

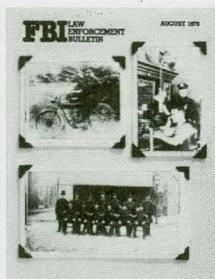


# **FBI** LAW ENFORCEMENT BULLETIN

AUGUST 1979, VOLUME 48, NUMBER 8

## **Contents**

- Legal Matters 1** **Currency and Foreign Transactions Reporting Act—A New Law Enforcement Tool**  
By Robert E. Chasen, Commissioner, U.S. Customs Service, Washington, D.C., and Arthur Sinai, Deputy Assistant Secretary, U.S. Treasury Department, Washington, D.C.
- Crime Problems 6** **Obsessive-Compulsive Behavior: The Nuisance Offender**  
By James T. Reese, Special Agent, Behavioral Science Unit, FBI Academy, Quantico, Va.
- Police History 13** **Baltimore Police Department's Museum**
- Aircraft 17** **Airline Ground Disaster: Integrated Planning Saves Lives**  
By Dep. Insp. Robert F. Littlejohn, Commanding Officer, 43d Precinct, New York City Police Department, New York, N.Y.
- Gambling 20** **Penny Falls**
- Equipment 21** **Seatbelt Leg Restraining Device**  
By Officer Alvaro H. Fragoso, Police Department, Los Angeles, Calif.
- The Legal Digest 24** **Covert Entry to Install Court-Ordered Listening Devices**  
By William E. Colombell, Special Agent, Legal Counsel Division, Federal Bureau of Investigation, Washington, D.C.
- 28** **Wanted**



**The Cover:**  
Photographs from  
the Baltimore Police  
Department's Museum collection. See  
article page 13.

**Federal Bureau of Investigation  
United States Department of Justice  
Washington, D.C. 20535**

**William H. Webster, Director**

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through December 28, 1983.

Published by the Public Affairs Office,  
Homer A. Boynton, Jr., Inspector in Charge  
*Editor*—Thomas J. Deakin  
*Associate Editor*—William E. Tribble  
*Staff*—Kathryn E. Sulewski, Gino Orsini,  
Jeffrey L. Summers, Carl A. Gnam





*False suitcase bottom containing \$209,950.*

# Currency and Foreign Transactions Reporting Act

## A New Law Enforcement Tool

By ROBERT E. CHASEN and ARTHUR SINAI

*Commissioner  
U.S. Customs Service  
Washington, D.C.*

*Deputy Assistant Secretary  
(Enforcement)  
U.S. Treasury Department  
Washington, D.C.*

In the past, the financial aspects of large-scale criminal activity have been largely neglected by many law enforcement agencies. Recently, however, this has changed and there is a growing interest in financial investigations. This trend is due, in part, to the Currency and Foreign Transactions Reporting Act, a financially oriented measure which is proving to be very useful in combating major criminal organizations—especially those involved in narcotics.

Congress passed the act (Public Law 91-508, title 2, 84 Stat. 1118) to deter the use of international financial transactions and secret foreign bank accounts to facilitate violations of U.S. law. The need for the act was well-documented during congressional hearings held in 1970. At that time, representatives of major Federal law enforcement agencies testified concerning the problems of investigating





Arthur Sinai



Robert E. Chasen

criminals who use foreign bank accounts to shield their activities. Witnesses from the Departments of Defense, Justice, and State, as well as from the Internal Revenue Service (IRS) and the Securities and Exchange Commission (SEC), described how secret accounts have been used in such illegal activities as black marketing, smuggling, securities violations, bribery, and tax evasion.

The act contains two key reporting provisions that the U.S. Treasury Department is currently emphasizing in its law enforcement efforts:

1. Travelers and other persons must file reports of the importation or exportation of currency in excess of \$5,000 with the Customs Service on Customs Form 4790, Report of the International Transportation of Currency or Monetary Instruments.

2. Banks and other financial institutions must report currency transactions in excess of \$10,000 to the IRS on IRS Form 4789, Currency Transaction Report.

Since the principal motive for most crime is monetary gain, and crime is usually a cash-and-carry business, these reporting requirements generate a great amount of data useful to Federal law enforcement agencies.

In addition, the reporting requirements create opportunities to prosecute or penalize criminals for attempting to evade them. Obviously, when narcotics or any other contraband is smuggled into the United States, money or something of value must be taken out of the United States to pay for it. This movement of funds provides Customs with the opportunity to use the reporting provisions of the act to bring about the prosecution of major violators. Criminals often fail to file a report because it might direct attention to their activities. In addition, the civil sanctions frequently permit Customs to disrupt illegal activities by seizing unreported money, which the criminals need to finance their operations.

Not all currency seizures are related to criminal activity, but a recent case at the San Francisco International Airport revealed they can be unusual. A personal search disclosed a passenger wearing a wooden leg which contained \$5,276. Although the amount of unreported currency is minimal, the method of concealment is significant and indicates the growing trend of using smuggling techniques previously encountered with narcotics and high-value merchandise.

The law is especially useful in narcotics investigations. The money involved in narcotics trafficking seems to be limitless. It is being transported out of the United States to pay for the drugs, as well as back to the United States for investment or placement in U.S. banks. This means that the courier must either file a Customs Form 4790 (Report of International Transportation of Currency or Monetary Instruments), creating an audit trail, or in failing to do so, commit an additional violation. Recognizing this inherent relationship between narcotics smuggling and international cash flow, Customs and the Drug Enforcement Administration (DEA) are coordinating several major investigations working toward concurrent prosecution.

Participating with DEA in a task force, the Customs special agents in charge of the Chicago and Los Angeles offices are investigating Currency and Foreign Transactions Reporting Act violations of a major heroin trafficking organization involving the unreported transportation to Mexico of an estimated \$35 million per year. Funds derived from the sales of narcotics in the north Illinois area are consolidated and routinely transported from Chicago to Mexico in violation of 31 U.S.C. 1101. This group, which has expanded to Los Angeles from Chicago, has direct links to Mexico and is considered to be one of the largest narcotics smuggling and distribution organizations in the United States. The Customs investigation is concentrating on the identification of the organization's controlling members and currency couriers in an attempt to intercept and disrupt the illicit movement of currency to Mexico.





*Functional gas tank with sample of currency to illustrate capacity of compartment.*

On March 2, 1976, when a member of the organization attempted to clear Customs at Brownsville, Tex., he was stopped. Secondary inspection of his vehicle revealed \$217,930 in U.S. currency and a .22-caliber conversion kit for a .45-caliber automatic pistol concealed in compartments built into the gas tank.

Another example of the effective use of this seizure authority occurred on October 27, 1977, when DEA advised the Customs Service that a passenger was about to depart JFK Airport for Colombia with a large amount of unreported currency. A search of the passenger's luggage revealed \$209,950 in U.S. currency and \$143,000 in negotiable checks hidden in a false bottom of a suitcase. The passenger was arrested and subsequently convicted of violating the Currency and Foreign Transactions Reporting Act. The currency and checks were seized and will be referred to the Office of the U.S. Attorney for forfeiture proceedings.

Customs has given felony-level violations of the act top investigative priority. Following a study of the south Florida area, a task force was created to investigate specifically currency violations which are related to other criminal activity. Naturally, this includes narcotics trafficking. To further increase our intelligence concerning the movement of narcotics money, we have reached an agreement with DEA and the Colombian Government to place two Customs special agents in DEA's Bogota office. The agents are developing an exchange of information between the U.S. agents and their foreign counterparts, obtaining both narcotics interdiction and related cash flow intelligence, and educating foreign agencies and authorities concerning the potential of the Currency and Foreign Transactions Reporting Act. The cooperation received from Colombian officials and the resulting exchange of financial information has had an extremely positive effect on our relations with them and has proven beneficial to both Governments.

Currency and Foreign Transactions Reporting Act investigations are not limited to violations related to narcotics. We have investigated a number

of multinational corporations for currency-reporting violations in conjunction with foreign payoffs. Additionally, we have many cases under investigation that relate to white-collar crime and alien smuggling.

A good illustration of a currency investigation related to white-collar crime is a recently completed case involving the direct assistance of the Governments of Panama and Costa Rica. This investigation revealed that during the past 25 years, a Midwestern stockbroker took several million dollars' worth of his clients' negotiable bonds. In November 1977, he obtained a false passport and fled to Costa Rica with the bonds, which he failed to report as required by the act. On December 20, 1977, while transiting the Panama Canal Zone, he and his wife were arrested by U.S. Marshals and Customs special agents for violation of 31 U.S.C. 1059 (felony provision of the act).

Subsequent investigation in Panama disclosed that he had rented seven safe-deposit boxes in banks located in Panama and Costa Rica. As the result





Wooden leg containing \$5,276.

of efforts by the Customs Attaché, Mexico, the U.S. Ambassadors in Panama and Costa Rica, and the cooperation of various Panamanian and Costa Rican officials, over a million dollars in negotiable bonds and monetary instruments were recovered and returned to the United States. An additional \$1 million in negotiable bonds located in the United States were seized by IRS. In all, bonds and monetary instruments valued at more than \$2 million were recovered.

On July 18, 1978, the stockbroker pleaded guilty to one count each of 31 U.S.C. 1059, 15 U.S.C. 77x and 15 U.S.C. 77q (Securities Exchange Commission violations), 26 U.S.C. 7206(2) (income tax evasion), and 18 U.S.C.

2314 (interstate transportation of stolen securities). He was sentenced to 9 years' imprisonment. The judge specifically recommended he not be paroled.

The IRS, which conducts investigations of apparent criminal violations of the requirement that financial institutions file reports of unusual domestic currency transactions, also has had some notable successes. In 1977, one of the major commercial banks pleaded guilty to 445 counts of failing to file the required reports. The investigation was related to a drug investigation and developed from allegations that drug

dealers were paying bank employees for converting large amounts of small denomination bills into large ones for a fee, with the understanding, of course, that the currency reports would not be filed. Cases were also made on related charges against some of the employees.

Very recently, a Texas banker was convicted for the failure to report the disbursement of currency in connection with a loan he had made to a cocaine dealer. Apparently, the transaction was undertaken to assure a supply of cocaine for a friend.

The IRS investigations and the successful prosecution of violators encourage banks to comply with the act and make it more difficult for criminal elements to use conventional financial institutions to facilitate their illegal transactions.

The criminal and civil penalties provided in the act have a devastating effect on large criminal organizations. There are three kinds of civil penalties:

1. For violation of any section of the act, a penalty not to exceed \$1,000.
2. For failure to file a report of the international transportation of currency or monetary instruments, a penalty not to exceed the value of the item transported.

3. Forfeiture of the transported item which was not reported.

The act also contains a graduated structure of criminal penalties:

1. A fine not to exceed \$1,000 and/or imprisonment for not more than 1 year for violation of any section of the act.
2. A fine not to exceed \$10,000 or imprisonment of not more than 5 years or both if the violation is committed in connection with the violation of a Federal law punishable by imprisonment for more than 1 year.
3. A fine not to exceed \$500,000 and/or imprisonment for not more than 5 years if the violation is committed in furtherance of the commission of any other violation of Federal law, or committed as part of a pattern of illegal activity and which involves more than \$100,000 in a 12-month period.



In addition, however, false statements or representations in reports also may be punishable by fines not to exceed \$10,000 and/or imprisonment of not more than 5 years under 18 U.S.C. 1001.

Realizing that the act presents a very fertile area for investigative leads, Customs recently created a Currency Investigations Division within their headquarters in Washington, D.C. The division acts as a center for: Information concerning the law, ideas on enforcing the law, the monitoring and direction of ongoing investigations, and the production of operational and strategic intelligence. The intelligence function assists Customs' field agents and other Federal agencies in ongoing investigations and the development of new cases. The Reports Analysis Unit, located within the division, reviews Forms 4789 and 4790, compares them

against suspect data bases, and refers the appropriate information to field offices or concerned law enforcement agencies.

Several successful investigations have been developed from the report information. For example, a recent case involving a drug trafficker resulted from reports filed by a U.S. bank near the border, showing that a nonresident alien was depositing between \$250,000 and \$1 million every 2 weeks. The deposits consisted of cardboard boxes of small bills which the suspect carried into the bank. Obviously, when this kind of activity occurs over a period of time, it is a good indication that the depositor is either a superb businessman or is engaged in some type of illegal activity. Since we had yet to meet a legitimate businessman who handles currency in such a manner, we initiated an investigation which proved to be very fruitful.

We are trying to curtail major crime by effectively enforcing the Currency and Foreign Transactions Reporting Act. The law gives Federal law enforcement a variety of weapons to hit the organization where it hurts most—destroying its financial base through forfeiture and the imposition of criminal fines and civil penalties. In addition, its criminal sanctions also provide significant terms of imprisonment for major violators.

