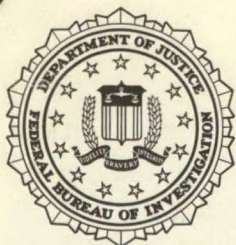


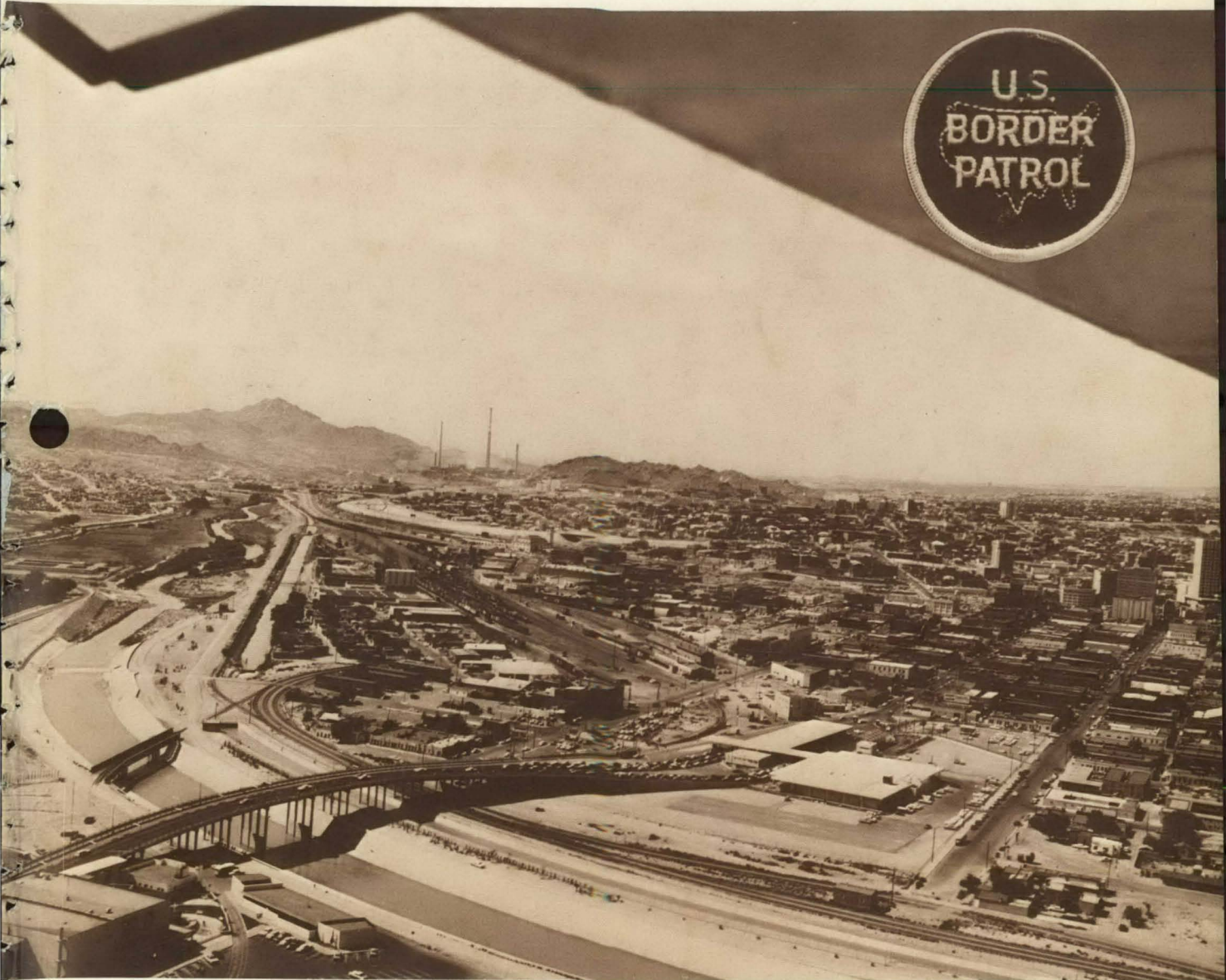
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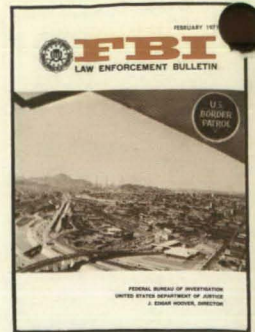
LAW ENFORCEMENT BULLETIN



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

FEBRUARY 1971

VOL. 40 NO. 2



THE COVER—The center of the Rio Grande channel is the dividing line between El Paso, Tex., and Mexico. See article beginning on page 2.

FBI

LAW ENFORCEMENT BULLETIN

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MESSAGE FROM THE DIRECTOR . . .

. . . To All Law Enforcement Officials

REASON IS A NOBLE TRAIT. But it is not always popular or newsworthy to be reasonable. In fact, in many instances today more courage is required to stand for reason and commonsense than to defy lawful authority.

It has been said that "Wise men are instructed by reason; men less understanding, by experience; the most ignorant, by necessity; and beasts, by nature." On this premise, an impartial appraisal of many happenings in our society might reflect that we rely too much on necessity and nature. Or as some would say in a more common vernacular—reason is out; irrationality is in.

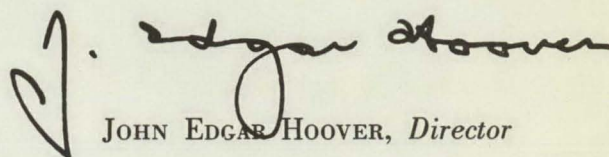
There is not much logic or reason behind actions that are self-destructive, deeds that are reckless and irresponsible, crimes that are senseless, and conduct that is degrading to mind and body. Motivated by vague, diverse causes, people abandon reason and pursue fantasies that defy comprehension.

To most Americans, it is inconceivable that some dissidents would repudiate ideals and principles that have made America the world's most successful and powerful free society. It is unbelievable that people would embrace semibar-

baric movements and subcultures which have no medium of human reason and which advocate the destruction of "the establishment" without any plan of replacement or survival. We hear much about the rebellion against "the establishment," but there are many people who feel it is a rebellion against reason.

A lawful society is based on the will of the people. Laws and rules of conduct are made to enable people to live together. Under this system, those who choose not to conform and who endanger the rights of others are subject to punishment according to the law. As our society becomes larger and more complex, law and order become more crucial. Thus, breaking the law and defying authority become paramount problems.

Much of the turmoil in our country today is caused by the unreasonable demands of irrational misfits—people who debase our basic concepts to include provocation, incitement, violence, destruction, and crime. They are demanding more than a free nation can give if it is to survive. They should remember that America's greatness lies not only in her achievements but also in her aspirations. However, for those whose hearts are blind to truth, the light of reason is hard to see.



JOHN EDGAR HOOVER, *Director*

FEBRUARY 1, 1971

IN THE EL PASO AREA—

Functions and Duties of the U.S. Border Patrol



By
HERMAN C. MOORE
Chief Patrol Inspector,
El Paso Sector,
U.S. Border Patrol,
El Paso, Tex.

The El Paso Sector of the U.S. Border Patrol includes 360 miles of international boundary from the Arizona-New Mexico State line to the Culberson County line in west Texas. Operations are directed from sector headquarters in El Paso through nine strategically located stations in New Mexico and west Texas.

Aerial view of the U.S. Border Patrol Headquarters facilities, El Paso Sector, shows the headquarters office, repair shop, and indoor firing range in the foreground and the detention facility in the background.



"The primary mission of the Border Patrol is to detect and prevent the illegal entry and smuggling of aliens into the United States by land, sea, or air; to seek out and apprehend alien smugglers; and to enforce all of the criminal provisions of the immigration and nationality laws."

The primary mission of the Border Patrol is to detect and prevent the illegal entry and smuggling of aliens into the United States by land, sea, or air; to seek out and apprehend alien smugglers; and to enforce all of the criminal provisions of the immigration and nationality laws (Title 8 of the United States Code and certain applicable portions of Title 18).

In addition to this primary mission, Border Patrol agents are designated as Customs Patrol agents and furnish general assistance to the Customs Service in preventing the illegal importation of contraband and in assuming specific responsibilities in the prevention of illegal traffic in narcotics.

A Complex Problem

El Paso, Tex., with a population of approximately 350,000 persons, is one of the largest, most densely populated American cities located directly on the Mexican border. Ciudad Juarez, Chihuahua, with a population of approximately 550,000 persons, is located immediately adjacent to El Paso and is the largest, most densely populated Mexican city directly on the border. The El Paso-Juarez metropolitan area contains almost a million persons. The two cities are separated in part by a fence and by the Rio Grande River, which can be crossed with little

difficulty at many points by foot or by vehicle.

Urban sprawl of the two communities has made enforcement a complex problem. Illegal entry and alien smuggling activity have grown to alarming proportions. El Paso Sector arrest statistics for the past several fiscal years illustrate the magnitude of this problem:

Year:	Apprehensions
1963 -----	3, 813
1964 -----	4, 486
1965 -----	6, 355
1966 -----	10, 119
1967 -----	13, 656
1968 -----	19, 408
1969 -----	31, 159
1970 -----	43, 640

In July 1970 our officers in the sector arrested 5,640 illegal entrants. This is nearly 1½ times as many apprehensions as were made in the entire fiscal year 1963.

Alien smuggling activity has increased steadily since 1965, with the most significant increase occurring during fiscal year 1969 when smuggling violations increased by 215.5 percent over fiscal year 1968. Smuggled aliens apprehended increased by 227 percent over the same period.

This traffic in human beings poses extremely serious problems. Smugglers are charging from \$125 to \$250 each to smuggle in and transport

illegal Mexican aliens to interior locations, principally to Colorado and Chicago, Ill. Often these smuggled aliens are crammed into campers, trunks of cars, pickup trucks with false flooring, and in rented vans. In a recent case Border Patrol agents conducting routine traffic inspection located 31 aliens crammed into the cargo compartment of a rented truck. The aliens were locked inside, with only a few cases of canned fruit juice for food. The load was destined for Chicago, Ill. The driver of the truck did not have a key for the locked compartment, thereby increasing the danger to the illegal aliens being transported. This particular case was arranged by one of the numerous professional smuggling rings operating in adjacent foreign territory.

Authority to Arrest

The law applicable to smuggling, transporting, harboring and concealing, and encouraging or inducing an alien to enter the United States illegally is codified under Title 8, United States Code, Section 1324. This is the only section of the immigration laws which grants authority to any officer, local, State, or Federal, whose duty it is to enforce criminal laws, to make arrests for any provision of the referenced section. Arrests for other criminal violations of the Immigration and Nationality Act can be made only by officers of the U.S. Immigration and Naturalization Service. The maximum penalty for violating any of the provisions of section 1324 is 5 years' imprisonment and \$2,000 fine, or both, for each alien in respect to whom any violation of the section occurs; provided, that for the purposes of the section, employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring.

In the El Paso Sector the mission of the Service is carried out by several

operational methods, most of them peculiar to the Border Patrol. One of the primary sources of apprehensions is "linewatch." Under this phase of operations agents maintain surveillance of the border at various strategic locations. Persons encountered in the border area are questioned as to their right to be or remain in the United States. The authority for questioning persons is contained in section 287 of the Immigration and Nationality Act. Linewatch operations rely heavily on the use of the various intrusion devices such as electric eyes, electronic sensors, and night vision devices, to mention only a few.

Methods of Illegal Entry

Linewatch, like all enforcement activities, has its special problems. One, in El Paso, is the "Paris-type" sewer system in the downtown area. Large storm sewerlines empty into the

Rio Grande at several points. Laterals from the main lines extend under the business district to carry rain water. Illegal entrants have discovered these sewers and use them as a means of access to the city. They can exit through numerous manholes and gratings to complete their illegal entry. Many of these aliens are shoplifters and narcotics pushers. After completing their mission of theft or dope peddling, they return to Mexico by the same route. Efforts to secure these drains have been unsuccessful so far because the aliens use all manner of devices to break any gates put on the drains.

