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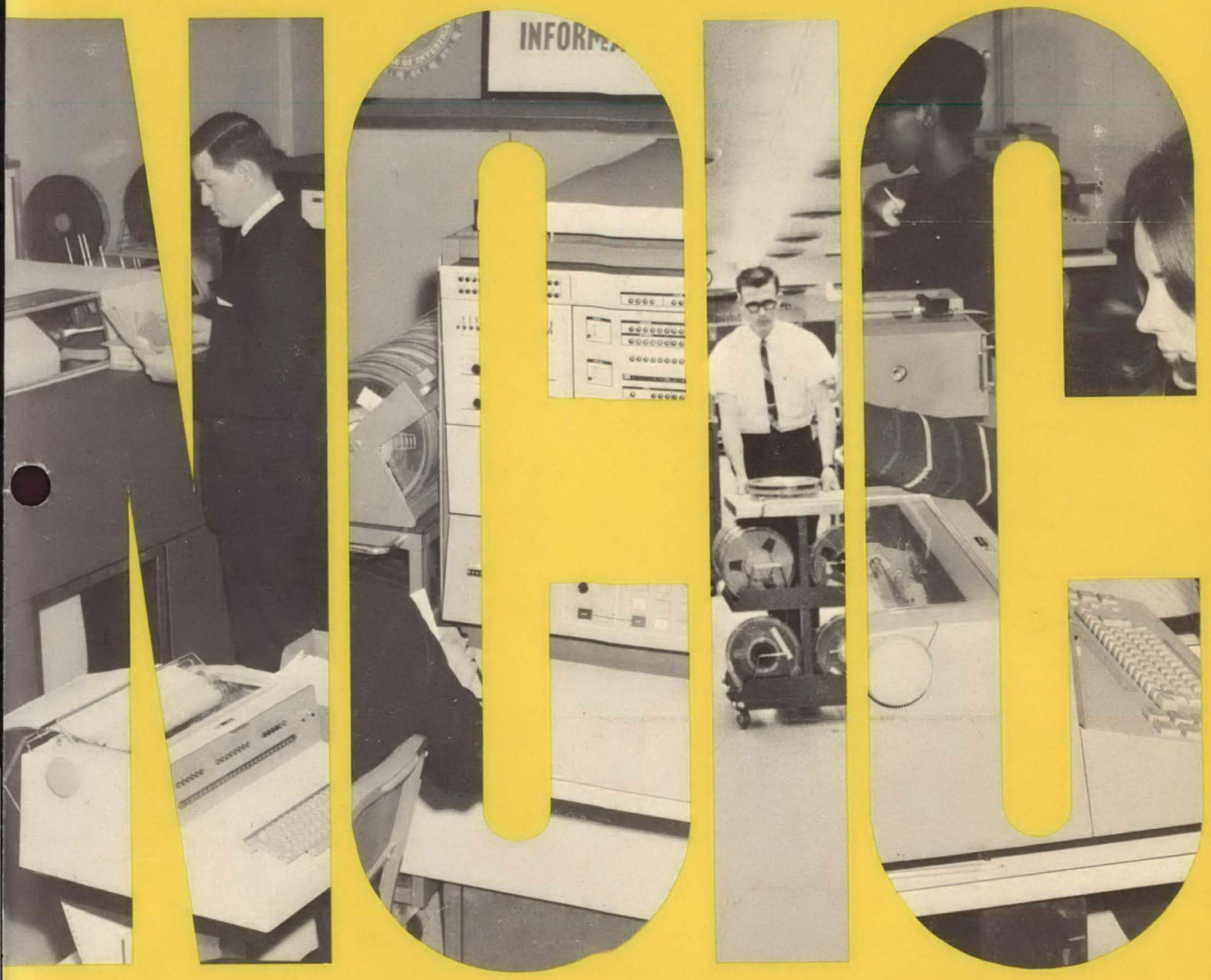
FEBRUARY 1972

FBI

LAW ENFORCEMENT BULLETIN



FIVE YEARS OF OUTSTANDING SERVICE

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

FEBRUARY 1972

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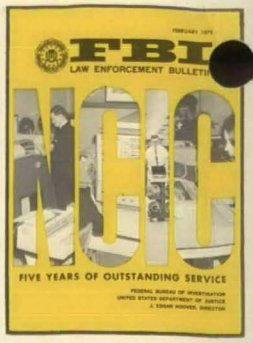

THE COVER—The NCIC in operation. See article beginning on page 2.

FBI

LAW ENFORCEMENT BULLETIN

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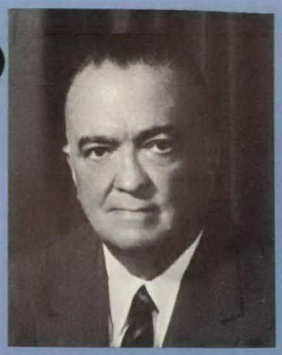


MESSAGE FROM THE DIRECTOR . . .

. . . To All Law Enforcement Officials

THE SEARCH FOR TRUTH in many courtrooms today has taken on new dimensions. In some instances, the court, in addition to administering justice, is forced to justify its existence and physically police its proceedings to maintain a modicum of decorum.

There are occasions when the court seemingly spends as much time trying to control shouting defendants and their recalcitrant counsel as in conducting the trial. In short, the courts are now experiencing some of what law enforcement for years has suffered in full measure—violent disrespect for the law and diabolical schemes to prove that the system of justice does not work in America.

For many, reverence for the law is no longer a sacred principle. The attributes so vital to impartial courtroom procedure are scorned, and court authority is tested. Let us make no mistake about it. When defendants call the jurist "a fascist dog" and "a lying pig," shout curses and obscenities at the court, chant in unison, and completely destroy the dignity of the courtroom, the duty of the court is axiomatic. The consequences must be sufficient to deter such action.

Aside from the contemptuous courtroom conduct itself, equally disturbing are the public agitations and blatant outcries from some quarters against a judge who takes firm action to meet the problem head-on. The beleaguered jurist is an instant villain in these contrived sideshows and, like the law enforcement officer before him, becomes a target of repeated abuse.

In discussing courtroom conflicts in March, 1971, Hon. Warren E. Burger, Chief Justice of the United States, stated in part, ". . . I do know this—and so does anyone who has read legal history and read the newspapers in recent years—that John Adams, and his reincarnated colleagues at the bar, would be shocked and bewildered at some of the antics and spectacles witnessed today in the courtrooms of America. They would be as shocked and baffled as are a vast number of contemporary Americans and friends of America all over the world." The Chief Justice urged that priority be given to methods and machinery, to procedure and techniques, and to management and administration of judicial resources to meet the challenges to our system of justice. Fortunately, there is indication that most of the members of the legal profession agree with the Chief Justice and are working to correct these conditions.

If the judiciary is to keep the faith of the American people, then it must deal promptly and decisively with vituperative outbursts and disruptive tactics in court. Justice without strength will soon become no justice at all.

