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Clarence M. Kelley, Director

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CONTENTS

THE COVER

The turn-of-the-century illustration featured on our cover serves to highlight an article dealing with the history of the New York City Police Department which begins on page 16 of this issue. Use of this illustration courtesy of Alfred J. Young Collection, N.Y.C.

Message from the Director . . .

AS 1976 DRAWS TO AN END and the FBI Law Enforcement Bulletin approaches its 45th anniversary of service to local, State, and Federal law enforcement, I would like to express my deep appreciation to all who have contributed so generously in talent and effort to the success of this publication.

The FBI Law Enforcement Bulletin has endeavored over the years to provide timely and authoritative information of professional value. Toward this end, an impressive array of experienced and knowledgeable authors from throughout law enforcement and related fields have discussed, in the pages of the BULLETIN, new concepts, innovative programs, useful techniques and procedures, and other noteworthy achievements and matters of professional interest.

Elsewhere in this issue appears an index of articles printed in the BULLETIN during 1976. A brief examination of this listing will suggest something of the rich diversity of the contributions—and the stature of its contributors—that we believe characteristically distinguish the BULLETIN and serve to advance the professional competence of those we seek to serve. The more than 60 full-length articles published during the year dealt with such varied subject areas as investigation, forensic science, identification, firearms, police operations, training, community relations, facility security, personnel, and the police family.

A number of articles relating to police history in various locales were afforded prominence during this Bicentennial year in tribute to law enforcement's key role in the development and progress of our Nation.

In a more practical vein, readers of the BULLETIN were also informed of several programs offering such important cooperative services as explosive disposal assistance and helicopter medical evacuation by military units. In addition, regularly featured articles by law-trained Special Agents of the FBI examined various legal matters of specific interest and concern to police officers.

Among many presentations pertaining to the management field, an article describing the FBI's Management Aptitude Program for Special Agents in relation to their career development was particularly well received. More recently, extensive coverage in the BULLETIN of the new FBI National Executive Institute has also generated widespread interest and has prompted considerable inquiry concerning future sessions of this unique training experience for top-level law enforcement executives.

Any appraisal of the BULLETIN's worth, however, would be woefully incomplete without an acknowledgment of the publication's most fundamental asset: the remarkable degree of cooperative assistance that has sustained it in this and preceding years. Indeed, without your submissions, suggestions, and encouragement, the mag-

MESSAGE

azine could not continue to achieve its goals. My FBI associates and I are most grateful for this vital support and shall do our utmost in the forthcoming year to carry forward the BULLETIN's proud tradition of professional service to American law enforcement.

CLARENCE M. KELLEY
Director

DECEMBER 1, 1976

REALISTIC SHOTGUN TRAINING: The Combat Skeet Course

By
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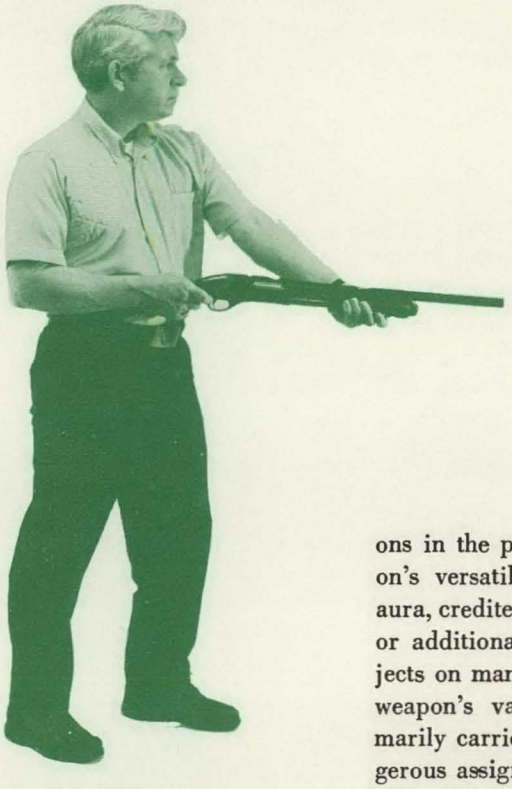


Increasing attacks on law enforcement officers in the United States in recent years emphasize the necessity for officers to be continually alert during all phases of police work. As a result of increased attacks and other dangerous situations encountered daily by police, many patrol cars are equipped with a shotgun as a backup weapon. In view of the capabilities of the shotgun, it is often also issued to police personnel for possible use during raids and other special assignments where the likelihood of armed resistance or intervention exists.

For many years, law enforcement officers have considered the shotgun to be one of the better defensive weapons in the police arsenal. This weapon's versatility and its intimidating aura, credited with preventing adverse or additional actions by armed subjects on many occasions, attest to the weapon's value. As a weapon primarily carried only on the most dangerous assignments, it is ironical that it is also one that is oftentimes neglected in departmental firearms training. In many instances, if shotgun training is provided, it is often of such limited duration and scope that the officer is unable to develop a

Figure 1.

proper mastery of the weapon.

There seems to be a theory prevalent in some quarters that an officer, without the benefit of sufficient practical range experience, can adequately protect himself, or innocent lives, with this weapon, when necessary, simply by virtue of its capability to expel multiple projectiles.

When an officer becomes involved in a life-threatening confrontation, his ingrained proficiency with his shotgun, or other available weapon, may well determine whether he lives or dies. To be prepared for such a contingency, an officer should insure that his weapon is fully loaded at all times while on the job. In a gun battle, he must also be able to reload quickly without looking at the weapon in order to be alert for the threatening subject or subjects who may close in on him or change position.

In order to develop an individual's capability to load and operate the police shotgun from an alert position during firing situations, the firearms staff at the FBI Academy at Quantico, Va., has developed a new course, "Combat Skeet," designed to teach these techniques under the pressure of time in a simulated combat situation.

Initial Training

After initial training on safety procedures, nomenclature, basic positions, and operational functions of the shotgun, each student should be required to demonstrate proper handling of this weapon including loading, unloading, "safe" positions, and other safety considerations prior to any actual shotgun shooting. Exercises in firing the shotgun from the hip and shoulder at stationary targets should be performed by trainees prior to any actual firing at moving targets such as occurs in skeet courses.

Loading Techniques

One of the standard methods for loading the shotgun is the "assembly area" loading technique. This method is often used when loading in areas where many citizens and/or officers are congregated and the only safe place to logically point the shotgun is up in the air.

The first step in this loading process is to hold the shotgun in the left hand by the pistol grip with the index finger pressing on the safety and the thumb pointing up on the receiver (fig. 1). The elbow rests against the hip, and the shotgun is held parallel to the body with the muzzle above the head of the tallest person present. Since loading of shells will be accom-

Figure 2.

plished with the right hand, the shells to be loaded should be placed in an easily accessible right-side pocket. Loose items such as keys or change should not be kept in the same pocket with the shells as they could delay the loading process and, in actual combat situations, could be inadvertently inserted into the chamber, thereby possibly disabling the weapon or causing it to malfunction. Additionally, equipment such as a handgun and holster, handcuffs, or nightstick should be worn in such a manner as not to interfere with the quick removal of shells from the pocket.

Most shotguns utilized by law enforcement agencies have a five-shell capacity. If the shotgun is to be used immediately, a shell can be dropped into the ejection port and the action closed with the right hand; four other rounds are then loaded into the mag-

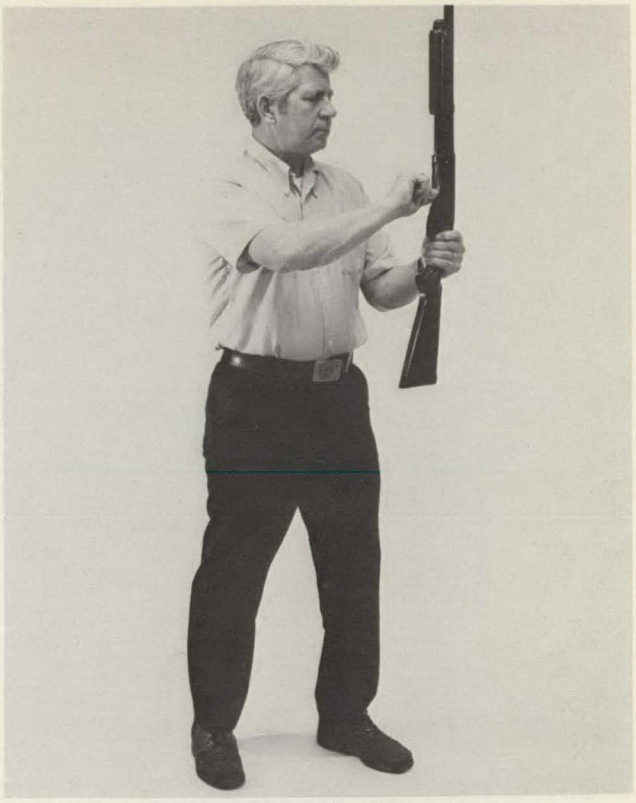


Figure 3.

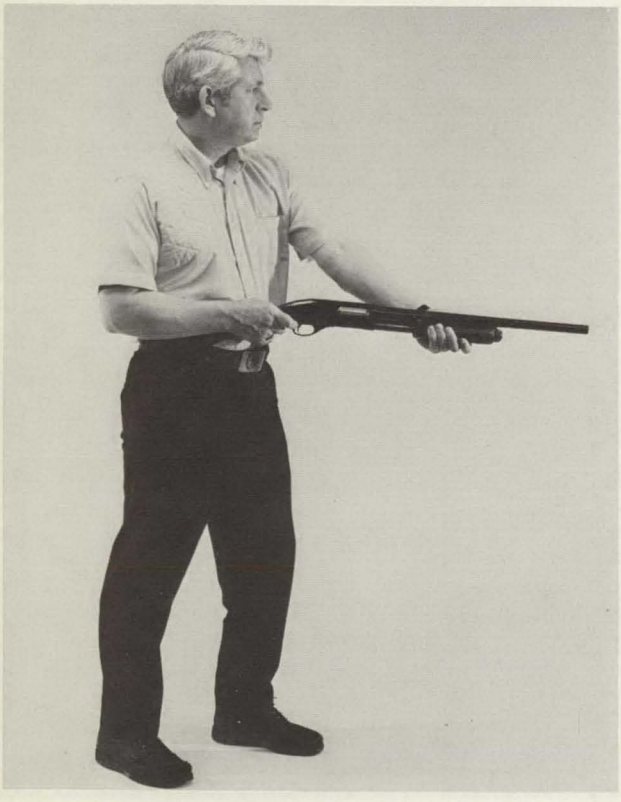


Figure 4.

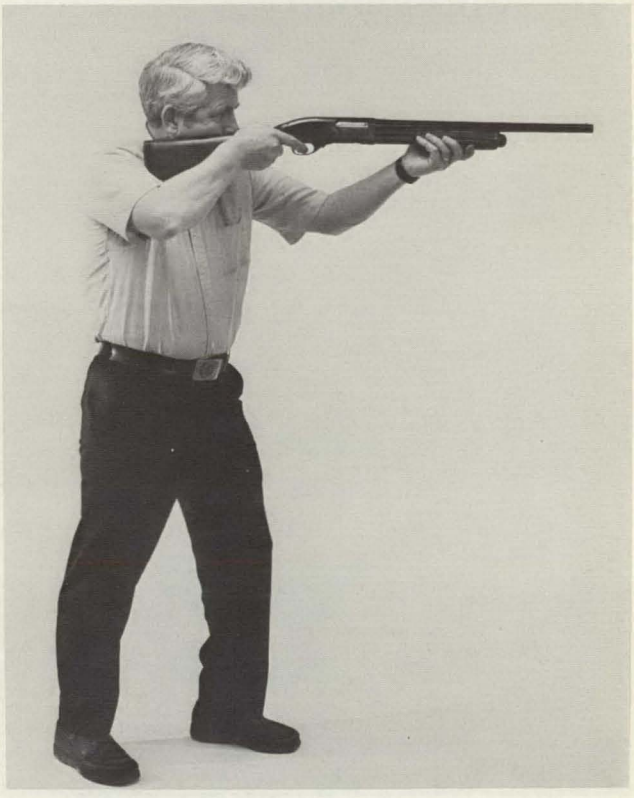


Figure 4a.