Another phase of operations is signcutting (tracking). This is a highly specialized form of detecting illegal aliens and is limited to terrain conducive to such operations. Agents, expert in tracking, patrol the sandhills and desert areas constantly looking for tracks of aliens entering the United States from Mexico. When

tracks are found, the agents study footprints and can usually provide a fairly accurate description of the suspected illegal entrants. Observation of tracks can tell the agents such things as height, weight, and time elapsed since they were made.

Border Patrol by Air

Signcutting units frequently work in conjunction with observation aircraft. Agents on the ground find the sign (tracks) and advise the Border Patrol pilot of the number of illegal entrants and direction of travel. The pilot flies along the route of travel, and when he locates the illegal entrants, he radios their position to the ground units who proceed directly to the location and effect the apprehension.

The Border Patrol has, for a number of years, utilized small observation aircraft to patrol the border.

A fence and concrete markers form dividing line between United States and Mexico in desert area west of El Paso.





Illegal entrants, mostly shoplifters and narcotics pushers, go through outlets of storm drain emptying into Rio Grande (as shown) and exit through numerous manholes and gratings in downtown El Paso.

Border Patrol pilots are highly skilled in interpreting tracks and other signs left behind by aliens entering illegally on foot. The work of the Border Patrol pilot is extremely dangerous as air patrols are, of necessity, at low altitude and over rough mountainous terrain or desert areas. The aircraft are also used in conjunction with farm and ranch check. Working with ground units, the aircraft fly over agricultural areas and spot illegal aliens who attempt to evade arrest by hiding among the crops or in the brush adjacent to the fields. During "Operation Intercept" conducted in the fall of 1969, Border Patrol pilots were instrumental in the apprehension of smugglers and seizure of marijuana and other narcotics smuggled into the United States by air.

Farm and ranch check involves questioning laborers on farms and ranches in an effort to seek out illegal

entrants who have evaded arrest at the border. This is a highly sensitive area of operations since the agent is entering on private land while work is in progress. This phase of Border Patrol operations is carried out in one of two

tural workers in areas not covered by day-to-day operations. Each method requires that agents use caution not to delay unnecessarily the agricultural operations while verifying the immigration status of each employee. As

"Strategic and tactical intelligence has long been recognized as one of the basic and most important tools available to law enforcement agencies. The Border Patrol is no exception and relies heavily on intelligence information in enforcing the immigration and nationality laws."

ways. One method is the routine year-round check of farms and ranches along known routes of alien travel, usually following receipt of information that illegal aliens are in the area. The other method is a task force operation, where a large number of agents check all places employing agricul-

mentioned previously, Border Patrol aircraft participate extensively in this phase of operations.

Transportation check is another operational technique. Agents in plain clothes are assigned to train, bus, and airline terminals. These agents are unusually adept at spotting aliens at

tempting to reach the interior via public transportation. In a recent case a Border Patrol agent located an alien smuggler responsible for smuggling aliens into the United States and using commercial airlines to transport them to Chicago, Ill. In this particular case he was in the act of moving ten illegal entrants.

Traffic Inspection

City patrol is also a highly productive operational method. Agents in plain clothes check jails, industrial facilities, construction projects, restaurants, hotels, bars, and small businesses. They also check information furnished by other agents and covert sources of information.

Highway traffic inspection is a deterrent to illegal entrants and alien smugglers. This operation is designed primarily to locate deportable aliens and alien smugglers who have effected

entry and are attempting to leave the border area by automobile or commercial vehicle. The authority for establishing and maintaining traffic inspection points is contained in Section 287 of the Immigration and Nationality Act. The usual method of performing traffic inspection is to establish a checkpoint and stop all traffic to determine if there are deportable aliens in the vehicles. An alternate method usually employed in areas of light traffic is a roving patrol and observation. Agents using this system patrol an assigned area and stop only those vehicles appearing to contain suspect passengers. This method is also used extensively when checking information and when agents have a lookout for a particular vehicle.

Strategic and tactical intelligence has long been recognized as one of the basic and most important tools available to law enforcement agencies. The

Border Patrol is no exception and relies heavily on intelligence information in enforcing the immigration and nationality laws. Every Border Patrol agent is trained in intelligence-gathering techniques and relays information obtained to the intelligence agent at sector headquarters.

Intelligence Operations

The intelligence agent is responsible for the correlation and evaluation of all information originating or flowing into the sector from various sources. On the basis of this evaluation he calculates future trends of illegal alien movement and prepares forecasts which assist sector supervisors in planning, directing, and coordinating Border Patrol activities. The intelligence agent has the additional responsibility for maintaining liaison with other law enforcement agencies, public officials, and private individuals in this country and Mexico for the purpose of assuring a continuous flow of intelligence data. Information of value to other law enforcement agencies is expeditiously relayed to the interested agency and frequently results in the arrest of violators of other criminal laws.

Smuggling aliens into the United States has become highly professionalized and organized over the past several years. Smuggling rings employ innumerable devious means of accomplishing the illegal entry of their clients and in transporting them to the interior. Destinations of such "loads" are usually to areas of high employment, especially larger cities such as Chicago, Denver, Kansas City, et cetera.

Confidential Informants

Antismuggling agents assigned to sector headquarters are responsible for establishing, developing,

(Continued on page 26)



The Border Patrol has found the use of low-flying aircraft most effective in spotting aliens who have moved inland after avoiding detection at the border.



This is a view of the country lane leading to the barn where the victim was hidden.

Another Kidnaper Fails

"... the safety of the victim was the primary consideration."

At approximately 1:20 p.m. on March 18, 1968, Victoria Gonzoles,* the maid at the suburban home of wealthy San Antonio lawyer Joseph P. Lacy,* was feeding the Lacy's 8-month-old baby, while 4½-year-old Eugenia Lacy* looked on.

At the time, Joseph Lacy was at work in downtown San Antonio, and Mrs. Lacy had left home shortly before to keep an appointment with her doctor. The relative quiet of the afternoon was broken by the ringing of a doorbell.

Accompanied by Eugenia, Mrs. Gonzoles went to the garage door, thinking it the source of the ringing. She opened the door and found no one there; however, she did notice a light-colored panel truck parked in the driveway.

She and the child then went to the front door and, on opening it, found a man who stated that he was there to repair some water faucets. Without being invited to do so, the man entered the house and proceeded to the

kitchen. The maid and child followed.

Upon entering the kitchen, the man ordered Mrs. Gonzoles to turn on the faucet in the sink. While the water was running, he pulled a snub-nosed pistol from his pocket and pointed it at the maid. He ordered her to sit on the kitchen floor and warned her not to move or cry out or he would harm Eugenia. He then bound her legs with white tape and taped her wrists together behind her back.

At this point, Eugenia began crying hysterically. The gunman tried unsuccessfully to gag her, using some of the white tape he had used to bind the maid and also a cloth the maid used for dusting.

Mrs. Gonzoles, fearing for the child's safety, begged the gunman not to harm Eugenia. The man promised he would not hurt the child if the maid would remain on the floor and be quiet. Mrs. Gonzoles complied. Pulling a stocking down over his face and donning a pair of red rubber gloves, the intruder grabbed the child in his arms and prepared to

* Fictitious.

leave. He ordered the maid to tell Eugenia to stop crying. Taking the child, he hurried from the kitchen, leaving Mrs. Gonzales bound on the floor. She heard his footsteps going toward the front of the house, and within a few minutes she heard an engine start and a car drive away.

ishly to free herself from the tape. Finally, she broke the tape on her wrists and then untied her feet. She scrambled up from the floor, ran quickly to a neighboring house, sobbed out her story to the maid there, and asked her to telephone the San Antonio police. Officers re-

FBI Office were called in on the case. Meanwhile, a police officer, who was searching the house, found a ransom note on a table in the entryway to the living room. The note was printed in pencil and read as follows:

You can get ur baby back safe but call the cops we cut out Put 30000 old bills in flight bag 10 20 50 100 We will call u 7:00 and tell u what to do.

It was obvious that the message was printed by tracing over other printed letters. Mrs. Gonzales told the police that the kidnaper was approximately 50 years old, 6 feet tall, weighed 175 pounds, and wore a light-brown jacket, black trousers, and a dark cap with a dark bill. He also was wearing black-rimmed eyeglasses.

The kidnaper appeared to be approximately 50 years of age, 6 feet tall, weighed 175 pounds, and wore a light-brown jacket, black trousers, black-rimmed eyeglasses, and a dark cap with a dark bill.

Mrs. Gonzales began shouting the little child's name, and when she heard no sounds, she worked fever-

sponded immediately to the call, and after the facts of the kidnaping were obtained, Agents of the San Antonio

Primary Concern

She said the little girl was wearing a dark blue dress with short sleeves and blue ruffles edged in white down the front. Further description of the victim was obtained through photographs and from her parents.

As is the procedure in all kidnaping cases, the safety of the victim was the primary consideration. After conferring with FBI Agents, the Lacys decided to comply with the kidnapers' demands, and arrangements were made to procure the \$30 thousand ransom and be ready to follow instructions if a telephone call was received from the abductor.

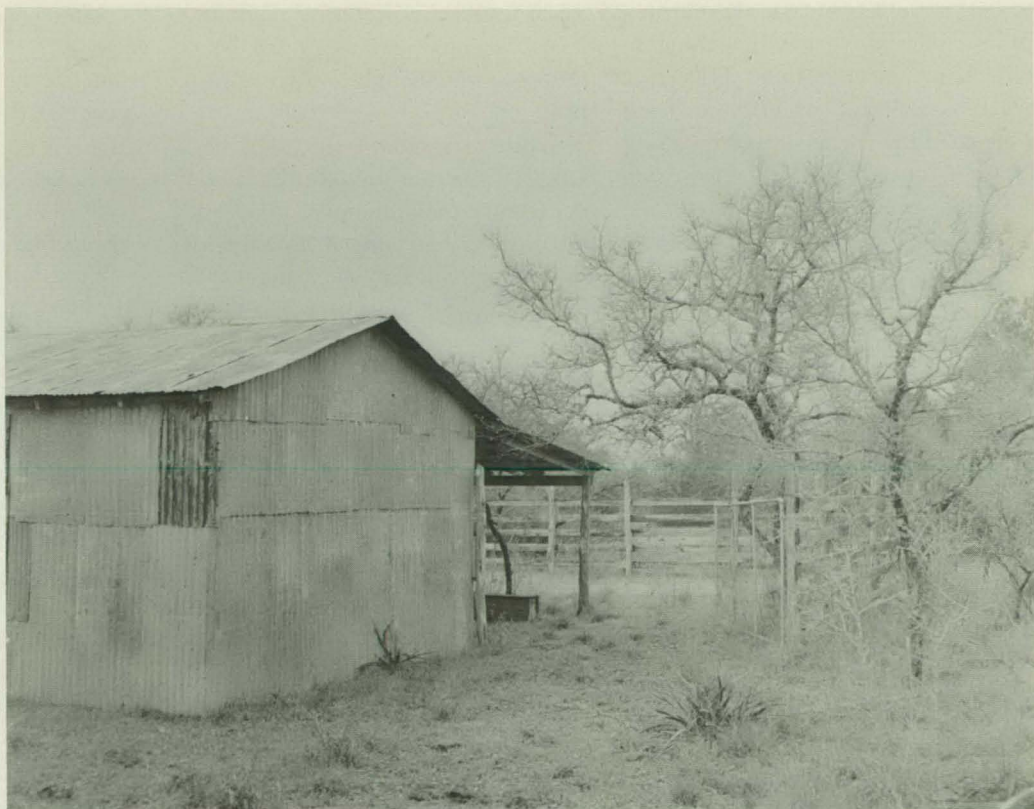
It was decided that Mr. Lacy would talk to the kidnaper when he called and try to solicit as much information as possible which might help to identify the caller or lead to the whereabouts of the missing child.

At 7 p.m. the telephone rang at the Lacy residence. Before the receiver could be lifted and the call answered, the calling party hung up. At 7:38 p.m. the phone again rang and w



An FBI Agent and a local police officer examine a gap in a fence through which the kidnaper took the victim.