J. Edgar Hoover

JOHN EDGAR HOOVER, *Director*

FEBRUARY 1, 1972

NCIC

A Tribute to Cooperative Spirit

The FBI's National Crime Information Center, more popularly and internationally known as NCIC, began its sixth year of service to the criminal justice community on January 27, 1972. There is scant time to engage in an anniversary celebration, however, for NCIC and its supporting State and metropolitan area computer systems are busy implementing further advances involving the interstate exchange of criminal justice information.

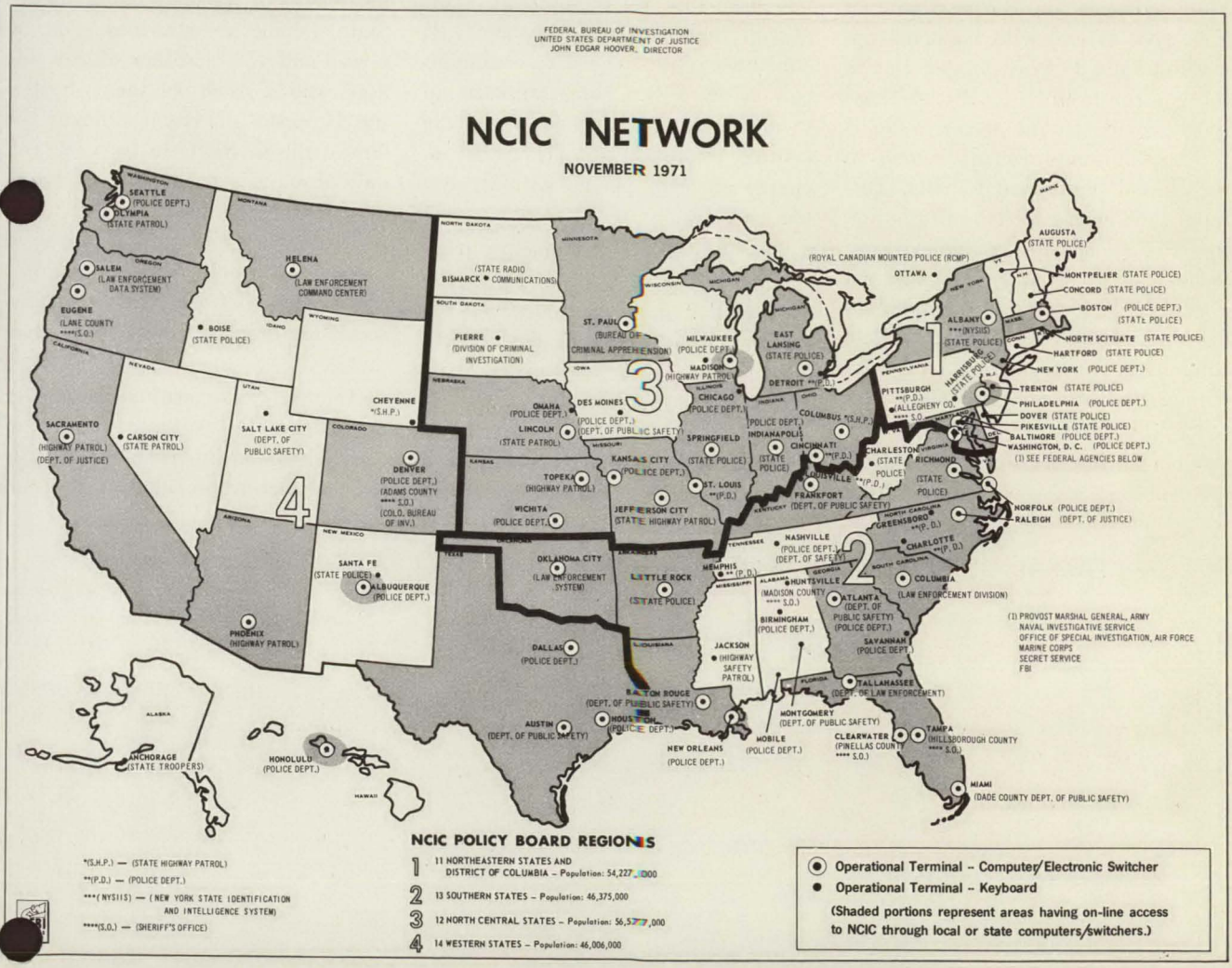
Great progress has been made by NCIC since it began in January 1967. The first operations involved 15 law enforcement agencies and one FBI field office. Instead of the present 24-hour-a-day operation, NCIC pulsed to life in a pilot or testing phase of 2 hours a day and gradually increased to the current schedule.

Initially there were five computerized files: wanted persons, stolen vehicles, license plates, firearms, and stolen identifiable articles. The original data base contained 23,000 records. In 1968 a securities file was added, and the vehicle file was expanded to include aircraft and snowmobiles. In 1969 further cognizance was taken of changes in the vehicles mode by recording stolen dune buggies. Also, in 1969 a boat file was implemented.

Computer hardware needs for NCIC were not as demanding in 1967 as they are today. The beginning data base was relatively small because the NCIC Working Committee wisely restricted file entries to current and validated manual records. Initially NCIC operated with an IBM 360 Model 40 processor containing 128K bytes of core, 2311 disk storage devices, and 2702 transmission control units. In September 1968 this configuration was changed to an IBM 360/50 processor with 512K bytes of core, 2314 disk storage devices, and 2703 transmission control units.

Today the system uses an IBM 360 Model 65 multiprocessor with 2 million byte memory, a combination of IBM 2314, Telex and CalComp disk storage devices, and IBM 2703 transmission control units.

The original network of 15 law enforcement control terminals and one FBI field office has expanded to 102 law enforcement control terminals and to terminals in all FBI field offices, providing NCIC service to all 50 States, the District of Columbia, and Canada. From the beginning a control terminal has been defined as a



State agency or large core city operating a metropolitan area system which shares with the FBI the responsibility for overall system discipline as well as for the accuracy and validity of records entered in the system.

The first computer-to-computer interface was with the California highway patrol in April 1967. The tie-in of the St. Louis, Mo., Police Department computerized system soon followed. These events marked the first use of computer communications technology to link together local, State, and Federal Governments in an operational system for a common functional purpose.

As of January 1972, the NCIC system interfaced with 48 computers or electronic switches representing 31 State agencies and 17 metropolitan area systems and with manually operated terminal devices in the remaining control terminal locations. These links provide on-line access to NCIC for 6,000 law enforcement agencies in the United States and Canada. This immediate access makes information in the national file available within seconds of an inquiry. The original goal of NCIC to serve as a national index and network to 50 central State computerized information and communications systems is well within reach. (See NCIC network map.)