In summary, we strongly recommend that financial investigations be given top priority by all law enforcement organizations and invite those that would like more information concerning our activities in this area to contact the U.S. Customs Service, Currency Investigations Division, Washington, D.C.

**FBI**

## Project for Resolving Citizen Disputes

During the first 6 months of operation, three experimental Neighborhood Justice Centers designed to resolve various citizen disputes through mediation and arbitration have resolved 719 cases—452 through hearings and 267 in the prehearing process. These represent 46 percent of the 1,577 cases handled by the centers during that period. Most of the unresolved cases resulted from one party refusing to participate in the mediation process. There was an 86-percent success rate in the 525 cases that went to hearings.

These figures were recently released in an evaluation report by the Law Enforcement Assistance Administration (LEAA), which partially funded this project in Los Angeles, Calif., Atlanta, Ga., and Kansas City, Mo.

Attorney General Griffin B. Bell, who ordered the creation of the centers, stated, "Although these are interim results, they are a heartening analysis of our efforts to develop meaningful alternatives to the courts for resolution of a variety of minor disputes.

"For large numbers of persons today, it is too expensive and too slow to go to court for resolution of their disputes. The problems may seem 'minor' to some, but to those involved they are extremely important.

"Through the justice centers, we hope to perfect techniques that can be easily and cheaply copied by scores of communities across the country.

"The justice centers are designed to resolve disputes quickly and inexpensively. They are an important part of our overall program to improve the delivery of justice for all Americans."

The interim report, which covers March-September 1978, showed a broad range of case categories were handled at the centers. These included many that resulted in police service calls, such as domestic assault and harassment, 157; domestic settlement and other, 104; family dispute, 78; neighborhood nuisances and other, 127; friends—assault, harassment, and other, 147; landlord-tenant disputes, 241; consumer-merchant disputes, 300; and employee-employer disputes, 157.

**FBI**



# obsessive compulsive behavior

## THE NUISANCE OFFENDER

By JAMES T. REESE

*Special Agent  
Behavioral Science Unit  
FBI Academy  
Quantico, Va.*

Many crimes which appear to be sexually related have their origins in obsessive-compulsive behavior. Law enforcement officers have daily contact with individuals displaying this type of behavior in exaggerated forms. Therefore, officers should be aware of the personality involved in these crimes and know the motivating factors involved.

Researchers have provided common characteristics (profiles) of obsessive-compulsive nuisance offenders and keys to identifying their criminogenic patterns. They can describe the type of crimes they commit and suggest techniques for interviewing them. While this article focuses on the obsessive-compulsive individual, he is by no means the only type of person who is capable of committing the crimes of exhibitionism, voyeurism, and others set out. The psychopath, for example, may commit such crimes. However, the psychopath's motivations differ as do his actions in that there is an absence of the ritualization characteristics of the crimes committed by the obsessive-compulsive individual.

For the sake of clarity and brevity, the individual displaying obsessive-compulsive behavior may be referred to as an "obsessive-compulsive individual," but this is not a technical, diagnostic term.

Often referred to in the law enforcement community as nuisance offenses, acts of the obsessive-compulsive individual include exhibitionism, kleptomania, pyromania, voyeurism, fetishism, and obscene phone calls. A study of these crimes reveals sexual inadequacy, anxiety, and repeated stereotypic patterns of behavior or rituals on the part of the perpetrators. It is these ritualistic patterns, pervasive in the obsessional mechanism,<sup>1</sup> which provide the "key" to solving many crimes. To better understand the mental processes involved and to enable the law enforcement officer to identify readily these keys, it is necessary to examine the area of obsessive-compulsive behavior.



## The Problem

In discussing obsessive-compulsive behavior, it is important to define the terms "obsessive" and "compulsive." Obsessions are irrational, unwanted thoughts, usually of no value to the individual, which persist and force themselves into the individual's consciousness. Obsessions may become so disturbing and repetitive that the individual develops a maladjusted life-style. These obsessive thoughts may deal with many topics. However, the most common themes of these obsessions are: (1) Hostility toward, or aggressive thoughts about, parents or other loved ones; (2) anti-Christ or blasphemous thoughts occurring to individuals of highly religious or moral background; (3) excessive concern with disease; and (4) thoughts of extremely perverse sexual acts.<sup>2</sup>

The behavior patterns which stem from these obsessions are called compulsions. A compulsion, generally speaking, is an act performed by an individual in an effort to relieve himself of the anxieties which both cause and result from the obsession. (Not all obsessions lead to compulsive behavior.) Some consider compulsions to be irresistible to the individual—he feels compelled to commit the act or demonstrate some other form of behavior.<sup>3</sup> Compulsions which do not result in criminal acts and are commonly demonstrated by individuals categorized as obsessive-compulsive include repeated handwashing, clearing of one's throat, mumbling to oneself, and counting.<sup>4</sup> These compulsions can frequently take on the appearance of complex ritualistic behavior, particularly in dressing or undressing.<sup>5</sup>

It is the ritual which provides the valuable key to the solution of a crime. The law enforcement officer can then predict with some degree of accuracy the future actions of an individual whose crime pattern reflects ritualization or obsessive-compulsive behavior. The ritualized *modus operandi* of the nuisance offender is the key.

B. von Haller Gilmer suggests that a large portion of the population, though considered normal, experience mild obsessions.<sup>6</sup> In the nonneurotic sense, these obsessions are unwanted thoughts that come into consciousness; their expulsion cannot be accomplished voluntarily. Everyday worries of the average person are a good example, "Did I lock the door when I left?" or "Did I unplug the iron?" Another everyday form of a mild obsession is experienced by the individual who is unable to expel voluntarily a particular tune from his mind. Such repetitive and

**"Law enforcement's responsibility is to identify the criminogenic patterns of the individual experiencing obsessive-compulsive behavior and to be aware that some individuals carry out acts as a result of this behavior."**

unbidden thoughts are common, mild obsessions and do not demonstrate abnormal behavior.

The law enforcement officer will not be concerned with these common and normal obsessions. Rather he will be dealing with its more bizarre forms, since these rituals, when flavored with abnormal sexual activities and carried out in public, are dramatic and call for police action. It is not necessary for the police officer to diagnose whether the individual committing the crime falls into one category of obsessive-compulsive behavior or another. What is important to know is whether or not the crime committed reveals a ritualistic pattern, which will help the officer predict the perpetrator's future behavior.

The history of obsessive-compulsive behavior reaches back to the medieval period when individuals suffering from this type of behavior were considered to be under the influence of the devil or victims of witchcraft. Obses-

sions were generally referred to as acts of evil spirits.<sup>7</sup>

Numerous theories since then have been postulated on the etiology of obsessive-compulsive behavior. David Abrahamsen suggests that the thought intrusion (obsession) enters the consciousness of the individual without any external stimuli.<sup>8</sup> Sigmund Freud held that the seed for compulsive behavior is sown in early childhood, the behavior stemming from difficulties encountered during the psychosexual stage of development involving bowel training.<sup>9</sup> Leon Salzman cites several factors in the onset of obsessive-compulsive behavior, but emphasizes the obsessional individual's striving for omniscience through intellectuality.<sup>10</sup> A final theory to be mentioned (keeping in mind there are many others) is that of Solomon Snyder, who describes the obsessive-compulsive's many rituals as methods which enable the individual to control some aspects of everyday life. Such an individual needs to maintain control at all times. He or she is usually frightened by change, fearing loss of this control.<sup>11</sup>

While it may be advantageous to the law enforcement officer to know the specific cause of nuisance behavior, the goal is to be able to determine whether the criminal act is a result of some type of obsessive-compulsive behavior. The rituals involved in dressing and undressing, for example, may be of importance to the psychoanalyst. Law enforcement's responsibility is to identify the criminogenic patterns of the individual experiencing obsessive-compulsive behavior and to be aware that some individuals carry out acts as a result of this behavior.

It is frequently asserted that the obsessive-compulsive individual cannot stop himself from committing a particular act, but this is questionable. It has been stated, "*He knows that his criminal acts are criminal, and that he will be punished for them. When he*



*engages in criminality he does so knowingly, deliberately, and willfully.*"<sup>12</sup> To provide an analogy, it may be fair to say that the obsessive-compulsive individual is to his act as a normal individual is to an act of superstition. For example, the normal individual when confronting a ladder can choose to walk around or under the ladder. He will do the act which is more comfortable to him.<sup>13</sup> A paradox in obsessive-compulsive behavior comes into play because the individual knows his behavior is self-defeating, yet if he resists acting on his compulsions he becomes ridden with anxiety, guilt, and frustration. Thus, the exhibitionist will expose himself with the realization that his act is abnormal because failure to commit the act leaves him anxiety-ridden.

### The Crimes

What makes nuisance offenses a problem? Aside from the police time consumed in attempts to investigate these offenses, they account for a substantial number of sex crimes. It has been generally established that exhibitionism alone accounts for one-third of all reported sex crimes in the United States, Canada, and Europe.<sup>14</sup> The remainder of nuisance offenses adds substantially to this percentage of sex crimes. This makes it important to examine each nuisance offense for the patterns exhibited.

### Exhibitionism

Many individuals categorized as exhibitionists, like other offenders discussed hereafter, may be experiencing obsessive-compulsive behavior. Individuals who expose their genitals to the opposite sex, and are subsequently arrested, are normally charged with indecent exposure. The motivation behind the exposure becomes important because there are differences between indecent exposure and exhibitionism. There are many reasons for indecent exposure, such as revenge, "kicks," or a dare. The factor which separates indecent exposure from exhibitionism

is that the exhibitionist exposes his genitals to the opposite sex for the purpose of sexual gratification, without any intention of sexual activity with the victims.<sup>15</sup> An exhibitionist exposes himself to show, among other reasons, that he is a man or to express symbolically his belief that he doesn't need women. Individuals in the latter category obtain their sexual gratification from the response of the victim. The exhibitionist customarily looks for a response of shock, fright, and other signs of recognition from the victim. The desired responses can vary from one exhibitionist to the next. While some may merely look for a visual response, other must talk "dirty" to the victim or direct lewd questions toward the victim during (and concerning) the exposure.

Indecent exposure is not a crime of recent history as substantiated by English court records of 1663. The first reported case of indecent exposure in England (1 Keb. 620, 83 ENG. REP. 1146 K.B. 1663) describes Sir Charles Sedley as standing on his balcony in the nude, urinating in bottles, and dropping them on passers-by into the street below.<sup>16</sup> Even before this, history records a certain amount of indecent exposure. Naked females were usually present to meet royalty and the like during royal visits to foreign countries. Together with indecent exposure, exhibitionism occurred long ago.

Research on general profiles of the exhibitionist reveals that exhibitionism is a male phenomenon. Women seem to have other releases for exhibitionistic urges, such as posing in pornographic magazines, acting in obscene movies, and enjoying liberalized dress codes.<sup>17</sup> Research conducted by McDonald on 200 individuals arrested for exhibitionistic acts in Denver, Colo., revealed that exhibitionism takes place mostly in daylight hours (142 out of 200).<sup>18</sup> This study also found the average age of the exhibitionist at first conviction is 26.5 years old, as opposed to Mohr who calculated the age as 24.8 years old.<sup>19</sup> Mohr contended that age as determined by McDonald is derived from court rec-

ords and that those court records are inaccurate. It is agreed, however, that young white males are the defendants in a majority of cases.<sup>20</sup>

Other commonalities found in the exhibitionist profile show most exhibitionists are or have been married,<sup>21</sup> and are intelligent<sup>22</sup> and well-educated.<sup>23</sup> Often he will have, or has had, a stammer when speaking.<sup>24</sup> There appears to be no common denominator in physical characteristics of the exhibitionist.

Cases show that the exhibitionist provides law enforcement with a key or pattern to his behavior, which may assist in his apprehension. His *modus operandi* reveals that he conducts his exhibitionist activities in the same type of area or neighborhood,<sup>25</sup> during the same time of day, and in the same manner each time.<sup>26</sup> Reinhardt advises that the victim of the exhibitionistic act must be a stranger to the subject.<sup>27</sup>

His ritual, therefore, has been established, and a study of past exhibitionistic acts may enable the officer to predict with some degree of accuracy the subject's future criminal behavior.

