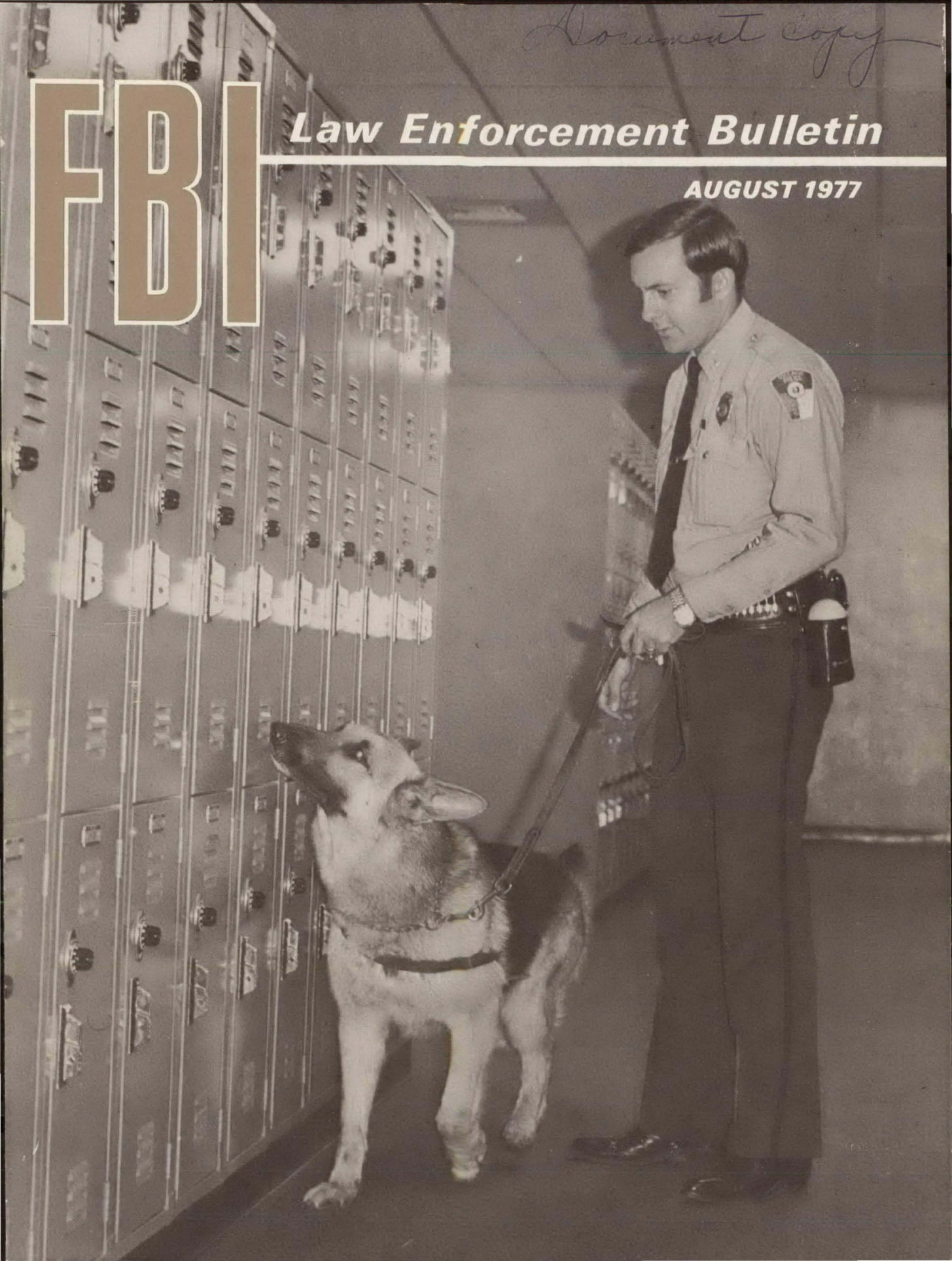
FBI Law Enforcement Bulletin

AUGUST 1977



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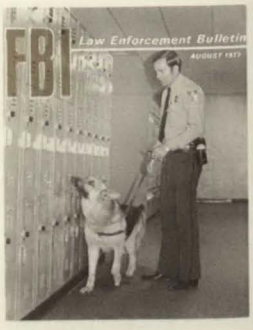
CONTENTS

THE COVER

This month's cover features a drug detection dog and his handler, an officer of the Village Police Department in Houston, Tex.



From the Director . . .

IS THE FBI OBSOLETE?*

When men become angels and nations abolish international hostility, when corruption and crime are banished from the earth, then the FBI will be obsolete. Indeed, all law enforcement and most governmental functions will become obsolete.

In the meantime, however, the FBI must continue to discharge its responsibilities in the areas of crime and national security. And our Government must maintain domestic tranquility and guard against foreign aggression.

I do not mean to imply that the future of our Nation rests solely upon the FBI's ability to combat crime and to provide domestic security and counterintelligence services to our Government.

But for some 50 years the FBI has been the agency our Government consistently has pressed into service during times of national crises involving civil strife, terrorism, and foreign-based subversion.

And if the FBI is to be called upon in the future to help put out such fires, then there is an urgent need that has been too long ignored.

Continued disregard for that need could result in a less effective response from the FBI the next time the national fire alarm sounds.

The need of which I speak, and which gives rise to my concern, is the need for a modern mandate for the FBI.

That mandate should be in the form of a legislated charter clearly delineating the FBI's responsibilities and investigative options in the areas of domestic security, foreign intelligence, and foreign counterintelligence.

In our criminal work, Federal statutes, rules of criminal procedure, and judicial decisions provide distinct areas of jurisdiction and avenues of investigation. But that is far from the case in the murky intelligence field.

And it is high time the American people and their elected representatives come to grips with the problem.

There is no need for me to parade before you all the problems that have buffeted the FBI during these extraordinary years since Watergate.

You're aware of the exhaustive inquiries that have been made into our operations—the allegations and revelations.

You know most of our problems stem from the FBI's handling of its domestic security and intelligence responsibilities in past years.

And it's certainly no secret that new restrictions have been imposed on our activities and techniques in those areas—restrictions emanating from my office, from Congress, the White House, and the judiciary.

More restrictions may be forthcoming.

Many proposals have been made, including at least one which would put us out of the intelligence gathering business completely.

If that is the will of the people, so be it.

I don't think it is. I think most Americans recognize the importance of our security and intelligence duties.

It's a difficult, demanding, and often thankless job for the Agents involved.

Their hours are often long and uncertain. They are under tremendous pressure to effectively cope with terrorist and foreign intelligence agents while meticulously following all the rules in every situation they handle day by day. Sometimes the rules are changed, and they must adjust their techniques accordingly.

Most of their successes in the foreign counterintelligence field must lie forever buried beneath a blanket of security. Their misjudgments, on the other hand, may well be splashed across tomorrow's front page.

The consequences of these Agents' success or failure in the fields of terrorism and foreign counterintelligence could conceivably be manifested in the kind of lives future generations of Americans will live.

We Americans have lived in a democracy and a system of free enterprise for 200 years; but it would be folly to assume every country in the world is now content to let us continue to do so for another 200 years.

I have said before, and I now reiterate, the intelligence initiatives of the Communist powers against the United States continue unabated. Communist doctrine is such that, despite any progress in, for example, arms limitation talks, the Communist "wars of liberation" probably will continue throughout our lifetime and for generations to come. And the term "wars of liberation" translates all too easily, for some, into "campaigns of terrorism."

And we Americans must see things as they are, not as we would wish them to be.

While we are reaffirming the individual's right to privacy, while we are instituting, quite properly, firm measures to assure that the FBI toes the line of legality, let us also hammer out a charter spelling out what is expected of it.

Never again should the FBI be handed such monumental responsibilities as it was handed in the riot-torn 1960's and early 1970's without clearly defined guidelines.

Never again should other key elements of Government leave the FBI to improvise its own policies and techniques when bombs are bursting and buildings are burning on campuses and in urban areas—when the public, the news media, and public officials are clamoring for an end to it.

Never again should FBI Agents be placed under such tremendous pressure to act in the absence of explicit lawful authority.

***This is an address given by the Honorable Clarence M. Kelley, Director, Federal Bureau of Investigation, before the Los Angeles World Affairs Council, Los Angeles, Calif., on May 18, 1977.**

These things can be avoided. And a legislated charter, a modern mandate, could go a long way in accomplishing that.

Attorney General Bell is in full accord that such a charter is needed. He already has instructed that a committee begin work on a proposed draft. The FBI is represented on that committee.

What should that charter provide? How broad should it be in scope? How detailed should it be in its provisions? Should it contain procedures to enable the FBI to act, with appropriate authorization, when extraordinary circumstances demand prompt action as they did in the 1960's? Let there be no mistake, I do not advocate a document sanctioning extralegal activity by the FBI.

Give us a charter spelling out effective measures that are lawful, and we will abide by it.

But let there at least be a clear procedure for obtaining authority to take appropriate action when action is needed.

Let there at least be a charter that clarifies the scope of the FBI's responsibilities in the more obscure areas of domestic intelligence, foreign intelligence, and foreign counterintelligence.

For too long the FBI has been compelled to draw authority from Presidential directives and Executive orders originally intended to meet urgent, specific needs at a given time of national crisis, particularly in the area of domestic security.

The history of the FBI's involvement in intelligence matters is closely interwoven with peaks and valleys in the national mood toward domestic security.

It began, perhaps, in a peak period, when the Bureau of Investigation, predecessor of the modern FBI, was given foreign and domestic security responsibilities during World War I.

In 1917, Congress enacted the Selective Service and Training Act, the Espionage Act, and the Trading with the Enemy Act, followed in 1918 by the Sabotage and Deportation Acts. Responsibility for enforcement fell, for the most part, upon the Bureau of Investigation.

Very soon the Bureau and the Attorney General were in hot water.

The incumbent Attorney General, Thomas W. Gregory, and the Chief of the Bureau, A. Bruce Bielaski, conceived what they felt was an answer to a manpower problem. The American Protective League (APL), composed of well-meaning, zealously patriotic, private individuals was formed as a citizens auxiliary to "assist" the Bureau of Investigation. But also, ad

hoc groups took it upon themselves to investigate what they felt were un-American activities.

Despite good intentions supported by many Americans, one of the sad results was the denial of constitutional safeguards, not to mention administrative confusion.

There was mass deprivation of rights in the deserter and selective service violator raids in New York and New Jersey in 1918, when 35 Agents assisted by 2,000 Protective League operatives, 2,350 military personnel, and several hundred police rounded up 50,000 men without warrants or sufficient probable cause for arrest.

Following World War I, the great "Red Radical Scare" developed from problems in the aftermath of the War and the Russian Revolution of 1917.

Violence and anarchism associated with the activities of "radicals" had the Government and the public on edge. The Bureau, along with the Department of Labor, which had jurisdiction over immigration matters, again was thrown into the breach. And Bureau Agents were instructed to conduct "vigorous and comprehensive" investigation of "anarchistic and similar classes, Bolshevism, and kindred agitations advocating change in the present form of government by force or violence, the promotion of sedition and revolution, bomb throwing and similar activities."

If advocates of civil liberties were speaking out, no one was listening.

Although the Agents were told their investigation should be directed primarily toward aliens for deportation proceedings, they were told also to fully investigate similar activities of citizens for prosecution under existing statutes or under any pertinent legislation *which might subsequently be enacted.*

All this resulted in the much criticized "Palmer Red Raids" of 1919 and 1920.

In October 1920, a young lawyer named John Edgar Hoover wrote a report to the Attorney General on the activities of the operations he headed, the Department's General Intelligence Division. He outlined the expansion of that division's work to include general intelligence work. And he pointed out the need, in the absence of legislation, to enable the Federal Government to adequately defend itself and its institutions from both aliens and citizens who engage in "unlawful agitation."

He also stated very clearly that the Bureau of Investigation was collecting information that was being used by the General Intelligence Division as pure and valuable intelligence information to assess internal domestic radical activity as early as 1919.

But once the radical fires had been put out, passion for resolute government action also cooled. The "Red Raids" generated a storm of criticism, including an investigation by the Senate Judiciary Committee.

When Harlan Fiske Stone became Attorney General in 1924, he put the Bureau of Investigation's work on a purely statutory basis. He pointed out, quite properly, that "The Bureau of Investigation is not concerned with political or other opinions of individuals. It is concerned only with such conduct as is forbidden by the laws of the United States." And he added, again quite properly, "When a police system goes beyond these limits it is dangerous to the proper administration of justice and to human liberty . . . . "

So for 10 years, from 1924 to 1934, the Bureau's policy was to refrain from general domestic security intelligence investigations, except on a very limited basis for specific purposes when the Attorney General and Secretary of State so requested under the provisions of the Appropriations Act.

