



FBI

Law Enforcement

BULLETIN



Vol. 31, No. 2

February 1962

Federal Bureau of Investigation
United States Department of Justice
J. Edgar Hoover, Director

FBI

Law Enforcement

BULLETIN

FEBRUARY 1962

Vol. 31, No. 2

Published by the
FEDERAL BUREAU
OF INVESTIGATION,
UNITED STATES
DEPARTMENT OF
JUSTICE,
Washington 25, D.C.

Contents

- 1 *Statement of Director J. Edgar Hoover*
- 3 The Faith To Be Free, Address by Director J. Edgar Hoover.

Feature Article:

- 5 Gruesome Pictures Must Be Pertinent To Be Admissible, by Donald L. Adams, Deputy Attorney General, State of Indiana, Indianapolis.

Crime Prevention:

- 12 Today's Teenagers Lack Discipline, Sense of Values, by Ralph McGill, Publisher, The Atlanta Constitution, Atlanta, Ga.

Other Topics:

- 10 The Policeman's Lot, by Paul Harvey.
- 14 Young Skipper Scuttles Boat For Insurance.
- 15 Yale University Offers Traffic Fellowships.
- 19 Investigators' Aids.
- 20 Enforce Laws To Avoid Rail Crossing Tragedies.
- 24 Wanted by the FBI.

Identification:

Questionable Pattern (*back cover*).



Message from the Director

TO ALL LAW ENFORCEMENT OFFICIALS:

IN THE EYES of all responsible law enforcement officers, corruption is an evil and vile menace to our society. When found permeating the framework of our profession, it becomes a personal enemy of every red-blooded officer.

A more despicable person does not exist than the law enforcement officer who breaches his oath of office and violates the public trust. He is an unscrupulous hypocrite and a disgrace to the service. Each time an officer commits a criminal act, each time he accepts a bribe or payoff, he invites ridicule and disrespect for his department, community, and State. He opens the door to shame and ostracism for himself and his loved ones.

Few professions are subjected to closer public scrutiny than law enforcement. This is as it should be. The fundamental concept of our responsibilities deals with individual liberties. Accordingly, the public has a right to expect our operations to be above reproach and our performance of duties to be unsullied. Without the respect and confidence of the public, our cause is hopeless.

Recent debasing reports of scandal and criminality by some officers have placed a heavy burden on law enforcement. We know the overwhelming majority of officers are devoted, conscientious public servants. Diligent and dedicated men have given the best years of their lives to perpetuate and promote law enforcement to a professional status. Nevertheless, all members suffer public disfavor because of the actions of a few traitors. We should not, of course, let this discourage us. Neither should we stand passively by and ignore the problem. These weaklings must be sought out, removed from service, and dealt with forcefully.

Agencies racked with corruption are not always entirely responsible for their plight. Before local citizens and civic leaders would absolve themselves of any blame, they might well re-examine their own positions. Corruption breeds on public apathy and slipshod administration.

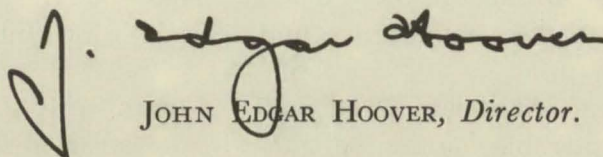
Many departments are inadequately equipped to cope with internal strife. They lack funds, personnel, and facilities to properly discharge their responsibilities. Good law enforcement is not possible without comprehensive background investigations of applicants, outstanding training programs, penetrative self-inspections, realistic pay scales, and promotions based on merit. No department can accomplish these objectives without the support of public-spirited citizens and the backing of appropriate authorities.

We dare not face corruption with timidity. It takes faith and courage to stand firm in times of adversity. With crime rates spiraling daily, law enforcement cannot be hampered by criminality within its own ranks. Every officer should enter the fight to uphold the integrity of the profession.

This month we commemorate the birthday of a great man who understood the virtue of integrity.

"Let us have faith," said Lincoln, "that right makes might, and in that faith let us to the end dare to do our duty as we understand it."

Let us do our duty as we understand it. And to the end, let us demonstrate for one and all to see that our profession is imbued with an abundance of Lincoln's "might"—integrity, honor, and loyalty.

A handwritten signature in dark ink, reading "J. Edgar Hoover". The signature is fluid and cursive, with a large, stylized "J" and "H".

JOHN EDGAR HOOVER, *Director.*

FEBRUARY 1, 1962.

The Faith To Be Free

by DIRECTOR J. EDGAR HOOVER

Speech made upon receiving the Criss Award in Washington, D.C., on December 7, 1961, for his outstanding contribution to the personal security and safety of the American public.

This indeed is a great honor which has been made possible by the personal sacrifices and devotion to duty of my associates. I accept the Criss Award with deep humility on behalf of the dedicated men and women of the FBI. I shall cherish it always as a symbol of your recognition of their service to the American people. I am most grateful to the Awards Committee and to Mutual of Omaha.

Our Responsibility

Ours is the greatest Republic in the history of mankind. Our homeland was carved out of a vast wilderness by heroic men and women who were determined at any cost that their children, and their children's children, might live in freedom under God. It is our sacred responsibility to help protect that heritage and to preserve it for future generations.

I would like to be able to report that the internal enemies of our society have virtually disappeared—that they have faded into the dim past like the dangers of the wagon trail and the Northwest frontier. But this is not so.

Our Society Today

From the depths of our criminal and subversive underworlds, strong enemies—deadly enemies—continue to challenge the right of decent Americans to live in freedom and dignity under God.

Today, we are facing a crime problem of such magnitude that it represents an acute danger to our national survival. There is a serious weakening of moral and spiritual fibers in our society. We must never forget that a vitiated state of

morals, a corrupted public conscience, is incompatible with true freedom.

During the past decade, crime has nearly doubled across the United States, outpacing the growth of our population at the rate of four to one. A murder is committed every 58 minutes. There is a vicious assault every 4 minutes; a forcible rape every 34 minutes; a robbery every 6 minutes; a burglary every 39 seconds.

Crime is no respecter of age, race, or creed. Each year, the cost of crime climbs higher and higher until it now has reached an alarming total of more than \$60 million each day.



Year after year, we find that nearly half of the persons arrested for burglaries and larcenies, and almost two-thirds of those arrested for automobile thefts, are less than 18 years of age.

Parents Are at Fault

America's juvenile criminality is directly traceable to the failure of adults to meet their moral obligations. In all too many cases, the primary responsibility rests with the parents. If respect for law and order and for the rights of others were instilled in children at an early age and if parents set a proper example for their children, we might keep juvenile delinquency from becoming the door to careers in crime.

I can see no difference between the responsibility of a 17- or 18-year-old who willfully robs, assaults, or murders and that of an adult who commits the same crime. Each should be held strictly accountable for his act against society. These are not juvenile delinquents. They are vicious young thugs. They should be treated accordingly. I share with Blackstone the premise that the main strength and force of a law consist in the penalty annexed to it.

Makeup of a Criminal

The most deeply entrenched forces of the underworld in our Nation today are the professionals who comprise the jealously guarded ranks of organized crime. These are the criminal elite, assuming an air of legitimacy, who buy high-priced legal advisers, better termed "lawyers criminal," and "front men" to shield them from proper punishment.

These underworld characters with their criminal scum flout the sacrifices—the blood, the sweat, and the toil of six generations of dedicated Americans—which secured the freedoms they enjoy. These persons wear our constitutional guarantees as a cloak of protective armor. They are unrestrained by those moral considerations which constitute the lifeblood of a democracy. In their eyes, the United States is a haven of rights without responsibilities—of privileges free from obligation to the society which has made them possible. Theirs is a virulent, parasitic existence consuming the lifeblood of the freedom which they would enjoy.

Unfortunately, they are assisted all too often by

public lethargy, and by some jurists obsessed with the virtues of legal technicalities, as well as by theoreticians with the soft approach who purport to be experts in the field of law enforcement and penology. Justice is not impartially meted out when the victim and society suffer while the criminal goes free.

We in America emphasize the great value of liberty and the importance of sympathy for the accused. The law-abiding citizen is entitled to more consideration on the part of our courts. The basic purpose of the criminal law is to protect society, not the criminal. As an eminent Justice of our United States Supreme Court observed, "The necessity of public protection against crime is being submerged by an overflow of sentimentality."

In this Nation, disrespect for law and order is a tragic moral sickness which attacks and destroys the American traditions of honesty, integrity, and fair play. Directly or indirectly, its victims include every man, woman, and child in the United States.

It is a national scandal that the streets of many of our cities are as fraught with danger as the jungle trail.

All Must Bear Burden

Each of us to his fullest capacity must help shoulder the burden of this growth of lawlessness and strive to end it. Our Nation's moral strength has slipped alarmingly. One cannot preach morality and practice immorality. National corruption is the sum total of individual corruption. We must follow the teachings of God if we hope to heal this moral illness.

The FBI is conducting an "all out" war on crime. The entire law enforcement profession has never been more united in the fight against crime than it is today. However, in order to achieve the desired results, law enforcement must have the solid backing of every decent citizen. The striving for law and order, for human decency, for equal opportunity, is a matter of conscience—public and private.

So long as dishonesty and evasion of responsibility are tolerated, it is inevitable that law enforcement will mirror this breakdown in the moral fiber of our society. But, if we continue to progress in the tradition of free men, with adequate

(Continued on page 17)

FEATURE ARTICLE

Gruesome Pictures Must Be Pertinent To Be Admissible

by DONALD L. ADAMS, Deputy Attorney General,
State of Indiana, Indianapolis

(The following article was prepared by Mr. Adams when he was serving as a technician in the crime laboratory of the Indiana State Police. Its primary purpose was for use as a training outline for the guidance of officers of the Indiana State Police in conducting investigations. At the request of Indiana Attorney General Edwin K. Steers, Mr. Adams presented his paper to a statewide conference of Indiana prosecuting attorneys at Fort Wayne on August 11, 1961. Mr. Adams later resigned from the Indiana State Police and, since September 15, 1961, has been deputy attorney general, State of Indiana.)

