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LAW ENFORCEMENT BULLETN

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
J. EDGAR HOOVER, DIRECTOR

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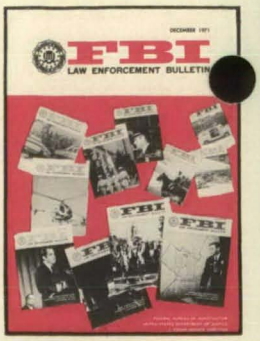

THE COVER—*1971 in review. See Index beginning on page 29.*

FBI

LAW ENFORCEMENT BULLETIN

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MESSAGE FROM THE DIRECTOR . . .

. . . To All Law Enforcement Officials

AN INCREASINGLY SERIOUS PROBLEM facing American law enforcement today is the urban guerrilla—the individual who for reasons of revolution, social disruption, and the hatred of our democratic institutions uses violence to destroy.

Almost daily the news media carry accounts of bombings, arsons, and physical attacks against police which give every indication of being the work of the urban guerrilla:

—A bank is firebombed;
—A bomb explodes in a Government building a few minutes after an anonymous telephone call warns of an explosion;
—A military installation is burned;
—The offices of a private company having military contracts are "trashed" (burglarized) and files mutilated, destroyed, and stolen; the next morning comes an anonymous letter saying that the files have been "liberated";
—An explosive device (often crudely constructed) is secreted in a police precinct station or officers become the object of sniper fire.

Today's urban guerrilla is a new type of criminal, considerably different from the old-line, traditional hoodlum, thief, and robber. His aims are not primarily loot or selfish gain (though there are instances of this), but revolution—that is, the overthrow of our democratic institutions. He rejects our law, our system of courts, our constitutional principles in the name of a "higher revolutionary justice"—a term which can be translated as "destruction of all who disagree with his interpretation of society."

The power which the urban guerrilla can wield (and on occasions has wielded) is terrifying. An anonymous bomb threat can disrupt industrial production, close down airports, schools, and public buildings, and disrupt the lives of thousands of citizens. In fact, the urban guerrilla, whether he be a New Leftist Weatherman, a member of the Black Panther Party or the Pro-Maoist Revolutionary Union, or some other type of extremist from either the right or left, highlights a basic fact of society which we simply cannot overlook; namely, the destructive potential of the fanatical few.

As our society becomes more complex, industrial, urban, and interrelated, the greater will become the power of a fanatical minority—one, two, or a mere handful—if it so desires, to disrupt, inconvenience, destroy, and endanger the rights, lives, and property of others. The urban guerrilla, operating as he does from an underground of stealth, which includes bomb factories, paramilitary training of members, hideouts, sanctuaries for criminal fugitives, and escape routes, is not, as some would believe, a romantic adventurer whose "excess zeal" will soon wear away!

The urban guerrilla is a clear and present danger—not to law enforcement alone, which must directly face his bitter and diabolic violence, but to the entire Nation. If this mentality of extremism continues to grow, the future of our society based on law will be gravely impaired.

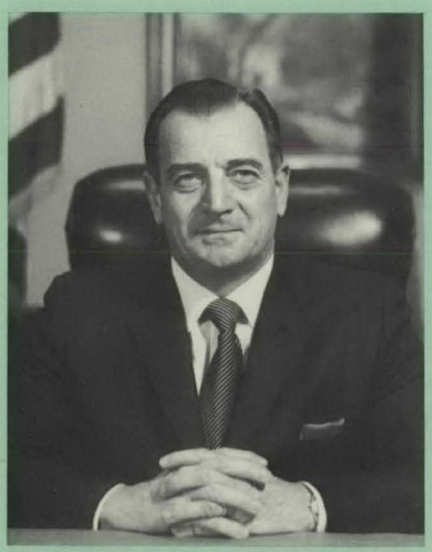
J. Edgar Hoover

DECEMBER 1, 1971

JOHN EDGAR HOOVER, *Director*

". . . we see no telling variation from Collins' appearance, in the dress, age, height, weight or other features of those in the lineup, as would mark him as a nonconformist. Nor was he so positioned in the line as to disclose his part in the cast; nor was there taint by hint or other sign to the witnesses for their choices. In short, nothing about the assembly deprived the accused of due process."

How Sound Is Your Police Lineup?



By
MAHLON E. PITTS
Deputy Chief,
Metropolitan Police Department,
Washington, D.C.

In the 3 years since our department drew up uniform procedures for conducting police lineups, we have not had a single case dismissed for a bad or suggestive lineup identification. In fact, the courts in several decisions have praised our lineups, upholding convictions that defense attorneys had sought to reverse.

It was the U.S. Supreme Court that originally jolted us into reevaluating our old procedures. On June 12, 1967, the Court decided three cases, all concerned with the pretrial identification of suspects. In the first two, *United States* v. *Wade* and *Gilbert* v. *California*, the Court held that a defendant was entitled to the presence of counsel at a lineup. In the third case, *Stovall* v. *Denno*, the Court criticized a "one man lineup" and limited use of such procedure to emergency situations.

None of these decisions categorically stated that an unfair lineup would cause the exclusion of subsequent in-court identification—but the prosecution, in such a case, would have to show that the courtroom identification did not rest on the earlier confrontation of suspect and witness.

The Court made half of our job easy. It told us what was wrong with many of the pretrial identifications made under our auspices. But the

A supervising officer gives suggestions to other officers who help demonstrate how defendants may be arranged for a lineup.

Court did not issue any rules or instructions on how we were to conduct our lineups in the future to insure that cases would not be thrown out for bad identifications. Nevertheless, we decided after *Wade*, *Gilbert*, and *Stovall* that some such reorganization was called for.

Investigative Function

Before, lineups had been basically a police investigative function. If a suspect was arrested for a liquor store robbery, for example, the arresting officers might arrange to have him viewed by witnesses to other unsolved liquor store holdups. This is exactly what happened in *Adams* v. *United States*, another decision on the subject of lineups. Three suspects had been charged with the attempted robbery of a liquor store in southeast Washington, D.C. After being taken into custody at 2 p.m., they were held for a series of lineups that afternoon, that evening, and the following morning before finally being taken before a magistrate on the original charge. Here, the fairness of the lineups themselves was not questioned; instead, the court of appeals ruled that the use of the period between arrest and presentment for purposes unconnected with the original charge was ". . . to hold in custody for investigation only, and that is illegal; its operative effect is essentially the same as a new arrest and, if not supported by probable cause, it is an illegal detention."

Thus, we began to reorganize our procedures for pretrial identifications, including one-to-one confrontations as well as actual lineups. The courts had decided, in general, that a suspect could be returned to the scene of a crime for a one-to-one identification if the crime had just occurred and the suspect had been apprehended close by. We had no way of knowing just how much time lapse would be allowable, but together with the U.S. Attorney's Office we decided to establish an hour as the outside limit.

Uniform Procedures

We drew up a departmental order outlining the steps officers would take when arresting suspects soon after the perpetration of a crime. The order also provided that if either the suspect or the witness was hospitalized in crit-

The officer in charge explains procedures to witnesses prior to the lineup.

ical condition, a confrontation could be arranged at the hospital. Under no circumstances was such an identification to be made inside any police facility. This, the courts had decided, was by its very nature suggestive.

On the broader question of lineups, we met with representatives of the U.S. Attorney's Office to draw up some guidelines. First, we decided that an individual officer or branch of the force would no longer be authorized to conduct a lineup. All of our lineups would be organized out of a single office (the robbery squad was first chosen for this responsibility) and under uniform procedures. And, we would no longer be sending defendants to lineup between arrest and arraignment.

Instead, the arresting officer would discuss the need for a lineup with the Assistant U.S. Attorney and, if one was deemed necessary, a court order would be drawn up and brought before a judge or U.S. Magistrate. Then, with court approval, the defendant and defense attorney would be notified of the time and place. If still in custody, the defendant would be transported to police headquarters by U.S. Marshals; or, if on bond, he would be directed to report to the robbery squad offices by 6:30 p.m. of the evening in question.

Initial Problems

Some of our lineups, as we began to implement the new policies, were fairly hectic. A few prisoners removed their clothes. Others just refused to stand in the line. Another difficulty was that defendants were changing their appearances—by shaving their heads if they had been arrested with a large bush-type haircut, or by removing beards and mustaches. To combat this, the court added to the standard lineup order a clause prohibiting defendants from changing their appearances. The arresting officers were charged to see that this order was complied with and were to report any violations. When an officer did note such a change, the defendant was photographed separately and a report of his action sent over to court.

Occasionally, we had trouble keeping witnesses separated from defendants. Encounters sometimes took place in the corridors before or after lineup, giving a defendant the opportunity to threaten or harass a witness. Lineups were also taking far too much time, dragging on as late as 11:30 p.m. Some of the delays were attributable to the problem of getting defendants to stand as directed on the line. Protests from defense attorneys also delayed the proceedings.

Constructive Changes

Such protests, however, occasionally helped us to conduct our lineups more fairly. One defendant's lawyer raised the question of whether the police officers present at a lineup were free to leave the room at any time. Advised that they were, he asked what would stop them from instructing their witnesses on which suspect to point out. We have no reason to believe this ever happened, but to eliminate the possibility, we have changed our rules. Now no officer leaves the room until the lineup has been completed.

When defense attorneys started attending (a responsibility some of them initially resisted), we entered a whole new field of adversary proceedings and invented what might be called the "lineup shuffle."

To begin with, each attorney is asked if he approves of the position given to his client on the line. If he disapproves, then he can suggest an alternate and, perhaps to his mind, a less incriminating place. Of course, the next defendant's attorney can

largely undo this work by again shifting the order. But usually after half an hour or so we are able to freeze the line—if not to everybody's satisfaction, at least with a bare minimum of protests to be noted for future reference.

Neither the law nor the courts have directed that defense counsel should have these privileges. We feel, however, that by allowing as much leeway as possible, and by registering all complaints, we protect against later defense efforts to have a case dismissed for an allegedly suggestive or prejudicial lineup.

Adjustments—To a Point

With almost every lineup we conduct, some defense lawyer presents a new objection—his client is standing next to someone who is shorter than he, or taller than he, or the same height, or wearing a lighter color shirt, or wearing a darker color shirt; the list is endless. We go right on making adjustments to suit—to a point, that is.

Ultimately, the lineups are the joint domain of police and prosecutor, and if a defense counsel objects, for example, to our directing his client to stand a certain way, or dress a certain way, or speak certain words, we draw the line. The courts have expressly permitted us this leverage if a witness feels he can make a positive determination only after seeing the suspect as he saw him originally. No amount of defense protest will cause us to concede use of this procedure.

Our department's police lineups are held on Tuesday and Thursday evenings and begin at 7:30 p.m. Defendants are ordered to appear no later than 6:30 p.m., and witnesses no earlier than 7 p.m., enabling us to keep them apart.