Whereas the original communications network was made up of a little over 5,000 miles of low-speed (150 baud) lines, the current design includes voice grade (2400 baud) lines between NCIC and nine regionally located multiplexing centers. From these centers, 150 baud lines extend to those control terminals still operating with low-speed equipment. Most control terminal computers interface directly with the NCIC through 2400 baud lines, and the remaining low-speed users are gradually converting to the faster transmission speed as they develop their own on-line systems.

Increased Usage

The communications lines are provided by the Western Union Telegraph Co. and are fully dedicated to system use; that is, there is no operational dial-up access to the NCIC computer. With regard to communications, the FBI assumes all costs up to and including the modem at the control terminal site. There is no charge made to participants for system use.

The year 1967 was one of trial, change, and growth for NCIC. By the close of that first year, however, the system was handling 15,000 transactions a day. Table 1 discloses NCIC growth in message traffic or system use for the years 1968 through 1971. Traffic is measured in terms of computer transactions, i.e., an entry of a record, inquiry, clearance of a record, and so forth. In each transac[tion] there are two messages, one from a terminal to the NCIC computer and the second a response from NCIC to the terminal.

Total yearly transactions from 1968 through 1971 increased from 7 million to 25.1 million; inquiries from 3.3 million to 14.4 million. This sharp increase in system usage is due to three factors: (1) the rapid development of State and metropolitan area systems which provide on-line access to thousands of police agencies; (2) user education whereby police officers and investigators increasingly make greater use of the system for routine purposes and develop new field techniques for better use of the system, i.e., checks of traffic violators, out-of-State vehicle registrations, and so forth; and (3) addition of new file applications, such as the securities file. However, the latter, although the largest file in NCIC in terms of volume of active records, has yet to ap[proach] expected system use in te[rms] of inquiry. Optimum use of the securities file will only result from closer cooperation between the financial/securities industry and law enforcement.

Another way to measure the growth of NCIC is by its rapid buildup of active records. This is shown in table No. 2 depicting growth from Decem-

NATIONAL CRIME INFORMATION CENTER, ANNUAL TRANSACTIONS, 1968–1971

	Entries	Inquiries	Clears	Other	Yearly Total	Daily Average
1968	923, 000	3, 274, 688	400, 036	2, 427, 373	7, 025, 097	19, 194
1969	1, 351, 095	7, 844, 670	541, 348	3, 849, 267	13, 586, 380	37, 223
Percent increase over 1968	46. 4	139. 6	35. 3	58. 6	93. 4	93. 9
1970	1, 632, 749	11, 515, 851	580, 416	5, 901, 217	19, 630, 233	53, 781
Percent increase over 1969	20. 8	46. 8	7. 2	53. 3	44. 5	44. 5
1971	1, 887, 564	14, 364, 308	664, 148	8, 187, 063	25, 103, 083	68, 776
Percent increase over 1970	15. 6	24. 7	14. 4	38. 7	27. 9	27. 9

Table 1.

NATIONAL CRIME INFORMATION CENTER, FILE GROWTH, 1967–1971*

	Total Records	Wanted Persons	Stolen Vehicles	Stolen License Plates	Stolen Firearms	Stolen Articles	Stolen Securities	Stolen Boats
December, 1967	346, 124	18, 676	130, 304	31, 118	121, 245	44, 781		
December, 1968	743, 950	30, 082	246, 640	81, 800	191, 371	141, 107	52, 950	
Percent increase over 1967	114. 9	61. 1	89. 3	162. 9	57. 8	215. 1		
December, 1969	1, 447, 148	50, 913	393, 156	146, 819	254, 085	319, 763	281, 554	858
Percent increase over 1968	94. 5	69. 2	59. 4	79. 5	32. 8	126. 6	431. 7	
December, 1970	2, 453, 662	77, 118	584, 894	208, 352	343, 220	513, 373	724, 326	2, 379
Percent increase over 1969	69. 6	51. 5	48. 8	41. 9	35. 1	60. 5	157. 3	177. 3
December, 1971	3, 330, 220	114, 497	755, 879	252, 735	441, 591	715, 444	1, 045, 629	4, 445
Percent increase over 1970	35. 7	48. 5	29. 2	21. 3	28. 7	39. 4	44. 4	86. 8

*12–1–67 through 12–1–71

Table 2.

ber 1967 to December 1971. This file growth was accomplished primarily by on-line NCIC system entries. One major exception was a batch load of stolen U.S. Treasury security issues ered by the U.S. Secret Service in 1969. File growth is, of course, influenced by periodic administrative purges, whereby records are automatically removed from the active file based on an established timespan of usefulness.

Maintaining Accurate Files

While on-line clearance or cancellation of records by the entering agency is the primary means of maintaining the files in an up-to-date condition, NCIC supplies users with information concerning their records for review on a continual basis. Printouts of each agency's records are sent to the agency via the control terminal for validation. The wanted persons and stolen vehicle records are forwarded every 90 days while other property files are subject to an annual validation. During the periods between validations, FBI personnel at NCIC review records on file for completeness and accuracy. Any deficiencies noted in a record are brought to the attention of the entering agency through the control terminal. In addition to correcting the deficiency, the agency again has a chance to verify that the record should remain on file.

Off-line computer programs check each record to determine if it is in strict compliance with national standards, and the results are furnished to the entering agency. Tabulations are maintained indicating, by control terminal, the number and type of deficiencies. NCIC periodically reviews the tabulations and sends to any control terminal having a large number of deficiencies a letter pointing out areas wherein additional training may be needed.

Obtaining a true measurement of the cost effectiveness of the NCIC and its related systems (State and metropolitan area computer/communications networks) is difficult, as the benefits derived include a number of intangibles as well as the more obvious results. Probably the most impressive NCIC statistic is the rapidly increasing number of "hits," a term applied to those instances where a record received in response to an inquiry indicates the subject is a wanted fugitive or the item of property in question is stolen. Many of these "hits" have been set forth in the monthly NCIC Newsletter or similar monthly publications by State systems, such as those in New York, Arizona, and Pennsylvania. Many also have appeared in the news media and need no repeating here.

Successful "Hits"

In January 1968, with a year's operating experience, the system was averaging 275 interjurisdiction "hits" a day. It was obvious the "hits" obtained were inspiring increased system usage. At the time of this writing, the number of such "hits" per day averages approximately 700, a dramatic increase over the 1968 number

(*Continued on page 26*)

FROM CLASHES TO COURTROOMS—

Civil Liability of Officers

By
MISS JOYCE BLALOCK*
Agency Assistant Attorney General of New Mexico—Legal Advisor, New Mexico State Police, Santa Fe, N. Mex.

Law enforcement today means different things to different people. To some, law enforcement represents challenge, danger, awareness, effectiveness, and authority; to others, it represents contempt, repression, and controversy. As for the law enforcement officer, in recent years a new concern has arisen—civil liability. He may be sued for actions taken in the line of duty.