The body of the child was lying on the basement floor near the steps; the nude body of the child's mother lay nearby. Large knife wounds were apparent on the faces and bodies of both the child and the woman. Pictorial evidence of this horrible scene was introduced at the trial of Richard A. Kiefer, a truck mechanic from Fort Wayne, Ind., along with two pictures taken of one of the victims during and following the autopsy.

The defendant admitted the heinous crime. In his story to police following his arrest, he related that on the morning of January 15, 1957, he went into the basement of his home to discuss financial problems with his wife while she was doing the family laundry. An argument followed during which he hit his wife with a hammer. Their small daughter, hearing the commotion in the basement, ran downstairs and attempted to stop her father from beating her mother, whereupon he struck the child with the hammer. He continued to strike both with the hammer, and, when they were "knocked out," he went upstairs to the second floor and got a hunting knife. He returned to the basement where he slashed the bodies of both his wife and daughter. A police officer testifying as a witness for the State said: "I asked him why he got the knife, and he replied that he wanted to make sure they were dead."

On November 18, 1958, the Supreme Court of Indiana reversed the conviction of the defendant

Richard Kiefer on the basis that the admission of the photographs taken during the autopsy procedure was prejudicial to the rights of the defendant and formed grounds for a new trial. The high court said: "Our duty is to see that he has a fair trial. Even the perpetrator of a crime as heinous as that portrayed by the evidence in this case is entitled to a fair trial and the protection of his rights as an American citizen."¹ (See References at end of Article.)

Controversy Over Reversal

The reversal of this case created considerable apprehension among investigators, prosecutors, judges, and lawyers in general as to just what the



Donald L. Adams, deputy attorney general,
State of Indiana.

status of the law is in Indiana when pictures of a gruesome scene are desired to be admitted into evidence. It has been thought that the case of *Hawkins v. State*² had provided Indiana with a leading case which decided most of the major issues concerning the admissibility of such photographs, and the majority opinion in the *Kiefer* case cited *Hawkins* with approval.

It was the language of the strong dissent written by Justice Arterburn which precipitated most of the controversy. His opinion said in part: "A defendant, because he has committed a horrible and particularly vicious crime, has no constitutional right to keep such facts from the jury which is trying him for the crime. All such evidence goes to the question of intent, motive premeditation, and sanity which was in issue in this case, as well as the penalty to be inflicted"; and further: "As we have said previously, the majority opinion upsets the well-established principles in Indiana with reference to the admissibility of photographs. In doing this, it ignores the Indiana law and goes outside the State in a hunt for precedent."

Determining Admissibility

Our purpose here is to inquire into the cases in Indiana and in other States in an effort to determine what standards have been adopted to determine the admissibility into evidence of gruesome or inflammatory pictures; to determine if possible what rules of evidence control in Indiana; to determine if the *Kiefer* case has substantially altered these rules; and finally to formulate some guides or standards for the criminal investigator and the prosecutor to consider so that pictures which are grounds for a new trial are not introduced into evidence in the first instance.

To properly orient our thoughts on these problems, we must first consider the general rules of evidence applicable in Indiana to all photographs.

Indiana Rules of Evidence

The use of photography as an evidentiary device sprang out of the established procedures for the use of maps and drawings.

By the turn of the century, photographs were being regularly received into evidence—particularly in civil litigation. The majority view of the Indiana court was stated in 1911 in *Indiana Union Traction Co. v. Scribner*:³ "Photographs

and pictures are admissible in evidence when shown to be reasonably accurate representations of the place or thing in question." To be material to the issues, the pictures sought to be introduced must be related to the time in question.⁴ The fact that the taking of the photograph is somewhat removed in time from the date of the event, however, does not make it inadmissible if the same facts are presented.⁵ Photographs are admissible to show the appearance of a place or thing, or if they tend to aid the court in understanding the words of a statute,⁶ or if they aid the jury in understanding the testimony.⁷

A Landmark Case

Without question, the landmark case in Indiana concerning the general rules of evidence applicable to all pictures is *Haven v. Snyder*.⁸ The court recited: "The use of photographs as conveying a witness-pictured expression of data observed by him is sanctioned beyond question." The court further decided: "It is immaterial whose hand prepared the thing, provided it is presented to the tribunal by a competent witness as a representation of his knowledge"; and, that it is subject to cross-examination through the person who verifies and uses it, and, hence, "the objection based on the hearsay rule is groundless."⁹ The mere fact that there is a conflict in the evidence between the testimony of a witness and the pictures does not make them inadmissible,¹⁰ nor are the photographs to be considered as conclusive to such an extent that evidence in conflict with them should not be considered. It is for the jury to determine what weight should be given pictures by the same tests used in weighing other evidence.¹¹ Moving pictures are admissible to prove a confession.¹²

A photograph may be used by a witness to identify a person or a deceased person even without having viewed the body. In *Western & Southern Life Insurance Co. v. Kerger*,¹³ the court held: "Upon the issue of the identity of a person, duly authenticated photographs are admissible in evidence."

The accuracy and the assistance of a photograph to a jury are within the sound discretion of the trial court as a preliminary question, and it shall not be reversed upon appeal unless it is apparent that such discretion has been abused.¹⁴

In summation, it may be said that where a

photograph has been authenticated by a witness and is relevant and material to the issues so as to aid the jury in reaching a verdict, it is admissible into evidence. The decision as to whether or not these precedent conditions have been satisfied is a preliminary question for the trial judge and shall not be disturbed unless it is shown that such discretion was abused so as to deny one of the parties a fair and impartial trial.

Gruesome Photographs

This is, of course, the problem area and stems from the fact that the decision of the trial judge may be reversed upon a showing that there was an abuse of his discretion in allowing a particular photograph into evidence, such as to prejudice the rights of the defendant. If the photograph is of a body, the nature of which is gruesome and likely to cause an emotional disturbance in the members of a jury, is such a photograph ever admissible in the trial of a person accused of causing the death? If so, under what exact circumstances?

Early Use of Photographs

As early as 1882, the Supreme Court of Georgia decided that such photographs were admissible.¹⁵ The language of the court in this early case in the development of court presentation of pictorial evidence is of peculiar significance. The court said: "The throat of the deceased was cut; the character of the wound was important to elucidate the issue; the man was killed and buried, and a description of the cut by witnesses must have been resorted to; we cannot conceive of a more impartial and truthful witness than the sun, as its light stamps and seals the similitude of the wound on the photograph put before the jury; it would be more accurate than the memory of witnesses, and the object of all evidence is to show the truth, why should not this dumb (mute) witness show it?"

Problem of Admissibility

By the middle thirties, almost all States were in agreement that gruesome photographs might be admissible under certain situations, but the definition of which situations would allow their admission varied widely. Taking a negative approach, *Godwig v. Lopez*¹⁶ held: "Photographs are not admissible in evidence unless they are nec-



***Honorable Edwin K. Steers, attorney general,
State of Indiana.***

essary or instructive to establish some material fact or condition." The opposite view is revealed in the considerations of *State v. DeZeller*¹⁷ where the court held: "The horrible, revolting, and ghastly condition of the corpse, as depicted by the photographs, was an inherent and inseparable part of the facts which were relevant to a full consideration of material issues by the jury. Photographs are admissible as competent evidence where they accurately portray anything which it is competent for a witness to describe in words, or where they are helpful as an aid to a verbal description of objects and conditions, provided they are relevant to some material issue; and they are not rendered inadmissible merely because they vividly bring to the jurors the details of a shocking crime or incidentally tend to arouse passion or prejudice."

Emphasis Shifted

Language indicative of a middle-of-the-road approach appears in the 1934 New Jersey case of *State v. Burrell*,¹⁸ where the court held such pho-

tographs admissible when they tend to prove a material fact, without which the State would be unable to support the charge laid in the indictment. In this case, the emphasis shifted from the necessity of showing the photograph, or the relevancy of the isolated photograph itself, to the real heart of the consideration—the materiality of the particular fact sought to be proved or supported by the photograph to the actual issues which are or might be at point in the case. Viewed in this light, many of the common objections to the admissibility of photographs appear groundless. The mere fact that a photograph contains notations of such things as distances, or markings calling attention to particular areas of the photograph, should not in any way affect its admissibility. If this argument is followed in gross, alterations of the body of the victim alone would not be grounds for refusal to admit a picture, unless all relevancy to the material issues to be proved had been destroyed.

Real Issues Considered

The first step in this direction was taken in an Arizona case in 1931.¹⁹ In this case, the charge was murder. The State's contention was that the fatal injury on the head was inflicted by a wrench found at the scene. There was evidence to connect the wrench to the defendant. Photographs of the wounds on the head of the victim were introduced at the trial. In an effort to save the life of the victim, the head had been shaved and stitches taken, and mercurochrome had been applied to the wound. All of these things were explained by the doctor who treated the victim. Prior to the taking of the pictures, the stitches were removed. The Arizona Supreme Court held that the fact that the ghastly appearance of the wounds, even though such appearance was heightened by the shaving of the head and the use of mercurochrome, so long as it did not tend to deceive the jury as to the real issue in regard to which the photographs were admitted, did not make them inadmissible merely because such appearance might have a tendency to arouse passion and resentment against the defendant in the minds of the jurors.

