may be less physically fit and who often experience far more stress and strain than the average citizen, are more likely candidates for heart problems than the average citizen.[8]

In the early 1960's, the American Heart Association studied populations in Framingham, Mass. and Albany, N.Y., to identify common characteristics of individuals with heart disease. Subsequent research has

RISKO CHART

The purpose of this game is to give you an estimate of your chances of suffering heart attack.

The game is played by making squares which—from left to right—represent an increase in your Risk Factors. These are medical conditions and habits associated with an increased danger of heart attack. Not all risk factors are measurable enough to be included in this game.

Rules

Study each Risk Factor and its row. Find the box applicable to you and circle the large number in it. For example, if you are 37, circle the number in the box labeled 31–40.

After checking out all the rows, add the circled numbers. This total—your score—is an estimate of your risk.

If You Score

6–11—Risk well below average.
12–17—Risk below average.
18–24—Risk generally average.
25–31—Risk moderate.
32–40—Risk at a dangerous level.
41–62—Danger urgent. See your doctor now.

Heredity

Count parents, grandparents, brothers, and sisters who have had heart attack and/or stroke.

Tobacco Smoking

If you inhale deeply and smoke a cigarette way down, add one to your classification. Do not subtract because you think you do not inhale or smoke only a half-inch on a cigarette.

Exercise

Lower your score one point if you exercise regularly and frequently.

Cholesterol or Saturated Fat Intake Level

A cholesterol blood level is best. If you can't get one from your doctor, then estimate honestly the percentage of solid fats you eat. These are usually of animal origin—lard, cream, butter, and beef and lamb fat. If you eat much of this, your cholesterol level probably will be high. The U.S. average, 40 percent, is too high for good health.

Blood Pressure

If you have no recent reading but have passed an insurance or industrial examination, chances are you are 140 or less.

Sex

This line takes into account the fact that men have from 6 to 10 times more heart attacks than women of childbearing age.

identified a number of factors which appear to predispose a person to heart attack. The alarming fact is that these risk factors have been identified with the working population and because of their epidemic proportion, *the need for action* is emphatic.[9]

The Michigan Heart Association has produced a simple but effective test which can calculate one's risk and susceptibility for a heart attack, the Risko Chart.[10] The various risk factors are of two types, those we have control over and those we do not. It is reminiscent of the old prayer, "God grant me the courage to change the things I can change, the serenity to accept the things I cannot change, and the wisdom to know the difference." The risk factors we cannot control are

RISKO

AGE	10 to 20	21 to 30	31 to 40	41 to 50	51 to 60	61 to 70 and over
HEREDITY	No known history of heart disease	1 relative with cardiovascular disease Over 60	2 relatives with cardiovascular disease Over 60	1 relative with cardiovascular disease Under 60	2 relatives with cardiovascular disease Under 60	3 relatives with cardiovascular disease Under 60
WEIGHT	More than 5 lbs. below standard weight	–5 to 15 lbs. standard weight	6-20 lbs. over weight	21-35 lbs. over weight	36-50 lbs. over weight	51-65 lbs. over weight
TOBACCO SMOKING	Non-user	Cigar and/or pipe	10 cigarettes or less a day	20 cigarettes a day	30 cigarettes a day	40 cigarettes a day or more
EXERCISE	Intensive occupational and recreational exertion	Moderate occupational and recreational exertion	Sedentary work and intense recreational exertion	Sedentary occupational and moderate recreational exertion	Sedentary work and light recreational exertion	Complete lack of all exercise
CHOLESTEROL OR FAT % IN DIET	Cholesterol below 180 mg. % Diet contains no animal or solid fats	Cholesterol 181-205 mg.% Diet contains 10% animal or solid fats	Cholesterol 206-230 mg.% Diet contains 20% animal or solid fats	Cholesterol 231-255 mg.% Diet contains 30% animal or solid fats	Cholesterol 256-280 mg.% Diet contains 40% animal or solid fats	Cholesterol 281-308 mg.% Diet contains 50% animal or solid fats
BLOOD PRESSURE	100 upper reading	120 upper reading	140 upper reading	160 upper reading	180 upper reading	200 or over upper reading
SEX	Female under 40	Female 40-50	Female over 50	Male	Stocky male	Bald stocky male

