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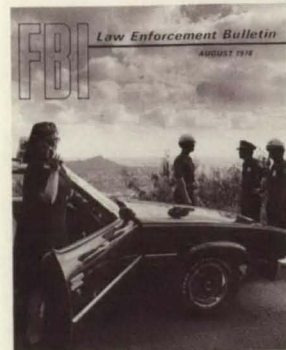
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THE COVER

A Honolulu Police Department's chaplain rides on patrol.
See article page 16.



The Dallas Metro Crime Council

By

**CHARLES H. EATON
Citizen Consultant
Dallas Metro Crime Council
Dallas, Tex.**

In late 1973 and early 1974, Dallas, Tex., experienced an unprecedented wave of convenience-type grocery store, neighborhood grocery store, and liquor store armed robberies which resulted in store clerk killings. These killings formed no particular pattern and appeared totally unrelated. The Dallas chief of police, in an attempt to stem the tide of killings, appealed to citizens to provide the police with any information which might assist in the identification and apprehension of the killers.

Three prominent Dallas businessmen—a chain liquor store operator, the head of a chain of convenience grocery stores, and the operator of a chain of liquor and convenience-type grocery stores—heeded the appeal and proposed to the chief of police and district attorney the formation of an organization of businesses which could offer cash rewards from private funds to citizens who furnished information leading directly to the apprehension and indictment of persons who had robbed business establish-

ments. With the blessing of the chief and district attorney, the Dallas Metro Crime Council (DMCC) was brought into being in mid-January 1974.

The announcement of the first crime council reward—an offer of \$5,000 for information leading to the apprehension and indictment of the killer or killers of a Cuban couple slain during a robbery of their small neighborhood grocery—was made at a press conference in the district attorney's office. Within an hour sub-

sequent to the announcement, Dallas police received information identifying the killer. Shortly thereafter, the suspect was arrested and charged. The informant, who chose to remain anonymous, was paid \$5,000 by a Dallas Metro Crime Council representative.

Funds for the reward in this case and for the overall organization and operation of the crime council were initially contributed by various businessmen, companies, and private individuals. However, to assure a continuous reward fund and uninterrupted operation of the crime council, the founders established the council as a membership organization, with a provision for monthly dues. Thus, the present Dallas Metro Crime Coun-

A number of cities have implemented reward programs to generate citizen cooperation in solving crimes. This article and the next describe two methods of establishing these programs.

cil pattern of organization and operation was established.

The Dallas Metro Crime Council is now open to any retail establishment in Dallas County, with membership on a single store basis. Those chains having multiple stores pay dues for each store enrolled as a member. Dues have remained at \$5 per store per month, with an initial enrollment fee of \$10 per store. These fees cover the costs related to the crime council decal, which is affixed prominently near the entrance to the member store, the call list, council records, and membership mailing list. Reward offers vary according to the seriousness of the crime involved—\$1,000 in cases involving robbery only, \$2,500 in cases in which serious injury to store personnel occurs during a robbery, and \$5,000 in cases in which the death of store personnel results from a robbery or robbery attempt. Rewards arise automatically upon the occurrence of a robbery of a member store and are payable to persons who furnish, either to the crime council office or to the police, information leading directly to the arrest and indictment of an individual(s) for robbery or for the more serious charges which can arise as the result of robbery or attempted robbery. It is necessary that rewards be paid only for the crimes involving member stores, since all funds for rewards are obtained from the modest dues paid by members.

To date, the Dallas Metro Crime Council has paid \$37,500 in rewards in 21 cases. Police officials have indicated that a number of the cases in which rewards have been paid would

not have been solved without this program.

“Police officials have indicated that a number of the cases in which rewards have been paid would not have been solved without this program.”

The success of the reward program of the council is attributable to two primary factors: (1) Providing a non-police telephone number which can be used to furnish information without direct communication with the police department; and (2) the guarantee by the crime council that the identity of an informant will remain confidential and will not be furnished to the police or to the accused. In some instances, the informant has been identified only by a number and is unknown to crime council personnel.

In the past, most rewards became payable upon conviction of an individual for the crime for which the reward was offered. It has been held by some courts that “conviction” in such reward offers means final conviction, after the exhaustion of all possible appeals. Thus such rewards may not become payable until 2, 3, or even more years after apprehension of the guilty party. The crime council determined that its rewards should be paid as soon as the accused is indicted. It was believed that since indictment usually is returned within a few weeks of apprehension, the receipt of the reward by an informant is in his mind more closely related to the act of furnishing the tip.

The decision of whether or not in-

formation given by a citizen merits reward payment is not left entirely to the crime council staff. The council requires, in each case, a letter from the appropriate police department certifying that the information furnished by a reward claimant did, in fact, lead directly to apprehension and indictment of the accused.

From calls and inquiries received by the crime council office, it has become apparent that sometimes the general public fails to understand that the Dallas Metro Crime Council does not investigate crimes. It now emphasizes that all crime information received by the crime council is immediately passed on to the appropriate police officials for their investigative use.

Of course, it has been necessary to establish guidelines to assure that rewards are paid neither as a result of collusion nor to those who are victims and as such, would ordinarily furnish all available information to police when reporting the crime. Thus council rules provide that no reward shall be payable to victims or to persons who take part in, assist, or otherwise participate in the crime for which reward is offered.

A number of interesting situations have arisen in regards to the council's handling of reward claims. This past summer, for instance, a convenience grocery store was robbed, and the store clerk was kidnaped and reportedly raped. The robbery occurred on a Saturday night. On the following Monday, a call was received by the DMCC office. The caller provided the name of the robber, his home address, description of his car, and his

“The council requires, in each case, a letter from the appropriate police department certifying that the information furnished by a reward claimant did, in fact, lead directly to apprehension and indictment of the accused.”



Dallas Metro Crime Council sticker.

place and hours of employment. So detailed was the caller's information, it was initially suspected that he had participated in the robbery. However, upon inquiry, the caller stated that he was an ex-convict released from prison only 3 months earlier. He continued by stating that the robber-
 rapist, also recently released from prison, had been his cellmate. The robber had told the caller after the robbery that he "should have his head kicked in" for having become drunk, robbing the store in question, and unsuccessfully attempting to rape the clerk. Police were given this information promptly, and the store clerk later identified the robber from photographs. The arrest and indictment followed. The informant was paid a \$1,000 reward.

One case is of particular interest because of the attitude of the reward recipient and the quality of police work leading to the arrest of three robbers. A nursery store manager, leaving his store late one night, observed two individuals running from

a convenience grocery across the street. After observing the two fleeing persons enter an automobile and depart, he immediately provided the car description and direction of travel to police, even as the store clerk was reporting the robbery. A police helicopter happened to be in the vicinity and after receiving the broadcasted car description and direction of travel, spotted the car and obtained the license number. The number, checked at once by radio, provided the name and address of the registered owner. When robbers arrived at the car owner's apartment project in South Dallas, they were met by two police ground units, arrested, and later indicted for the robbery. At the reward presentation, the nursery store manager stated that he would give one-half of the \$1,000 reward to his favorite nationally known charity.

Although the reward program is the primary activity of the crime council, it is by no means its only activity. In order to inform its some 500 members of the local picture regarding ar-

restees released on bond, crime council officers and staff met with judges and magistrates of Dallas County who are involved in the setting of bonds. An evening-long discussion developed facts concerning the guidelines used in determining the amount of bond and the procedures established to pre-

"Although the reward program is the primary activity of the crime council, it is by no means its only activity."

vent the release of a prisoner charged with a crime after being released on bond for another charge. The judges and magistrates became quickly convinced that the crime council members had a real interest in this phase of the criminal justice system.

In order to keep current on crime statistics in Dallas, daily contact is maintained between the crime council staff and the Research and Planning Office of the Dallas Police Department. The staff obtains information concerning the number of business robberies for the preceding 24-hour period and the locations of such robberies. These statistics and facts are reported to members in a crime council monthly news brief. Periodically, statistics are obtained from the district attorney's office which reflect the total number of armed robbery cases handled, etc. These statistics are likewise reported to council members in the monthly news briefs.

The relationship between the crime council and the various police departments in Dallas County communities is one of mutual respect. The crime council has always had, and will continue to have, the attitude that its principal reason for existence is to aid the police, never to compete or interfere with them. The maintenance of this attitude has resulted in the police department developing and

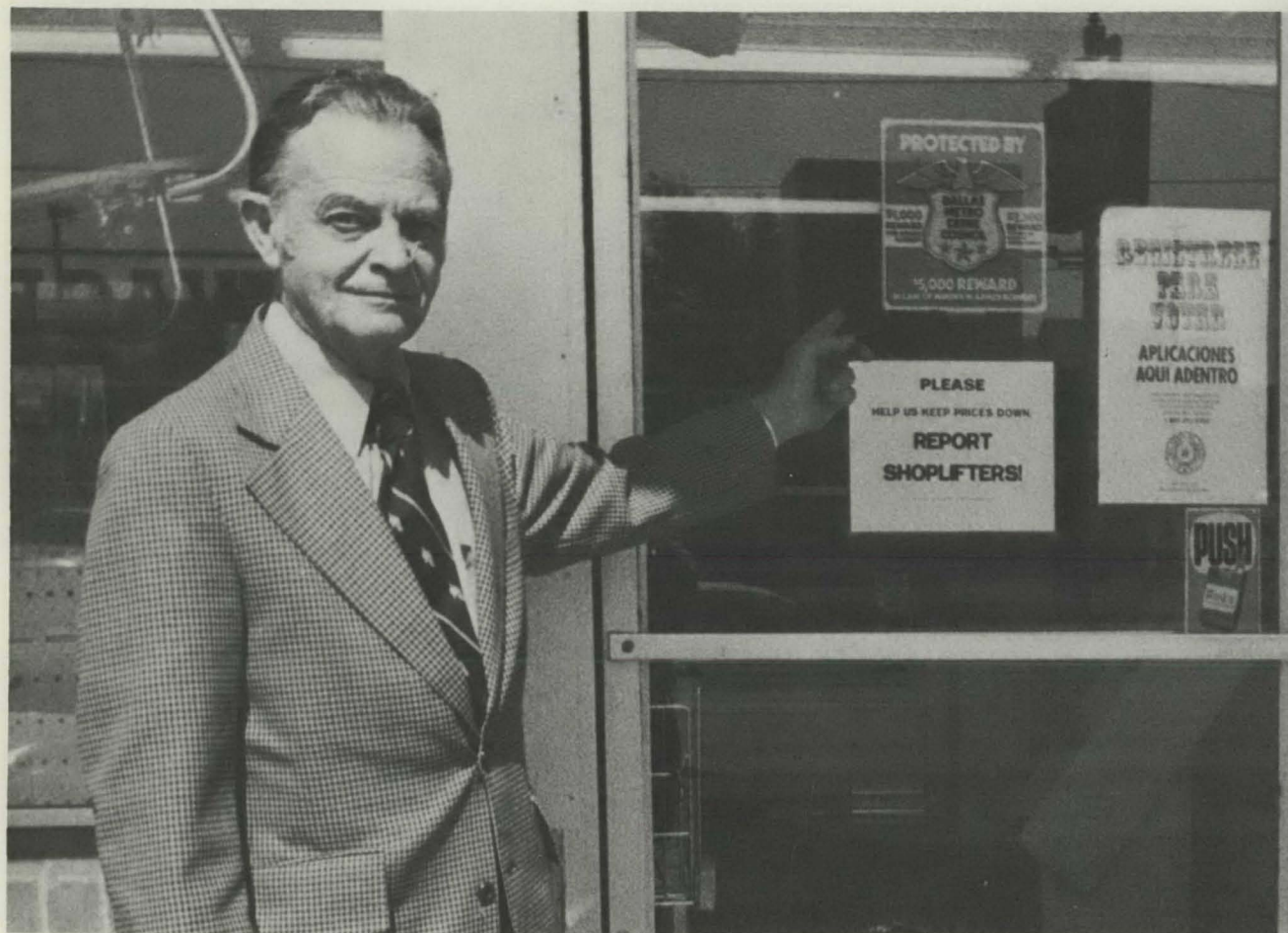
maintaining respect for the crime council and its program of rewards. The Dallas Police News, published by the Public Information Office of the Dallas Police Department, has twice featured front page stories concerning the crime council's reward program and praising the results as viewed from the law enforcement standpoint. The crime council has annually sponsored a Dallas Police Department baseball team, which participates in the Police League. In one instance, the Dallas chief joined with the crime council president in publicly recognizing two men who chased and captured a grocery store robber. The chief presented Citizen Award certificates, and the DMCC president presented the re-

ward check. Without the feeling that the crime council and the police are working in concert, the crime council's reward program could not be effective.