California early developed a liberal rule which illustrates a position at least one step nearer to the ultimate in liberality. In the 1914 case of *People v. Elmore*,²⁰ two photographs were taken

of the victim's neck shortly after his death from a severed windpipe to show the nature and extent of the wound. In one picture, the cut appeared as it was sewed up prior to death; the other showed the stitches removed and the edges of the cut held apart by two short sticks inserted for that purpose, thus disclosing the incision of the windpipe made by the wound. The court said of the pictures: "They were competent for that purpose under the circumstances and with the explanatory proof made."

In *Commonwealth v. Sheppard*,²¹ a photograph of the upper part of the victim's body was admitted over the objections that it was altered, that sight of it may induce loathing of the crime and hatred of the accused by the jury, and that it portrayed the hand of a living person manipulating the position of the body. The high court said on review that under these conditions and with these objections, the question of admissibility of the exhibit rested largely within the sound discretion of the trial judge. From this, one could conclude that mere changes in time and place from the perpetration of the crime ought not to affect the admissibility.

In *State v. Fine*,²² the body was shipped by trunk from Atlantic City to Philadelphia, such body being mutilated and partially decomposed. Pictures of the body were held to still be admissible to help show the corpus delicti of the crime over the objection that they were gruesome and injected an element of horror into the case. Remoteness due to mere passage of time was not considered significant in *State v. Heathcoat*.²³

Basis for Admissibility

The basis of the admissibility in a majority of cases is probably the probative value derived from being a part of, or at least in close proximity to, the *res gestae* of the crime.²⁴ The farther away in time and space from that of the actual perpetration of the crime, the less is the probative impact acquired from the legal majesty of the *res* of the crime.

Such things as the relative position of the body to various physical objects at the scene of the crime; the location of the wounds or the position of the body to show how the crime was carried out: the location of the weapon that caused the death, and the disposition of such things as bloodstains or other trace evidence are examples of materiality

derived from the direct connection with State's proof burden in showing when, where, how, and by whom the crime was committed.

Another consideration not to be overlooked in determining materiality of the photographic evidence is the State's burden to refute affirmative defenses raised by the accused. In *State v. Bradley*,²⁵ the position is clearly stated by the Missouri court: "This photograph tended to establish that the accident could not have happened like defendant claimed to the officers it had happened. It tended to sustain the State's theory that the shooting was intentional and to refute the sole defense that it was accidental." It was held admissible for these reasons, even though the killing was admitted and the photograph was shocking and gruesome.

A 1953 Montana case²⁶ illustrates an instance where the materiality of the photographs sought to be upheld as admissible was lacking. While the color slide of the child's body showing ghastly sores and scars was evidence of a crime which had been perpetrated on the child, it did not depict anything material to the crime charged which was manslaughter by starvation. The use of color slides and pictures has been upheld, however, against objections that the mere fact that the pictures are in color would create a greater prejudicial effect and ought to be excluded for that reason alone.²⁷ Several well-written opinions formulated the conclusion that there is, and should be, no basic distinction between the use of color pictures and those in black and white.²⁸ Several decisions have been found where distortion in color has been held not of such a serious consideration as to preclude admission,²⁹ but the court did not consider such problems as making red blood appear redder. This might be of such a nature as to improperly impress the scene on the minds of the jury.

The Autopsy Photograph

If the body of the victim has been altered during such procedures as autopsy, rather than medically necessary or uncontrollable changes before or after death, a new and perhaps the most serious problem is presented. While the jury seemingly has a right to know the full extent and nature of the crime committed, the defendant likewise should have a right to be protected from outside

alterations of the conditions produced by the crime itself which might tend to intensify or enhance the prejudicial effect on the jury. One court paused to mention in its opinion that it felt: "That all the evidence was such as to indicate that the crime was committed with such extreme atrocity and violence that these slides could add little to inflame or prejudice the jury."³⁰

Not all courts, however, have appraised the constitutional rights of the defendant to due process of law so lightly. The language of the decision in *State of New Jersey v. Bucanis*³¹ is, we believe, a vivid and enlightened commentary on the position taken by the highest court in a majority of the States. It says in part: "The fact that a photograph may have some probative force is not always completely determinative of its admissibility. There are cases where the logical relevance of such

(Continued on page 21)



**Col. John J. Barton, superintendent,
Indiana State Police.**

The Policeman's Lot

by PAUL HARVEY

(It is believed the remarks of Mr. Harvey, a noted commentator and journalist, on a recent newscast concerning the death of a policeman will be of interest to all law enforcement officers.)

It was Benjamin Franklin who said, "If men are bad in spite of religion, think what they would be without it."

I feel somewhat the same about policemen. Though some are bad, what if we had none?

Officer Nick Klaske was 9 years on the Fond du Lac, Wis., Police force. One night three young hoodlums from Chicago tried to rob a filling station, Nick tried to arrest them, there was a gunfight. The policeman is dead. He was 37. His widow was expecting their fourth child within a week.

The D.A. is trying to find a law that will ade-

quately punish the "night crawlers" who did this thing.

We hear so much to-do whenever the headlines strip the badge of a corrupt cop, but it's not news for a man to spend his life directing traffic in the rain, or kissing his wife good-bye, without knowing if he will ever see her again.

It's not news when a decent cop comes home stinking from wrestling a sick drunk, or when he walks alone into a hostile household to try to stop a wife beater or arrest a knife fighter.

The cop "on the make" or "in on the take" gets roasted over an open fire. But who will bother to salute the thousands of them who do so much more than you and I could ever pay for.

My daddy was shot to death when I was 3. He was out rabbit hunting with the chief of police in Tulsa, Okla., and the hijackers—gunning for the chief—thought my dad was he.

So, maybe my stubborn reverence for the policeman's uniform dates back to that night before Christmas many lonely years ago.

In almost three decades on the news beat I've seen men defile that uniform and disgrace it. I've seen the fat hand on the end of the long arm of the law.

But I've seen others wear that uniform proudly and wear it out running errands for hypocritical citizens who fix fines and blame the cops. And I've been with them staked out in a cesspit waiting for a shoot-out with a two-time loser who has nothing more to lose—or with a hop-head punk who hollers, "Juvenile, don't shoot!" as he comes at you with a lead pipe.

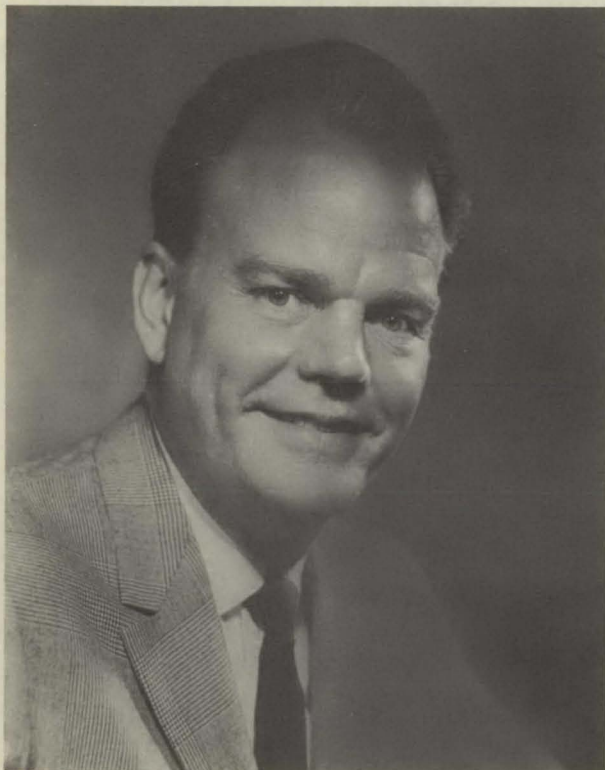
At best, the cop will make an arrest that won't stick.

So I hear about this thing in Fond du Lac. I remember that Officer Klaske is the second policeman in that one town shot down by hoodlum guns in 3 months. And these will not be the last weeping widows, the last lonely orphans, whom the lawmen leave behind.

I know, the rotten apples necessarily raise an awful stink. In Chicago we've had more than our share of stinkers.

But while we beat our breasts, and wave our arms, and rout these out, maybe we ought to get on our knees and give thanks to the mostly-good men who wait in the dark listening for your cry in the night.

If, even with such men as these, we are still sick with the crime disease, we would be dead without them. (Copyright 1961, General Features Corp.)



Mr. Paul Harvey.

FBI Jurisdiction Does Not Cover Making Evaluations

The extent of the FBI's jurisdiction is sometimes misunderstood or, in some instances, unknown to a great number of American citizens.

Numerous requests are received from individuals in all walks of life and from all sections of the Nation seeking information on or an evaluation of various organizations, publications, and individuals. This Bureau's investigative jurisdiction does not extend to making such evaluations. Results of FBI investigations are furnished to the Department of Justice, or other appropriate governmental agencies, without comment, recommendations, or conclusions. Final determination rests with these organizations. Accordingly, information contained in FBI files must be maintained as confidential pursuant to regulations of the Department of Justice.

The FBI is charged with investigating matters relating to the internal security of the United States. These include espionage, sabotage, and subversive activities. All citizens are urged to acquaint themselves with the methods and operations of the enemies of democracy so that they can readily recognize efforts to undermine our way of life. Information indicative of subversive activities should be promptly reported to the nearest office of the FBI; however, any action which will be taken or final disposition of the information received cannot be divulged.

New Legislation Protects Communications

To further protect the internal security of the United States, heavy penalties will be imposed on individuals who maliciously damage certain Government communications facilities.

President Kennedy signed Public Law 87-306 on September 26, 1961, which broadens the communications facilities covered under Title 18, U.S. Code, Section 1362. Prior to the passage of this law, Title 18, Section 1362, prohibited the willful or malicious destruction or interference with telephone, radio, or other means of communications operated or controlled by the United States.