A Quick Scorecard on 14 Sports and Exercises**

Exercise	Jogging	Bicycling	Swimming	Skating (Ice or Rolling)	Handball/Squash	Skiing-Nordic	Skiing-Alpine	Basketball	Tennis	Calisthenics	Walking	Golf*	Softball	Bowling
Physical Fitness														
Cardiorespiratory endurance (stamina)	21	19	21	18	19	19	16	19	16	10	13	8	6	5
Muscular endurance	20	18	20	17	18	19	18	17	16	13	14	8	8	5
Muscular strength	17	16	14	15	15	15	15	15	14	16	11	9	7	5
Flexibility	9	9	15	13	16	14	14	13	14	19	7	8	9	7
Balance	17	18	12	20	17	16	21	16	16	15	8	8	7	6
General Well-Being														
Weight control	21	20	15	17	19	17	15	19	16	12	13	6	7	5
Muscle definition	14	15	14	14	11	12	14	13	13	18	11	6	5	5
Digestion	13	12	13	11	13	12	9	10	12	11	11	7	8	7
Sleep	16	15	16	15	12	15	12	12	11	12	14	6	7	6
Total	**148**	**142**	**140**	**140**	**140**	**139**	**134**	**134**	**128**	**126**	**102**	**66***	**64**	**51**

*Ratings for golf are based on the fact that many Americans use a golf cart and/or caddy. If you walk the links, the physical fitness value moves up appreciably. See comments of individual panelists.

**Courtesy of "MEDICAL TIMES."

Here's a summary of how seven experts rated various sports and exercises. Ratings are on a scale of 0 to 3, thus a rating of 21 indicates maximum benefit (a score of 3 by all 7 panelists). Ratings were made on the basis of regular (minimum of 4 times per week), vigorous (duration of 30 minutes to one hour per session) participation in each activity.

age, heredity, and sex. Weight and exercise, however, are conditions that can be changed, and by following a system for positively influencing those risk factors, the heart disease risk for policemen can be considerably reduced.

A total physical fitness program should deal with the entire spectrum of fitness: Cardiovascular endurance, strength, flexibility, and diet. But unquestionably, the most important conditioning factor is cardiovascular endurance, for without a strong heart the rest is academic.[11]

Recently, at the behest of the President's Council on Physical Fitness and Sports, a group of 7 experts on physical fitness value rated 14 popular forms of exercise. The physicians discussed the components of fitness: Cardiorespiratory endurance, muscular strength and endurance, flexibility, balance, and related factors of weight control, muscle definition, digestion, and sleep. Each of the sports and other forms of exercise (jogging, walking, calisthenics, etc., were considered "forms of exercise" as opposed to "sports") were evaluated in terms of regular participation and vigorous activity, which were defined as a minimum of 4 times a week and a duration of not less than a half hour of activity at each session. (See A Quick Scorecard on 14 Sports and Exercises.) In their study, jogging (or running) topped the list in terms of the above-mentioned factors with bicycling and swimming in second and third places.[12]

But why running? What will it do for you? Physically, running will lower your pulsebeat and (generally) your blood pressure as it strengthens your heart. It will control your weight mildly (you burn some 100 to 125 calories per mile, which over a year can be 10 to 20 pounds), tone your muscles, increase your circulation, and simply make you physically more attuned and confident. Mentally, it is a stress release.[13]

Dr. Thaddeus Kostrubala, the Director of Psychiatry at Mercy Hospital and Medical Center in San Diego, Calif., discovered the therapeutic implications while running himself. After running for an extended period of time (40 minutes), Kostrubala discovered a meditative sense of serenity that was psychologically uplifting. He then decided to substitute running therapy in the treatment of his patients in lieu of drugs. The results were remarkable, and his list of successes is impressive. Depression and stress are particularly curbed by running according to Dr. Kostrubala.[14] Running is vital to the police officer, not only for physical reasons, but perhaps also for psychological ones.