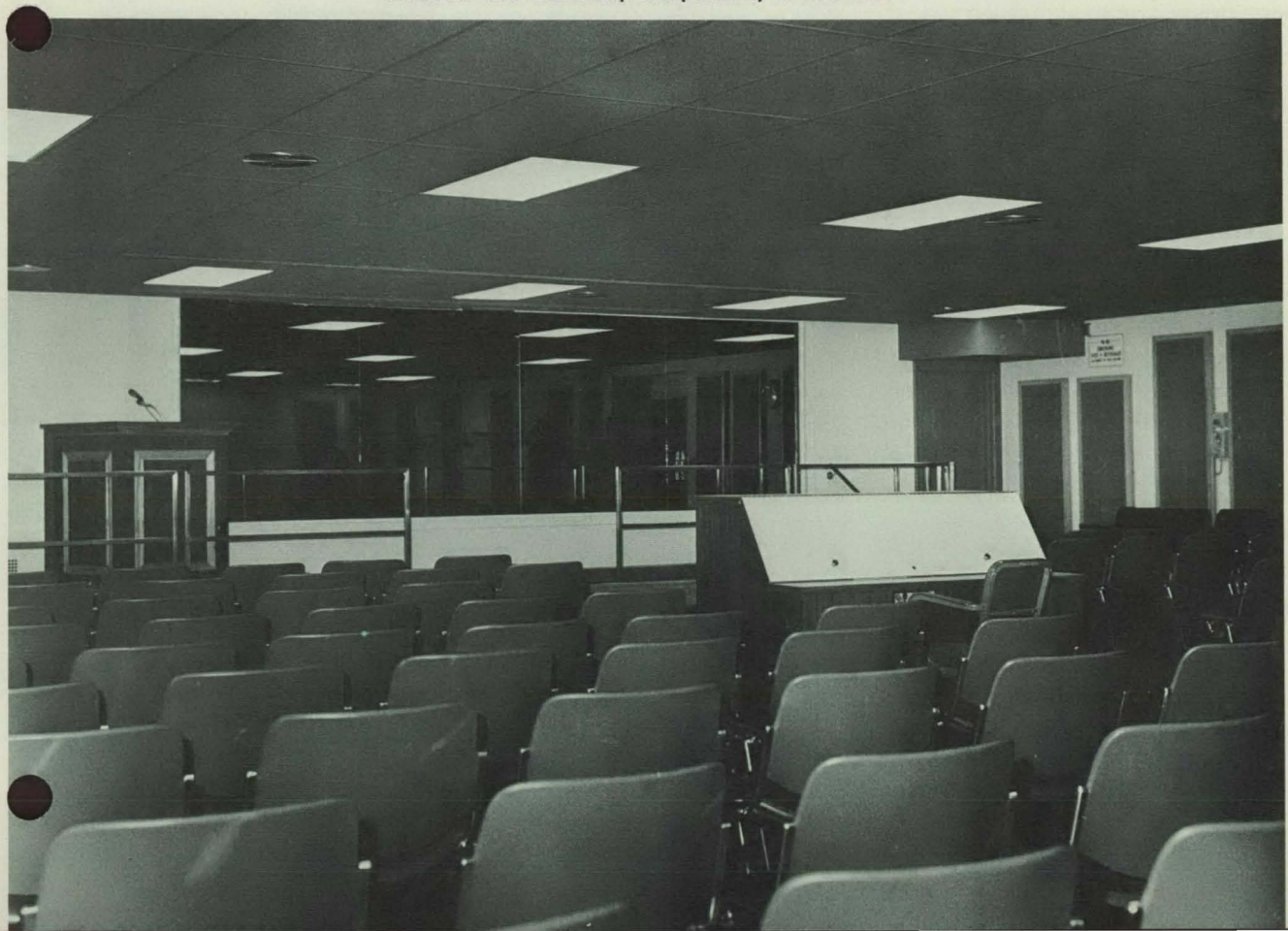
In midafternoon, the court sends over copies of the forms ordering attendance by the respective defendants and their counsel, and we draw up a list for the evening's lineup. Sometimes these lists have as many as 38 names. Since the court has unofficially set the size of a lineup at from eight to 12 persons, this means we may be running two or three lineups on a single evening.

Role of Witnesses

After surveying the list, our lineup officers assign each defendant a number, the same number he wears in the line. Then a lineup sheet is prepared for each witness with a space at the bottom to record his testimony.

Before the defendants are brought onto the lineup stage, the officer in charge gives a brief opening talk to all attending witnesses. He explains how the lineups will proceed and what is expected of the people who view

Witnesses view the lineup independently in this room.



them. He makes clear, for example, that if a witness feels uncertain about one or more of the defendants before him, he should not feel pressured to say something definite one way or the other. A witness may say he is "sure" No. 1 robbed him and "thinks" No. 5 was also involved, and this testimony will be noted exactly as given with both the defense counsel and arresting officer present to confirm the wording. Witnesses are also advised in the opening talk that they are to view the lineup independently and are cautioned not to communicate afterwards with other witnesses in the same case. Lineup officers take precautions to see that these instructions are adhered to.

Lineup Photographed

After the opening talk, witnesses are asked to leave the room and proceed to an area where they will remain until called, one by one, to view the lineup. The assigned numbers are placed on the defendants, and they are brought onto the stage and arranged in numerical order. Then a representative from the U.S. Attorney's Office takes over and begins the process of adjusting the order according to the complaints and suggestions of defense counsel. After each attorney is heard, the U.S. Attorney, or his assistant, notes all the objections or, if none, the fact that the attorney is satisfied. And when the order sequence has been fixed, the defendants are photographed for a permanent visual record of the lineup. Then the officer in charge calls the first witness and the lineup begins.

Standard Questioning

In order to avoid the accusation that we may have given a witness some subtle indication of the proper suspect, we have developed a standard series of questions for the lineup. To begin with, the officer in charge asks each viewer to state his connection with the offense.

"Sir, on the 22d of October, 1970," the question might run, "were you a witness to or a victim of a robbery?"

The viewer will generally answer, "Yes."

"Directing your attention to the stage, can you identify anyone that committed this offense?"

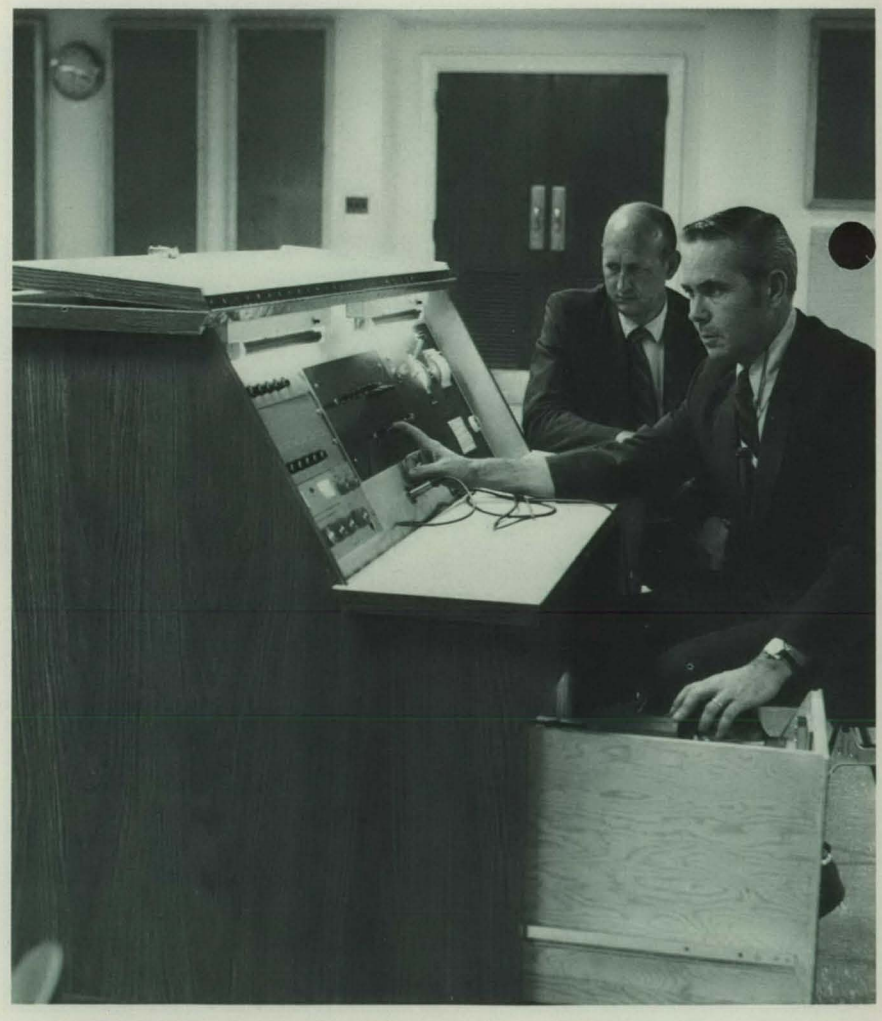
The viewer will examine the people on the stage, possibly request that they turn in a certain direction, and then say "yes" or "no" or something in between. This will be recorded exactly as the witness words it.

Then the officer will ask the viewer to identify the proper suspect by number, if he has answered yes to the last question. Finally, in cases with multiple defendants, the witness may be asked if there is any other person in the lineup room whom he can identify as a participant in the crime. The witness is then escorted from the room, and the next witness brought in. And the cycle repeats itself.

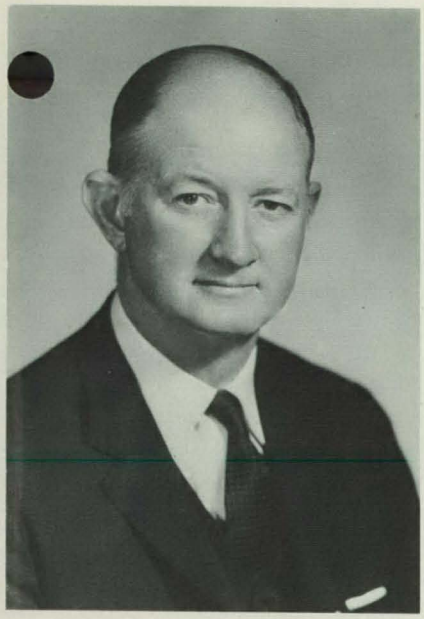
New Section

In March 1971, responsibility for conducting lineups was moved from the robbery squad to a newly created special lineup section staffed with the same detectives who had been managing the lineups since 1968. This lineup section was made part of the major

(*Continued on page 25*)



The sound, lighting, and recording systems are controlled from this console.



"In the shadow of the provision that Congress shall 'make no law . . . abridging the freedom of speech or of the press,' the dirt merchants have erected a multimillion-dollar empire dedicated to, and predicated on, human degradation."

By
HON. WINTON M. BLOUNT
Former Postmaster General, U.S. Postal Service, Washington, D.C.

Let's Put the SMUT MERCHANTS Out of Business*

**© 1971 Nation's Business—the Chamber of Commerce of the United States. This article was prepared for and appeared in the September 1971 issue of Nation's Business prior to Mr. Blount's resignation as Postmaster General. It is reprinted for Bulletin readers with the permission of Mr. Blount and Nation's Business.*

The first thing that must be understood about smut is that it is a business.

It is a very large business because, though it requires limited capital, it permits enormous markups and therefore enormous profits. According to a recent news article, a $2 reel of 8 mm. color film will sell for $40 as pornography.

The profits are so high, in fact, that the cost of almost any conceivable legal difficulties under present laws can be included as a virtually negligible part of the already rather negligible overhead.

Pornography is profitable, finally, because it appeals to human weakness in ways which are difficult to define in law, and in a time when the question of civil freedoms—including the freedom of self-abasement—is undergoing lengthy reexamination by opinionmakers in America.

I have faith in the ultimate good sense of even the leaders of America's periodic fads in what passes for thought. But on the evidence alone, I also believe the pornographers can make maximum use of this period of confusion in American jurisprudence.

A great deal of conceivably irreversible damage is being done to the quality of American life. The ultimate irony, of course, is that it is being done under the protection of the first amendment to the Constitution, orig-

inally conceived as the ultimate defense of social, cultural, and political quality in American life.

In the shadow of the provision that Congress shall "make no law . . . abridging the freedom of speech or of the press," the dirt merchants have erected a multimillion-dollar empire dedicated to, and predicated on, human degradation.

America's postal system has been used as a major link between the producers of pornography and their buyers.

The number of dealers in mail-order pornography has increased in recent years to something over 400. Of that number, however, only about 20 at any one time are considered major dealers. These are big-league operators, who use direct-mail advertising on a scale comparable to the Nation's large mail-order houses.

They regularly send 2 and 3 million advertising pieces into American homes during an advertising campaign, frequently with little or no discrimination as to the recipient. As a consequence, young children are commonly subjected to printed and graphic matter of the vilest sort.

However liberal or permissive the protagonists in the pornography issue, it is rare to find anyone willing to argue that smut has a salutary influence on impressionable minds. To the contrary, in any discussion of the problem of pornography, the potentially adverse effect of pornography on the young inevitably emerges as a central issue.

Ultimately, however, the effect on children is not the real question. The real question is, or ought to be, the effect of pornography on any human being, and on the civilization of which each human being is a member.

What It's All About

If we consider for a moment those values which underlie our country's institutions, we find that what America is all about can be summed up in two words: Human dignity.

We seek freedom for our people because freedom is the condition most conducive to human dignity. For the same reason we seek security and prosperity; poverty crushes the human spirit.

At our best we honor diversity—because the right to be what he chooses, to act and live as he chooses, is vital to the dignity of the human being.

As a people we believe each man has a spark of divinity within him; we accept the sanctity of the human spirit and of the human body. And as we preserve and sustain these, we preserve and sustain human dignity.

As we violate these for sensation or for profit, we act against the dignity of man, and against all that we have struggled to build for more than two centuries on this continent.

So pornography is not simply a threat to the best interests of children. It is an act of violence against the human spirit.

Nevertheless, it is being proposed with disturbing frequency that pornography be legalized.

The arguments of those who favor such a course are numerous and, frequently, specious. One of the most compelling, and least credible, is the argument that censorship of pornography violates the first amendment's prohibition against interference with freedom of speech and of the press.

If this prohibition were absolute, the argument would be sound. But first amendment freedoms are not absolute.

It was Justice Oliver Wendell Holmes who pointed out that the first amendment would not protect a man who falsely shouted fire in a crowded theater. Such an act created the sort of clear and present danger that Congress has not merely the right, but the obligation, to prevent.

In a different way, but to the same effect, we have laws against libel which make freedom of the press relative—not absolute.

The argument that pornography cannot be censored without destroying our civil liberties is fundamentally wrong. We have censored pornography since the Nation was established, and there is no evidence of adverse effect on our civil liberties.