The new law was designed to increase the facilities covered by this section by adding facilities used or intended to be used for military or civil defense functions of the United States. Thus, as an example, if a plant holding a Government contract for the production of defense material were to have its telephone lines willfully or maliciously destroyed or interfered with, a violation of this law could exist. It could also be a violation if damage were done to the transmission equipment of a radio station utilized in the Civil Defense Conelrad System.

Anyone found guilty of willfully or maliciously destroying or in any way interfering with the smooth functioning of such a line or system of communication shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

Memo to Mr. Rosen from A. J. McGrath dated 10-26-61 and copy of the Act House Calendar #130

Antitrust Violations Investigated by FBI

Investigations by the FBI of alleged violations of certain antitrust laws resulted in 198 convictions and fines totaling \$2,641,000 during the fiscal year 1961. This is a substantial increase over the totals for the previous year.

These allegations were investigated by the FBI at the request of the Antitrust Division of the Department of Justice and involved price-fixing agreements, agreements to allocate territories and customers, tie-in sales arrangements, agreements to submit identical bids, and similar activities which restrained interstate trade and commerce in violation of certain Federal antitrust laws. Some of the products and industries involved in these investigations related to building materials, drafting equipment, office supplies, petroleum

products, grocery items, electrical power equipment, and dairy products.

The FBI conducts investigations of alleged antitrust irregularities for the purpose of furnishing evidence to the Antitrust Division of the Department of Justice for its use in criminal prosecutions, as well as in civil actions which are taken to stop violators from continuing activities held to be in violation of certain Federal antitrust laws.

Many of the investigations involve large industries and companies which operate nationwide. Although many violations appear only local in character, when information relative thereto is correlated with other information, the existence of violations of a widespread or even national character is indicated.

CRIME PREVENTION

Today's Teenagers Lack Discipline, Sense of Values

by RALPH MCGILL, *Publisher, The Atlanta Constitution, Atlanta, Ga.*

Maybe because I began in the newspaper business as a police reporter, I since have had an interest in, and an appreciation of, the techniques and problems of law enforcement. By inheritance, I had a sort of reverence for the United States, for its courts, the Constitution, the Presidency, and the various institutions of government.

As I have grown older, I have been dismayed by the increase in crime. It has more than outpaced the surge of population growth. It is no longer a phenomenon of urban communities. It is increasing in suburbs and in rural areas. And the greatest percentage leap has been in the field of juveniles and the next step up—"young men and women."



Ralph McGill.

The morning papers after Labor Day carried stories of five separate mobs of college-age men and women who, in considerable numbers, staged drunken riots. They attacked police. They chanted, "We want booze." They destroyed property. They were in such numbers as to warrant stories on the national wire. Hundreds of smaller episodes of a similar nature were merely local stories.

These young people were not "toughs" in the ordinary semantics of the word, nor were they the products of broken homes. But they most assuredly were products of undisciplined homes. They inescapably represented parents and schools which had failed to provide any sense of values, of manners, or all that is wrapped up in the broad sense of the word morality.

An unmistakable feature of the racial mobs in Little Rock, New Orleans, Birmingham, Anniston, and Montgomery has been the presence of large numbers of teenagers. They have constituted from 50 to 70 percent of the mobs.

At Montgomery, only the presence of U.S. Marshals prevented an attack on a church where a large number of Negroes had fled the rioters. None disputes that a good many persons could have been killed had the Marshals not been there.

The newspapers of Montgomery reported that this mob was composed entirely of teenagers.

The Tragedy of Our Times

From where do they come? From what sort of homes do they come? Why are not their parents interested in where these young persons are and what they are doing?

We know the story of the school "dropouts" who are uneducated in a time that demands education and who are unskilled in an industrial era which requires skill and minds which can absorb training. Their number increases. They already are a tragic problem to sociologists and to the stat-

isticians in the Department of Labor and the FBI. Why?

They cannot really earn a living. Most of them marry and have children. Since they cannot support them, they turn to petty or major crime. They usually abandon their families. (The statistics of abandoned children are shocking and an affront to our type of civilization.)

J. Edgar Hoover, Director of the FBI, has said he looks at crime in this country and sees an obvious answer. There is, he believes, a breakdown in morality and sense of values. I am not a "yes man," but I agree.

Parents Are at Fault

So many things go on that make no sense. So many stupid things are done which reveal the idiocy of parents. I know a father who has given his 15-year-old daughter her third expensive sports car. She wrecked the other two. He and his wife also allow his daughter to give parties at which cocktails and beer are served. The parents of other 15-year-olds allow them to attend. What is more, they also give the same sort of parties. In some girls' schools, for the secondary school years, the lineup of expensive sports cars and an atmosphere of the most pretentious keeping-up-with-the-Joneses are the hallmark of the school and its great attraction. Young girls are seen at ordinary school dances in dresses costing \$100 and more.

Last spring at one school for above-average boys, a group of 11 engaged in stealing cars, wrecking mailboxes, and driving cars across large lawns to damage them and the shrubs. They were bored with "life."

There are hundreds of such stories in every State, every year. Who can deny that papas and mamas are saps who themselves have confused a large car and a flashy front with values?

Is this an old complaint? Has it been with us always? Sure. But not in such quantity. Not in such a rush that it outruns the population growth. Not with such acceleration that each year sets a new record.

We are a consumer society—and a good one. I do not go along with all the clichés about Madison Avenue, but I do believe the beer and liquor ad men ought to fall back and regroup. It is wrong—and bad for the country—to equate beer with youth, with athletics, and to give the idea that it is impossible to have "fun" without beer. It is

wrong, I believe, to picture the highball as the essential ingredient of a happy, congenial family life. I have been a strong antiprohibitionist ever since I saw the workings of prohibition. But, in my opinion, we can't afford, without serious consequences already apparent, to picture alcohol as having a place everywhere in our lives, save at the church, without doing national harm. The industry owes it to itself to play a more responsible role.

Immorality in Our Society

I laughed when Mr. Khrushchev, in his visit to Hollywood, became enraged when his wife was shown a dance scene from "Can-Can," but I was not amused. We would be the worst sort of fools to ignore the fact that communism has a strong strain of the Puritan in its official "line." It claims to place great stress on the family. It claims to have reduced prostitution to its irreducible minimum. It openly frowns on immoral conduct. It seeks to exalt the family—as witness the propaganda uses of the families, including the parents, of its two astronauts who orbited the earth. It concerns me that Russian night life, while boring, does not include an exhibition of striptease and "dirty songs." I assuredly have no wish to imitate Soviet society, but I am ashamed of much of the the moral slackness in our country.

Teenagers and the Law

I am convinced that we need additional action to cope with the teenage criminal and the delinquent. The old reform and training schools don't meet the demand. We need places where education to produce skills, hard work, and instruction in the values of our kind of society can be given. Staffs of psychologists and psychiatrists should be a part of such institutions. The States can't, and won't, do the job. We cannot afford to have this great army of aimless, unskilled, frustrated, valueless teenagers increase with each passing year. They are now a national problem. A substantial number graduate from delinquency to real crime. Left alone, they will become a national disaster.

I sympathize with the law enforcement officer in his job. The picture of forlorn teenagers under arrest always evokes pity—and sob-sistering. If the police have to rough them up a bit, there are always charges, or suggestions, of brutality.

What these persons ignore is that when a police officer is confronted with a teenager in the act of

(Continued on inside back cover)

OTHER TOPICS

Young Skipper Scuttles Boat for Insurance

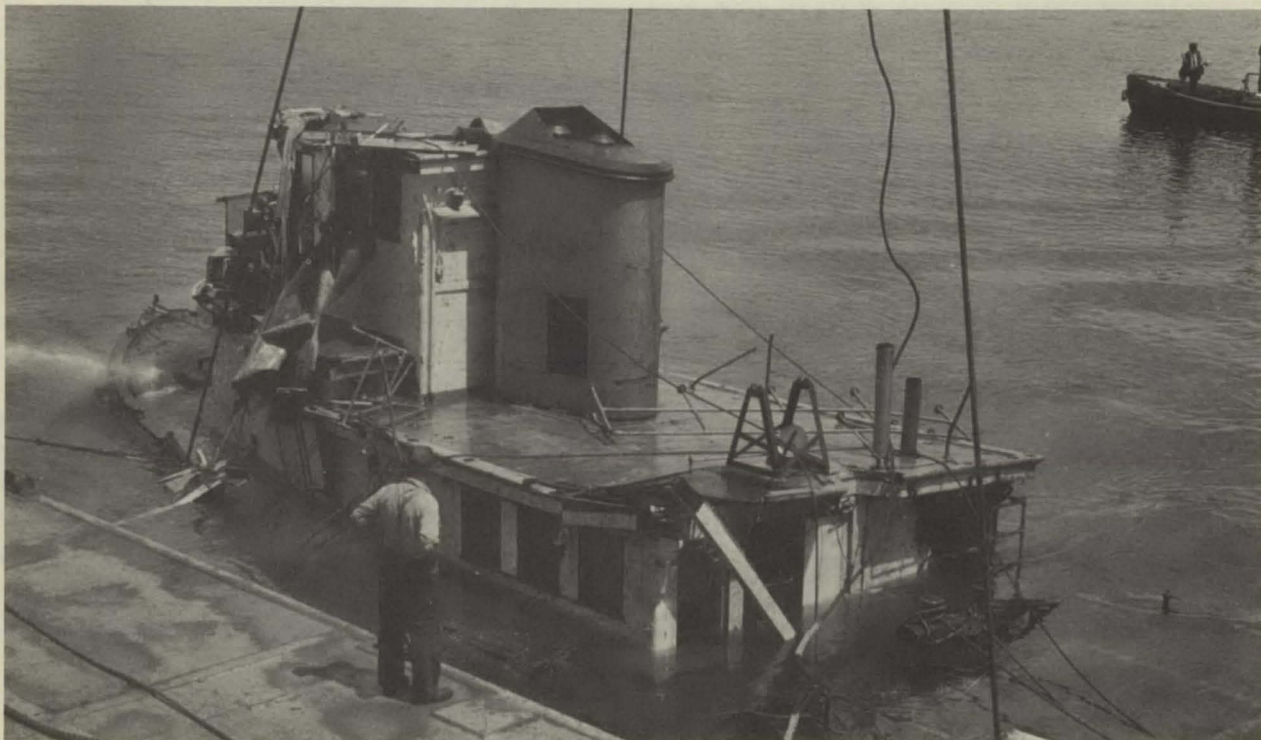
I.C. # 45-9844

Traditions of the sea are widely known and time honored. The breach of any such tradition becomes a matter of public interest and censure, for, to any "old man of the sea," it is inconceivable that anyone who is the master of a vessel can deliberately violate these traditions. But such was the case of the skipper of the proud 78-foot fishing boat, the *Cape Douglas*.