(Next Month: Motivation, Equipment, and Techniques.)

FOOTNOTES

[1] James E. Klinzing, Ph. D., "A Proposal to Study Police Physical Fitness Status and Develop Standards of Physical Fitness" (unpublished paper), 1977, p. 1.

[2] Thomas R. Collingwood, Ph. D., "A Comparison of Policeman versus Offender Fitness or Why He Got Away," *The National Consortium of Education*, Vol. 1, Number 6, 1974, p. 1.

[3] Klinzing, op. cit., p. 1.

[4] "President's Council of Physical Fitness and Sports (PCPFS) Newsletter," October 1976, p. 4.

[5] Richard O. Keelor, Ph. D., "Testimony to Council and Price Hearings on Health Care Costs," Chicago, July 1977, pp. 3–4.

[6] Stephen D. Gladis, "Running is Good for Business," *Runners World Magazine*, September 1977, p. 54.

[7] Clifford Price, et al., "Physical Fitness Programs for Law Enforcement Officers," an LEAA study, International Association of Chiefs of Police (IACP), 1977, pp. 143–148.

[8] Donald A. Byrd, "Impact of Physical Fitness on Police Performance," *The Police Chief*, December 1976, pp. 30–32.

[9] Dr. F. N. Epstein, "The Epidemiology of Coronary Heart Disease," *Journal of Chronic Diseases*, Vol. 18, November 1965.

[10] Michigan Heart Association, "RISKO" 1969.

[11] James F. Fixx, *The Complete Book of Running*, Random House, New York City, 1977, p. 157.

[12] C. Carson Conrad, "How Different Sports Rate in Promoting Physical Fitness," *Medical Times* (Reprint).

[13] "President's Council on Physical Fitness and Sports (PCPFS)," *Research Digest*, Series 7, No. 1, January 1977, p. 18.

[14] N. R. Kleinfield, "Running: The New High," *New Times*, October 1976, pp. 58–62.

Chewing Gum: *Valuable Evidence In A Recent Homicide Investigation*

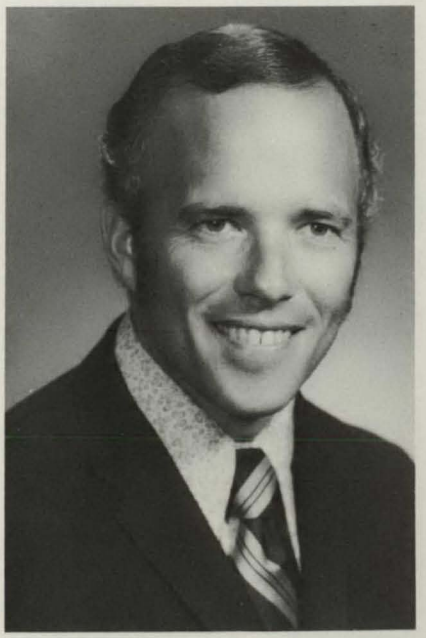
By
DR. NORMAN D. SPERBER*
Forensic Odontologist
San Diego County Coroner's Office
San Diego, Calif.

In recent years, human bite marks on human tissue have provided important evidence in homicide and rape investigations. A review of the collateral literature also indicates that burglary suspects have been apprehended on the basis of teeth marks left in food stuffs. The following case, however, is believed to be the first in which chewing gum proved to be an essential part of the evidence leading to a homicide conviction.

> "The following case . . . is believed to be the first in which chewing gum proved to be an essential part of the evidence leading to a homicide conviction."