There is the argument that we cannot be sure pornography has an effect on children. But if we are to take this seriously, we then must ask if any book—if any picture—has an effect on children. Indeed, such a position questions the effect of education itself, for education asks that a child respond to what he is exposed to.

Just in the Beholder's Eye?

At the risk of appearing simplistic, when we suppose that a good book

". . . the President . . . has asked Congress to make it a Federal crime to put into the hands of anyone 18 years old or under sex materials that are unsuitable for people of that age; to make it a Federal crime to exploit a prurient interest in sex through advertising; and to broaden the ability of the homeowner to prevent sexually oriented advertising material from entering his home through the mail."

has a good effect on a child, must not the concomitant supposition be that bad book has a bad effect?

The libertarian retort to reasoning of this nature is that it contains a value judgment. The accusation is that filth is in the eye of the beholder and that those who think pictures of people making love are "dirty" must be people with dirty minds.

Without violating the purity of that touching a bit of naiveté, let me make it clear that "people making love" is not what pornography, circa 1971, is all about. The material in question involves graphic and literal depictions of beatings and other torture for sexual gratification, mass fornication, and bestiality—to name just part of what is under consideration here.

This dismal catalog is by way of indicating that we are not concerned here with "September Morn," but with the most vile, distorted, and degraded representations of abnormal and dehumanized behavior.

Are we then willing to accept—in the service of a specious argument about the limits of civil liberty—the argument that we cannot be sure pornography has an effect on children, and that therefore it ought not to be prohibited?

We have the argument that there is no evidence that pornography has an adverse effect on adults. While it may be difficult to establish a cause and effect relationship between an antisocial act and an avid interest in pornography, it is certainly possible to suggest that an inclination toward antisocial behavior may be reinforced and even encouraged by pornography.

In the course of investigating and prosecuting cases for illegal use of the mail, the Postal Inspection Service is constantly exposed to those who traffic in pornography. We find those who enjoy pictures and stories of sadistic behavior and masochistic behavior and who indulge themselves in this behavior.

Which came first—the pornography or the practice?

There is a pornographer who uses preteenage boys in lewd poses for his productions. He has previous sodomy convictions; the record shows a history of indecent behavior with children.

Fishy Report From Denmark

The logic of this position would require that sex crimes should go down as the availability of pornography

"Pornography is a symptom of decadence. This is the judgment of history. Civilizations, from ancient Rome to Germany in the 1930's, have turned in their decline to sensationalism, to exploitation of man's sexual nature, and to indifference to his humanity.

"We are not taking this road."

Is there a cause and effect relationship here? And is it necessary to establish a cause and effect relationship before we can agree that he shouldn't be producing pornography with children—or with anyone else, for that matter?

We have the couple who used pornographic material to seduce a young girl. Was pornography a critical factor here? Or would the seduction have occurred anyway?

These are things we are told cannot be determined. I find that difficult to believe, but perhaps it is true. If so, it is because research looks for an absolutely scientific precision in making a determination.

In the clinical context, that is proper. But the potential effect of pornography is not solely of scientific consequence. And the decision to have it or not to have it is not properly a scientific decision. This is a matter of social, political, and cultural consequence.

Some have seriously argued that pornography may have a beneficial effect. This is the theory of catharsis; it maintains that pornography provides a harmless outlet for sexual energy which might otherwise be expended in some objectionable manner.

goes up. All the evidence indicates this doesn't happen.

It is well known that Denmark has lifted certain restrictions on pornography. This has had a dual effect on the United States. It has, on one hand, substantially increased the flow of pornographic material coming into the country. And it has, at the same time, increased the pressure from proponents of the legalization of pornography in America.

Those who argue for legalization make the claim that there has been a drop in the sex crime rate in Denmark.

The evidence suggests that this is largely a statistical trick. Pornography used to be a crime there and now it isn't. Therefore the crime rate dropped.

Statutory rape used to be a crime there; now it isn't. So this contributed to the drop in the crime rate.

Minor crimes, such as indecent exposure, are scarcely even reported.

The "crime rate" argument is a misleading and foolish bit of whimsy. Postal officials have gone to Denmark and talked to the authorities there and found the real sex crime rate has not dropped.

Finally, in the past decade, some of our courts have been persuaded that the virtual impossibility of defining pornography precisely is sufficient reason for granting absolute license.

But there are few, if any, precise definitions in Western jurisprudence. What mathematical formula identifies a "preponderance" of the evidence in a civil suit? At what precisely defined point is guilt established beyond any "reasonable doubt"? And what is a reasonable doubt? What is an unreasonable doubt?

There is a problem here, certainly. We are giving fallible men the responsibility for making judgments that go to the heart of our democratic freedoms.

But it is difficult to suppose that, by weighing the content of a work and the apparent intent of its creator and purveyor, we cannot tell what is pornography and what is not. And where we cannot tell, then let the presumption be in favor of the contested work, and we will still be adequately protected.

The tunnel vision which puts the focus of the defense of pornography on the first amendment to the Constitution obscures the larger purpose of the Constitution, which is stated at the very outset: "We, the people of the United States . . . in order to . . . promote the general welfare . . . do ordain and establish this Constitution. . . ."

If there is anything conducive to the general welfare in the common availability—or, more precisely, the general unavoidability—of the most repulsive filth imaginable, it escapes me. It apparently doesn't escape some of our courts, unfortunately.

Not at Any Price

Perhaps the single greatest contributor to the problem is that fact cited at the outset: pornography is a very big business. So we have to find a way to reduce the profits of that business and make it impossible for it to operate at any price.

At this point the matter remains in contention, but we are making progress in the courts against pornography, and the Postal Service has been a key factor in bringing these cases to the courts.

The U.S. Supreme Court recently handed down two important decisions in this area. In the first case (*U.S.* v. *37 Photographs*), the court upheld the constitutionality of a customs statute that provides for the forfeiture of obscene materials coming into the country from abroad. In the second (*U.S.* v. *Reidel*), the court again upheld the constitutionality of the Postal Obscenity Statute, which makes it a Federal crime to send obscenity through the mails.

"So pornography is not simply a threat to the best interests of our children. It is an act of violence against the human spirit."

This is the same statute under which a notorious California dealer in pornography was convicted in 1968. He filed an appeal, however, and continued his mailing. The Postal Service developed new evidence and he was indicted again in September 1969. Last September [1970], in a significant victory against pornography, the Court of Appeals of the Ninth Circuit Court in San Francisco upheld the 1968 conviction. In February of this year, the man was convicted on the second indictment. He now faces a total of 7 years' imprisonment and $67,500 in fines against him and his corporation.

So the Postal Service is putting a great deal of effort into this battle, and we are having some success.

The President's Program

In addition, the President has thrown the full weight of his office into the struggle. He has asked Congress to make it a Federal crime to put into the hands of anyone 18 years old or under sex materials that are unsuitable for people of that age; to make it a Federal crime to exploit a prurient interest in sex through advertising; and to broaden the ability of the homeowner to prevent sexually oriented advertising material from entering his home through the mail.

Now Congress has begun to respond; it has passed legislation that enables homeowners to protect themselves from unwanted sex-oriented advertising, and it is, we hope, going to enact the remainder of the President's legislative requests in this area.

But the deciding factor is going to be the American public. If the people decide against pornography, we can do away with it. If we refuse to patronize the pornographer, we can put him out of business. Movies show violence because it shows a profit. They show cheap sex because it shows a profit. It is the same with all media. If it isn't profitable, it doesn't play.

I am not suggesting a witch hunt. It is certain that a lot of heavy-breathing crusaders are waiting in the wings for the call to arise.

I think we can, and must, do this job without bringing the lunatics and smear artists out of the woodwork.

Pornography is a symptom of decadence. This is the judgment of history. Civilizations, from ancient Rome to Germany in the 1930's, have turned in their decline to sensationalism, to exploitation of man's sexual nature, and to indifference to his humanity.

We are not taking this road.

America has a covenant with the future. We are going to keep it.

Observations on Seminar on FBI

EDITOR'S NOTE—Recently, Mr. Duane Lockard, Department of Politics, Princeton University, Princeton, N.J., invited Director Hoover to send a representative to a conference on the FBI conducted by the Woodrow Wilson School of Princeton University in collaboration with the Committee for Public Justice. We think Mr. Hoover's reply will be of interest to law enforcement executives for obvious reasons, one of which is that he states in more detail than usual his views on the philosophy by which a law enforcement agency should be administered. These views obviously are the result of many years of experience and many battles necessarily fought, some won and some lost. We think our readers might be interested in them.

Mr. Hoover's letter appears on the next page.

OFFICE OF THE DIRECTOR

U.S. DEPARTMENT OF JUSTICE
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October 7, 1971

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Princeton University,
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DEAR MR. LOCKARD: Thank you for your letter of September 28, 1971, extending to me an invitation for a representative of the FBI to "strongly defend the Bureau and its role" during the forthcoming October conference which will, in your words, focus "primarily on the Federal Bureau of Investigation." We were aware of the plans for the conference, having read the announcements in the press, and some related remarks, critical of the FBI, attributed to persons who apparently will be among the "judges" hearing this case. For example, the press reported, and attributed to persons who appeared to be both spokesmen for your group and "judges" at the inquiry, that ". . . the study could be criticized as being stacked against the FBI," that the FBI is not a "disenthralled seeker of truth," and that "the FBI for reasons I find unfortunate became ideological some time back and this put a scale over its eyes."

While I should like to believe that the correlation between your own words casting us in the role of a defendant and the critical remarks made by some of the "judges" before the factfinding inquiry had even begun is one of pure coincidence only, you will understand from that coincidence why I immediately recalled with some amusement the story of the frontier judge who said he would first give the defendant a fair trial and then hang him.

We acknowledge and appreciate your invitation to "defend," but we are declining in view of our serious doubt that any worthwhile purpose could be served by an FBI representative attending an inquiry casting him in the role of defendant before even the first fact is brought out, and condemned by the "judges" before trial begins. It simply is asking too much that any FBI representative appear personally under those circumstances. For that reason I shall try to explain briefly in this letter some of the facts of the FBI "defense," hoping that they will be considered material during the deliberations of your group and in any public reports which you may issue later.

Basically, our position is that the FBI need tailor no special "defense" of its own for this occasion. The basic facts on how the FBI is organized and how it discharges its duties have been so well known for so long, and to so many responsible persons, that they are obvious to all except those who are so blind that they do not wish to see.

The duties assigned to us seem as good a place as any to start. We are well aware that some complain of these, claiming infringement on what they contend to be their rights and liberties. There are bank robbers who believe that we should not investigate bank robberies, and thieves and others charged with crimes after investigation who condemn us in court and out. More recently there are those who bomb, riot, and destroy both human life and property for what they claim to be more sophisticated reasons and who resent our investigations as an intrusion into what they esteem to be matters of their own conscience only. We frequently are the targets of personal abuse, of the most vile invectives at the command of both the totalitarian right and the totalitarian left. Yet, neither these nor those who appear to sympathize with them seem willing to publicly admit the basic and obvious fact that our investigative duties are not of our own choosing. They were delivered to us, with the requirement that we take all necessary action, by laws passed by the Congress and by rules and regulations laid down by the President and the Attorney General. We are forever in the unenviable position of the policeman being assaulted by the mob. He neither enacts the law nor judges the legality of it, but it usually is he, and he alone, who must dodge the brickbats hurled by those protesting against it. Any genuine factfinding inquiry concerning the FBI will admit and underscore these facts.

In performing the duties assigned to us, we are not at all a law unto ourselves as some of our critics would have the American people believe. There are many who monitor us in some way or other; they are a system of checks and balances on the manner in which we perform our duties. Senators and Representatives are interested in how we work. They are free to express their interest and they often do so, individually or collectively. We must investigate our cases to the satisfaction of the Department of Justice, and within the context of such rules as it lays down for us. Our work must satisfy the U.S. Attorney, who makes an independent decision on whether the case we bring before him will or will not be prosecuted. The U.S. magistrate exercises a supervisory authority to accept or reject the adequacy of our reasons shown for asking for an arrest warrant or a search warrant. Our cases which pass the inspection of our monitors

up to this point then go before the Federal courts in the uncounted thousands. I am sure you will agree that our work is carefully evaluated in those forums.

In sum, we say that there are many who exercise some official vigilance over the manner in which the FBI performs its duties, that they are to be found in each of the three branches of Government, and that our performance has won the approval of the great majority of them. If your group doubts that the FBI has performed so well, we suggest a factfinding poll of all living Presidents, Attorneys General, U.S. Senators, U.S. Representatives, U.S. attorneys, U.S. magistrates (and former commissioners), and Federal judges, with all questions and all answers spread upon the public record so that the people of this Nation might see for themselves. Perhaps we are mistaken, but we do believe that if this were done the "defense" of the FBI would be made by others highly qualified, and that it would be one on which we could rest our case.