Danger shadows the law enforcement officer as he rides in his patrol unit, as he knocks on strange doors, as he walks the streets, and as he heeds cries for help. Alertness and decisiveness are part of his arsenal. He must parry hazards with his senses and equipment. He is expected to defend himself, and the public demands that he protect others. Verbal insults and physical assaults keep an officer edgy and on the defensive. Constant danger is exhaustive and may grind the fine edge of human sympathy from the man who too frequently faces risk. Under such conditions, the officer may become the frontline target as a defendant in a lawsuit.

Citizen Jones v. *Officer Smith* often begins with circumstances compelling instant response. At the crossroads of emergency a turn must be made. There is no time for deliberation; no leisure to decide upon an ivory-tower approach. A one-to-one encounter of a menacing suspect and a harried officer may ensue. How much force should he use? Will it be necessary to shoot? If the subject flees, should he pursue at 100 m.p.h.?

Let us look at some, not all, of the conditions under which policemen

"Suits against officers are signs of the time, and we can expect the number to increase. In the public's eye, the defendant is not just one policeman, but all policemen."

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work. Enforcement of unpopular statutes tarnishes the image of the officer as protector of citizens. For example, apprehension for minor traffic offenses irritates many people. Other laws, such as those prohibiting possession of marihuana alienate certain groups. The populace craves more protection from violent crimes but barely supports overall police effort. For moral, political, and revenue purposes, police resources in some areas may be oriented toward peripheral enforcement. Hostility grows in this soil.

Police often work in antagonistic environments where their presence is openly resented. From the cradle, some children are schooled to fear and distrust officers. Many of their parents feel subjected to oppression which may have been produced by the fact that some communities have condoned cheap containment of environmental crises. Policemen cannot cure such social ills alone. Yet, they symbolize the status quo, and their efforts to maintain peace as best they can with inept equipment may be misunderstood by the ones they seek to serve directly.

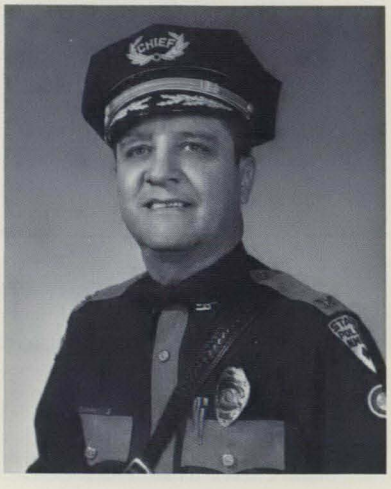
Improved Internal Controls

Officers are thrown into situations which probably by all considered judgments should not be law enforcement's responsibilities. Political dissidents, drunks, drug abusers, family disputants, campus disruptors, and many others often create disturbances which police are required to quell. When such confrontations develop into explosive conditions, the officer must necessarily act. Later, he may learn that he is charged with acting too forcibly or was negligent, and that the "reasonable" man would have acted differently.

Suits against officers are signs of the time, and we can expect the number to increase. In the public's eye, the defendant is not just one policeman, but all policemen. When an overaggressive officer is guilty of abusive treatment, all of his fellow officers suffer, and he should be adequately punished. If administrative discipline is lax and departmental investigations of abuses are ineffective, public confidence is shaken. Civil suits, unwelcome as they may be, will no doubt result in strengthened and improved internal controls in departments where weaknesses exist.

"A few years ago allegations of invasion of privacy and harassment were rare. Today these contentions are virtually commonplace. Militant groups know and adamantly press for their rights—some to the extent that they trample the rights of others."

Long ago, the rack and thumbscrew were discarded as proper law enforcement tools. More recently, biased lineups and round-the-clock interrogations have been formally disapproved. However, similar problems remain as current studies and lawbooks reveal and experienced officers recall recent examples of unequal treatment of minorities, misuse of weapons, and intimidation of the lonely suspect. Now, the intelligence-gathering function of law enforcement is being questioned. Surveillances, discreet photographing, and wiretapping are being contested in court. Thus far, few such challenges have been successful, but they are notable because these lawsuits reflect changing attitudes and serve as a beacon toward the responsible use of electronic equipment. Moreover, new insight into problems of arrest, identification, and questioning may develop from civil cases.



Col. Martin E. Vigil, Director, New Mexico State Police.

Enforcing the Law

Focusing enforcement at particular groups leads to charges of harassment. For example, laws against vagrancy, loitering, and so forth, often function to rid the community of undesirables, but almost routinely today, courts declare these statutes illegal. The officer's obligation to enforce such laws may place him in the position of being criticized if he acts and criticized if he fails to act. Antiestablishment persons, such as unwashed young rebels, tend to grate upon police nerves, and such recalcitrant, unkempt youths often provoke confrontations which land them in jail. They claim similar conduct by "hardhats" would be squelched with a sense of humor. Sometimes the incident which fills the complainant's pleadings began with what he considered to be an innocuous joke—followed by an officer's brusque response.

A recent suit against three officers under a Federal civil rights act started with a ceremonious bow by a longhair to the uniformed men. Thirty feet separated them. The officers refused to ignore the longhair and reacted to his taunting disrespect. Soon, four officers wrestled with the challenger who did not respond to the officers' orders. The struggle led to charges of resisting arrest and disorderly conduct. The

courtroom resolutions were: conviction in State magistrate court, reversal in State district court, and current haranguing in Federal district court over damages for infringement of constitutional rights.

Several types of incidents end in court. One involves physical force. With or without a weapon, the use of unreasonable force leads to liability. "Reasonable" and "unreasonable" are difficult legal terms to define. Judges hone their wisdom through years of contemplation and still disagree on such matters. How much more difficult it must be for the officer faced with the need for an immediate decision. Trial judges rule instantly on objections. They face immediacy in an academic gown—not with sirens in the street.

Use of Standard Weapons

Rules of liability narrow the use of standard weapons. The warning shot is not acceptable to many courts. Injury from such firing is held to be the product of negligence. Poor marksmanship reflects inadequate training; thus, those who instruct and those who permit low standards may be liable. Sometimes, without adequate testing, new components of the police arsenal are entered into service. For instance, research divulging both the pros and cons of tear gas and more exotic gear is indispensable to informed decisions as to proper use. Those injured by these new tools are winning cases.

Under some conditions, policemen may proceed through red lights and exceed speed limits. However, the many instances in which innocent pedestrians and careful drivers have been injured or killed by officers rushing to routine accidents, and so forth, illustrate the danger of this privilege. In the resulting civil suits, courts necessarily inquire into the total picture and exact higher standards from policemen. Some jurisdictions have even eliminated exemptions from traffic laws. Officers must bear the dual responsibility of pursuing violators and using due care.

An officer has a duty to act in many situations, and his failure to perform may be negligence. Liability has resulted from: not responding to a call of distress when there is capacity to do so, injury to a bystander by an escaped arrestee when the escape was caused by officer carelessness, and failure to render first aid to a stricken motorist. Once an officer acts, he must exercise caution and not abandon the person in trouble. His job must be done; withdrawal can be as fraught with liability as positive acts.