The barn where the child was hidden was located in a wooded area and out of sight from the road.



answered by Joseph Lacy. A male voice instructed Mr. Lacy to go to a pay telephone booth at a service station near the intersection of two main roads, where he would receive another call in about 15 minutes. Although Mr. Lacy was able to carry on a lengthy conversation with the abductor, he gained very little information other than that relating to the payoff.

Additional Instructions

The victim's father proceeded to the designated telephone booth and in a few minutes the second call was received from the kidnaper. The caller instructed Mr. Lacy to proceed to yet another intersection and leave the money beneath the base of a road sign at that spot. Then the victim's father was to proceed to a telephone at a nearby icehouse, where he would receive further instructions concerning the whereabouts of his daughter.

Mr. Lacy drove to the designated intersection, placed the ransom money under the sign, and then went to the icehouse to await the next call.

Shortly, a 1953 blue-green Plymouth passed the payoff site twice. It was observed in the area again several minutes later, and two Agents placed it under discreet surveillance.

After the vehicle had traveled about 5 miles from the location where the money was placed, it stopped for a red light, and an Agent was able to intently observe the driver of the vehicle and saw that he closely resembled the description of the kidnaper given by the maid.

FBI Agents followed the suspect into a shopping center parking lot, where he parked his car, got out, and rapidly walked away. An Agent intercepted the man, identified himself, and asked the identity of the individual.

The man calmly stated he was Hubert G. Lively. He was advised that a kidnaping had occurred, that he was

seen in an area where the investigation was concentrated, and that he resembled the general description of the abductor. He was also advised at this time that he was not under arrest, that he did not have to make any statements, and could consult a lawyer if he desired.

Suspect Questioned

The suspect calmly denied any knowledge of the kidnaping, and he explained that he had left his home and gone to a used car lot, found it closed, and proceeded to the shopping center to get something to eat.

Further questioning revealed that Lively owned a white panel truck. Because he closely resembled the kidnaper, owned a white panel truck, and was seen in the vicinity of the payoff spot several times, Agents asked Lively if he would voluntarily appear in a lineup.

At this point the suspect stated that

he had not eaten since early morning and would like to get something to eat. Agents accompanied him to a nearby restaurant, where he ordered a meal. At the conclusion of the meal, Lively agreed to take the Agents to the white truck.

Confession

En route to his home in a remote rural section of the county, Lively told Agents that he was a television repairman and his wife a school teacher. On arrival, Agents did not see the truck, and Lively said a friend must have borrowed it. After talking briefly to his wife, Lively told the Agents, "I'll take you to the baby."

Lively assured the Agents that the child was unharmed. He said he had bound her with tape, wrapped her in blankets, and placed her in a trough located in a secluded barn. He further said he would have to act as guide

in order to reach the remote area, since he could not recall the barn's location well enough to direct Agents to it.

While searching for the barn, Lively gave additional information concerning the kidnaping. He pointed out that he had not harmed the girl in any way, but that she had not eaten since her abduction. He said when he saw members of the Lacy family on a television commercial, he immediately surmised that they were rich and would pay a lot of money to get their daughter back.

He initially planned to hide the victim in a culvert under the road; however, he noticed that it might rain and decided that she might drown. He said when he took the little girl from the house, she stopped crying and behaved well under the circumstances. He traveled the back roads until he spotted an obscure barn. It was there he decided to hide her.

After some difficulty in the darkness, Lively was able to retrace the route he had taken to the barn. He recognized the location by a hole in a fence just off a back road. Some 100 yards behind the fence in a wooded area and out of sight from the road, Agents found the barn.

Eugenia Lacy, wrapped in papoose fashion with the top of her head and eyes barely visible, was found lying in an open trough at the rear of the barn. There was tape around the blankets, and her hands and feet were tied. A cloth tied over her mouth prevented her from uttering a sound.

Victim Recovered

As soon as the gag was removed, the little girl asked, "Where is my daddy?" She was advised that the FBI Agents had been sent to get her and take her home. The Agents immediately radioed the San Antonio FBI Office to notify her parents that the little girl had been found and was unharmed. They then took her to her greatly relieved parents.

Lively was turned over to the local authorities for prosecution under Texas law inasmuch as the kidnap victim was not taken across State lines.

On July 8, 1968, a hearing was held in 144th State District Court in San Antonio to determine Lively's sanity. A jury ruled him to be insane and in need of medical treatment. The court ordered Lively moved to the maximum security ward of the Texas State Hospital in Rusk, where he would undergo treatment for an indefinite period of time.

On April 15, 1969, Hubert G. Lively was found to be sane at a hearing in 144th District Court, San Antonio. On April 16, 1969, trial was held in 144th District Court at which time Lively entered a plea of guilty to the charge of kidnaping with intent to extort money. He was sentenced to serve 30 years in prison.



The kidnaped child was found lying in this open trough at the rear of the barn.



By
DEAN FREDERICK D. LEWIS, JR.*
School of Law,
University of Miami,
Coral Gables, Fla.

Crime is a common problem which requires uncommon answers. Just as no one factor of our society is solely responsible for crime, no one group or profession can resolve our crime problem.

Under the rule of law, there must be respect for and obedience of the laws if the people are to remain free to promote the general welfare of all. Aside from its immediate and injurious results, crime impedes the progress of liberty, freedom, and equality.

Law enforcement officers, judges, prosecutors, and lawyers alike have taken a common oath to uphold the

Respect for Law and Order

"We have allowed the politicians and the factions to dull the tools of law and order because of fear of public opinion, voting blocs, and the press. One wonders whether the welfare of a few rioters isn't of greater concern than the lives and property of many innocent victims and the lives of our own public servants—the police."

law of our land and to assure our citizens that this shall continue to be, "One Nation, under God, with liberty and justice for all." These are majestic ideals for which countless numbers of men have given their lives, and countless mothers have given their prayers.

How are we to discharge our common oath? By assuring our people that law and order will prevail, for without law and order neither justice nor freedom can survive.

Yet, the land of law and order—the land we have all loved in our prose and poetry and in our hearts—has become a land of unrest, lawlessness, violence, and disorder—a land of turmoil, of riotings, lootings, shootings, confusion, and Babel.

We must face squarely an alarming fact. *Respect for law and order—*

*Dean Lewis has held his position as head of the University of Miami School of Law since July 1965. Born in Minnesota, he earned his B.A. degree in 1942 and his J.D. degree in 1947, both at the University of Illinois. A good friend of law enforcement, he has addressed retraining sessions of the FBI National Academy Associates in Florida in the past.

indeed, respect for authority of any kind—is rapidly vanishing!

Why is this happening? I would like to be able to present you an easy answer, but there are no easy answers and there are no easy cures. Some of the answers lie in the machinery for the administration of justice itself; some of the answers lie in the attitudes, commitment, and fiber of our people.

Respect for the Law

First, let us look at the machinery for the administration of justice and the preservation of law and order. How well is this machinery working?

The ancient scholars said that "Justice must be *swift and certain*!" These are not idle words. The greatest single deterrent to crime is fear of apprehension and conviction. The more certain apprehension and conviction become—the more effective will be our control over crime. Most criminals do that which they think they can get by with.

Our machinery is not working well. Crime is increasing at a rate 11 times that of our population. Our court dockets are delayed. Continuance after continuance is granted until the cases are cold. Public enemy after public enemy slips through our legal machinery—only to be free to steal and maim and kill again. The old saying that "The wheels of Justice grind slowly—but exceeding fine" should be revised to "The wheels of Justice grind more and more slowly and exceeding coarse." *Justice is neither swift nor certain.*

The public is apprehensive and frightened. This, of course, has left its effect on public respect for the processes of law and order.

Some of the difficulties with the machinery for obtaining law and order are due to some high court decisions which seem to restrict all concerned except the criminal. Chief Justice John

C. Bell, Jr., of the Supreme Court of Pennsylvania had this to say on this subject:

Let's stop kidding the American people. It is too often forgotten that crime is increasing more rapidly than our population. This deluge of violence, this flouting and defiance of the law and this crime wave cannot be stopped, and crime cannot be eliminated by pious platitudes and by governmental promises of millions and billions of dollars. We have to stop worshipping Mammon and return to worshipping God, and we next have to change, if humanly possible, the coddling of criminals by our courts.

Some recent high court decisions, Justice Bell continued, shackle the police and the lower courts and make it terrifically difficult to protect society from crime and criminals. Such decisions, Justice Bell stated, "... are among the principal reasons for the turmoil and the near-revolutionary conditions which prevail in our country."

"No matter how atrocious the crime or how clear the guilt," Justice Bell explained, "the Supreme Court never discuss in their opinions or even mention the fact that the murderer, robber, dangerous criminal, or rapist, who has appealed to their court for justice is undoubtedly guilty, and they rarely ever discuss the rights and the protection of the law-abiding people in our country. Instead, they upset and reverse convictions of criminals, who pleaded guilty or were found guilty recently or many years ago, on newly created technical and unrealistic standards made of straw."

Justice Bell expresses, I am sure, the feelings of many men in law enforcement. I congratulate law enforcement officers on acceptance of unpopular court decisions as the "law of

the land," and for having done the best to honor their oath by discharging these laws even though the difficulties are immense and even though they may feel like throwing up their hands. I can only hope that our legislators, our city fathers, and our citizens realize and appreciate the burdens cast upon law enforcement and appreciate the needs for manpower, talent, experience, training, and, most important of all, the need for time. Dollars alone will not do the job.

The failure of justice to be swift and certain has shown up in other areas. We have vacillated during riots when swiftness and certainty are at a premium. We have allowed the politicians and the factions to dull the tools of law and order because of fear of public opinion, voting blocs, and the press. One wonders whether the welfare of a few rioters isn't of greater concern than the lives and property of many innocent victims and the lives of our own public servants—the police.

A Nation of Laws

To my way of thinking, there should be no doubt in the mind of a rioter or one who is inciting a riot about the consequences of his act. Any approach which does not anticipate swift and certain justice and punishment for the lawbreaker can lead to nothing but sheer disaster.

We have confused issues with method. In our democratic society all men are free to disagree on issues, and to urge their point of view—whether the issues involve minorities or politics, or the disadvantaged. But never in our society has there been a question about the right to use unlawful methods to resolve these difficulties. This is what we mean when we say this is a Nation of laws, not men. The law has never condoned the use of force as a method for settling disputes. Any agreement made und

ness is void. The law has not permitted any man or group of men to obtain what they want by force or threats of force. Even that great tradition of the American heritage—the Western movie—is built around the theme that law and order was brought to the West when individuals were no longer allowed to obtain what they wanted by force or threats.

The Use of Force

Now, the most important point of all of this is that *we must make certain that bargaining through the use of force or threats of force can never succeed*, as it has in many of our cities faced with riots and even in our great universities. We must take the position and hold to it that: *No private, public, or governmental body has any alternative but to refuse to negotiate under force or threats of force*, lest this become a successful method for resolving problems. To do otherwise

to encourage anarchy. Even though we have given this process a nice name by calling it “civil disobedience,” in my book, the refusal to obey law is criminal and the refusal to accept the system of law is anarchy. The Government has a right, indeed a duty, to prevent attacks on law and order and the resolution of problems by the use of force. We cannot endorse the methods of extortionists.

I feel our people share many of these same convictions. But why don't we speak out as a people? Is it because we are, as Lederer put it—“a Nation of sheep.”

For a good many years it has been popular to be a “liberal”, whatever that means. But if it is liberal to protect self-claimed revolutionists when they advocate the use of force and incite riots; if it's liberal to rap an officer's knuckles when he immobilizes a rioter; if it's liberal to allow immature, inexperienced youth to take over our great universities, fuel our

riots, and publicly abuse our statesmen—then, I am no longer a liberal.

I have had an old-fashioned idea that to be a liberal was to believe in human values, human dignity, and human purpose. I have thought that being a liberal was to insist upon a sense of fair play, with a belief that one should “do unto others what he would have them do unto him.” I thought that being liberal was to be willing to improve and to reform rather than to be wedded to the status quo, if the status quo was unjust.