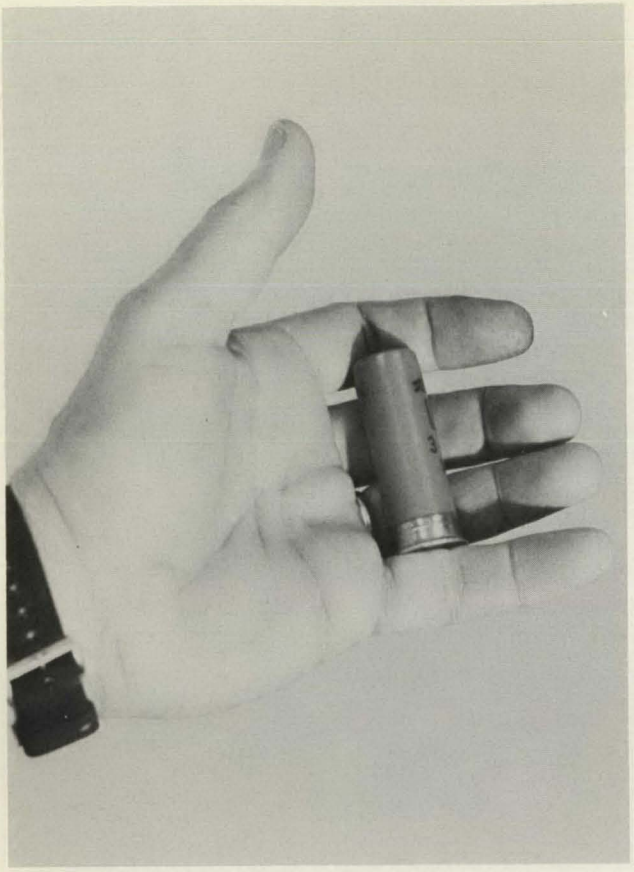


Figure 5.

Figure 6.

azine tube fore-end (figs. 2 and 3).

If the weapon is to be placed in a vehicle locking rack or hand carried in a vehicle to a confrontation scene, only four-round loading is recommended. To achieve this, the action is first closed on an empty chamber; then four rounds are loaded into the magazine tube (fig. 3). Upon exiting the vehicle with the shotgun, a live round is racked from the magazine into the chamber and the fifth round is then manually inserted into the magazine tube.

Intermediate Training

An intermediate stage in training would be to further develop those skills learned in initial training by shooting the well-known American Skeet Course which is used by many police academies and firearms ranges as a standard course for teaching shotgun handling and shooting.

Combat Loading

The following directions apply to use of a pump or slide action shotgun but can be altered for other types of shotguns.

In combat loading, for a right-handed shooter, the shotgun is held by the pistol grip in the right hand, parallel to the ground, with the toe of the stock against the outside of the right hipbone (fig. 4). In this manner the shooter can immediately fire from the hip when a target appears or, if time allows, the weapon can be fired from the shoulder (fig. 4a). The ammunition should be carried in the left pocket and all loading is accomplished with the left hand.

The shell to be loaded should be grasped in the left hand at the base of the fingers with the brass portion of the shell resting against the inside of the little finger (fig. 5). By holding the shell in this manner, the shooter can, in an emergency, simultaneously

Figure 7.

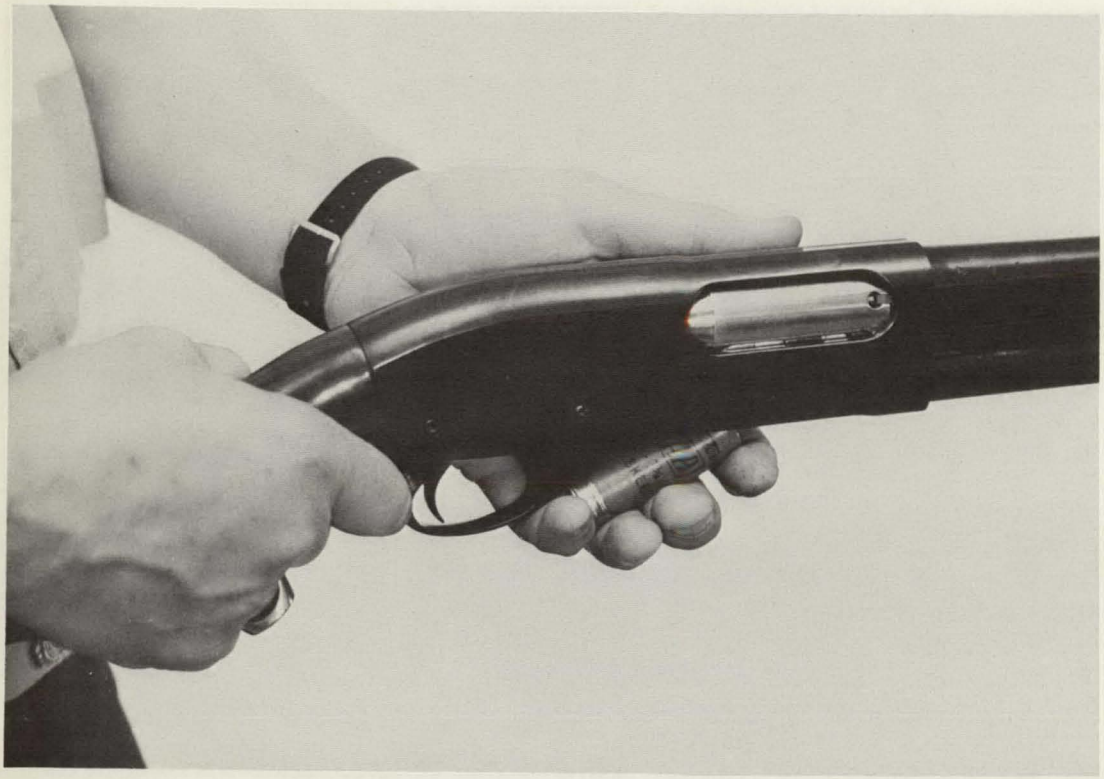


Figure 8.

Figure 9.

grasp the foregrip of the weapon for steadiness and fire the shotgun, without dropping the shell.

All loading should be done with the head and eyes up and alert for a potential target. The instructor, however, may allow the student to practice the loading procedure a time or two while looking at the gun in order to gain confidence.

Two methods are acceptable for loading the first round when the weapon is empty and the action is open. In the first method, the left hand passes under the action and the fingers of the left hand raise the shell until it drops into the ejection port (fig. 6). Then the left hand is moved slightly forward along the weapon to the foregrip. The foregrip is moved forward, closing the action and thereby chambering a live round.

In the second and less desirable method, the weapon is canted slightly to the left. The left hand passes over the gun, and the shell is dropped into the ejection port (fig. 7). The foregrip is then moved forward, closing the action and chambering a round.

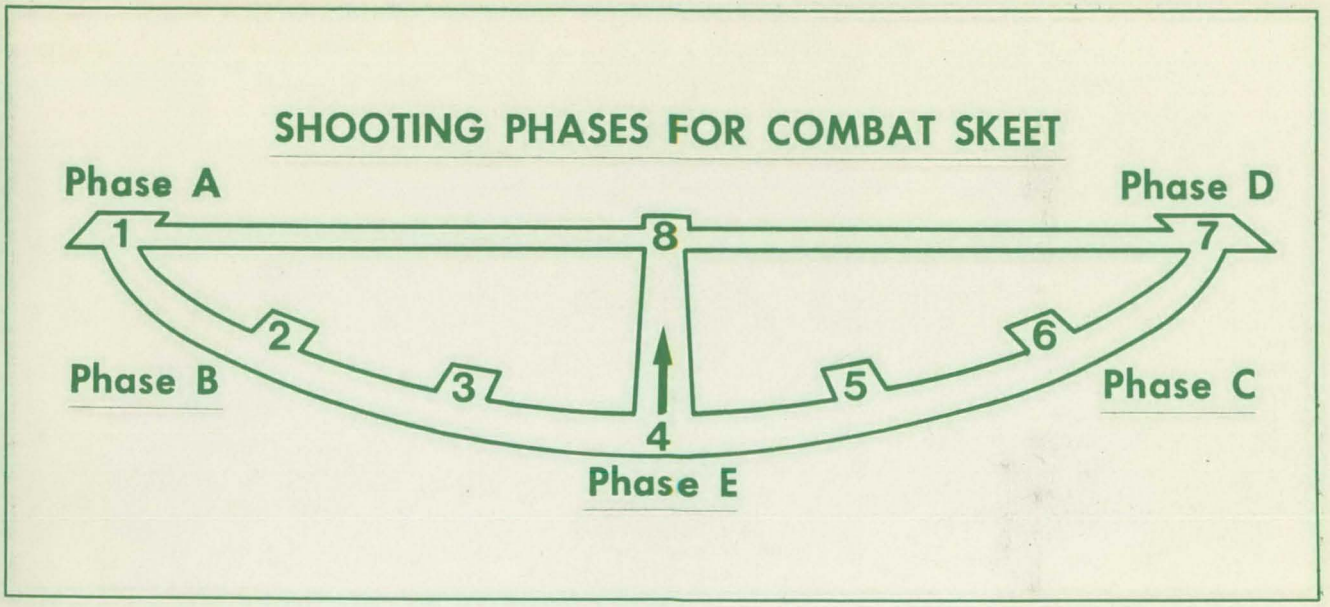
To load shells into the loading port, the left hand is brought under the weapon and the shell carrier is depressed with the shell (fig 8). Use the thumb to fully seat the shell into the magazine tube as use of the little finger could cause the shell to miss the shell stops (fig. 9). To aid in locating the loading port, the shooter can first bring the shell up against the forward end of the trigger guard then slide it forward into the tube (figs. 8 and 9).

These loading techniques would have to be altered in a logical fashion for a left-handed shooter.

Further Preparation

To further prepare for the Combat Skeet Course, at this point it might be desirable to have trainees fire a round of the American Skeet Course, using

Figure 10.



combat loading techniques.

Combat Skeet Course

The Combat Skeet Course is fired on a standard skeet field and consists of 5 phases, with 5 shells fired at each phase, for a total of 25 shells.

(See "Shooting Phases for Combat Skeet" diagram.)

Phase A: The shooter steps into station No. 1 with five No. 9 shot shells and, on command, loads one round into the barrel and one round into the tube using combat loading techniques. When the weapon is loaded and in the ready-gun position with the safety on, the shooter says, "Ready" (fig. 10). He has now started a sequence wherein he will be presented with five moving clay birds to shoot at. The first bird can be released from the target house any time within 4 seconds and can be released as a "high house" bird, a "low house" bird, or doubles (low and high house), at the instructor's discretion. From the report of firing, the instructor will count 4 seconds then release another bird to the shooter. In the case of doubles, the 4 seconds is counted from the second shot. Overall, the shooter will receive three single birds, either high or low, and one set of doubles, in any sequence. The shooter must reload after each shot or shots, as necessary, using combat reloading techniques and recognizing that "doubles" will appear at some point in each phase. Any of the five potential shots not fired are counted as misses.

Phase B: This phase is fired from station No. 2 and clay bird target releases are similar to phase A but sequence should vary.

Phase C: This phase is fired from station No. 6 and clay bird target releases are similar to phase A but sequence should vary.

Phase D: This phase is fired from station No. 7 and clay bird target releases are similar to phase A but sequence should vary.

Phase E: Phase E starts at station No. 4. With weapon loaded with two rounds and at the ready, the shooter starts walking toward station No. 8. As he walks, he is presented with five birds similar to phase A but in varied sequence. (In a range setup, similar to that at the FBI Academy, the shooter should never walk past station No. 8, as he might come into the line of fire from an adjacent skeet field.)