A few days before Christmas 1976, a homicide team of the San Diego Police Department, acting on a tip, forced the door of a private residence and discovered the body of an adult male sprawled across a bed. The victim had been stabbed and shot. In the surrounding clutter, evidence technicians and detectives began their investigation.

Continuing investigation developed two female suspects who subsequently were arrested in connection with the murder. Of immediate interest was the fact that the fingerprints of one suspect were found in the murder room. There was, however, no physical evidence placing the second suspect at the scene, although police believed she had been present also. The detective in charge of the investigation, while sifting through the crime scene, had found a wad of used chewing gum on the top of a bureau and preserved it as possible evidence. In the hopes that the gum might provide



Dr. Norman D. Sperber

*Dr. Sperber is a consultant for the San Diego Police Department and the San Diego County Sheriff's Department.

Figure 1.

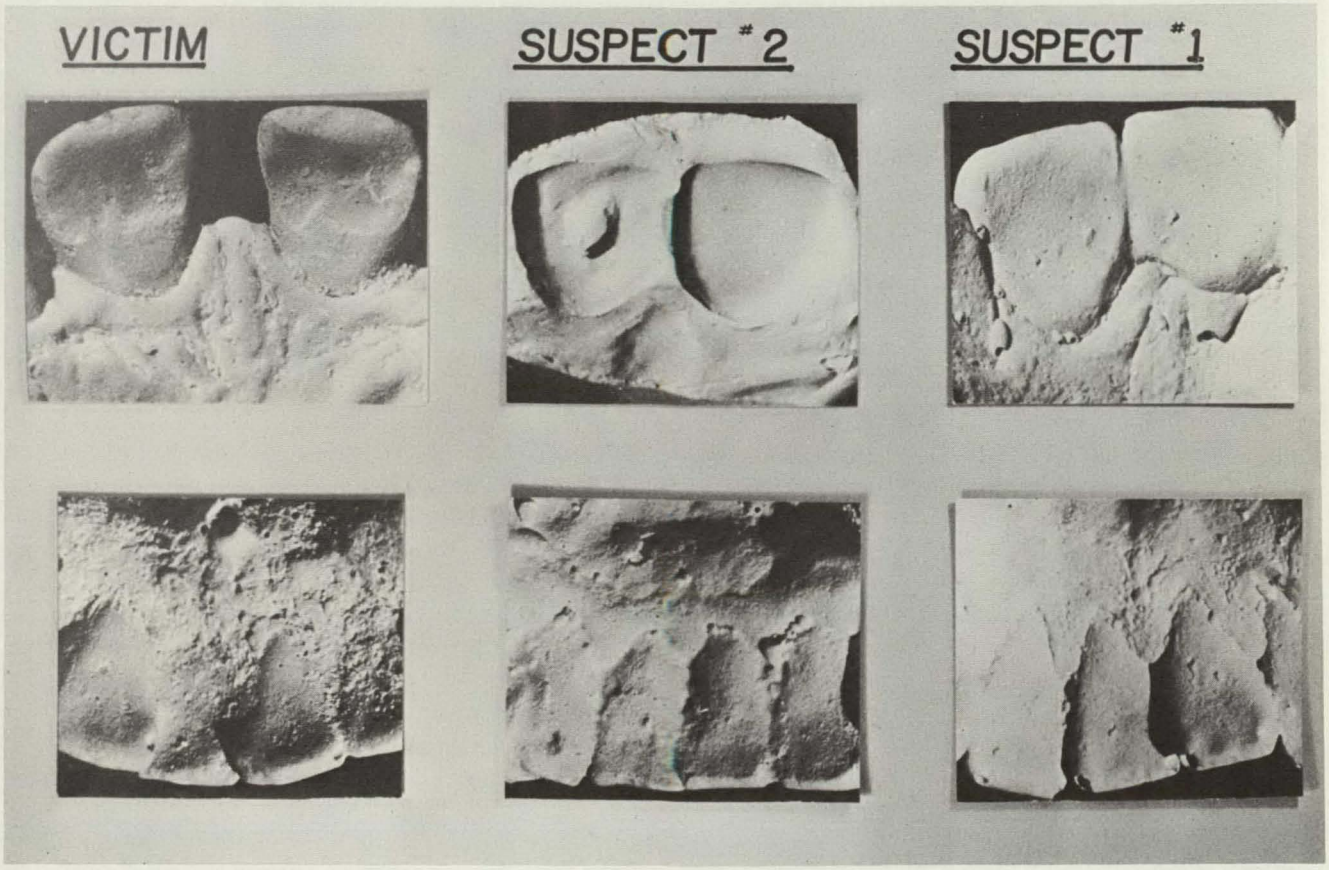


Figure 2.