Have we, in our “liberal” tradition, been duped into believing that we can have a free society that is not a disciplined society? Have we been misled into believing that freedom includes the right to do that which is wrong as well as that which is right—whether it be smoking pot or inciting riots? Have we mistaken the responsibilities of freedom for the self-advantage of license? Have we, in a false notion of liberalism, put our zealous concern for the rights of the individual ahead of what ought to be an equal concern for the rights of others, whether it be in our courts, our streets, or our schools?

False liberality may worship at the temple of anarchy. Remember, anarchy has no specific political affiliation. Anarchy knows no law except the law of the jungle.

True liberalism recognizes and accepts the need for change, and changes are badly needed. We need to reform our criminal law and procedure—laws drawn in the 18th Century—laws which do not and cannot meet many of our present-day needs. We need reforms in the methods of selecting and reviewing judges. We all know that we need many reforms to assure opportunity and equality to the disadvantaged. But the fact that reforms are needed does not justify breaking our laws and resorting to violence, or burning and looting, or blockading of buildings, or rioting mobs. Any re-

form granted in response to unlawful activity of this sort will be no more than adding cake frosting to a dung heap, and anarchy will become the method for obtaining all reforms.

But reform will not be enough. If we are to do all in our power to restore confidence in the processes of law and order, we must make certain of the integrity of our police, our judges, our prosecutors, and our lawyers. We must collectively assure the public that the trust placed in us is well-founded. If corruption exists in our ranks, whether it be a “fixed” judge or a “bad” policeman, we have a common responsibility to root it out. Our effectiveness, indeed our survival, depends upon preserving the public respect for law and order.

Personal Discipline Is Needed

Men rise when a judge enters the courtroom. The judge is addressed as “your Honor,” even in our society where titles have so little meaning. These are not tributes to the man, but to the high office which he occupies and to acknowledge what the court symbolizes in a Nation of law and order. Yet, even this highest symbol of justice seems in danger of toppling.

Yes, we need reform. But even more, we need, as a people, to return to the high altars of personal integrity and self-discipline which free men must have in abundance. Liberty cannot survive self-indulgence. Justice cannot survive without self-discipline; a discipline which commands personal integrity in every man; a discipline which demands concern and protection for the rights of others; a discipline which forces us to speak out and to act even when it is unpopular to do so; a discipline which commands that we stand for what is right even at the expense of our fame and fortune. Freedom, justice, and personal integrity must surge strong in the hearts of our people.

INVESTIGATORS' AIDS

*J. J. Daunt to Bishop 11-12-70
NCIC Weekly Status*
**NCIC LOCATES
MISSING SUSPECT**

Recently, the body of an unidentified male was found in an eastern section of Maryland. It appeared that death was caused by stabbing. All identification had been removed from the body; therefore, identification was made by his fingerprints. He was identified as being a resident of Baltimore, Md., who had been en route to Pennsylvania to visit relatives. His automobile was missing, and the police made an entry in the NCIC vehicle file.

Shortly thereafter, a sheriff's office in Nevada made an inquiry of the NCIC on the Maryland license. They received information that the vehicle was stolen and wanted in connection with a homicide investigation. The driver, who had been stopped for a traffic violation, was arrested and held for extradition to Maryland on the homicide charge.

PAINT COMPARISONS

Comparison of paint particles has been extremely helpful in hit-and-run, burglary, and other types of cases. Tiny chips of paint found at the scene of an accident can be analyzed by FBI technicians and compared with specimens from a suspect's car. If no car is suspected, the paint can be analyzed, and it is possible to suggest the type of car involved by referring to the FBI Laboratory's National Automotive Paint File. This file contains specimens of paint used by various automobile manufacturers.

WANTED PERSONS

Each year thousands of wanted persons are located from information furnished local officers as a result of a search in the FBI Identification Division files. If a person is wanted, a department should submit the complete name, FBI number, local arrest number, or copy of the fingerprints of the subject. Wanted notices are posted upon request, and information on the whereabouts of those sought is sent by collect telegram to interested agencies. The Wanted Notice form should be used whenever possible in submitting requests.

NCIC FACTS

As of January 1, 1971, the FBI National Crime Information Center (NCIC) contained 2,473,848 records of data and criminal information. This figure represents 83,311 wanted persons, 583,553 vehicles, 157,025 licence plates, 355,789 guns, 540,807 articles, 750,893 securities, and 2,470 boats. In November 1970, NCIC network transactions totaled 1,690,857, averaging 56,362 daily. These data are available to law enforcement officers throughout the country in a matter of seconds after inquiry is made.

NCIC Newsletter 12-70

CHAIN REACTION

A Pennsylvania State policeman recently stopped an automobile for a traffic violation. The alert officer no-

*J. J. Daunt to Bishop
11-12-70 NCIC Weekly
Status*

ticed the vehicle identification number had been altered, and he decided to check the legal serial number through the NCIC vehicle file. The response revealed that a Michigan police department had reported the vehicle stolen. As a result of this information, the two occupants of the car were taken into custody.

A search of these individuals revealed that one was armed with a .38 caliber revolver. A check through NCIC on the serial number of the gun showed it had been reported stolen. The police officer obtained a search warrant, and a search of the vehicle disclosed a quantity of narcotics and assorted jewelry. The subjects were charged with violation of the Dangerous Drug and Cosmetic Act and Uniform Firearms Act and held for the Michigan police.

NCIC BOOKLET

A booklet entitled "The National Crime Information Center and You," which contains a brief outline of the history, services, and operation of the FBI National Crime Information Center (NCIC), is available in limited quantities free of charge to interested individuals and organizations. This booklet explains how citizen cooperation with local police authorities can be helpful in maintaining law and order through the use of the NCIC. Requests for copies of this item should be forwarded to the Director, Federal Bureau of Investigation, Washington, D.C. 20535.

NCIC and you
FBI Law Enforcement Bulletin

FBI Conferences on Bombings and Bomb Threats Conducted

Bombings and bomb threats was the topic of FBI-sponsored law enforcement conferences conducted throughout the country during September, October, and November 1970 for the benefit of law enforcement, prosecutors, and members of the judiciary. Designed to promote and coordinate planning by law enforcement to handle actual and threatened use of explosive and incendiary devices by dissidents and militants, 277 sessions were held, with 33,730 persons representing 8,305 agencies in attendance. Because of the timeliness of the subject, this attendance figure is larger

than that of any previous specialized conference conducted by the FBI.

Many officers attending the conferences commented that the series will foster closer liaison and cooperation between local law enforcement and military explosive disposal units. Other law enforcement representatives advised that, as a result of these conferences, their agencies have either instituted or revised administrative procedures to enable them to handle threatened or actual bombings more competently.

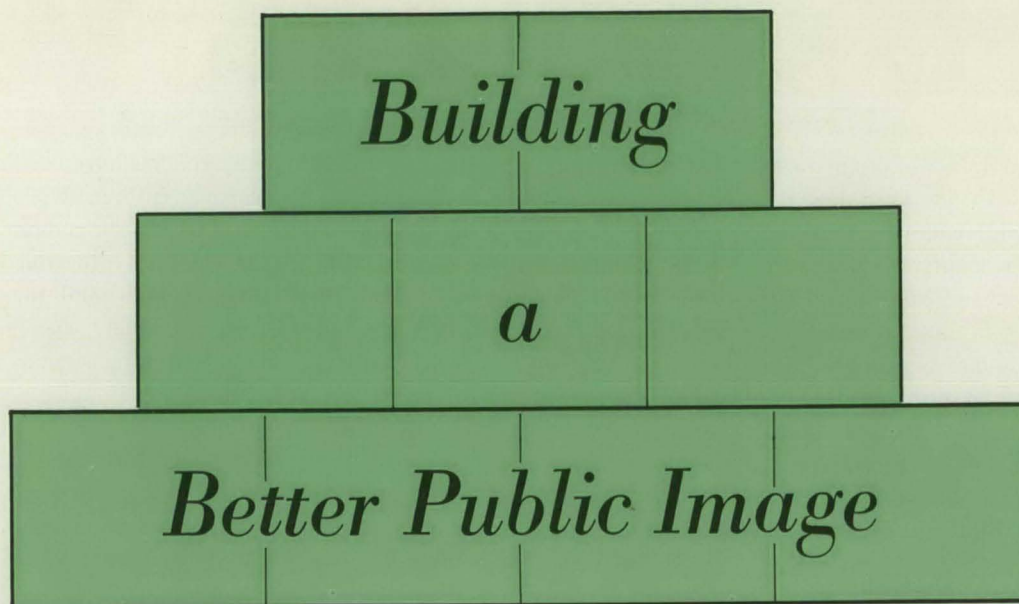
As a result of the interest generated by these forums, several hundred field

police schools have been requested by local law enforcement officials to acquaint their rank-and-file officers with planning and procedures to handle bombings and bomb threats. Officials of several State agencies have requested training sessions on this topic for the entire complement of their departments. FBI police training instructors are currently conducting these additional schools for local, county, and State law enforcement. Any police executive desiring a school for his personnel should contact the Special Agent in Charge of the nearest FBI field office.

Casper to Mohr memo dated 11-19-70

In a recent visit to FBI Headquarters, Chief of Police John R. Shryock, Kettering, Ohio, president of the International Association of Chiefs of Police, discussed matters of interest concerning the promotion of effective law enforcement with Director J. Edgar Hoover.





"The changes in our societies in the past were no doubt slower in occurring, but in our present time, with a wide age group that is dynamic in thought and deed, changes are much more apparent."

The purpose of this article is to describe the reasons for a community and public relations office, to describe the many areas for activity of this type in a police department, and to set guidelines of responsibility for each area of activity.

The basic reason for police-community relations activity is to effect a continuous level of cooperation and understanding between the police and the community. It would be naive to state that in the past there has been an adequate level of cooperation and understanding between the police and the public. From the beginning of recorded time, history tells us of con-

flict between those with authority and the people. No doubt when the policeman worked on the street and lived in the area where he was accepted as part of the neighborhood, and when society in general was less apathetic, the ability to communicate was in fact much greater than now.

The major area of conflict between the authority possessed by the police and those who are policed has concerned the juvenile. Much of history has been written from the actions of the young. Only a few hundred years past, anyone above 30 was considered old, and at 40 a man was generally considered aged, without teeth,

By

MAJ. NOLEN W. FREEMAN

**Police Department,
Lexington, Ky.**



plled with arthritis, and beyond the ability to make a living for himself. A few years ago in Europe while construction men were excavating for a new building, a graveyard was unearthed which was thought to have been about 200 years old. Anthropologists discovered that the average age of death was 25. This shows that even a few hundred years ago this was a young man's world. We like to think that only this era, the space age, has become an age of unrest and conflict between the young and the old; but it is clear that our present society has increased the age of the young 10 to 15 years and persons below 40 still make up the majority of the population.

The young have always been more dynamic while the older person

throughout history has resisted change. The changes in our societies in the past were no doubt slower in occurring, but in our present time, with a wide age group that is dynamic in thought and deed, changes are much more apparent.

One of the most evident thoughts put forth by the young has been that of individual rights. While there are exceptions, U.S. Supreme Court opinions as a rule are considered to represent the thinking of a majority of the people. Much of our present system of police procedures has arisen from these decisions. Some claim that most of the decisions of the court since 1952 have abated the power of law enforcement, and there is some sentiment now that this trend is slowly reversing itself.

The terms community and public relations delineate two different areas of endeavor although both functions have a common goal—that of communication. Community relations in short is an extension of human relations and the broad aspects of everyday social responsibility which engage about 80 percent of the police function. Public relations is in fact giving information to the public.

Community Relations

Most policemen do not like the association of social endeavor with the police function, but, like it or not, police activity is tied hand-in-glove with people living within groups and groups living with other groups. How a person is reared within a group and

In connection with public relations work, Lexington police set up an information and assistance desk at a local Governor's conference.





As part of their Community Youth Police Auxiliary training, members attend a class on police equipment.

the actions of that person toward others will determine, by and large, the crime index and the activity of the individual police department. The social worker is motivated toward abatement of social conflict, while the policeman is motivated toward abatement of crime. Only in recent years the police departments have realized there are overlapping functions of responsibility with social organizations and the public.