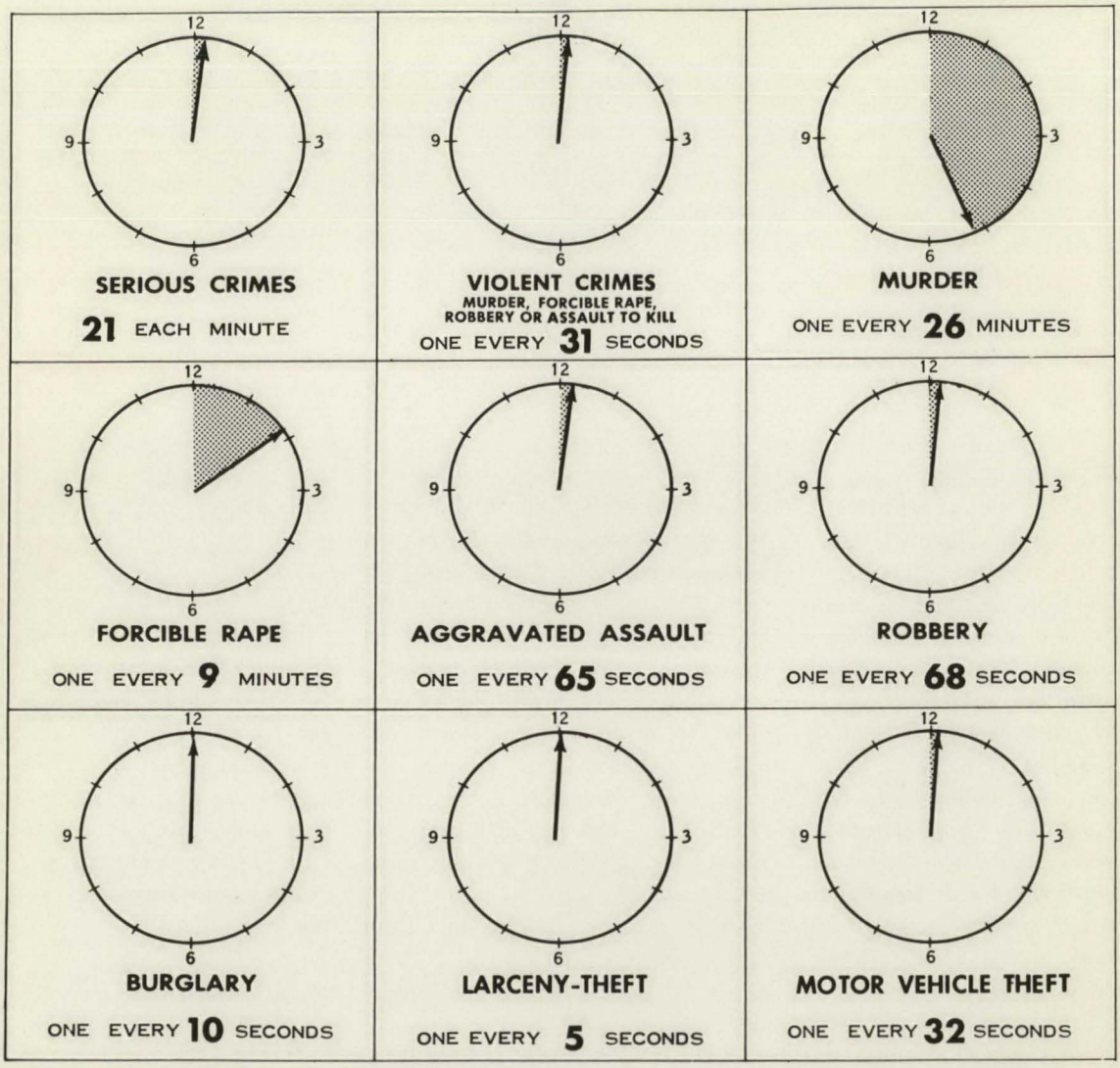
Variations

Some variations on the course could include substituting station No. 3 or No. 5 for other stations, to provide for shots with a different angle, or more walking stations similar to phase E may be used. A sound tape with shouting, horns, sirens, and machine-gun, or other weapons firing, can add realistic noise simulations to the shooting.

More Realism

In the Combat Skeet Course, our experience reveals the average shooter hits about three fewer birds overall than in shooting the American Skeet Course; however, it is felt that the Combat Skeet Course incorporates a higher degree of realism in police shotgun training. More importantly, it is also a key step toward developing the trainee's overall proficiency with the shotgun under practice conditions. This could give the officer the necessary edge *when it really counts.*

CRIME CLOCKS 1975*



*Crime clocks should be viewed with care. Being the most aggregate representation of Uniform Crime Reports data, they are designed to convey the annual reported crime experience by showing the relative frequency of occurrence of reported offenses. This mode of display should not be taken to imply a regularity in the commission of serious crimes; rather, it represents the annual ratio of reported crime to fixed time intervals.

Pre-Accusation Delay— Constitutional Limitations

By
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"I ought not to allow this case to go further. It is monstrous to put a man on his trial after such a lapse of time. How can he account for his conduct so far back? If you accuse a man of a crime the next day, he may be enabled to bring forward his servants and family to say where he was and what he was about at the time; but if the charge be not preferred for a year or more, how can he clear himself? No man's life would be safe if such a prosecution were permitted. It would be very unjust to put him on his trial." *Regina* v. *Robins*.[1]

As illustrated by the above quote, taken from an 1844 British case, it has long been recognized as a fundamental principle of justice that an individual should not be forced to answer to overly stale criminal charges.

There are two distinct and separate categories of delay which could result in a defendant's being brought to trial for a criminal act he allegedly committed many months or even many years before. It is important to distinguish between these two types of delay, as they have been treated differently by the courts and legislatures who have attempted to deal with the problems created by such delay.

The first type or category of delay is that which transpires between the occurrence of the criminal offense and the arrest, indictment, or other formal charging of the suspect. This is generally referred to as pre-accusation or pre-indictment delay.

The second type or category of delay is the delay between the arrest, indictment, or other formal charging of the defendant and his court trial.

This article will examine the manner in which the courts have dealt with problems created by the first category of delay set forth above, hereinafter referred to as pre-accusation or pre-indictment delay, particularly focusing on the constitutional guarantees applicable to this type of delay. Law enforcement officers and prosecutors who are aware of the general principles established by the courts in this area of the law will often be able to avoid the kinds of delays which have been characterized as "unreasonable" and which have sometimes resulted in dismissal of otherwise prosecutable cases.

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.

Statute of Limitations

The primary mechanism provided by law to guard against possible prejudice to a defendant's ability to defend resulting from the passage of time between a crime and an arrest or charge is the applicable statute of limitations. As the U.S. Supreme Court noted in *Toussie* v. *United States*,[2]

> "The purpose of a statute of limitations is to limit exposure to criminal prosecution to a certain fixed period of time follow-

ing the occurrence of those acts the legislature has decided to punish by criminal sanctions. Such a limitation is designed to protect individuals from having to defend themselves against charges when the basic facts may have become obscured by the passage of time and to minimize the danger of official punishment because of acts in the far-distant past." [3]

Most criminal statutes either contain a specific period of limitation or are subject to other general statutes of limitations, although in many jurisdictions prosecution of capital offenses is subject to no time limitation.[4] However, it has become increasingly clear in the past several years that the applicable statute of limitations does not fully define a defendant's rights in the area of pre-accusation delay.

Applicability of the Sixth Amendment Speedy Trial Guarantee

It might appear obvious that the speedy trial guarantee of the sixth amendment would not attach until after charges are lodged against a suspect. Nevertheless, defendants have repeatedly and vigorously argued that this provision should also protect against pre-accusation delay. A brief consideration of the development and resolution of this question may be helpful.

The sixth amendment of the U.S. Constitution states, in part, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial. . . ." This amendment has been held applicable to the States by way of the due process clause of the 14th amendment.[5]

The underlying reasons for the speedy trial requirement of the sixth amendment have been enumerated by the U.S. Supreme Court as follows: (1) to prevent undue and oppressive incarceration prior to trial, (2) to minimize the anxiety and concern accompanying public accusation of a crime, (3) to limit the possibility that long delay will impair the ability of an accused to defend himself.[6]

The question of whether prosecutorial delay before arrest or indictment could constitute a violation of the sixth amendment's speedy trial requirement was the subject of several decisions of Federal courts prior to 1971. The vast majority of the courts which considered this question recognized the sixth amendment right to a speedy trial only after a prosecution had been formally initiated or held that the sole safeguard against pre-indictment delay is the relevant statute of limitations.[7] However, a very few lower Federal courts did hold that delay, for sixth amendment purposes, should be computed from the time of the criminal act, and dismissed indictments for excessive delay.[8]

In 1971, the U.S. Supreme Court decided *United States* v. *Marion*,[9] a landmark case in this area of the law. In *Marion*, the defendants claimed that their rights to a speedy trial under the sixth amendment and to due process of law under the fifth amendment were violated by a 3-year delay between the last criminal act charged and the return of the indictment against them. In *Marion*, the Supreme Court concluded that the sixth amendment right to speedy trial does not extend to persons who do not stand "accused" of committing a crime. In this case the defendants (who had not been previously arrested or otherwise charged) were not "accused" until the indictment was returned. The Court explained that:

> ". . . it is either a formal indictment or information or else the actual restraints imposed by arrest and holding to answer a criminal charge that engage the particular protections of the speedy trial provision of the Sixth Amendment." [10]

Since *Marion*, courts considering this question have consistently held that the sixth amendment's speedy trial guarantee does not apply to delay prior to either arrest or indictment.[11]

Attempts by defense attorneys to persuade the courts that their clients have become "accused" as a result of certain actions of the Government or of third parties prior to either arrest or indictment have met with little success. Courts have rejected claims that "accused" status can result from the defendant's anxiety over the knowledge that he is the subject of a criminal investigation,[12] or by extensive publicity surrounding the crime which identifies an individual as the subject of an investigation,[13] or administrative segregation of a prisoner after the offense and before indictment.[14]

> ***"[The] 'Speedy Trial Act of 1974' does not attempt to protect against pre-indictment delays unless they are preceded by arrest or issuance of a summons."***

It is also clear that the recently enacted "Speedy Trial Act of 1974" [15] does not attempt to protect against pre-indictment delays unless they are preceded by arrest or issuance of a summons.[16]

If, as it appears from the foregoing, the sixth amendment's speedy trial requirement does not attach prior to either an arrest or indictment, what other constitutional guarantees might be applicable?