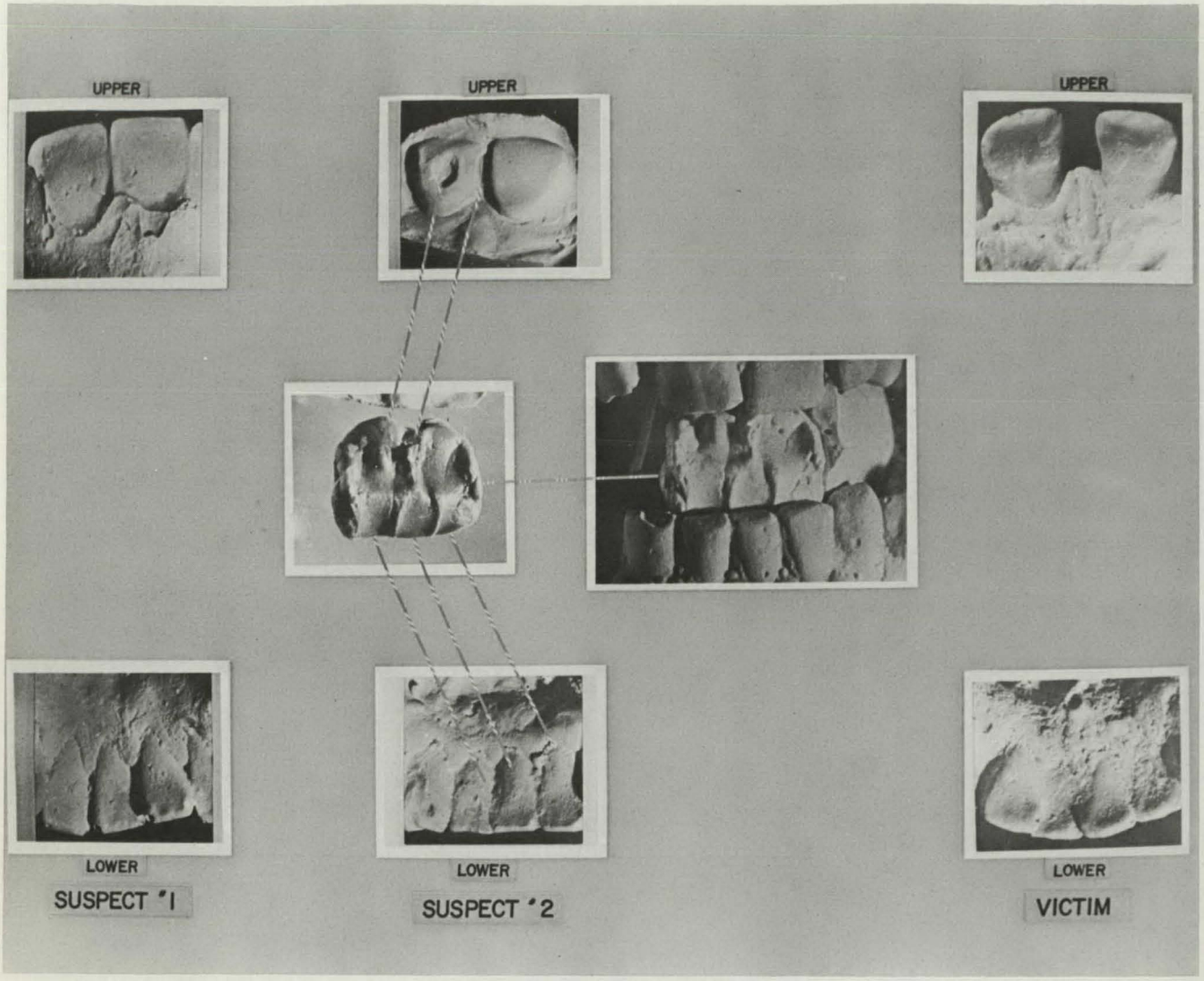


Figure 3A.

further information, it was brought to the San Diego Police Department crime laboratory and to the author for examination.

> **"The detective in charge of the investigation, while sifting through the crime scene, had found a wad of used chewing gum on the top of a bureau and preserved it as possible evidence."**

An examination of the gum under magnification indicated that it had last been in contact with the inside (lingual) of the upper and lower incisors (front teeth) of an unidentified individual. (See fig. 1.) The gum was red in color and smelled of cinnamon. Since the victim had not yet been released by the San Diego County Coroner's Office, it was agreed that dental impressions of the decedent would be taken and a court order would be secured in order that impressions could be obtained from the two suspects in custody at the San Diego County jail. In the meantime, the gum was stored under refrigeration to prevent distortion.

Impressions of the three individuals were obtained and models fabricated of dental stone. (See fig. 2.) An evidence technician took color and black and white photographs suitable for enlargement of the chilled gum. A silicone reproduction of the gum was made which could be placed and pressed against the dental stone models for comparison purposes.

A subsequent comparison of the models of the victim, with the gum, eliminated him as the individual whose dental imprints were found in the gum. Similar comparisons ruled out the first suspect whose fingerprints had been found at the crime scene. Both were eliminated with relative ease because their teeth had irregu-