Public Relations

Public relations has, for the most part, been neglected for as many years as has community relations. The giving of information to the public has a direct bearing on public participation in fighting crime. Through public relations, the public is given information on police problems, budget needs, and accomplishments. Also, police enlist persons and groups in assisting with community

problems that affect the enforcement of law and order.

Community Relations Activity

The Lexington Police Department entered the field of community relations in 1968, with the appointment of a captain and a secretary to a community and public relations of-

fice. The area of public relations before 1968, a part-time function of the chief and one of the assistant chiefs of police; but with the advent of minority riots and destruction throughout the country, prevention became a major issue with Chief Edward C. Hale.

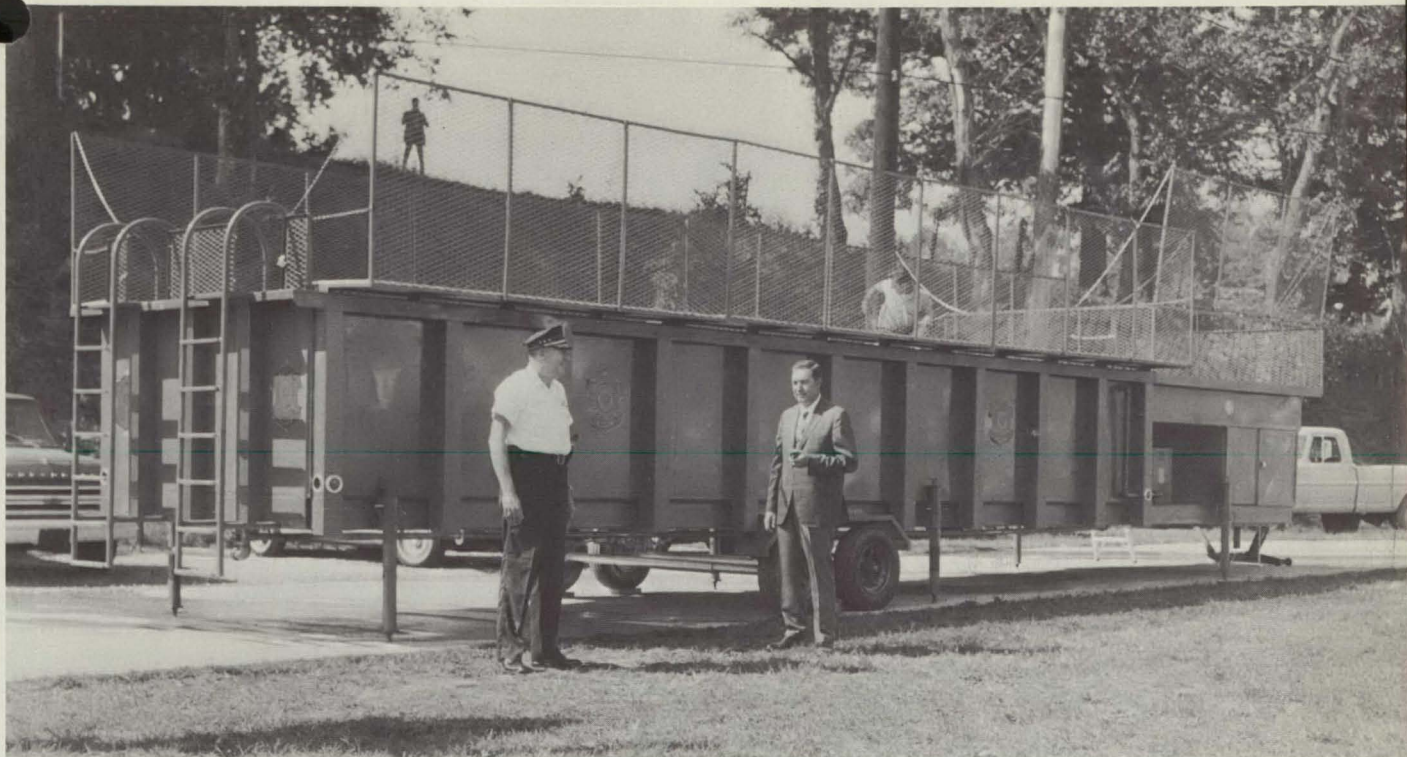
The first job in a new community relations office is to define the problem, and this was accomplished by the following:

- A. Obtaining appointments to meet with neighborhood groups.
- B. Making contact with each social organization in the community to offer aid and assistance where the police could become involved.
- C. Establishing a working rapport with the Human Rights Commission.

We found that many of the problems of the community can be



Chief Edward C. Hale.



A uniformed officer and two civilian lifeguards man this mobile swimming pool in use in inner-city areas 7 days a week during the summer months.

identified by just listening.

After a period of listening, we learned that our major problem was with the youth, basically Negro youth, and what they refer to as the "establishment" and the inability of either to communicate.

Bridging the Gap

After defining the problem, we implemented a plan to bridge the gap between the youth of the community and the police department. This became frustrating when reasonable programs for making contact with the 16- to 20-year-olds were not forthcoming. Alternate plans were made and eventually implemented, but they failed to reach the age group intended. However, we felt that work with children below the age of 16, even though it did not reach the age group from 16 to 20, would yield results in a few years. When the children we are working with and estab-

lishing communication with now reach the "unreachable" age, it will be comforting to know that they will have been influenced earlier.

Programs Implemented

To initiate the following programs, we needed more personnel, and two additional men were assigned to the division. The criteria used in their selection were the desire to work in the unit and the ability to communicate with the public as well as the ability to work with youth, particularly Negro youth.

A. Youth Auxiliary Police: The first pattern of activity in improving communication was to establish a Community Youth Police Auxiliary (CYPA). This program was designed to promote better understanding between the youth of the community and law enforcement agencies and to instill in the young adult member a sense of respect for the law.

B. Hot Wheel Club: We next set up two Hot Wheel Clubs to operate on Saturday mornings during the school year. These clubs meet in two different locations and are open to both boys and girls at any age level. The events are separated according to age group, and a uniformed officer is on duty at each club to aid the children and to supervise the races. The man in uniform gives the youth involved in this program an opportunity to establish rapport with a member of a law enforcement agency on a basis of friendliness and understanding. He also teaches them to respect rules and explains the reasons rules are needed.

C. Swimmobile: A mobile swimming pool was purchased by the city government for use in the inner-city areas and is open during the summer months on a 7-day-a-week basis. There is no admission fee to this pool, and it is open to all ages, as it contains a wading area and a 4-foot pool. The pool is manned by a uniformed offi-

cer and two civilian lifeguards. As far as we know, our department is the first in the United States to establish a pool on wheels to be operated and manned by police officers.

D. Guest Speakers: The coordination of human relations training includes guest speakers in our police recruit school. We choose speakers who can give the police recruit the public's views as well as speakers who can explain the significance of coordinated efforts and community cooperation in human relations. The actual selection of the right speaker is important for we must find someone who can present the problem objectively and impartially.

E. Crime Stop Program: Every policeman is involved in encouraging public support to stop crime. We considered the implementation of a crime stop program a must. This was a comprehensive project to enlist citizens to report crimes and to become witnesses in court.

F. Minibike Club: In the summer of 1970, the police department established a minibike club designed to create a place for young minibike owners to ride and to learn the rules and regulations governing the use of minibikes in the city. This program was begun in the form of a rally held locally, sponsored by our department, and manned by volunteer officers. The rally proved so successful to both the youth and members of the department that the possibility of forming a club was investigated.

Over 2,000 minibikes had been sold in Lexington, and many offenders in the use of these bikes were being cited daily; therefore, this club certainly meets a need in the community. A club which involves the parent as well as the child was established through the efforts of the community and public relations office. Land was donated by the city government, and insurance for each member was purchased with the annual dues of \$10 each.

At present 600 minibike owners have available daily a trail for riding, and once a month rallies are held. The major purpose of the rallies is to teach skill in riding, and this is brought out in a form of competition where trophies are awarded. Speed activities are excluded, and no injuries have been reported during the first months of operation.

Control of the club was given to elected officers, and the police department maintains only one officer, on a part-time basis, as liaison between the club and city government. An evaluation of this club reveals a major decrease in misuse of minibikes on the streets of Lexington and also a decrease in reported injuries related to the use of minibikes.

G. In May 1970, application was made to the Department of Justice for a discretionary grant of \$150,000, to which the city of Lexington would add an appropriation of \$100,000, for a project costing \$250,000 and designed to implement five phases of community relations. The project was approved and funded, and its five phases are as follows:

1. *Work-Study Students and Teens on Patrol:* This program will consist of the hiring of 20 college students who will serve as supervisors for Teens on Patrol, local junior and senior high school students who will act as police representatives without police power in the schools, in city parks, and in police recreational programs. The college students will be hired for 12 hours a week during the school term and for 30 hours a week during the summer.
2. *Community Officer and Recreation Officer:* This phase will involve a community officer who will move a mobile van from neighborhood to neighborhood to provide citizens with an opportunity to have their questions answered about city and police services. This officer will have direct communication with the director of each city department so that he can obtain satisfactory answers for members of the community. This officer will also assist the recreation officer to build better understanding through neighborhood projects. These projects will include the

organization of street dances, backyard auctions, youth summer camps, and recreational programs.

3. *Work Opportunities Now (WON):* This phase will lend assistance to school dropouts, persons with a criminal record, and other members of the hard-core unemployed. With the assistance of civic-minded employers in the city, approved job placement and assistance will be given to some persons in the community. The persons to be assisted in this program are the ones who have availed themselves of every other opportunity to obtain jobs. The WON coordinator will work with the employers in helping the persons placed in jobs to remain gainfully employed and to keep them from being job dropouts.
4. *Expansion of Present Programs:* The fourth phase will be expansion of the police-community relations programs now in operation, such as Community Youth Police Auxiliary, Hot Wheel Clubs, and increased programs for the schools and neighborhood civic groups. This program not only will enable the present Community Youth Police Auxiliary to increase in number but also will enable the department to begin a CYPA for junior members, aged 8 to 12.
5. *Training Program:* Training programs both inservice and recruit, are designed to give information on the police-community relations problem and our project and selected sensitivity training. In this training police officers will learn how to handle cases that are not of a criminal nature, such as people without funds, indigent persons who are ill, underprivileged children's supervision and recreation, etc. Also included in the training program will be the training of Teens on Patrol and the Work-Study Students.

Evaluation of the federally funded project has not been completed because the phases have just been started, but the enthusiasm on the part of city government officials and community members is running high, and good results are expected.

The major point of evaluation in the community relations section is that the law can be enforced with less friction and at the same time public needs can be met. The motto of the Lexington Police Department Community and Public Relations Office is

(Continued on page 28)



"The Reason of the Law Is the Law"
—Walter Scott

Compelling Nontestimonial Evidence by Court Order

Every experienced officer knows that under Federal constitutional law applicable to all law enforcement, State and local as well as Federal, even a person under lawful arrest may not be forced to undergo an unreasonable search and seizure, nor confess his own guilt, nor speak or act without counsel in certain circumstances in which he is entitled to counsel. The fourth, fifth, and sixth amendments to the Constitution protect him against such compulsion. If officers violate one or more of those amendments, the evidence obtained as a direct result of the violation is not admissible in court.

What may not be so well known is that despite the prohibitions of the fourth, fifth, and sixth amendments, there still remains a great deal of important evidence which the officers may force the person under lawful arrest to provide against himself, and

that the force may be exerted through the courts. Some of this evidence may possibly be compelled even from a person not under arrest. Successful prosecution may hinge on recognizing these types of evidence and knowing how to force the accused to give them up.

A Distinction

The principal distinction, for purposes of this article, is between testimonial evidence and nontestimonial evidence. Nontestimonial evidence may be compelled, subject to certain rules discussed later, but testimonial evidence may not be compelled.