But by the early 1930's, with big trouble brewing in Europe, Congress was anxious to launch the FBI into domestic intelligence investigations against both Communist radicals and the Nazi movement in the United States. The new Director of the Bureau, J. Edgar Hoover, pointed out that there were no criminal statutes which could provide a prosecutive basis for such investigations.

But in 1934, President Roosevelt directed that "a very careful and searching investigation" be made of the Nazi movement in the United States. The only statute on which such investigation could be pegged was the Immigration Law. Nevertheless, the Bureau's field offices were instructed to conduct intensive investigation of the Nazi group "with particular reference to the anti-radical activities and any anti-American activities having any possible connection with official representatives of the German government in the United States."

The investigation was unabashedly an intelligence operation designed to keep the Attorney General and the President informed of Nazi activities in our country. And the targets were both aliens and American citizens.

The 1934 directive restricted investigation to the Nazi movement; but in 1936, as the result of further Presidential directives, the FBI launched an investigation aimed at providing President Roosevelt with a broad intelligence picture of Communist and Fascist activities in relation to the economic and political life of the country.

The legal basis upon which that wide-ranging, purely intelligence investigation was launched was an Appropriations Act which authorized the FBI to undertake investigations at the request of the State Department.

By 1939, world conditions were chaotic, and the threat of espionage,

sabotage, and subversion loomed in the United States. President Roosevelt ordered that investigation of all espionage, counterespionage, and sabotage matters was to be controlled and handled only by the FBI, the Intelligence Divisions of the War Department and the Navy.

The President called upon all law enforcement officers to give the FBI any information they received concerning subversive activities.

Subsequent directives by President Roosevelt in 1943, President Truman in 1950, and President Eisenhower in 1953 tended to reinforce the previous directives—usually in times of national peril: In 1943, during the height of World War II; in 1950, during the Korean conflict; and in 1953, during the Cold War era and enactment of the Atomic Energy Act.

In the turbulent 1960's, the Department of Justice issued to the FBI a number of directives related to the problems. For example, on September 14, 1967, a department memorandum made mention of the serious nature of rioting around the country. The memorandum instructed that "it is most important that you use the maximum available resources, investigative and intelligence, to collect and report all facts bearing upon the question as to whether there has been or is a scheme or conspiracy by any group of whatever size, effectiveness or affiliation, to plan, promote or aggravate riot activity."

The memorandum, over the Attorney General's signature, continued:

"I appreciate that the Bureau has constantly been alert to this problem and is currently submitting intelligence reports to us about riots and about the activity of certain groups and individuals before, during and after a riot. Indeed, the President has said both publicly and privately that the FBI is conducting extensive and comprehensive investigations of these matters . . . .

"In these circumstances, we must be certain that every attempt is being made to get all information bearing upon these problems; to take every step possible to determine whether the rioting is pre-planned or organized; and, if so, to determine the identity of the people and interests involved; and to deter this activity by prompt and vigorous legal action."

If you recall the times, that represented quite an assignment.

The most recent Presidential Executive order, issued February 19, 1976, was aimed at establishing "policies to improve the quality of intelligence needed for national security, to clarify the authority and responsibilities of the intelligence departments and agencies, and to establish effective (executive branch) oversight to assure compliance with law in the management and direction of intelligence agencies of the national government."

In addition to this Executive order, we of course now have the benefit of the Attorney General's guidelines, issued in March 1976, setting forth standards and procedures for the conduct of domestic security investigations. Also the Attorney General's guidelines for foreign counterintelligence investigations became effective June 1, 1976.

In addition, the congressional oversight we now have should be helpful in charting a proper course for us in the security field.

The FBI shared in the work of drafting the Attorney General's guidelines, and they provide substantial direction for us in our day-to-day operations.

But they are not intended as a lasting substitute for a legislated charter to fill the gaps between statutes, Presidential directives, and orders of the Attorney General.

In any legislated charter there must be some provision for the FBI to take effective action, under extraordinary circumstances, as it has been called upon to do so often in our history; but with *appropriate safeguards and accountability, with appropriate checks and balances.*

Never again should the FBI be placed in the position of being told, in essence, "Do what you have to do to get the job done. We will worry about the details later."

None of us is so prescient as to be able to forge a charter that will cover every conceivable national emergency. But we should be able to come up with a document that will give us a solidly legal basis for domestic security and intelligence investigations not explicitly covered by existing statutes.

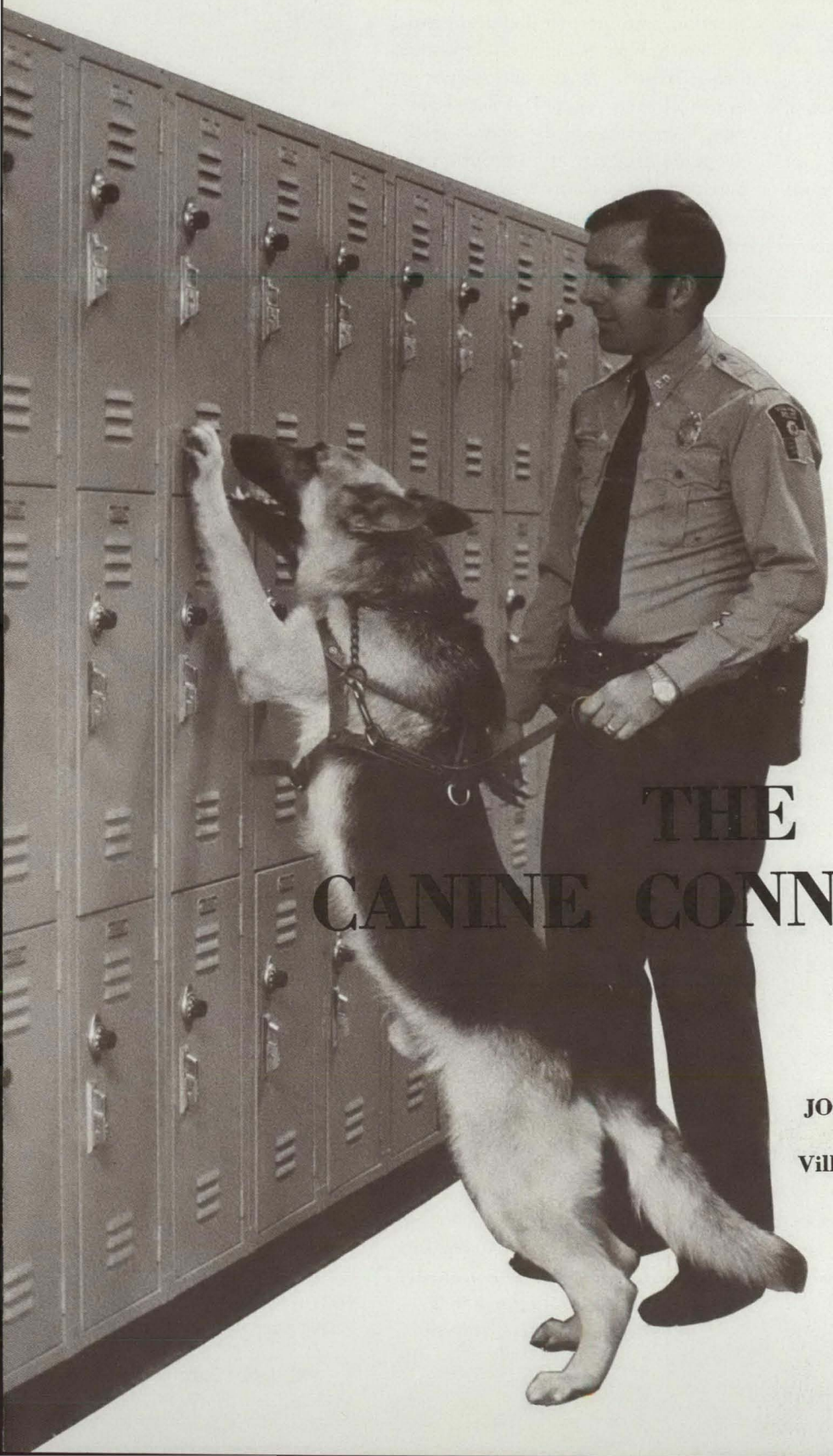
We should be able to draft a charter that provides adequate safeguards and accountability, that also provides for congressional input, so that the FBI cannot be pressured into acting, then later accused of flying solo 30,000 feet beyond the barrier of Americans' constitutional rights.

At Attorney General Bell's instruction, the committee that worked so diligently on our new guidelines, also has begun preliminary work on a proposed charter. We are most gratified by this.

You may be assured that the FBI will abide by such a legislated charter in every respect. Hopefully, it will solve a decades-old problem—the problem of the forever shifting attitudes toward responsibilities and capabilities that should be given the FBI in the domestic security and intelligence fields.

This is not just the FBI's problem, it is your problem; it is every American's problem. And it is in the national interest to solve it.

Once we have overcome it, I feel certain that the FBI will continue to serve the American people efficiently and with far less possibility of offending constitutional principles while trying to defend them.



THE CANINE CONNECTION

By
JOE M. SCHULTEA, SR.
Chief of Police
Village Police Department
Houston, Tex.

For the past 2 years, the unlikely combination of local law enforcement officials, concerned private citizens, school administrators, and a very special member of the canine world have been successfully controlling illegal drugs in one of the largest school districts in Texas.

The need for a K–9 program to detect the possession of drugs by students in the Spring Branch Independent School District was recognized by the Village Police Department, a 20-man law enforcement agency serving 4 municipalities in the Spring Branch area of Houston, Tex. Although intrigued with the possibilities of using a trained dog to detect drugs, the police commissioners could not find a way to fit the K–9 unit into the department's budget.

Concerned citizens were aware of the tremendous drug problems in the school district. They learned of the desire of the police department to implement a K–9 drug detection program and of the lack of available funds and formed a nonprofit corporation to raise funds from individuals and businesses in the Spring Branch-Memorial area. This corporation agreed to lease the trained dog and an equipped patrol vehicle to the Village Police Department for $1 a year.

Dogs with the ability to be trained in drug detection are rare. Experts in the field of drug detection training of K–9's claim that only 1 dog out of 800 has the ability to respond to this training.

"Dogs with the ability to be trained in drug detection are rare."

The next hurdle was to find one of those special dogs. A handler experienced in training dogs for drug detection for the U.S. Navy helped in the initial search. A dog was found with the proper qualities, and "Romel's" 3-month training period began.

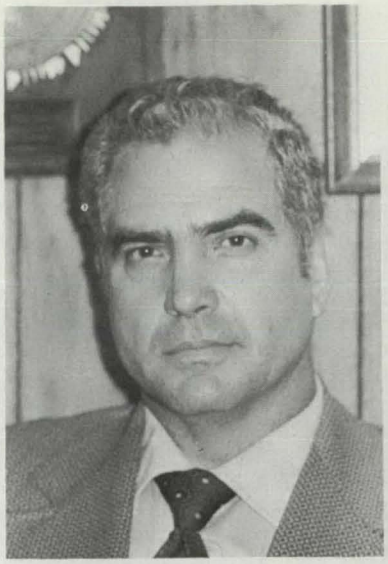
During this training period, plans for implementing the drug detection program were prepared and presented to the Spring Branch Independent School District Board of Trustees for approval and support. The school board enthusiastically endorsed the proposed drug detection program and began making plans to conduct assembly programs in each of the 6 senior high schools, 8 junior high schools, 23 elementary schools, and 1 career center.

The program was explained to over 40,000 students. Another drug detection dog was used while Romel was in training, and the assembly program was instituted with demonstrations locating hidden drugs on stage. This program had a twofold purpose: First, to appeal to the student body to remove drugs from the campuses; and second, to demonstrate the dog's ability to locate drugs. Officers also contacted PTA leaders and civic groups to present the program to gain community support for the drug detection program.

The law of search and seizure, as relates to student lockers, varies from jurisdiction to jurisdiction, as noted in "Students and the Fourth Amendment." Therefore, law enforcement officers interested in the procedure outlined in this article should consult their legal adviser.

It was explained to the students and parents that the program would have three distinct phases:

1. The first offense of using or possessing marihuana in small quantities would be handled by school officials. The student would be disciplined by the school, if necessary, and the parents notified.
2. On a second offense or if found in possession of hard drugs, the student would be turned over to police. If he was willing to work with the officers by disclosing his source of supply, leniency would be considered.
3. If a student is involved with drugs the third time, he would be turned over to the proper authorities for prosecution.



Chief Joe M. Schultea, Sr.

One point strongly emphasized to the student body was that it was not the desire of police to make any arrests, but to remove drugs from the school campus.