### Pyromania

Pyromaniacs, like others who set fires and are arrested, are usually charged with arson. However, their motivations for starting the fire differ from other firesetters. There are those whose purpose for starting a fire may range from revenge to monetary gain through insurance coverage.<sup>28</sup> The pyromaniac starts fires for the purpose of relieving sexual tension, and in many cases, his action is a substitute for the sex act.<sup>29</sup> This offender, in the vast majority of cases, is male.<sup>30</sup> He usually will not seek help on his own.<sup>31</sup> The profile of the pyromaniac often includes some traits found in other criminal typologies, namely a history of bedwetting,<sup>32</sup> cruelty to animals, and firesetting.<sup>33</sup> For the pyromaniac the desire for thrill or orgasm is the sole reason for the fire,<sup>34</sup> and fire has for



him the magical power to provide affection, potency, and love. The devastating power of the fire illustrates the intensity of the offender's sexual desires, as well as his sadism.<sup>35</sup> Thus, the pyromaniac's inadequate personal sexuality forms a foundation for his sexually symbolic offense.

The pyromaniac can be virtually anyone. However, James Reinhardt describes the pyromaniac as a male about 39 years old of borderline intelligence, poor social background, and low ethical standards. He continues that this offender is married in about 75 percent of the cases, usually to an older woman. However, one-third of these individuals are not living with their wives at the time of their arrest for starting fires. These individuals have often been arrested in the past for crimes other than firesetting and have a history of excessive use of alcohol.<sup>36</sup>

Most theorists believe that the pyromaniac usually stays at the scene of his fire, although there is some controversy on this point. There are those who state that some pyromaniacs simply start the fire and then leave.<sup>37</sup> If he is at the fire scene, he may appear to have a flushed face, wet pants, and uncontrolled urination. Also, he may constantly offer his help and make comments concerning the fire.<sup>38</sup> When there is suspicion of a pyromaniac, a standard investigative technique is to take photographs of individuals watching the fire at the crime scene. It is important that these photos be taken as soon as possible after discovery of the fire, because fire attracts many people for many reasons (curiosity, excitement, etc.). It is not unusual for the same person to be drawn to numerous fires because of his individual interest in them. The pyromaniac will be among the first at the scene, usually before the crowd gathers. Over a period of time and after several fires, the pyromaniac may stand out as a common denominator in each of the crime scene photos. It is also important to know that a pyromaniac may on occasion be a fireman or volunteer fireman, or may have wanted to be a fireman in the past.<sup>39</sup>

## Kleptomania

Another obsessive-compulsive affliction appearing as a nuisance offense is kleptomania.<sup>40</sup> The kleptomaniac steals items of no value—items he neither needs nor desires for the purpose of sexual excitation.<sup>41</sup> Although there are other theories on what causes the individual to steal, the prevalent Freudian theory holds there is erotic motivation behind the act. This type of crime is motivated by sex, but is not a sex crime.

The majority of these offenders are females, who have been classified

**“The obsessive-compulsive individual who carries on a pattern of criminal behavior usually will not elicit help.”**

by some as extremely hostile and sexually unsatisfied. One theory depicts the kleptomaniac as a middle-aged woman, perhaps experiencing menopause, whose husband is “married to his profession.” In addition, her children may have all left home, either to work or go to school, and she is left alone. The act of kleptomania has been described as the symbolic stealing of the love and attention she cannot get at home. This theory is supported by the fact that unlike the occasional thief, the kleptomaniac steals openly and may cry and cause a considerable disturbance when caught. Even though under arrest, her thoughts may be that she is now getting the attention she needs.

The kleptomaniac is usually well-off financially,<sup>42</sup> although she may be found in all economic categories. As in other manifestations of obsessive-compulsive behavior, the kleptomaniac is able to exempt herself from human responsibility for her acts<sup>43</sup> and will not

usually seek help on her own. When interviewed, like those manifesting exhibitionism and pyromania, she tends to be evasive and denies her guilt.<sup>44</sup> Kleptomaniacs often frequent the same department store and are unique from the professional thief or the occasional shoplifter. The kleptomaniac does not steal for profit or for useful items, but for the sexual thrill involved. However, kleptomania is not always driven by an obvious sexual urge.

## Voyeurism

The voyeur gains his sexual gratification from viewing a naked or semi-naked woman or watching couples engage in sexual intercourse.<sup>45</sup> This type of viewing is a step beyond the normal male curiosity about the opposite sex. The voyeur goes to great lengths to prowl through residential sections of cities, usually at night, hoping for a glimpse of a female in the nude or sexually engaged. His observations are a replacement for the sexual act.<sup>46</sup> Commonly referred to as the “peeping tom,” the voyeur may masturbate while watching his victim. Because of the practice of masturbation, he may have been arrested in the past for indecent exposure when a neighbor of the victim observed him while exposed.

This crime of young males<sup>47</sup> results in numerous prowler calls to police stations. Informal interviews with officers attending the FBI National Academy indicate that this offense tends to be a local offense, i.e., the voyeur usually operates close to the neighborhood in which he resides. He develops a pattern or route of selected windows throughout the neighborhood. In many cases, the voyeur operates at the same time of each evening, and often his voyeuristic practices are in conjunction with a legitimate function, such as taking the dog out for a walk. The voyeur acts during the hours of darkness as the night provides concealment and is the time when his victims are most likely to undress. His specific timetable each night may vary and be influenced by the undressing habits of the victims.



## Fetishism

A fetish is a nonsexual item which takes the place of a sexual partner to gratify sexual desires. There are an untold number of fetishists, and their fetish items may vary from shoes<sup>48</sup> to automobile exhaust pipes.<sup>49</sup> The fetishist may masturbate while holding, viewing, or fondling the fetish item; the embracing of the item can take on many forms, from kissing to tasting.<sup>50</sup> On occasion the item itself may not be the fetish, but rather its texture or odor.<sup>51</sup> The fetishist may resort to stealing in efforts to obtain his desired items; for example, stealing ladies undergarments from clotheslines.<sup>52</sup> On rare occasions a fetishist may resort to violence, as in the case where a woman was attacked on a public street by a man who ran off with one of her shoes.<sup>53</sup>

Reinhardt describes the sex murderer as a fetishist with a desire for some fetish organ or other part of the human body.<sup>54</sup> Males most commonly practice fetishism, although there are reported cases of female fetishists. Men are more likely to commit larceny in connection with obtaining the fetish items than are women.<sup>55</sup> The thefts committed by the fetishist are perhaps the most annoying problems faced by police (thefts from clotheslines), and in this sense, he becomes a true nuisance for police officers. Fetishists are found in all age groups.<sup>56</sup>

## Obscene Phone Caller

The verbal exhibitionist, as referred to by Hirshfield, is able to reduce his anxieties by calling females on the telephone and talking in an obscene manner. He may receive his sexual gratification either from the victim's alarm or her indignant tone following his initial obscene comments.<sup>57</sup> It would appear that no age is spared in this category either—for the victim or the subject.

FBI National Academy attendees advised that this is a common offense. Many officers also reported that these obscene phone callers usually keep a log or diary of their calls. The numbers called are placed in the diary with a

grade, or mark, concerning the victim's response. If poorly rated, she is usually not called again. These same informal surveys at the FBI Academy reveal that most obscene phone calls are numbers chosen randomly from telephone directories. If a negative response is received by the caller, but he continues to call the victim in spite of her lack of adequate response, chances are the caller knows the victim or knows of her. He merely needs to hear her voice or know she is on the phone. Average ages for the obscene phone caller range from 18 to 25 years old.

Often, voyeuristic acts may be employed by the obscene caller. He will view the victim through binoculars from a nearby apartment or house as she answers the phone.<sup>58</sup> This individual may also add obscene letters to his repertoire. Like a number of others discussed previously, this offender tends to follow a pattern, calling on the same day of the week and/or at the same time of day. Police officers' wives are frequent victims of obscene phone calls, but it is felt that these calls are for harassment or revenge, not the acts of the true obscene phone caller who calls for sexual release of tension and anxiety.

In the case of the obscene phone caller, as well as the kleptomaniac, pyromaniac, voyeur, and fetishist, it might be valuable to obtain a search warrant for the individual's residence. Conceivably, the obscene caller may have the log book of his calls at his residence, if not on him. The fetishist may maintain the items of clothing or other fetish items he has taken; the pyromaniac may have newspaper clippings regarding the fires he has started; and the voyeur may have a list of addresses with notations by each address of the best time to observe the victim, age of victim, and other related data.

Officers should also be aware that a number of nuisance offenders may consider suicide following their arrest. A large percentage of these criminals are married, and they can be pillars of their communities. Once arrested, the guilt for their acts becomes more acute. They begin to question how they can face their families or how they can

reenter society with the stigma of having been arrested for this type of crime. They should be watched closely during the time they are being booked and undergoing other arrest procedures.

## Other Ritualistic Crimes

There are other crimes which show signs of ritualization. In many cases, such ritualization may merely be a *modus operandi* with no obsessive-compulsive factors. Crimes such as rape and homicide often show a *modus operandi* in the normal sense. The rape committed out-of-doors, which is ritualized and motivated by compulsive behavior, can usually be distinguished by the fact that the rapist picks the *area* for the attack rather than picking the victim. The victims are always strangers to the subject, and in this crime, the subject waits for a likely victim of any age or description. The subject is always alone and often unable to complete the sexual act. It is not uncommon for the subject to apologize after the attack or show sudden concern for the well-being of the victim. He usually strikes in the same types of areas, uses the same methods of attack, speaks the same words on each occasion, and attacks at predictable intervals. The rape committed indoors is usually better planned, i.e., the victim tends to be the same age as the subject and of the same social strata. Often the indoor rape is preceded by voyeuristic activities.

Homicides, or homicides combined with rapes, may reveal patterns of ritualism. Numerous cases cite the subject's contention that he felt compelled to murder or that the thought of murder was an obsession with him. A study conducted by Palmer evaluated a number of convicted murderers and their brothers (a total population of 52). Thirty-four instances of phobias (morbid fears), compulsions, and obsessions were reported for the murderer group, while only three instances were found in the control group, the brothers.<sup>59</sup>



## The Criminal And Interviewing Techniques

Many investigating officers of nuisance offenses consider interrogating the arrestee as a mere formality in order to meet departmental guidelines concerning the arrest report. They really do not expect the arrestee to admit to this particular type of crime, and thus consider the interview a waste of time. However, this individual may be responsible for a number of similar offenses in the area, and therefore is worth interviewing. The type of offense should indicate whether he or she may have committed a similar offense in the past. Entering an interrogation with the attitude that it is a mere formality will all but guarantee the end results to be just that. Interviewing this type of individual is not an easy task, but it can be an excellent education for the officer if he is able to gain rapport with the arrestee. The ultimate goal is, of course, to solve the crime at hand. However, one should try to determine the motivation behind the act and provide this individual with the type of help he may be seeking.

Prior to interviewing these individuals, certain personal characteristics and traits should be known. Individuals who fall into the category of nuisance offenders tend to carry idealism to extremes. They may appear to be generous, kind, and considerate, but this may merely be to conceal their hostility or curb their feelings of anger. Often these individuals emerge from the superficial facade of kindness as stubborn and stingy people.<sup>60</sup> The rigidity of their personalities make them difficult to interview. This rigidity, coupled with a need for precision and accuracy, causes them to overemphasize details,<sup>61</sup> seem somewhat detached from their statements at times, and lead conversations away from the original intent of the investigator's questions.<sup>62</sup> Language is their magic, and this magic, together with the rituals, is prominent in obsessive-compulsive individuals.<sup>63</sup>

When interviewed by authorities, the obsessive-compulsive nuisance offender will not usually feel free to speak openly.<sup>64</sup> The initial response to accusing questions may be one of de-

nial. His statements will appear intimate in that he demands intimacy (despite his absence), but he will initially avoid incriminating statements. His first thought may be that whatever he has done it must have been correct. He manufactures this thought because of his need to be in control, to be decisive, but never to be wrong. Concern for his responsibilities regarding an offense appear lacking.<sup>65</sup>

Yet, if and when he admits his act, the verbal magic may begin along with evasive answers. Phrases such as "I am sorry," "I didn't mean it," and "Ex-

### **"Individuals who fall into the category of nuisance offenders tend to carry idealism to extremes."**

cuse me," often used by children to avoid spankings and other forms of punishment, are used by this individual for close to the same reasons. The difference is that the nuisance offender is attempting to excuse himself, and soon this verbal magic becomes automatic, a substitute for correcting his future actions. Here again we find the coupling of verbal magic with "verbal excuses." The excuses, together with the evasive and detailed answers leading away from the intent of the question, are used together to confuse and distort. These become almost automatic defenses for the offender.<sup>66</sup>

While appearing as a sexual deviant to law enforcement authorities, this individual may surprise the interviewing officer by proclaiming a very high standard of moral conduct, at least philosophically. More often than not, this is merely another mental step toward his personal need to appear perfect.<sup>67</sup>

Even the most normal individual is not likely to admit to a sexual crime because of the social stigma. He may show a certain amount of disgust at the very thought that he is suspect. If in

fact he is the guilty party, he has an extra incentive to provide false information and be extremely uncooperative. Added to these reasons for uncooperativeness and elusiveness is the guilt and anxiety experienced by the obsessive-compulsive nuisance offender.