Because the passage of time dims man's memory and compounds the difficulty of determining identities of those who have committed armed robberies, the crime council reward offers remain effective for a period of 6 months following the commission of a robbery. However, the directors of the crime council have retained the prerogative to extend that time in especially meritorious cases.

The success of the reward program quite naturally depends upon the extent to which the public is aware that

rewards may be earned by providing information. While the crime council has publicized the reward offers by newspaper display advertising, classified ads, and news stories, a continuous public exposure has been maintained by display cards in some 200 city buses. There have been public service announcements on local radio and television stations. For the past 3 years, the crime council has invited the Dallas County chiefs of police to join with them in a televised press conference announcing operation "Holiday War on Crime." At this conference, the chiefs of police announce, but do not disclose details of special plans for intensive efforts to reduce the number of business rob-



The author brings attention to a displayed reward program sticker.

"The success of the reward program quite naturally depends upon the extent to which the public is aware that rewards may be earned by providing information."

beries during the fall and winter holiday season, and crime council executives remind listeners of the rewards which are offered.

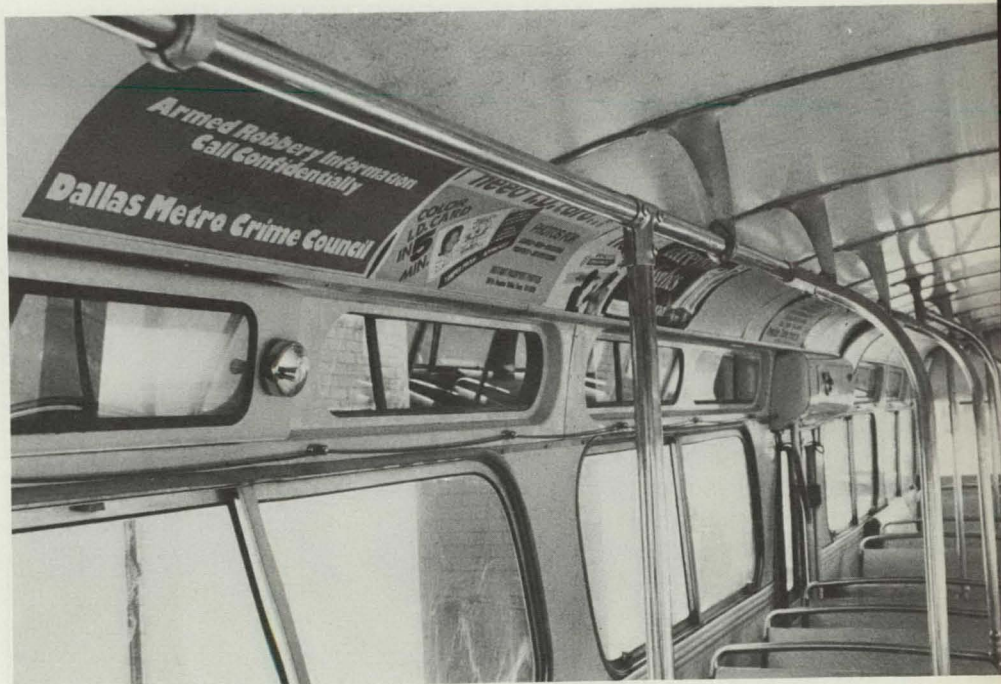
The crime council has cooperated with private business and civic organizations by lending its highly publicized telephone number and reward payment facilities in cases involving crimes committed at nonmember establishments. Last year, for example, the chamber of commerce of a neighboring town made use of such facilities in offering a reward for information concerning the killing of a businessman there. Earlier, a restaurant chain, not yet having membership in the council, made use of crime council facilities for the payment of a \$10,000 reward in connection with a slaying at one of their restaurants.

One of the ancillary benefits resulting from crime council operations has been the receipt of information about

"One of the ancillary benefits resulting from crime council operations has been the receipt of information about crimes for which no rewards are offered."

crimes for which no rewards are offered. We have been advised that a number of tips obtained through the crime council line and relayed to police have resulted in arrests and formal charges.

In order to make its own study of



Metro Crime Council placards are used by the transit system to alert the public to the reward program.

robbery patterns, modus operandi, weapons used, etc., the crime council requests a victimized member store to report details to the council office after first reporting the incident to the police. These reports are carefully studied and any similarities noted. If a single member location has suffered repeated robberies, that fact is called to the attention of the police department with a request that patrols in the area occur at more frequent intervals, that patrol cars become more visible in the area of the location, or that consideration be given to the use of a

shotgun squad at the location.

It is the duty of a citizen who witnesses a crime, or has information which might aid in apprehending persons who have committed a crime, to convey such information to the police. We know, however, that as a practical matter there is far too much of the "I don't want to get involved" attitude. The anonymity guaranteed by the council to its callers, when requested, and the potential of a reward generally overcome that attitude, thus making available to police information which otherwise could be lost. (TM)

Crime Stoppers

By
OFFICER GREG MacALEESE
Police Department
Albuquerque, N. Mex.

The use of informants has been a vital part of police work since the earliest times. In Albuquerque, N. Mex., a program has been created that gives the old role of a "snitch" a new twist.

Entitled "Crime Stoppers," the program is a combined citizen-police operation funded by donations from the community. In its 18-month existence, it has helped solve more than 400 major felonies and recover almost \$500,000 in stolen property in this community. More importantly, a Crime Stoppers' case has never been lost in court.

This multifaceted program combines the use of rewards, promise of anonymity for informants, and mass media exposure to produce some devastating results. For example, less than 24 hours after two gunmen robbed an Albuquerque bank, they were in custody, with most of the stolen money recovered. A call to Crime Stoppers from a citizen, who knew the two offenders and could describe their getaway car, led FBI Agents and local police to their doorstep. An additional nine armed rob-

beries were solved with the arrest of the two bandits, who later were convicted. Another incident involved a man who had escaped from jail for the third time in 4 months. Crime Stoppers posted a \$1,000 reward and arranged to have his picture flashed on television. Within 3 hours, the fugitive was back in custody.

"[T]he most unique aspect of Crime Stoppers is its involvement with the media."

Perhaps the most unique aspect of Crime Stoppers is its involvement with the media. Each week a specific unsolved case is selected as a target crime, and a \$1,000 reward is offered by Crime Stoppers for information that will help solve it. Information on the case is given to a local afternoon newspaper, which headlines the arti-

cle on the front page, and 60-second radio blurbs are taped for use throughout the week by 10 Albuquerque radio stations. Also, a local television station goes out to the scene of the crime and re-enacts the case with persons closely matching the descriptions of the real participants.

This mass media approach keeps Crime Stoppers at a very high profile within the community and also makes many local criminals very nervous. One armed robber told a police detective after his arrest, "Crime Stoppers doesn't play fair. I only got \$100 in a . . . armed robbery and they gave the guy who snitched me off \$500. That just doesn't add up very well to me."

The use of anonymous informants is one of the essential elements of the Crime Stoppers program. When a person calls Crime Stoppers, they are asked if they want to remain anonymous. If they opt to keep their identity a secret, they are provided with a code number to be used in all subsequent transactions. This code number simply is taken off a permanent log maintained by the person answering

"The use of anonymous informants is one of the essential elements of the Crime Stoppers program."



Officers of the Albuquerque Police Department re-enact a crime scene that will appear on television as part of the Crime Stoppers program.

the call. Each call is numbered chronologically, so that caller 850 simply becomes informant 850.

A civilian board of directors oversees the program's operation and controls the reward fund. If a caller's information results in an indictment and a reward is granted by the board of directors, the informant's number is printed in the newspaper and broadcast on television and radio. To

verify that the right informant gets the reward, he or she is asked to repeat the original information prior to payment.

Rewards are paid only after an offender has been indicted by the grand jury or a fugitive has been arrested. This policy discourages citizens from making irresponsible calls to the program. To date, more than \$32,000 have been paid to citizens/informants,

while the public has responded with some \$50,000 in donations to keep the fund intact.

The Crime Stoppers' telephone is manned 7 days a week, 8 hours a day by detectives of the Albuquerque Police Department's Violent Crimes Division. A full-time coordinator for the program develops leads from the tips, screens the information, and then turns it over to the detectives actually

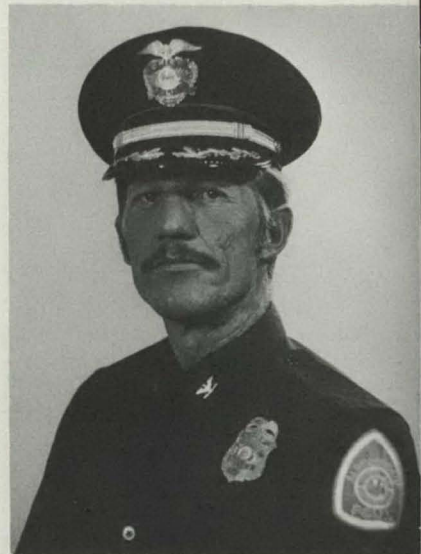
"Crime Stoppers has, in a sense, legitimized the role of the informant. In return, this cooperative effort between the police, the media, and the public has had a significant impact on the criminal community."

investigating the cases for inclusion in their case file. The coordinator also prepares each news release on the "Case of the Week" and reports the program's progress to the board of directors.

About 1,000 calls have been logged in by Crime Stoppers, and surprisingly, about one-half of them have come from nontraditional sources, such as businessmen, housewives, young teenagers, and even some mem-

bers of the clergy. Of course, traditional informants also come forward regularly, urged on by the lure of a potentially large reward payoff.

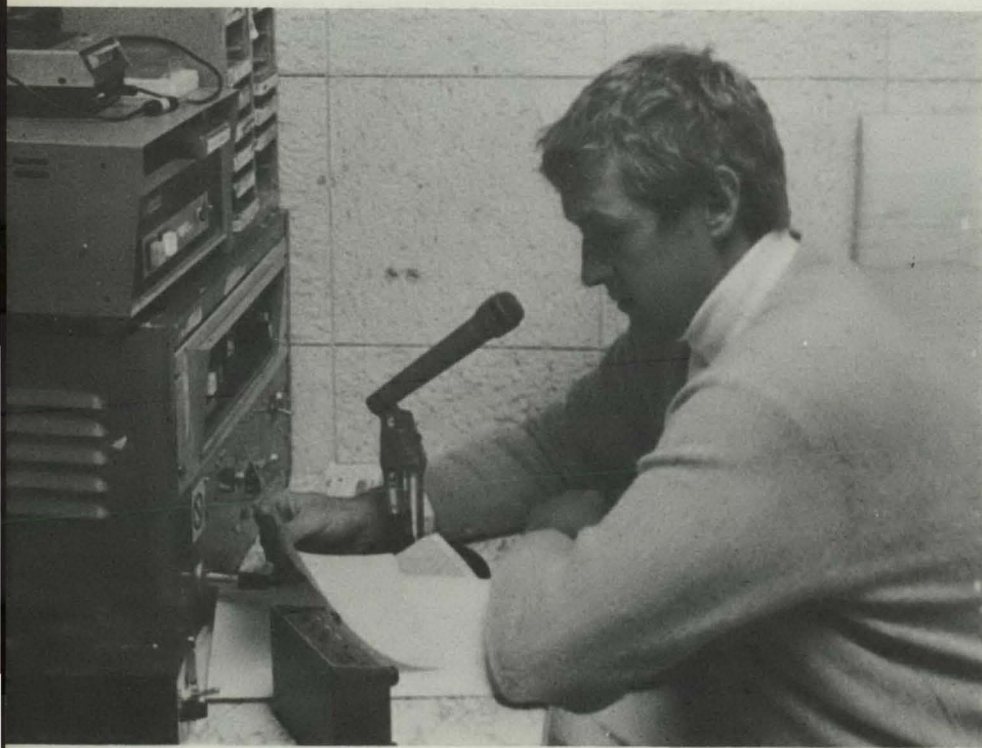
Information received by Crime Stoppers deals with all kinds of crimes, including white-collar crimes. One of the program's brightest moments came when it helped solve a series of property crimes rather than a violent crime. A call to Crime Stoppers led auto theft detectives to an



Bob V. Stover
Chief of Police

interstate auto theft ring headed by an escaped convict from Colorado. More than 45 stolen cars and some \$125,000 in stolen property were recovered when the ring was rolled up—all within 48 hours after the initial tip.