Applicability of the Due Process Guarantees of the 5th and 14th Amendments

In *Marion*, *supra*, the U.S. Supreme Court noted that the applicable stat-

ute of limitations is the primary guarantee against the bringing of overly stale criminal charges; however, the Court recognized the statute of limitations does not fully define a defendant's rights with regard to delays prior to indictment. Addressing this point, the Court stated:

> "Thus, the Government concedes that the Due Process Clause of the Fifth Amendment would require dismissal of the indictment if it were shown at trial that the pre-indictment delay in this case caused substantial prejudice to appellees' rights to a fair trial and that the delay was an intentional device to gain a tactical advantage over the accused. [Citations omitted] However, we need not, and could not now, determine when and in what circumstances actual prejudice resulting from pre-accusation delays requires the dismissal of the prosecution. . . . To accommodate the sound administration of justice to the rights of the defendant to a fair trial will necessarily involve a delicate judgment based on the circumstances of each case." [17]

The Court in *Marion* went on to conclude that no actual prejudice was alleged or proven by the defendants and in the absence of a showing of intentional delay on the part of the Government there was no violation of the defendant's rights to a fair trial under the due process clause of the fifth amendment.[18]

Since *Marion*, the U.S. Supreme Court has not had occasion to decide another case necessitating consideration of a fifth amendment due process claim arising from pre-indictment delay. A review of the decisions of Federal courts which have faced this question since *Marion* reveals there is some question as to the precise test to be used in determining if dismissal of an indictment is warranted as a result of pre-indictment delay. The confusion apparently results from the question of whether *Marion* requires a finding of both (1) intentional delay on the part of the prosecution to gain a tactical advantage, and (2) actual demonstrable prejudice to the defendant's defense caused by the delay, or whether one or the other of these factors alone is sufficient to warrant dismissal. Most of the cases involving pre-indictment delay have not directly addressed this question, as the defendants were unable to establish the actual and substantial prejudice to their defense necessary to trigger further inquiry.[19] Some courts have indicated that both elements must be present to justify dismissal,[20] while at least one court has held that a showing of actual prejudice, coupled with "culpable negligence" on the part of the Government rendering the delay "unreasonable," is sufficient to require dismissal of the indictment.[21]

> ***"A majority of the cases seem to apply a 'balancing test' which weighs the prejudice to the defendant caused by the delay against the reasonableness of the delay."***

A majority of the cases seem to apply a "balancing test" which weighs the prejudice to the defendant caused by the delay against the reasonableness of the delay. In considering whether a given delay is reasonable, the courts will consider not only the length of the delay but the reasons for it. Several legitimate reasons for pre-accusation delay which have been recognized by the courts are: (1) lengthy delays as a result of investigation of complex fraud and conspiracy cases;[22] (2) need to complete police undercover work in enforcement of narcotic laws;[23] (3) unavailability of Government witnesses due to absence from the jurisdiction;[24] (4) delay until a change in circumstances makes a previously uncooperative witness decide to talk,[25] and (5) delay occasioned by efforts to locate the defendant.[26] Each of these reasons has the common characteristic of necessitating delay in order to promote a legitimate law enforcement purpose; thus they can properly be balanced against the defendant's interest in being promptly notified he is going to be charged with a particular criminal act.

A review of the facts of a few cases where indictments were dismissed will illustrate the balancing process employed by courts in assessing a defendant's claim that his right to a fair trial was prejudiced by pre-accusation delay.

In *United States* v. *Wilson*,[27] the defendant was charged with embezzling funds of a labor organization. The FBI began its investigation in April 1968, and it continued through June 1970. Following the investigation an evaluation of the case was made by the Office of the U.S. Attorney and the Organized Crime Strike Force. These reviews and evaluations resulted in an additional delay until October 1971, when an indictment was returned. The court examined the factual record and concluded that the delay of approximately 16 months from the time the investigation was completed to the time the indictment was returned was unreasonable.

Turning then to the question of whether the defendant was substantially prejudiced by the delay, the court noted that two of the defendant's potential witnesses to the transaction in issue were no longer available to testify. One of the potential witnesses died prior to the period of unreasonable delay and, therefore, his absence was not chargeable to the Government's actions. However, the second potential witness became terminally ill and unable to testify during the

period of unreasonable delay. The court concluded that the delay was substantially prejudicial to the defendant's case in that the only witness who could have explained the circumstances of the transaction in issue became unable to testify during the period of unreasonable delay, and ordered dismissal of the indictment.

A similar situation resulted in dismissal of the indictment in *United States* v. *Harmon*.[28] In this case, the defendant was charged with aiding and advising in the preparation of false documents relating to the transfer of firearms, which acts allegedly took place from October 1965 until June 1966. He was not indicted until November 1971, over 5 years later. The court concluded that the Government was in full possession of all the facts needed to initiate prosecution by 1969. The Government could not show any reason necessitating the delay. The court concluded that, "In the lack of any reason advanced by the government for the delay, we may infer that there was an intent by the government to secure a tactical advantage over the defendant. Such an intent can rarely be shown otherwise." [29] After finding that one important witness had died and that the statute of limitations had run on another participant, allowing him to testify against the defendant with impunity, the court concluded that the defendant had suffered substantial prejudice to his right to a fair trial and ordered dismissal of the indictment.

> ***". . . there is an established line of decisions which deals with the effects of conscious and deliberate delays by police and prosecutors in bringing charges on offenses developed during undercover operations."***

The *Wilson* and *Harmon* cases discussed above illustrate one line of cases which could be characterized as "unexplained delay" cases.[30] In such cases if the defendant can demonstrate any substantial prejudice occasioned by the delay, he is likely to obtain a dismissal, as this prejudice is not counterbalanced by any legitimate interest on behalf of the Government to excuse or justify the delay. Implicit in these decisions is the notion that negligent failures to proceed with a prosecution once all the facts are in hand may be treated as tantamount to intentional delay.

Recently, the U.S. Court of Appeals for the Eighth Circuit articulated this view in holding that "culpable negligence" on the part of the Government which contributed to a lengthy pre-indictment delay was sufficient to render the delay unreasonable, and coupled with a showing of substantial prejudice by the defendant would justify dismissal of the indictment.[31]

In contrast with the "unexplained delay" cases, there is an established line of decisions which deals with the effects of conscious and deliberate delays by police and prosecutors in bringing charges on offenses developed during undercover operations. These often involve sales of narcotics to undercover officers, but the rationale would appear to apply equally to other types of undercover operations. Delay in the bringing of charges in these cases is caused by the need to have the undercover officer continue his work for several weeks or months prior to "surfacing" and swearing out warrants for the arrest of persons with whom he has dealt.

The courts have generally been sympathetic to the need for some delay in such situations but have made it clear that even such a legitimate reason may be stretched to the breaking point, and at some point the accused's right to be notified of the charges in order to secure appropriate witnesses, establish his whereabouts on the day in question, etc., must outweigh the Government's interest in efficient law enforcement.[32] As stated by the court in *United States* v. *Jackson*,[33]

> ***"Generally, courts have not required dismissals for lengthy delays necessitated by complicated investigations or other valid reasons. . . ."***

> "The interest of the defendant in preparing his defense while events are still recent and his memory still fresh must be taken seriously by the government in deciding to continue the undercover operation, and it must not be forgotten that the withholding of notice to the suspect is a conscious and deliberate act on the part of the police."

Courts have been particularly critical of any failure to promptly file charges once an undercover officer breaks his cover.[34]

The decisions in this area have not provided any general rule as to the length of delay which is allowable prior to surfacing an undercover agent or operation and bringing charges, but delays in excess of 4 to 6 months will almost certainly require some explanation.[35] The strength of the evidence against the defendant also appears to play a part in the court's judgment as to what is a reasonable delay. Judges have been less critical of long delays when the evidence is corroborated and convincing than when it consists only of a recollection of one officer concerning a one-time encounter with the suspect several months before.[36]

Conclusion

From the foregoing it is apparent that under certain circumstances pre-

accusation delay may constitute a violation of the fair trial guarantees incorporated in the due process clauses of the 5th and 14th amendments.

The Supreme Court in *United States* v. *Marion*,[37] indicated that dismissal would be required if it were shown that (1) the delay was an intentional act on the part of the Government to obtain a tactical advantage over the accused, and (2) the delay has caused substantial prejudice to the defendant's ability to conduct his defense. Other Federal courts considering this question since *Marion* have generally employed a balancing test in which the reasonableness of the delay is balanced against the prejudice suffered by the defendant as a result of the delay.

Generally, courts have not required dismissals for lengthy delays necessitated by complicated investigations or other valid reasons but have been critical of any substantial delays after the investigation is completed and have in some cases treated negligent or unexplained delay as tantamount to intentional delay.

It has also been recognized that another legitimate reason for pre-accusation delay is the need to continue undercover operations for a reasonable period before the agent surfaces or the operation is disclosed. However, the courts have cautioned that even a valid reason such as this will not justify too long a delay in notifying a defendant of charges against him. In the context of undercover operations, delays in excess of 4 to 6 months between the offense and notification to the defendant may require an explanation from the Government as to the necessity for such delay. Substantially longer delays may be cause for dismissal of the charges if the defendant can establish prejudice to his defense caused by the delay.

This is a developing area of the law and the final guidelines laid down by the courts may well depend upon the diligence of law enforcement officers and prosecutors in promptly investigating cases with prosecutive potential and avoiding unnecessary and hence unexplainable delays in filing charges once sufficient facts are developed to warrant such action.

FOOTNOTES

[1] Cox's Criminal Cases 114 (Somerset Winter Assizes 1844).

[2] 397 U.S. 112 (1970).

[3] Id. at 114–115.

[4] For example, Title 18, United States Code, Section 3282, provides a 5-year limitation on prosecution of Federal noncapital offenses; Title 18, United States Code, Section 3181, provides that there is no time limitation on any Federal offense punishable by death.

[5] *Klopfer* v. *North Carolina*, 386 U.S. 213 (1967).

[6] *United States* v. *Ewell*, 383 U.S. 116 (1966).

[7] E.g., *United States* v. *Durham*, 413 F. 2d 1003, 1004 (5th Cir. 1969), cert. denied, 396 U.S. 839 (1969); *United States* v. *Feinberg*, 383 F. 2d 60, 65 (2d Cir. 1967); *Carlo* v. *United States*, 286 F. 2d 841, 846 (2d Cir. 1961), cert. denied, 366 U.S. 944 (1961); *Pitts* v. *North Carolina*, 395 F. 2d 182, 185 n. 3 (4th Cir. 1968).

[8] *United States* v. *Parrott*, 248 F. Supp. 196 (D.D.C. 1965); *United States* v. *Wahrer*, 319 F. Supp. 585 (D. Alaska 1970); *United States* v. *Burke*, 224 F. Supp. 41 (D.D.C. 1963).

[9] *United States* v. *Marion*, 404 U.S. 307 (1971).

[10] Id. at 320.

[11] E.g., *United States* v. *Griffin*, 464 F. 2d 1352 (9th Cir. 1972), cert. denied, 409 U.S. 1009 (1972); *United States* v. *Singleton*, 460 F. 2d 1148 (2d Cir. 1972), cert. denied, 410 U.S. 984 (1973); *United States* v. *Andreas*, 458 F. 2d 491 (8th Cir. 1972), cert. denied, 409 U.S. 848 (1972); *United States* v. *Polizzi*, 500 F. 2d 856 (9th Cir. 1974), cert. denied, 419 U.S. 1120 (1975); *United States* v. *Pollack*, 534 F. 2d 964 (D.C. Cir. 1976).

[12] *United States* v. *Handel*, 464 F. 2d 679 (2d Cir. 1972), cert. denied, 409 U.S. 984 (1972).

[13] *United States* v. *Shafer*, 384 F. Supp. 480 (N.D. Ohio 1974).

[14] *United States* v. *Duke*, 527 F. 2d 386 (5th Cir. 1976).

[15] Title 18, United States Code, Section 3161, 88 Stat. 2076.

[16] For a discussion of the Speedy Trial Act of 1974, and court decisions leading to its passage, see Robert F. Olmert, "The Speedy Trial Act of 1974," The Legal Digest, FBI Law Enforcement Bulletin, November 1975.

[17] *United States* v. *Marion*, *supra* footnote 9 at 324–325.

[18] U.S. Const. Amend. V. The fifth amendment due process clause states, in pertinent part, "No person shall . . . be deprived of life, liberty, or property, without due process of law. . . ."

[19] E.g., *United States* v. *White*, 470 F. 2d 170 (7th Cir. 1972); *United States* v. *Emory*, 468 F. 2d 1017 (8th Cir. 1972); *United States* v. *Ferrara*, 458 F. 2d 868 (2d Cir. 1972), cert. denied, 408 U.S. 931 (1972); *United States* v. *Iannelli*, 461 F. 2d 483 (2d Cir. 1972), cert. denied, 409 U.S. 980 (1972); *United States* v. *Frank*, 520 F. 2d 1287 (2d Cir. 1975), cert. denied, — U.S. — (1976).

[20] *United States* v. *Scallion*, 533 F. 2d 903 (5th Cir. 1976); *United States* v. *Duke*, *supra* footnote 14; *United States* v. *Giacolone*, 477 F. 2d 1273 (6th Cir. 1973).