Since interrogating this individual, particularly following an arrest for a nuisance offense, may be a difficult task, an inappropriate introduction or the wrong initial question may bring the interrogation to an abrupt end. It is perhaps better to assume that this individual will not feel free to speak openly about his crime. This way, the law enforcement officer may be able to "get off on the right foot." It has been suggested that the officer use indirect questioning for the first 5 minutes or so when confronting a nuisance offender.<sup>68</sup> One could ask him how long he has resided in the particular neighborhood, his family background, and other similar questions.

A certain amount of empathy and understanding by the investigator may aid the individual in "opening up" about his crime and the motivation behind it, if in fact he is aware of the motivating factors. This empathy should fall short of sympathy, so that the investigator's authority image is not completely eradicated during the interview. These indirect questions are an effort to reduce the individual's anxiety. It is usually helpful and makes the interview more successful if a good relationship is established between the subject and the interviewer. Legal guidelines must be followed, but there should be minimal introduction. This individual, due to his personal inadequacies and guilt over his crime, may become quite overwhelmed by excessive display of credentials, badges, legal forms, etc.

If the investigator continually asks direct questions, it makes the individual dependent on the investigator. This technique of interviewing should be avoided. A narrative response should be elicited. However, it should be remembered that the obsessive-compulsive individual may go into great detail in areas not pertinent to the questions



being asked. Thus, it becomes the investigator's task to keep the answers in line with the questions at all times. The investigator must guide the interviewee when required to ask specific questions relating to the crime committed and should not overrespond to the answers given. Perhaps the best response would be simple reinforcing, such as saying "yes," or restating the last portion of the individual's comment.

In the case of more serious crimes, such as a ritualistic rape or ritualistic homicide, it may be worthwhile, along with minimal identification, to look "casual." It has often been said that uniforms don't get answers. Once the ground work has been set with indirect questions, the anxiety level reduced appreciatively, and some rapport developed, the interviewer should then gradually proceed into the specifics of the crime being investigated. Through this technique, the individual will be more relaxed and agreeable to a question and answer session. A distinction must be made between subtle coercion and these procedures, which merely assist the subject in relaxing and alleviating himself of some of his guilt feelings.

Questioning of the obsessive-compulsive nuisance offender is all but an art. Each individual will share certain personality traits, but will be different in other respects. Rapport must be gained for the interview to succeed. The offender will be more apt to respond if he believes the interviewer is on his side, even though the interviewer's capacity in questioning him is that of a law enforcement officer. Because of the obsessive-compulsive's timid exterior and the amount of guilt he is experiencing, the order of the questions, as well as the way they are phrased, may make an important difference in the responses. The initial and innocuous questions will not only build rapport but dissipate the tension and nervousness which is commonly experienced prior to an interview. The

answers to such questions may also provide some psychological background information for use in later questioning.

The obsessive-compulsive individual rigidly adheres to rules he has set up for himself in an effort to overcome uneasiness and indecisiveness.<sup>69</sup> Decisions are therefore not an easy task for him. Often decisions which seem very strong and determined are in fact the results of his own efforts to overcome indecisiveness. This inability to make decisions should be understood, particularly when obtaining a signed statement or confession. He is as unable to make an easy decision as a difficult one; hence, his resulting decisions may be impulsive.

## Conclusion

The obsessive-compulsive individual who carries on a pattern of criminal behavior usually will not elicit help. The possibility of this individual walking into the police station and confessing to his crimes is marginal. Therefore, the law enforcement officer must conduct a proper and thorough investigation to seek him out and cause his arrest. The keys set out can be a great source of information concerning the nuisance offender's behavior pattern, allowing the police officer the opportunity to predict his behavior. Individuals committing nuisance offenses can graduate to offenses which are far from a nuisance, such as rape and homicide. Thus, it is important for the law enforcement officer to identify the keys provided by the offender and make proper use of them. Ultimately, understanding these behavior patterns (rituals) and properly interpreting them may enable the law enforcement officer to bring the investigation of a nuisance offense to a speedy conclusion. By understanding the nuisance offender, law enforcement agencies may be able to deal more successfully with his crimes.

**FBI**

## Footnotes

- <sup>1</sup> Leon Salzman, *The Obsessive Personality* (New York: Jason Aronson, Inc., 1973), p. 57.
- <sup>2</sup> Walter J. Coville, Timothy W. Costello, and Fabian L. Rouke, *Abnormal Psychology* (New York: Barnes and Noble, 1960), pp. 112-113.
- <sup>3</sup> B. von Haller Gilmer, *Psychology*, 2d ed. (New York: Harper and Row, 1970), p. 562.

- <sup>4</sup> Coville, Costello, and Rouke, p. 113.
- <sup>5</sup> *Ibid.*, p. 113.
- <sup>6</sup> Gilmer, p. 562.
- <sup>7</sup> Harold E. Russell and Allan Beigel, *Understanding Human Behavior for Effective Police Work* (New York: Basic Books, Inc., 1976), p. 97.
- <sup>8</sup> David Abrahamsen, *The Psychology of Crime* (New York: Columbia University Press, 1960), p. 127.
- <sup>9</sup> Salzman, p. 12.
- <sup>10</sup> *Ibid.*, p. 15.
- <sup>11</sup> Solomon H. Snyder, *The Troubled Mind: A Guide to the Release from Distress* (New York: McGraw-Hill Book Co., 1976), p. 13.
- <sup>12</sup> Arthur S. Aubry, Jr., and Rudolph R. Caputo, *Criminal Interrogation* (Springfield, Ill.: Charles C. Thomas, 1965), p. 18.
- <sup>13</sup> H. R. Beech, *Obsessional States* (London: Methuen & Company, 1974), p. 5.
- <sup>14</sup> James C. Coleman, *Abnormal Psychology and Modern Life*, 5th ed. (Glenview, Ill.: Scott, Foresman & Company, 1976), p. 567.
- <sup>15</sup> John M. MacDonald, *Indecent Exposure* (Springfield, Ill.: Charles C. Thomas, 1973), p. 7.
- <sup>16</sup> John Drzazga, *Sex Crimes* (Springfield, Ill.: Charles C. Thomas, 1960), p. 154.
- <sup>17</sup> Russell and Beigel, p. 159.
- <sup>18</sup> MacDonald, *Indecent Exposure*, p. 26.
- <sup>19</sup> *Ibid.*, p. 33.
- <sup>20</sup> *Ibid.*, p. 71.
- <sup>21</sup> *Ibid.*, p. 36.
- <sup>22</sup> Benjamin Karpman, *The Sexual Offender and His Offenses* (New York: Julian Press, Inc., 1954), p. 172.
- <sup>23</sup> MacDonald, *Indecent Exposure*, p. 37.
- <sup>24</sup> N. K. Rickles, *Exhibitionism* (Philadelphia, Pa.: J. B. Lippincott Co., 1950), p. 137.
- <sup>25</sup> Karpman, p. 184.
- <sup>26</sup> MacDonald, *Indecent Exposure*, p. 32.
- <sup>27</sup> James Melvin Reinhardt, *Sex Perversions and Sex Crimes* (Springfield, Ill.: Charles C. Thomas, 1957), p. 261.
- <sup>28</sup> John M. MacDonald, *Bombers and Firesetters* (Springfield, Ill.: Charles C. Thomas, 1977), p. 190.
- <sup>29</sup> Abrahamsen, p. 129.
- <sup>30</sup> MacDonald, *Bombers and Firesetters*, p. 190.
- <sup>31</sup> Abrahamsen, p. 127.
- <sup>32</sup> Karpman, p. 140.
- <sup>33</sup> MacDonald, *Bombers and Firesetters*, p. 4.
- <sup>34</sup> Karpman, p. 484.
- <sup>35</sup> Abrahamsen, p. 129.
- <sup>36</sup> Reinhardt, p. 102.
- <sup>37</sup> MacDonald, *Bombers and Firesetters*, p. 4.
- <sup>38</sup> *Ibid.*, p. 223.
- <sup>39</sup> Karpman, p. 141.
- <sup>40</sup> Abrahamsen, p. 127.
- <sup>41</sup> Karpman, p. 138.
- <sup>42</sup> Salzman, p. 177.
- <sup>43</sup> *Ibid.*, p. 90.
- <sup>44</sup> *Ibid.*, p. 178.
- <sup>45</sup> MacDonald, *Indecent Exposure*, p. 64.
- <sup>46</sup> Coleman, p. 570.
- <sup>47</sup> *Ibid.*, p. 570.
- <sup>48</sup> Drzazga, p. 164.
- <sup>49</sup> Coleman, p. 572.
- <sup>50</sup> *Ibid.*, p. 571.
- <sup>51</sup> *Ibid.*, p. 571.
- <sup>52</sup> Reinhardt, p. 241.
- <sup>53</sup> Drzazga, p. 164.
- <sup>54</sup> Reinhardt, p. 123.
- <sup>55</sup> Drzazga, p. 165.
- <sup>56</sup> Russell and Beigel, p. 155.
- <sup>57</sup> MacDonald, *Indecent Exposure*, p. 66.
- <sup>58</sup> *Ibid.*, p. 67.
- <sup>59</sup> Stuart Palmer, *The Psychology of Murder* (New York: Thomas Y. Crowell Company, 1962), p. 34.
- <sup>60</sup> Coville, Costello, and Rouke, p. 113.
- <sup>61</sup> Snyder, p. 37.
- <sup>62</sup> Salzman, p. 33.
- <sup>63</sup> *Ibid.*, p. 22.
- <sup>64</sup> Rickles, p. 106.
- <sup>65</sup> *Ibid.*, pp. 22-24.
- <sup>66</sup> Salzman, p. 33.
- <sup>67</sup> *Ibid.*, pp. 22-24.
- <sup>68</sup> David Soskis, M.D., portion of lecture before the FBI National Academy, Quantico, Va., February 14, 1978.
- <sup>69</sup> Salzman, p. 21.



# The Baltimore Police Department's Museum

In 1972, when the new Baltimore Police Department Headquarters building was dedicated, an attractive and accessible display area next to the main lobby already had been designed specifically for use as a police museum.

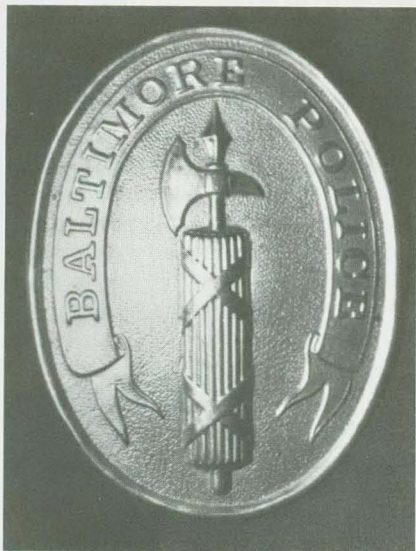
Exhibits, then, were assembled from a cache of police mementoes which had been accumulated and stored for future display by a now-retired deputy commissioner—a student of law enforcement history in Baltimore who recognized the value of preserving the compelling legacy of a proud department established by legislative enactment in 1784.

Since the museum's inauguration 7 years ago, the exhibits have been augmented and expanded with memorabilia donated by police personnel

*Conspicuously displayed in the museum is a paddy wagon actually used by city police at the turn of the century. Police personnel have painstakingly restored it to its original condition.*



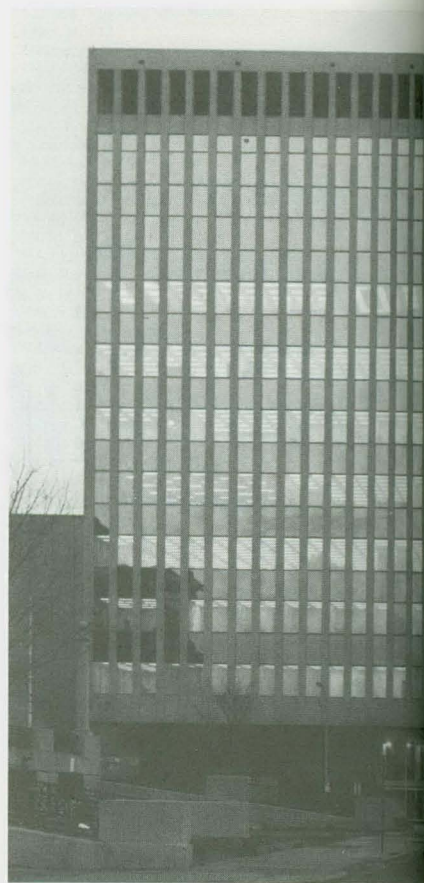




*The Baltimore Police Department's first metal badge.*



*Visitors can view police relics and memorabilia.*



*The police museum is located at Baltimore Police Department Headquarters.*



*Police Commissioner Donald D. Pomerleau.*

and relatives, police "buffs," and interested citizens. Now, hundreds of interesting items related to law enforcement, the old and the new, are attractively exhibited in well-lighted glass display cases recessed into marbled-faced walls along a gracefully curved corridor. Last year alone, several thousand visitors toured Baltimore's new facility and the fascinating and increasingly popular museum.