If it be thought inappropriate to question some, such as the Federal judges, because they must remain impartial at all times, your group could accomplish the same factfinding results by conducting a review of all reported Federal court decisions in cases investigated by the FBI during the past decade, or as far beyond that as you wish to go to make certain that your study has the necessary depth. You can list and cite for public view such decisions, calling particular attention to those in which the courts have disapproved our action, and showing the percentage of those cases against the total of all that we have brought to the courts. I assume here that you would also call public attention to those decisions in which the courts have spoken well of FBI work. Further, we suggest that you consider, and report on, the Miranda Rule, the Mallory Rule, the Jencks Rule, the rule on fair lineups, the arrest and search and seizure requirements of the fourth amendment, and all the many other rules laid down for control of the Special Agent or other law enforcement officers investigating a criminal case. You will find that we have set an excellent record for obedience to them. With relatively few exceptions our work has met with the approval of the Federal judges. The few exceptions concern us for we know that law enforcement, dealing constantly with those human rights held most sacred, theoretically has no tolerance for error. We know, of course, that we do err, but it is our request that the error be viewed in context and that we be granted the same tolerance extended to others for an occasional mistake.

We venture to suggest one condition which should be set on such polls. If one person in a group is to be polled, all should be polled and all should be reported openly and completely. Honest factfinding admits of nothing less. If the FBI, investigating a criminal case, were to bring a witness against the accused and in any manner deliberately hide the many who would testify in his favor, you would be outraged and justifiably so. We would feel a sense of outrage at similar conduct directed against us. The technique of making one dissenter appear to be representative of a large group which, in fact, is not in agreement with him is a technique of deception and one which any court of inquiry ought to abhor.

I have been speaking of the fact that we try hard to merit the approval of the many who officially monitor our work, and apparently with a reasonable degree of success. We do more than that; we try to improve the investigatory process in those areas in which we are allowed some discretion. Examples of our innovation in this direction are in the public record and should be among the facts of official interest to your group. I shall call a few to your attention.

For centuries the common law which we brought with us from England has held that an officer lawfully may shoot a fleeing felon to prevent his escape. We found that power unnecessary for our particular purposes, and rejected it. The FBI rule now is, and long has been, that a Special Agent or other FBI officer may shoot only in self-defense or the defense of others. If the observance of this rule allows a fleeing felon to escape, we hopefully will apprehend him another day. The rule innovated by the FBI, on its own initiative, raises the sanctity of a human life a notch above that required by the law. We consider this to be significant and hope that you agree.

We have innovated improvements in other areas. During the past decade, Presidents, Governors, Attorneys General, legislators, and others have emphasized the need for police training and education. The FBI saw that need a long time ago. Our FBI National Academy, a 12-week course for selected police officers from States, counties, and cities, and some from friendly foreign nations, opened in 1935 and has been in continuous operation since that time. It is now being substantially expanded. More than 5,000 officers have received this instruction and we have been led to believe that at least the great majority consider it a contribution to better law enforcement.

In a quite different area, the FBI Laboratory has innovated for more effective and humanitarian law enforcement. During recent years, the Supreme Court and the lower courts have emphasized the humanitarian ap-

proach toward proving criminal cases more by physical evidence and less by confessions taken from the accused. We like to believe that they have done so on learning that the FBI Laboratory, established in 1932, proved that in many cases it can be done. Scientific examination of evidence leads to proof of guilt or innocence quite independent of anything said by the accused. We are as proud of the cases showing innocence as of those showing guilt and have not been reluctant to say so. That fact should be of interest to your group, for it is another example of professional and humanitarian law enforcement at its best.

Possibly even more important, we have innovated our own rules to better protect the constitutional rights of the accused. I am sure that at least most of those who attend your conference hailed as a great step forward the decision of the Supreme Court in the *Miranda* case which, briefly stated, grants the accused in custody a right to say nothing and a right to a lawyer. Do they know, also, that for decades prior to the Supreme Court edict in *Miranda*, all Special Agents of the FBI were, by our own house rule, over and above the requirements of the courts, advising criminal subjects of those same rights? The Supreme Court willingly took cognizance of that fact in the text of the *Miranda* decision in remarks quite laudatory of the FBI. Please not those remarks in *Miranda* v. *Arizona*, 384 U.S. 436, at 483 (1966), where the Court, speaking through Chief Justice Warren, stated, in part, that "Over the years the Federal Bureau of Investigation has compiled an exemplary record of effective law enforcement. . . ." I suggest that no factfinding investigation of the FBI would be complete without calling public attention to those words of the Supreme Court.

We have innovated other rules which should commend themselves to you. For example, in recent years the Supreme Court has strongly emphasized the desirability of making arrests and searches by warrant, a protection for the citizen (and the officer) against overreaching by the officer whether by honest mistake or otherwise. That rule has been the FBI rule and practice for decades.

In short, we in the FBI have ourselves innovated on our own initiative, above and beyond the legal and administrative requirements laid down upon us, rules and practices designed for more lawful and humanitarian enforcement of the criminal law. This is a part of our "defense" and we hope that your group will consider it a fact worthy of being brought to public attention.

To do the work of the FBI we have assembled a staff which I believe is so capable that any deep and fair factfinding study will find it to be one of outstanding honesty and ability. We have sought to develop and enforce work rules to guarantee the taxpayer a day's work, and even a little more, for a day's pay. We have tried to keep our employees free of the corrosive influence of bribery which sometimes has weakened an otherwise honest and effective law enforcement agency. We have admittedly demanded of FBI employees a standard of morality which could be approved by the majority of the American people. On a few occasions we have been told by those who officially monitor us that we have been too strict, but I submit to public judgment the view that in a law enforcement agency, a tax-supported institution, if there is to be error, it should be on the side of being too strict rather than being too loose.

It is precisely in this area of employee relations that we have had a few of our most vocal critics. I think it inevitable in any large organization; some will disagree with the rules and some will disobey them. Yet, in our view, discipline is an absolute necessity. An undisciplined law enforcement agency is a menace to society. And discipline, I should add, must have many facets, not the least of which is to curb the enthusiasm of an overzealous Special Agent or official who, in his pursuit of the alleged criminal or subversive, tends to rationalize toward the belief that the end justifies the means, bitterly condemning the curbs on his zeal as a handcuff on what he alleges to be modern and efficient law enforcement. I trust that you will agree.

Here I may as well frankly recognize the fact that your group probably will hear criticism from former Special Agents of the FBI. I trust that you will review that criticism, and report it in proper context. Neither you nor I, nor any other person, can manage a large organization to the total satisfaction of all employees. You have the opportunity of placing this criticism in proper balance if you will take full note of the evidence favorable to the FBI. There is an organization known as the Society of Former Special Agents of the FBI, wholly private and in no way a part of the Government, whose members number in the thousands. It is unique, I believe, in the annals of Government employment. The organization exists, or so I have been told, because its members are proud of having served in the FBI. If your scales of justice are well balanced, I am sure that you will find that the views of these many greatly outweigh those of a dissident few, and I think that fairness requires that the views of the many be so well represented in your inquiry that the difference in weight is made obvious.

Somewhat related to these problems is that of decision-making. I believe it my duty to encourage a full expres-

sion of employee views on FBI problems, and I do so encourage, quite contrary to statements made by some the critics. I believe it my duty, as the appointed head of the FBI, to review all views and make the final decision, except where it should be referred to higher authority. I believe it the duty of the employee, once the final decision is made, to either faithfully carry out the directive or marshal convincing proof that it is in error. I submit for judgment the belief that there is no other way to operate an efficient law enforcement organization.

Perhaps the earlier reference to enforcement of the law within the strictures of the law brings up the subject of wiretapping. Being sure that it will come up at your conference, I would like to ask a favor of your group in the interest of fairness. I would think they would wish to show in their report, if such be issued, that Federal law permits wiretapping under controlled circumstances. Further, that in each and every wiretapping, regardless of circumstances, the FBI first obtains the written approval of the Attorney General. Also, that with respect to the wiretapping which occurred before passage of the present Federal statute, the FBI followed the opinions of a long line of Attorneys General that wiretapping was legal. Your attention is called to 63 Yale Law Journal 792, where the then Deputy Attorney General of the United States said, in part, that "it has long been the position of the Department of Justice that the mere interception of telephone communications is not prohibited by Federal law . . . every Attorney General, commencing with William D. Mitchell in 1931, has endorsed the desirability and need for the use of wiretapping as an investigative technique in certain types of cases." All these facts may be well known to your group, but for some reason they often are omitted in public charges that wiretapping by the FBI is without lawful basis. Some critics would have the public believe that the FBI has acted totally outside the law, when the fact is that we simply followed the legal advice given to us by the Attorney General. Your group can set the record straight for all to see, and I hope that you will do so.

These remarks cover the salient points of our "defense" and perhaps not so briefly as either of us might have wished. Obviously they do not cover everything. The ingenuity and the tenacity of our critics preclude a total answer. Were I to attempt to answer all charges I would be debating in this forum or that every day of the year, to the neglect of my duties. If I were to attempt to so answer, any critic could make any charge, even one totally fabricated, and force me into a forum of his own choosing. The result is that many charges must go unanswered. Some are false on their face, some are false by twisted innuendo, and some could be proved false only by the use of information which must be kept in confidence for legal or investigative reasons. This is not to deny that we, and I, have made mistakes. The judges and others sometimes have so advised us. We are only human.

One final thought. No remarks in our "defense" will still the voices of the critics, and these are not intended to do so. The critics have their rights of free speech under the first amendment and I am sure they will continue to use those rights to the hilt. In at least many cases, we are denied an effective answer. As the Supreme Court has said so perceptively, ". . . it is the rare case where the denial overtakes the original charge. Denials, retractions, and corrections are not 'hot' news, and rarely receive the prominence of the original story." *Rosenbloom* v. *Metromedia*, 39 L. Ed. 2d 296, 313 (1971). I hope that in bringing charges against us, if such be the case, you will bear in mind this handicap under which we must labor and bring it to public attention. Elementary fairness seems to so require. Moreover, a public official such as myself cannot successfully sue for libel or slander, even when the charges made against him are totally false, unless he can prove that those charges were made with actual malice. This is extremely difficult to prove, as anyone familiar with the recent court decisions on libel and slander well knows. The result is that in so many cases of criticism my only recourse is that of taking some personal pleasure in knowing that the critics have abundantly proven, in the reams and volumes that they have published, that one of their principal charges—that I am beyond criticism—is totally false.

I suggest that if evidence like that which I have briefly described here is fully developed and exposed to public view, the ultimate "verdict" must be that the FBI is a lawfully composed and operated public agency, staffed by honest and reasonably intelligent citizens doing a difficult job in the best way they know how and, moreover, doing it quite as well as it could be done by anyone else. While it may be quite true that we deserve some criticism, I think we also deserve an "acquittal." I think any deep and fair inquiry will command this result, and I remain hopeful of it despite the obviously partisan statements made by some of your group in announcing that the inquiry would be held.

Very truly yours,

(S) J. Edgar Hoover,
JOHN EDGAR HOOVER,
Director.

"The nucleus of the program was the installation of specially designed hidden cameras capable of filming robbery offenses as they are being committed."

A Concentrated Robbery Reduction Program

By
SGT. PATRICIA A. LAMSON
Police Department,
Phoenix, Ariz.

Armed robberies present a difficult problem to law enforcement agencies because the majority of these crimes are not reported until after the suspects have left the scene. The major obstacle to apprehension and successful prosecution of a robbery suspect is the inability of the victim to positively identify a person he has observed for a short period of time while under high emotional stress. Also, since loot is generally in cash, it is usually unidentifiable if there is any appreciable time lapse between the commission of the crime and the apprehension of a suspect.

Recognizing that swift apprehension and positive identification of a suspect hold the key to solving the problem, our department in March 1970 developed an experimental Concentrated Robbery Reduction (C.R.R.) Program to emphasize these two points. Strategy called for placing hidden cameras in selected businesses having a history of armed robberies, a squad of specially trained and equipped officers, and statistical and analytical projection of the "probability" of robbery occurrence factor. The officers selected were released from all other duties to be readily available for the saturation of any area, at any time, where, based on historical experience, information received, and/or statistical projection, such crim could be expected to occur.

Grant Received

A Law Enforcement Assistance Administration grant of $150,000 on July 31, 1970, and city funds of $100,000 subsidized this pilot program for 1 year. The Maricopa County attorney cooperated by assigning one deputy county attorney to assist and prosecute all robbery cases brought to trial.

To provide a valid data base for "probability" forecasting, we used computer services. All data on armed robberies of businesses for the period of July 1, 1966, through June 30, 1970, were collected, collated, and plotted on city grid maps. Contour analysis graphs were prepared from

In this robbery of a liquor store, the suspect asked for cigarettes, then drew a small black revolver and demanded that the victim put money from the cash register into a paper sack. When the victim refused, the suspect "helped" himself. Two cameras had been installed in the store and took photographs from different angles.