[21] *United States* v. *Barket*, 530 F. 2d 189 (8th Cir. 1976). Note that August 1976, Shepard's Federal Citations indicates this case has been appealed to the U.S. Supreme Court; however, this is an apparent error, as the case docketed with the Supreme Court is another case involving the same defendant, *United States* v. *Barket*, 530 F. 2d 181 (8th Cir. 1975).

[22] *United States* v. *Pollack*, *supra* footnote 11 (3½ years between last act and indictment in complex securities fraud case); *United States* v. *Wilson*, 346 F. Supp. 371 (E.D. Pa. 1972) (2½ years active investigation of complex financial misappropriation case).

[23] *United States* v. *Emory*, 468 F. 2d 1017, 1018 (8th Cir. 1972); *United States* v. *Robinson*, 459 F. 2d 847 (D.C. Cir. 1972).

[24] *United States* v. *Frank*, *supra* footnote 19 at 1292.

[25] *United States* v. *Scallion*, *supra* footnote 20 at 911.

[26] *United States* v. *Parish*, 468 F. 2d 1129 (D.C. Cir. 1972), cert. denied, 410 U.S. 957 (1973).

[27] 357 F. Supp. 619 (E.D. Pa. 1973), affirmed without opinion, 517 F. 2d 1400 (3d Cir. 1975).

[28] 379 F. Supp. 1349 (D.N.J. 1974).

[29] Id. at 1351.

[30] *United States* v. *Mones*, 336 F. Supp. 1322 (S.D. Fla. 1972). Unexplained delay of almost 5 years between offense and indictment, during which time defendant received shock therapy causing some memory loss, required dismissal of indictment; *United States* v. *King*, 332 F. Supp. 1072 (E.D. Wisc. 1971). Unexplained delay of nearly 2 years between alleged failure to report for induction and indictment, coupled with the defendant's asserted inability to locate witnesses as to his action on the date in question, required dismissal.

[31] *United States* v. *Barket*, *supra* footnote 21 at 196.

[32] *Ross* v. *United States*, 349 F. 2d 210 (D.C. Cir. 1965); *Powell* v. *United States*, 352 F. 2d 705 (D.C. Cir. 1965); *Woody* v. *United States*, 370 F. 2d 214 (D.C. Cir. 1966). It should be noted that the well-developed line of "narcotics delay" cases in the D.C. Circuit is based both on fifth amendment due process considerations and on the supervisory responsibility of the courts for criminal proceedings within their jurisdiction. *Hamilton* v. *Lumpkin*, 389 F. Supp. 1069 (E.D. Va. 1975). Court was critical of 8½-month delay between offense and undercover officer's emergence from cover and additional 5½-month delay between his emergence and arrest of defendant. However, as no substantial prejudice shown by defendant dismissal not required.

[33] 504 F. 2d 337 at 340 (8th Cir. 1974), cert. denied, 420 U.S. 964 (1975).

[34] *United States* v. *Jones*, 322 F. Supp. 1110 (1971). Two-month delay between narcotics sale and surfacing of undercover agent was found reasonable, but 4-month additional delay before charges were brought after cover was broken found unreasonable; *United States* v. *Jackson*, *supra* footnote 33. Six-month delay while agent continued undercover work found reasonable, but further 5-month delay after cover broken before charges were brought was not justified.

[35] The District of Columbia Circuit has developed a general "rule of thumb" that delays of 4 months or less require no detailed inquiry into the reasons. See *United States* v. *Jones*, 524 F. 2d 834 at 840 (D.C. Cir. 1975).

[36] Compare *United States* v. *Jones*, *supra* footnote 35 at 845, and *United States* v. *Jackson*, *supra* footnote 33 at 341, to *Ross* v. *United States*, *supra* footnote 32.

[37] *Supra* footnote 10.

"THE FINEST"—
A Brief History of the New York City Police Department

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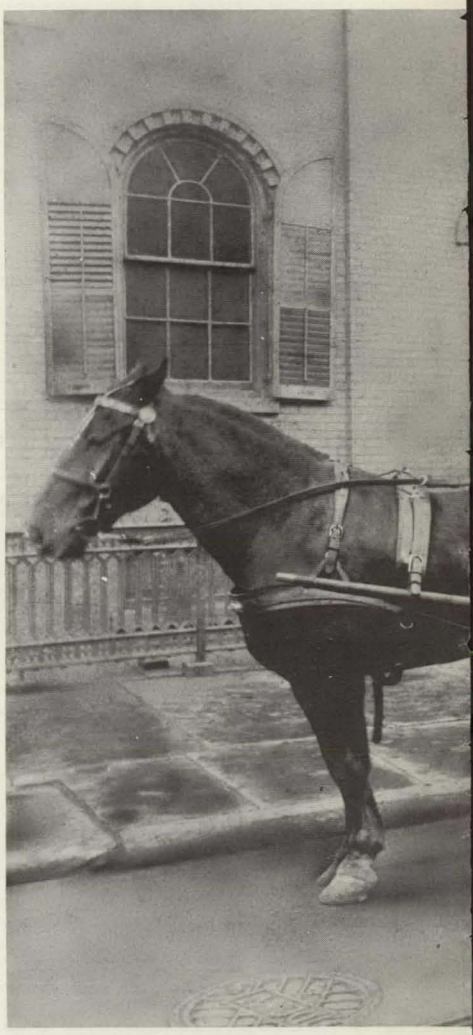


Introduction

Of the varied institutions which affect the vitality of American society, few are more important than the police. We have consistently placed a far-reaching, indeed an awesome, responsibility on our law enforcement organizations.

The history of American policing is a wide and varied one that is, perhaps, best illustrated by viewing the chronological evolvement of a singular organization which has served as a model for other police agencies in our Nation: the New York City Police Department. It is the purpose of this article to trace the development of this prototype from its colonial origins to its present identity as an efficient, complex, and progressive police agency.

Policing During Colonial Times (1625—1783)

The Dutch Era (1625–1664)

The origin of New York City may be traced to the first permanent settlement on Manhattan Island by a hardy band of Dutch settlers in the year 1625. In order to give their community a fair chance of continued life and growth, these pioneers had first to provide for the maintenance of order, especially under frontier conditions in early 17th-century North America.

To solve this problem the Dutch

colonists, quite naturally, relied on their European experience. This called for a council to make and interpret the law and the appointment of a *schout-fiscal* to carry out its enforcement. This title carried the duties of, first, a combination sheriff and prosecuting attorney and, secondly, of watchdog for the West India Co.'s interests, especially with regard to revenue. The first *schout-fiscal* of New Netherland [1] was Johan (Jan) Lampo of Centelberg, who served in office between the years 1625–1632.

An organized citizen patrol force was structured through the appointment of a "Rattle Watch" in 1651. These watchmen were armed with muskets and carried a hand rattle used to summon aid in time of emergency. While performing their watch function, members of the group were obliged to announce the hour at all street corners from 9 o'clock in the evening until reveille.

In late 1658, a paid Rattle Watch of eight men was established to perform patrol duty during the evening hours. This force can be said to be the beginning point of a municipally funded police organization.

Paddy" wagon of 61st Precinct, Brooklyn, N.Y., in 1901. (Photo courtesy of Alfred J. Young Collection, N.Y.C.)

Under British Rule (1664–1783)

In 1664, New Amsterdam became part of the British Empire and, in turn, was renamed New York. Immediately, efforts were made to restructure its governmental organization to conform to the English system. This restructuring did not greatly change peacekeeping activities in the city since there was great similarity between the functions and responsibilities of the Dutch *schout-fiscal* and, his counterpart, the English constable. Both were charged with keeping the peace; suppressing excessive drinking, gambling, and prostitution; and preventing disturbances when church services were in progress.

The men of the " 'Rattle Watch' . . . carried a hand rattle used to summon aid in time of emergency."

With the advent of troubled times, caused by the first of the French and

Sergeant Green

Detective Young

Indian Wars, the military assumed responsibility for the peace of the city in the late 1600's. During this period, our first uniformed policeman appeared. This was the bellman (so called because he rang his bell while making his rounds and calling out the hour), who was provided with "a coat of ye city livery, with a badge of ye city arms, shoes and stockings. . . ."

The year 1700 is marked as a time of complete revolution in New York City's system of public protection. This occurred through the abolishment of the militia's watch duties and the inauguration of a Constable's Watch consisting of a high constable and 12 subconstables, sworn "to take care, and keep and preserve the peace. . . ." These 12 subconstables were equally assigned throughout the 6 wards of the city. (The cluster of 12 white stars which appears on the present Medal of Honor is representative of these 12 subconstables appointed by the mayor in 1700 to be the Watch of the City.)

During the Revolutionary War, New York was subjected to British occupation from September 1776 until November 1783. Throughout these years, the army controlled the provincial and municipal governments, and accordingly, had responsibility for providing police protection for the city. The military commandant, always a general, was the official responsible in this regard. However, in January 1777, a civilian watch was reinstituted due to the general dissatisfaction among the citizenry with the level of protection afforded by the army and their fears that arsonists might bring about a repetition of the great fire of 1776, which had destroyed almost half of the city. This force, comprised of 80 men, patrolled the city's streets during the evening hours as did the watchmen of earlier periods. In May 1778, the military commandant appointed three civilians to form a quasi-civil department of police which administered and directed the night watch. Although this civilian body was in immediate control of the watch, the commandant retained the power of appointment.

Growth Of The City (1783–1857)

Period of Independence (1783–1830)

As the ending of the Revolutionary War in 1783 intensified the city's police problems, the city provided for a few more watchmen and made some minor modifications in the system. There were no major structural changes, however.

A notable figure in New York City law enforcement during the first half of the 19th century was High Constable Jacob Hays. He was held in such high esteem by the community that he was allowed to keep the title and emoluments of his position even after the abolition of the office in 1844. A one-man army, as a crime fighter, Hays boasted that he knew every criminal in New York City, and often made single-handed arrests of dangerous criminals.

As crime began to increase during the late 1820's, many citizens considered the watch to be incompetent and inadequate, but no strong movement for radical reorganization of the law enforcement system resulted. New York City was to establish an organized police agency only when provided with a successful model and when fears of social disintegration were stronger than distaste for what was considered by many to be a quasi-standing army.

The London Police Model (1830–1845)

New York used the Metropolitan Police of London as a model for its reorganizational efforts during the first half of the 19th century. From 1830 to 1845, the existence of the London example, spurred by a marked upsurge in crime, vice, and disorder, motivated efforts to provide a similar police agency for New York City.

The system of policing that had predominately prevailed in the city since the earliest Dutch period was legislated out of existence on May 7, 1844, with the passage of the Municipal Police Act. This act abolished the Night Watch and established the Day and Night Police.

Varied uniforms were designed for the force, but a great deal of objection

came from rank-and-file policemen who viewed the uniform as an innovation of English origin and an infringement of their rights as freeborn American citizens. Many citizens shared this conviction and publicly voiced their old fears and contempt of uniformed police as a standing army and "liveried lackeys." The compromise subsequently adopted for the force required only the wearing of a star-shaped badge in lieu of a complete uniform; and for this reason the group received the soubriquet "star-police."

The Municipal Police (1845–1857)

In 1845, Mayor William F. Havemeyer named George W. Matsell as chief of police and his office was located within the mayor's office at city hall.