Crime Stoppers has, in a sense, legitimized the role of the informant. In return, this cooperative effort between the police, the media, and the public has had a significant impact on the criminal community. As a result, other police departments around the country have been spurred into looking seriously at this concept of reward programs—Crime Stoppers has proved to be just one of the successful approaches.



Author Greg MacAleese cuts tape describing a crime committed in Albuquerque that will be broadcast on the Crime Stoppers Program.

PROJECT FULCIRAN: *Computer Assistance in Crime Solution*

By

JEAN SAVAGE

New Haven Department of Police
Service
New Haven, Conn.

Crime solution, one of the most effective tools in crime deterrence, stands to get a real boost from Project Fulciran,* a recent innovation in the New Haven Department of Police Service. In essence, it is a plan that provides immediate access to information about the likeliest suspects almost as soon as a crime is committed.

It is based on the premise that criminal activity within a specific geographic area is of a recidivist nature. It is not necessarily the case that criminals return to the scene of the crime, but they often tend to confine their activities to the same neighborhoods, frequently those in which they live. The department has long known this, but has had to depend on the memories of individual policemen or the tedious proc-

ess of going through countless files to use this knowledge to determine and locate suspects.

Recognizing the shortcomings of such a method, Dr. Richard Hannum, systems analyst for the department, and Comdr. Louis Ranciato of Investigative Service decided to use an existing departmental resource—the vast computerized files of the Case Incident Reports. These reports contain complete records on every person arrested by the New Haven Department of Police Service in the years 1970 to 1978. Retrieving that information in a manner useful in determining suspects for specific crimes became their project.

Their innovation employs a coordinate, or grid, map as the programing device for retrieving suspect information from the CIRS files. The map is a Plainimetric Grid Map based on the Connecticut Rectangular Coordinate System. Horizontal lines numbered evenly from 30 to 68 and odd-numbered vertical lines from 51 to 87 form grids for every portion of the city. Each

*The name Fulciran is composed of the first three letters of Full, CIRS (Case Incident Report System), and Ranciato, co-inventor of the project.

grid represents an area of approximately 2,000 feet squared, typically encompassing a 4- to 6-city block area.

To use the program, a member of New Haven's Investigative Service locates the area on the map where a given crime occurred, checks the intersecting grid numbers at that location, and forms a four-digit sequence (horizontal, or even, first, e.g., 3679). With this number, the program presently in use makes available the following information on every person who has been arrested in that grid during all of 1976 and 1977:

- Grid number
- Year of incident
- Complaint number
- Date of incident
- Hour of day
- Incident code
- Address of incident
- Arrest number
- Status of arrestee
- Arrestee's name
- Sex

Race

Date of birth

Age (years, months, at time of arrest)

Height and weight

Hair and eye color

Arrestee's home address

Although the above information is available for every year since January 1970, the inventors feel the most recent years are of greatest value in surveying neighborhood crime patterns and therefore determined to limit the program in that way. Built into the system is an update of the printout every 3 months.

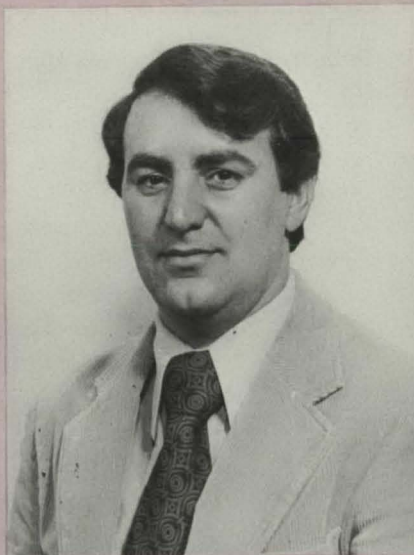
Armed with such a printout, the investigator can begin matching the computer information with any facts (physical description, name, or nickname) that have been learned in connection with the crime in question. This leads readily to the elimination of many suspects, and though in use only a few months, has led to apprehensions as well. Some typical applications of Fulciran use are:

An unknown suspect has perpetrated a crime at a specific address, and subsequent investigation reveals the existence of latent prints. Utilizing the map and determining the grid number in which

Jean Savage

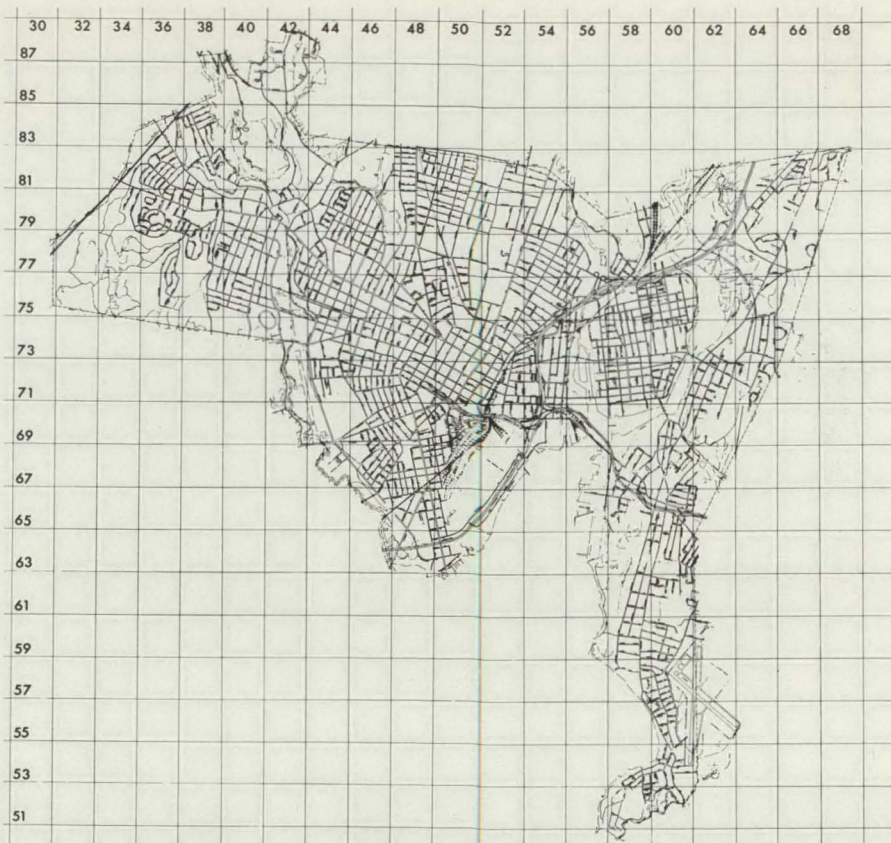


Commander Louis E. Ranciato



Edward Morrone
Chief of Police





A map of the city of New Haven with grid pattern imposed.


the crime occurred, suspect information is provided for crimes of that nature that have occurred within the boundaries of the grid. After a check of arrestees outlined on the printout for that grid, existing prints on record can be compared with those found at the crime scene.

If a victim can describe the suspect, a group of mug shots from departmental files can be assembled easily following the methodology outlined above, which could lead to positive identification.

Often the relationship between the victim and the suspect provides useful information leading toward an apprehension. In some cases, the first name or the surname of the suspect is known to the victim. Following a grid number check, the printout lists suspects' full names, addresses, and

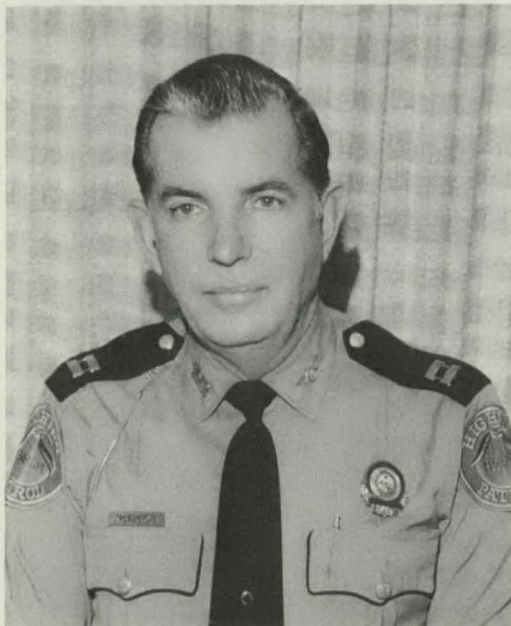
physical information, which can lead to matches of a high degree of certitude.

A crime has occurred, and there are no leads at all. A grid check can, at least, provide a list of most likely suspects, according to the area where they live and probably operate.

Like all new ideas, Fulciran has to win its way against predictable resistance to change. But its good results are bringing wider and increasingly successful use. Improvements are being instituted continuously by enthusiastic users, and its future calls for expansion of the project to include use by the Identification Unit of the Investigative Service Division and the Uniform Service Division, plus an evaluation of the project's use and its success in effecting apprehensions. 

Cooperation—Key to Florida Auto Theft Intelligence Unit's Success

By
CAPT. JAMES S. McKINNON
Florida Highway Patrol
Tallahassee, Fla.



A few months ago, shortly after sunrise, it was business as usual for a large salvage yard in a remote area of western Broward County, Fla., near the Everglades. A few moments later, it was anything but usual, as police officers from the Broward County Sheriff's Department, the Fort Lauderdale Police Department, the Hollywood Police Department, the Dade County Public Safety Department, the Florida State Troopers, and agents of the National Auto Theft Bureau served a warrant on the salvage operation, arresting 20 people and recovering \$130,000 worth of stolen motor vehicle parts and automobiles.

At 7 a.m., February 1, 1976, on a rainy Sunday morning in Florida, the Director of the Florida Highway Patrol and the Special Agent in Charge of the Federal Bureau of Investigation in Tampa gave the order and 100 FBI Agents and Florida State Troopers fanned out through central Florida, arresting 31 subjects and seizing stolen motor vehicles, heavy equipment, and aircraft, valued at \$1.2 million.

The common denominator and success of these two operations and many others are directly related to the exchange of information at the quarterly meetings of

"The idea for the Florida Auto Theft Intelligence Unit was conceived at the 1972 annual meeting of the International Association of Auto Theft Investigators. At this time, it became evident to the attendees that auto thieves in Florida were better organized than the police."

an organization known as the Florida Auto Theft Intelligence Unit.

The idea for the Florida Auto Theft Intelligence Unit was conceived at the 1972 annual meeting of the International Association of Auto Theft Investigators. At this time, it became evident to the attendees that auto thieves in Florida were better organized than the police. After several informal meetings of local, State, and Federal officers, the constitution and bylaws of the Florida Auto Theft Intelligence Unit were adopted for the following purposes:

1. To organize on a statewide basis regular salaried law enforcement officers of municipal, county, State, and Federal agencies; special agents of the National Auto Theft Bureau; and administrative officers of the Motor Vehicles Division of the State of Florida.
2. To provide a forum for the discussion of auto theft activities within the State.
3. To accumulate, and disseminate with an official bulletin, information of interest to all members.
4. To encourage mutual cooperation between all law enforcement agencies and associations which are involved in prevention and suppression of auto theft and related crimes.
5. To constantly keep members informed in an effort to upgrade and professionalize the auto theft investigators in Florida.