For a simple definition that fits almost all cases, testimonial evidence is that verbal evidence obtained from a person asked or told to comment on his guilt in words. The words may be oral from his lips or written from

his hand; both are testimonial evidence, without distinction. The words are testimonial no matter whether he confesses his guilt, admits it in part, or denies it in whole or in part in any fashion. No such evidence may lawfully be compelled by law enforcement officers from any person, and if it is shown to have been compelled, it cannot be used to convict. The use of such evidence against the person himself violates, principally, that part of the fifth amendment which provides that "No person . . . shall be compelled in any criminal case to be a witness against himself" Testimonial evidence may be used to convict the person giving it only when given voluntarily. More than that, if the testimonial evidence is given when the person is in the custody of law enforcement, or otherwise deprived by law enforcement of his freedom of action in any significant way, his tes-

testimonial evidence against himself cannot be used to convict him unless he was first advised of his rights as required by *Miranda v. Arizona*, 384 U.S. 436 (1966), and, on being so advised, waived those rights.

Nontestimonial evidence is quite different. In general, the suspect or accused under lawful arrest for an offense has no constitutional right to refuse to provide nontestimonial evidence, and no right to be given any such warnings as those given under *Miranda*. Nontestimonial evidence may be forced from him against his will and then used to convict him of the offense.

Types of Evidence

Because no two crimes are exactly alike, nontestimonial evidence comes in many forms. It may be defined generally as any evidence taken from the person of the suspect which does not involve his comment on his own guilt. Some of the most familiar examples include: (1) the suspect's fingerprints or palm prints taken for comparison with latent prints found in the investigation; (2) blood samples to be analyzed for alcohol content; (3) hair samples for comparison with hairs found at the scene; (4) photographs for identification; (5) suspect's shoe to be compared with a print found at the scene; (6) an item of clothing found at the scene which the suspect will be directed to try on to see if it fits; (7) dried mud from his shoes which will be compared with soil samples from the scene; (8) dust from his clothing to be compared with the insulation in the "blown" safe; (9) eyewitness identification by lineup; (10) handwriting or handprinting samples. To list all known examples of nontestimonial evidence in one brief article would be impossible. An officer in doubt on whether an item of evidence desired is nontestimonial should consult counsel.

The Federal constitutional rule that nontestimonial evidence may be compelled from the suspect under lawful arrest began, for all practical purposes, with the Supreme Court decision in *Holt v. United States*, 218 U.S. 245 (1910). Holt was charged with murder on a Government reservation. It appears that a blouse was found at

officer directed a physician at the scene to take a sample of Breithaupt's blood. The physician did so. Breithaupt was unconscious. Analysis showed the blood to contain enough alcohol to cause intoxication. Breithaupt was convicted of involuntary manslaughter. In a later habeas corpus action he argued, in substance, that

"Because no two crimes are exactly alike, nontestimonial evidence comes in many forms. It may be defined generally as any evidence taken from the person of the suspect which does not involve his comment on his own guilt."

the scene and the authorities ordered Holt, under arrest, to try it on. He did so and the blouse fitted him. That fact was used in evidence. On appeal after conviction, Holt claimed that the order to try on the blouse violated his fifth amendment right against self-incrimination. The Court held that it did not; the fifth amendment is a prohibition against extorting communications from the suspect, not an exclusion of his body from evidence when it may be material. He may be compelled to exhibit his body. This includes, as shown by *Holt*, compulsion to try on a shoe, a hat, or a coat found at the scene, or sunglasses like those used in the robbery, and so on.

In subsequent cases the Court broadened the rule in a manner that protects the public interest represented by law enforcement. In *Breithaupt v. Abram*, 352 U.S. 432 (1957), a New Mexico patrolman came upon a highway accident in which three persons were killed and Breithaupt was seriously injured. Finding a whisky bottle, almost empty, in Breithaupt's truck (glove compartment), and detecting the odor of whisky on Breithaupt's breath, the

the forcible taking of his blood for evidence while he was unconscious violated his fourth amendment right against unreasonable search and seizure and his fifth amendment right against self-incrimination, and, any event, that the taking was so offensive to decency that it should be declared illegal. The Court disagreed and let the conviction stand.

Without Consent

The Court reached the same result in *Schmerber v. California*, 384 U.S. 757 (1966), a somewhat similar case. Schmerber was involved in an automobile accident and was taken to a hospital for treatment. A sample of his blood was taken on order of a police officer despite Schmerber's refusal, on advice of counsel, to consent. The sample was critical evidence in securing Schmerber's conviction for driving under the influence of intoxicating liquor. He took his case to the Supreme Court, claiming that the taking of the sample violated his fourth amendment right against unreasonable search and seizure, his fifth amendment right against self-incrimination.

his sixth amendment right to counsel. The Court rejected each of his claims. Note that Schmerber, unlike Breithaupt, was conscious when the sample was taken; that he refused to consent; and that he based his refusal on advice of counsel. But he was under lawful arrest without warrant on probable cause for belief that he had been driving under the influence.

Schmerber is instructive because, among other reasons, it approved the view, previously expressed by lower Federal courts, that the fifth amendment privilege against self-incrimination:

"offers no protection against compulsion to submit to fingerprinting, photographing, or measurements, to write or speak for identification, to appear in court, to stand, to assume a stance, to walk, or to make a particular gesture."

The rule that nontestimonial evidence may be compelled was further developed in *United States v. Wade*, 388 U.S. 218 (1967), and *Gilbert v. California*, 388 U.S. 263 (1967). In *Wade*, a bank robbery was committed by a man who wore strips of tape on his face and told the teller to "put the money in the bag." Wade was arrested and placed in a lineup. On command, he wore strips of tape like those allegedly worn by the robber and, for purposes of voice identification, said the words "put the money in the bag." He was convicted and the case reached the Supreme Court. The Court held that Wade could properly be compelled to appear in a lineup, to wear the strips of tape like those worn by the robber, and to speak the words spoken by the robber. None of these requirements violated his fifth amendment right against self-incrimination. Exhibiting one's person in a lineup is nontestimonial evidence. But, the Court said Wade did have a sixth amendment right to counsel at the

lineup, which had not been allowed to him. The right to counsel applied to the lineup only, not to any analyses of fingerprints, blood samples, clothing, hair, and so on.

Gilbert v. California

Gilbert was a robbery case. After arrest, Gilbert gave handwriting samples on command of an officer, and he later was placed in a lineup. On appeal after conviction he raised the now familiar arguments—that there was a violation of his fifth amendment right against self-incrimination and his sixth amendment right to counsel. The Supreme Court rejected both arguments as to the handwriting samples. As to the lineup, the Court held, as in *Wade*, that Gilbert could be compelled to appear in a lineup. The evidence from a lineup is nontestimonial. But Gilbert or anyone else so compelled does have, under the sixth amendment, a right to presence of counsel at the lineup, a right which he may either insist upon or waive.

If the arrested accused may be compelled to surrender nontestimonial evidence, what form of compulsion may lawfully be used upon him? Ob-

always work. The accused refuses to obey. What then?

Police muscle may in some limited circumstances be lawfully used to enforce compliance, on advice of counsel. But the limitations on the lawful use of muscle are stringent. Moreover, this method often is ineffective. A suspect cannot be wrestled into a lineup; to do so betrays his identity to the witnesses. He cannot be compelled by force of muscle to give a handwriting or handprinting sample; the writing or printing would not be truly his own, and hence of no value for comparison purposes.

Ruse or stratagem may lawfully be used in some circumstances. For example, an officer put in jail under lawful arrest a sailor accused of a murder in which the victim was found with a hammer tied to her neck by a knot usually known only to sailors. Without explanation, presence of counsel, or advice of rights, the officer gave the suspect a package and some string and asked him to tie the string around the package. The suspect did so, using the same knot. The officer was allowed to testify to that fact. *People v. Arguello* (Calif.), 423 P. 2d 202 (1967). But ruses often are

"Police muscle may in some limited circumstances be lawfully used to enforce compliance, on advice of counsel. But the limitations on the lawful use of muscle are stringent. Moreover, this method often is ineffective."

viously, the simple and direct method is by police command. The accused is brought to the station and there commanded to submit to fingerprinting, photographing, inspection of his person, surrender of his clothing, and to appear in a lineup at which he will be told to speak the words used by the robber. But police command does not

impractical and sometimes illegal.

The ruse did not work in a blood sample case. While under arrest for public drunkenness, the accused became the logical suspect in a rape case. The facts developed on the rape suggested that the suspect's blood type should be determined. The sample was obtained by ruse. The suspect con-

sented to give the sample on being told by the police that it was wanted to determine whether he was intoxicated. He was not told that he was the suspect in the rape, nor that the sample really was wanted for purposes of that case only. The sample provided significant evidence against the suspect. He was convicted in the State courts and brought habeas corpus in the Federal. The Federal courts ruled in his favor. Blood samples are nontestimonial evidence and may be compelled without use of legal process, but in an emergency only.

A Difference

In *Schmerber*, mentioned earlier, the Court said, "Search warrants are ordinarily required for searches of dwellings, and *absent an emergency*, no less could be required where intrusions into the human body are concerned (emphasis added)." In *Schmerber* the officer who lawfully obtained a blood sample on police command was confronted with an emergency. The heart of the case was the suspect's then drunken condition. Alcohol disappears rapidly from the blood. Had the officer delayed taking the sample until a search warrant was obtained, the critical evidence would have disappeared. But that was not the case with the rapist. What was wanted from him was his blood type, which is permanent. Hence there was no emergency which justified taking the sample by command, muscle, ruse, or stratagem. It should have been taken by warrant. *Graves v. Beto*, 301 F. Supp. 264 (1969), affirmed 424 F. 2d 524.

If police command, muscle, or stratagem appears impractical, or of doubtful legality, what method remains for the officer to compel the surrender of nontestimonial evidence?

The method of compulsion showing up more frequently in the cases is the use of a court order directing the sus-

pect to surrender the type of nontestimonial evidence desired. It is being used most often in cases in which the evidence desired is handwriting or handprinting for comparison with suspect writing or printing found during the investigation of the case. For example, on a showing by the prosecution that a handprinted note had been used in committing the criminal offense and that the prosecution had been unable to locate samples of the defendant's handprinting, the trial court lawfully issued, on request of the prosecution, an order directing the defendant to provide the prosecution with samples of his handprinting. The

"If police command, muscle, or stratagem appears impractical, or of doubtful legality, what method remains for the officer to compel the surrender of nontestimonial evidence?"

court order directed him to "furnish the United States handprinting exemplars made by him of the alphabet in the English language in such quantity as is sufficient for expert analysis by the Government." *United States v. Rudy*, 429 F. 2d 993 (1970) (9th Cir.). The defendant may also be ordered to copy in writing or printing, as the case may be, the exact language of the robbery note or other instrument used in committing the crime. *United States v. Doe*, 295 F. Supp. 956 (1968), affirmed 405 F. 2d 436 (2d Cir.); *United States v. Vignera*, 307 F. Supp. 136 (1969) (S.D., N. Y.).

A sample of the documents used by the prosecution to compel the defendant to furnish handwriting or handprinting was published in the FBI

LAW ENFORCEMENT BULLETIN, A 1970, pages 28 and 29.

On being ordered to produce, the defendant has two responses available to him. He may comply, as some do. *United States v. Izzi*, 427 F. 2d 293 (1970) (2d Cir.). Or he may refuse to comply. In the latter case he may be convicted of contempt of court. *United States v. Rudy*, *supra*; *United States v. Doe*, *supra*. If he refuses to comply with the court order and the trial on the original charge proceeds without the handwriting or handprinting samples, the prosecutor may comment to the jury on his refusal to prepare them. *United States v. Doe*, *supra*. Such a comment is damaging to his defense.

Compulsion by court order now is being used with some frequency in cases involving lineups. Although the accused does have a right to have counsel present at the lineup, as held by the Supreme Court in *Wade and Gilbert*, *supra*, he does not have a right to refuse to appear. His appearance and his act of speaking the words used by the offender in the crime, or wearing clothes like those worn by the offender, et cetera, are nontestimonial in nature and may be compelled. For example, a bank robbery defendant was ordered by the trial court to participate in any lineups scheduled by the Government at reasonable times and places and "to wear any clothing or items, such as a false goatee; to speak any words; to walk in any manner; or to take any physical stance that may be required" to aid the witnesses in comparing him with persons who participated in the bank robberies. *United States v. Hammond*, 419 F. 2d 166 (1969) (4th Cir.); *Doss v. United States*, 431 F. 2d 601 (1970) (9th Cir.).