Exhibited in the museum are past and present firearms, uniforms, and badges (firearms and metal badges were first issued in 1857), photographs of police vehicles and equipment suggesting the evolution of police technology over the years, and framed portraits of the department's succession of police commissioners.

One display is devoted exclusively to Civil War Era documents, such as police appointment certificates, payroll records, and miscellaneous correspondence.

Another consists of antique restraining devices, police dockets from the 1880's, "mug shots" from the 1890's, and a photo of an 1895 patrol wagon—predecessor of the famous Black Maria (circa 1916). Through numerous turn-of-the-century photographs recollecting callboxes, bicycle squads, and the like, the nostalgia of a curiously uncomplicated urban scene is presented.





*Paddy wagon (1895).*

Yet another exhibit—a collection of trophies, awards, and photographs of athletic events—recalls the 1920's when policemen competed in community sports with a vigor and spirited camaraderie possibly never to be regained.

The museum has its instructional aspects also. There is a collection of modified, improvised, and unusual confiscated weapons. Visitors view drug paraphernalia and representative examples of a variety of narcotics which are presented concomitant with drug abuse information.

Still another display—items related to various neighborhood service activities currently sponsored or supported by a community-oriented police—indicates to passers-by the civic action efforts of the department.

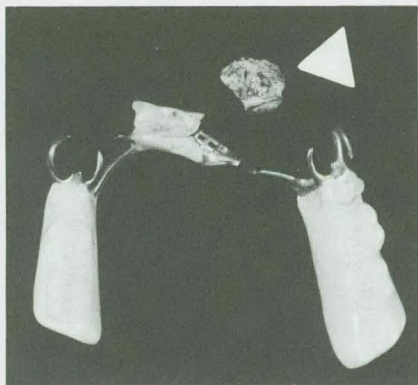
Also displayed is the stranger-than-fiction—the bizarre and extraordinary. Among these is a severed dental plate which, in 1956, miraculously spared the life of a Baltimore police officer. While attempting to arrest a suspected automobile thief, the officer was shot in the face at point-blank range. The .32-caliber slug penetrated his lower lip, struck his dental plate, pierced his tongue, and fell into his throat. The officer spat out the slug and survived.

A revolver on exhibit, used by a police officer in a shootout, likewise boasts an unusual history. As a result

of opposing fire, a slug struck the weapon and inopportunely jammed the cylinder against the frame. The officer's revolver was disabled, but without serious consequences.

At the Baltimore Police Department's museum, the evolution of local law enforcement techniques, in response to urbanization and social and technological change, becomes obvious to even the casual observer. By way of illustration, the Baltimore Police Department first established callbox and patrol wagon systems in 1885. A harbor patrol was begun at that time also. In 1896, the Bertillon Bureau, responsible for photographing and measuring prisoners and maintaining criminal files, was organized. Subse-





*Police oddities: Dentures that saved a life (arrow points to slug) and a disabled revolver.*



*Replicas of police badges worn by officers known to have died in the line of duty since the late 1800's are displayed in the Memorial Shrine.*

quent developments include the implementation of Baltimore's Police Academy (1913), Traffic Division (1921), Crime Laboratory (1950), Central Records Bureau (1951), and K-9 Corps (1956). In 1968, Baltimore "hooked" into the FBI's National Crime Information Center (NCIC), and that same year, the department's Education and Training Center became the Nation's first fully accredited police academy. The Helicopter Unit was added in 1970.

Characteristically, visitors pause in thoughtful silence at two of the museums particularly solemn stations, both of which pay homage to those who have served.

One is a display of bronze plaques commemorating Medal of Honor recipients. This, the highest commendation, is awarded posthumously to officers killed in the performance of duty and to surviving officers for acts of extraordinary heroism and bravery above and beyond the call of duty.

The other—the Memorial Shrine—is a tribute to all officers known to have died in the line of duty since the late 1800's. It features plaques bearing identifying data and replicas of the badges actually worn by the deceased officers.

The museum today is a significant result of a cooperative police-citizen effort. It is a very tangible symbol of the community's interest in its police and the incentive of the Baltimore Police

Department—a department proud of the citizens it serves and its contributions, past and present, to the growth and welfare of the community.

The general public and visiting members of the law enforcement community are welcome at the police museum weekdays between 8:30 a.m. and 4:30 p.m. Guided tours are available by appointment.

**FBI**



# Airline Ground Disaster

## Integrated Planning Saves Lives

By DEP. INSP. ROBERT F. LITTLEJOHN

*Commanding Officer  
43d Precinct  
New York City Police Department  
New York, N.Y.*

A disaster resulting from a runaway collision between a 747 with 400 passengers and a DC-10 carrying 170 could result in literally hundreds of survivors with widely varying injuries. Such an incident is certainly not imaginative. In 1958, two multiengine aircraft, one a freighter, the other a scheduled airliner about to board 130 passengers, were engulfed in flames when the freighter lost control on takeoff, striking the passenger plane on the ramp. In today's reference, such an incident involving two jumbo jets with their greater struc-

tural integrity could produce mind-boggling casualties.

"Black Sunday" at Tenerife focused worldwide attention on the need for more adequate handling of air crashes at both large and small airports and communities. With more than 500 deaths in one "incident," the time has long-passed for administrative foot-dragging. To make the matter even more urgent are recently disclosed plans to double-deck jumbo jets, such as the 747, increasing their capacity to 700 passengers per plane.

On June 3, 1978, the control tower of John F. Kennedy International airport received a transmission from an aircraft 1 minute out of final approach. The pilot reported, "I have lost all power in number 3 and 4 engines." The pilot then sent a second message to the tower, "I am having difficulty with the stability of the aircraft and must land immediately." The pilot then advised, "There are 200 passengers on board."

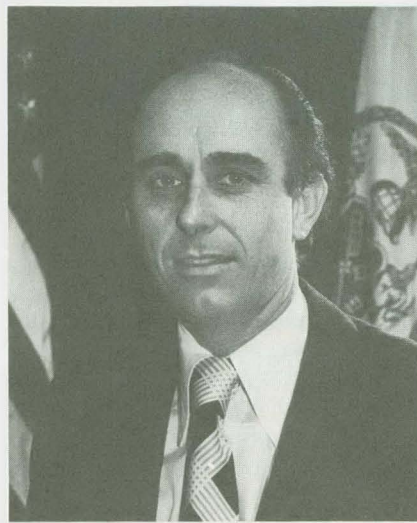
The control tower activated the emergency telephone system which indicates that there would be a possible incident. This situation was part of a training operation designed to test a coordinated response to an air disaster. Participating in this exercise were units from Port Authority Police, New

York City Police, New York City Fire Department, U.S. Army, U.S. Air Force, and U.S. Coast Guard.

The scenario continues. The aircraft touches down and the tower observes the left wing hit the runway with such force that it breaks away from the fuselage. The aircraft breaks open behind the wing section and fire bursts from it. At this point, emergency units are notified of the incident. This scenario vividly portrays the need for a well-coordinated approach designed to facilitate rescue operations.



Deputy Inspector Littlejohn



Commissioner Robert J. McQuire





U.S. Coast Guard assists in evacuation of injured.



Simulated injuries.

The integrated planning process must explore certain key items which are essential in carrying out the actual rescue operation. The following items will be succinctly addressed:

- Emergency Response Routes
- Marshaling Area
- Joint Command Post
- Information and Press Center
- Medical Evacuation
- Temporary Morgue

### **Emergency Response Routes**

The key to the timely arrival of emergency units depends to a large degree upon the proper policing of predetermined emergency response routes. Normally, there is heavy traffic on arteries near airports. This problem is compounded by the curiosity seekers who intermingle with emergency vehicles responding to the crash site. Predesignated control points should be established to exclude nonemergency vehicles from the emergency response routes. Timeliness and efficiency is paramount at this point in the rescue operation, for failure to police emergency response routes properly could delay the rescue operation and ultimately cost lives.

### **Marshaling Area**

This area should be designated by the officer in charge at the scene of the emergency. The area must be close enough to the scene for the expeditious movement of vehicles and personnel. However, it must be located so as not to interfere with the rescue operation. Often at the scene of a major disaster, vehicles driven by responding personnel are abandoned and seriously congest the entire area. Vehicles must be systematically parked in the marshaling area, identifying signs must be placed in the window, and keys must either be left in the vehicle or collected and properly marked by an attendant. Another consideration should be the refueling of emergency equipment, which is essential when emergency operations extend for prolonged periods of time. Tankers containing mogas, diesel, and jet propulsion fuels should also be available.



## Joint Command Post

At the outset of a disaster involving more than one agency, a joint command post should be established. It represents the command and control element for directing, monitoring, and controlling the operation. Representatives from each agency should function within the joint command post. Communication elements, which serve as the nerve center for maintaining coordination and control, must also be located within the post. The radio bands for each agency should be located in an area where the noise does not add to an already tense and confused atmosphere. In addition, a logistics officer should monitor, record, and request equipment and supplies as needed.

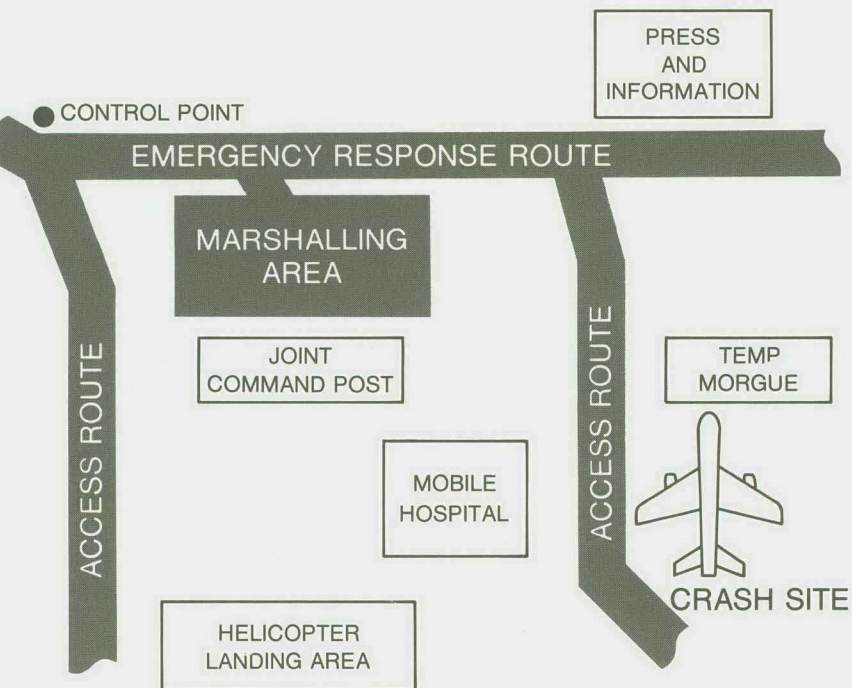
## Information and Press Center

This center, normally the responsibility of the local law enforcement agency, should be designed as a channel for all information concerning the disaster. It will handle all notifications and inquiries. The center should be situated in a location that does not interfere with rescue operations, but should be close enough to maintain current and accurate information. Members of the press should be directed to this location for briefings.

## Medical Evacuation

Major hospitals should be incorporated into the disaster plan. At the signal of a crash, *predesignated* specialist trauma teams should assemble at each hospital to be airlifted by helicopter to the airport. The hospitals so designated should have an outside helipad or a landing area nearby. Helicopters for this purpose can be prearranged from several sources: Local police, airlines, U.S. Coast Guard, U.S. Army, or private helicopter companies.

Since an overwhelming number of injuries may be assumed in the kind of disaster under discussion, it is obvious that hospitals, even in a city the size of New York, would experience tremen-



dous difficulty in providing immediate definitive care. Therefore, consideration should be given to the use of a mobile inflatable unit which accompanies the fire units and has a capability of 60 to 80 patients, all under cover. This unit should be located at the scene in proximity to the mobile "hospital," and serve as an ideal triage area (a system of assigning priorities of medical treatment to battlefield casualties on the basis of urgency), as well as an additional treatment area for those not requiring immediate surgical procedures.