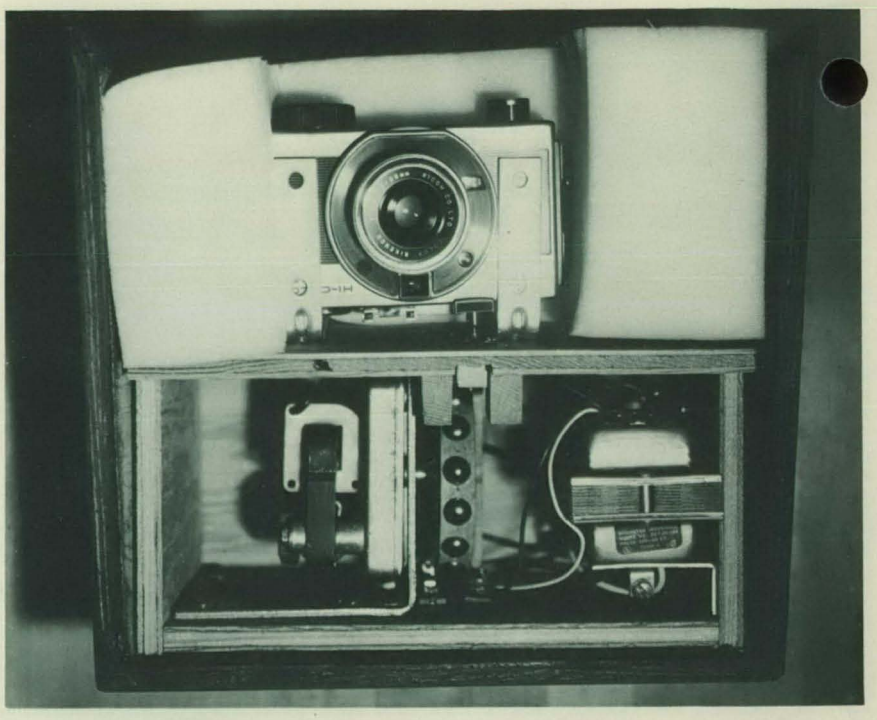
the results to determine the annual and daily distribution of the numbers and times of past robbery occurrences by sector. These analyses, along with additional data covering the remaining months of 1970, were used to test and develop the techniques believed to be the most feasible for the prediction of offenses by day, sector, and time.

Emerging from these analyses were several interesting facts:

1. During the years 1967–70, there was an overall increase of 41 percent in the number of armed robberies reported to the department.
2. Armed robberies occurred, percentagewise, fairly evenly on Tuesdays, Wednesdays, Thursdays, and Fridays; there was a 6- to 8-percent increase on Saturdays, Sundays, and Mondays, and the majority of offenses occurred between the hours of 5 p.m. and 1 a.m. on all nights of the week.
3. Of all robberies of business establishments reported during 1969, 60 percent involved convenience markets, liquor stores, and gas stations, in that order.

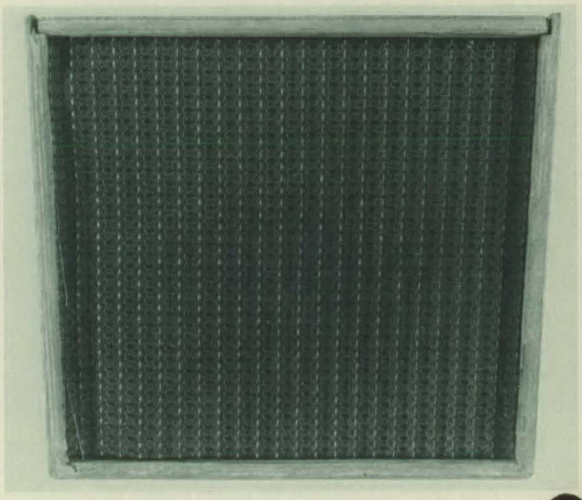
Developing the formula to be used in forecasting "probabilities" involved the following items:

1. Daily contour maps prepared to indicate centers and spatial distribution of robberies that occurred.
2. Plastic overlay to plot 1 month's accumulation of business armed robberies by location and time of occurrence (3 previous months' data placed over this chart could indicate short-range trends).
3. Analog tables, refined to the extent that a forecast month could be matched with a historical month by profile, distribution, and day of the week, to obtain more precise daily predictions.
4. The forecast prepared in two independent reports with a comparison of each phase and subsequent adjustment of daily forecast totals until the monthly total was obtained on a daily basis: (1) total business robberies expected to occur in a month, distributed on a daily basis, Monday to Sunday, inclusive, and (2) the use of the analog tables in a matching process, considering each day.



Cameras with a 60-degree angle of coverage were installed in convenience markets and liquor stores having a history of, or potential for, armed robberies.

The department formed a special unit consisting of one sergeant, five patrolmen, and two photolab tech-



The cameras are hidden in simulated speaker boxes covered with translucent material at the front. All photographs of robberies in progress were taken through this material.

nicians to be augmented on a "need" basis by a manpower pool of experi-ed detectives from the Criminal Investigations Bureau who would be available on an off-duty, overtime basis. The sergeant and officers assigned directly to the unit and those who volunteered to be a part of the pool had extensive investigative experience, had reliable informants, and were familiar with known criminal elements. For each officer the possibility of long and erratic working hours had to be agreeable to his family. Cooperation and coordination between the day robbery detail and our special unit was simplified by assignment of both to the command of superior officers of the Criminal Investigations Bureau.

Computerized Probabilities

The team usually worked in 6- to 10-hour shifts covering the hours of 6 p.m. and 2 a.m., which had proven to be the most critical hours. The officers were deployed each shift accord-to the computer-based "probabilities" as to time and location, information received from informants, investigative leads supplied by officers assigned to the day robbery detail, etc. Pool officers varied from day to day, as they could be assigned to work with the C.R.R. team only on the days of the week not in conflict with their normal duty assignments.

All members of the C.R.R. team were off duty on the same days, enabling the sergeant to maintain direct contact with the entire unit on a daily basis. Normal days off for the team were selected by determining which days of the week had the fewest robberies and were adjustable any time the trend might change. Team officers were not given any radio-dispatched calls or assigned to any followup investigation, other than robbery offenses, unless an extreme emergency in close proximity to their location

Chief Lawrence M. Wetzel.

occurred; they were released from such action as soon as other officers could take over.

A total of 50 officers received special training; the 40-hour advanced training program covered notetaking, report-writing, criminal law, courtroom testimony, techniques of apprehension, suspect identification, search and seizure, use of special equipment, night tactical firearms, with special attention given to procedures and techniques of stakeouts, surveillance, intensive patrol, and fast followup on reported armed robberies.

The first hour of each shift was spent in research, study, and exchange of new information, and in evaluating day robbery detail requests, which were usually handled as high priority items. Assignments were made and plans discussed. If information was received either immediately prior to the start of the shift or during the shift, adjustments were made after evaluation of the data.

In Action

If a robbery occurred during the shift, all available members of the team would proceed immediately to the scene, remove any exposed film from the hidden camera (if one had been in operation) and take it directly to the photolab, and canvass the entire neighborhood for witnesses. Followup would be conducted immediately insofar as possible by means of stakeouts and/or surveillance of any suspects and/or locations indicated as the result of questioning witnesses, interviewing informants, etc. When an arrest was made, officers assigned to the day robbery detail would be informed immediately to determine if a lineup or interview should be conducted, if the day officers would like to be present or to participate in an interview, etc., and to eliminate the possibility of duplication of effort or overlooking items of importance to the investigation. The team spent 26 percent of its time on preventive intensive patrol; days and hours remained flexible, depending on the current problems or trends.

Seasoned Investigators

As stated previously, the selection of personnel to man this program was centered on seasoned investigators who, in addition to other attributes, were adept at developing informants. Since informants were necessary to the success of this multiphased program, the team members were constantly alert for any persons desirous of supplying information and encouraged them to contact the C.R.R. team members during off-duty hours to make sure that immediate followup on the information was possible.

Other benefits from informants' tips included search warrants for and arrests of narcotics and burglary suspects, the recovery of a large amount of stolen property, and sundry intelligence information.

The nucleus of the program was the installation of specially designed hidden cameras capable of filming robbery offenses as they are being com-

mitted. Specifications for the cameras, which represented the major expenditure of funds in the equipment category, called for: (1) An automatic electric eye, (2) a film pack cartridge with a minimum of 12 frames with full-frame exposure, (3) automatic film advance, (4) remote activation with a low voltage system, (5) warning light when half of the exposures have been taken, (6) minimum continuous running time on full cartridge of 35 seconds, (7) inaudible camera noise at 10 feet, (8) small size and inconspicuous appearance, and (9) an automatic stop at the end of the film cartridge.

The suspect in this robbery selected two pints of liquor, then drew a .32 caliber automatic and demanded that the liquor and all money in the cash register be placed in a paper sack.

Camera Installation

The cameras are hidden in simulated speaker boxes covered with translucent material at the front and installed in convenience markets and liquor stores having a history of, or potential for, armed robberies. At the time of a robbery, the camera is activated when money is removed from a "bill trap" inside the cash drawer; 10 to 12 film exposures are automatically taken at the rate of one every 2½ seconds. When the entire cartridge has been exposed, a warning light indicates that the camera should be reset. When the exposed film arrives at the photolab, prints in any quantity can be processed within 20 minutes after receipt.

Four civilian technicians from the city communications department assisted in installing the cameras; one officer currently services the cameras, i.e., resets them if they are accidentally tripped, provides additional cartridges, etc.

In addition to the cameras, other special equipment provided the team included:

1. Six late-model compact cars which could be interchanged repeatedly under an exceptional lease agreement with a local car-rental agency. These vehicles provided a definite "nonpolice" look, as the department was able to select from a multitude of styles, including two-toned vehicles, vinyl tops, etc.
2. An infrared night vision device used for stakeout and surveillance assignments.
3. A standardized and readily identifiable coverall jumpsuit kept available and worn by team members in the event it would become necessary that they take part in group action with other officers under emergency conditions, e.g., civil disturbance.

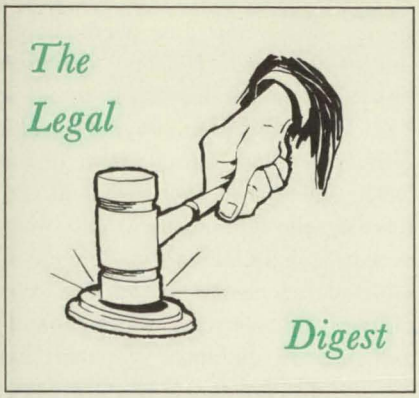
Evaluation processes of the program have been continuous and cumulative. Conferences have been held on a monthly basis at least, and more often if believed necessary, by all administrative and supervisory personnel involved to assess the project's effectiveness, the methods used, performance of equipment, procedures, etc. Records are kept of dates, hours worked, total hours expended for surveillance and stakeout, number of locations staked out, the number of stakeouts, suspect interrogations, arrests and charges made, number of charges dismissed or dropped, suspects found guilty and not guilty, and the sentences given.

Available Funds

For projects such as this, involving expensive equipment, it is important that funds be available at the starting date of the program in order to obtain a full evaluation of the equipment. Project dates should be based on the time an agency actually obtains a written "funding availability" date, which allows for leadtime to acquire the necessary equipment. It is further suggested that a commitment letter should be requested from the funding agency prior to the formal written contract which would allow for purchasing procedures to start well in advance of project implementation.

There were a few problems in the installation and operation of the cameras which had to be corrected as they were experienced during our yearlong program. It is important that the camera clips be placed in locations

(*Continued on page 26*)



"One facet of this problem has concerned the seizure and search of personal property in 'constructive possession' of the arrestee. Constructive possession exists where the person searched is physically separated from the property but has on his person some evidence of ownership, custody, or control."

Search Incident to Arrest— Constructive Possession

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

The authority to search a person incident to a valid arrest represents one of the carefully drawn exceptions to the fundamental precept that a search must rest upon a search warrant.[1] An arresting officer is permitted to search in order to protect himself and deprive the prisoner of potential means of escape, and to prevent destruction of evidence by the arrestee.[2] The permissible scope of search extends from the inner recesses of the body [3] out to the arrestee's clothing,[4] items being borne by him,[5] and property within his immediate control.[6]

The problem of defining "immediate control" or demarking the permissible scope of a warrantless search incident to arrest has long plagued the courts.[7] One facet of this problem has concerned the seizure and search of personal property in "constructive possession" of the arrestee. Constructive possession exists where the person searched is physically separated from the property but has on his person some evidence of ownership, custody, or control.[8] Examples are receipts, claim checks, and locker keys.[9] The question presented is whether the taking of such objects in a warrantless search incident to arrest authorizes the arresting officer to seize the property which they represent, even though it may be beyond the immediate physical control of the person arrested. Constructive possession cases generally have dealt with one of two factual situations: (1) Where property is in custody of third parties, such as airlines and bus companies; and (2) where property has been placed in a closed area, such as a storage locker in a transportation terminal.