The officers of the Florida Auto Intelligence Theft Unit are the president, vice-president, and secretary-treasurer, each serving 2-year terms. The meetings are held every 3 months at a place designated by the president. Attendance averages about 70 police officers, representing 25 to 30 police departments.

Although cooperation and exchange of information relating to auto theft continue to be the focal points of the quarterly meetings, education is the main item

on each agenda, since the size and resources of many of the participating police departments do not allow for full-time assignment to auto theft. To upgrade and professionalize both part-time and full-time auto theft investigation, training assistance has been offered in the following areas:

1. Identifying vehicles on which numbers have been removed.
2. Training officers in the recovery of stolen motor vehicles.
3. Gathering, correlating, and relaying of investigative leads concerning auto theft to other agencies.
4. Insurance frauds involving motor vehicles.
5. Using various chemicals, heat, and other techniques in restoring destroyed numbers.
6. Vehicle titling laws and filing procedures as related to auto theft investigations.
7. Identifying markings of heavy-duty trucks.
8. Training programs in prosecution of auto theft rings and method of operations by professional thieves.
9. Techniques used by thieves to defeat security systems of motor vehicles.

Perhaps the most potent law enforcement weapon in use today against the auto thief is the National Crime Information Center (NCIC), a criminal justice information system maintained by the FBI. The NCIC is interfaced with State-maintained criminal justice information systems, such as the Florida Department of Criminal Law Enforcement's computerized system, known as the Florida Crime Information Center (FCIC). The NCIC and FCIC computerized systems are complemented by another nationwide file of stolen automobiles maintained by the National Automobile Theft Bureau, available to police day or night. This computerization virtually eliminates time and distance, both of which once spelled safety for the auto thief.

FLORIDA



AUTO THEFT INTELLIGENCE BULLETIN

CONFIDENTIAL

(FOR USE OF LAW ENFORCEMENT AGENCIES ONLY)

AUTO THEFT

DRIVERS LICENSE AND VEHICLE TITLE FRAUD

FLORIDA HIGHWAY PATROL
COL. J. E. BEACH, DIRECTOR

DATE

Cover page to the official Florida Auto Theft Intelligence Unit's Bulletin.

Expert instruction from the FBI and the Florida Department of Criminal Law Enforcement makes the members of the Florida Auto Theft Intelligence Unit aware that in addition to indexing information concerning crime, criminals, and wanted vehicles, the system may be used in the following instances:

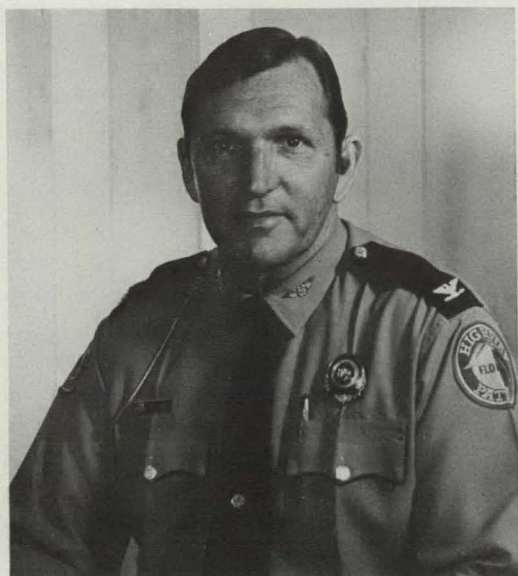
1. Unrecovered stolen vehicle identification plates, engines, and transmissions that are serially identified may be entered as parts on the same basis as a stolen vehicle.
2. Unrecovered stolen license plates may be entered on the same basis as stolen vehicles when

the stolen vehicles are recovered and the plate is still missing.

In addition, members are required to conduct periodic validity checks to be sure of the status and accuracy of records entered into the NCIC and FCIC systems.

The Florida Highway Patrol Investigation Section, in addition to its regular assigned duties, is responsible for the department's assistance to city, county, State, and Federal law enforcement agencies in the investigation of organized auto thefts, stolen and fraudulently obtained drivers' licenses, and stolen or false

"The success of any criminal investigation is directly related to the ability of the investigator to obtain timely and accurate information. This is especially true in the case of vehicle theft, where the officers must rely upon external sources for both information and assistance."



Col. J. Eldridge Beach
Director
Florida Highway Patrol

motor vehicle titles and registrations. The investigation section uses the official bulletins of the Florida Auto Theft Intelligence Unit to disseminate information on organized thefts, movement of organized thieves and their activity, stolen and counterfeit driver's licenses,

and title information to intrastate and interstate law enforcement agencies.

The cooperation of the Division of Motor Vehicles has proven valuable in Florida. It observes firsthand the ingenuity and planning used by auto thieves to perpetrate crime. As a result, the Division of Motor Vehicles introduced new techniques, such as using paper stock that cannot readily be duplicated and will expose most alterations and erasures. They further recognized the need for fast response to a police inquiry for a title history and are continually improving service in this area.

By meeting every 3 months the Florida Auto Theft Intelligence Unit attacks the auto theft problem directly, by keeping the participating officers informed on what needs to be done to combat one of the world's most widespread illegal businesses. The success of any criminal investigation is directly related to the ability of the investigator to obtain timely and accurate information. This is especially true in the case of vehicle theft where the officers must rely upon external sources for both information and assistance. It is felt that auto theft has been effectively reduced with a minimum investment of time and money with this approach. But even as the number of stolen automobiles decreases, thefts of trucks, motorcycles, and other vehicles are reaching an alltime high because thieves are getting more professional. The Florida Auto Theft Intelligence Unit hopes to meet the challenge.

FBI

Honolulu's Nun in Blue

By

SISTER ROBERTA JULIE
DERBY

Chaplain
Honolulu Police Department
Honolulu, Hawaii

Are they the "Blue Knights," noble, fearless, unfailingly courteous, and always right; or are they corrupt, dense, sadistic, philandering hypocrites? Do they work as members of a disciplined professional team, adhering scrupulously to the prescriptions of the law and a demanding agency code of conduct; or do they operate as erratic vigilantes—either loners or two-man buddy combinations whose values are "flexible" enough to substitute vengeance for justice and force for discernment?

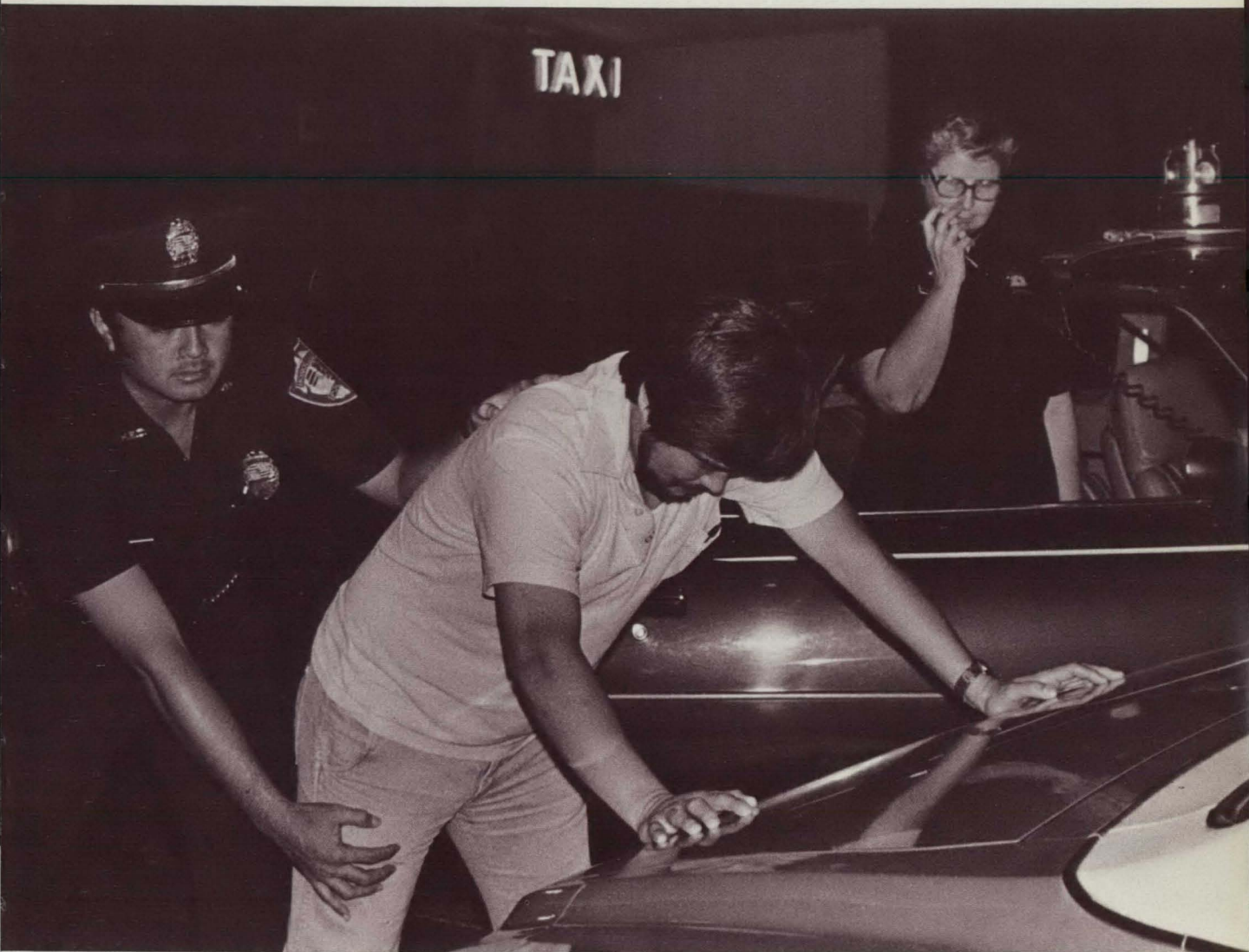
Are the police physical and psychological supermen and wonder women who day after day can confront cruelty, violence, fraud, and every other species of evil without experiencing any moral or emotional disturbance; or are they ill-balanced weaklings who turn to alcohol, prom-

iscuity, and reckless driving off duty to blot out the experiences, either professional and personal, with which they cannot cope? Are they, despite quasi-military discipline and numerous agency efforts ranging from athletic tournaments to religious services designed to build *esprit de corps*, chronic rebels against authority and detractors of their fellow officers; or is the "brotherhood of the badge" such an all pervasive mystique that no one outside the police enclave is trusted, even to the extent that wives and children find that social and recreational activities are almost exclusively police oriented?

There is a popular interest in such questions today. Novels, plays, newspaper editorials, letters to editors, learned journals of the behavioral sciences, movies, TV series, and comic

books address themselves to exploring and dissecting the police psyche, the police idealism, and the police morality. To the general public, this interest may range anywhere from faddish titillation to genuine social and moral concern. However, for criminal justice specialists, the answers to these questions are relevant to efficient law enforcement, to the building of community confidence in the police, to keeping the peace.

Like so many either/or questions, these do not admit to simple "yes" and "no" answers. There may be times when police public relations officers may overaccentuate the positive and characterize the average patrolman as Tennyson presented Sir Galahad, "My strength is as the strength of ten because my heart is pure." Meanwhile, members of the



While a police officer searches a suspected felon, "The Blue Nun" radios for assistance. (posed photograph)

Bureau of Internal Affairs, who investigate citizens' complaints against the police, may agree with the myth that only the drinker of dragon blood can slay a dragon.