The responding specialist trauma teams from various hospitals should immediately be dispatched to the scene. Definitive operative treatment can then begin in the mobile hospital van.

In using this mobile hospital, it is possible to treat and care for some injuries for periods of time from hours to a day or more. The result is proper stabilization of victims prior to evacuation to hospitals as beds become available. Triage is done by physician teams; but severe burn cases which must be sent to a pediatric or geriatric hospital can be a disaster in their own right.

While triage and treatment are being implemented, the medical director at the scene determines the number of injuries. At the same time, hospitals within the disaster area provide information about available beds in categories, such as burns, fractures, neurosurgical, etc. Evacuations can then begin to these centers after the patient has been stabilized. Transportation is accomplished by helicopter or ambulance, depending upon road and traffic conditions.

## Temporary Morgue

This should be located in close proximity to the crash area. Under the auspices of the medical examiner, bodies must be sorted and tagged for identification.

After reviewing this multifaceted approach to disaster recovery, it is quite apparent that a well-planned and integrated operation is essential. The assorted elements of a rescue operation are like building blocks, remove one and the others fall. The agencies are interdependent, operating together toward the ultimate goal—SAVING LIVES.

**FBI**



# Penny Falls

In recent years, there has been an influx into the United States (mostly from Great Britain) of a new type of gambling device commonly called a "penny fall" (although one has not been found using pennies, but only quarters). This machine has been found in many forms, from 1-player to 12-player devices.

The main feature is that the player drops a quarter through a slide onto a playing surface. (See fig. 1.) There is a constantly moving bar, which pushes the player's quarter and forces this quarter up against other quarters already lying on the playing surface. Then, hopefully, this pushing action will force one or more quarters over a ledge into a return chute to the player. In some devices the player receives tokens instead, redeemable for prizes (which does not affect the machine's basic characteristic as a gambling device).

The machine is quite deceptive in that it seems the quarters are teetering on the edge waiting to come back to the player. (See fig. 2.) However, unnoticed by the player is a partially hidden chute which returns coins quietly to the house. This chute is located underneath the ledge above the "win" sign in figure 2. So instead of the coins being forced over the lip into the win chute, they tend to spread out sideways into the house chute.

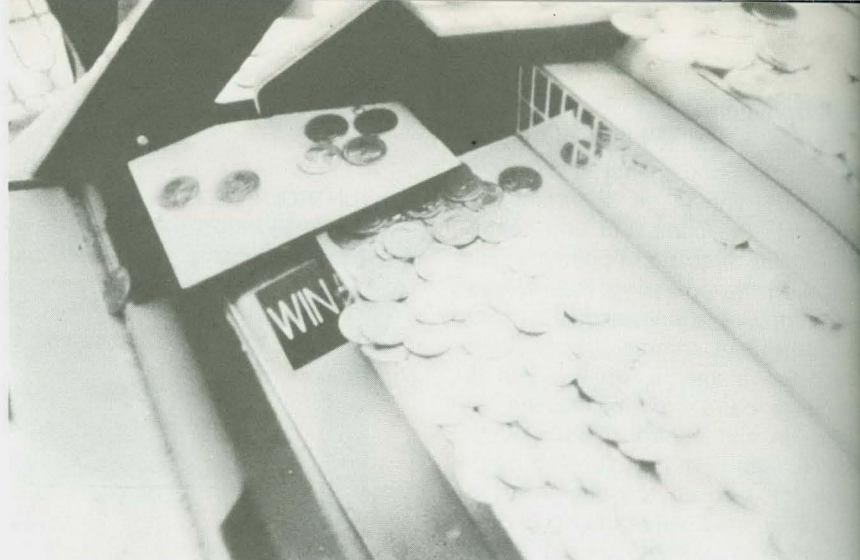


Figure 1

In addition, many penny falls have one or more round-headed screws in the center portion of the playing surface, concealed by quarters, which tend to pile up and on top of these screws, as in the center of figure 1. This piling action has been tested and revealed that over three times the quarters originally lying on the surface may be piled atop each other, instead of coming to the player. The result of these characteristics is that the player thinks he must eventually win, but instead the bulk of the coins remain on the playing surface or are returned to the house.

Any skill on the part of the player is virtually eliminated, other than the fact that he must time or direct his shot onto the playing surface as opposed to dropping it onto the bar. This requires essentially no skill at all, just as it requires no real skill to drop the quarter into the chute rather than to drop it onto the floor.

Another example of this type of moneymaker is the one-player type in figure 3. Whatever the type, they are very attractive to prospective players of all ages, and because of their very deceptive nature, are one of the most profitable devices to appear on the gambling scene in years.

Any additional questions concerning penny falls may be directed to the FBI Laboratory, Gambling Subunit, J. Edgar Hoover Building, 10th and Pennsylvania Avenue, NW, Washington, D.C. 20535.

**FBI**



Figure 2

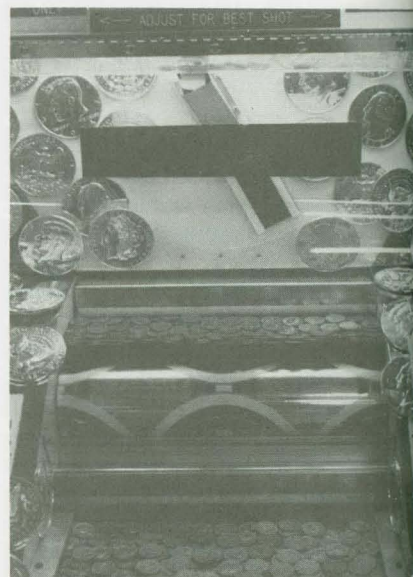


Figure 3



# Seatbelt Leg Restraining Device

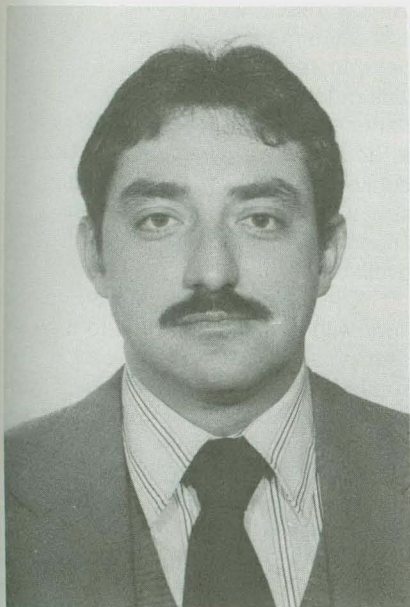
By OFFICER ALVARO H. FRAGOSO

*Police Department  
Los Angeles, Calif.*

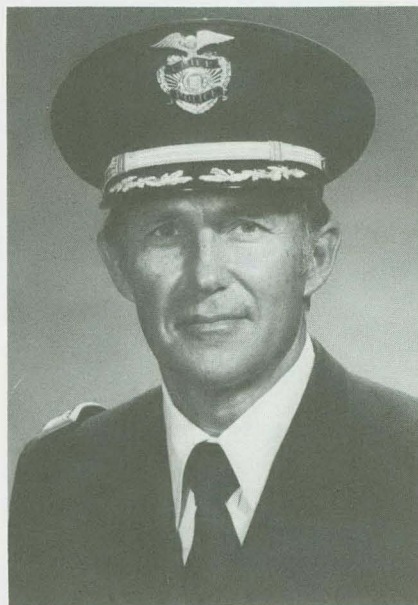
*EDITOR'S NOTE: Material published in the FBI Law Enforcement Bulletin is solely for the information and assistance of law enforcement members. While brand names and companies may be mentioned from time to time, this is done in a strictly objective manner to help present articles in their entirety from authoritative sources. In such instances, publication of the article in the BULLETIN should not, under any circumstances, be construed as an endorsement or an approval of any particular product, service, or equipment by the FBI.*

In recent years, police confrontations of a violent nature have increased significantly, especially those in which officers come into contact with persons under the influence of the drug Phencyclidine (PCP).

PCP was developed originally in 1957 as an intravenous anesthetic agent, but clinical experimentation with humans was discontinued in 1965 because the subjects experienced extreme reactions—agitation, hallucination, excitement, and disorientation—to the drug. There are, in fact, so many possible reactions to PCP that no consistent behavior pattern can be predict-



Officer Fragoso



Daryl F. Gates  
Chief of Police



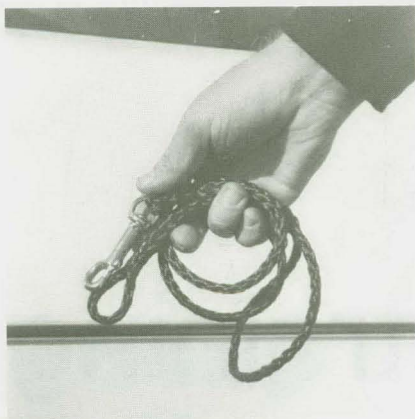


Figure 1



Figure 2



Figure 3

ed. The user may exhibit physical strength well beyond normal capabilities and be impervious to pain.

Restraining an individual under the influence of PCP, particularly during transportation, can present a problem inasmuch as few municipalities, if any, have the resources available to dispatch an ambulance with restraining devices to the scene of every violent encounter. The City of Los Angeles was no exception.

The Los Angeles Police Department (LAPD) has experienced over the past several years a significant increase in PCP arrests and seizures. The quantity of PCP seized during the first 6 months of 1978 as compared to the same period in 1977 increased 385 percent. Most startling is the fact that the seizures of 1977 increased 1,913 percent over the 1974 yearly total.

PCP currently accounts for almost 40 percent of all felony narcotics prosecutions in the City of Los Angeles. Arrests of both adults and juveniles increased 302 percent in 1977 as compared with 1976, and figures for the first 10 months of 1978 show that arrests increased 47.7 percent over the same period in 1977.

LAPD Training Division personnel currently monitor all officer-involved altercations. These police academy instructors report that during the 5-month period from June to mid-November 1978, 7 percent of all police altercations involved PCP suspects. Understandably, the statistics have caused a great deal of concern for officer safety.

In March 1978, the Los Angeles chief of police directed the department's Planning and Research Division to develop a means of restraining extremely violent suspects taken into custody. Officers already had been authorized to carry a device called the Cord-Cuff Leg Restrainer, a lightweight, 40-inch braided polyethylene line,  $\frac{1}{2}$  to  $\frac{3}{8}$  inch in diameter, with a loop at one end and a silicone bronze No. 1 Marine Hook at the other end. (See figure 1.) The City of Los Angeles Bureau of Standards mechanically tested this device and found the break strength of the snap hook to be about 450 pounds, while that of the cord varied from 840 to 1,200 pounds. It has

the advantages of compactness and easy accessibility. The LAPD purchased the leg restrainers and issued them to all field personnel.

The Cord-Cuff Leg Restrainer proved effective in quickly and easily restraining violent suspects' legs. The restrainer is looped once around the suspect's leg and pulled taut just above the ankle. (See figure 2.) It is then wrapped twice around the suspect's other leg just above the ankle (see figure 3) and the snap hook is snapped to the cord of the restrainer. (See figure 4.) Once the suspect is handcuffed and the leg restrainer secured, officers are able to seat the suspect in a police vehicle and place a seatbelt around the suspect's waist.

This procedure, however, did not satisfactorily restrain the suspect, who was still able to raise his legs and kick during transportation.

The Planning and Research Division staff continued to search for an in-vehicle restraining device. Researchers attempted using additional seatbelts to restrain the suspect's legs. It was determined that an additional ordinary seatbelt, somewhat modified and affixed to the floor, could be used in conjunction with the Cord-Cuff Leg Restrainer to restrict leg movement. Most importantly, seatbelts were readily available.

The seatbelt was affixed to the floor with a single bolt next to the rear seat. (See figure 5.) The end of the seatbelt to which the buckle is attached was shortened for instant accessibility when the vehicle door was opened. (See figure 6.) The width of the belt minimizes the possibility of injury to the suspect.

In order to secure a suspect, an officer passes the clasp of the seatbelt over both of the suspect's ankles and inserts the clasp into the buckle without looping the belt around or passing it between the suspect's legs. (See figure 7.) He then tightens the belt enough to eliminate the possibility of escape. (See figures 8 and 9.)



The seatbelt leg restraining device is easy to use, and in an emergency, can be released with a touch of a button.

A field evaluation questionnaire was developed to allow officers to report the effectiveness of the restrainers. The questionnaire consisted of questions regarding the suspect's description, difficulties in attaching or detaching the seatbelt, ability of the suspect to free his legs, and the possibility of the suspect requiring medical treatment as a result of the seatbelt. There was also a provision for general comments.