Lawsuits against policemen seek private reparation and public reform. Cases typically originate with individuals, storefront lawyers, dedicated liberals, and organizations. Money for litigation comes from private sources, group donations, and miscellaneous other funds. Plaintiffs claim compensation for medical bills, loss of income, and physical impairment. Persons also seek damages for defamation of character, invasion of privacy, and deprivation of constitutional rights.

" 'Reasonable' and 'unreasonable' are difficult legal terms to define. Judges hone their wisdom through years of contemplation and still disagree on such matters."

Inducements for class actions generally are broader than motives for one-man cases. Such litigation seeks modifications of police methods, alterations of police treatment of certain groups, redressing of grievances to a class of people, and declarations of the illegality of particular laws and practices.

In the past, numerous factors deterred lawsuits against individual officers. Many plaintiffs lacked access to attorneys and frequently were ignorant of legal remedies. Often, those injured could not corroborate their claims with facts. Even if a judgment were won, it dead ended in a no-asset defendant.

With the introduction and rapid expansion of the Exclusionary Rule—illegally obtained evidence is inadmissible in court—improper police methods were repeatedly highlighted. Subsequently, prosecutors and police executives clamped down on unlawful practices, and more trustworthy investigations and skillful techniques were developed.

A Significant Factor

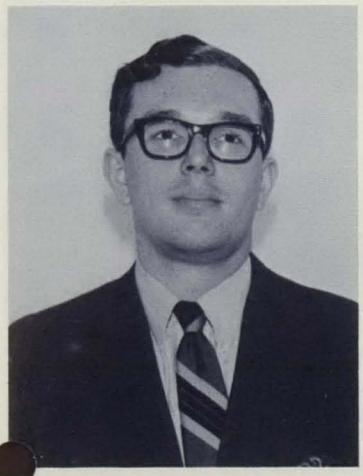
With the widespread interest in civil rights in the 1960's, more and more suits are being brought against officers. In addition, plaintiffs name supervisors, captains, and chiefs as defendants on the basis that superiors have training and administrative responsibilities, the neglect of which may contribute to an officer's carelessness. These allegations may encompass political officials and governing bodies as defendants. Technical defenses, such as sovereign immunity, are being legislated and ruled out of existence. Accountability of officers at all levels for negligence is gaining momentum.

A significant factor behind the present rash of cases is the availability of lawyers. The wealthy have always had attorneys, but only recently have the needy had counselors. Civil libertarianism appears to be the fashion among lawyers. Young law graduates formerly heeded the call of corporate and tax law. Now the "in-thing" is reform through legal services, and public funds make this approach a reality. Governmental authority at all

(Continued on page 29)

The Police Role in Alcohol-Related Traffic Offenses

By
GERALD W. GARNER
Public Safety Technician, Police Department, Victoria, Tex.



FBI Director J. Edgar Hoover, in a recent message to the Nation's law enforcement officers, noted that traffic safety authorities estimate 25,000 Americans are killed in alcohol-related crashes each year. Nonfatal wrecks involving at least one drinking driver are believed to exceed 800,000 annually, with an attendant property loss figure in the billions of dollars.[1]

This senseless carnage, triggered by the criminal actions of a deadly few, is further pointed up by the National Transportation Safety Board in its annual report to Congress:

> The death toll from alcohol in all of U.S. transportation cannot be determined precisely, but could be as high as 25,000 lives. It may be involved in roughly half of the highway fatalities. . . . Available data suggest that alcohol is the most deadly single crash-causing influence on our nation's highways.[2]

452-739 O—72——2

Law enforcement officers have long recognized the deadly influence of the drunk driver on the traffic safety picture. However, publicity on a national scale was not tendered the problem before 1968, when the U.S. Department of Transportation presented its exhaustive Alcohol and Highway Safety Report to the Nation. At that time the role of the heavy drinker in staggering and ever-rising highway death rates became painfully clear. In addition, the report for the first time emphasized the genuine concern of the American motorist for his own safety on drunk-menaced roadways. Chapter 6 of the report noted results of a public opinion survey by investigators:

*Although the general public has little knowledge of the chemical nature of alcohol, or the scientific means for measuring its body concentration, it is aware that increased levels of consumption produce increased driving risks.

*A majority of people believe that penalties imposed for drunken driving are too lenient.

*A majority of people favor the concept of "implied consent," such as is embodied in the Department's Highway Safety Standard No. 4.4.1.

*A majority of people believe that an individual is "too intoxicated to drive safely" after drinking "two drinks" of unspecified alcoholic content.[3]

The 1968 report properly concluded that the American public is sensitive to the hazard of the intoxicated motorist. It was left up to law enforcement, then, to carry out its end of a wide-ranging tightening-up on drunk-driving offenders.

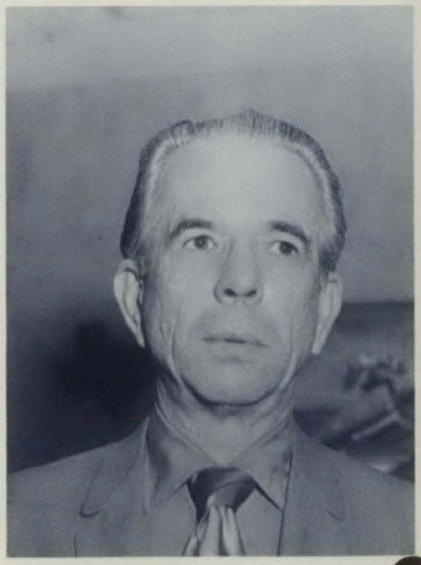
Just Punishment

But just how far have the country's police agencies advanced in their attention to the drunk driver since the report's publication? First of all, the States have continued to push enforcement of the "implied consent" rule, under which a driver, by the fact that he has accepted his driver's license, is assumed to have consented to a chemical test upon himself in the event he is arrested for a drunk-driving offense.

As for the elimination of "too lenient" penalties for those convicted of driving while intoxicated, law enforcement here has remained mindful that its official capacity is one of apprehension and prevention and not one of punishment. However, although the policeman's role in the criminal justice system springs from the executive, and not the judicial or legislative branches of government, this does not preclude his speaking out before his legislative bodies on the topic of drunk-driving penalties. Hopefully, professional organizations of peace officers already existing will continue to press for adequate but fair punishment for the drunk behind the wheel.

Educate the Driving Public

On another front, the peace officer is not alone in his actions to educate the driving public to the danger level of alcohol consumption prior to driving. The Insurance Institute for Highway Safety, the Licensed Beverage Industries, Inc., the American Medical Association, the National Safety Council, and the U.S. Public Health Service have all directed stringent efforts to informing the public of the critical need for restricting the drunk driver's lethal activities. It remains up to the law enforcement profession to maintain its own initiative in public service by featuring the hazards of alcohol-influenced drivers in safety programs, lectures, literature, and related audio-visual aids.