The 29-year-old skipper, with little actual experience in the fishing industry, had acquired the vessel with no down payment and plunged himself into insurmountable financial obligations—in order to add to the boat's fishing potential—which he made no effort to meet. Inexperienced in fishing, he made trips which were unproductive, and he further increased his indebtedness by writing checks—with insufficient funds to pay.

With a dozen sheriff's liens being filed against his craft by creditors and unable to take the *Cape Douglas* on any more fishing trips until he paid his debts, he raised the insurance on the vessel from \$60,000 to \$80,000, then deliberately schemed to destroy his own boat. After he had been "beached" for nonpayment of his bills, he approached another seaman, who had taken the *Cape Douglas* on several successful fishing trips, and offered him a large sum of money to scuttle the vessel, but the old seaman contemptuously refused. Others were approached with a similar offer, but none would consent to the request.

Then one morning the headlines in a Seattle, Wash., paper announced that the *Cape Douglas* had sunk off the coast about an hour's run from the wharf where she had usually been anchored.



The Cape Douglas is brought to the surface from a 640-foot depth by salvage crew.

The skipper and the engineer, the only persons aboard at the time, had made their way ashore in a rubber life raft, reporting that the fishing vessel had struck an unidentified metal object, filled with water, and had gone down. They named at least three different locations where she had sunk.

The offers to pay individuals to sink the vessel had become a topic for waterfront gossip, and insurance companies which had covered the *Cape Douglas* for \$80,000 declined to honor the claims.

Six weeks later, the *Cape Douglas* was located at the bottom of Puget Sound by a sonar-equipped salvage boat, 5 miles from the spot where her skipper reported the vessel had gone down. It was not until several months later that she was brought to the surface. The successful salvage operation from approximately 640 feet of water was believed to be the greatest depth from which any vessel had ever been raised.

Examination of the boat by FBI Agents, officials of the Coast Guard, insurance men, and sal-

vage engineers revealed that there was no damage to the hull. Further inspection after a thorough cleaning of the vessel brought to light the fact that the sea valves had been opened which resulted in her being flooded through her own waterlines. She had obviously been scuttled by her own skipper. He was arrested by an FBI Agent and a U.S. Marshal near Dillingham, Alaska.

Evidence brought before the grand jury proved beyond a doubt the guilt of the skipper in sinking his own vessel. He was charged with the crime of barratry—the willful destruction of a ship by its master—a statute reaching back to the days of the clipper ships. It was the first case of its kind in U.S. District Court in Seattle, and reportedly the first in more than a hundred years in the United States.

The skipper of the *Cape Douglas*, who so treacherously transgressed the traditions of the sea, was sentenced to 5 years' imprisonment and ordered to pay a \$3,000 fine.

Yale University Offers Traffic Fellowships

The Bureau of Highway Traffic at Yale University has announced the availability of fellowships for the 1962-63 academic year to be awarded to qualified graduate engineers who are citizens of the United States and would like to enter the profession of traffic engineering as a career.

The fellowships cover a full academic year of graduate study, starting in September 1962 and terminating the following June. They provide a living stipend of \$1,400, disbursed at the rate of \$175 per month for a period of 8 months, while a student is enrolled. The fellowships also provide the tuition of \$1,000, which amounts to a total value of \$2,400 for each fellowship. The fellowships are made available to the Bureau of Highway Traffic through grants from the Automotive Safety Foundation, the Esso Safety Foundation, the Insurance Institute for Highway Safety, and the James S. Kemper Foundation.

The Bureau also offers tuition scholarships to qualified municipal and State highway engineers who will receive financial aid from their employers while undertaking the graduate work. This arrangement is considered by many employers to be a form of inservice training.

The Bureau has trained over 600 professional

traffic engineers. Most of these graduates hold responsible traffic engineering positions in city government and State highway departments, as well as commercial agencies. The academic year of traffic engineering study consists of two full semesters of classroom work, laboratory and individual research, required reading, field problems, and seminars. The courses include: (1) Traffic characteristics and measurements, (2) traffic regulations and control devices, (3) highway planning, (4) highway location and geometric design, and (5) highway administration and finance. Experts in traffic and related fields from all over the country are invited to speak as guest lecturers at frequent intervals.

Applications for admission and further information may be obtained by writing to Mr. Fred W. Hurd, Director, Bureau of Highway Traffic, Strathcona Hall, Yale University, New Haven, Conn. Fellowships and scholarships are awarded to those applicants with highest qualifications. The closing date for filing applications is March 1, 1962. Previous experience in traffic work is not essential to become a successful candidate for a fellowship or scholarship when other qualifications are indicated.

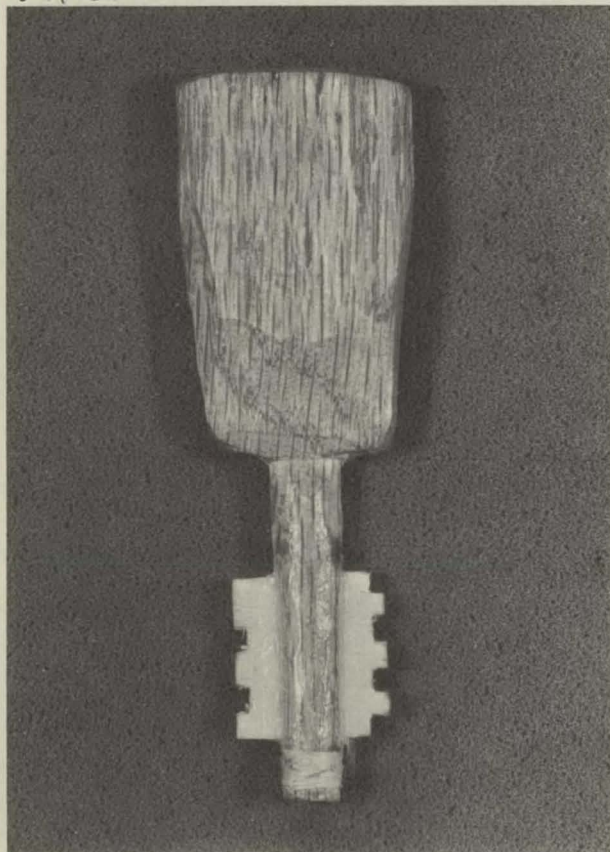
Industrious Inmates Initiate Escape

Awaiting trial in a Covington County, Ala., jail in default of bond, two young burglary suspects spent their time and ingenuity devising a means of escape, even though they were secured by a padlock on a chain, a standard ward lock, and a remote-controlled door lock.

They made an impression of the key by ingeniously turning a soft piece of pine wood in the lock. From this impression, they carved the hardwood key shown in the photo and utilized it to open the ward lock. Then, using a hacksaw blade they had concealed, the diligent pair sawed through the chain that also secured the door. On visitors' day when a number of visitors were allowed into the hall between the cells, the adroit pair calmly let themselves out of the cell and walked out of the jail with a crowd of visitors.

Once outside, the fugitives began looking for their contacts who were to aid them in their flight

*Typed copy with markings:
James - Reeloch Moore written
on it.*



Wooden jail key carved by escapees.

to freedom. The two bewildered escapees separated after failing to meet their intended rescuers, who were already in custody of the local sheriff. They were apprehended a few hours later and were back in jail by 9 p.m. on the same day of their escape.

Covington Co. Alabama

★

HOAX UNCOVERED BY TELLTALE CLOCK

One of the important things a police officer should check immediately upon arrival at the scene of a homicide is the time on any clock in the room.

This seemingly minor point also became important in a burglary, as is evident in the case of a "rather prominent" citizen's complaint to the police of the theft of a valuable coin collection from his home.

When the police responded to his call, they found the house in a state of disorder, furniture out of place, chairs upset, drawers open and emptied—and an electric clock torn from the wall. Entry supposedly had been made through the front door, the glass panel of which was broken—presumably to permit the housebreaker to reach inside to release the lock.

It was learned that the complainant's wife had left the house about 1:40 p.m. and that the complainant had left a half hour later.

A glance at the shattered clock showed that it had stopped at exactly 2:10, the time the complainant said he had left his house. Suspicious of the authenticity of the complaint, police accused him of staging the burglary himself. The "prominent" citizen finally confessed he had planned the hoax in an effort to defraud an insurance company.

Inasmuch as no claim had actually been made to the insurance company, the man was charged with disorderly conduct, to which charge he entered a plea of guilty.

Chicago Criminal dated 4/28/61

★

PAINT SAMPLES

Paint samples should be chipped from painted surface rather than scraped to assure the presence of all layers. Paint samples taken from a suspect's automobile in hit-and-run cases should include paint chipped near point of impact as well as from several areas of the car.

THE FAITH TO BE FREE

(Continued from page 4)

safeguards against any invasion of the rights and dignity of the individual, we will ultimately achieve victory over those who defy law and order throughout our great Nation.