This writer is not a public relations officer. However, frequently I address

professional and community service organizations and offer positive and reassuring interpretations of the police officer as a humane and dedicated professional, but not secure against making mistakes or acting selfishly.

Neither does the writer work out

of the Bureau of Internal Affairs, although part of the job is to see and listen to officers who may have been disciplined. My badge is silver, not gold; and I address sergeants as "sir." Law enforcement is not my profession, but the questions raised earlier

"Ceremonial duties are the more public portion of the pastoral element of a police chaplain's work; counseling and consoling are the private and personal services. . . ."

about the police personality are of as great a concern to me as to any chief of police or idealistic police cadet.

I am Sister Roberta Julie Derby, a member of the Roman Catholic congregation of the Sisters of Notre Dame De Namur. However, for the past several years, I have served as Chaplain Derby, Coordinator of the Honolulu Police Department's Chaplain Corps, and like the other five members of the corps, a sworn reserve officer assigned to the department's personnel division, wearing the blue serge of the Honolulu Police Department and badge No. 501.

When I began working with the department, my presence in patrol cars, at the receiving desk, and in the squad room was looked upon initially with curiosity and even suspicion on the part of some of the personnel, but those attitudes are hardly remembered anymore. Only when some civilian, usually a tourist, takes a startled second look at the short blue veil fluttering out the patrol car window do "Honolulu's finest" reflect that it must seem unusual for a nun, particularly a rather grandmotherly looking nun, to be "riding shotgun." When asked about the nun in blue, officers answer with an almost mischievous nonchalance, "Oh, that's our chaplain," which almost inevitably elicits a second question, "But what does she do?"

A chaplain's pastoral duties include a number that are specifically ceremonial. Over the years, officers can recall many occasions which have

commenced with the words, "Let us bow our heads in prayer." Many remember when members of the patrol division stood at smart attention on the occasion of two of their brother officers receiving decorations for valor, while a nun in a dark blue uniform led them in St. Francis' Prayer for Peace. Or when, a few weeks later, the folds of her long white gown moved in the wind almost in time with the poignant bugle call as that last farewell was sounded at Punchbowl's National Cemetery of the Pacific for an officer killed in the line of duty.

Ceremonial duties are the more public portion of the pastoral element of a police chaplain's work; counseling and consoling are the private and personal services for which the chaplain is responsible. The chaplain corps spends many hours each week working with officers or members of their families who are troubled or perplexed and therefore seek assistance from counselors who are objective, sympathetic, trained to listen, and happy to give their time to the needs of the police community.

Among the questions brought to the chaplain's desk are queries related to the stability of marriages. Spouses, parents, children, in-laws, even sometimes a person forming the third side of a triangle, come for guidance, courage, and often, merely a word of understanding. We dislike such terms as "promiscuous" and "philandering" applied indiscriminately to police officers, but recognize some conditions of police work are

potential hazards to the stability and harmony of marriages. Shift work which limits the time officers can spend with their families, the need for secrecy and evasiveness in some kinds of undercover assignment, the physiological and psychological tensions that develop from mounting competition as one moves up in the ranks, and the temporary but intense ego-stroking that many officers receive from chance encounters with "interesting" people can strain any marriage, especially those which may have been entered into when the parties were under social constraint because a child had been conceived out of wedlock or when the parties were immature or unsure about their basic responsibilities. Another problem area is extravagance. When marriage counselors talk shop, they agree that financial instability is the cause of as many marital breakups as sexual boredom or interfering in-laws.

Marital difficulties are not the only problem situations about which members of the department and their dependents seek the police chaplain's counsel. Job-related matters, from personality clashes with supervisors to contemplated transfers to other divisions, or anxieties regarding present job performance may bring an officer to the chaplain's desk. Sometimes a shop steward or business agent of the police collective bargaining organization will recommend that an officer who contemplates filing a grievance first see the chaplain. Coping with department penalties for vio-

lating rules and regulations, even when the subject admits the punishment is justified, can be a shattering

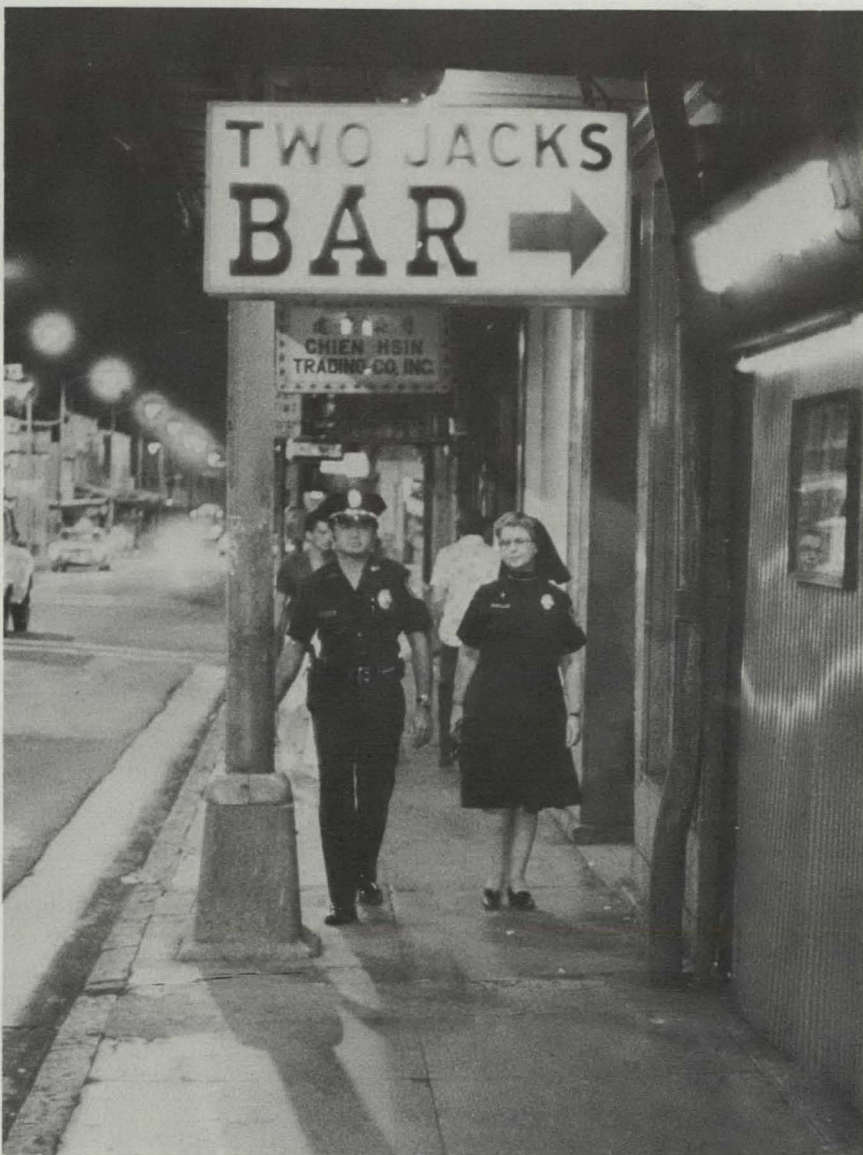
experience. In this kind of circumstance, the chaplain's role is not so much to advise as to listen and to com-

municate respect for the person affected.

There are other questions that come the chaplain's way. How does one cope with a spouse's or child's terminal illness? What school is the best choice for one's exceptional child? What is the best way to make amends for an injustice done to a confrere? These are a few of the queries that police personnel seek help in answering.

For the man or woman with questions, it is the chaplain's place to counsel, when this is possible. For those who are suffering, it is the chaplain's work to console. The sudden death of a loved one, a permanently disabling injury carrying separation from the department as a result, unexpected termination where less drastic disciplinary action had been expected, failure when success had seemed assured, and the ignominy of being unjustly accused are all too frequent occurrences in the lives of police officers. One experiencing these kinds of pain needs the warmth of human compassion and the encouragement to seek a help more powerful than any mere human being can give.

The knowledge gained from the pastoral category has developed an admiration for brother and sister officers of this chaplain. So often, they are carrying heavy burdens of emotion before they hit the road. The community is intolerant of a mistake or lack of control on the part of an off-duty police officer, regardless of the burden of pain, sorrow, or guilt



Sister Roberta Julie "walks the beat" with a fellow police officer.

he may be carrying. I do not find it surprising that occasionally an officer yields to the pressures within. What is truly astonishing is that by far the most do not.

Ordinarily, the actions of counseling and consoling are thought of as being carried on in a one-to-one setting. However, there are times when pastoral concern dictates that the chaplain address a large number of personnel simultaneously, such as when there has been a line-of-duty death or the sudden death of a member who had apparently been in vigorous health. The grief that comes from such incidents is communal and must be borne together.

A chaplain's educational functions are divided between services to members of the department and those to the general community. Chaplains assist the training division in teaching classes in ethics and in-service classes designed to help officers cope with associates who have problems with alcoholism. We are also assigned to conduct orientation classes for recruits, reserve officers, and their spouses. In cooperation with the community relations division, chaplains are available for presentations to schools, religious groups, and community service organizations.

"The police chaplain's ministry is primarily to the personnel of the department and their families."

The police chaplain's ministry is primarily to the personnel of the department and their families. To fulfill that ministry realistically, the chaplain cannot be content with holding

an honorary commission or with limiting activities to ceremonial occasions, to the shelter of an upstairs of-

"Service means presence—knowing 'what it is like out there'."

fice, or even the austere security of a basement squad room. Service means presence—knowing "what it is like out there." It does not mean simply riding in a squad car under controlled circumstances, but accepting regularly the same rules and the same risks that other members of the department must accept, with the exception of apprehending, arresting, detaining or searching, and of course, carrying a weapon.

When a "DOA" call comes over the radio, this chaplain responds with officers in order to give whatever support is possible to surviving family and close friends, often helping them gain enough composure to answer the investigating officers' questions. With such poignant moments, it is not hard to admire the sensitivity and compassion of the officers with whom I work. Police officers must learn to deal with tragedy and horror objectively, but that does not mean coldly or even routinely. Honolulu officers are neither ashamed nor unable to communicate their sympathies.

Sometimes when every available officer must be in action on a scene, I am assigned to maintain radio contact with Central, so "Chaplain No. 3 standing by for 39 (or 88 or 159, etc.)" has become a normal transmission on HPD's radio frequencies. Although not a CB'er, I have acquired a "handle" among the Island's "good



Francis A. Keala
Chief of Police
Honolulu Police Department

buddies" who speak of me as "The Blue Nun."

Beat officers often call for my assistance in attempted suicides and domestic disturbances. To many persons the sight of the blue veil, whether because it sparks curiosity or because it raises long buried memories of a more tranquil existence, brings a quieting of agitation. That surprise attention-getter, the veil, seems particularly effective when responding to a complaint of a loud party. Then there is the story of the occasion when the motor patrolman with whom I was riding was dispatched to investigate a complaint of a barking dog. On completing the assignment, the officer is said to have radioed Central: "Noise abated. I talked to the dog's owner; Sister Roberta talked to the dog."

Often asked, "Aren't you ever

"[O]ne must recognize that the peace and happiness all men crave can develop only insofar as justice and mercy become universal goals."



Sister Roberta Julie Derby

afraid?" "Of course," I answer, "wouldn't you be?" Sometimes I am afraid, and often I'm saddened. High speed chases on wet freeways scare me, so does the possibility of walking into a situation where a gun is involved. I really do not like the sight of wounds and blood or the smell of death. I deplore profanity, especially when suspects or bystanders direct it at me, which they sometimes do. I do not enjoy getting drenched by winter rains at an accident scene. I get very sleepy at 0400 hours, knowing that recall won't be made until 0710 hours. I want to cry out at the horror of child abuse and the revolting cruelty of deliberate arson on inhabited dwellings. I'm not the only one wearing a badge who feels this way, but for the sake of the community, some men and women must be willing to cope with

these things, frightening and distasteful as they are. My fellow police chaplains everywhere have similar feelings, but we continue to ride beside the law, because we believe the law deserves the "presence of the prophets."