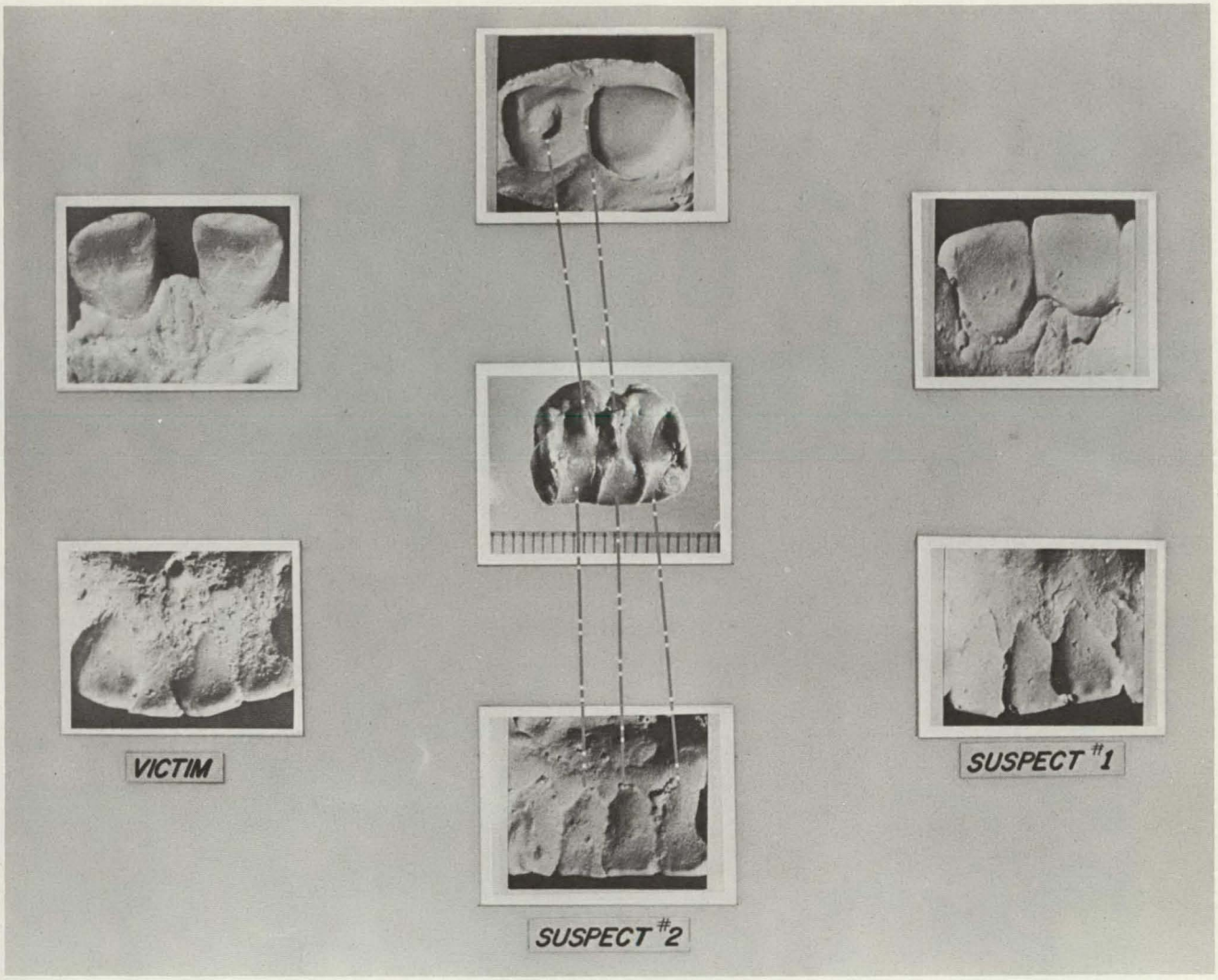


Figure 3B.

larities and spaces not present in the gum.

Although chewing gum is not the most accurate impression material, continued examination seemed to indicate that the gum had been chewed by the second suspect. Her upper and lower teeth matched in width and position with the gum. Remarkably, the suspect had an opening drilled in the back of her upper incisor, consistent with root canal therapy, and the same tooth was missing a filling (or had decay) on the mesial aspect (the surface of the tooth that approximates the adjacent tooth). These very same defects were noted on the gum. In fact, the tear-shaped opening was identical in size, location, and inclination to the imprint on the gum. In addition, the gum revealed an area that had been forced into and withdrawn from the mesial opening between the teeth already discussed. (See figs. 3A and 3B.) It was the examiner's opinion that the gum had been imprinted by the suspect's teeth.

There was no trial in this case because shortly after the above findings were established, the subjects entered a guilty plea to murder in the second degree which was accepted by a San Diego Superior Court judge. Both were subsequently sentenced from 5 years to life and are presently serving this sentence.

Summary

It is believed that the aforementioned case is the first reported instance in which chewing gum examination has been an important evidence factor in a homicide investigation. It also reveals the advantage of close cooperation among the members of an investigation team—in this case comprised of police detectives, evidence technicians, criminalists, investigative technicians from the district attorney's office, and a forensic odontologist.

WANTED BY THE FBI

Photographs taken 1973.

ROBERT RALPH MORET, also known as Robert Ralph Benliza, Robert Ralph Moret Benliza, Ralph Mantelli, Benliza Moret, Bobby Morretti, Benliza Morett

Unlawful Interstate Flight to Avoid Confinement—Armed Robbery

The Crime

Moret, who was serving two concurrent life sentences for armed robbery and first-degree murder, escaped from the Zephyrhills Community Corrections Center, Zephyrhills, Fla., on May 16, 1973.