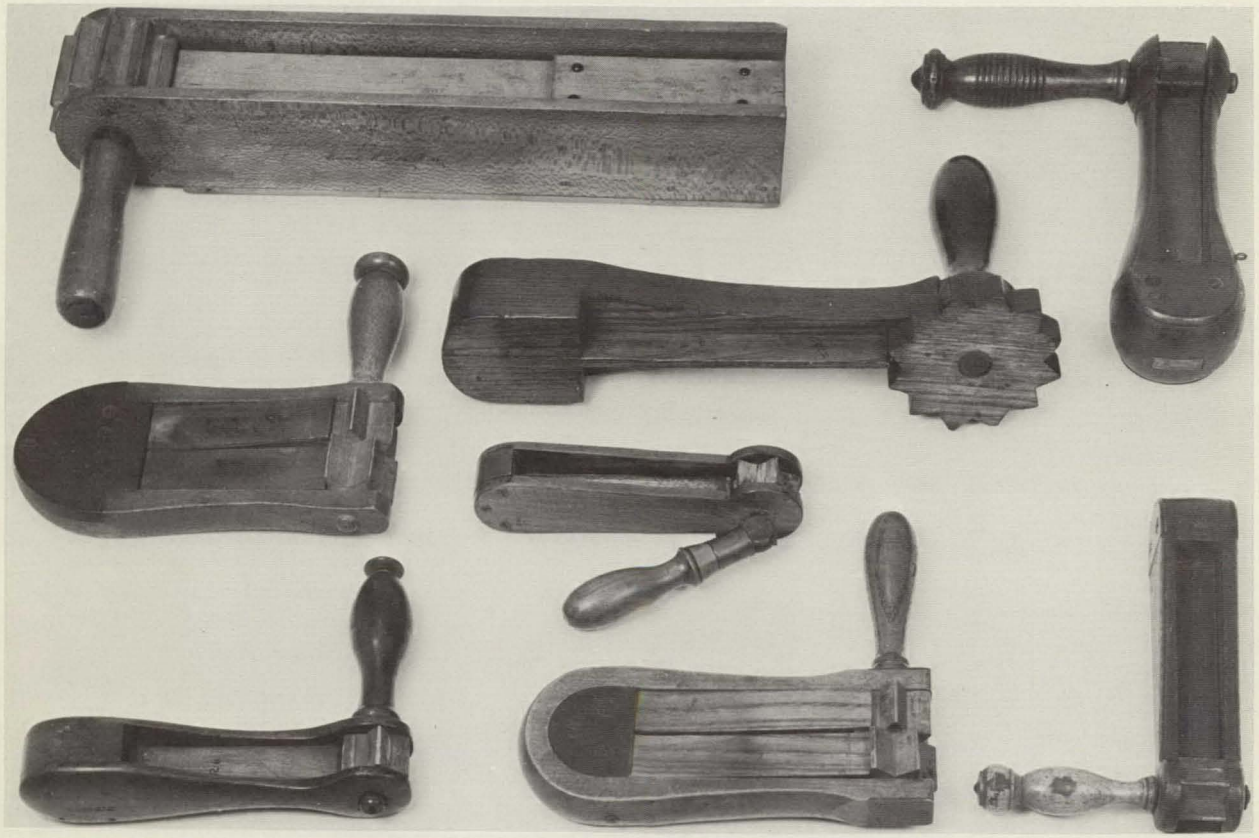
The mayor, as chief executive, authorized the rules for the governance of the force, and, at his request, Justice Robert Taylor prepared the first manual. Established on July 16, 1845, these "Regulations for the Day and Night Police of the City of New York with Instructions as to the Legal Powers and Duties of Policemen" encompassed statutory and administrative aspects of the force. Policemen were admonished that "the prevention of crime being the most important object in view, your exertions must be constantly used to accomplish that end," and "the absence of crime will be considered the best proof of the efficiency of the police."

Typifying the political climate of the era, the newly organized force had hardly become familiar with the recently enacted changes when the legislature passed another act, on May 13, 1846, "for the establishment and regulation of the Police of the City of New York." This new statute continued the Day and Night Police, limited the force to 900 men, and set forth regulatory guidelines.

Adoption of a Uniform

Various civic reformers worked diligently to improve the administration of the police department. One of the most important reforms accomplished at this time, although not as a direct result of legislation, was the adoption of a uniform. The 1844 law only prescribed the wearing of a star-shaped badge of office which could be displayed or concealed, as necessary.

Rattles used by "Rattle Watch" before the introduction of the whistle. [Photo courtesy of Alfred J. Young Collection, N.Y.C.]



The man who did most to put the force in uniform was James W. Gerard, a New York lawyer and philanthropist. In a series of articles in 1853, comparing the crime and police patterns of London and New York, Gerard stressed the moral authority the London policeman possessed as a result of his wearing a uniform. Shortly after Gerard's articles appeared, the directors of the Crystal Palace, a coliseum-type structure, provided uniforms for the special police force authorized by the State legislature to handle an exhibition there. This uniformed force met with a favorable public response. One correspondent wrote, "This official costume has a wonderous effect . . . it appeals to the love of order, of propriety, of rank and degree, which is doubtless innate in the human breast." He hoped that "this will be the first step toward arraying the whole police force of the city in a uniform which will be a public badge of office."

Later that year, the commissioners prescribed a standardized blue frock coat to be worn from September to May. The summer uniform was left to the discretion of the captain of each ward and there was considerable variation in style. The uniform was later expanded to include striped, navy blue trousers, buttons. caps, and a baton belt.

"There was no formal training for policemen until 1853 and, in the areas of riot and crowd control, the lack of training had serious consequences."

Late in 1853, the Reserve Corps was established. This was a group of 100 men who would perform a variety of specialized duties, e.g., court attendants, bell-ringers, etc. According to the commissioners, a member of the Reserve Corps would be in a position of honor within the department and merit was the criterion for appointment. The possibility of earning extra money while on detailed duty provided an additional incentive for such service.

Figure on mug depicts member of old-time "Rattle Watch," forerunner of America's "finest." [Photo courtesy of Alfred J. Young Collection, N.Y.C.]

Training Initiatives

There was no formal training for policemen until 1853 and, in the areas of riot and crowd control, the lack of training had serious consequences.

In May 1849, a riot erupted at the Astor Theater. This riot grew out of the enmity existent between the supporters of two actors, one a native American and, the other, a Britisher. In order to protect the Englishman, who was performing at the Astor Place Opera House, a force of 320 policemen was assigned to the theater. The police were attacked by thousands of rock-throwing rioters who were determined to disrupt the performance.

Being greatly outnumbered and lacking the tactical ability to cope with a large-scale civil disorder, the police called upon the militia for assistance. The troops, who were also without necessary crowd control skills, opened fire on the crowd, killing 31 people.

To prevent the repetition of such a debacle, Chief Matsell ordered his police captains to instruct their men in the "school of the soldier." He also appointed a drill instructor for new policemen in an effort to have trained and disciplined police available for riot and crowd control functions.

Police Arms

Although the early Rattle Watch members carried muskets, policemen were not officially armed in any way before 1853, when each was equipped with a baton, 22 inches long and three-

quarter-inch thick. The department "Rules and Regulations" required that the club only be used "in urgent self defense."

Communications

Speed and ease of communication are essential to effective police work.

"In 1857, the 'Rogues Portrait Gallery' [of reputed criminals] was established."

The New York Police improved their communications in the early 1850's when a simple telegraph network was constructed between the chief's office and the various precincts. Although the primary purpose of the telegraph was to speed the dispatch of extra men to fire and riot scenes, a review of the Telegraph Records of 1855 and 1856 reveals that most of the messages sent dealt with lost children and stray horses.

The Metropolitan Police (1857–1870)

The movement for improvement of police services resulted, during 1857, in the replacement of the Municipal Police Department with a State-controlled Metropolitan Police District. This new organizational entity lasted for 13 years. The first general superintendent of the Metropolitan Police was Frederick A. Tallmadge. He served in this position until 1859, being succeeded by Amos Pilsbury.

In 1857, the "Rogues Portrait Gallery" was established. This investigative aid soon contained about 700 photographs of reputed criminals.

The problem of communications continued to remain a serious one, and in November 1859, the city council voted $10,000 for the purchase of 30 new police telegraph instruments. These served to improve communications somewhat.

One segment of the department that continually received high praise was the Broadway Squad. These handsome stalwarts gained a reputation for protecting ladies, especially young and pretty ones, from the hazards of Broadway traffic.

During 1859, the commissioners published "Rules and Regulations" for the government and guidance of the force. In the foreword, Superintendent Pilsbury stated: "The uniform you wear should be a perpetual 'coat of mail,' to guard you against every

1854—First uniforms worn by New York City Police Department officers. [Photo courtesy of Alfred J. Young Collection, N.Y.C.]

temptation to which you may be exposed, by reminding you that no act of misconduct, or breach of discipline, can escape public observation and censure. By exemplary conduct and manly deportment, you will command the respect and cordial support of all good citizens. . . ." Further directions indicated that "every policeman must be circumspect in his deportment . . . manly in his carriage, and scrupulously discreet in his language and acts. . . ."

The Civil War period was one of extraordinary problems and stresses for the metropolitan police. On the morning of July 13, 1863, the city was startled by the onset of the infamous draft riots. The initial outbreaks were not completely checked until the morning of the 17th. These riots, the most severe in New York's history and the most serious of the many anticonscription disturbances in the North during the war, caused extensive loss of life and massive property damage. For 4 days, disorders rocked various parts of the city. Enraged men and women attacked and killed blacks in scattered locations throughout the city, fought pitched battles with the police, and raised fears of anarchy among the citizenry. The genesis of the riots lay in the economic and social condition of New York's Irish immigrants, job competition between Irish immigrants and blacks, and the differential impact the war economy and conscription policies had upon the poorer classes.

Commissioner Michael J. Codd

By this time the metropolitan police had developed a stable command structure and good morale. The department had more than 2,000 men in 1863, although it is estimated that due to the ongoing necessity to police the rest of the district, less than half that number were involved directly in efforts to suppress the riots. According to contemporary newspaper accounts, no more than 800 policemen were available at any one time, with the largest single detachment employing about 350 men. Little help was available from the military due to the pressing manpower needs generated by the war.

The advanced state of police discipline ultimately proved a decisive factor in controlling the rioters. Commissioner James Bowen, on active duty with the army at the time of the riots,

Members of 32d Precinct, New York City Police Department, in 1862. [Photo courtesy of Alfred J. Young Collection, N.Y.C.]

Coauthor Det. Alfred J. Young wearing turn-of-the-century New York City Police Department uniform.

had previously insisted that the police spend a considerable amount of time in drilling and being trained in use of infantry tactics.

After the riots, the vexing question remained as to how many people died or were seriously injured in the riots. The estimate of lives lost from all causes ranged from 74 to a staggering 1,200 or more. Three policemen were slain and 80 suffered serious injuries.

The period after the draft riots was one of rebuilding. In 1864 alone, four station houses were replaced with new ones, two of which had been destroyed during the draft riots.

Near the end of the war and for the immediate years thereafter, crimes of violence increased greatly. In 1864, 5 policemen were feloniously killed and 13 received debilitating injuries. To ensure the fiscal security of policemen's families, a "police life insurance fund" was established during this year.

The year 1868 found the department heavily comprised of aging veterans of the municipal police. The commissioners lobbied for and were successful in attaining legislation which provided half-pay retirement pensions "for these decayed faithful public servants." At the other end of the spectrum, the commissioners insisted on tighter medical standards in hiring new police officers. That year, for example, the surgeons rejected 654 out of 1,281 applicants for the force.

New York City's police now entered another period of reorganization. On April 5, 1870, local government was restructured by a piece of legislation commonly referred to as the "Tweed Charter." The first superintendent of police under this new design was John Jourdan, a career police captain who died 6 months later, being replaced by James J. Kelso, a former detective captain. Additionally, almost all of those policemen employed under the State-controlled Metropolitan Police District were transferred by legislative action to the newly constituted city police department.

Period of Reorganization (1871–1895)

The latter part of the 19th century was a time of community tensions, on one hand, and administrative reorganization, on the other.

Among the many social problems making the police role difficult were those caused by the city's ethnic variety. The most serious loss of life as a result of group conflict came in July 1871, in connection with an Orangemen's parade scheduled to be held to celebrate the anniversary of their forefathers victory at the Battle of the Boyne.[2] There had been trouble over a similar anniversary event held just a year earlier and, as a result, the superintendent of police endeavored to prevent this scheduled parade from being held. This order resulted in cries alleging a sellout to the Catholic Irish and deprivation of the civil liberties of the Orangemen. The Governor countermanded the superintendent's order and the parade took place under combined police and military protection. Angry groups of Catholic Irish lined the parade route; and when someone fired a shot, the militia fired into the crowd of spectators. More than 80 people, including 6 policemen, were killed. In addition, approximately 160 others were wounded.