Director of Police John L. Guseman.

But mitigation of the driving while toxicated (DWI) threat is not limited to the lecture and the chemical test, nor is it restricted to stronger laws and harsher courts. Additional steps have been considered for coping with the confirmed alcoholic at the controls of an automobile:

*Required medical checkups—monthly, quarterly, or semiannually—to assure continuing control of the patient's alcoholism.
*Restricted driver's licenses for strictly regulated occupational driving, perhaps limiting driving to weekdays or daylight hours only.
*Quasi-compulsory continuing medical treatment with disulfiram, a chemical agent that discourages a person from drinking because liquor is not tolerated by the stomach.[4]

In the end, nonetheless, it remains the responsibility of the uniformed officer on the street to enforce as effectively as time and available manpower will allow the drunk-driving statutes. In some instances he may find himself forced to concentrate on arrests for robbery, burglary, theft, and so forth, rather than the drunk-driver apprehension. While a balanced treatment of serious crime and the DWI offense seems the most reasonable solution, it remains a fact of the policeman's life that he can only be present in one particular locale at a given time. While he is booking the drunk driver, the burglar may be carting off a place of business with impunity.

An Imperfect Role?

Thus does the contemporary police officer serve his role as a part of the public's protection against the drunk driver. If it remains an imperfect role, it is not because he has made it so—factors over which he has little control have intervened.

Only by applying the same relentless vigor for the prosecution of serious crime which he has maintained over the years will the officer of today succeed in stemming a rising influx of alcohol-related traffic offenses.

Traffic officers are obligated to be alert for the illegal acts of other drivers. As an enforcement guide for its highway patrol, California lists 14 deviations from the driving norm in a manual, "The Drinking Driver." [5]

1. Unreasonable speed (high).
2. Driving in spurts—slow, then fast, then slow, etc.
3. Frequent lane-changing with excessive speed.
4. Improper passing with insufficient clearance, also taking too long or swerving too much in overtaking and passing; that is, overcontrol.
5. Overshooting or disregarding traffic signals.
6. Approaching signals unreasonably fast or slow and stopping or attempting to stop with uneven motion.
7. Driving at night without lights. Delay in turning lights on when starting from a parked position.
8. Failure to dim lights to oncoming traffic.
9. Driving in lower gears without apparent reason, or repeatedly clashing gears.
10. Jerky starting or stopping.
11. Driving unreasonably slow.
12. Driving too close to shoulders or curbs, or appearing to hug the edge of a road, or continually straddling the centerline.
13. Driving with windows down in cold weather.
14. Driving or riding with head partly or completely out the window.

The following statistics have been extracted from reports of the New York State Department of Motor Vehicles and show the number of revocations made under an implied consent law on the basis of refusal to submit to a chemical test, as well as revocations based upon convictions for driving while ability is impaired by alcohol.[6]

Year	*DWI*	*REF*	*DAI*	*Total*
1953	2384			2384
1954	3464			3464
1955	3608	265		3873
1956	4421	336		4757
1957	4074	468		4542
1958	3377	433		3810
1959	3251	455		3706
1960	3369	471		3840
1961	2935	423	1492	4850
1962	3568	474	1756	5798
1963	4626	770	2218	7614
1964	4632	1064	2660	8356
1965	4257	1478	3330	9065
1966	3698	1708	3613	9019
1967	3070	1929	4111	9110

DWI—Revocations based upon convictions for driving while intoxicated.
REF—Revocations based upon refusal to submit to chemical test.
DAI—Suspensions based upon convictions for driving while impaired.

FOOTNOTES

[1] "Message From the Director," FBI Law Enforcement Bulletin, vol. 40, No. 4, April 1971, p. 1.
[2] Associated Press dispatch.
[3] "Public Opinion," 1968 Alcohol and Highway Safety Report, p. 88.
[4] "The Drunk Driver May Kill You," Allstate Insurance Companies, p. 12.
[5] "The Way to Go," Kemper Insurance Group, p. 9.
[6] 1968 Alcohol and Highway Safety Report, p. 113.

The *Miranda* Warning During a Street Encounter

By
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Washington, D.C.

PART I

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.

The setting was right out of a police training manual. The suspect walked hurriedly down a Los Angeles street during a rainstorm, carrying what appeared to be a new portable typewriter case. He wore no raincoat and was exposing the typewriter to the heavy downpour. The officers observing him knew that there had been a number of burglaries involving stolen typewriters in that area. The suspect continued down the street, passing several pawnshops, and from time to time looked back toward the officers. After the suspect crossed the street, the officers drove past, and when they did so, he reversed his direction and went into a park. The officers then made a U-turn, left their car, and stopped the man for questioning.

After identifying himself, the police officer asked the man where he was going. Santa Monica, he replied. How would he get there. Walk. What was in the case he had set down? Radios. Did he have a receipt for the radios? "No," he said, "I stole them." With that admission, he was placed under arrest and advised of his constitutional rights. Four radios bearing store tags were found in the typewriter case. The suspect readily admitted that he had spent the previous night in a department store and had left that morning with the radios in the case.

On review of the defendant's conviction, the California appellate court had no difficulty supporting the stop, noting that circumstances short of probable cause for an arrest may justify a temporary detention for investigation.[1] Any doubts about the constitutionality of such measures, the court said, were put to rest by the U

Supreme Court in *Terry* v. *Ohio*.[2] Although the *Terry* case dealt with a protective search for weapons, the State court properly read the decision as approving a power to detain for questioning.[3] On that footing, it found that "appellant's dress, conduct, and movements in the setting of their time and place were sufficiently unusual" to warrant investigation.[4]

Custodial Interrogation

The more interesting aspect of the case concerns appellant's contention that he should have been warned of his constitutional rights prior to questioning. Specifically, he argued that if circumstances were sufficiently suspicious to justify his detention, they were sufficiently incriminating to require the police to warn him of his privilege against self-incrimination and his right to assistance of counsel.[5] In a rather comprehensive discussion of the subject, the court rejected appellant's argument, holding that persons detained for questioning need not be warned of these rights "until such time as point of arrest or accusation has been reached or the questioning has ceased to be brief and casual and became sustained and coercive." [6]

Looking to the *Miranda* rule, which governs custodial interrogation, the court said that a warning of rights is required when a suspect is in custody or deprived of his freedom of action in any significant way. While recognizing that a street stop necessarily involves some interference with freedom of movement, the court held that it does not produce the kind of restraint contemplated by the *Miranda* opinion. As a further ground for decision, the court pointed out that a detained person is in no sense an accused but merely one suspected of misconduct. "Only when suspicion focuses sharply enough to provide reasonable cause for arrest or charge," the court said, "does the relationship between the police and the person detained become that of accuser and accused." [7]

Faced with similar circumstances, most courts would probably reach the same result. It is generally held that the kind of interrogation that takes place during an on-the-street encounter does not require compliance with the *Miranda* standards.[8] But, as this case illustrates, there is still some confusion as to the proper test to be used in determining whether the *Miranda* rules apply. Some courts look to the subjective state of mind of the officer,[9] or to that of the suspect,[10] or to both. Others place great emphasis on the "focus" concept of *Escobedo*.[11] Still others combine *Escobedo* and *Miranda*, drawing on the language of both opinions.[11a] And several recent decisions have rejected the focus test altogether, viewing the problem solely in terms of "custody" or "restraint of movement." [12] There is an understandable temptation to brush all this aside as a mere theoretical exercise. But, like most legal theory, the question has far-reaching practical consequences. In what follows, one will see that the particular test applied by the court in a given situation can well affect the ultimate outcome of the case.