"[I]t was not the desire of police to make any arrests, but to remove drugs from the school campus."

By the end of the assembly programs, Romel was finishing his drug detection training, and the "team" was ready to begin making checks of the schools. Romel is trained in multi-drug detection; he has the ability to locate marihuana, hashish, barbitu-

rates, amphetamines, heroin, and cocaine.

After the demonstration to all students in a given school of junior high or senior high level, that school is subject to periodic unannounced checks by the drug detection team. The checks are not scheduled with the school principals, so as to take some pressure from them. Since this is a police activity, disgruntled parents can't blame the principal for harassing their child. When the team arrives at a school, the officer reports to the principal and requests permission to make a search. At this time, if the principal has reasons for not wanting a search made, he informs the officer.

During a search of the school facilities, a school official accompanies the team. If the drug dog indicates drugs in a locker, the locker is opened by the school official, the drugs confiscated, and the student called to the principal's office and told of finding the drugs. The student is informed that this will not be put on a police record, but the information is placed in the student's official school record. The student's parents are notified of the incident.

Unless unusual circumstances make it necessary, the elementary grade schools are not included in the locker search program. Elementary students are given the demonstration program, along with a talk about the danger of drugs, to help prevent them from trying drugs in the future.

If the drug dog indicates drugs are in an automobile on the school grounds and the school representative knows the owner of the car, the student is called out of class, told that the drug dog has indicated something in his car, and asked for consent to a search of the car. Should he refuse, a search warrant must be obtained.

The main goal of this program is to keep drugs off the school campuses and to drive pushers from the vicinity. Schools offer an ideal place for drug distribution, but this captive audience can be removed from the pusher's easy access. If pushers are removed from the campuses and have to operate outside, then local law enforcement units can more easily locate their bases of operation. Also, the peer pressure on students is greatly reduced because of the unavailability of drugs during school hours.

While there were no plans to have the drug dog search students, the dog does have the ability to locate drugs on a person. If the dog senses drugs on a passing student, there may be cause for the officer to question the student, even if no arrest follows.

The reputation of the K–9 team grows rapidly each time illegal drugs are located. The reputation of the team has produced voluntary and anonymous assistance from students who support the program.

An added plus of the drug team is its use on normal patrol duty by the Village police. Romel saves many man-hours in searching suspicious vehicles for drugs and in searching buildings for drugs or suspects. He has been an excellent tool in crowd control and in apprehending fleeing suspects, particularly at night. Romel has the additional capability of tracking lost children, although no occasion for such use has been necessary as yet.

Romel attempts to locate suspected illegal drugs, under the direction of his handler.

"[T]he dog's abilities have been a significant advantage to law enforcement officers in the fight against illegal drugs."

The unit has worked with the Texas Department of Public Safety and other law enforcement agencies in the area. In every instance, the dog's abilities have been a significant advantage to law enforcement officers in the fight against illegal drugs. FBI

OHIO STATE TROOPERS SHAPE UP

By
COL. ADAM G. REISS
Superintendent
Ohio State Highway Patrol
Columbus, Ohio

The physical condition of law enforcement officers has long been a major topic of discussion, but generally little action has been taken to insure that officers attain and maintain physical fitness. The Ohio State Highway Patrol has continued to emphasize the importance of good physical condition to its officers. A strictly enforced weight limitation program has been utilized for many years as a criterion for fitness. Also, training bulletins underscoring the need for proper fitness and recommending physical training programs have been distributed to all officers. Yet, even though most officers complied with the weight limitations and were in good physical condition, this alone could not gage their fitness. It was soon discovered that our department had no valid measurement of physical fitness, and more importantly, no documentation was available to answer the question "Are our troopers in shape?"

Therefore, in 1974, we initiated a search for a physical fitness maintenance program which would provide a plan for the improvement of physical fitness within the division and measure the fitness of officers at regular intervals. This plan would also provide documentation beneficial in the evaluation of entrance standards and the development of training programs.

The basis for such a program is clearly stated in the division's rules and regulations for uniformed officers which specify that "each officer must keep physically fit so as to be able to readily perform any duty customarily assigned and present an appearance of physical fitness." Any officer not physically fit is therefore in violation.

"The first step in the establishment of a physical maintenance program was to determine what level and type of fitness is necessary for troopers to carry out their assigned responsibilities."

The first step in the establishment of a physical maintenance program was to determine what level and type of fitness is necessary for troopers to carry out their assigned responsibilities. A review of the job duties re-

CONVERSION CHART

PUSHUPS

NO.	1	2	3	4	5	6	7	8	9	10	11
PTS.	8	10	12	14	16	18	20	22	24	26	28
NO.	12	13	14	15	16	17	18	19	20	21	22
PTS.	30	32	34	36	38	40	41	42	43	44	45
NO.	23	24	25	26	27	28	29	30	31	32	33
PTS.	46	47	48	49	50	51	52	53	54	55	56
NO.	34	35	36	37	38	39	40	41	42	43	44
PTS.	57	58	59	60	61	62	63	64	65	66	68
NO.	45	46	47	48	49	50	51	52	53	54	55
PTS.	70	72	74	76	78	80	82	84	86	88	90
NO.	56	57	58	59	60						
PTS.	92	94	96	98	100						

CONVERSION CHART

SQUAT–THRUSTS

NO.	1	2	3	4	5	6	7	8	9	10
PTS.	0	0	0	0	0	0	0	0	0	0
NO.	11	12	13	14	15	16	17	18	19	20
PTS.	0	0	0	1	2	5	8	12	15	18
NO.	21	22	23	24	25	26	27	28	29	30
PTS.	22	25	28	32	36	40	43	47	51	55
NO.	31	32	33	34	35	36	37	38	39	40
PTS.	59	63	67	72	76	80	84	88	92	96
NO.	41									
PTS.	100									

CONVERSION CHART

SITUPS

NO.	1	2	3	4	5	6	7	8	9	10
PTS.	4	5	6	7	8	9	10	11	12	13
NO.	11	12	13	14	15	16	17	18	19	20
PTS.	14	15	16	17	18	19	20	21	22	23
NO.	21	22	23	24	25	26	27	28	29	30
PTS.	24	25	26	27	28	29	30	31	32	33
NO.	31	32	33	34	35	36	37	38	39	40
PTS.	34	35	36	37	38	39	40	41	42	43
NO.	41	42	43	44	45	46	47	48	49	50
PTS.	44	45	46	47	48	49	50	51	52	53
NO.	51	52	53	54	55	56	57	58	59	60
PTS.	54	55	56	57	58	59	60	61	62	63
NO.	61	62	63	64	65	66	67	68	69	70
PTS.	64	65	66	67	68	69	70	71	72	73
NO.	71	72	73	74	75	76	77	78	79	80
PTS.	74	75	76	78	80	82	84	86	88	90
NO.	81	82	83	84	85					
PTS.	92	94	96	98	100					

vealed the officer spends a great deal of time in the patrol car and is faced daily with situations which cause much emotional strain. Also, an above-average number of stress situations and physical confrontations present themselves. Some specific examples include the arrest of resisting violators, pushing cars, carrying injured at accident scenes, and riot duties. To effectively and safely face these tasks, both *physical endurance* and *physical strength* are necessary. For this reason, our program was built upon these two dimensions of performance: that is, endurance and strength.

In order for a physical fitness maintenance program to be both beneficial and effective, it must provide a plan that would evaluate and improve the overall physical condition. Dr. Kenneth H. Cooper's "Aerobics" program afforded both these elements and included an excellent endurance measurement in a timed 1½-mile run. Therefore, it was decided to use the timed 1½-mile run as the determinant for endurance. Scoring was based on research completed by Dr. Cooper and was graduated for the various age groups. Thus, the older officers' performance was not measured on the same scoring scale as that of younger officers.

"In order for a physical fitness maintenance program to be both beneficial and effective, it must provide a plan that would evaluate and improve the overall physical condition."

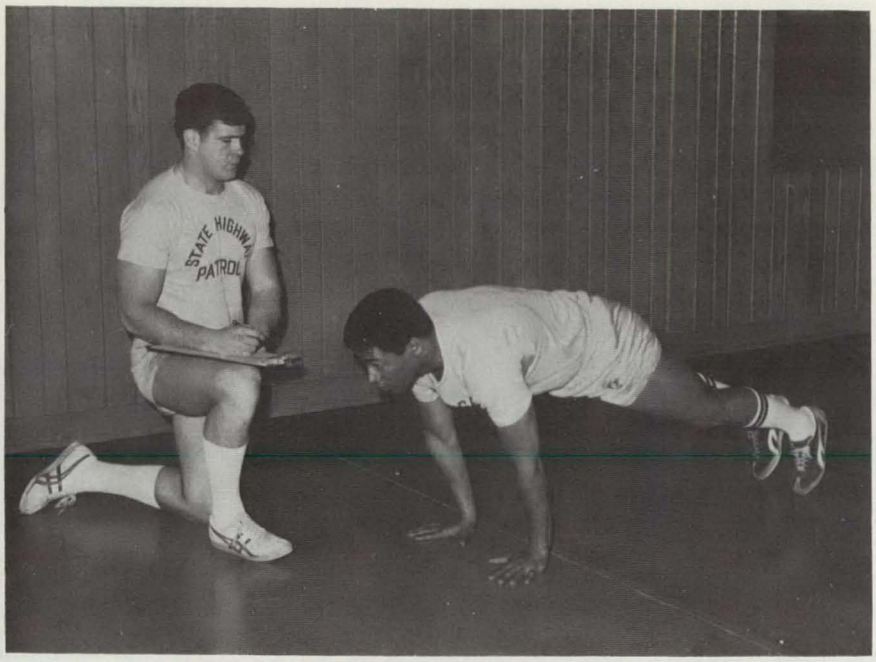
The strength factor, dealing with upper-body and leg strength, was calculated by pushups, situps, and squat thrusts. An advantage of these

SCORING CHART - ENDURANCE EXERCISE

FITNESS CATEGORY	AGE UNDER 30	30–39	40–49	50+
EXCELLENT	Under 10:15	Under 11:00	Under 11:30	Under 12:00
VERY GOOD	10:16–11:00	11:01–12:00	11:31–12:45	12:01–13:15
GOOD	11:01–12:00	12:01–13:00	12:46–14:00	13:16–14:30
FAIR	12:01–14:30	13:01–15:30	14:01–16:30	14:31–17:00
POOR	14:31–16:30	15:31–17:30	16:31–18:30	17:01–19:00
VERY POOR	16:30+	17:30+	18:30+	19:00+

SCORING CHART - TOTAL STRENGTH POINTS

FITNESS CATEGORY	AGE UNDER 30	30–39	40–49	50+
EXCELLENT	250–300	225+	190+	140+
VERY GOOD	200–249	180–224	150–189	110–139
GOOD	150–199	135–179	125–149	80–109
FAIR	125–149	110–134	95–124	65–79
POOR	75–124	65–109	50–94	40–64
VERY POOR	0–74	0–64	0–49	0–39



A video tape presentation demonstrates the correct procedure for each exercise. For a pushup to be counted, the chest must be within 3 inches of the ground or floor on the downstroke.

exercises is that no special equipment or location is needed for them to be performed. Both the run and the strength exercises can be done at home at the officer's convenience.

Physical Fitness Maintenance Program

The physical fitness maintenance program is designed to test the physical fitness level of all highway patrol officers on a semiannual basis and is administered in conjunction with spring and fall firing and riot training exercises at the district level. Each officer is required to complete the following:

> ***"The physical fitness maintenance program [of the Ohio State Highway Patrol] is designed to test the physical fitness level of all highway patrol officers on a semiannual basis . . . ."***

1. Endurance:
   Timed run over a 1½-mile course.
2. Strength:
   Situps (arms locked across chest) 2-minute time limit.
   Pushups (consecutive) no time limit.
   Squat thrusts (4 count) 1-minute time limit.

Scoring is accomplished in the endurance test by using a chart divided into five fitness categories, excellent through very poor, which are adjusted for age. Each officer is placed in an endurance category according to age and time in the 1½-mile run. The minimum acceptable level is "good."

The strength test is scored using a point conversion chart. Points are added up to give a total strength score. The strength fitness category, excellent through very poor, is also determined for each officer based on age and performance levels. Again, "good" is the minimum acceptable level.

Each officer is placed within a category in both endurance and strength. To qualify, the officer must rate "good" or better. The test is readministered monthly to those officers who do not qualify in the semiannual testing. As long as improvement over previous performance is shown by an officer, no formal corrective action is required. If no improvement is noted, reprimand action is initiated, first without penalty, and if no improvement continues, further formal action is taken, with penalty.

Officers who are in some way physically disabled, such as by injury or illness, are not required to participate, but must present a medical release from their physician.