Pearl Harbor and Today

Today marks the 20th anniversary of a tragic event in our history—the attack on Pearl Harbor which triggered America's entry into World War II. That war cost the lives of 400,000 Americans—courageous men who, at a time of gravest need, sprang forward in the noble tradition of their forefathers to defend the cause of freedom with their lives.

But now, two decades later, in Europe, in Asia, and in neighboring areas of the Western Hemisphere, we find stark evidence of a grim truth—that liberties once won must constantly be defended.

The Communist Menace

During our generation, a new menace—international communism—has arisen to threaten free men throughout the world. Actually, there is little basic difference between the fascism of Adolf Hitler and the atheistic tyranny practiced behind the Iron Curtain. The Soviet Union and her satellites are a godless dictatorship ruled by warped and twisted minds.

We are at war with the communists and the sooner every red-blooded American realizes this the safer we will be! Naturally, we want to live in peace, but we do not want peace at any price—we want peace with honor and integrity. And we intend to assure it for the future.

The extent of the menace posed by the philosophy of communism is clear-cut and obvious. However, it is absolutely necessary that we attack and oppose it calmly, rationally, and objectively.

We must continue to stiffen our national backbone in dealing with the communists and their dupes, sympathizers, and apologists. If we relax our guard for one moment, we court national disaster.

The atheistic communist dictatorship now controls one-fourth of the earth's surface and more than one-third of her peoples. The communist

threat from without must not blind us to the communist threat from within. The latter is reaching into the very heart of America through its espionage agents and a cunning, defiant, and lawless Communist Party, which is fanatically dedicated to the Marxist cause of world enslavement and destruction of the foundations of our Republic.

The Communist Party in this country has attempted to infiltrate and subvert every segment of our society. The party's efforts have been thwarted in this country by the Government's internal security programs, by investigation, arrest and prosecution of party functionaries, and by widespread intelligent public opposition to the communist philosophy.

Recently, the Communist Party in the United States deliberately and flagrantly refused to comply with the United States Supreme Court decision which requires it to register as an agent of the Soviet Union with the Attorney General. Thereby, it once again has formally declared itself to be a lawless organization. No longer can its members falsely profess that the party is a legitimate political organization. Nor can its sympathizers and fellow travelers feign innocence of the true nature of the un-American conspiracy which they support.

Strength Not Weakness

Unfortunately, we are plagued with some Soviet apologists who, time after time, would have us betray the cause of international freedom and justice by yielding to the Red fascists in the Kremlin on vital moral issues.

We also have in our midst some timid souls who have so little faith in the strength of democracy that they would have our country yield to international threats and intimidation. I include those persons who urge "appeasement at any price" and those who chant the "better Red than dead" slogan.

America's emblem is the soaring eagle—not the blind and timid mole. Fear, apologies, defeatism, and cowardice are alien to the thinking of true Americans! As for me, I would rather be DEAD than RED!

America does not have to apologize to anyone. Certainly not to the arrogant, shoe-pounding Khrushchev and his puppets—nor to those neutrals whose neutrality is but an evidence of moral

weakness. We should keep our heads up looking for honorable solutions and selling America, rather than keep our heads down looking for shelters and the compromise of human rights.

Those who follow the road of appeasement do not know the true meaning of freedom. They do not comprehend the misery of communist enslavement. You will not find their cheap slogans on the lips of the Hungarian refugees, the East German patriots, nor other freedom-loving peoples who have escaped from behind the Iron Curtain.

Safeguard Your Inheritance

Nor do you find their apologies in the writings of great American patriots such as: Patrick Henry, who asked the searching question, "Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery?"; or Benjamin Franklin, who declared, "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety"; or Samuel Adams, who reminded us that "The liberties of our country . . . are worth defending at all hazards; and it is our duty to defend them against all attacks. We have received them as a fair inheritance from our worthy ancestors . . . (who) purchased them for us with toil and danger. . . ."

In the fight to preserve our Republic, it is not enough merely to be *against* crime, *against* subversion or *against* any of the other enemies which weaken the Nation's strength from within. To stand *for* the American ideal, to work *for* the cause of liberty and justice—these give true meaning to life in this great Republic.

If we are to effectively resist the eroding influence of communism, it is imperative that all citizens of this Nation exhibit in more positive ways the value and superiority of our form of government over any foreign ideology.

Challenge We Will Meet

Let us also work for a revolution—a revolution by the spirit, not by the sword. Let there be vital forces at work in our society and not merely slogans. Let us be for America all the way; but, at the same time, let us not be taken in by those who promote hysteria by the distortion and misrepresentation of the true facts whether they be the proponents of chauvinism of the extreme right or pseudo liberalism of the extreme left.

At another hour of grim challenge a full century ago, Abraham Lincoln urged the American people, "Let us have faith that right makes might, and in that faith let us to the end dare to do our duty as we understand it."

We are living in an age of uncertainty—an age of awesome national peril—an age when the struggle between freedom and totalitarian enslavement is drawing toward a climax. We *now* have need of *faith as never before in our Nation's history*. We must revive within ourselves the faith of our forefathers which enabled them to meet and overcome adversity.

Our Nation holds in trust the last hope of a free civilization. Our dedication to truth, justice, and individual dignity *must not be compromised*. If we are strong enough, and care enough, and maintain our national integrity, this Nation will survive the terrible threat that presents itself today. With God's help, we will meet the challenge of survival. This is the heritage of America.

★

QUOTABLE QUOTE

"The judicial approach to the problem, of course, must be in a spirit of cooperation with the police officials in the administration of justice. They are directly charged with the responsibility for the maintenance of law and order and are under the same obligations as the judicial arm to discharge their duties in a manner consistent with the Constitution and statutes. The prevention and punishment of crime are a difficult and dangerous task, for the most part performed by security and prosecuting personnel in a spirit of public service to the community. Only by the maintenance of order may the rights of the criminal and the law-abiding elements of the population be protected." Mr. Justice Reed, *Upshaw v. U.S.*, 335 US 410, 417 (1948).

★

KIDNAPING

The FBI has investigative jurisdiction over kidnapping cases in which the victim has been transported across State lines. The failure to release the victim within 24 hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away shall create a rebuttable presumption that such person has been transported across a State line.

1960 Annual Report P.12.

FBI LAW ENFORCEMENT BULLETIN

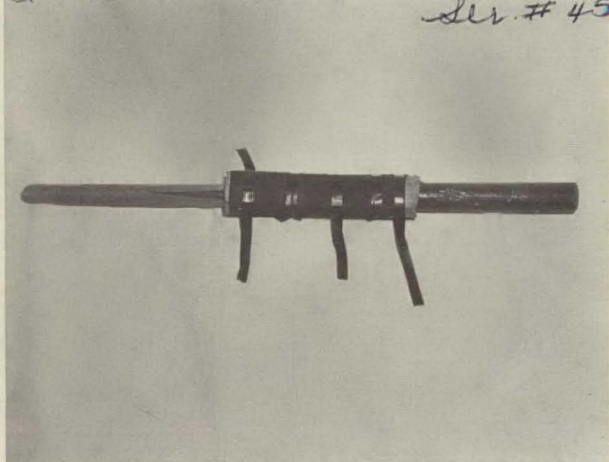
INVESTIGATORS' AIDS

Effective Weapon Made from Pool Cue

In a recent theft of government property case in which the guilty person was arrested by the FBI, a search of his car brought to light a homemade weapon which the prisoner said he needed for self protection.

The weapon was a pool cue cut off to a length of about 26 inches and tapered at one end. This home-fashioned weapon was enclosed in a scabbard made of heavy cardboard bound with friction tape. Friction tape was also used to secure this highly effective weapon to the inside of the doorpost of his car near the driver's seat, making it most convenient for him to reach his "protection" in any emergency.

*San Antonio Crimdel 63-4296-45
Ser. # 458*



Pool cue converted into effective weapon.

★

CRIME SCENE SKETCHES

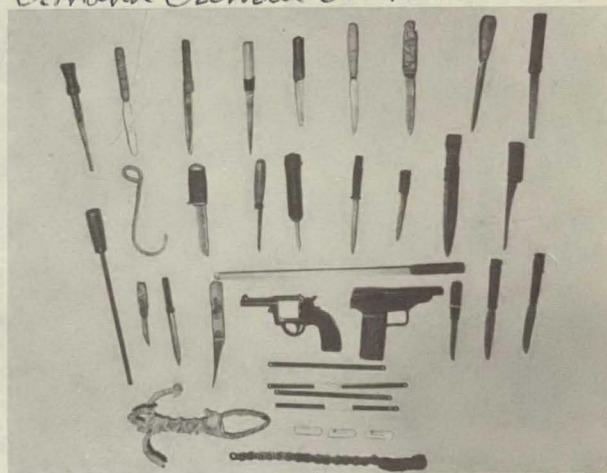
Drawings or sketches of a crime scene may be used to effectively support an investigator's notes and to complement photographs made of the crime scene.

*Military Police Journal
FEBRUARY 1962 April 1961 p. 9*

Search and Seizure Prove Fruitful

During a 30-day period of "search and seizure" in a midwestern penitentiary, numerous articles of contraband were taken away from the prisoners. These items included a large number of sharp knives which had been fashioned by the inmates from regular prison silverware, kitchen knives, and files. Two homemade hand guns carved out of wood by inmates were also found, as well as a large grappling hook covered with tape to use for attempts at scaling the prison walls. Also included among the contraband articles were hacksaw blades, benzedrine inhalers, and a length of bicycle chain with a homemade handle covered with friction tape.

Omaha Crimdel 63-4296-36 Ser. # 533



Assortment of weapons seized from prisoners.

★

ZIP GUNS

When zip guns are confiscated, it is advisable to leave them as they are—don't dismantle, don't cut the rubber band. Turn them over to firearms experts for examination.