In *Kernick* v. *United States*,[10] perhaps the leading Federal case on constructive possession, an undercover narcotics agent arranged to meet the defendant at the Kansas City Union Station, where he was to deliver a quantity of heroin to the agent. They met as scheduled at which time the defendant stated that the heroin was hidden in the station. The agent left to obtain money for the purchase; and shortly thereafter defendant, before he had an opportunity to get the heroin, was arrested by other agents in the station lobby and taken to a "police room." In the search incident to arrest, the agents found on his person a baggage check and key. With the claim check, one of the agents obtained a suitcase from the baggage room and the key was used to open it. Inside were nine ounces of heroin. The defendant was convicted of transporting the contraband drug in interstate commerce and appealed on the ground that the narcotics agents exceeded the authorized scope of a warrantless search incident to arrest. The court, citing two prior Supreme Court decisions,[11] held that the suitcase was within the "permissible area of search" and in the "constructive possession and control" of the defendant.[12]

In 1963, a Federal court again was confronted with the constructive possession problem. Defendants were lawfully arrested in a Chicago airport terminal by FBI Agents after they had checked their luggage at the airline counter for a flight departing for Cleveland, Ohio. In the search incident to arrest, baggage claim checks were found on the person of one defendant; and, by presenting the checks to the airline, the arresting Agent obtained two suitcases. A pistol and ammunition were found in each suitcase, and defendants were convicted of illegally transporting firearms in interstate commerce. They appealed their convictions on fourth amendment grounds, contending that although the seizure of the suitcases was lawful, the Agents should have secured a search warrant prior to opening them and seizing the guns. In upholding the action of the Agents, the court noted that the defendants retained a measure of control over the suitcases through the claim checks and approved the trial court's view that possession of the claim checks was comparable to the men having the suitcases in their hands.[13]

But the constructive possession doctrine was not without its critics. As early as 1947, Supreme Court Justice Frankfurter, in a dissenting opinion, observed:

> "For some purposes, to be sure, a man's house and its contents are deemed to be in his 'possession' or 'control' even when he is miles away. Because this is a mode of legal reasoning relevant to disputes over property, the usual phrase for such nonphysical control is 'constructive possession.' But this mode of thought and these concepts are irrelevant to the application of the Fourth Amendment and hostile to respect for the liberties which it protects." [14]

Thus, Justice Frankfurter regarded the idea of constructive possession as a property law concept unrelated to constitutional protection.

"An individual's right to privacy in personal property is not forfeited by surrendering custody to a carrier or placing the article in a storage locker in a public place. Therefore, wherever practical, a search warrant must be obtained prior to seizure of the property."

In 1963, a California court took a different approach to constructive possession. In that case, defendant was arrested in a San Francisco apartment where narcotics were being unlawfully used. Officers searching him incident to the arrest found a bus terminal locker key. The officers, without a warrant, went to the locker, opened it and seized an airline bag containing heroin and other narcotics paraphernalia. Defendant, indicted for possession on the basis of this evidence, claimed the search and seizure to have violated his fourth amendment protection because it had occurred beyond the allowable area of search incident to arrest. The court, accepting this view, held that a "search without warrant of a locker in a bus terminal distant from the place of arrest . . . and not contemporaneous therewith could not be justified as incident to the arrest of defendant." [15] The holding foreshadowed a later Supreme Court decision.[16]

In the 1969 landmark decision *Chimel* v. *California*,[17] the U.S. Supreme Court supplied the fixed standard or test concerning scope of search which was missing in prior decisions.[18] The Supreme Court held that the scope of search incident to arrest must be confined to the person of the arrestee and that area within his immediate control, ". . . construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence." [19] In *Chimel*, the defendant was arrested in the living room of his home by officers who had an arrest warrant charging him with burglary of a coin shop. The entire house was searched incident to the arrest and evidence of the burglary discovered. The Court found this wide-ranging search without a warrant constitutionally unjustifiable, reasoning that the scope of the search incident to arrest must be supported by the circumstances (protection of

cer and preservation of destructible evidence) which rendered its initiation impermissible.[20] Constructive possession was not at issue in *Chimel*, but the conflict of the *Chimel* rationale with the reasoning in constructive possession cases is clear: The constructive possession rule would approve a search and seizure beyond the immediate vicinity of the arrestee; *Chimel* restricted the scope of search to the arrested person and the area within his immediate reach.

In a recent Federal case,[21] decided after *Chimel* but based upon facts occurring prior thereto, the defendant was arrested and searched on the third floor of an apartment building and the arresting officer took a key in possession of the arrestee. The key fitted a storage locker in the basement of the building. The officer opened the locker without a warrant and seized a gun and other evidence. Because the search occurred prior to the *Chimel* decision, the court applied the broad pre-*Chimel* standard, holding that *Chimel* was not retroactive. Further, it held the search reasonable but implied that had the search been made after *Chimel* a different standard would have applied.

It would appear that the *Chimel* decision, by severely limiting the permissible area of search incident to arrest, has sapped the vitality of the constructive possession doctrine.[22] Constructive possession involves a remoteness, a separation of possessor from the thing possessed. And where the evidence is beyond the immediate area of the arrestee, *Chimel* would prohibit its seizure and search without a warrant, notwithstanding the fact that the person arrested possesses evidence of ownership or control. The Supreme Court seems to have reached the conclusion expressed earlier by Justice Frankfurter,[23] but for different reasons. Frankfurter viewed constructive possession as an irrelevant property concept. The *Chimel* court held a remote search without a warrant unreasonable within the meaning of the fourth amendment.

An individual's right to privacy in personal property is not forfeited by surrendering custody to a carrier [24] or placing the article in a storage locker in a public place.[25] Therefore, wherever practical, a search warrant must be obtained prior to seizure of the property.[26]

"The constructive possession doctrine should no longer be relied upon to justify a search incident to arrest. Following an arrest, where there is reason to believe personal property belonging to the arrestee can be found at a remote location, . . . a search warrant should be obtained before seizure and search of the article."

Exceptions to this general rule can be found in instances where there is some clear indication that the property is, or contains, evidence and exceptional or exigent circumstances exist, such as the imminent threat of destruction or removal of the evidence.[27] For example, an officer may lawfully make a temporary detention or limited seizure of personal property in the hands of third parties pending issuance of a search warrant where exigent circumstances exist. *United States* v. *Van Leeuwen* [28] provides an illustration of this principle. There, suspicious packages being transported in the U.S. Mail were temporarily detained, without warrant, by postal authorities, pending further investigation by police and customs officials. Additional facts were developed which established probable cause to search the packages. A search warrant was then obtained, the packages opened and illegally imported coins discovered. The Supreme Court found the limited temporary seizure of the packages, based upon less than probable cause, reasonable within the meaning of the fourth amendment. Reasonable suspicion justified the temporary detention for investigation.[29]

In *Parish* v. *Peyton*, [30] a person known to officers as a dealer in stolen goods was observed to inquire of a bus terminal baggage agent as to certain packages. The packages later arrived at the terminal and officers observed clothing thought to be stolen suits through a tear in one of the packages. After keeping the packages under surveillance for several hours, the officers removed them to the police station and obtained a warrant before searching them. In an approach slightly different from *Van Leeuwen*, the court stated that exigent circumstances existed justifying a seizure without warrant, and noted that "the police could reasonably have believed that the . . . carton might be claimed by the thieves or their collaborators and removed beyond retrieval. In response to the obvious necessity for swift action, they proceeded without a warrant, but limited themselves to securing possession of the articles. Exercising restraint, they deferred the search until after they had obtained search warrants from a magistrate." [31]

Some recent California cases have gone even further, authorizing not only a warrantless seizure of property in transit, but also its search.[32]

Where property has not been placed in the hands of third parties, such as airlines or bus companies, but rather has been put in a closed area, such as a storage locker, a more difficult problem arises. The locker itself is an area where a person has a reasonable expectation of privacy, protected by the Constitution. Any intrusion therein to seize personal property must comply with fourth amendment standards.[33] Therefore, probable cause to believe the locker contains evidence should exist and a search warrant ob-

tained before the locker is opened. It may be advisable for officers to "impound" or maintain surveillance over the storage locker until a warrant can be obtained. This would constitute a limited intrusion on the rights constitutionally protected, while affording police assurance that evidence will not be removed or destroyed.[34]

Conclusion

The constructive possession doctrine should no longer be relied upon to justify a search incident to arrest. Following an arrest, where there is reason to believe personal property belonging to the arrestee can be found at a remote location, accessible to the public, such as a rental locker or in the custody of a common carrier, and there is probable cause to believe such property is or contains evidence of crime, a search warrant should be obtained before seizure and search of the article. If, under like circumstances, there is danger of destruction or removal of the evidence, and the property is held by a third person, an immediate seizure may be made, but the search should be delayed until a warrant is issued. Where the property is located in an area in which the arrestee enjoys fourth amendment protection (e.g., storage locker), a warrant should be secured before entry. (The protection accorded such an area is not absolute. Where there is reliable information that a substance inherently dangerous, as for example a bomb or incendiary device, has been placed in a protected area, such an emergency threatening the public safety would justify an immediate entry and seizure.)

Where an arrest has taken place, personal property of the arrestee is in custody of a third party, and there is reasonable suspicion that the property is or contains evidence, the article may be seized and temporarily detained pending further investigation aimed at developing probable cause for issuance of a warrant. FBI

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

FOOTNOTES

[1] *United States* v. *Garcia-Sarquiz*, 282 F. Supp. 593 (E.D.N.Y. 1968), citing *Jones* v. *United States*, 357 U.S. 493 (1958). See also *Weeks* v. *United States*, 232 U.S. 383 (1914) (dictum); *Abel* v. *United States*, 362 U.S. 217 (1960); and *Agnello* v. *United States*, 269 U.S. 20 (1925).

[2] *Preston* v. *United States*, 376 U.S. 364 (1964); *Chimel* v. *California*, 395 U.S. 752 (1969); *United States* v. *Davis*, 423 F. 2d 974 (5th Cir. 1970), cert. denied, 400 U.S. 836 (1970).

[3] *Blackford* v. *United States*, 247 F. 2d 745 (9th Cir. 1957), cert. denied, 356 U.S. 914 (1958); *United States* v. *Summerfield*, 421 F. 2d 684 (9th Cir. 1970). But see *United States* v. *Guadalupe-Garza*, 421 F. 2d 876 (9th Cir. 1970). The power to search body cavities is an extraordinary one, not to be used routinely.

[4] *United States* v. *Williams*, 416 F. 2d 4 (5th Cir. 1969), cert. denied, 397 U.S. 968 (1970).

[5] *United States* v. *Armpriester*, 416 F. 2d 28 (4th Cir. 1969), cert. denied, 397 U.S. 1046 (1970).

[6] *Chimel* v. *California*, 395 U.S. 752 (1969).

[7] In *United States* v. *Kucinich*, 404 F. 2d 262 (6th Cir. 1968), the court, in a classic understatement, noted that the scope of permissible search "has caused the courts considerable difficulty." See Note, 48 Texas L. Review 1194, 1195 and n. 7 (1970).

[8] See Davis, *Federal Searches and Seizures*, Sec. 3.33 (1964).

[9] It is noted that this article deals solely with personal property exclusive of motor vehicles.

[10] 242 F. 2d 818 (8th Cir. 1957).

[11] The Court cited *Harris* v. *United States*, 331 U.S. 145 (1947), where it was held that a reasonable search is not to be determined by any fixed standard, test or formula, and *Rabinowitz* v. *United States*, 339 U.S. 56 (1950), where the Court stated that legality of a search incident to arrest depends upon "reasonableness under all the circumstances and not upon the practicality of obtaining a search warrant." Id. at 66. *Rabinowitz*, in considering the problem of permissible scope of such a search, found nothing constitutionally objectionable to the thorough search of an entire business office, without warrant, where the defendant was arrested therein.

[12] 242 F. 2d 818, 821.

[13] *United States* v. *Zimmerman*, 326 F. 2d 1 (7th Cir. 1963).

[14] *Harris* v. *United States*, 331 U.S. 145, 164 (1947) (dissent). Although Frankfurter spoke in terms of a search of premises, the principle espoused would appear applicable to all searches.

[15] *People* v. *Perez*, 33 Cal. Rptr. 398, 219 Cal. App. 2d 760 (Ct. App. 1963).

[16] A year later, in *Preston* v. *United States*, 376 U.S. 364 (1964), the Court held that a search remote in time and place is violative of the fourth amendment. Defendants were arrested in a parked automobile, searched, and taken to police headquarters. The car was removed to a garage where it was searched incident to arrest. Incriminating evidence was found in the trunk and convictions were reversed by the Supreme Court in a unanimous decision. The Court stated: "Once an accused is under arrest and in custody, then *a search made at another place*, without a warrant, is simply not incident to arrest." Id. at 367 (emphasis added).