Program Implementation

The program was first conducted in selected districts on an experimental basis in the spring of 1976. Prior to full implementation of the program the following fall, a video tape, fully explaining the program, its objectives, and the specific exercises, was produced at the training academy and distributed to all patrol posts to be viewed by all officers.

The first administration of the test (fall 1976) was enlightening and encouraging, for over 70 percent of the officers qualified. Monthly retesting at the district level reduced the number who have not qualified to less than 10 percent. Extremely encouraging is the enthusiastic support of the program by the majority of officers. One veteran officer, at first skeptical, now states that he has "never felt better." The program has been accepted, no penalties have been assessed, and all officers are striving to improve their physical condition.

Our goal—to have all officers qualified by the fall 1977 administration of the test—will provide documented proof that Ohio State troopers are in shape!

Personality Reconstruction From Unidentified Remains

During the afternoon of December 15, 1975, the Howard County, Md., Police Department received information that a human skeleton had been discovered in Columbia, Md., in an isolated wooded area adjacent to an industrial park. Investigators responded to the scene, located the badly decomposed remains, and began a search of the immediate vicinity.

The crime scene investigation disclosed that the skeleton had been dragged a few feet from its original location and was not intact. Police theorized that this disarrangement was the result of animal activity. An intensive search produced only a few strands of long hair, a medium-sized sweater, and a few pieces of women's jewelry—scant clues to the identity of the decedent, a suspected rape-homicide victim.

The physical remains were taken to the office of the medical examiner in Baltimore, Md., where the time of death was estimated to be from 3 to 6 weeks prior to discovery. A subsequent review of missing persons reports for the pertinent time period produced no additional clues.

With the question of the victim's identity still unresolved, the remains were forwarded to coauthor Dr. J. Lawrence Angel, Curator of Physical Anthropology at the Smithsonian Institution in Washington, D.C. After a painstaking examination of the skeletal remains, it was concluded that the skeleton was that of a Caucasian female, approximately 17 to 22 years of age, who was of less than average stature. She had broader than average shoulders and hips and was believed to be right-handed. Her head and face were long; the nose high-bridged. Also noted was subcartilage damage to the right hip joint, a condition which had probably caused occasional

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Donald G. Cherry

J. Lawrence Angel

pain and suggested occupational stress. An irregularity of the left clavicle (collarbone) revealed a healed childhood fracture.

At the Howard County Police Department's request, Dr. Angel and coauthor Donald G. Cherry, a police artist with the Metropolitan Police Department in Washington, D.C., began a social and personality profile of the deceased based upon an analysis of the physical evidence obtained through the crime scene search and related photographs, medical examiner's reports, and reports from the FBI Laboratory. Scale front and profile photographs of the victim's skull in standard eye-ear plane orientation were taken. Tracings of the skull were also made. Several meetings between the scientist and the artist insured that the artist remained within the limits established by the anthropological study—mainly, the tissue depths and probable placing of eyes, ears, mouth corners, and nasal tip.

"Obviously, the reconstruction of a personality involves considerable conjecture, but with the proper blend of science and artistic skill, it may be possible to produce a reasonable likeness of an individual under certain circumstances."

Although science has not yet enabled us to reconstruct personalities based solely upon the fragmentary remains of an individual, scientific examinations of this nature can sometimes provide meaningful indicators of sex, race, age, stature, body build, nutritional history, congenital variations, occupational manifestations, pregnancies, and previous medical history, such as fractures, dental work, and anomalies, if present. In some in-

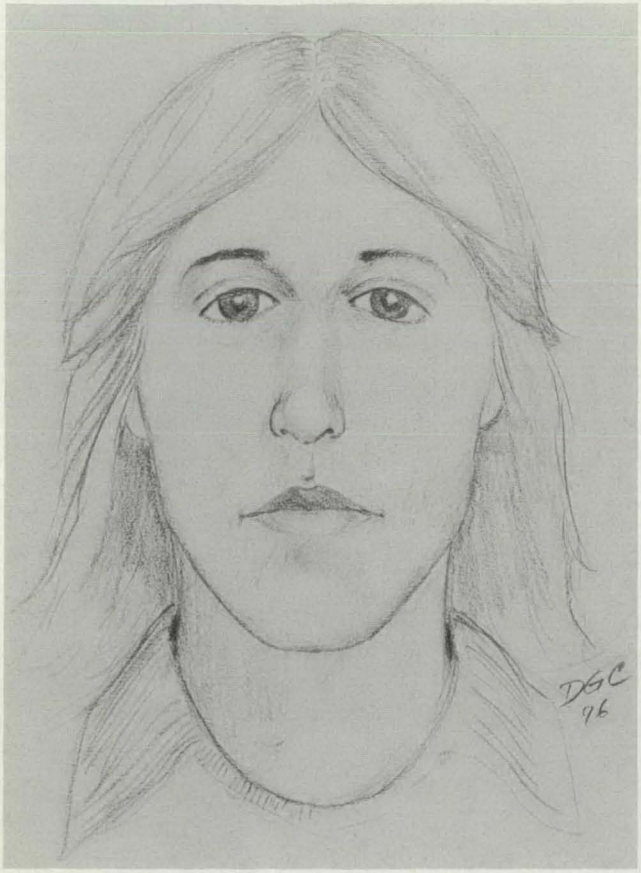


Figure 1. Police artist's sketch of facial features reconstructed from unidentified skll.

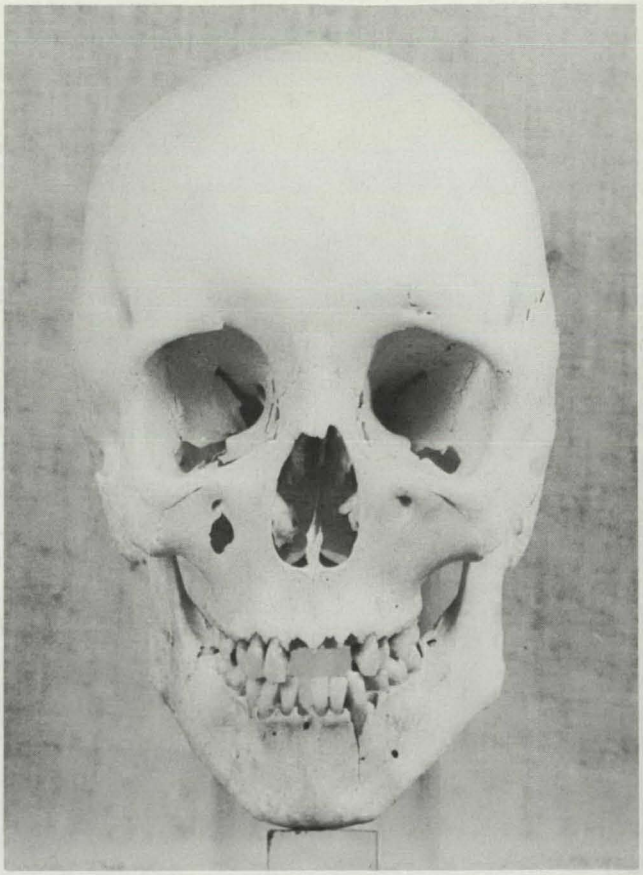


Figure 2. Recovered skull subsequently identified as that of Roseanne Michele Sturtz.

stances, these indications may suggest personality traits. For example, several healed fractures could be indicative of a hasty, accident-prone person; or they may suggest an occupational pattern, just as injuries sustained frequently by cowboys, for instance, reveal themselves in calcaneal (heelbone), knee, clavicle, and forearm fractures.

Obviously, the reconstruction of a personality involves considerable conjecture, but with the proper blend of science and artistic skill, it may be possible to produce a reasonable likeness of an individual under certain circumstances. Of course, the thoroughness of the crime scene search is a critical factor, for the success of the scientist and artist will depend largely upon the recovery, preservation, and careful analysis of all available evidence.

"Of course, the thoroughness of the crime scene search is a critical factor, for the success of the scientist and artist will depend largely upon the recovery, preservation, and careful analysis of all available evidence."

In the case under discussion, a sketch (fig. 1) was prepared after a deliberate study of the evidence, including not only the skull (fig. 2) and skeleton, but also the hair, jewelry, sweater, and the area where the remains were found.

On March 17, 1976, the finished sketch was published in a local newspaper, and police officials immediately received calls from three readers stating that the sketch closely resembled a young woman, Roseanne Michele Sturtz, a friend who had not been seen since August 1975.

A search of the Baltimore Police Department records disclosed that an individual of this name had been previously photographed (fig. 3) and fingerprinted by the department. Rolled fingerprint impressions were then compared at the FBI Identification Division in Washington, D.C., with the badly decomposed prints from one of the victim's fingers, and it was established that the victim was indeed Roseanne Michele Sturtz.

Figure 3. Roseanne Michele Sturtz (photo taken July 1975).

Further investigation by police determined the victim was 20 years of age when reported missing in August 1975. Associates related that, when she was working as a nightclub dancer, she occasionally favored one leg. It was further determined that she had suffered a fracture of the left clavicle at the age of 6.

In this manner, the unknown homicide victim, whose scattered remains had been found on a bleak December day 4 months before, received a name and a history.

The lessons learned from this case have meaningfully contributed to the fields of forensic anthropology and crime scene technology. When police investigate a crime scene where skeletal remains are located, extreme caution should be exercised in the search. Because animals may have disturbed parts of the body, the search should be conducted over a fairly large area. It may be significant to know that dogs, coyotes, or pigs consume bone, while rodents gnaw or nibble skeletal remains. Although murderers may scatter or perhaps burn parts of a victim, it should be understood that, even after such treatment, enough bone fragment may survive to be useful in achieving identification. A victim's facial features, however, can be reconstructed only in circumstances in which the skull is virtually complete with lower jaw and teeth.

Depending upon the composition of the ground surface beneath the remains, there may be an outline of the original fleshy body. If so, this area should be recorded with precise measurements and photographed, and if at all possible, plaster casts of the site should also be considered. Through the use of such techniques, valuable clues regarding tissue thickness may be found, indicating whether the deceased was plump or thin. Clothing sizes are obviously helpful.

If a skeleton is situated on an incline, a very careful search should be conducted downhill from the original site since the action of rain, wind, animal activity, and even gravity might well cause some parts to separate from the main skeletal frame after the connecting tissue has decomposed.

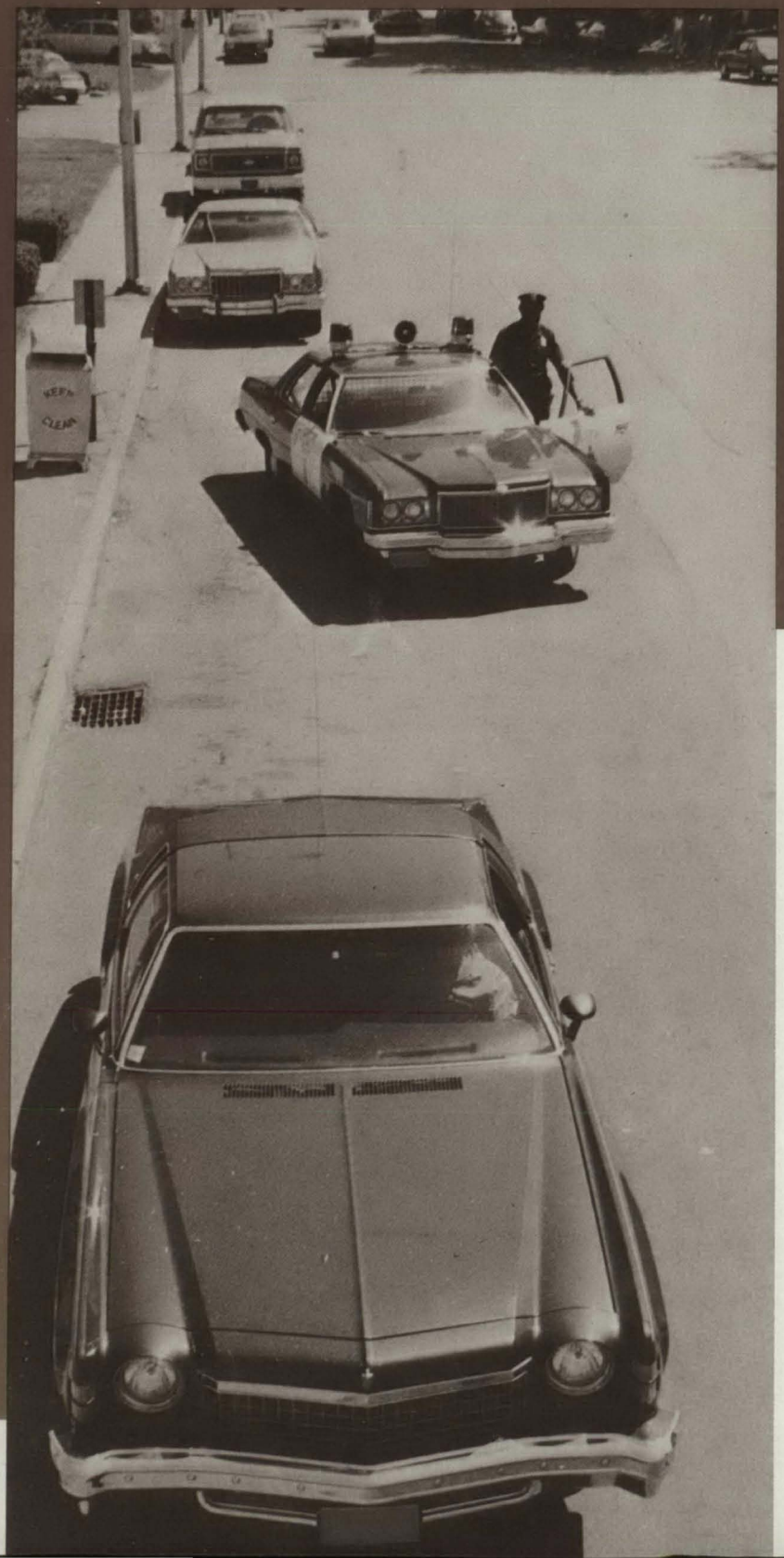
> ***"The case in point provides an excellent example of what can be accomplished when the police artist, scientist, and investigator pool their talents and experience in a cooperative effort to successfully reconstruct a face, former lifestyle, or personal history—a personality—from skeletal remains."***

The skeletal remains themselves must, of course, be carefully measured and photographed. After the bones have been recovered, the ground under them should be sifted for additional bits of evidence.