*Spring 3100 - January 1961, p. 4
19*

Enforce Laws To Avoid Rail Crossing Tragedies

One of the most disastrous types of highway accidents is the collision of railroad trains with loaded gasoline and oil trucks at railroad-highway grade crossings. In a period of 15 months, from March 1, 1960, to June 21, 1961, three such accidents occurred in the areas of Bakersfield, Calif., Magnolia, Miss., and Bettendorf, Iowa, bringing fiery death to 26 people and injury to 106 others. Property valued in the millions of dollars was lost in the burning gasoline and oil.

Such catastrophes tax to the utmost the manpower and facilities of local fire and police departments and hospitals.

In each of the above cases, the truck was loaded with from 2,000 to 6,000 gallons of gasoline or oil, and the collision was caused by the driver of the truck failing to stop and look for approaching trains before moving onto the crossing, according to railroad officials.

The accompanying photograph of a recent accident of this kind at Bettendorf, Iowa, shows what happens when a train collides with a gasoline tank truck.

Interstate Commerce Commission and State regulations require that trucks loaded with flammable liquids be brought to a stop before moving over railroad grade crossings and that the driver shall look in both directions for approaching trains and shall not proceed until he can do so safely. However, many violations of these regulations have occurred in the past, and when collisions occur, the usual victims are train engine crews and truckdrivers.

The seriousness of this type of accident, which destroys life and property, and the growing number of trucks transporting gasoline and oil longer distances over city streets and highways, point up a definite need for law enforcement officers to give increased policing to gasoline trucks using rail-highway grade crossings. Enforcement of existing regulations will alert drivers to stop, look, and listen before moving over these crossings.

(Photograph courtesy of Ken Schloemer Studio, Bettendorf, Iowa.)



Train-truck collision near Bettendorf, Iowa, June 21, 1961, as a result of which engineer, brakeman, fireman, and truckdriver were killed.

20 Mr. Walter S. Fetzner
Chief Special Agent of the
Chicago, Burlington and Quincy R.R.
Chicago, Ill. (dated 9-6-61)

FBI LAW ENFORCEMENT BULLETIN

GRUESOME PICTURES

(Continued from page 9)

an exhibit will unquestionably be overwhelmed by its inherently prejudicial qualities which will impair the defendant's right to a fair and impartial trial"; and further: "The picture under discussion here was gruesome and horrifying. It portrayed the disemboweled body of a victim after an autopsy and was repulsive beyond description. Although it was probative to a degree, it nevertheless was more harmful than illuminating. Sound judicial discretion dictated its exclusion."³²

Determining Admissibility

When the question is squarely raised on appeal, every State must decide at which point sound judicial discretion dictates that inflammatory evidence be excluded. A major consideration in deciding where this point should be is what the cases in other jurisdictions have declared are, or ought to be, the governing legal principles. The case of *McKee v. State*,³³ a 1947 Alabama case, is the case which was cited by the Indiana court to support its position in the *Kiefer*³⁴ case. It was also alluded to by the dissent as the case outside this jurisdiction upon which the majority justified their upheaval of the established Indiana law.

Some light may be shed on the apparently different legal tests advanced and supported by the majority and dissent in the *Kiefer* case, by a careful consideration of what was said in the *McKee* case. It said: "The spleen constitutes a very, very small portion of the whole picture. All of the above photographs are, of course, unpleasant. This last exhibit we think may be appropriately catalogued as ghastly. Gruesomeness is no ground for excluding this type of evidence if it has a reasonable tendency to prove or disprove some material fact in issue or which, at the time, appeared to be probably in dispute or material, and if it will illuminate the issues in any way, and is relevant, it is admissible even though possessing a tendency to inflame the minds of the jury." Further: "Where, as in this case, massive mutilation of a body is necessary to expose such injured organ, fairness to an accused demands that only so much of the surrounding dissected body area be pictured as is reasonably necessary to furnish visual aid to the jury in determining the question of the facts presented."

If we comprehensively inquire into the real basis of these decisions, we see that the court felt that the questionable photograph, while possessing some probative value, ought not to have been admitted into evidence because it was so overwhelmingly overcome by the prejudicial effect on the minds of the jury as to deny the accused a fair and impartial trial.

Indiana Decisions

The first Indiana decision which seems to touch heavily on the problem was the famous "head and hands" murder case in 1937. Four ex-convicts in Franklin County conspired to kill Harry R. Miller and did so by the use of a lead pipe. The conspirators cut off the head and hands of their victim to prevent identification. The head and hands were recovered and photographed. After three of the men had pleaded guilty and had been executed for their crime, the photograph of the head and hands was introduced at the trial of the fourth. The exhibit was held admissible particularly to establish the identity of the deceased.

The next case of note in the State was the previously cited *Hawkins*³⁵ case in 1941 which leaned heavily on the *Hicks*³⁶ case for precedent in admitting the gruesome photographs. Exhibit 12 was a photograph of the decomposed body of the victim lying face down in dense weeds with his hands bound behind his back. Although several days had passed from time of the crime, the photograph had the probative value attendant to the *res gestae* of the crime unchanged except for the ravages of time. The trial court admitted the picture, and the supreme court condoned the admission. Exhibit 24 was a photograph of the skull of the decedent from which the skin and flesh had been removed. A jagged hole appeared in the left temporal region, with cracks radiating therefrom. A special defense had been raised which put the severity of the blow, as elucidated by the nature and extent of the wounds, squarely at issue. The court upheld the admissibility of this exhibit to show the nature and extent of the wounds saying that: "Any of the details have a decided tendency to horrify and appall, but a court cannot arrange for lively music to keep the jury cheerful while the State's case in a murder trial is being presented, and gruesome evidence cannot be suppressed merely because it may strongly tend to agitate the jury's feelings." The

court went on to add that: "We assume that photographs should be excluded when they do not tend to prove any controverted fact, but have a tendency to create unfair prejudice. . . ."

Where To Draw the Line?

From our review of the cases, it would seem that the exact question which was presented by the peculiar set of facts of the *Kiefer* case had not previously been decided by the Indiana Supreme Court. Just where is the line, in the presentation of autopsy photographs of the victim's body, beyond which the probative force of the pictures is so overwhelmed by the prejudicial effect on the mind of the jury that they deny him a fair and impartial trial? In that case, the court held admissible a photograph of the dead child lying on the basement floor. This photograph showed large knife wounds on her face and body. And, even though the defendant was charged only with the death of the mother, and this was another distinct crime, it was admissible because it happened as a part of the same transaction and formed a part of the *res gestae*. The court also held admissible four pictures of the dead woman's body taken from different angles saying that even though exhibits 10, 11, and 12 may be cumulative, and are gruesome in character, they serve to elucidate and explain relevant oral testimony given at the trial and were properly admitted for the purpose of showing fully the scene of the crime, the nature of the wounds of the victims, and the conditions of the basement immediately after the crime was committed.³⁷

Exhibits 13 and 14 were pictures of the body showing the hands of a doctor and nurse with instruments inside the deceased's chest and of the nude body showing all of the knife wounds and also the autopsy incisions. The court had already given its approval to the use of gruesome pictures where they are material and relevant to some material fact at issue and tend to prove or disprove such fact. The court held: "Such photographs are admissible to show the body of the victim; to establish the *corpus delicti*; to show the position of the parties to the crime; the position of the victim's body; the wounds of the victim, and the cause of death." In holding exhibits 13 and 14 reversible error, the Indiana Supreme Court, I believe, made its position clear when it held that: "Both numbers 13 and 14 are very gruesome, revolting, and inflammatory. They

were not necessary to establish the *corpus delicti*; did not show the position of the parties to the crime; nor correctly show the wounds of the victim or cause of death. They did not shed any light on any issue or enlighten the jury on any fact in issue, but served only to arouse passion and prejudice."

Conclusions and Suggestions

To the investigative photographer, it is suggested that:

1. To be admissible, a photograph must be relative and material to the issues being tried: The *time, place, and subject*.

2. It is not necessary that the person who takes or processes the photograph be used as a witness to authenticate a photograph. It may be introduced through other witnesses if authenticated by them as a *true* and *accurate* reproduction of the person, place, or thing pictured. Within the discretion of the trial judge, pictures which are not completely accurate reproductions in every respect may, or may not, be admitted into evidence. The test is: "Are the inaccuracies likely to confuse, mislead, or prejudice the jury?" If so, they should be excluded. Make every effort to eliminate inaccuracies, but, where they occur, do not discard the photograph.

3. Photographs of the unaltered scene of the crime, as discovered, are almost always admissible even though the actual commission of the crime is somewhat removed in time. This is a good practical rule, as most crimes are not so publicized that a photographer can record their commission. Take the photographs as soon as possible. Record the *unaltered* scene.

4. Photographs of the *unaltered* body of the victim, as discovered, are nearly always admissible because they are of a part of the *res gestae* of the crime.

5. Photographs of the body of the victim are admissible if for the purpose of showing the *corpus delicti* of the crime; the nature and extent of the wounds or injuries which caused the death; or for showing any other material and relevant fact at issue. However, it should be borne in mind that if alterations or additions are necessary to demonstrate what it is desired to portray (such as posing the body to expose the wounds), the photograph should not enhance the gruesomeness of the scene and must retain a high degree of materiality.

6. Where it is necessary to mutilate the body during autopsy procedures, only so much of the body area should be pictured as is reasonably necessary to demonstrate the wounds or injuries to the jury. This is the trouble area, and alterations or additions which are likely to have a prejudicial effect on the jury must be avoided.

7. The more removed in time and place from that of the commission of the crime, the more likely are pictures to be objectionable. The probative value tends to decrease while the inflammatory effect may be enhanced.