The city's problems at this time were many-fold and involved not only its citizenry, but also its physical en-

vironment. In 1872, the legislature made street cleaning a responsibility of the police department. Policemen were not obliged to actually clean the streets. The commissioners rented carts and hired foremen and laborers but required the police to render overall supervision of the work. Nonetheless, this responsibility proved to be an onerous one for the 9 years it remained with the police department. Later, in 1881, a street cleaning department was to be organized, relieving the police of this responsibility.

In 1872, the "flag of honor" was presented by the citizens of New York to the officers and men of the police force. Awarded in recognition "of the fidelity, discipline, and gallantry shown by the police force on many occasions of public disturbance, notably during the riots of July 1863 and 1871." It was to be reserved for display at annual parades and at the funerals of members who died in the line of duty. "Faithful unto Death," the department's motto, was inscribed on one side, while the city seal appeared on the other.

The distaff side of the community came to be represented in the police force in 1888 when provisions were made authorizing the appointment of matrons. Illustrative of the historically slow progression of women into the mainstream of public service, it wasn't until 11 years later, in 1899, that they fully became members of the uniformed force.

The Roosevelt Era (1895–1897)

A new board of police commissioners was organized in May 1895, with Theodore Roosevelt as president. During Commissioner Roosevelt's 2 years in office, he and his colleagues made many improvements in the police department. They prided themselves in attracting a better class of recruit to the department and on appointing candidates on the basis of physical and mental capacity rather than endorsement by political or religious groups.

Aside from improving police service by appointing additional patrolmen, the board instituted a bicycle squad which, despite initial ridicule, expanded to 100 men as it proved its worth.

Although policemen had carried revolvers since 1857, there was little consistency in type and most had very little practice or expertise in their use. In 1895, the board stipulated that the on-duty revolver was to be a .32 caliber Colt.

On another level, Theodore Roosevelt hired the first female secretary for the department. He also turned aside the monied establishment's complaints against Irish Catholic policemen, saying that he found the latter as worthy as any segment of the population and he recruited strong young Jewish officers because he esteemed "the Maccabee or fighting Jewish type."

With the Spanish-American War imminent, Roosevelt resigned his position as police commissioner in 1897 to become Secretary of the Navy.

Dawn of the Modern Department (1897–1901)

By action of the New York State Legislature, 24 local governments, consisting of cities, towns, and villages, were consolidated on January 1, 1898, into one single entity, that of New York City. As a result, the Police Department of Greater New York assimilated 18 smaller police agencies into its fold.

The business of policing a great urban complex continued through the turn of the century with new and varied problems constantly arising. Prominent among the concerns which taxed the resources of the police department were various labor strikes, especially the streetcar strikes in Brooklyn and Manhattan during July 1899. In addition, another serious riot occurred in August 1900. This violent encounter of several days duration between the police and many black citizens of New York's west side had its origins in actions relating to the arrest of a black prostitute by a white plainclothes officer. The prostitute's panderer objected to the arrest, a scuffle ensued, and the policeman was stabbed to death. The assailant swiftly fled into an area of New York's black community. An intensive search for him by the police succeeded in aggravating already existent tensions and despite the murderer's apprehension, full-scale rioting followed.

For a good many years, a number of civic reformers and police administrators advocated an organizational restructuring of the police force so it would be led by one person who would possess full responsibility for administering the department. This goal was achieved in 1901 when the legislature adopted a bill which authorized a single commissioner of police. Col. Michael Murphy became the first police commissioner.

The New York City Police Department Today

Since the consolidation of the Greater City of New York, both the city and its police department have grown in size and responsibilities in order to effectively meet the expanding problems and demands of one of the world's largest urban communities. It is worthwhile to note some figures indicative of this continual expansion. In 1898, the city had a population of a little over 3½ million with a police complement approaching 7,500. Today, New York's population is over 8 million and the police service consists of approximately 26,000 men and women. The majority of these officers, assigned to the Field Services Bureau,

provide continual around-the-clock police service in 73 patrol precincts throughout the municipality.

New York is a complex and mammoth city, covering an area of more than 319 square miles with over 6,000 miles of streets, 35,000 intersections, and in excess of 578 miles of waterfrontage.

Those members of the service performing the basic police function—that of patrol—are supported by a variety of specialized service units: detective, organized crime control,

"Today, New York's population is over 8 million and the police service consists of approximately 26,000 men and women."

emergency service, community affairs, traffic operations, intelligence, and many others. These auxiliary services are staffed by professionally trained personnel and utilize the latest in modern police equipment, ranging from the sophisticated scientific apparatus of the crime laboratory to the many modern life-saving devices used in emergency service patrol.

Endeavoring to continually provide high-quality police service and simultaneously to keep abreast of the latest developments affecting law enforcement are major missions of the New York City Police Department. Outstanding among the many notable accomplishments of the New York police during the last few years are two: The development of a successful anti-street-crime operation and achievement of a high level of professionalization in the training area. The anti-street-crime operation, which involves the use of civilian-clothed police officers in decoy situations and in other innovative ways, has made a substantial impact on violent street crime in the city.[3] Worthy of mention in the training field are the accomplishments of the New York Police Academy, the

The New York City Police Department Medal of Valor, the highest award that can be bestowed upon a member of the service, is awarded annually for acts of gallantry and valor. (The cluster of 12 white stars are representative of the original 12 subconstables.)

central training facility within the department. Its entry-level curriculum and instruction have recently been accredited by the New York State Board of Regents and now up to 35 undergraduate credits may be earned by attendees. Other areas of academy training cover the spectrum of police operations from inservice training for field service personnel to advanced management study for high-level police executives. Aside from its training functions, the academy also sponsors the Police Museum, which contains the largest collection of police memorabilia in the world. Each year, it serves as an attraction for thousands of tourists from all over the world. During the Bicentennial year, it was especially popular.

Conclusion

Those men who struggled to uphold justice and defend the citizens of our early American cities have become to many just legendary symbols—images from the distant past, misty and half-forgotten in this modern era. But to present-day police officers, their deeds are real and admirable and serve to provide an inspirational tradition.

In 1874, Mayor William Havemeyer referred to officers of the New York City Police Department as "the finest"—a term by which they have been proudly known ever since.

It would be easy to fill many pages with the accounts of heroic exploits of individual policemen. What would be more difficult would be to measure and record their role as mediators of domestic and social controversy, as harmonizers whose function was, and still is, to minimize urban conflict and violence.

This work is offered as a tribute to our Nation's "finest"—to all of the officers throughout the country who, by their long record of heroism, dedication, and service, have so well served their communities. Their efforts have played—and will continue to play—a key role in the development and survival of our many great cities.

FOOTNOTES

[1] New Netherland was the name given to the overall area claimed by the Dutch settlers in 1625 and included what is present-day lower New York State, all of New Jersey, the western half of Connecticut, and part of Delaware. There were two principal points of settlement: Fort Orange (present-day Albany, N.Y.) and New Amsterdam (the southern tip of Manhattan Island). Although Johan Lampo was situated in New Amsterdam, his authority encompassed the entire colony.

[2] The Battle of the Boyne occurred in July 1690, on the banks of the Boyne River in Ireland. Contestants were the Ulster Protestant Irish who fought with William of Nassau, Prince of Orange, and Irish Catholic supporters of the Catholic King, James II. The latter force was defeated in this decisive battle. Partly to commemorate their victory, Ulster Protestants formed an Orange Society in 1795.

[3] See article entitled "Decoys, Disguises, Danger—New York City's Nonuniform Street Patrol," by Capt. Patrick J. McGovern, Commanding Officer, and Lt. Charles P. Connolly, Street Crime Unit, Police Department, New York, N.Y., in October 1976 issue of FBI Law Enforcement Bulletin.

"The First Class in the Third Century"

Graduation exercises were held September 23, 1976, closing the 106th Session of the FBI National Academy. The 11 weeks of intense, advanced training for the 248 select officers concluded with commencement proceedings held in the auditorium of the FBI training complex in Quantico, Va. Gathered to observe this special event were many friends and relatives of the graduating officers along with distinguished guests.

As in prior sessions, officers comprising this 106th Session of the National Academy came from many agencies throughout the United States and the world. Specifically, 49 States, the District of Columbia, Puerto Rico, the Virgin Islands, and 8 foreign countries were represented.

Attendees of the FBI National Academy, which was established in 1935, are provided advanced training in such vital areas of law enforcement study as police management, ethics, legal matters, urban police problems, and behavioral sciences. To date, the Academy has graduated more than 10,000 officers, with a great number of those still active in law enforcement occupying top executive positions within their respective agencies.

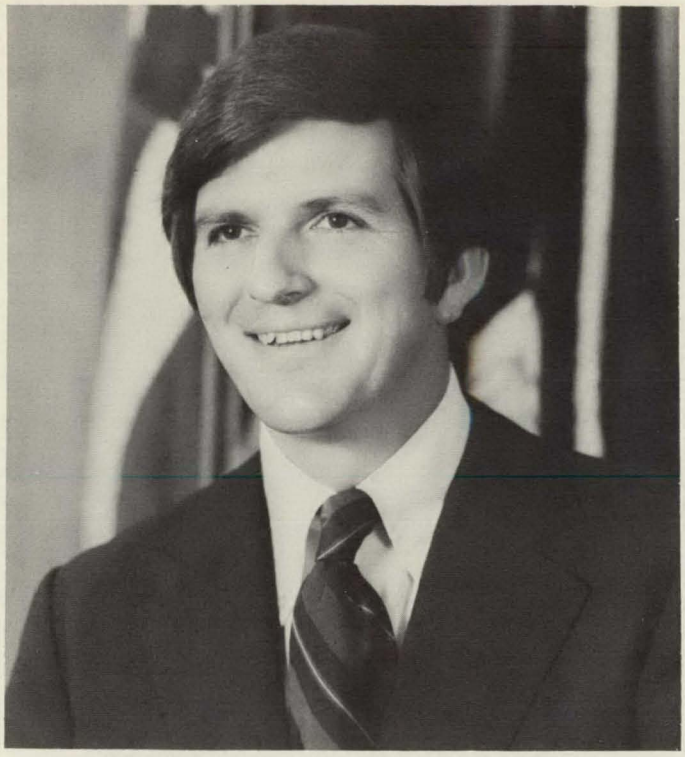
Following a musical selection by the U.S. Marine Band, Deputy Assistant Director Edward L. Campbell, Jr., called the proceedings to order. The invocation was delivered by Capt. A. Wayne Riggs, Chaplain Corps, U.S. Navy.

Lt. Mark John Cheviron of the Macon County, Ill., Sheriff's Office was then introduced as the elected class spokesman. In his speech, Lieutenant Cheviron stressed the importance of law enforcement officers becoming more involved "not only with other police officers and our immediate families, but with society in general."

"We cannot change society," he added. "Our only hope is to adapt our procedures from a reactive attitude towards crime and crisis to a proactive attitude of prevention, and this can only be accomplished with the support and involvement of the communities we live in."

Lieutenant Cheviron went on to say, "We have, in the past, looked at law enforcement through the eyes of enforcers. We have not stopped to view our profession as the citizens of our communities do. We must realize that we are citizens of our community first, and police officers second. We tend to feel that no one else cares about the lawlessness and suffering that goes on around us. The majority of people in our communities are law abiding and possess the same principles as we do. They are very willing and able to aid in the fight against crime and lawlessness. This is everyone's fight, not just that of police officers."

"If we can establish this community involvement, we can nurture a citizen awareness that will help reestablish the basic values that our country was founded on and regenerate a respect for the law and those who must en-



Secretary of Health, Education, and Welfare David Mathews delivered the principal address.

force it. Without this respect, we can never hope to be recognized as professionals."