The scientist/artist team, having made a thorough analysis of the physical evidence in its entirety, must then strive to recreate a living likeness just to the point of caricature.

The case in point provides an excellent example of what can be accomplished when the police artist, scientist, and investigator pool their talents and experience in a cooperative effort to successfully reconstruct a face, former lifestyle, or personal history—a personality—from skeletal remains.

POLICE CONDUCT



Every police officer, in the course of his duties, serves a variety of citizens from many walks of life. Among them are the affluent and the destitute, the executive and the homemaker—people of all persuasions. Each person the officer encounters responds to a given situation on the basis of his or her distinct personality, prejudices, interests, and immediate disposition.

Likewise, as police officers, our reaction to situations is determined by our feelings at any particular moment. Too often, we become the unfortunate victims of our own preconceptions when we fail to approach our daily confrontations objectively. Obviously, we must guard against allowing personal feelings to interfere in our encounters with the public and shape our public contacts to minimize misunderstanding and to maximize good will. Each positive interaction

The Traffic Officer and the Motor Vehicle Violator

By
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between the police and the public becomes a plus for us.

Consequently, public relations, which for our purposes can be defined as all activity that fosters community feelings favorable to the police department, is a most important police resource.

> *"[P]ublic relations . . . is a most important police resource."*

Police work, primarily, is a service, and our mission has been universally geared toward the protection of life and property, the prevention of crime, and the apprehension of offenders. As police officers, we are charged with the awesome responsibilities of safeguarding human rights. As representatives of the people in our community, we are committed to protect their safety and well-being. The term "public servant" strongly applies to our mode of service.

Since very many encounters with the public occur in the course of investigations of traffic violations, it is the traffic officer who becomes the most prominent public relations agent of any department. His is a law enforcement function demanding thoughtful consideration.

With this in mind, let us examine this important police operation, which as a matter of convenience we have separated into four specific stages: The stop, encounter, interview, and departure.

The Stop

Great care should be exercised when a violation is observed and an offender pursued. Taking into account weather, road, and traffic conditions and the

speed and direction of the violator's travel, the officer must avoid committing traffic violations himself which would endanger the public. The officer, as well as the violator, is judged by observers during a pursuit.

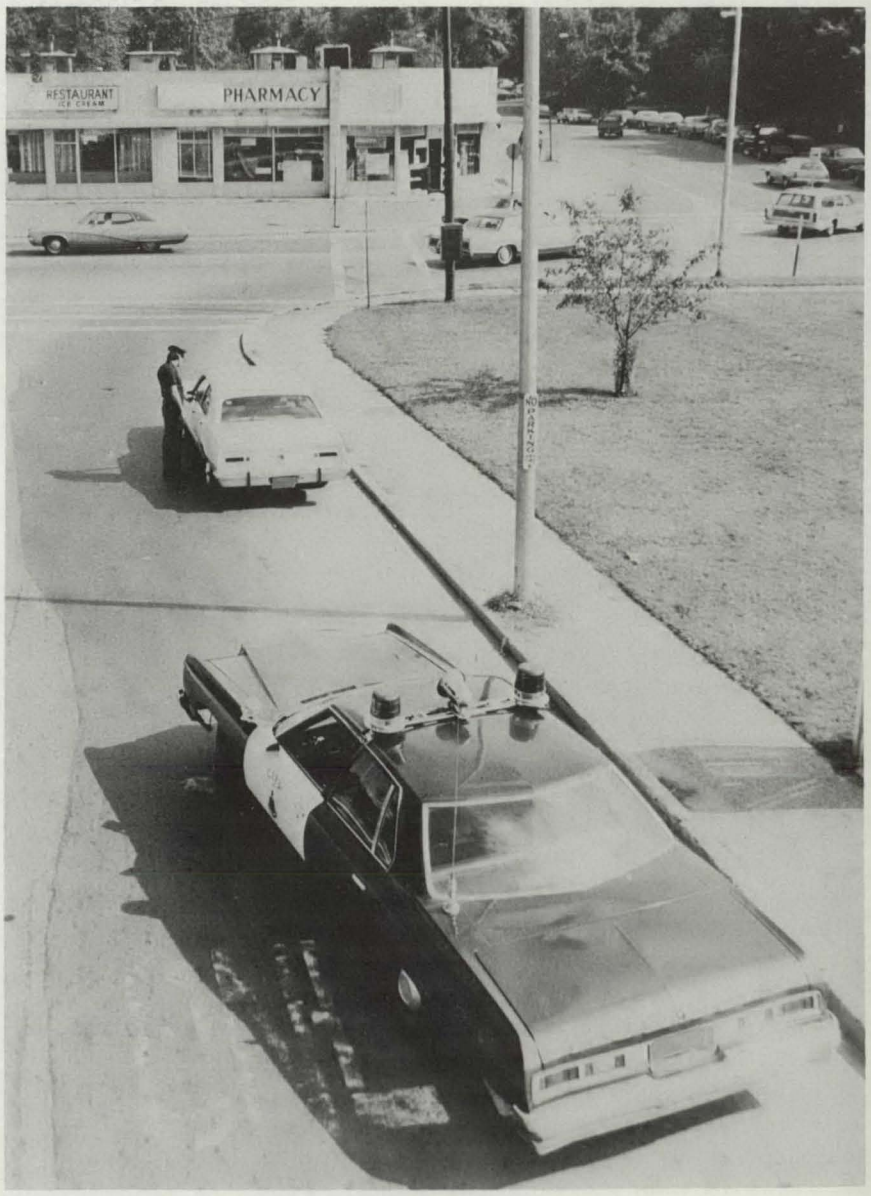
> ***"The officer, as well as the violator, is judged by observers during a pursuit."***

In preparing to stop a vehicle, the officer should seek a location that will not place the offender, himself, or other motorists in danger. It is desirable to attempt to stop the motorist as soon as possible after the violation has occurred. Two important reasons for this are: First, so that the violation will be fresh in the offender's mind, and second, so that he will have no doubt as to the reason for the stop. When stopping a vehicle at night, it is advantageous to locate a well-lighted area; the illumination will afford protection against any act of violence the offender may be capable of committing and will provide ample visibility for carrying on the interview. During business hours, detaining violators in private parking areas or those of commercial establishments should be avoided.

The officer can alert the driver to his intentions of stopping him by sounding the horn and making exaggerated motions with his hand. At night, sounding the horn and blinking the headlights should suffice to gain his attention. Ordinarily, the use of the siren and overhead red lights in this situation should be avoided; too often, they draw unwarranted attention to or incense the driver. Also, the use of the siren could panic the driver who might lose control of his vehicle, overreact by stopping suddenly in traffic, or even try to escape. Only on a major highway, with traffic moving rapidly, is the use of the overhead lights suggested, because there not only the violator must be alerted, but other traffic as well. Of course, if the violator refuses to stop or cannot be made aware of the officer's intentions through desired procedures, the application of the siren and red lights becomes a last resort measure. It should be remembered that the violator may not be aware that he has committed an offense or may not understand the officer's motives for the stop. He may be preoccupied with his car radio, engrossed in conversation with his passengers, or lost in thought.

Being alert for anything out of the ordinary is very important at this time. As mentioned earlier, some drivers may panic and stop suddenly. Drunken drivers have poor reaction time and may continue to weave about the highway. Being prepared and allowing sufficient space between the patrol vehicle and that of the violator

Figure 1.



is required so that the officer can make whatever adjustments circumstances require.

Because many municipal roadways are too narrow to permit moving to the left side of a violator's automobile, the suggested procedure is to drive the patrol car directly behind that of the violator. This maneuver denies the offender the opportunity of moving to the right and attempting to flee or cutting to the left, forcing the patrol vehicle into the oncoming lane of traffic.

After the motorist has stopped his automobile, the patrol vehicle should halt about 2 feet to the left and approximately one car length behind the stopped vehicle. Some departments suggest that the patrol car stop to the rear at an angle, with its wheels turned to the extreme right. (See fig. 1.) This positioning offers the dual advantage of providing protection against the flow of traffic for the emerging officer and affording some cover should the violator be armed and fire at the officer. Additionally, the angle and distance between the patrol car and the violator's vehicle could prevent injury to the officer should a passing motorist strike the patrol car while the interview is being conducted.

The use of the overhead lights after the violator has been stopped, of course, depends upon many factors. The location of the stop (near a curve or crest of a hill) and the lighting in the area, as well as traffic, road, and weather conditions, must be considered. The safety of the officer, the violator, and other motorists is the prime concern.

The Encounter

One of the most critical stages in any traffic violation situation is the encounter. It is suggested that the officer compose himself and decide a course of action before confronting the violator. The course may assuredly be altered after he has discovered additional facts related to the violation, but he should be prepared beforehand. The plan of enforcement action—verbal or written warning, a summons, or arrest—should be formulated. The officer is dealing with an unknown quantity—a human being—a person capable of any reaction, and he must exercise care. For this reason, complete self-control, although sometimes difficult after a chase, is imperative.

Figure 2.

> ***"The officer is dealing with an unknown quantity—a human being—a person capable of any reaction, and he must exercise care."***

Each violation is to be evaluated objectively. The violator himself may be involved in some sort of emergency, and the officer can never permit personal feelings to unfairly influence his conduct. The violator, like everyone else, has a unique personality. He may be meek and submissive or antagonistic and aggressive. Self-control provides an obvious advantage.

After the violator has been stopped, but before emerging from the patrol car, the officer should:

(1) Review the elements of the violation in his mind in order to articulate these elements to the violator and evaluate the course of action.
(2) Request a National Crime Information Center (NCIC) check regarding the car, including description and license registration number, and notify the dispatcher of his location.
(3) Check that all needed equipment is ready and in his possession.

Upon receiving a response to the NCIC inquiry, the officer should approach the violator's car cautiously, being prepared for any sudden movements inside the car and alert to any passengers. The officer is extremely vulnerable to attack at this time. When approaching the driver, he should position himself to the rear of the violator's car door, forcing the driver to look over his left shoulder when conversing. This maneuver, to the officer's advantage, places the driver in a relatively awkward position. (See fig. 2.) In addition, the officer should watch the offender's hands and be prepared for any sudden moves he might make. It is important that the officer never lean into the car window or place his hands where the driver can grab them. Aside from the safety factor, such tactics are unprofessional and tend to antagonize the driver.

The Interview

The interview is the most important phase of traffic violation investigation and will usually determine the success or failure of the enforcement action. Greeting the violator in a courteous and pleasant manner is essential. The violator-officer relationship should be handled with as little friction as possible. A pleasant smile and attitude are most disarming and place the violator at ease. Use of polite terms, such as "Good day, Sir (or Madam)," "thank you," "please," and "may I," is important. After learning the violator's name, he should be addressed accordingly. Courtesy involves more than mere words. The officer should avoid actions which might inflame the violator, such as leaning onto the hood of his car or placing his foot on the bumper. Gestures which might draw attention to the violator from passing motorists or pedestrians should likewise be avoided. Never belittle the driver in the presence of passengers or members of his family.