[17] 395 U.S. 752 (1969).

[18] Cases cited footnote 11, *supra*.

[19] 395 U.S. 752, 763.

[20] Id. at 762, citing *Terry* v. *Ohio*, 392 U.S. 1 (1968).

[21] *United States* v. *Blassick*, 422 F. 2d 652 (7th Cir. 1970), cert. denied, 402 U.S. 985 (1971).

[22] But not entirely. *Contra*, *State* v. *Meija*, 257 La. 310, 242 So. 2d 525 (1970), where it was held that officers who found claim tags on the person of an arrestee had the right to obtain his luggage from a bus company, search it, and seize evidence therein, without warrant, under a "constructive possession" justification.

[23] See footnote 14, *supra*.

[24] *Corngold* v. *United States*, 367 F. 2d 1 (9th Cir. 1966).

[25] *United States* v. *Small*, 297 F. Supp. 582 (D. Mass. 1969), citing *Katz* v. *United States*, 389 U.S. 347 (1967).

[26] *Terry* v. *Ohio*, 392 U.S. 1 (1968); *McDonald* v. *United States*, 335 U.S. 451 (1948).

[27] *Warden* v. *Hayden*, 387 U.S. 294 (1967). See also *Johnson* v. *United States*, 333 U.S. 10 (1948); *Carroll* v. *United States*, 267 U.S. 132 (1925); *Schmerber* v. *California*, 384 U.S. 757 (1966).

[28] 397 U.S. 249 (1970).

[29] Id. at 252. See also *United States* v. *McDonnell*, 315 F. Supp. 152 (D. Neb. 1970) (warrantless seizure and detention of automobile under suspicious circumstances for no more than 16 hours found reasonable).

[30] 408 F. 2d 60 (4th Cir. 1969), cert. denied, 395 U.S. 984 (1969).

[31] Id. at 64.

[32] *People* v. *Gordon*, 89 Cal. Rptr. 214, 10 Cal. App. 3d 454 (Ct. App. 1970) (search of trunk and carton containing marihuana at airline terminal); *People* v. *Temple*, 80 Cal. Rptr. 885, 276 Cal. App. 2d 402 (Ct. App. 1969) (warrantless seizure and search of trunk at airline terminal). But see *People* v. *McGrew*, 1 C. 3d 404, 82 Cal. Rptr. 473, 462 P. 2d 1 (1969) (search without warrant of footlocker in custody of airline, absent an emergency, violative of fourth amendment).

[33] *United States* v. *Small*, 297 F. Supp. 582 (D. Mass. 1969); *Katz* v. *United States*, 389 U.S. 347 (1967).

[34] See generally, Note, 84 Harv. L. Rev. 1465, 1475 (1971), a discussion of "impounding" dwelling houses, but presumably applicable to searches of other areas protected by the fourth amend

POLICE LINEUP

(*Continued from page 6*)

violators branch, another new unit charged with keeping track of certain dangerous recidivists, especially ones on probation, parole, or work-release.

Recently, we began holding lineups in a newly constructed lineup room equipped with one-way glass, a special sound system, and video-tape facilities. Suspects are unable to see or hear the witnesses who identify them. Witnesses are able to view the defendants from just a few feet away without fear. And when defense attorneys raise questions in court about the procedures used, we are able to roll a television receiver into court and present a video-tape of the lineup as it actually occurred.

Even without such refinements, we have accumulated an impressive record. Take, for example, this excerpt from the U.S. Court of Appeals, Fourth Circuit, decision in *United States* v. *Collins*, upholding a bank robbery conviction obtained with the help of a Metropolitan Police Department lineup:

"With the District Judge, we see no telling variation from Collins' appearance, in the dress, age, height, weight or other features of those in the lineup, as would mark him as a nonconformist. Nor was he so positioned in the line as to disclose his part in the cast; nor was there taint by hint or other sign to the witnesses for their choices. In short, nothing about the assembly deprived the accused of due process.

"The Sixth Amendment rights of the defendant, too, were scrupulously honored. Alert and astute counsel represented Collins at the lineup. . . . Throughout the proceeding, they were consulted by those in charge, and voiced no exception. Additionally, the United States Attorney for the District of Columbia came in person. This special solicitude doubtlessly was attributable to the recent opinions in *United States* v. *Wade* and *Gilbert* v. *California*. Thus, conscientious and diligent observance was paid to the Sixth Amendment as focused by those decisions. Hence, the identification by the lineup was not challengeable." [Citations omitted.]

Not all decisions, of course, paused to pay tribute to our lineup procedures as did the court in *Collins*. But, on the other hand, few decisions have even had to deal with the lineup and identification issue, because we have given even the most meticulous defense attorneys little on which to build an appeal. Thus, a change initially brought on by decisions of the U.S. Supreme Court has, in the long run, helped us make more solid cases and see them through to convictions. FBI

Casper to Mohr memo 10-4-71, re Resolutions, IACP 76th Annual Conference

IACP RESOLUTIONS CONCERNING CRIMINAL HISTORY SYSTEMS

Members of the International Association of Chiefs of Police (IACP) recently adopted resolutions concerning mandatory reporting of arrest dispositions and the management and control of law enforcement computerized information systems at their 78th Annual Conference in Anaheim, Calif.

The resolution advocating central State court disposition reporting programs resolves: "That IACP members encourage their respective communities to support the enactment of legislation to mandate the reporting of arrest disposition data applicable to each arrest and that such data be sent by the arresting agency, the prosecutor, or the court at whatever stage it occurs to the central file at the State and national level to which an arrest fingerprint record was submitted." This resolution further urges that until such mandatory legislation becomes law, appropriate criminal justice agencies should make every effort to submit arrest disposition data in each instance.

In another resolution the IACP "strongly endorses the requirement that law enforcement agencies retain management and control of dedicated systems used for the processing of crimes, criminals, and criminal activity regardless of the technology." Citing the policies adopted by law enforcement, in cooperation with the FBI National Crime Information Center, to protect criminal information from misuse, the statement pledges IACP support for legislation to keep such systems under the management control of law enforcement agencies.

TRAFFIC DEATHS

The drinking of alcoholic beverages is a factor in at least half of the fatal motor vehicle accidents, according to studies available to the National Safety Council. In addition, three out of 10 of the fatal accidents in 1970 involved vehicles which were being driven too fast or too fast for existing conditions. Driving too fast is also a factor in injury and property damage accidents. The Council reports that speed is the principal factor in such accidents which occur in rural areas, and it ranks high as a factor in those accidents which occur in urban areas.

Information available on safety belts indicates that if all passenger car occupants used belts at all times, 8,000 to 10,000 lives would be saved annually. Safety belts, the National Safety Council estimates, saved about 2,800 to 3,500 lives in 1970.

ROBBERY REDUCTION

(*Continued from page 20*)

within the cash register drawers where they cannot be tripped accidentally, and an automatic shutoff is helpful to compensate for heat and possible electrical shorts. The goals set for the use of rental vehicles should be realistic; it should be noted that mileage tends to accumulate at a greater rate than projected in attempts to cover problem areas sufficiently. It is also suggested that sufficient space be set aside for "robbery team" conferences, report-writing, etc., to prevent overcrowding and confusion during shift changes of the day robbery detail.

Unproductive Results

Attempts to pinpoint "probabilities" of business armed robberies in conjunction with a specified day of the month, specified 4-hour period of of time during that day, and a specified location within a square-mile radius were unproductive, inasmuch as armed robberies are random events and are highly unpredictable within these parameters, with a range of from eight to 63 incidents monthly for the years 1966 to 1970.

It also became evident as the project progressed that the normal probability patterns were being disturbed, that the historical rates of increase were not occurring, but that abnormal and fluctuating decreases were being exhibited, ranging from −6 percent to −63 percent. Midway through the project the short-range trend was used to establish total numbers, and the ratio of forecast to actual incidents improved.

Area forecasts for preventive patrol activity tended to be unsuccessful because of the low incidence of these offenses during the period of time that the C.R.R. team was available. There were no "hits" recorded within the parameters as set forth in the above paragraph; however, robberies did occur in adjacent sector areas on the days and at the times (within 4 hours) forecast. The techniques developed will be studied in depth to determine if they can be applied successfully to other types of crimes with a larger incidence, e.g., burglary, or to armed robberies where selective enforcement, as applied during the project period, would not be used and thus would not distort the normal probability patterns.

Prior to the start of the project, approximately 20 to 25 robberies a month were occurring in convenience markets and liquor stores. Since the program was initiated, this rate has decreased to between six and nine robberies a month, due primarily, we believe, to the 204 hidden cameras installed at 191 convenience markets and liquor stores. (Gas stations presented a difficult problem for the use of cameras and other electronic equipment because of their physical layout and were not made a part of the present program.)

Value of Photographs

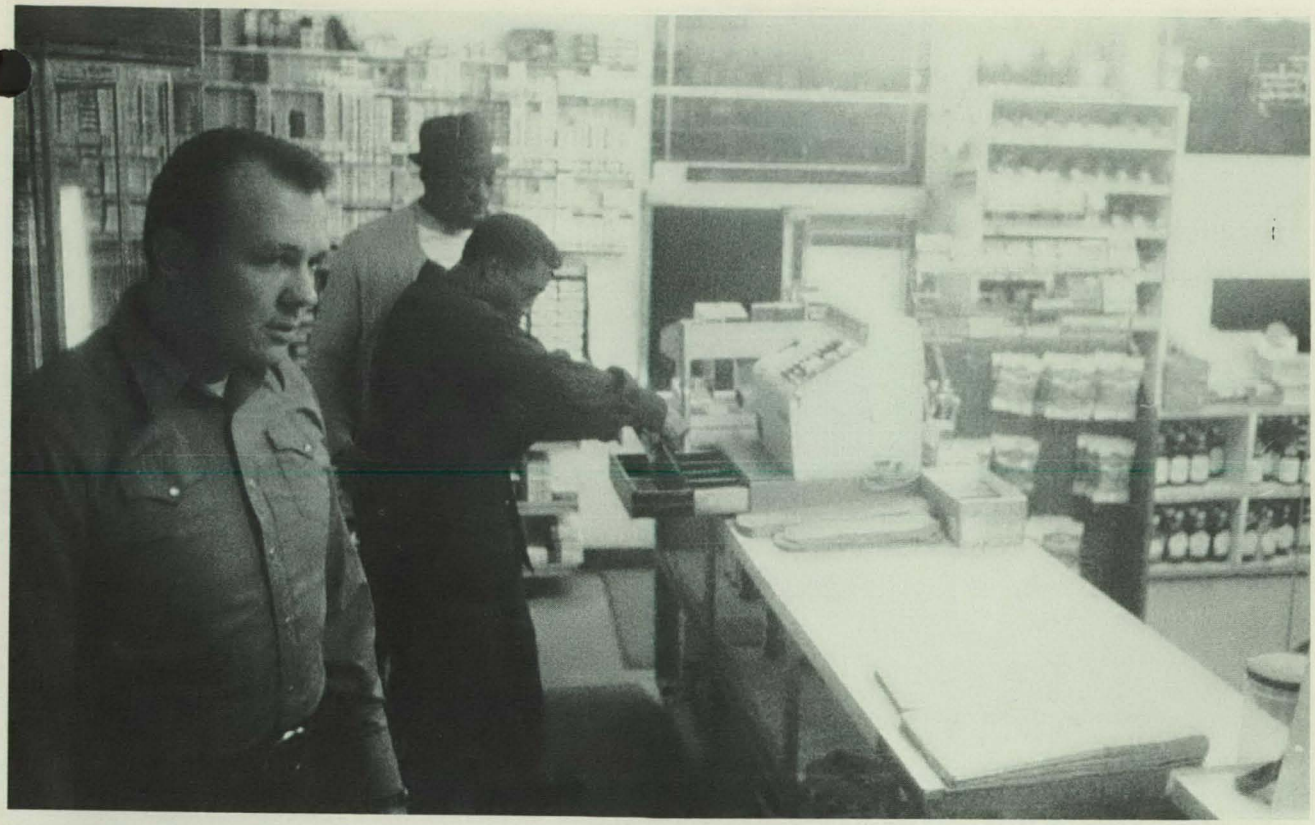
Based on 16 pictures taken during robbery offenses, 10 arrests were made and 20 robberies were cleared. Exposures taken during robberies have proved to be valuable in the identification of suspects; in several we learned during followup investigation that the person photographed during the commission of a crime in a convenience market or liquor store was also the person responsible for robbing a tavern, taxicab driver, restaurant, drive-in, or other business establishment. Without the pictures taken with the hidden cameras, the suspect might never have been identified as the perpetrator of the other crimes. Photographs of suspects in the process of a robbery have drastically reduced the man-hours formerly expended in attempting to identify a suspect and have proved to be acceptable to, and excellent evidence in, the courts. During the investigation of one armed robbery involving several local motorcycle gang members caught in the act by the camera, officers cleared 18 additional robberies, six burglaries, five narcotics offenses, and numerous crimes involving stolen credit cards and checks.