Another View

There is an interesting New York decision which goes much further and seems worth recalling in this age

usual hirsute adornment. It is best said in the language of the court:

"The District Attorney moves for an order requiring that the defendant Harry Strauss be forcibly shaven, and have the hair on his scalp forcibly trimmed, for the purpose of his appearance in court for trial on this indictment. It appears that while incarcerated awaiting trial, defendant has changed his appearance by permitting his hair to go untrimmed and by refusing to be shaved. His scalp hair is long and his face is substantially hidden by a heavy beard. At the same time he has acted in so strange a manner as to cause a medical examination to be made as to his sanity. . . . It is contended in support of the motion that the defendant's purpose in disguising his face is a dual one: Firstly, to assume the wild appearance of manic psychosis; secondly, to make identification difficult, maybe impossible. Both of these inferences are sufficiently established."

The District Attorney got his order for the shave and the haircut. *People v. Strauss*, 22 N.Y.S. 2d 155 (1940). While *Strauss* was not a lineup case, a subsequent New York decision on lineups left a strong inference that *Strauss* would be good authority for a compulsory shave and haircut in a proper lineup situation. *Application of Mackell*, 300 N.Y.S. 2d 459 (1969).

Lineup Requirements

The court order compelling the accused to appear in a lineup (or to give other nontestimonial evidence) apparently may lawfully reach the accused wherever it can physically find him after lawful arrest. In a Federal case it was said that "The commissioner may assure that the suspect

will be available for a lineup in any of several ways: by making it a condition of release, by suspending the order of release, or by continuing the preliminary hearing until the lineup is completed." *Williams v. United States*, 419 F. 2d 740 (1969) (D.C. Cir.); *Orito v. United States*, (April 20, 1970) (9th Cir.), appeal pending. In *United States v. Scarpellino*, 296 F. Supp. 269 (1969) (D., Minn.), the court opined that even if the accused were released on bond, he could be required by court order to reappear for a lineup.

Of course the accused may yet refuse to appear in a lineup, or may

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.

appear but refuse to obey commands given to display himself. In such a case he may be convicted of contempt of court for refusal to obey the order. *United States v. Hammond*, 419 F. 2d 166 (1969) (4th Cir.). Also, when put on trial for the original charge, the prosecutor may comment to the jury on the fact of the defendant's refusal. *United States v. Parhms*, 424 F. 2d 152 (1970) (9th Cir.); *Higgins v. Wainwright*, 424 F. 2d 177 (1970) (5th Cir.).

Handwriting, handprinting, and lineups by no means exhaust the possibilities. Court orders may be used to compel other forms of nontestimonial evidence, as where the court ordered a defendant on trial to sub-

mit to fingerprinting in open court. *United States ex rel. O'Halloran v. Rundle*, 266 F. Supp. 173 (1967) (E.D., Pa.). Where a blood sample or other nontestimonial evidence is desired from the interior of the suspect's body in a nonemergency case, the court may instruct that the order take the form of a search warrant. See *Schmerber and Graves*, discussed earlier.

A Possibility

Although the subject is only now beginning to be developed in the courts, it appears that in some cases nontestimonial evidence may be compelled by court order directed to one who is a suspect at large and not yet under arrest. The technique was impliedly suggested by the Supreme Court in *Davis v. Mississippi*, 394 U.S. 721 (1969). In this case an elderly woman was raped. She could give almost no description of the offender, but officers did find fingerprints and palm prints on the sill and borders of the window through which the rapist apparently entered. The police brought in a number of possible offenders, of whom Davis was one, and obtained their prints. The manner in which the police brought the suspects in amounted to an arrest, but there admittedly were no warrant and no probable cause for arrest. Thus, Davis' prints were obtained while he was under unlawful arrest. But his prints matched those found and he was convicted. The Supreme Court reversed the conviction, holding that the exclusionary rule requires the exclusion from evidence of the prints taken. In so doing, however, the Court said that it had "no occasion in this case . . . to determine whether the requirements of the fourth amendment could be met by narrowly circumscribed procedures for obtaining, during the course of a crim-

(Continued on page 31)

U.S. BORDER PATROL

(Continued from page 6)

maintaining an extensive system of confidential informants through whom information is obtained concerning smuggling and illegal entry of aliens. Through contact with such informants, personal observation, and evaluation and correlation of information received from other sources, they endeavor to detect smuggling conspiracies and other related attempts to violate the law before the violations occur. Invaluable aid is received from Mexican authorities in obtaining information regarding these activities. On the basis of information

developed, antismuggling agents plan, coordinate, and carry out operations leading to the apprehension of illegal entrants and smugglers of aliens.

Interrogation

After apprehension of smugglers and aliens, agents conduct indepth interrogations of all persons involved in the violation in order to firmly establish the case. When prosecution is authorized by the U.S. attorney, an antismuggling agent presents the case to the U.S. commissioner or grand jury, as appropriate, and follows through to termination of the prosecutive action. Successful prosecution of

smugglers is the best deterrent to the traffic in humanity.

The El Paso Sector maintains an extensive system of communications. All mobile units and aircraft are equipped with the latest FM-VHF radio transceivers. The communications center at sector headquarters maintains continuous communications with all stations and mobile units outside of the Greater El Paso area. As the bulk of the agent force is concentrated in El Paso, which is the focal point for most illegal entry and alien smuggling in the sector, the El Paso station maintains a separate frequency for communications to avoid interference with the rest of the



Air-ground coordinated farm check operation nets three illegal entrants.

sector. Dispatchers are on duty 7 days a week, 24 hours a day. Repeater stations, strategically located throughout the sector, permit effective communications all along the international boundary and at backup stations away from the border.

are turned over to the appropriate agency. Over the years, Border Patrol agents have arrested persons for murder, rape, armed robbery, burglary, auto theft, et cetera. In fiscal year 1970 El Paso Sector Border Patrol agents seized narcotics and other con-

sures their delivery to a point in Mexico nearest their home.

All aliens charged with criminal, morals, or narcotics violations are detained in the El Paso County Jail in order to segregate them from non-criminal aliens. Those to be prosecuted for violating any of the criminal provisions of the Immigration and Nationality Act are detained in the El Paso County Jail pending trial.

Public relations is a vital part of the Border Patrol program. Border Patrol agents are frequently invited to speak to local, civic, industrial, agricultural, and social groups to explain the mission of the Service and inform those interested in the problems involved in enforcing the immigration and nationality laws. Lectures on Border Patrol duties, responsibilities, and objectives are presented frequently to local police academies and law enforcement groups in the Greater El Paso area.

The most important, but usually unpublicized, phase of public relations is the day-to-day service rendered to the general public. This service often involves the saving of life, assisting in the search for lost children or aged persons, and assisting Spanish-speaking residents with immigration and other problems. These activities have, over the years, created a favorable image for the Border Patrol not only in the El Paso area, but also in every area in the United States where Border Patrol agents normally perform their duties.

FBI

"Although the Border Patrol is primarily responsible for the enforcement of the criminal and other provisions of the immigration and nationality laws and certain provisions of Title 18 of the United States Code, additional responsibilities, such as enforcement of customs and narcotics laws, are an integral part of the duties of a Border Patrol agent."

The El Paso Sector is tied in with all other Border Patrol sectors and the central office of the Service in Washington, D.C., on the nationwide AM (continuous wave) communications network. Although speedier systems are available, this network is maintained for emergency purposes. In the event of a disaster which might knock out electrical power and telephone and radio-teletype circuits, each sector headquarters is completely self-sufficient. When loss of outside power occurs, emergency power generators are automatically activated within 3 seconds. The same is true at remote repeater sites, thus assuring constant communications.

Although the Border Patrol is primarily responsible for the enforcement of the criminal and other provisions of the immigration and nationality laws and certain provisions of Title 18 of the United States Code, additional responsibilities, such as enforcement of customs and narcotics laws, are an integral part of the duties of a Border Patrol agent. These laws are enforced in conjunction with the agent's regular duties. As Border Patrol agents work in varied areas, it is not infrequent that violations of other laws are detected or committed in their presence. Violators apprehended

traband valued at approximately \$2 million.

Detention Facility

An alien detention facility is located at El Paso, Tex., and is under the control of the detention and deportation branch of the Immigration and Naturalization Service. The facility is located adjacent to El Paso Border Patrol sector headquarters. Adult male Mexican aliens apprehended in various parts of the country who reside in the Mexican States adjacent to the El Paso district are transported to the detention facility in Service-owned-and-operated buses or transport aircraft or by chartered bus. The facility has a capacity of 650 and normally has at least 600 in detention at all times. Aliens are held there from 4 to 15 days pending a deportation hearing before a special inquiry officer or voluntary departure to Mexico under safeguards. After the final disposition is made, the aliens are removed to the interior of Mexico by chartered bus or train. This arrangement is the result of an agreement between the United States and Mexico whereby the aliens are delivered to Mexican immigration officers at the border. The Mexican Government as-



PUBLIC IMAGE

(Continued from page 20)

"A Crime Prevented Is Better Than an Arrest Made."

Public Relations Activity

The public relations function is to inform the public of police activity and needs and primarily to enlist public support. Chief Edward C. Hale has repeatedly stated that the lack of publicity is a major shortcoming of most police departments, and this is true, for a police department cannot rely upon outsiders to report to the public what it is trying to do.

To obtain accurate reporting, our public relations officer coordinates the writing of all news releases from information received from the different divisions of the department, and Chief Hale issues releases. This procedure accomplishes the following:

- A. Copies of information releases are given to all news media concerned without favoritism.
- B. Written facts cannot be misinterpreted as easily as oral reports.
- C. The rights of the accused can be better protected.
- D. Individual policemen and investigators will not be hampered by five to 10 different reporters asking for information.

As well as making news releases, the public relations section is concerned with making available public speakers to schools, civic organizations, fraternal organizations, and, in many cases, private groups, such as business establishments. Examples of talks given to business organizations are safety talks to fleet drivers and shoplifting seminars for businessmen in the community. We have found through experience that the best

method of relating the needs of the police department is through public talks. With effective speakers, increased public assistance can usually be expected almost immediately.

Other activities operated under public relations are:

- A. School boy patrol training.
- B. Tours of the police department.
- C. Gun safety programs.
- D. Unarmed defense programs for women.
- E. Driver safety training.
- F. Assistance to college students in preparing reports and papers.
- G. Designing and having published informational brochures and booklets.
- H. Recruiting.

As the reader can observe, many of the public relations activities overlap the goals in community relations and

Police officers manned a recruitment exhibit at a local university's freshman day activities.





Young minibike owners learn skill in riding and safety rules during a rally sponsored by the Lexington Police Department.

vice versa. Because of this fact, both activities should be coordinated from the same office. In no way do

we mean to imply that a community and public relations office can solve all the problems of a police depart-

ment, or that all activity in such an office should be closed to the rest of the department. Actually, the ele-

Members of the Community Youth Police Auxiliary were given awards for their help in keeping traffic problems to a minimum at a fair.



mentary aspects of both community and public relations must originate with the patrolman.

Guidelines

The establishment of a community and public relations office is completely dependent upon the size of the department and the scope of the problem. In departments of smaller size, the chief of police will be the director of this type of activity; however, in some cities, as in Lexington, the responsibility can best be handled by a full-time director. Under any circumstances a community and public relations office should be responsible directly to the chief of police. All activities concerning both community and public related matters are command decisions. Coordination with the various divisions is a must, and because of this, the rank or position should be equal to any other staff officer.

The director of the unit may not necessarily be a person from the police ranks. In fact, it is difficult to find a person efficient in both community and public relations and trained in police science, too. However, this would be ideal. If one facet of the general requirement must be dropped, then it is believed that the person trained in community and public relations will perform more efficiently in the assignment than a person trained in police functions only. Although the civilian director may never learn to become a trained policeman, he can learn the police problem with less effort than a policeman can learn the professional aspects of community and public relations.


Finding the Right Man

One of the best methods in community and public relations work is

to use every policeman every day, but this may not be practical or possible. Therefore, it is then better to use men who are trained and equipped for a specific job, whether it be in public or community related matters. Here again it may be impossible to find a man who will be outstanding in public speaking and at the same time have a personality that is suited for working with youth. The inability to find just the right man may require part-time assignments for two or more

men who are suited for certain tasks.