> ***"The interview is the most important phase of traffic violation investigation and will usually determine the success or failure of the enforcement action."***

Chief Victor I. Cizanckas

The astute officer will announce immediately what violation the motorist has committed and state his intentions. This tactic minimizes bickering and lessens the possibilities for debate and argument. He will request the violator's operator's license and registration and leave the car as soon as he receives them. His departure reduces the motorist's opportunity for argument. Also, when asking for the driver's documents, he will be certain they are relinquished separately. A license case should be accepted with the officer's weak hand; the strong hand being left free in case it's needed quickly. Should the violator reach into the glove compartment, a most accessible place for weapons or contraband, the officer must be alert.

On returning to his vehicle, the officer should write the summons or warning. Many departments require patrol officers to call the dispatcher with the information for warrant and suspension checks. This summons will bear mute testimony to the officer's intelligence and should be completed clearly, legibly, and correctly. Violators may take pleasure in displaying poorly written citations to their friends in support of their belief that policemen are incompetent. The summons should be completed as quickly as possible, for unwarranted delay serves as additional provocation for the violator.

It is not generally considered advisable to have the violator join the officer in his patrol car. Contacts with him should be kept to a minimum.

When returning the summons to the driver, the officer should offer the violator whatever advice is necessary and explain what is expected of him. Orally identifying each document as it is returned tends to lessen the possibility of any charges being made against the officer, if the offender misplaces or loses them following the exchange.

If the motorist insists upon arguing, the officer should allow him to state his position. Regardless of how the officer may feel about the violation, he will listen attentively and sympathetically. The officer cannot permit irritating or abusive remarks to influence his decisions; "throwing the book" at a violator serves no worthwhile purpose. The mark of a professional requires that he do his job without prejudice or vindictiveness.

> ***"The mark of a professional requires that he do his job without prejudice or vindictiveness."***

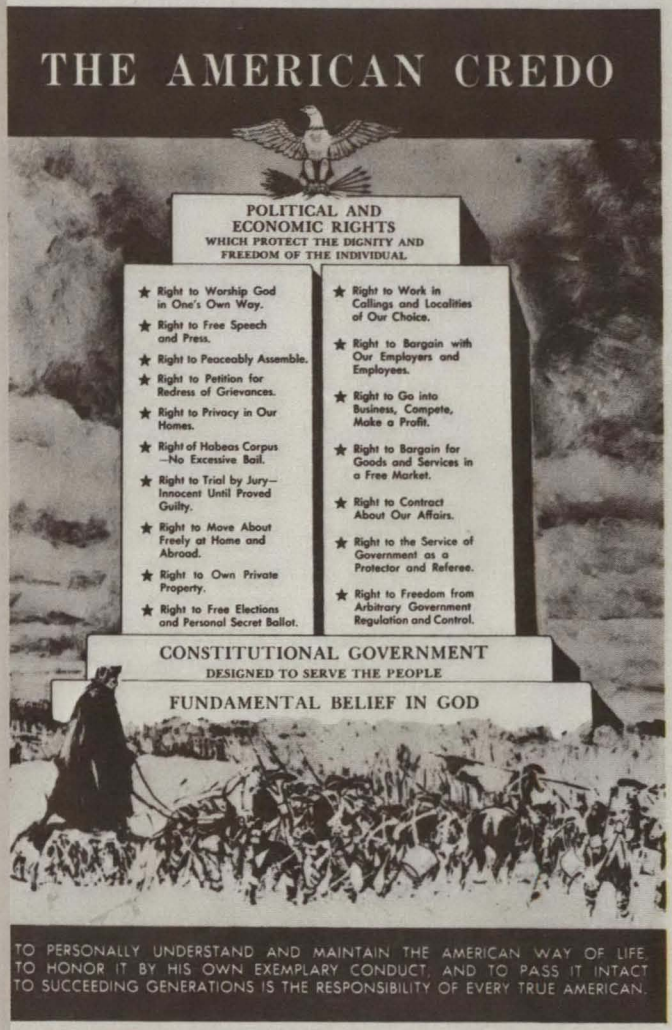
The Departure

The last phase of this operation, the departure, is also important be-

cause it leaves the violator with a lasting impression of the officer. Upon completing the interview and returning the violator's documents, the officer should assist him into the flow of traffic. To prevent the violator's forming the opinion that the officer is harassing him, the officer should delay his departure from the scene. The motorist should be allowed to proceed normally on his way until he is out of sight, and then, the officer can resume patrol.

Law enforcement agencies have been charged with the responsibility of enforcing the law, and that, by definition, can be restrictive and repressive. But, the task will be easier if we maintain law and order through willing compliance, rather than through the powers of our office.

Foundation Honors Bulletin



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GOVERNMENTAL UNIT ACTIVITIES

1976

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WASHINGTON'S BIRTHDAY - 1977

FREEDOMS FOUNDATION AT VALLEY FORGE

In ceremonies at Washington, D.C., on June 7, 1977, the FBI Law Enforcement Bulletin was presented the above honor certificate by the Freedoms Foundation at Valley Forge, Pa. In 1969, the Bulletin was similarly honored.

Recognizing the Child Abuse Syndrome

By
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State of Oklahoma
Oklahoma City, Okla.

It has been estimated that approximately 700 children are killed in the United States each year by their parents or other individuals responsible for their care.[1] This number represents only the extreme situations, with the number of actual child abuse cases many times that figure. Despite its prevalence, the battering or other abuse of children is frequently not reported or even suspected, except in the most obvious cases.

The medical definition of the syndrome of child abuse and its diagnosis are relatively recent. In fact, it was not until 1962 that the term "battered child syndrome" [2] was used, and the designation applied solely to the victim of physical injury, but carried no connotation of neglect. Many physicians and others in the past have all

too readily accepted the history of "accident-prone" children. Perhaps it has been because battering or other abuse is so unthinkable to the vast majority of persons—sometimes even those who themselves are guilty of inflicting injury—that the syndrome has been frequently overlooked.

Definition

What is child abuse? The author prefers to think of child abuse as anything not conducive to the well-being of the child, and as such, "acts of omission," as well as "commission," are included within this definition. The syndrome of child maltreatment includes those children deprived of the necessities of life through nutritional or environmental neglect, as well as those children physically injured (either singly or multiply). Obviously, discipline is not usually con-

sidered maltreatment, if it is conducive to well-being, but reason must distinguish the point at which "discipline" becomes abuse.

Investigation

As is true of any medicolegal investigation of a fatality, only "guideposts" can be established in child abuse cases. Each case involving the death of an infant or child must be assessed individually in order to determine the extent to which the investigation will be taken. Appropriate and complete documentation of each investigation—including photographs, diagrams, and the results of probing interviews—is of primary importance and will complement autopsy findings, regardless of conclusions relating to cause and manner of death.

> *"Appropriate and complete documentation of each investigation—including photographs, diagrams, and the results of probing interviews—is of primary importance . . . ."*

The scene of death should be preserved, and if possible, the pathologist should view the body at the scene. Precluding this, adequate documentation must be obtained. Special attention should be directed to the positioning of the body in order to assess the possibility of death having been produced by contact with the crib or other objects. Such observations may help to indicate a cause of death, since in many cases of suffocation, for instance, pathologic findings may be "negative."

The investigation should reflect the socioeconomic status and the physical environment of the home, as well as its geographic location. The relationships of other family members to each other and their reactions to the death should be observed and reported. Siblings should be observed for injury, nutritional status, and their interrelationship with parents and other siblings should be noted. Interviews with neighbors, other relatives, and friends, which can be either of tremendous assistance or totally misleading, must be evaluated with care.

> *"Special attention should be paid to explanations given for the presence of any obvious injuries and their sequence or chronological relationship."*

The child's medical history should be elicited and confirmed by physicians and/or hospital records. Special attention should be paid to explanations given for the presence of any obvious injuries and their sequence or chronological relationship. When the findings of the completed examination indicate that the injuries are inconsistent with such explanations, the need for further action becomes obvious.

> *"The incompatibility of history and pathologic findings is a cardinal sign that one is dealing with child abuse."*

The incompatibility of history and pathologic findings is a cardinal sign that one is dealing with child abuse. Other indicators include the finding of an unexplained injury, a history of "failure to thrive" with the child receiving no medical care, and expressions of frustrations based upon unrealistic expectations of the child—that is, expecting behavioral characteristics of which only a more mature child is capable (such as toilet training).

The investigator should also be aware of an indicator referred to by many clinicians as the "paradox of clothes." In these cases, the child has allegedly suffered an "accident" which would certainly have torn and/or soiled his clothing. However, upon inspection, the clothing is determined to be undamaged, and the child, often reportedly "at play" when injured, is dressed as though en route to Sunday school.

The Autopsy

It is of paramount importance that a thorough medicolegal autopsy be performed by competent personnel in each and every case in which a deceased child has not been under the care of a licensed physician for a well-documented, fatal, *natural* disease in no way related to injury or poisoning. This autopsy will document any injuries by description, photography, and/or diagrams. When feasible, total body x-rays should be taken to delineate the presence and age of any skeletal injuries. Special attention should be paid to any patterned injuries— bite marks, belt imprints, etc.—which might provide clues to the object or individual responsible for their infliction. (See figs. 1–3.) In selected cases, the body may be left for a period of time after completion of the initial autopsy examination in order for drainage of blood to occur, so that any existing bruises may be accentuated.

> *"The absence of suspicion or external injury* in no way obviates the need for an autopsy."

The absence of suspicion or external injury *in no way obviates the need for an autopsy*. The lack of external injury may only be the result of application of blunt force through padding or over a relatively large area. However, the results of such

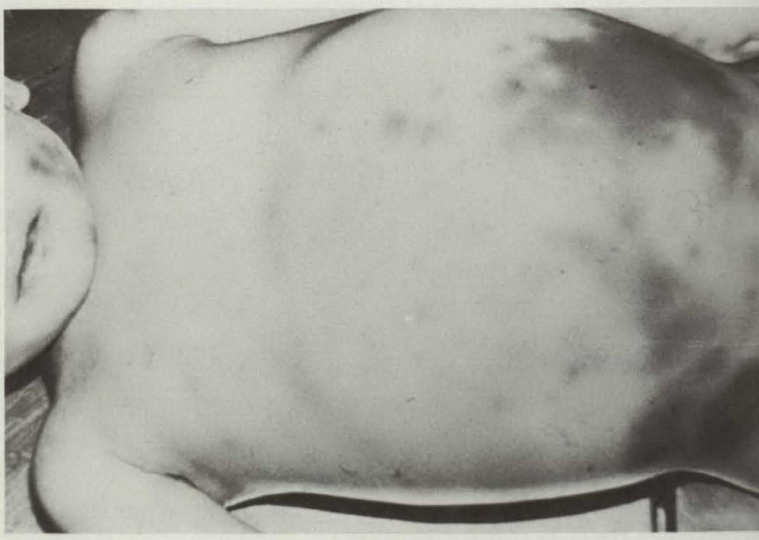
Figure 1. An imprint from a zipper.

Figure 3. A cigarette burn.

Figure 2. The patterned bruise left by an appliance cord with which a child was beaten.

"Special attention should be paid to any patterned injuries . . . ."

Figure 4. Marked abdominal distention and numerous bruises are present on the abdomen.



force will usually be observable internally.

The forensic pathologist faces four primary duties in dealing with allegedly abused or battered children. They are: (1) To educate lay and professional people alike, so that cases of abuse may be recognized and reported before extremes are reached, thereby enabling corrective action which will foster a more nearly normal existence for the child; (2) in cases where a death has occurred, to help insure surviving siblings of protection from abuse; (3) to protect the innocent individual who may be accused of abuse and held responsible for the death of a child; and (4) to provide expert opinion and testimony when necessary.

Case Illustrations

Case 1: A 21-month-old male was found dead by his mother and her common law husband in a rural home in eastern Oklahoma. There was no definitive medical history, and the mother stated only that she had spanked the baby 2 days prior to his death, and that later, when she had been "whipping him," she "missed his bottom and hit his back." She stated that the child had not appeared ill, but added that the male living in the home had alleged that the baby kept falling off the bed during the night prior to its death. A description of the home and its contents is not available.

Initial examination of the body revealed multiple bruises of varying ages involving all body surfaces and extremities. These were most severe on the abdomen. (See fig. 4.) Internal examination of the abdomen revealed that there had been a massive hemorrhage resulting from blunt-force injury to the abdominal wall. There was damage to the liver, as well as irregular hemorrhages of the intestinal wall.