Description

Age	41, born December 29, 1936, Brooklyn, N.Y. (not supported by birth records).
Height	5 feet 8 inches.
Weight	146 pounds.
Hair	Brown.
Eyes	Brown.
Build	Slender.
Complexion	Ruddy.
Race	White.
Nationality	American.
Occupation	Aircraft mechanic.
Scars and Marks	Scars on forehead, left wrist, and right bicep; mole on back.
FBI No.	157,773 F.

Fingerprint Classification:

$$\frac{12\ M\ 1\ R\text{–}r}{M\ 5\ R\ 13} \quad \text{Ref: } \frac{17}{5}$$

NCIC Classification:
12590857PM1557090913

Caution

Moret is reportedly a narcotics addict with suicidal tendencies. He should be considered armed, dangerous, and an escape risk.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Right index fingerprint.

U. S. GOVERNMENT PRINTING OFFICE : 1978 O - 255-824

FBI LAW ENFORCEMENT BULLETIN

FOR CHANGE OF ADDRESS ONLY—NOT AN ORDER FORM

Complete this form and return to:

DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

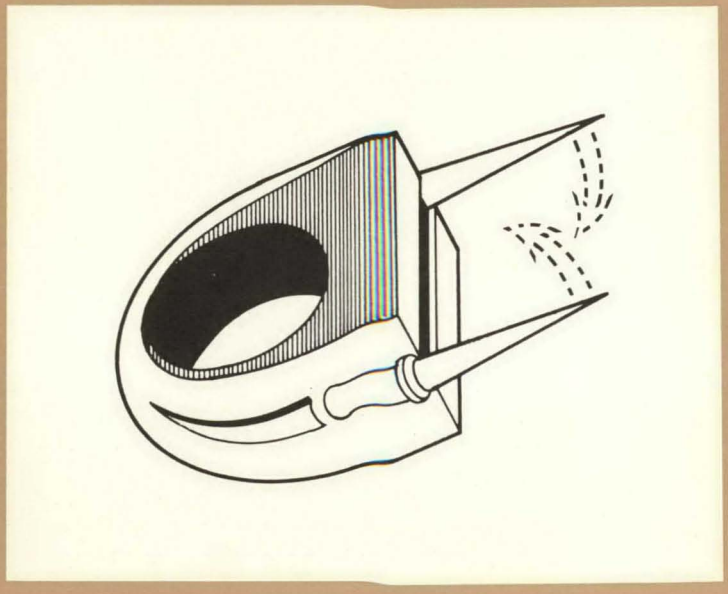
_____
(Name) *(Title)*

_____
(Address)

_____
(City) *(State)* *(Zip Code)*

FBI Bomb Data Center

DANGEROUS RING



Pictured above is a concealable weapon which has been added to Canada's list of prohibited weapons. This weapon, known as the "Guardian Ring" is described as any finger ring with one or more sharp projections that can spring into a verticle position. It consists of two miniature (3/8 inch), spring-loaded knives that fold across the face of the ring. By applying pressure with the thumb, the strong, razor-sharp knives can be snapped into an upright position. This weapon is reputed to be capable of penetrating leather gloves or a heavy raincoat, and inflicting wounds deep enough to leave scars.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

OFFICIAL BUSINESS

ADDRESS CORRECTION REQUESTED

U.S.MAIL

POSTAGE AND FEES PAID
FEDERAL BUREAU OF INVESTIGATION
JUS-432

CONTROLLED CIRCULATI
RATE

INTERESTING PATTERN

The whorl-type formation in the lower right corner of this impression is most unusual. Inasmuch as this formation appears in the second joint, it has no effect on the classification. The impression is classified as a loop with seven ridge counts.