8. The mere fact that pictures are cumulative is not of itself objectionable; however, each succeeding picture tends to have less probative impact. A good investigator will make a few key photographs tell the story.

9. The use of color slides or pictures should be encouraged, as they are judged by the same standards as black and white, but are more realistic in their portrayal of the facts to the jury. Moving pictures are acceptable if they meet the standards set out for all pictures and the sequence of scenes does not tend to confuse or mislead the jury.

10. Photographs should tell the facts of what has taken place with as little external enhancement of the inflammatory effect as possible.

In the final analysis, the investigative photographer must avoid photographs which will deny to the defendant his right to a fair and impartial trial.

References

¹ *State v. Kiefer*, — Ind. —, 153 N.E. 2d 899, 908, 910 (1958).

² 219 Ind. 116, 37 N.E. 2d 79, 81 (1941).

³ 47 Ind. App. 621, 93 N.E. 1014, 1021 (1911).

⁴ *Holland Furnace Co. v. Nauracaj*, 105 Ind. App. 574, 14 N.E. 2d 339 (1938).

⁵ *Dill v. Dill*, 120 Ind. App. 61, 88 N.E. 2d 396 (1949). See also *Chesapeake & Ohio Ry. Co. v. Fultz*, 91 Ind. App. 639, 161 N.E. 835 (1928).

⁶ *Putnam v. Murden*, 97 Ind. App. 313, 184 N.E. 796 (1938).

⁷ See note 2, *supra*.

⁸ 93 Ind. App. 54, 176 N.E. 149 (1931).

⁹ See *Silvestro v. Watz*, 222 Ind. 163, 51 N.E. 2d 629 (1939) and *Keckels v. Fein*, 104 Ind. App. 606, 10 N.E. 2d 297 (1937). Of peculiar interest is *People v. Doggett*, 83 CA 2d 405, 188 P 2d 792 (1948), where, in a prosecution for sex perversion, photographs showing the defendants in the act of committing the offense were considered admissible by the California court even though one of

the defendants appearing in the picture had taken the photograph himself.

¹⁰ See note 8, *supra*.

¹¹ *Pettibone v. Howard*, 218 Ind. 543, 34 N.E. 2d 12 (1941).

¹² *People v. Hayes*, 21 Calif. App. 2d 320, 71 P. 2d 321 (1937). Sound movies of a confession were introduced into evidence, and the court upheld the admission saying that if the movie accurately reproduced that which was done and said, it was admissible under the same conditions as a confession given in an orthodox medium.

¹³ 111 Ind. App. 297, 36 N.E. 2d 965, 968, (1941).

¹⁴ See note 8, *supra*.

¹⁵ *Franklin v. State*, 69 Ga. 36, 47 Am. Rep. 748, 750 (1882).

¹⁶ 185 Oreg. 301, 202 P. 2d 935 (1949).

¹⁷ 230 Minn. 39, 41 N.W. 2d 313, 318 (1950).

¹⁸ 112 N.J. Law. 330, 170 A. 843 (1934).

¹⁹ *Young v. State*, 182 Ariz. 298, 299 P. 2d 682 (1931).

²⁰ 167 Calif. 205, 138 P. 989, 991 (1914).

²¹ 313 Mass. 590, 48 N.E. 2d 630 (1943).

²² 110 N.J.L. 67, 164 A. 433 (1933). See also *State v. Edwards*, 194 S.C. 410, 10 S.E. 2d 587 (1941).

²³ 194 A. 252, 119 N.J.L. 33, 35 (1937). In this case said of pictures taken nearly 3 months after the crime was committed: "The conditions were those created by the defendant himself, and there is nothing to suggest a change in the body or the premises except the ravages of time on either. The admissibility of photographs under such conditions is too well fortified to admit of doubt."

²⁴ *Turrell v. State*, 221 Ind. 662, 51 N.E. 2d 359 (1943). In a prosecution for reckless homicide a photograph of several of the bodies at the scene was held admissible even though the defendant was charged with causing only one of the deaths.

²⁵ 353 Mo. 780, 179 S.W. 2d 98, 101 (1944). See *State v. Henderson*, 63 Wyo. 467, 184 P. 2d 392 (1947).

²⁶ *State v. Bischert*, 131 Mt. 152, 308 P. 2d 969 (1957). In this case, the charge was failure to provide food and not medical aid. The pictures were ghastly but did little to prove the charge of starvation. The pathologist stated that he could fully explain his findings without the aid of the photographs.

²⁷ *State v. Huff*, 102 A. 2d 8, 14 N.S. 240 (1954).

²⁸ *Commonwealth v. Makarewicz*, 333 Mass. 575, 132 N.E. 2d 294 (1956); *State v. Sheppard*, 100 Ohio App. 345, 128 N.E. 2d 471 (1956).

²⁹ *People v. Moore*, 69 Ariz. 138, 210 P. 2d 967 (1957); *Green v. City and County of Denver*, 111 Colo. 390, 142 P. 2d 277 (1944).

³⁰ See note 28, *supra*.

³¹ 26 N.J. 45, 138 A. 2d 739, 743 (1958).

³² See *People v. Burns*, 109 Calif. 2d 524, 241 P. 2d 308 (1952). But see *Wahl v. State*, 229 Ind. 521, 98 N.E. 2d 671 (1951).

³³ 33 Ala. App. 171, 31 So. 2d 656, 660, 661 (1947).

³⁴ See note 1, *supra*.

³⁵ See note 2, *supra*.

³⁶ *Hicks v. State*, 213 Ind. 277, 11 N.E. 2d 171 (1937).

³⁷ See *Davidson v. State*, 135 Ind. 254, 34 N.E. 927.

³⁸ *Patton v. State* — Ind. —, 165 N.E. 2d 377 (1960).

WANTED BY THE FBI

CHARLES ANDREW CLINE, also known as Charles A. Cline, Charles Andrew Cline, Jr., Charlie Cline, Charles A. Clive

Unlawful Flight To Avoid Confinement (Attempted Murder, Burglary)

Charles Andrew Cline, a vicious and inveterate criminal, is currently being sought by the FBI on the basis of a Federal warrant issued at Montgomery, Ala., on January 18, 1960, charging Cline with unlawful interstate flight to avoid confinement after conviction for attempted murder and burglary.

The Crime

In May 1945, this ruthless felon and several companions were arrested on charges involving some 22 burglaries in Madison and Limestone Counties, Ala. While incarcerated in the Limestone County Jail awaiting trial, Cline and an accomplice perpetrated a daring escape on December 8, 1945. During the noon hour when the chief deputy

sheriff opened the prisoners' cell door to give them their midday meal, the desperadoes seized the deputy and brutally beat him. Cline, armed with a length of cast-iron pipe, allegedly struck the helpless victim several times about the head and face.

Leaving the badly bruised and bleeding deputy lying unconscious and near the point of death, the merciless pair fled from the jail, only to be apprehended later that same day in a wooded area near Athens, Ala.

The subject pleaded guilty to assault with intent to murder and was sentenced to 22 years' imprisonment. On April 2, 1946, he was committed to Kilby Prison, Montgomery, Ala. He was paroled in September 1953 and returned in March 1955 for parole violation. On February 2, 1956, this treacherous terrorist escaped from a Kilby Prison farm in Montgomery.

This fugitive has been convicted for grand larceny, burglary, and assault with intent to murder. He has worked as a taxicab driver and tile setter. Cline has been described as a violent individual with a bad temper.

Cline has been known to carry firearms and should be considered armed and extremely dangerous.

Description

Charles Andrew Cline is described as follows:

Age	42, born May 10, 1919, Bridgeport, Ala.
Height	5 feet 11 inches to 6 feet.
Weight	155 to 187 pounds.
Build	Slender to medium.
Hair	Black.
Eyes	Brown.
Complexion	Medium to dark.
Race	White.
Nationality	American.
Occupations	Tile setter, taxicab driver.
Scars and marks	Scar on right forearm, large sunken area in chest due to birth deformity.
FBI Number	4, 299, 230.
Fingerprint classification	22 M 27 W IOO 16 L 11 W OIO Ref: 27/12

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 25, D.C., or the Special Agent in Charge of the nearest FBI field office, the telephone number of which may be found on the first page of local telephone directories.



Charles Andrew Cline.

FOR CHANGE OF ADDRESS

Complete this form and return to:

DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON 25, D.C.

_____		_____
(Name)		(Title)

(Address)		

(City)	(Zone)	(State)

TEENAGERS LACK DISCIPLINE, SENSE OF VALUES

(Continued from page 13)

violating a law, he has a problem of immediacy. He often has a dangerous narcotic or drunken frenzy on his hands. He does not have time to consider how the boy or girl got that way, or by what tortured, unhappy path they came.

There should be, I think, some way to put parents on probation—those who give their children three expensive cars and cocktail parties—as well as those who are negligent and brutal.

These are a few thoughts on a subject which isn't going to go away. It worsens every year. It worsens because love is absent—but also because values and plain common sense on the part of parents also are nonexistent.

Helpful
Hints

EVIDENCE



SUBMIT ALL BROKEN GLASS FOUND AT THE SCENE WHEN REQUESTING
A GLASS FRACTURE EXAMINATION BY THE FBI LABORATORY TO
DETERMINE DIRECTION OF BLOW.



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON 25, D. C.

OFFICIAL BUSINESS

RETURN AFTER 5 DAYS

POSTAGE AND FEES PAID
FEDERAL BUREAU OF INVESTIGATION

Questionable Pattern



The interpretation of this pattern depends upon the classification afforded the loop-type formation on the right side of the impression. In this instance, there is a choice between assigning this formation an accidental whorl classification or a double-loop-type classification. In the Identification Division of the FBI, this impression is classified as an accidental-type whorl with a meeting tracing. A reference search would be conducted in the double-loop-type whorl grouping.