In approaching this problem, we will attempt to determine just what the Supreme Court was trying to accomplish in *Miranda*. If the aim of the Court was to eliminate extrajudicial confessions from the criminal law, it may well be that a warning and waiver of rights are required before a suspect can be questioned for evidence of his guilt. This seems implicit in Justice Goldberg's statement in *Escobedo* that "a system of criminal law enforcement which comes to depend on the 'confession' will, in the long run, be less reliable and more subject to abuses than a system which depends on extrinsic evidence independently secured through skillful investigation." [13] Relying principally on the sixth amendment right to counsel, the Court suppressed incriminating statements made by the defendant on the ground that he had been denied access to his lawyer during interrogation. The majority held, over four dissents, that "when the process shifts from investigatory to accusatory—when its focus is on the accused and its purpose is to elicit a confession—our adversary system begins to operate, and, under the circumstances here, the accused must be permitted to consult with his lawyer." [14]

Informed of Rights

In the *Miranda* decision,[15] 2 years later, the Court held that the Government may not use statements obtained during custodial interrogation unless it demonstrates that the suspect was informed of certain constitutional rights prior to questioning. While *Escobedo* spoke in terms of the right of counsel, *Miranda* interpreted the problem essentially as one grounding on the fifth amendment privilege against

"The majority held, over four dissents, that 'when the process shifts from investigatory to accusatory—when its focus is on the accused and its purpose is to elicit a confession—our adversary system begins to operate, and, under the circumstances here, the accused must be permitted to consult with his lawyer.' "

compulsory self-incrimination. Thus a new theology was announced by which coercion again became the principal issue in determining the admissibility of confessions.[16]

The key phrase in the opinion is "custody or otherwise deprived of his freedom of action in any significant way." This is the point in the investigation, the Court said, when the suspect must be warned of his constitutional rights. The "focus" test was dismissed in a footnote, with the comment that "(t)his is what we meant in *Escobedo* when we spoke of an investigation which had focused on an accused." [17] Though the meaning of "custody" has since been the subject of much litigation, no clear definition of the term has emerged from the case law.

(Continued Next Month)

FOOTNOTES

[1] *People* v. *Manis*, 74 Cal. Rptr. 423 (1969).

[2] 392 U.S. 1 (1968).

[3] Id. at 32–33; *Young* v. *United States*, 435 F. 2d 405 (D.C. Cir. 1970).

[4] 74 Cal. Rptr. at 428–429.

[5] Id. at 429.

[6] Id. at 433.

[7] Id. at 432.

[8] *United States* v. *Thomas*, 396 F. 2d 310 (2d Cir. 1968); *United States* v. *Gibson*, 392 F. 2d 393 (4th Cir. 1968); *United States* v. *Montos*, 421 F. 2d 215 (5th Cir. 1970), cert. denied, 397 U.S. 1022 (1970); *Jennings* v. *United States*, 391 F. 2d 512 (5th Cir. 1968); *Utsler* v. *Erickson*, 440 F. 2d 140 (8th Cir. 1971); *United States* v. *Edwards*, 444 F. 2d 122 (9th Cir. 1971); *United States* v. *Smith*, 441 F. 2d 539 (9th Cir. 1971); *United States* v. *Chase*, 414 F. 2d 780 (9th Cir. 1969); *Lowe* v. *United States*, 407 F. 2d 1391 (9th Cir. 1968); *Arnold* v. *United States*, 382 F. 2d 4 (9th Cir. 1967); *Klamert* v. *Cupp*, 437 F. 2d 1153 (9th Cir. 1970); *United States* v. *Edwards*, 421 F. 2d 1346 (9th Cir. 1970); *United States* v. *Jackson*, 448 F. 2d 963 (9th Cir. 1971); *United States* v. *Charpentier*, 438 F. 2d 721 (10th Cir. 1971); *James* v. *United States*, 418 F. 2d 1150 (D.C. Cir. 1969); *Allen* v. *United States*, 390 F. 2d 476, Supp. 404 F. 2d 1335 (D.C. Cir. 1968); *United States* v. *Kuntz*, 265 F. Supp. 543 (N.D.N.Y. 1967); *United States* v. *Littlejohn*, 260 F. Supp. 278 (E.D.N.Y. 1966); *United States* v. *Clark*, 294 F. Supp. 1108 (W.D. Pa. 1968); *United States* v. *Thomas*, 396 F. 2d 310 (2d Cir. 1968).

[9] *Chavez-Martinez* v. *United States*, 407 F. 2d 535 (9th Cir. 1969); *Bendelon* v. *United States*, 418 F. 2d 42 (5th Cir. 1969); *Windsor* v. *United States*, 389 F. 2d 530 (5th Cir. 1968).

[10] *People* v. *Allen*, 281 N.Y.S. 2d 602 (N.Y. App. 1967); *United States* v. *Davis*, 259 F. Supp. 496 (D. Mass. 1966); *United States* v. *Scully*, 415 F. 2d 680 (2d Cir. 1969). The difficulty in attempting to determine the subjective state of mind of the parties was expressed by Judge Friendly in *United States* v. *Hall*, 421 F. 2d 540 (2d Cir. 1969), cert. den. 397 U.S. 990 (1970): ". . . the *Miranda* Court could hardly have intended the 'custody' issue to be decided by a mere swearing contest in which the police and the suspect would invariably give conflicting testimony about their transient, subjective beliefs on the 'free to go' issue. . . .

"Moreover, any formulation making the need for *Miranda* warnings depend upon how each individual being questioned perceived his situation would require a prescience neither the police nor anyone else possesses. . . ."

[11] *United States* v. *Dickerson*, 413 F. 2d 1111 (7th Cir. 1969); *United States* v. *Wainwright*, 284 F. Supp. 129 (D. Colo. 1968); *United States* v. *Casias*, 306 F. Supp. 166 (D. Colo. 1969); *United States* v. *Turzynski*, 269 F. Supp. 847 (N.D. Ill. 1967); *People* v. *Wright*, 78 Cal. Rptr. 75 (Cal. App. 1969). See *Agius* v. *United States*, 413 F. 2d 915 (5th Cir. 1969) (fact that suspect was a possible offender demands that situation be given the closest scrutiny).