Microscopic examination of tissue sections from the abdomen confirmed not only the presence of acute intestinal injuries, which were of less than 12-hours duration, but also disclosed intestinal injuries and injuries to the liver which were consistent with a duration of 24 to 72 hours and 7 to 14 days. These injuries could only have been inflicted by severe beating.

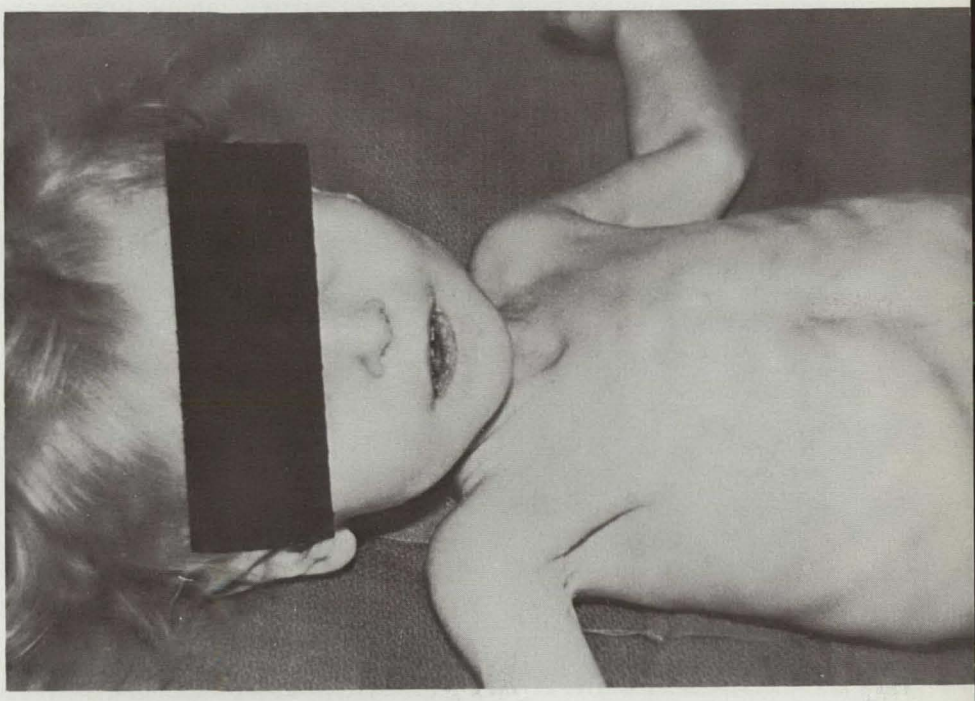
The case was successfully prosecuted, and at the trial, the mother of the child, having turned State's evidence, testified that the male living in the home had kicked the child and that the child had vomited several times during the night. She further testified she had refused to take the child to a doctor because she was afraid she would lose custody of him.

Case 2: The body of a 1-year-old male was brought to an emergency room from a remotely located Oklahoma farm. The family was described as "destitute." The child was noted to be extremely dehydrated and possessed little or no subcutaneous fat. (See fig. 5.) The infant, according to the parents, had been put to bed with a "cold" at approximately 9:30 p.m., and was observed by them to be alive at 1:30 a.m. The child arrived dead at 9:30 a.m. There was no other medical history.

The post mortem examination revealed the presence of no natural disease process, but confirmed extreme dehydration and extreme reduction of fatty tissue. There was no hemorrhage or other gross abnormality to indicate any significant trauma. Microscopic examination revealed no bruises or tumors likely to have been caused by abuse or maltreatment. Undoubtedly, this child represented a natural death in an extremely poor family, who could neither afford nor understand the need for medical care.

Case 3: A 2-year-old male was admitted to the hospital with severe scalding burns covering approximately 40 percent of the body surface—the lower half of the back, buttocks, abdomen, genitalia, and lower ex-

Figure 5. The rib cage in this small child was easily observed due to dehydration and malnutrition. Note the wrinkling of the abdominal skin.



tremities. According to the mother, the child was left alone in the sink where he was receiving a bath while she attended another child. The deceased allegedly turned on the hot water accidentally. The child survived approximately 18 days in the hospital before succumbing to infection and multiple complications.

The autopsy examination disclosed a well-developed, nourished, otherwise healthy, normal child with third and fourth degree burns involving approximately 40 percent of the lower portion of the body. However, sections of the buttocks and soles of the feet were partially unburned, and the lower part of the abdomen and small portions of the front surface of the knees were free from any burning at all.

These findings in an otherwise healthy child indicate that the story given was completely false. No child of this age would sit still in the water long enough to sustain burns of such severity without moving about, and thus, one would not see the distinct "high water mark" noted in this case. (See fig. 6.) The explanation as to why the areas which obviously had to be submerged, were not burned is as follows: The child was held in the water bent forward. The water was in a cast iron sink which had not yet reached the temperature of the water, and the buttocks and soles were forced down against it, thus preventing their scalding. The knees were slightly out of the water, and the fold of skin on the front of the abdomen protected it.

When confronted with these facts and conclusions, the mother confessed that she had in fact held the child purposely in scalding water because he fussed excessively when taking a bath, and that she had wanted to "show him a thing or two."

Figure 6. A definitive "high water" line is observed in this picture.

Conclusion

Since the vast majority of deaths in infants investigated by the medical examiner are the result of natural disease, the rights of parents or others responsible for the child should never be violated through hastily interpreted facts. They should neither be incriminated nor prosecuted unless there is clear indication for such activity. Heaven forbid that any parent should ever be wrongly accused of homicide by asphyxia in a case of sudden infant death syndrome for instance, because of incompetent interpretation of findings by a reputed "expert."

But no other single area of concern to the forensic pathologist demonstrates so consistently the cruelty of one human being to another as child abuse, and maltreatment, when indicated or suspected, should be thoroughly and vigorously investigated, giving special emphasis to certain aspects peculiar to this child abuse syndrome.

FOOTNOTES

[1] C. M. Kempe, "The Battered Child and the Hospital," *Hospital Practice*, 4 (1969): 44–47.

[2] J. E. George, "Spare the Rod: A Survey of the Battered Child Syndrome," *Forensic Sciences*, 2 (1973): 129–167.

Students and the Fourth Amendment:
Searches in Secondary Schools

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This is the conclusion of a two-part article. Part I appeared in the July issue.

Justifying the Search

If a school administrator acting as a "State official," or a law enforcement officer, or both acting together, desire to search a student, his belongings, or his locker, the strongly preferred approach is to do so under authority of a search warrant. The Supreme Court nowhere has been more consistent than in its emphasis on the need for prior judicial approval before searches are made. *Coolidge* v. *New Hampshire*, 403 U.S. 443 (1971); *Katz* v. *United States*, 389 U.S. 347 (1967).

Only when it is impractical or impossible to obtain a warrant should officers or school officials consider a warrantless search. A warrantless search on school premises, like searches anywhere, must be justified by some recognized exception to the

warrant requirement. Exceptions approved by the Court are searches made incidental to a lawful arrest, those made with the consent of a party empowered to do so, and those conducted under emergency or exigent circumstances. *Vale* v. *Louisiana*, 399 U.S. 30 (1970).

The first exception offers little difficulty. If a student is subjected to a lawful, full-custody arrest on school premises, with or without a warrant, his person and the property within his immediate reach may be searched for weapons and evidence. *United States* v. *Robinson*, 414 U.S. 218 (1973). The "immediate reach" limitation renders the school locker beyond the permissible scope of search if it is not in close proximity to the student at the time of arrest. *Chimel* v. *California*, 395 U.S. 752 (1969).

The remaining two exceptions—consent and emergency searches—hold the key to a constitutionally permissible search of a student and his locker. A consent to search is the voluntary relinquishment of fourth amendment protection in the person, place, or thing sought to be searched. *Schneckloth* v. *Bustamonte*, 412 U.S. 218 (1973). An officer or school official seeking consent must be mindful of two requisites. He must obtain the consent from a person *in lawful possession* of the place to be searched, and the yielding of constitutional protection must be *voluntary*. Today lawful possession is defined in terms of the *Katz* principle: does the person against whom the search is directed have a reasonable expectation of privacy in the place searched? Voluntariness will be evaluated not on the basis of any single criterion, but rather on all the facts and circumstances surrounding the obtaining of consent.

Consent Searches

A student, like any individual, is provided with fourth amendment protection. In the school environment, he enjoys this right of privacy in his person, effects, and locker. But also, like any individual, he may give up this protection, so long as his decision is the product of a free and unconstrained choice. See *State* v. *Stein*, 456 P. 2d 1 (Kan. 1969), cert. denied 397 U.S. 947 (1970). Physical force or psychological coercion, for example, will taint an otherwise proper consent to search. *Bumper* v. *North Carolina*, 391 U.S. 543 (1968). And it is probably safe to say that the burden on the State to prove voluntariness increases as the age and maturity of the student diminishes.

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.

Running through the law of consent searches is the principle of "assumption of risk." This means simply that where two or more persons mutually possess and exercise common authority over a place or thing, each assumes the risk that one of the joint possessors will consent to its search. *Frazier* v. *Cupp*, 394 U.S. 731 (1969). The assumption principle may be observed in a frequently cited New York decision. The case was twice before the New York Court of Appeals, and in both instances the warrantless search of a high school locker was sustained.

Detectives with a search warrant describing two students and their lockers went to a local high school, where they presented the order to the vice principal. The students were summoned and searched, but nothing evidentiary was found. A subsequent search of the defendant-student's locker, however, yielded marihuana. Though the warrant was later found defective, the trial court refused to suppress the evidence, concluding that the seizure was justifiable on an independent ground, that the vice principal had consented to the search of the locker. The Court of Appeals agreed.

In *People* v. *Overton*, 229 N.E. 2d 596 (1967), vacated and remanded 393 U.S. 85 (1968), reheard and approved 249 N.E. 2d 366 (1969), the New York court was presented with two issues: (1) Whether the school official could authorize the search of a student's locker; and (2) whether his consent was voluntary.

Regarding the official's right to consent, the court pointed out that the students provided school authorities with their locker combinations and were "well aware" that school officials possessed duplicate combinations. Furthermore, regulations had been issued concerning what could be kept in the lockers, with the school reserving the authority to "spot check" to insure compliance. The court concluded that while the students may have the right of exclusive possession with respect to their fellow students, they have no such right as against school authorities. And because of the nonexclusive nature of the locker (i.e., joint possession), the school official is empowered to consent to the search by police officers. *People* v. *Overton*, 229 N.E. 2d at 598. The court also held that given the distinct relationship between school authorities and students and the hazards inherent among teenagers in a school environment, the authorities have an affirmative obligation to investigate charges that students are using or possessing narcotics.

As to the claim that the vice principal's consent was involuntary, the court, after examining all the relevant facts, rejected the argument and found his decision free of coercion. *People* v. *Overton*, 249 N.E. 2d at 368. The *Overton* decision was followed in a 1969 Kansas school locker case, *State* v. *Stein*, *supra*, and cited with approval in a later New York decision, *People* v. *Jackson*, 319 N.Y.S. 2d 731 (N.Y. Sup. Ct. 1971).

> ***"[A] State may justify a school locker search by police based on consent of a school official where a policy has been adopted, promulgated, and practiced in which the school withholds from a student the total and exclusive right to possession of the locker."***

What *Overton* teaches is that a State may justify a school locker search by police based on consent of a school official where a policy has been adopted, promulgated, and practiced in which the school withholds from a student the total and exclusive right to possession of the locker. This nonexclusivity may be demonstrated by publishing an appropriate school regulation, by securing an agreement or understanding from the student at the time of the issuance of the locker, and by retaining duplicate combinations or locker keys. It should be noted that *Overton* deals only with the school locker problem and would not justify the search of the student himself or items in his possession, at least not on the basis of "joint possession" or "nonexclusivity."

Nonconsensual Emergency Searches

The final generally recognized exception to the warrant requirement is a search conducted under exigent or emergency circumstances. The Supreme Court has recognized that under exceptional conditions the need for a search warrant must yield to other more important considerations. Thus an entry to a house to look for a fleeing suspect was approved in *Warden* v. *Hayden*, 387 U.S. 294 (1967). And in *United States* v. *Jeffers*, 342 U.S. 48, 52 (1951) and *McDonald* v. *United States*, 335 U.S. 451, 454–55 (1948), the Court pointed out that "compelling reasons" will excuse the warrant requirement, citing seizure of property being destroyed, threatened removal or concealment of evidence being sought, and potential violence and danger as examples of such emergencies. Lower courts similarly have seen no need for a warrant under these circumstances; e.g., *United States* v. *Doyle*, 456 F. 2d 1246 (5th Cir. 1972) (removal of evidence); *People* v. *Sirhan*, 497 P. 2d 1121 (Cal. 1972), cert. denied 410 U.S. 947 (1973) (danger to political leaders).