During July 1978, a field evaluation of the seatbelt leg restrainer was begun in three of LAPD's most active areas. Field officers submitted 27 field evaluation questionnaires. In 85 percent of the questionnaires, field officers reported that they had no difficulty attaching or detaching the seatbelt and that suspects were unable to free their legs from the seatbelt leg restrainer. Not one reported injury to a suspect was caused by the seatbelts.

Officers reported that the suspects were able to free their legs on four separate occasions. In two of these incidents, PCP suspects were able to break the Cord-Cuff Leg Restrainer and then wriggle their feet free from the seatbelt. In another instance, the tightening mechanism of the seatbelt malfunctioned and enabled the suspect to stretch the seatbelt enough to free his legs. In the fourth instance, the arresting officers were unable to tighten the seatbelt sufficiently to prevent escape because the suspect had an injured right leg.

Ninety-nine percent of the officers reporting to have used the seatbelt leg restrainer indicated it was an effective tool for restraining violent prisoners during transportation. Three percent reported that an inherent limitation was the close proximity of the officers' head and chest area to the suspects' feet when attaching or detaching the seat belt.

The LAPD has installed the devices in some of its vehicles and plans to equip all patrol and field detective units with the special seatbelt device.

**FBI**

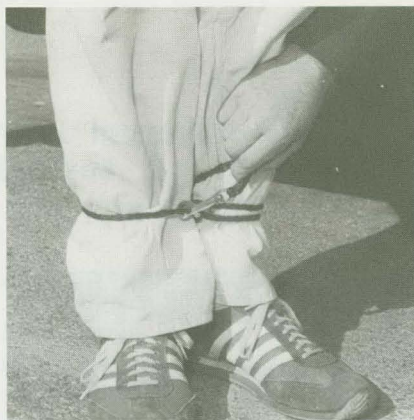


Figure 4

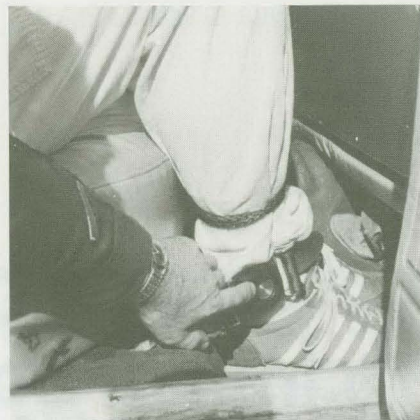


Figure 7



Figure 5

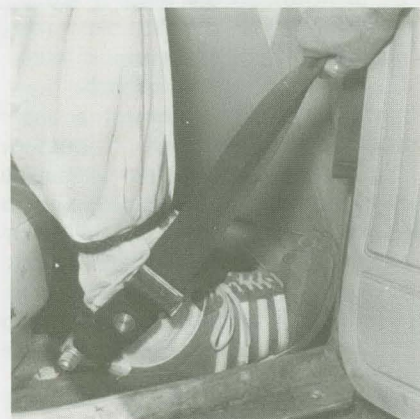


Figure 8

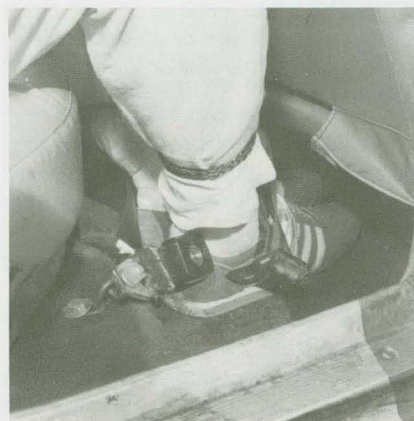


Figure 6

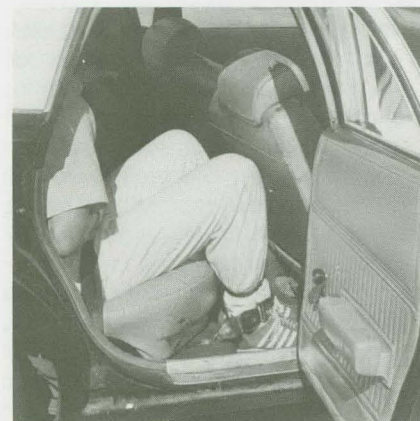


Figure 9



# Covert Entry To Install Court-ordered Listening Devices

By WILLIAM E. COLOMBELL

*Special Agent  
Legal Counsel Division  
Federal Bureau of Investigation  
Washington, D.C.*

*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.*

Under the editorial caption, "Whose Privacy Matters Most," a large metropolitan newspaper recently decried decisions by the U.S. Supreme Court that, in the opinion of the editor, represented a steady erosion of individual privacy rights guaranteed under the fourth amendment. The author stated, "Why the Court so denigrates the right to privacy is not clear. Perhaps in its anxiety to make the job of the police easier, the majority has forgotten the idea of the sanctity of a citizen's home."<sup>1</sup> The editorial was prompted by the Supreme Court's recent decision in *United States v. Dalia*,<sup>2</sup> decided April 19, 1979, sanctioning covert entries into private areas for the purpose of installing court-ordered electronic listening devices.

Law enforcement officers should justifiably be concerned by such commentaries and should strive to examine objectively the police procedures and court decisions that prompt such harsh criticism.

The purpose of this article is threefold: First, to examine the facts of the *Dalia* case and provide an analysis of the constitutional issues involved and the rationale employed by the majority in upholding such covert entries; second, to recommend that due to the significant privacy interests embraced in this area, law enforcement agencies afford consideration to implementation of administrative safeguards that surpass the constitutional requirements set forth in the *Dalia* case; and third, to examine the possible detrimental effects on the successful prosecution of a case, when a police agency adopts more restrictive administrative rules, only to find that the conduct of the officer measures up to the constitutional standard but falls short of the more restrictive rules established by the department.



**“ . . . in the area of electronic listening devices and installation thereof, extraordinary safeguards are appropriate.”**

Any discussion of covert entries to install court-ordered “bugging” devices should be preceded by a quick review of the conflicting views that prevailed in the Federal appellate courts prior to the *Dalia* decision. It should be noted at the outset that the Federal statute authorizing electronic surveillance<sup>3</sup> (hereafter referred to as title III) makes no mention of covert entry procedures to install monitoring devices. As a result, controversy developed as to whether such entries were permissible at all, and if so, under what circumstances. The second circuit<sup>4</sup> adopted the more permissive view that title III implicitly authorized break-ins without prior specific judicial approval. The eighth circuit<sup>5</sup> held that conducting a surreptitious entry to install a court-ordered listening device could be “reasonable” within fourth amendment standards, provided specific judicial approval was first obtained. The District of Columbia Circuit<sup>6</sup> also permitted such entries to install court-ordered listening devices, but required careful judicial control of the method, time, duration, and number of entries required to accomplish the task. By contrast, the sixth<sup>7</sup> and ninth<sup>8</sup> circuits recently held that no statutory authority exists (implicit in title III or any other statute) empowering district courts to authorize covert break-ins. As a result, all technical coverage by Federal officers in the sixth and ninth circuits involving court-ordered listening devices installed by covert entries had to be terminated and future coverage involving such entries could not be contemplated. An impasse had been reached; the stage was set for review by the Supreme Court.

**Analysis of the *Dalia* Decision**

The *Dalia* case involved a criminal investigation by FBI Agents using court-ordered wiretaps of the defendant's business telephone, followed by a court-ordered listening device installed in the same business office by means of a surreptitious entry. The method of installation was not mentioned in the court order for the listening device and was left to the discretion of the agency.<sup>9</sup> Two covert entries were made in the early morning hours by prying a window. The first was for installation and lasted approximately 3 hours. The second was for removal of the equipment.

In a 5-to-4 decision affirming the conviction, the Supreme Court held that there is no basis for a constitutional rule proscribing all covert entries, stating that police frequently make forcible entries to execute search warrants provided such a procedure is reasonable under the circumstances.<sup>10</sup> While noting that covert entries are unique in that they must be carried out without any prior notice, the majority expressed the view that title III provides a constitutionally adequate substitute for notice by requiring the notification be given to certain classes of people upon completion of the operation.<sup>11</sup>

Having decided that covert entries for otherwise lawful purposes are not unconstitutional *per se*, the Court held that title III implicitly contained statutory authority enabling Federal courts to approve covert entries in such cases. Though recognizing that title III does not refer explicitly to covert entries, the Court cited a variety of factors<sup>12</sup> supporting the majority view of implied authority, not the least of which was the observation that to read the statute otherwise would impute to Congress a “self-defeating if not disingenuous purpose.”<sup>13</sup>

The third issue addressed by the Court involved the necessity for explicit judicial approval as a condition precedent to any covert entry. The Court held that prior approval was not constitutionally required. Details regarding entry and manner of execution are generally left to the discretion of the officer, subject to later review by the courts to insure that the “reasonableness” standard of the fourth amendment is followed. Refusing to treat warrants for electronic surveillance as unique, the majority stated that it would be engaging in empty formalism to require a statute to make explicit what is unquestionably implied in the monitoring authorization; namely, that a covert entry may be needed for installation of surveillance equipment.<sup>14</sup>

**Adoption of Administrative Guidelines**

While the Supreme Court in the *Dalia* case concluded that prior judicial notification of an approval for the covert entry is not constitutionally required, the majority did suggest its preference for such an approach.<sup>15</sup> It can be argued that law enforcement would be well-served to seize upon such a suggestion and unilaterally establish departmental rules in this area that surpass constitutional requirements. Although it is understandable that additional administrative requirements would possibly have a demoralizing effect on many officers who subscribe to the view that their crime-fighting efforts are already too encumbered with constitutional and procedural safeguards, it is the contention of this article that in the area of electronic listening devices and installation thereof, extraordinary safeguards are appropriate.



## **"The Court encourages law enforcement agencies . . . to establish unilaterally additional safeguards in the form of internal regulations and procedures."**

It is imperative that law enforcement officers recognize that while many States and the Federal Government have enacted wiretap statutes, a large percentage of citizens and judges in the post-Watergate era look upon wiretapping and covert entries as a very serious, if not "dirty," business.<sup>16</sup> Many have expressed the fear that wiretapping and eavesdropping by Federal and local police could spread and become routine. Such investigative procedures delve into the most *guarded and sensitive areas of privacy* and should be used only in significant cases, where all other investigative methods have failed. Concern for potential abuse is heightened where covert entries are used to install "bugging" devices, since more than one privacy interest is involved—the protection of one's speech and communications and the trespass and intrusion upon property interests. Such a view was recently expressed by the U.S. Court of Appeals for the Sixth Circuit when it stated, "The breaking and entering aggravates the search, and it intrudes upon property and privacy interests not weighed in the statutory scheme, interests which have independent social value unrelated to confidential speech."<sup>17</sup>

Accordingly, it is recommended that in those States that have enabling statutes permitting court-ordered electronic listening devices, the following departmental policies be considered in all cases where a covert entry is anticipated: (1) The probable cause affidavit should include a statement by the affiant justifying the need for a covert

entry; and (2) the application for the court order should include a request that the court order for the listening device also specifically authorize covert entry for the purpose of installing, servicing, and removing the equipment.

In drafting the statement justifying the covert entry, consideration should be afforded the following factors: (1) Furnish a description of the particular area of the premises where the listening device is to be installed; (2) *establish that a less intrusive means of installation is not available* because access to the area is limited to a certain class of people; (3) articulate why entry by means of a ruse is not feasible and would jeopardize the secrecy of the operation or not afford sufficient time or access to permit proper installation; and (4) include an assertion that officers were instructed beforehand that entry will be limited in scope to installation purposes only, and of course, insure this is accomplished.

Due to the many variables that could be encountered and the need for confidentiality to insure the success of future covert entries, officers need not include detailed accounts regarding the anticipated techniques and methods used to accomplish entry.<sup>18</sup>

The *Dalia* decision specifically interprets the Federal Wiretap Statute and offers guidance in establishing Federal constitutional standards. As most State wiretap laws are modeled after the Federal statute, *Dalia* also should offer substantial assistance in interpreting requirements of the State statutes. However, it should be recognized that if the State enabling statute or State court decisions interpreting the statute establish higher standards, such State standards must be complied with.