Conclusion

The complete police mission can be accomplished only if there is community support. The police department can no longer be a closed organization. Communication with the masses is not only desirable but necessary. The man who stands alone usually has little influence, but the man who stands as part of a group commands the support of many. 

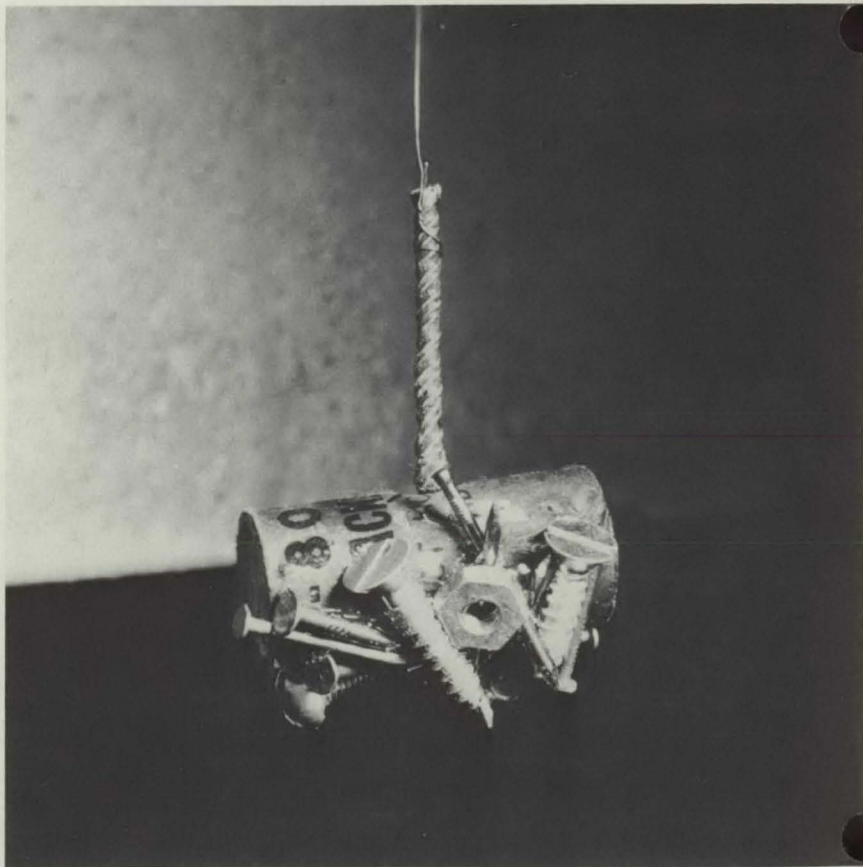
SAC, Detroit, 11-13-70

CHERRY BOMB

Police have encountered all types of explosive devices and weapons being used by some demonstrators around the country. The "cherry bomb" pic-

ture was recovered by police in a midwestern State during a recent disturbance. Demonstrators reason that cherry bombs with such items as tacks, screws, and nails glued onto their surfaces are more effective.

This cherry bomb was seized by police during a recent disturbance in a midwestern State.



THE LEGAL DIGEST

(Continued from page 25)

inal investigation, the fingerprints of individuals for whom there is not probable cause to arrest."

Some have interpreted the above-quoted language of the Court as a suggestion that the Court would approve the taking of at least some kinds of nontestimonial evidence from a suspect who is neither under arrest nor in custody or officially charged with the offense, provided that the officer could show a sensible need for such evidence and, further, that the taking of the evidence is closely controlled by judicial authority. One view of the appropriate circumstances and judicial control is shown in Rule 41.1, Court Order for Fingerprinting, Colorado Rules of Criminal Procedure, which was adopted in direct response to the quoted language of the Supreme Court in *Davis*. The Colorado rule reads as follows:

Authority to Issue Court Order for Fingerprinting. A court order for fingerprinting authorized by this rule may be issued by any judge of the Supreme, District, Superior, or County Court (or of the Court of Appeals upon the creation of that Court).

(b) *Issuance of Order.* A court order for fingerprinting shall issue only on affidavit sworn to or affirmed before the judge and establishing the grounds for issuance of the order. The order shall be directed to any peace officer of this State. If the judge is satisfied that grounds for the application exist, he shall issue the order naming or describing the person to be fingerprinted. Grounds for the issuance of a court

order for fingerprinting shall exist when it be shown by facts alleged in an affidavit of a peace officer that:

1. A known criminal offense has committed, and
2. There is reason to believe that the fingerprinting of the named or described individual will aid in the apprehension of the unknown perpetrator of such criminal offense, or that there is reason to suspect that the named or described individual is connected with the perpetration of the crime, and
3. The fingerprints of the named or described individual are not in the files of the agency employing the affiant.

(c) *Contents of the Order.* The order shall state:

1. The name or description of the individual to be fingerprinted, and
2. The names of any persons making affidavit for the issuance of the order, and
3. The criminal offense concerning which the order has been issued, and
4. A mandate to the officer to whom the order is directed to detain the person to be fingerprinted for only such time as is necessary to obtain the fingerprints and to compare such fingerprints to the fingerprints thought to be related to the perpetrator of the criminal offense, and
5. The typewritten or printed name of the judge issuing the order and his signature thereon.

(d) *Execution and Return.*

1. The order may be executed and returned only within ten days after its date.
2. The order shall be executed in

the daytime unless the issuing judge shall endorse thereon that it may be served at anytime because it appears that the suspect may flee the jurisdiction if the order is not served forthwith.

3. The officer executing the order shall give to the person fingerprinted a copy of the order.
4. No search of the person to be fingerprinted under the order may be made except a protective search for weapons, unless a separate warrant has been issued for such search under rule 41.
5. A return to the issuing judge shall be made showing whether the person named or described has been (a) detained for fingerprinting or not, and (b) released or arrested.

(e) *Motion to Suppress.* A person aggrieved by an order issued under this Rule may file a motion to suppress fingerprints seized pursuant to such order and the said motion shall be granted if there were insufficient grounds for issuance or the order was improperly issued. The motion to suppress the use of such fingerprints as evidence shall be made before trial unless opportunity therefor did not exist or the defendant was not aware of the grounds for motion, but the Court, in its discretion, may entertain the motion at the trial.

Any officer confronted with a situation in which nontestimonial evidence is needed but is unavailable from a person under lawful arrest, or released on bond or on his own recognizance, or even from a suspect at large whose whereabouts are known, should ask his prosecutor or other legal advisor for advice on the possibility of obtaining that evidence by court order.

FBI

QUOTABLE QUOTE

"The race of mankind would perish did they cease to aid each other. We cannot exist without mutual help. All therefore that need aid have a right to ask it from their fellow-men; and no one who has the power of granting can refuse it without guilt."

—Walter Scott

WANTED BY THE FBI



JOHN WILLIAM ALEXANDER, JR., also known as: "Brother," "Skin."

Interstate Flight—Murder, Assault With Intent to Commit Murder

John William Alexander, Jr., is currently wanted by the FBI for unlawful flight to avoid prosecution for murder and assault with intent to commit murder.

Alexander was one of five men involved in the rifle slaying of one police officer and the critical wounding of another on January 16, 1968, at Nashville, Tenn., when the policemen attempted to stop a car occupied by the men. The second officer subsequently died from wounds caused by this assault.

The car allegedly occupied by the suspects had left a residence thought to be a gathering place for a gang passing stolen money orders. A search of this vehicle, a second car, and the residence produced stolen money orders and checkwriting equipment, along with considerable inflammatory racial hatred literature. Several people at the residence were arrested by local police for possession of marijuana.

A Federal warrant for Alexander's arrest was issued on January 23, 1968, at Nashville, Tenn.

Description

Age-----	28, born Jan. 2, 1943, Cincinnati, Ohio.
Height-----	5 feet 5 inches to 5 feet 6 inches.
Weight-----	130 to 135 pounds.
Build-----	Small.
Hair-----	Black.
Eyes-----	Brown.
Complexion-----	Medium.
Race-----	Negro.
Nationality-----	American.
Remarks-----	Reportedly uses marijuana; an avid fan of modern jazz music; a meticulous dresser — preferring dressy sports clothes. Quiet individual with a controlled temper and reportedly has worn a mustache and short "Afro" hair style.

FBI No----- 472, 424 G.
Fingerprint
classification--- 3 13 rAt 14 Ref: 15
1 U 1

Caution

Alexander is being sought in connection with a murder wherein high-powered rifles were used. He should be considered 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.

NCIC Newsletter 12-70

FUGITIVE REVEALED THROUGH NCIC

Recently in the South, an officer on patrol observed a truck being operated in an erratic manner. He stopped the vehicle and told the male driver to get out of the truck and walk back to the police car. In an attempt to escape, the driver backed the truck into the police car, but the attempt failed because of the defensive actions of the alert officer. The driver was arrested and searched. The search revealed a loaded revolver on the subject. The officer made a check through the National Crime Information Center (NCIC) which revealed the driver was an FBI fugitive wanted for conditional release violation and escape. A search of the truck revealed a motorcycle. An inquiry on the vehicle identification number on the motorcycle through the NCIC revealed that it had been reported stolen several days earlier.

New FBI Procedure Streamlines Posting/Removing Wanted Notices

National Crime Information Center (NCIC) Wanted Person records containing FBI numbers are now automatically posted in FBI's Identification Division.

A new procedure which automatically posts and removes NCIC wants in the FBI's Identification Division, *when the FBI number is known*, was placed in operation January 4, 1971.

Before implementation of this procedure, it was necessary for a law enforcement agency to send a Wanted-Flash-Cancellation Notice, Form I-12, to the Identification Division to place a want in the Identification Division's files in addition to entering a wanted record in NCIC's Wanted Person File by remote terminal. Now all wants entered in NCIC's Wanted Person File that contain FBI identification numbers are posted automatically against the individual's fingerprint record in the Identification Division without the necessity of submitting form I-12.

Complete information available concerning the wanted person must be entered in NCIC when the initial entry is made. Furthermore, all agencies are expected to update their wanted records on file in NCIC, particularly to show appropriate caution indicator(s), for example, "armed and dangerous," "suicidal tendencies," et cetera, whenever such additional information is received subsequent to placing the initial wanted record in NCIC. Should a wanted person record on file in NCIC be updated to insert an FBI number, a wanted notice will be posted automatically at that time against the individual's fingerprint record in the Identification Division.

In those instances where the wanted person does not have an FBI number assigned or the FBI number is unknown, it is essential that agencies continue to submit form I-12 to the Identification Division in order to place a want against the fingerprint record of that subject, although a record may have been placed in the NCIC Wanted Person File.

Procedures concerning the placing and removing of flash notices in the files of the Identification Division are *not changed*, since NCIC does not permit entry of flash notices. The posting and removing of flash notices in Identification Division records will continue to require submission of form I-12.

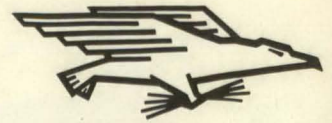
When a wanted person's record is "cleared" (clear message is transmitted to NCIC to indicate a wanted person has been located/apprehended) or "canceled" (cancel message is transmitted to indicate warrant has been dismissed prior to location/apprehension of the individual) and the record on file in NCIC contains an FBI number, the wanted notice posted in the Identification Division will be removed automatically based on data furnished in the "clear" or "cancel" message sent NCIC.

This new procedure which combines posting and removing of wants in records of the Identification Division and in NCIC as one operation, requiring only one communication, provides more prompt and efficient service to all law enforcement.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

OFFICIAL BUSINESS

RETURN AFTER 5 DAYS



POSTAGE AND FEES PAID
FEDERAL BUREAU OF INVESTIGATION

Wanted by the FBI

in Washington, D.C.



**Clerks
Clerk-typists
Stenographers
Fingerprint clerks**

INQUIRE ABOUT OTHER AVAILABLE POSITIONS

Many Employment Opportunities!

FOR MORE INFORMATION
CONTACT YOUR LOCAL FBI OFFICE