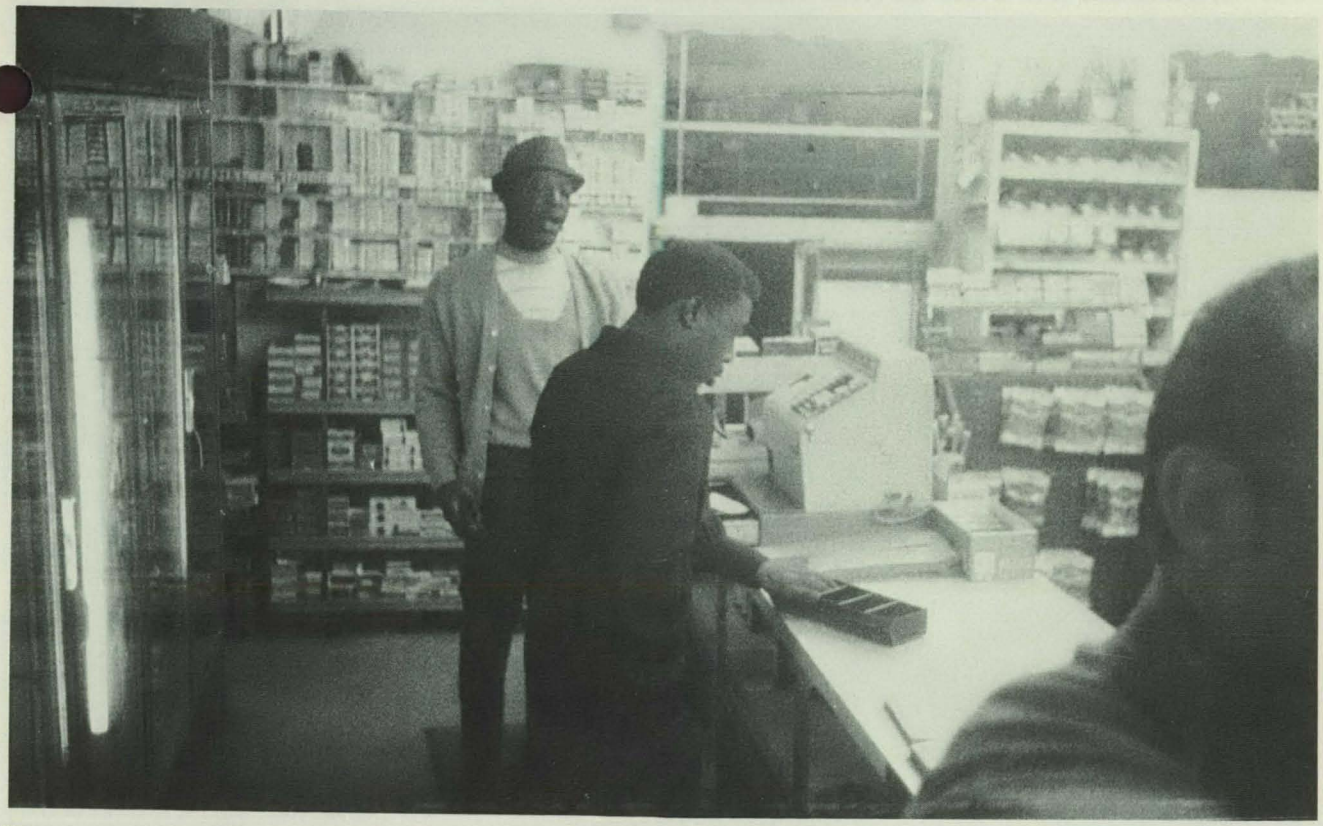
Rate Down

Based on a month-by-month analysis of department reports for the first 6 months of the program, the rate of increase for robbery in Phoenix has been slowed. Using historical data, we had forecast prior to the start of the C.R.R. program that there would be a 16 percent average rate of increase during the 6 months in question; the C.R.R. effort has been responsible for holding the rate to a 3 percent rise. There has also been a significant reduction in the monthly robbery rate over previous years. January 1971 was down 33 percent and February 1971 down 6 percent. The clearance rate has averaged between 40 and 45 percent a month since the start of the program, which is considerably better than the national clearance rate average of 25.8 percent for this crime in 1969 and the prior clearance rate in Phoenix.

The police pressure applied in combating this type of offense in our city, however, has had some effect in our neighboring towns. While our incidence rate appears to have decreased and the clearance rate has remained stable at approximately 45 percent, satellite cities are experiencing an increasing incidence rate of robbery offenses.

The administrators of our department believe that all phases of the C.R.R. program have contributed to the ultimate goal of reducing robbery offenses in Phoenix.





The two suspects in this liquor store robbery demanded two bottles of whisky and money from the cash register; one suspect threatened to kill the victim with a .22 caliber automatic.

All are from National Safety Council Report; 1971 edition

INVESTIGATORS' AIDS

pg 54

NUMBER OF DRIVERS IN 1970

There were approximately 111 million drivers in the Nation in 1970, according to the National Safety Council. Of this estimated number of drivers, 63,500,000 were males and 47,500,000 were females. The highest number of drivers, including both sexes, is in the 20–24 age bracket—12,300,000.

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THE SAFEST; THE MOST DANGEROUS

The National Safety Council reports that Mondays, Tuesdays, and Wednesdays in January are considered the safest days of the year for motorists to travel. Of the 54,800 traffic deaths recorded in 1970, only 11 percent, an average of 116 deaths per day, occurred on those days. January recorded 3,750 deaths.

On the other hand, Saturdays in October are good days to keep off the roads. In 1970, 21 percent or an average of 221 traffic deaths per day occurred on Staurdays. October led the months with a total of 5,230 traffic deaths.

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MOTOR VEHICLE DEATHS

There were 54,800 traffic deaths in the United States in 1970, a 2 percent decrease from 1969, according to the National Safety Council.

California, with 4,901, led the States in total traffic fatalities in 1970, but 179 less than its 1969 total. However, California's death rate, the number of deaths per 100 million vehicle miles, was lower than Alaska's, the State with the least number of deaths, 108, during the year. California's death rate was 4.2 percent whereas Alaska's was 7.8 percent, the highest in the country. Mississippi and New Mexico followed with 7.7 and 7.6 percent, respectively. Once again, Connecticut recorded the lowest death rate, 2.7 percent, and the only State registering less than 3 percent.

Twenty-six States recorded fewer fatalities in 1970 than in 1969. Michigan registered the most significant drop with a reduction of 310; Ohio was second with a reduction of 204.

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FATALITIES HIGHER IN RURAL AREAS

Approximately two out of three deaths in 1970 occurred in rural areas, according to the National Safety Council. In rural areas, the victims were mostly occupants of motor vehicles, whereas in urban areas nearly two out of five of the victims were pedestrians. However, nonfatal injury accidents and property damage accidents occurred more frequently in urban areas.

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ACCIDENTS ARE EXPENSIVE

For motorists concerned with the soaring cost of motor vehicle insurance, it is significant to note that according to reports from the National Safety Council, the estimated cost of motor vehicle accidents in 1970 was $13,600,000,000. This total is more than double the cost of motor vehicle accidents a decade ago and an increase of approximately $1,400,000,000 from 1969.

QUOTABLE QUOTE

"True liberty consists in the privilege of enjoying our own rights, not in the destruction of the rights of others."

pg 355

—George Pinckard

QUOTABLE QUOTE

"There is no country in the world in which everything can be provided for by the laws, or in which political institutions can prove a substitute for common sense and public morality."

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—De Tocqueville

The New Dictionary of Modern

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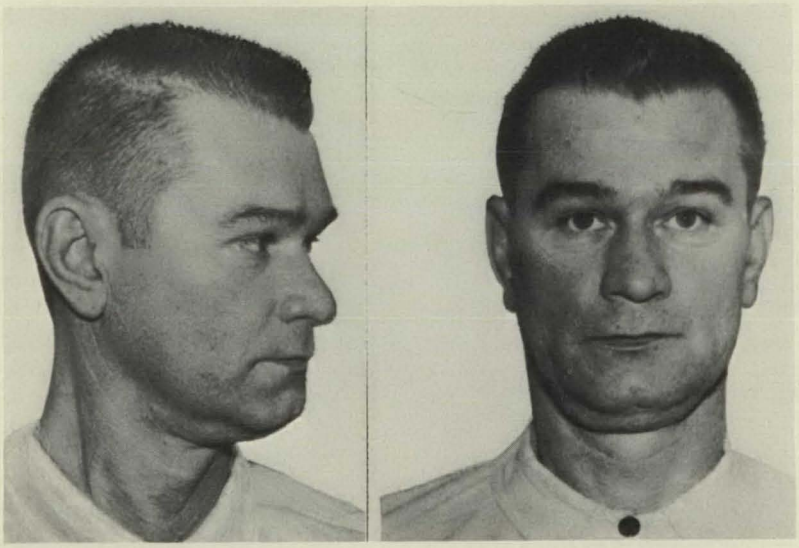
TRENDS IN DEATH RATES

While traffic deaths decreased 2 percent in 1970, the National Safety Council reports, both vehicle mileage and the number of vehicles increased 4 percent and population increased 1 percent. As a result of the decrease in deaths and increase in vehicle mileage and registration and population, the following rates declined in 1970 from 1969: mileage death rate, deaths per 100 million miles of travel, 4.91 percent from 5.23 percent; registration death rate, deaths per 10,000 registered vehicles, 4.92 percent from 5.21 percent; and population death rate, deaths per 100,000 population, 26.9 percent from 27.7 percent.

WANTED BY THE FBI



WILLIAM JOHN MOORE, also known as: William J. Moore, Jr., Albert Sheldon, Whip Moore.

Bank Robbery; Interstate Flight—Breaking, Entering, Larceny; Parole Violator

William John Moore is being sought by the FBI for bank robbery; interstate flight to avoid confinement for breaking, entering, and larceny; and violating the terms of his parole from a Federal penitentiary.

On or about January 14, 1970, Moore allegedly violated the terms of his parole by breaking into a private home in Glen Rock, N.J. Moore and an accomplice were apprehended as they tried to escape from the house and were charged with breaking, entering, and larceny. On September 5, 1970, Moore and four other prisoners escaped from the Rahway, N.J., State Prison. On February 1, 1971, Moore and three accomplices allegedly robbed the Peoples Trust Co. of New Jersey in Hasbrouck Heights, N.J., of over $142,000. Two of the alleged bank robbers were subsequently apprehended. A Federal warrant for Moore's arrest was issued on January 23, 1970, by the U.S. Board of Parole at Washington, D.C. Federal warrants were also issued on September 23, 1970, and February 24, 1971, at Newark, N.J.

Caution

Moore reportedly has carried a shotgun in the past and allegedly has stated that he will not be taken alive. He should be considered very dangerous.

Description

Age	43, born Oct. 15, 1928, Paterson, N.J.
Height	6 feet.
Weight	175 to 185 pounds.
Build	Medium.
Hair	Dark brown.
Eyes	Green.
Complexion	Ruddy.
Race	White.
Nationality	American.
Scars and marks	Scar under chin, inside left forearm, right thumb.
Occupations	Interior decorator, laborer, lithographer, painter, and truckdriver.
FBI No	4, 262, 150.
Fingerprint classification	22 O 26 W IOI L 24 W OOO

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.

M.F. Row to Callahan Memo 9-17-7
re Computer Operations

NCIC REACHES MILESTONES

August 1970 marked a milestone in the history of the NCIC. During that month, the total number of active records in NCIC exceeded 3 mill[illegible] and the daily average of all transactions was 72,453, which was a 5.7 percent increase from July and an all-time high average for any month. Another first was attained as traffic totaled over 80,000 transactions daily on Tuesdays, Wednesdays, and Thursdays, marking the highest average recorded for any day.

National Safety Council Report

TRAFFIC FATALITIES HIGHER AT NIGHT

Motor vehicle deaths at night total only a few thousand more than deaths during the day, according to the National Safety Council. However, the death rate at night, deaths per 100 million vehicle miles, is considerably higher—8.7 percent as compared with 3.3 percent during the daylight hours.

693-15

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Tribute to a Friend

On his 94th birthday, October 2, 1971, Hon. Carl Hayden, former Senator from Arizona, was presented a plaque from FBI Director J. Edgar Hoover "in gratitude for his years of outstanding support of law enforcement and the FBI."

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QUESTIONABLE PATTERN

The pattern presented here is classified as a central pocket loop-type whorl with a meeting tracing. Because of the appendages on the recurves in front of the left delta, this pattern is referenced to a loop with three ridge counts.