Regardless of why individual men and women may have chosen law enforcement as a career, regardless of their personal concepts of religion, morality, and ethics, they have committed themselves to keeping the peace and that means giving witness to the reality of justice and also accepting man's need for mercy. Whether one believes in a personal God or sees ultimate goodness inherent in man himself, one must recognize that the peace and happiness all men crave can develop only insofar as justice and mercy become universal goals. FBI

SUBMISSION OF ARSON EVIDENCE TO THE FBI LABORATORY

*per AD
Keller*

On two recent occasions, arson evidence received in the FBI Laboratory had been improperly handled due to an apparent misunderstanding regarding packaging instructions. In both cases, clothing evidence to be examined for accelerants was completely dry when received in the Laboratory. In conversation with the submitting police departments, it

was learned that the evidence had been intentionally dried before submission.

Presently and in the past, the importance has been stressed of air drying clothing for serological examination (blood, saliva, other body fluids) before packaging to reduce putrefaction. But with arson evidence, it is important to immediately en-

close the sample in a suitable container without regard to the moisture content of the sample. The most suitable containers include new metal paint cans or glass jars, if these can be adequately packed to prevent breakage. Arson evidence submitted in this way can then be examined with the use of gas chromatography to identify the possible accelerant.

Casting Vehicle Identification Numbers— A Technical Aid in Auto Theft Investigation

By

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and

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To effectively combat the ever-increasing rate of automobile theft, law enforcement must constantly refine basic investigative methods to insure the swift identification of stolen vehicles.

The Vehicle Identification Number (VIN) serves as the vehicle's fingerprint; it provides law enforcement officers with the only quick, available means of positive identification. There are two types of VIN's: (1) The Public Vehicle Identification Number (PVIN) located in a conspicuous place, such as the driver's side of the windshield-dashboard area; and (2) the Confidential Vehicle Identification Number (CVIN), usually a derivative of the PVIN, placed in locations known only to automobile manufacturers, the NATB, and certain law

enforcement agencies.¹ The CVIN is usually stamped into the vehicle body or chassis using various types of die stamps, whereas the PVIN is often embossed onto a metal plate or tag and placed in those locations mentioned.

Because the VIN is so vital to investigators, car thieves often alter VIN's to delay finding or concealing the true identity of an automobile. The PVIN and CVIN can be altered in various ways, or are removed altogether from the vehicle.

The alteration and restamping of the VIN necessitates the use of various tools. It is the use of these tools that can provide law enforcement officers with an essential, often overlooked, investigative lead. The num-

“The Vehicle Identification Number (VIN) serves as the vehicle’s fingerprint; it provides law enforcement officers with the only quick, available means of positive identification.”

ber and type of tools that will leave an identifiable mark on the vehicle or VIN plate are unlimited.² Unfortunately, the application of toolmark identification in auto theft investigation is not used enough for three reasons:

- (1) Lack of familiarity with the general concepts of toolmark identification or no knowledge as to what is potential toolmark evidence and what is not.
- (2) Lack of familiarity with casting methods to preserve toolmark evidence.
- (3) Impracticality of removing toolmarks for submission to the laboratory when they are contained on an item too costly to move.

These reasons often lead investigators to overlook the potential of toolmark identification in their auto theft cases. The simple technique of casting both

PVIN’s and CVIN’s can effectively aid the investigator and improve basic auto theft investigative procedure. The unlimited potential of casting as a technical aid not only in auto theft cases, but in other cases involving toolmark identification, should be kept in mind by investigators.

The Toolmark Unit of the FBI Laboratory uses a unique plastic replica, distributed under the trade name Lucitone,³ in the casting of all altered VIN’s. Lucitone, an acrylic resin-base material, is convenient and highly durable, and sets rapidly to produce an almost unbreakable cast suitable for long-term retention.

Other casting materials that the Toolmark Unit has encountered and tested exhibited some similar capabilities and may be used in other types of toolmark examinations. However, Lucitone was found to be unequaled in its ability to consistently reproduce, under



Figure 1 is an example of a cast VIN that is worthless for toolmark comparisons.

all types of field conditions, the fine detail necessary for the microscopic examinations in toolmark identification.

The most important step in making good plastic replica casts is thorough preparation of the stamped area. Removal of debris, such as dirt, grease, grit, paint, and rust, is essential because a plastic replica will duplicate any foreign particles left in the stamped characters. Any foreign matter duplicated on the cast will obliterate toolmarks in that portion of the character either by displacement or by causing air bubbles. (See fig. 1.) A cast of this nature is worthless to the examiner for com-

parison purposes.

Removal of paint, dirt, and rust from the stamped area is best achieved by using a solvent, such as gasoline, commercial paint remover, or a 50/50 mixture of acetone and chloroform. To assist the solvent a soft toothbrush should be used to dislodge deposits from the stamped characters. It should be emphasized that one should *never* use a wire brush or abrasive material because the stamped area will be scratched and rendered worthless for identification purposes. If rust is not removed with applications of solvent, the use of Naval Jelly following the directions on the label is recom-

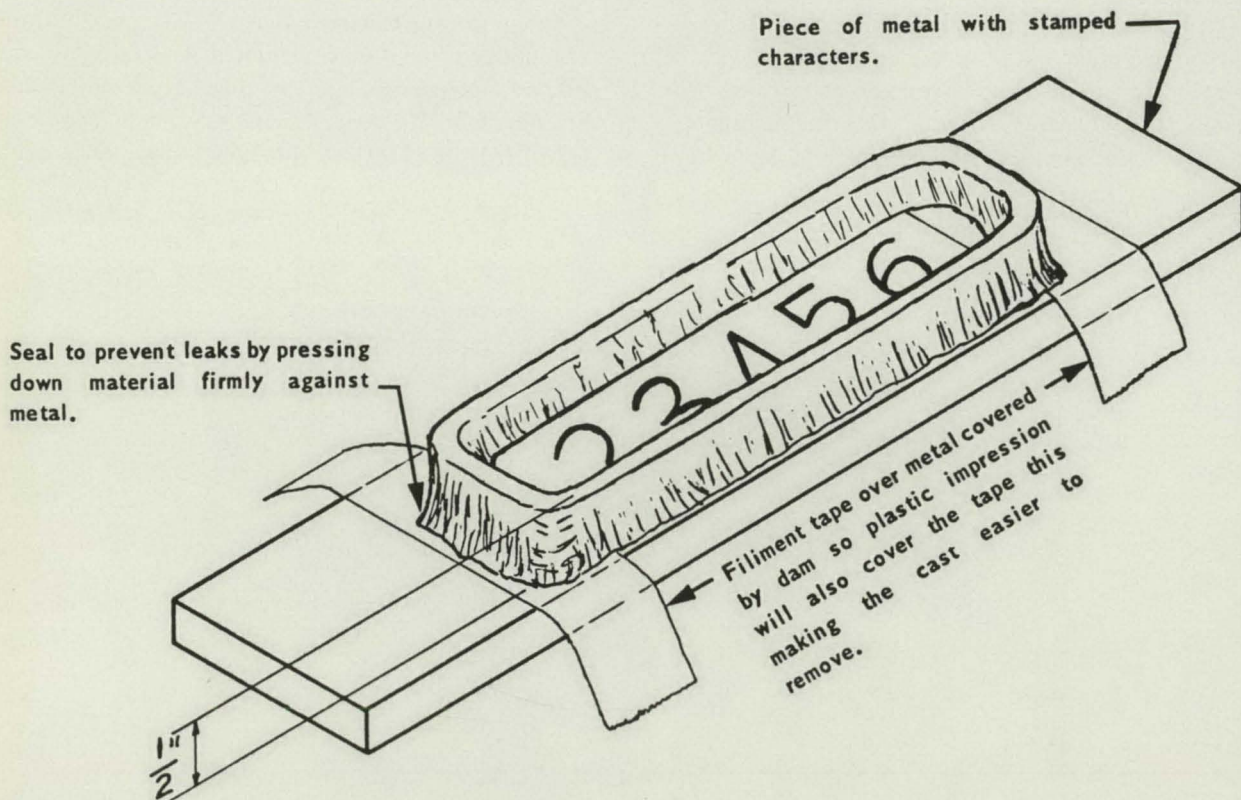


Figure 2 is an illustration showing the prepared surface area just prior to pouring casting material.

"The alteration and restamping of the VIN necessitates the use of various tools. It is the use of these tools that can provide law enforcement officers with an essential, often overlooked, investigative lead."

mended. Naval Jelly is very reliable in the removal of most rust.

In instances where rust and other debris remain, even after applications of solvent and Naval Jelly, it is suggested that one or two successive casts be taken. Many times foreign particles can be removed or loosened when they adhere to the cast. Consequently, if one or two preliminary casts are taken, foreign matter could eventually be removed, resulting in a clean impression. Efforts should also be made to clean the stamped area with one of the prescribed solvents between each of these castings. This cleaning will aid in yielding a clean stamped impression in the event that debris is only loosened during the casting.


After the stamped area is cleaned, actual casting is begun by building a watertight dam (because Lucitone is used in liquid form) out of clay-like material, such as caulking cord, modeling clay, etc. These dams vary in design according to location of the stamped characters and should be constructed to give casts a minimum thickness of one-quarter of an inch.

Following the setting, the plastic cast is removed by breaking the bond between the cast and metal surface, usually by lifting one end of the cast. When one end is lifted, the cast should pop off totally intact. Another removal method is to put filament tape around the edge of the cast so a portion of the tape will be cast. (See fig. 2.) When the cast sets, removal can be attained by pulling on the ends of the tape.

At room temperature (65° to 75° F), the plastic replica should set in approximately one-half hour. At low temperature (50°F and below) setup time is increased from approximately 2 to 3 hours to overnight. This time can be decreased by heating the stamped area before casting with a torch for a *short time* (after all applied solvents have evaporated from the surface) or

by running the vehicle's motor if engine numbers are to be cast. A heat lamp, infrared light, or hair dryer may also be used on the stamped area first and then, while setting, upon the cast itself.

The FBI Laboratory recently received a cast of an altered engine serial number and a set of steel hand stamps obtained from a suspect's garage. The contributor requested a comparison to determine if the submitted stamps produced that particular fictitious engine number. The submitted hand stamps bore excellent toolmarks, but the cast was of no value because it contained air bubbles and particles of grease. The fictitious engine serial number was then recast using the successive casting technique previously described. The recast contained excellent toolmarks and was promptly identified as having been produced by the submitted hand stamps.

Thus, the relatively simple technique of casting VIN's can aid the auto theft investigator and augment the traditional methods of auto theft investigation. Casting is also a valuable instrument in general to further expand the use of toolmark evidence. 

FOOTNOTES

¹ The National Automobile Theft Bureau is one such agency that has information on the location of CVIN's.

² David G. Townshend, "Photographing and Casting Toolmarks," *FBI Law Enforcement Bulletin*, Vol. 45, No. 4, April 1976, p. 9.

³ Lucitone is manufactured by the L. D. Caulk Company, Division of Dentsply International Inc., Millford, Del. 19963.

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PUBLIC EMPLOYMENT AND THE U.S. CONSTITUTION—

Recent Supreme Court Opinions

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(Conclusion)

Substantive Constitutional Rights

The first part of this article focused on the *procedures* that are constitutionally required in certain cases of employment termination. In addition to these protections, the Constitution also limits the *substantive reasons* that may be utilized by employers in discharging or substantially disciplining public employees, whether they are tenured or not. Race or religion

would obviously be unconstitutional reasons. However, reasons which relate to an employee's political activity, public comments, or personal conduct are more difficult to analyze with respect to their constitutionality and merit careful consideration.