He summed up his attitudes on police-community relations by commenting, "We arrived here on July 11th with different personalities, different ideas and expectations, and with one goal in mind—to graduate. Today, as we leave here, we still have the different personalities, the different ideas and expectations of what the future holds. But, our goals have changed into a unified endeavor—to do our best through education, dedication, and cooperation to become involved with our community as citizens of those communities, as well as police officers, to better serve and protect them."

Following this address, Mr. Campbell introduced FBI Director Clarence M. Kelley, who offered his heartiest congratulations to the graduates and noted that since this 106th Session was enrolled on July 11, 1976, it was, therefore, "Class Number One" as America begins its third century. "The real challenge facing the members of this First Class in the Third Century," Director Kelley stated, "is to establish a climate which will permit effective innovations in response to community needs."

The Director discussed the proposal before Congress earlier in the year that State and local governments be asked to pay one-half of the costs of law enforcement training programs conducted by the FBI. "I expressed my view," Mr. Kelley stated, "that the limited budgets of many agencies simply would not permit them to afford even half the cost of sending officers to the Academy. I found members of the House Subcommittee on Appropriations were very understanding of this fact.

"I am happy to report that Congress reinstated in full the amount which was cut from our allocation for training purposes in the appropriations bill, and the bill now bears the President's signature. It appears that, at least for the immediate future, full travel and subsistence costs will continue to be paid totally out of FBI appropriations."

Mr. Kelley also emphasized the fact that the National Academy belongs to all the graduates. "I am told by instructors that each year both the dedication of National Academy students and their interest in self-development intensify." He added, "This is because this Academy is, in truth, *your* Academy."

"The FBI believes that its primary commitment is to people—to you who come here to enlarge your perspectives so that, hopefully, you will return home with increased knowledge as well as the challenge of a greater commitment to your community."

He also asked the graduates for an evaluation of their courses at the Academy, after they return to their respective jobs, stressing that "[i]f innovations are needed, we want to know it, for, I repeat, this is *your* Academy."

Following his address to the graduating officers, Mr. Kelley introduced the principal speaker, the Honorable David Mathews, the Secretary of Health, Education, and Welfare.

Secretary Mathews began by urging that "Health, Education, and Welfare, the FBI, and the State work in closer cooperation on white-collar crime, in fraud and abuse of social benefit programs." In discussing the alarming dimensions of this costly problem, Secretary Mathews estimated that in terms of the Medicaid Program alone, "we lose for the beneficiaries of that program, who are the indigent in this country, somewhere in the order of 750 million dollars to a billion dollars a year by fraud and abuse." After noting the need for special training in the investigation of these matters, he expressed gratitude to the FBI for providing such training assistance to his agency.

Secretary Mathews also discussed the significance of societal attitudes

Pictured with FBI Director Clarence M. Kelley are the five section leaders of the 106th Session. Shown, left to right, are: Lt. Leo R. Wallace, Millburn Police Department, Millburn, N.J.; Sgt. Gerard Cornelius Sullivan, New York City Police Department, New York, N.Y.; Director Kelley; Lt. Col. Peter A. Davis, U.S. Department of the Army, Arlington, Va.; Lt. Mark John Cheviron, Macon County Sheriff's Office, Decatur, Ill.; and Lt. Irving Condiotti, New York City Police Department, New York, N.Y.

and values toward police work. In this regard, he stated: "You are in fact, today, graduates of the finest professional school in law enforcement in this country, perhaps in the world. I don't doubt your technical proficiency for a minute but I would like to suggest for your consideration that technical proficiency is not enough. What you are able to do and what you in fact do will be determined as much by attitudes, feelings, and values, that society holds as by any professional competency that you have and I would suggest that in order to be truly effective, you are going to have to be able to both interpret and respond to those shifting values and attitudes that have so much to do with the way we define law enforcement, with the way that we define crime, and with the way that we go about dealing with those problems. I would suggest that you need two other tools—perspective and insight." Secretary Mathews amplified this point by indicating that these qualities are "essentially self-taught" and that without the understanding they bring of "American society, the way it operates and what our relationship is to it," law enforcement is at a serious disadvantage.

In concluding his remarks, Dr. Mathews observed, "I think that people are going to insist on a new relationship with all of their institutions of government, of law enforcement of whatever kind and they are going to insist that those agencies large and powerful though they be, be still the servants of the people who created them and not their masters . . . we are learning or maybe relearning that with all of our disenchantment with our institutional forms, we can't do without them, we can't abandon them. For if we do, we abandon ourselves to the kind of disorder that is very destructive of everything we hold dear."

Following Secretary Mathew's address, Director Kelley introduced other distinguished guests in attendance. Insp. James V. Cotter of the FBI's Training Division then presented the graduating class to Director Kelley for the individual awarding of diplomas by Assistant Director Donald W. Moore, Jr., of the FBI's External Affairs Division.

The benediction led by Captain Riggs and the rendering of the National Anthem by the U.S. Marine Band, under the conductorship of M. Sgt. Thomas C. Barlow, concluded the program.

INDEX

Articles Published in the FBI Law Enforcement Bulletin

January Through December 1976

IDENTIFICATION

INVESTIGATIVE AIDS

INVESTIGATIVE TECHNIQUES

LAW ENFORCEMENT ROLE

THE LEGAL DIGEST

LEGAL MATTERS

MANAGEMENT

OPERATIONS

PERSONNEL

The Law Enforcement Family: Programs for Spouses, by John Stratton, Ph.D., Department Psychologist, Los Angeles County Sheriff's Department, Los Angeles, Calif., March 1976, vol. 45, No. 3, p. 16.

PHYSICAL SECURITY

Physical Security and the Police Facility: A Total Program, by Edward L. Lee II, Regional Security Officer, The American Embassy, Nicosia, Cyprus, November 1976, vol. 45, No. 11, p. 22.

POINT OF VIEW

Views From Down Under, letter written by a police constable's wife from East Mackay, Queensland, Australia, in connection with the BULLETIN article, "The Police Family—A Wife's Eye View," which appeared in the November 1975 issue, March 1976, vol. 45, No. 3, p. 15.

POLICE-COMMUNITY RELATIONS

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Seattle's "Pioneer Squad," by Thomas C. Martin, Special Agent, Federal Bureau of Investigation, Seattle, Wash., February 1976, vol. 45, No. 2, p. 16.

POLICE HISTORY

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From Colonial Era to Space Age: Virginia's Law Enforcement Legacy, by Col. Harold W. Burgess, Superintendent, Virginia State Police, Richmond, Va., September 1976, vol. 45, No. 9, p. 16.

Historic Guardians of Our Nation's Capital, by George R. Wilson, Supervisor, Firearms Identification Section, Metropolitan Police Department, Washington, D.C., April 1976, vol. 45, No. 4, p. 16.

Ranger Hall of Fame, by Dayton Kelley, Director, Texas Ranger Hall of Fame, Waco, Tex., May 1976, vol. 45, No. 5, p. 16.

TRAINING

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Mental Health Workshops for Law Enforcement, by William M. Mohr and Joseph E. Steblein, Jr., Training Directors, Niagara County Law Enforcement Academy, Niagara County Community College, Sanborn, N.Y., January 1976, vol. 45, No. 1, p. 3.

Physical Fitness Incentive Program, by George P. Tielsch, Chief, Police Department, Santa Monica, Calif., August 1976, vol. 45, No. 8, p. 9.

Video Tape: A Viable Training Medium, by Capt. Thomas M. Lawlor, Police Academy, New York City Police Department, New York, N.Y., September 1976, vol. 45, No. 9, p. 12.

SUBSTANTIAL VIOLENT CRIME INCREASE REPORTED

Violent crime in the United States, which includes murder, aggravated assault, forcible rape, and robbery, increased by 39 percent from 1970 to 1975, according to the latest Uniform Crime Reports figures.

There were an estimated 20,510 murders in 1975, a 28-percent increase over 1970 when 16,000 homicides were reported. In 1975 alone, murders constituted approximately 2 percent of the total for violent crime. While large-core cities and suburban areas reported a slight decline in the number of murders, rural areas reported a 4-percent increase.

An estimated 484,710 aggravated assaults were reported in the Nation in 1975, representing a 45-percent increase over the total for 1970. This type of crime against the person comprised 47 percent of all violent crime reported in 1975. Cities with over 250,000 occupants experienced a 3-percent increase in aggravated assaults over the previous year; suburban areas, a 7-percent increase; and rural areas, a 5-percent rise.

There was an estimated total of 56,090 forcible rapes reported during 1975, a 48-percent increase over 1970. Rape offenses accounted for 5 percent of the 1975 violent crime total. They occurred most frequently in large cities with 250,000 or more inhabitants, where 42 percent of the Nation's total was registered.

There were approximately 464,970 robbery offenses committed in the United States in 1975, constituting 45 percent of the total for violent crime. This is an increase of 33 percent when compared with the figures for 1970. Although robbery is more prevalent as a large-city crime, suburban and rural areas each reported a 7-percent increase in robbery offenses in 1975 as compared with 3 percent for cities with 250,000 or more persons.

(Note: In most instances, percentages set forth in preceding paragraphs reflect rounding to the nearest whole number.)

WANTED BY THE FBI

Photographs taken 1975.

JAMES LOUIS SIMS, also known as James Earl Sims, James Louis Earl Sims

Interstate Transportation of Stolen Property, Receipt and Sale of Interstate Property, Conspiracy, and Bond Default

James Louis Sims is currently being sought by the Federal Bureau of Investigation for interstate transportation of stolen property, receipt and sale of interstate property, conspiracy, and bond default.

The Crime

Sims was indicted on charges connected with the interstate transportation of a large amount of collector's stamps stolen in a March 1971, armed robbery at Boston, Mass. He was arrested and released on bond, but failed to appear for trial on September 16, 1975, relative to these charges. A witness scheduled to give testimony against those involved in handling the stolen stamp collection was found shot to death on January 13, 1976.

Federal warrants were issued for Sims' arrest on October 6, 1975, and on December 3, 1975, at Los Angeles, Calif.

Description

Age	41, born March 5, 1935, Boston, Mass.
Height	6 feet 1 to 2 inches.
Weight	190 to 215 pounds.
Build	Medium.
Hair	Brown.
Eyes	Blue.
Complexion	Fair.
Race	White.
Nationality	American.
Occupations	Laborer, salesman, steeplejack.
Scars and marks	Appendectomy scar.
Remarks	Two upper front teeth false.
Social Security No. used	014-28-4834.
FBI No.	167,448 B.

Fingerprint classification:
22 M 26 W IOO 16 Ref: 26 26 26
L 3 W OOO 4 7 8

NCIC classification:
22PI13PO1621PO1216PI

Caution

Sims has possessed handguns in the past and reportedly has threatened the lives of others. Consider armed and extremely dangerous.

Notify the FBI

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

Left ring finger.

693-20

FBI LAW ENFORCEMENT BULLETIN

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Complete this form and return to:

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FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

_____ _____
(Name) *(Title)*

_____
(Address)

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

NOT THE REAL THING

Recently, at a U.S. penitentiary, inventory of an inmate's personal property made in connection with his transfer to a new cell disclosed a unique concealment. During the inventory, two soft drink cans, still in their plastic holding rings, were accidentally dropped, causing the bottom of one can to fall off, revealing its real contents. Pictured above is the can and contraband, consisting of a pair of white socks used as packing material; a foil packet containing a quantity of heroin (shown in the small capsule); and $60 in currency. As an added precaution against detection, the can had been carefully weighted with epoxy glue to simulate the weight of a full can of cola.

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THIRD CLASS

QUESTIONABLE PATTERN

This questionable pattern is interesting because of the loop formation appearing in the lower left area of the impression. This pattern possesses two separate loop formations and two deltas. It is classified as a double loop type whorl with an outer tracing. Since the lower left loop formation might not always appear if the pattern were not fully rolled, a reference search would be necessary as a loop with seven ridge counts.