### **Effect of Violation of Administrative Guidelines**

Having stated the recommendations regarding prior judicial approval, one remaining area of concern merits examination. Suppose that a department adopts the recommended procedures. What are the consequences if one of its officers, in making a covert entry to install a court-ordered listening device, follows the constitutional mandates of the *Dalia* case, but inadvertently fails to follow the more restrictive departmental rules? What penalties would be appropriate in order to deter such conduct and insure future compliance? The department could certainly take internal administrative action to discipline the derelict officer. Defense attorneys could capitalize on the officer's failure to comport with department guidelines by seeking damaging admissions in the presence of the jury. It has even been argued that application of the Exclusionary Rule would be an appropriate remedy in such a case.<sup>19</sup>

In *United States v. Caceres*,<sup>20</sup> decided April 2, 1979, the Supreme Court dealt with just such an issue. Factually, the case involved a consensual monitoring<sup>21</sup> operation by Internal Revenue agents in violation of their own administrative guidelines.<sup>22</sup> Suspecting that a taxpayer who was under investigation would attempt bribery, the auditing agent was "wired," and incriminating remarks made by the taxpayer were recorded. The monitoring procedure was a violation of agency policy, which required prior approval of the Depart-



## "... State courts, in interpreting their own State constitutions and wiretap laws, are free to set higher standards of reasonableness."

ment of Justice. The lower Federal courts suppressed recorded statements obtained in violation of agency rules.<sup>23</sup> The Supreme Court, in reversing, held that the consensual monitoring did not violate any procedural or constitutional rights regarding privacy, "due process" of law, or "equal protection" under the law.<sup>24</sup> The Court quickly disposed of the defendant's equal protection claim by stating that even if the monitoring of other taxpayers in a similar position was conducted with prior Department of Justice approval, the fact that the defendant's was not "does not even arguably amount to a denial of equal protection."<sup>25</sup> Directing its attention to the alleged violation of due process, the Court held that the defendant "cannot reasonably contend that he relied on the regulation, or that its breach had any effect on his conduct."<sup>26</sup>

The Court refused to endorse a rigid rule requiring exclusion of evidence obtained as a result of a violation of an administrative regulation. Recognizing the hidden dangers inherent in such a policy, the Court noted, "... we cannot ignore the possibility that a rigid application of an exclusionary rule to every regulatory violation could have a serious deterrent impact on the formulation of additional standards to govern prosecutorial and police procedures. . . . In the long run it is far better to have rules like those contained in the IRS Manual, and to tolerate occasional erroneous administration . . . than either to have no rules except those mandated by statute, or to have them framed in a mere precautionary form."<sup>27</sup> Based on the *Caceres* decision, it would appear that violation of internal department regulations such as those proposed in this article should not result in application of the Exclusionary Rule.

### Conclusion

The *Dalia* decision endorses the view that not every investigative procedure or search and seizure technique had to be founded on specific statutory authority or preceded by prior judicial approval. On the contrary, when executing a search warrant, it is generally left to the discretion of the officers to determine the best way to proceed, provided their actions are deemed "reasonable" under the fourth amendment. The Court encourages law enforcement agencies, especially in highly sensitive areas involving electronic surveillance and covert entry, to establish unilaterally additional safeguards in the form of internal regulations and procedures.<sup>28</sup> The *Caceres* decision ensures that when a police agency implements such policies, it will not suffer application of the Exclusionary Rule merely because one of its officers, acting in good faith, fails to comply with the regulation. The procedures highlighted in this article surpass the Federal constitutional standard established in the *Dalia* decision and represent the current policy of the Federal Bureau of Investigation. However, it is important to note that State courts, in interpreting their own State constitutions and wiretap laws, are free to set higher standards of reasonableness.

Accordingly, State law enforcement officers should carefully review the law in their particular States to insure that covert entry procedures are judicially sanctioned and that the manner in which the procedure is implemented conforms to State requirements.

**FBI**

### Footnotes

<sup>1</sup> Washington Post, April 22, 1979, § C (Editorial), p. 6.

<sup>2</sup> 60 L. Ed. 2d 177 (1979).

<sup>3</sup> Omnibus Crime Control and Safe Streets Act of 1968, Title III, 18 U.S.C. 2510-2520 (1970).

<sup>4</sup> *United States v. Scafidi*, 564 F. 2d 633 (2d Cir. 1977), cert. denied 436 U.S. 903 (1978).

<sup>5</sup> *United States v. Agrusa*, 541 F. 2d 690 (8th Cir. 1976), cert. denied 429 U.S. 1045 (1977).

<sup>6</sup> *United States v. Ford*, 553 F. 2d 146 (D.C. Cir. 1977).

<sup>7</sup> *United States v. Finazzo*, 583 F. 2d 837 (6th Cir. 1978).

<sup>8</sup> *United States v. Santora*, 583 F. 2d 453 (9th Cir. 1978).

<sup>9</sup> The affidavit setting forth probable cause did not include facts justifying the entry procedures and the application for the court order made no mention of covert entry.

<sup>10</sup> *Supra* note 2, at 186.

<sup>11</sup> *United States v. Donovan*, 429 U.S. 413 at 431, holding that title III provided a constitutionally adequate substitute for advance notice by requiring that once the surveillance operation is completed the authorizing judge must cause notice to be served on those subject to surveillance.

<sup>12</sup> *Supra* note 2, at 189, 190, noting congressional awareness that most "bugging" requires covert entry, and that the congressional purpose in enacting the statute would be largely thwarted, since most cases involving electronic listening devices cannot be performed without covert entry into the premises being monitored.

<sup>13</sup> *Supra* note 2, at 191.

<sup>14</sup> *Supra* note 2, at 193.

<sup>15</sup> *Supra* note 2, at 193, n. 22, wherein the Court expresses a preference for government agents in the future to make explicit to the authorizing court that some form of covert entry will be required to carry out the surveillance.

<sup>16</sup> *Olmstead v. United States*, 277 U.S. 438 (1928). In dissenting, Justice Holmes expressed such a view, characterizing wiretapping as a "dirty business."

<sup>17</sup> *Supra* note 7, at 841.

<sup>18</sup> *Supra* note 2, at 192. The Court states that nothing in the Constitution or decisions interpreting it suggests that search warrants must include a specification of the precise manner in which the warrant is to be executed.

<sup>19</sup> *Mapp v. Ohio*, 367 U.S. 643 (1961), the rule provides for the exclusion from a criminal prosecution of evidence obtained in violation of the Constitution.

<sup>20</sup> 59 L. Ed. 2d 733 (1979).

<sup>21</sup> 18 U.S.C. 2511(2)(d) provides that it shall not be unlawful under title III for a person to intercept a wire or oral communication with such a person is a party to the communication or where one of the parties to the communication has given prior consent to the interception.

<sup>22</sup> *Supra* note 20, at 738, n. 3, reflecting that IRS rules were drafted to conform to the requirements of the Attorney General, requiring Justice Department approval for all consensual monitoring of nontelephone conversations by Federal agents.

<sup>23</sup> *United States v. Caceres*, 545 F. 2d 1182 (1976).

<sup>24</sup> U.S. Const. amend. XIV states: "... nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." These concepts have been interpreted to mean that the Government must use fair, legal methods when attempting to take away an individual's liberty or property and whatever rights are created or recognized must be the same for everyone.

<sup>25</sup> *Supra* note 20, at 743.

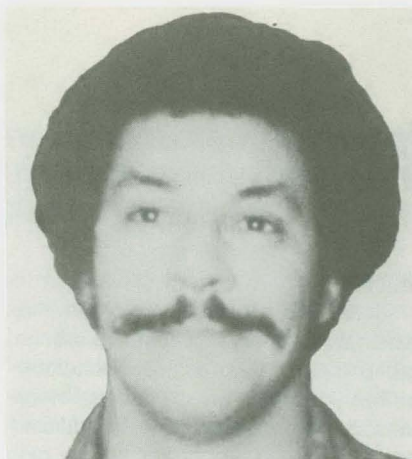
<sup>26</sup> *Supra* note 20, at 744.

<sup>27</sup> *Supra* note 20, at 746.

<sup>28</sup> *Supra* note 15.



# WANTED BY THE FBI



Photograph taken 1976.

## Mario Tauro Coto

Mario Tauro Coto, also known as Mario Coto, Raul Mario Coto-Estrada, R. Estrada, Raul Estrada, Alberto Gomez, Julio Jimenez, Mario Perez, Raul Mario Tauro-Coto, and "Risita."

## Wanted For:

Interstate Flight—Murder, Aggravated Assault, Possession of a Firearm.

## The Crime

Mario Tauro Coto, a reported narcotics dealer, is being sought in connection with two execution-style "contract" murders in which the victims were shot in the head with a silencer-equipped handgun.

In the past, Coto has been convicted of theft, possession of narcotics, violation of Federal narcotics laws, and carrying a concealed firearm.

A Federal warrant was issued for his arrest on July 14, 1977, at Miami, Fla.

## Description

Age .....31, born May 10, 1948, at Havana, Cuba (not supported by birth records).  
 Height .....5'11".  
 Weight .....164 to 180 pounds.  
 Build .....Medium.  
 Hair .....Brown.  
 Eyes .....Brown.  
 Complexion .....Light.  
 Race .....White.  
 Nationality .....Cuban.  
 Occupations .....Auto mechanic, bus-boy, carpet layer, laborer, salesman, waiter.  
 Scars and Marks .....Scar on forehead; hypodermic marks on arms; tattoo: "Mario" on upper left shoulder.  
 Remarks .....May be wearing low Afro hair style; possibly traveling with his wife.  
 Social Security Nos. used .....316-60-1943  
 .....265-84-0992.  
 FBI No. ....284,151 F.

## Caution

Coto 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.

## Classification Data:

NCIC Classification: 2266152013DIDI131812  
 Fingerprint classification:  
 22 L 5 R OOO 13  
 I 3 W IOO



Left ring fingerprint.



# Change of Address

Not an order form

# FBI LAW ENFORCEMENT BULLETIN

Complete this form and return to:

Director  
Federal Bureau of Investigation  
Washington, D.C. 20535

Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

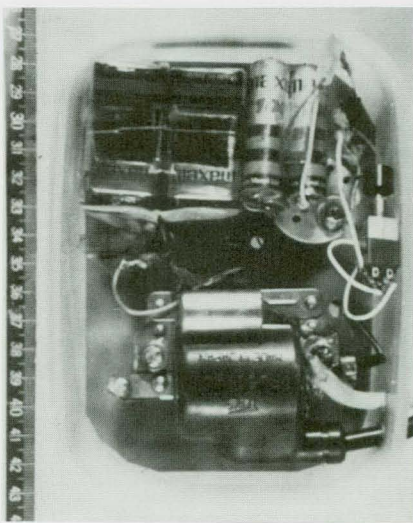
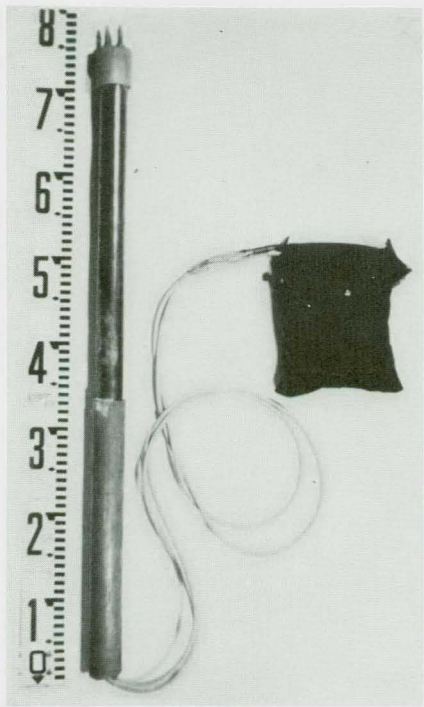
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

## Electric Rod

Pictured is a weapon confiscated by the Tokyo Police. The weapon was developed and left behind by the extremists who attacked the riot police at the new Tokyo International Airport, March 26, 1978.

The instrument consists of two main parts, the electrode rod and the power pack. The electrode rod, a steel pipe 76 cm long, has two projections on its end, each the size of 2.9 cm in length and 6 mm in diameter. The rod is attached to a belt-carried power pack. The power pack consists of four 9-volt and three 1.5-volt batteries, a switch, a condenser, and a high-tension coil. It is carried in a canvas bag.

In testing this instrument, it was determined by Japanese experts that it could emit a substantial electrical shock (approximately 4,600 volts), enough to either temporarily immobilize or conceivably kill a human being. The effect of the weapon varies with the electrical resistant properties of the clothing worn.





United States Department of Justice  
Federal Bureau of Investigation  
Washington, D.C. 20535

Official Business  
Penalty for Private Use \$300  
Address Correction Requested

Postage and Fees Paid  
Federal Bureau of Investigation  
JUS-432

Controlled Circulation Rate



## Interesting Pattern

The pattern presented here is classified as an accidental whorl with an inner tracing. The tracing is determined by using the two outermost deltas. It is an interesting pattern as it consists of a combination of a loop under a plain whorl-type pattern.