Therefore, it is necessary to examine some recent Supreme Court opinions involving the scope of con-

"[I]n assessing the validity of the government's reasons for dismissal, a reviewing court will apply different standards depending on the particular constitutional rights involved."

stitutional protection currently afforded public employees from adverse action alleged to infringe either: (1) First amendment freedoms of speech and association, or (2) substantive principles of equal protection and due process.

In a general sense, termination of public employment is constitutionally permissible if the government can demonstrate to the court that an employee's conduct has adversely affected the efficiency of governmental operations. However, in assessing the validity of the government's reasons for dismissal, a reviewing court will apply different standards, depending on the particular constitutional rights involved. This essentially means that

there is a hierarchy of constitutional interests which require different levels of protection. Courts may view a departmental regulation pertaining to grooming standards quite differently from one prohibiting public comments on the operation of the department, i.e., get your hair cut v. keep your mouth shut.

In this regard, when adverse action is premised on an employee's conduct involving first amendment rights, a reviewing court will generally apply a test characterized as *strict scrutiny* to determine if the employee's conduct adversely affected a vital government interest, and whether the government could take any less restrictive action against the employee.³³

Conversely, where adverse action is not premised on a limitation of fundamental constitutional rights, the courts generally assess the validity of the government's decision by what is often referred to as the *rational basis* test.³⁴ In these instances, the government's burden in sustaining the action is much lighter, because the Constitution requires only a showing that the action was rationally related to a legitimate governmental interest and was not arbitrarily imposed in violation of the substantive principles of equal protection and due process.

First Amendment Freedoms of Speech and Association

The substantive constitutional freedoms of speech and association have received priority protection by the Supreme Court from infringement as-

"The substantive constitutional freedoms of speech and association have received priority protection by the Supreme Court from infringement associated with the termination of public employment."

sociated with the termination of public employment.³⁵ In this regard, the Court has stated:

"For at least a quarter-century, this Court has made clear that even though a person has no 'right' to a valuable governmental benefit and even though the government may deny him the benefit for any number of reasons, there are some reasons upon which the government may not rely. It may not deny a benefit to a person on a basis that infringes his constitutionally protected interests—especially, his

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.

interest in freedom of speech. For if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited." ³⁶

Accordingly, when it is alleged in Federal court that dismissal has infringed those freedoms, ³⁷ strict scrutiny will be utilized to determine whether the government's reasons for dismissal are constitutionally sufficient. In balancing the competing interests of government and employee, ³⁸ the courts recognize that some restraint on the first amendment freedoms of government employees is justified, due to the unique requirements of the employment relationship. ³⁹ However, the amount of that restraint is carefully measured to assure that a vital government interest is being furthered in the least restrictive way.

Two frequently encountered situations where the courts apply this strict scrutiny standard involve dismissals resulting from an employee's: (1) Partisan political activity, and (2) public criticism of supervisors or policy. A brief look at several recent cases in these two areas is worthwhile.

Partisan Political Activity

The Supreme Court has traditionally upheld the validity of some restraint on the partisan political activities of government employees, primarily because of the governmental interest in insuring the employee's impartiality on partisan issues. ⁴⁰ In this regard, specific State and Federal

legislation, termed Hatch Acts, which prohibit most public employees from using their authority or influence to interfere with or affect an election, and from taking an active part in political management or campaigns, have been deemed constitutionally permissible. ⁴¹

For example, in *National Association of Letter Carriers v. U.S. Civil Service Commission*, ⁴² the constitutionality of the Federal Hatch Act was challenged as being overbroad and vague. In upholding the Act, the Supreme Court concluded that the government's interests in the efficiency of its operations outweighed the employee's interests of free speech and association guaranteed by the first amendment. ⁴³ The Court emphasized the following governmental interests which under strict scrutiny justified the restrictions:

Public laws and programs should be administered without bias or the appearance of bias; the government work force should not be employed to build a powerful, invincible, and perhaps corrupt political machine; employment and advancement should not depend upon political preference; and employees should be free from pressure to perform political chores. ⁴⁴

Notwithstanding the permissibility of some restraint on the partisan political activity of public employees, the recent case of *Elrod v. Burns* ⁴⁵ illustrates the Supreme Court's expansive protection of first amendment freedoms when the alleged governmental interests do not meet this test of strict scrutiny. *Elrod* dealt with the constitutionality of dismissals

based solely on patronage grounds. Noncivil service employees of a sheriff's office, who were Republicans, were discharged or threatened with discharge when a Democrat was elected sheriff. These employees brought a class action in Federal court alleging that the dismissals were based on reasons which infringed their first amendment rights to be affiliated with a political party of their choice.

Although the Court disagreed on the proper contours of the patronage system, five justices did agree that the patronage dismissals at issue in *Elrod* constituted an unconstitutional inhibition on the employees' freedoms of belief and association by requiring them to belong to a particular political party in order to retain their jobs. ⁴⁶ In so holding, the Court reaffirmed the principle that some encroachment of first amendment freedoms is permissible, ⁴⁷ but only when those encroachments are examined under strict scrutiny and found to be in furtherance of some vital government interest by a means that is least restrictive of those freedoms. ⁴⁸ Moreover, the benefit gained by the government through such restraint must outweigh the loss to the employee of his constitutionally protected freedoms. ⁴⁹

The *Elrod* Court identified the following governmental interests which might be furthered by such patronage dismissals: (1) Insure the effectiveness and efficiency of government and its employees, (2) insure that the policies of the electorate are effectively implemented, and (3) preserve the democratic process through the assistance of partisan politics. ⁵⁰

While recognizing the importance of those governmental interests, the

Court nevertheless ruled that less restrictive means could be used to accomplish those needs, namely, by *limiting patronage dismissals to only policymaking employees*.⁵¹ Accordingly, the Court ruled the dismissal of all employees based solely on patronage grounds to be an unconstitutional infringement of first amendment freedoms.⁵²

Public Criticism

It is generally conceded that an employee's right to publicly criticize a supervisor or government policy is not afforded absolute protection by the first amendment. In determining when such criticism is protected, the courts again balance the interests of the government against those of the employee in the following fashion:

"The problem in any case is to arrive at a balance between the interests of the [employee], as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees. . . .

* * *

"Because of the enormous variety of fact situations in which critical statements by . . . public employees may be thought by their superiors, against whom the statements are directed, to furnish grounds for dismissal, we do not deem it either appropriate or feasible to attempt to lay down a general standard against which all such statements may be judged."⁵³

In utilizing this case-by-case approach, the courts emphasize the strict scrutiny due any attempt to dismiss for reasons which infringe an employee's first amendment freedom of speech, and have therefore upheld an employee's right to criticize his employer.⁵⁴

However, in *Pickering v. Board of Education*,⁵⁵ the Court identified the following situations which may involve governmental interests sufficiently weighty to overcome the ordinary presumption in favor of an employee's first amendment right to criticize:

1. There is a need for maintaining discipline and harmony in the workforce;
2. The need for confidentiality is great;
3. The employee's position is such that his statements might be difficult to counter due to his presumed greater access of facts;
4. Statements of the employee inhibit the proper performance of his duties;
5. Statements are so unfounded that the individual's basic capability to perform his duties is called into question; or
6. A close, personal working relationship requiring personal loyalty and confidence is jeopardized.

Furthermore, Federal courts have ruled the following categories of criticism to be beyond constitutional protection:

1. Public expression concerning matters not of public concern;⁵⁶
2. Bickering and running dis-

- putes with superiors;⁵⁷ and
3. Extremely disrespectful and grossly offensive remarks.⁵⁸

The difficulties involved in judicially balancing the competing interests of government and employee are apparent in the recent case of *Mt. Healthy v. Doyle*⁵⁹ which concerned an untenured employee whose contract was not renewed following his public criticism of a policy decision. The employee challenged the termination claiming it constituted a deprivation of his first amendment freedom of speech. He sought reinstatement and back pay.

In rejecting the employee's claims, the Supreme Court reiterated the general principle that an untenured employee's first amendment rights are not defeated by his lack of a property interest.⁶⁰ The Court noted that although the employee could have been discharged without reasons or a hearing, he could nonetheless establish a claim to reinstatement if the decision not to rehire was made by reason of his exercising a constitutionally protected first amendment right.⁶¹

The Court stated the employee has the initial burden of demonstrating that his conduct was both constitutionally protected and a motivating factor in the decision not to rehire.⁶² The Court held, however, that even if an employee successfully meets that burden, the dismissal will still be valid if the government can demonstrate by a preponderance of the evidence that the same decision not to rehire would have been reached even in the absence of the protected conduct.⁶³

Essentially, the Court reasoned that a contrary result could place an em-

"[A]n employee's right to publicly criticize a supervisor or government policy is not afforded absolute protection by the first amendment."

"[A]s a general rule, the government must come forward with specific evidence revealing a clear and direct connection between an employee's conduct and the impairment of governmental efficiency, before the courts will uphold the constitutionality of dismissal."

ployee in a better position as a result of his engaging in such criticism than he would have occupied had he not engaged in critical comment.⁶⁴ In other words, the first amendment rights of the employee would not be infringed if he was not adversely affected through the exercise of those rights.⁶⁵

While *Mt. Healthy* might be interpreted as a subtle watering-down of the first amendment protection traditionally afforded public employees, it nevertheless remains clear that as a general rule, the government must come forward with specific evidence revealing a clear and direct connection between an employee's conduct and the impairment of governmental efficiency before the courts will uphold the constitutionality of dismissal. Furthermore, a reviewing court will balance the competing interests by the high standard of strict scrutiny to determine whether such dismissal is the least restrictive method of avoiding that impairment to governmental efficiency.

Equal Protection and Substantive Due Process

As a general rule, the constitutional principles of equal protection and due process embodied in the 5th and 14th amendments provide protection to government employees from arbitrarily imposed governmental regulations resulting in dismissal.⁶⁶ In this context, an otherwise valid regulation, which is inconsistently applied, may

be found to be in violation of the principle of equal protection.⁶⁷

As previously noted, some regulation of the activities of government employees is constitutionally permissible because of the employer/employee relationship and the resulting needs of operational efficiency. In general, the degree of regulation permitted will depend on the nature of the constitutional rights affected and particular facts of each case. While some regulations challenged on arbitrariness or equal protection grounds may require strict scrutiny,⁶⁸ most are measured by the lower standard of rational basis, where the court determines whether the regulation bears a rational connection to a legitimate governmental interest. Essentially, this rational basis test means a regulation will be deemed constitutionally valid unless a court determines it to be arbitrary and unrelated to an ability to perform the job in question.

Recent litigation involving the application of the rational basis test to regulations affecting public employees in the three distinct areas of mandatory retirement, residency requirements, and grooming standards will be examined. These cases suggest that under the rational basis standard, the present Supreme Court is likely to accord a strong presumption of constitutionality to the government's regulation of its employees.

For example, in *Massachusetts v. Murgia*,⁶⁹ the Court upheld a State statute requiring mandatory retirement of uniformed State police per-

sonnel at age 50, even though it was assumed by the Court that some officers might still be capable of performing their duties.

The Court examined the retirement statute under a rational basis standard, concluding that strict scrutiny was not required because a fundamental constitutional right was not involved.⁷⁰

Under the rational basis standard, the Court found the statute did not arbitrarily deny equal protection, because it rationally furthered the legitimate State interest of protecting the public by assuring the physical preparedness of uniformed officers. The Court reasoned that since physical ability usually declines with age, the mandatory cutoff removes those whose physical fitness has presumably declined, and is therefore rationally related to a legitimate State interest.⁷¹ The Court acknowledged that while the statute might have been drafted more wisely to accomplish that State interest, the constitutional test is not perfection but only a rational connection to a legitimate governmental interest.⁷²

In *McCarthy v. Philadelphia Civil Service Commission*,⁷³ the Court upheld the dismissal of a city of Philadelphia fireman for violating a residency regulation requiring city employees to live in the city. The employee had 16 years of service when he moved his permanent residence from the city of Philadelphia to New Jersey. He was then fired and subsequently challenged in Federal court

the constitutionality of the residency requirement.