> ***"Where . . . school authorities or police receive a reliable report that an explosive device or weapon is secreted on a student or in a school locker, courts could be expected to authorize a warrantless search based upon the exigent circumstances. . . ."***

The reasoning of these decisions can be transferred to a secondary school setting. Where, for example, school authorities or police receive a reliable report that an explosive device or weapon is secreted on a student or in a school locker, courts could be expected to authorize a warrantless search based upon the exigent circumstances this creates in the school environment.

The Illinois Supreme Court appears to have based a 1968 holding on this point. In *In re Boykin*, 237 N.E. 2d 460 (Ill. 1968), the appellant, a Chicago high school student, was adjudicated a delinquent for possessing a concealed weapon. His appeal contended that a warrantless, nonconsensual search of his pants pocket, which uncovered a gun, violated his fourth amendment right. He claimed that the search followed, and was incidental to, an unlawful arrest. The court rejected his argument, declaring that quite apart from the legality of the arrest, the police were not required to delay the search in order to gather additional information. It offered the further observation:

> "In this case . . . the nature of the potential danger differs from that involved in gambling and narcotics cases (citation omitted). The appropriate person to appraise that danger was the school official who is required to maintain discipline and to act 'for the safety and supervision of the pupils in the absence of their parents or guardians'." Id. at 461–62. (N.B.: the doctrine of loco parentis, discussed in Part I, also may be seen in the resolution of this case.)

Another State decision involving a boys' boarding school offers further support for the idea that courts are prepared to waive the warrant procedure in an emergency. Following commission of a serious felony (rape) on the school grounds, officers developed probable cause to believe the assailant, a resident student, might be extremely dangerous and still in the vicinity. The headmaster unlocked the student's room for police, where they seized an item of clothing later offered in evidence. In considering the warrantless entry problem, the court had no difficulty in finding the actions "justified by the exigent circum-

stances." *Commonwealth* v. *Stroud*, 281 N.E. 2d 599, 600 (Mass. 1972).

Whether the "emergency circumstances" reasoning would support a search for narcotics is a more troublesome problem. Language in the *Jeffers* and *McDonald* opinions suggests that where the contraband is in the process of destruction or removal, a warrantless search and seizure can be made. In *In re State in Interest of G.C.*, 296 A. 2d 102 (N.J. Juv. Ct. 1972), the emergency rationale seems to have been taken into account. In upholding the search of a student for amphetamines, the New Jersey court pointed to the principal's duty to "protect the student body" and the need to discover the identities of other individuals to whom the pills were distributed to avert the threat of overdose.

Affirmative Public Duty of School Officials

There is a basis for justifying school searches separate and distinct from the commonly stated exceptions to the warrant requirement. It might be characterized as the affirmative public duty authority, related to the loco parentis doctrine, and emerging in a number of decisions, usually in combination with other legal justifications.

"There is a basis for justifying school searches separate and distinct from the commonly stated exceptions to the warrant requirement."

In *Overton*, the New York court decided that a school official is empowered to consent to a police search of a school locker. But beyond that, it asserted:

> "Thus, it is the affirmative obligation of the school authorities to investigate any charge that a student is using or possessing narcotics. . . . Indeed, it is doubtful if a school would be properly discharging its duty of supervision over the students, if it failed to retain control over the lockers. Not only have the school authorities a right to inspect but this right becomes a duty when suspicion arises that something of an illegal nature may be secreted there." 229 N.E. 2d at 597–98.

This same approach is taken in *In re Donaldson*, 75 Cal. Rptr. 220 (Cal. 1969) (obligation to maintain order); in *In re State in Interest of G.C.*, *supra* (school authorities are duty-bound to investigate suspicion of criminality); *People* v. *Stewart*, 313 N.Y.S. 2d 253 (Crim. Ct. N.Y.C. 1970) (obligation to determine validity of report concerning narcotics); *People* v. *Jackson*, *supra* (affirmative obligation of school authorities to investigate). It is perhaps noteworthy that with the exception of *Overton* (in which the court relied primarily on the consent theory), none of the foregoing cases involved joint police-school official searches. The affirmative duty justification, therefore, would seem most appropriate where the purpose of the search is protection of students, not the seizure of evidence for a criminal prosecution.

The Standard of Proof

What standard of proof must be shown to demonstrate the reasonableness of a school search conducted by a State official without a warrant, without an arrest, and without the student's consent? The reasonableness test of the fourth amendment generally is met by a showing of facts and circumstances sufficient to persuade a reasonable and prudent person that evidence of crime is located at a particular place to be searched. *Brinegar* v. *United States*, 338 U.S. 160 (1949); *Carroll* v. *United States*, 267 U.S. 132 (1925). But in *Terry* v. *Ohio*, 392 U.S. 1 (1968), the Supreme Court formulated a different standard to apply in the investigative detention of persons. The Court found that a carefully limited self-protective search of a detained suspect could be justified on facts not amounting to probable cause. This standard of proof has been called "reasonable suspicion" or "reasonable belief," and while it defies simple definition, it is at least clear that the test can be met by a showing of facts lesser in quantity and quality than those necessary to meet the test of probable cause. *United States* v. *Coates*, 495 F. 2d 160 (D.C. Cir. 1974).

It is precisely this lesser standard of proof which some courts have transposed from the street detention to the secondary school search. *State* v. *Baccino*, 282 A. 2d 869 (Del. Super. Ct. 1971), is illustrative. A high school student found to be absent from his assigned class without cause was escorted to his classroom by the vice principal. He was carrying a coat, which was wrested from him by the school official to make certain he would not leave again. The student was "known to have experimented with drugs in the past." The coat was searched, and 10 packs of hashish found. Police were called and the student arrested for illegal possession. At issue was the lawfulness of the search.

The Delaware court held that: (1) The vice principal is a "governmental official" subject to the fourth amendment; (2) he acts in loco parentis to the pupils under his charge for disciplinary purposes and to maintain an effective educational atmosphere; (3) the doctrine of loco parentis must be balanced against the prohibitions of the fourth amendment; and (4) the standard of proof used to strike the balance is "reasonable suspicion" to believe the student's jacket con-

tained contraband. The search was upheld based on this standard. Other State decisions using the test of "reasonable suspicion" are reported from Georgia, *State* v. *Young*, 216 S.E. 2d 586 (Ga. 1975); New Jersey, *In re State in Interest of G.C., supra*; and New York, *People* v. *D.*, 315 N.E. 2d 466 (N.Y. 1974); *People* v. *Jackson, supra; People* v. *Stewart, supra.*

The Civil Remedy

Most of the preceding cases concern the admissibility of physical evidence seized in a school search and later proffered in a criminal or juvenile delinquency proceeding. The question considered is whether the evidence should be suppressed. However, that exclusionary evidence principle, primarily designed to deter unlawful governmental conduct, is but one remedy available to the aggrieved student. The offending officer or school official may also be sued civilly for money damages due to a violation of constitutional rights. The Federal Civil Rights Act, 42 U.S.C. Sec. 1983 (1970), provides that any person who, under color of State law, deprives another of rights, privileges, or immunities secured to him by the Constitution and laws of the United States, will be liable to the injured party in an action at law or suit in equity. Under certain circumstances, the liability may extend to the superiors of the police officer or school official. *Potts* v. *Wright*, 357 F. Supp. 215, 218 (E. D. Pa. 1973).

> ***"[The] exclusionary evidence principle, primarily designed to deter unlawful governmental conduct, is but one remedy available to the aggrieved student."***

In *Potts*, eight female students subjected to a warrantless strip search while attending a Pennsylvania junior high school brought a civil rights action to recover for an alleged deprivation of fourth amendment rights. The search was conducted on the complaint of another student that her ring was missing. Joined as defendants "acting under color of State law" were the following: The school officials, principal and vice principal, who notified the police of the apparent theft; their superior, the superintendent of schools; police officers who responded to the theft report; their superior, the chief of police; and a policewoman who was summoned to make the physical search of the girls.

The defendants moved to dismiss the suit on grounds that the student-plaintiffs failed to state a claim. The court refused to dismiss against the police officers, school officials, and their superiors. While the merits of the *Potts* case were not decided, several conclusions regarding the potential liability for illegal school searches can be drawn: (1) Law enforcement officers who physically make an unlawful search or proximately cause such a search to be made can be held liable under 42 U.S.C. 1983; (2) school officials who willfully participate in the police search or take action causing the students to succumb to the search act as "governmental agents" for purposes of the Civil Rights Act, and likewise may be accountable; (3) police and school administrators, though not personally involved, may be vicariously liable for the actions of their subordinates if they know or are charged with knowledge that their employees are causing deprivations of constitutional rights, and fail to take reasonable steps to prevent the violations. Id. at 218–19.

This is not to say either the officer or the school official is defenseless in the face of the lawsuit. Their protection lies in the ability to demonstrate the reasonableness of their conduct under the circumstances; i.e., facts amounting to probable cause (or reasonable suspicion) to believe in good faith what they did was reasonable. *Pierson* v. *Ray*, 386 U.S. 547 (1967).

Conclusion

Violations of the fourth amendment are costly. They are also preventable. Schoolhouse searches raise serious constitutional issues. For the officer confronting these issues a two-step approach is essential. He first must recognize that a problem exists; second, he must acquire a knowledge of fourth amendment principles, and equally important, the law of his own jurisdiction governing searches and seizures made in secondary schools. Rules in the States are not uniform. Within the broad contours of the fourth amendment, individual States have adopted their own policies and regulations controlling students, school officials, and law enforcement officers alike. That much can be seen in the foregoing discussion.

The loss of relevant evidence is a high price to pay for an investigative misstep. This penalty is particularly severe where a murderer, rapist, or robber successfully avoids prosecution because of an officer's dereliction. Failure to prosecute or adjudicate a juvenile in possession of narcotics or a weapon at school may be of lesser consequence. But to the parent whose child may be the next customer for the young heroin merchant or the next victim of a deadly assault, the failure of the criminal justice and school systems to successfully deal with such behavior is nothing short of tragic.

The fourth amendment is restrictive. It was designed that way. But the limitations imposed are not unreasonable. Both the preservation of the learning atmosphere and the control of crime in secondary schools can be realized within constitutional limits. The community expects nothing less from its officers.

WANTED BY THE FBI

Photographs taken 1973. Photograph taken 1974.

ROBERT LASHLEY GILLEY, JR., also known as Robert L. Gilley

Unlawful Interstate Flight To Avoid Prosecution—Murder

Robert Lashley Gilley, Jr., is currently being sought by the Federal Bureau of Investigation for unlawful interstate flight to avoid prosecution for murder.

The Crime

Gilley, along with an accomplice, allegedly lured a retarded individual to a rural area outside Escondido, Calif., where the victim was robbed, kicked, and repeatedly beaten with a tire iron. This crime occurred in November of 1975. Gilley's accomplice has been apprehended, convicted, and sentenced.

A Federal warrant for Gilley's arrest was issued on February 10, 1976, at San Diego, Calif.

Description

Age	29, born April 27, 1948, Burlington, N.C.
Height	5 feet 9 inches.
Weight	150 pounds.
Build	Medium.
Hair	Brown.
Eyes	Blue.
Complexion	Light.
Race	White.
Nationality	American.
Occupations	Auto mechanic, electrical circuit board maker, laborer, mobile home transporter, scrap metal salvager.
Scars and Marks	Scar from left side to middle of back, tattoo of "X" on left forearm, left ear pierced.
Remarks	May be wearing earring in left ear, reportedly associates with motorcycle gangs, prefers "chopper-" style cycles.
Social Security No. used	550-82-7692.
FBI No.	228,836 J5.

Fingerprint Classification:

$$\frac{23\ L\ 1\ R\ 11}{L\ 1\ Rr} \quad \text{Ref:} \quad \frac{T\ R\ T}{T\ T\ R}$$

NCIC Classification:
23541314112252541311

Left middle fingerprint.

Caution

Gilley has been convicted of possession of marihuana, sale of marihuana, and false imprisonment. He should be considered armed and dangerous.

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.

U. S. GOVERNMENT PRINTING OFFICE : 1977 O - 237-561

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DANGEROUS DISK

Cincinnati

A harmless toy, commonly referred to as a "frisbee," can be converted into an unusual weapon, as recently discovered by the Cincinnati, Ohio, Police Department. (See above photograph.) When embedded with razor blades, this toy could cause serious injury or possible death when thrown at an unsuspecting victim. It was confiscated from a 4th degree black belt karate expert, who claimed it to be part of his arsenal of self-defense.

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

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INTERESTING PATTERN

The interesting pattern above is classified as a double loop-type whorl with an outer tracing. The pattern consists of two separate loop formations and two deltas.