Applying a rational basis test, the Court concluded the residency regulation was not arbitrary,⁷⁴ and noted that similar regulations affecting police had been upheld⁷⁵ as rationally furthering the legitimate governmental interests of providing greater availability of such employees to the city which they serve, and to improving relationships with the community through more frequent contact.⁷⁶

In *Kelly v. Johnson*,⁷⁷ the Court upheld the constitutionality of a regulation limiting the length of policemen's hair. The Court observed that the government as employer may under appropriate circumstances restrict protected first amendment activities of its employees, and that even more room for restrictive regulations should be afforded where the restriction implicates only the more general contours of substantive due process.⁷⁸ Accordingly, the Court applied the rational basis test to the grooming regulation to determine if it was rationally connected to the legitimate State interest of promoting the safety of persons and property.⁷⁹

The Court ruled the regulation valid because it made officers more readily recognizable to the public, and was consistent with the objective or organizational structure aimed at promoting discipline, esprit de corps, and uniformity.⁸⁰

Conclusion

This article has focused on the scope of protection afforded public employees in the Federal courts for constitutional rights which are implicated in an employment termination. This potential for Federal review prompted one writer to suggest that the Federal courts might be converted into de facto "super civil service commissions" for public employees.⁸¹

Notwithstanding that prediction, an analysis of recent opinions indicates a majority of Supreme Court justices share the view that Federal courts are not the appropriate forum in which to review the multitude of personnel decisions made by public agencies.⁸² That view may result in part from the reality of overcrowded Federal court dockets.

Accordingly, future employment litigation may well show a hierarchy of constitutional interests where the Court is willing to afford greater latitude to the government's regulation of its employees, absent some real and measurable injury to a fundamental constitutional right. This type of layered approach involving a continuum of interests, where the Court affords substantially more protection for some interests than others, was recently adopted by the Court in a criminal procedure context.⁸³

Whatever direction the Court ultimately takes, it nonetheless seems clear that any employment decision should be well-grounded in a complete assessment of all the legal rights of employees. Employment policy which is carefully formulated to be both fair to employees and operationally efficient is probably the most effective way of reducing the likelihood of costly employment litigation.

FOOTNOTES

³³ In *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973), the Supreme Court reaffirmed that strict scrutiny is required only in those situations where there is governmental interference with the exercise of a fundamental right, or governmental action which disadvantages a suspect class.

³⁴ See *Massachusetts v. Murgia*, 49 L. Ed. 2d 520 (1976).

³⁵ See, e.g., *Perry v. Sinderman*, 408 U.S. 593 (1972). Also see, Vaughn, "Restrictions on the Political Activities of Public Employees: The Hatch Act and Beyond," 22 Geo. Wash. L. Rev. 516 (1976).

³⁶ *Perry v. Sinderman*, 408 U.S. at 597.

³⁷ While the employee must provide more than an assertion that he was dismissed for free speech activities, there is no heavy standard of initial proof. *Id.* at 599, n. 5.

³⁸ *Pickering v. Board of Education*, 391 U.S. 563, 568 (1968).

³⁹ See, e.g., *United States v. O'Brien*, 391 U.S. 367

(1968).

⁴⁰ See *United Public Workers v. Mitchell*, 330 U.S. 75 (1947); see also, Rosenbloom, "Current Constitutional Approach to Public Employment," 23 Kan. L. Rev. 249 (1975).

⁴¹ The Federal statute is codified in 5 U.S.C. § 7324 (1970). All 50 States have passed statutes modeled after that Federal statute similarly restricting the political activities of State employees. These "little Hatch Acts" are listed in *Broadrick v. Oklahoma*, 413 U.S. 601, 604 n. 2 (1973).

⁴² 413 U.S. 548 (1973).

⁴³ *Id.* at 556.

⁴⁴ *Id.* at 564-567.

⁴⁵ 49 L. Ed. 2d 547 (1976).

⁴⁶ *Id.* at 554.

⁴⁷ *Id.* at 558.

⁴⁸ *Id.* at 559-560.

⁴⁹ *Id.*

⁵⁰ *Id.* at 560-563.

⁵¹ *Id.* at 565.

⁵² *Id.*

⁵³ 391 U.S. at 568-569.

⁵⁴ See *Holodnak v. Avco Corp.*, 514 F. 2d 285 (2d Cir. 1975), cert. denied 423 U.S. 892 (1975).

⁵⁵ 391 U.S. at 569-574.

⁵⁶ *Clark v. Holmes*, 474 F. 2d 928 (8th Cir. 1972).

⁵⁷ *Chitwood v. Feaster*, 468 F. 2d 359 (4th Cir. 1972).

⁵⁸ *Duke v. North Texas State Univ.*, 469 F. 2d 829 (5th Cir. 1973).

⁵⁹ 50 L. Ed. 2d 471 (1977).

⁶⁰ *Id.* at 481.

⁶¹ *Id.*

⁶² *Id.* at 482-483.

⁶³ *Id.*

⁶⁴ *Id.* at 483.

⁶⁵ *Id.*

⁶⁶ See, e.g., *Hander v. San Jacinto Jr. Coll.* 519 F. 2d 273 (5th Cir. 1975); *Fisher v. Snyder*, 476 F. 2d 375 (8th Cir. 1973); *Norton v. Macy*, 417 F. 2d 1161 (D.C. Cir. 1969).

⁶⁷ See *Slochower v. Board of Education*, 350 U.S. 551, 559 (1956).

⁶⁸ For example, if the regulation resulting in dismissal was challenged on equal protection grounds alleging discrimination by race, the presence of a "suspect" classification would require the test of strict scrutiny be applied. See, e.g., *Bolling v. Sharpe*, 347 U.S. 497 (1954); *Baker v. City of St. Petersburg*, 400 F. 2d 294 (1968).

⁶⁹ 40 L. Ed. 2d 520 (1976).

⁷⁰ *Id.* at 524 and 525. The Court noted that while the aged have not been wholly free of discrimination, they have not experienced a "history of purposeful unequal treatment" to be categorized as a suspect class.

⁷¹ *Id.* at 526.

⁷² *Id.* at 527.

⁷³ 47 L. Ed. 2d 368 (1976).

⁷⁴ *Id.* at 360.

⁷⁵ See *Detroit Police Officers Assn. v. City of Detroit*, 385 Mich. 519, 190 N.W. 2d 97 (1971), cert. denied, 405 U.S. 950 (1972).

⁷⁶ 47 L. Ed. 2d at 368; but see, *Chappelle v. Greater Baton Rouge Airport Dist.*, 45 L.W. 4461 (1977) where the court held unconstitutional a Louisiana statute requiring appointed officials to own property assessed in relevant parishes.

⁷⁷ 47 L. Ed. 2d 709 (1976).

⁷⁸ *Id.* at 714.

⁷⁹ *Id.* at 716.

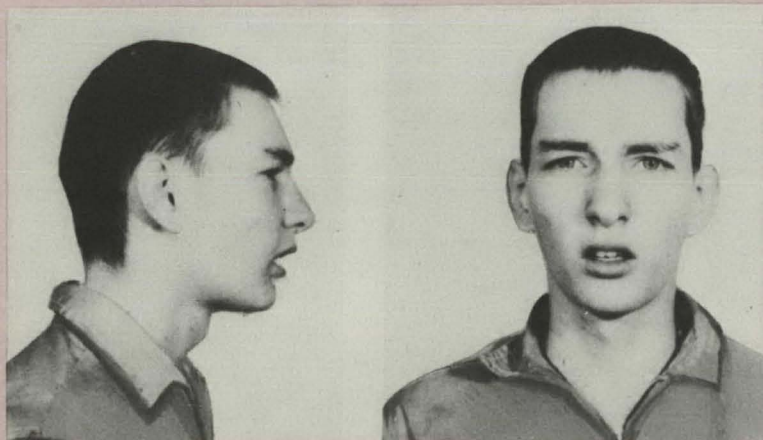
⁸⁰ *Id.*

⁸¹ See *Illinois State Employees Union v. Lewis*, 473 F. 2d 561, 578 (7th Cir. 1972), cert. denied, 410 U.S. 928 (1973).

⁸² 48 L. Ed. 2d at 693.

⁸³ See *Stone v. Powell*, 49 L. Ed. 2d 1067 (1976).

WANTED BY THE FBI



Photographs taken 1969.

EDWARD RAYMOND COSGROVE, also known as **Eddie R. Cosgrove**, **Edward Ray Cosgrove**.

Unlawful Interstate Flight To Avoid Prosecution—Murder and Escape

The Crime

Cosgrove escaped on September 3, 1974, while serving a 30- to 35-year term for the murder of a Colorado State police officer. Diagnosed as schizophrenic, Cosgrove was in an escape status from a mental institution at the time of the murder.

A Federal warrant for Cosgrove's arrest was issued on September 6, 1974, at Denver, Colo.

Description

Age----- 27, born July 24, 1951, Kansas City, Mo.

Height-----	6 feet.
Weight-----	140 pounds.
Hair-----	Light brown.
Eyes-----	Blue.
Build-----	Slender.
Complexion..	Light.
Race-----	White.
Nationality..	American.
Occupations..	Laborer, student.
Scars and marks-----	Vaccination scar left biceps; cut scar right wrist; bullet wound right leg.
Remarks-----	May be wearing light mustache and collar-length hair.
Social Security No. used-----	513-52-1132.

FBI No. ----- 312,217 G.
 Fingerprint Classification:
 11 S 9 U 000
 S 6 U 111 18
 NCIC Classification:
 111215POC0040910PI18

Caution

Cosgrove, who reportedly has an extensive psychological history involving violence, is being sought as a prison escapee after being convicted of murdering a Colorado State police officer. Cosgrove should be considered armed and extremely 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.



Right index fingerprint.

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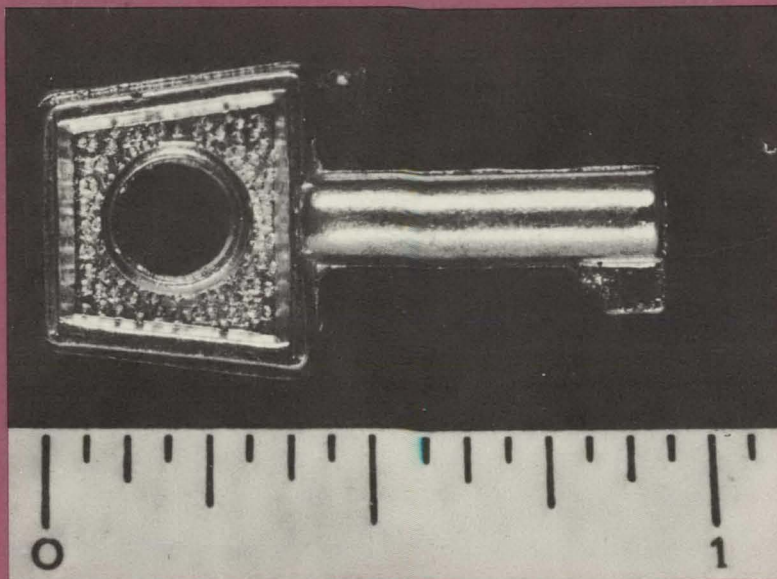
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

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(Name)		(Title)

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Altered Key

*per SAC
Cincinnati*



It has come to the attention of the Cincinnati Police Department that keys sold with luggage at a nationwide chain discount store are similar to those of certain types of handcuffs, and with some alteration, can be fitted into the handcuffs' keyhole. This is accomplished by filing the outer diameter of the shaft and "tooth" portions of the key, which will then allow it to be inserted into the locking mechanism.

UNITED STATES DEPARTMENT OF JUSTICE
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INTERESTING PATTERN



The pattern appearing above is a combination of a whorl and loop-type pattern. It is therefore classified as an accidental whorl. The tracing is inner; however, the small break in the tracing ridge near the right delta requires a tracing reference to meeting.