[11a] *People* v. *Manis*, *supra* footnote 1.

[12] *Lowe* v. *United States*, 407 F. 2d 1391 (9th Cir. 1968); *United States* v. *Hall*, 421 F. 2d 540 (2d Cir. 1969), cert. denied, 397 U.S. 990 (1970).

[13] *Escobedo* v. *Illinois*, 378 U.S. 478, 488–89 (1966).

[14] Id. at 492.

[15] *Miranda* v. *Arizona*, 384 U.S. 436 (1968).

[16] Well before *Miranda* the Supreme Court barred the use of coerced confessions in State courts as a matter of due process of law. See *Brown* v. *Mississippi*, 297 U.S. 278 (1936); *Lyons* v. *Oklahoma*, 322 U.S. 596, 605 (1944); *Stein* v. *New York*, 346 U.S. 156, 192 (1953).

[17] 384 U.S. at 444, n. 4.

Caution: Cigarette Smoking May Be Hazardous

A private residence in a small Colorado town was burglarized recently, and approximately $700 in cash was taken. During a search of the crime scene, a partially smoked cigarette and a number of latent fingerprints lifted from a metal moneybox were recovered as physical evidence.

Subsequently, two suspects were developed, and a cigarette was obtained from one of them. The partially smoked cigarette found at the crime scene and the cigarette obtained from the suspect were sent to the FBI, along with the latent prints taken from the moneybox.

FBI Laboratory examinations disclosed that the cigarettes contained a type of tobacco not usually found in cigarettes but commonly found in pipe mixtures. Also, the specimen cigarette obtained from the suspect had been fashioned by a manually operated machine, and a comparison of the papers of both cigarettes disclosed a number of physical similarities.

Experts in the Latent Fingerprint Section of the FBI Identification Division determined that the latent prints lifted from the moneybox matched those of one of the suspects.

The FBI Laboratory and fingerprint experts who had conducted the examinations testified to their findings at the trial of the suspects in Delta, Colo., and the jury returned a verdict of guilty.

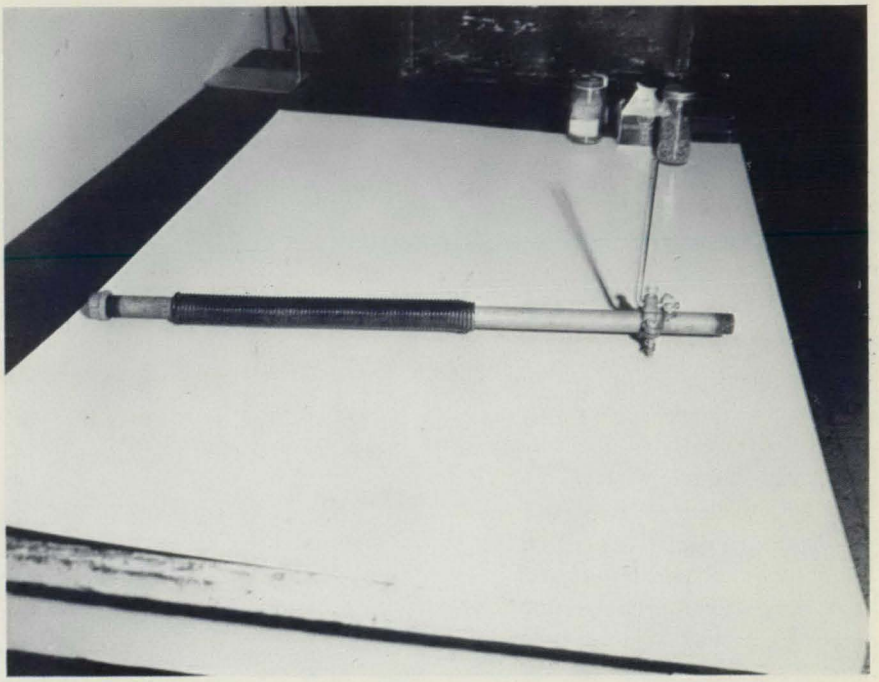
Inc. let from Lt. Arthur C. Knuckey
PD, San Bernardino, Calif. — 11-19-71

HOMEMADE "BB GUN"

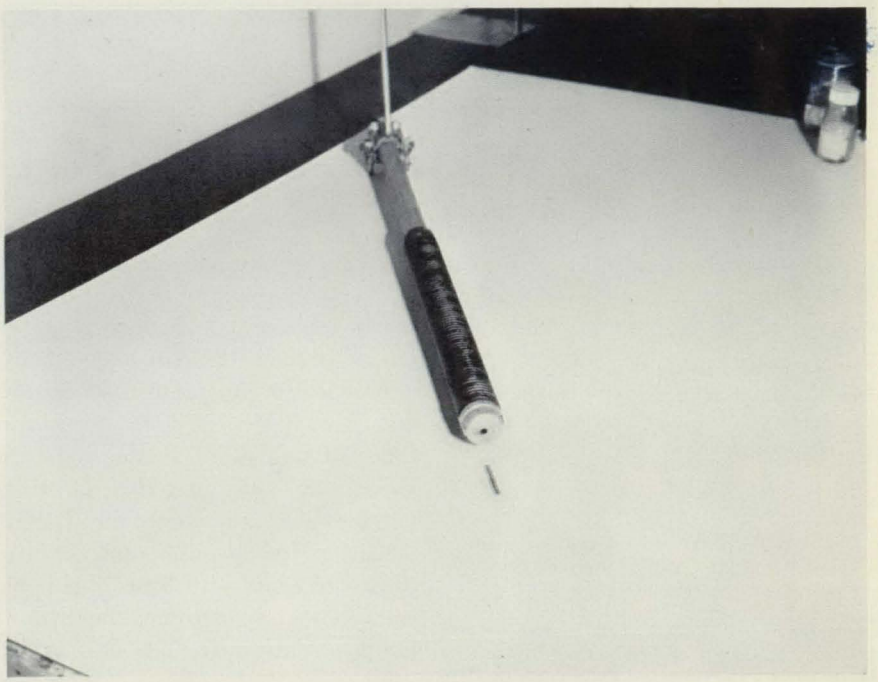
Homemade firearms and the ingenious ways used to convert readily available "parts" into such weapons are not uncommon discoveries to law enforcement officials throughout the country. Recently, the San Bernardino, Calif., Police Department found another of these "inventions" in the possession of two juveniles.

To operate, the weapon is first loaded with kitchen matchheads, then black powder, and, last, BB's. A firecracker fuse is then inserted through a small hole in the butt end and ignited. This sets off a chain reaction which fires the gun.

The weapon itself is a 26-inch length of 5/8-inch water pipe with a cap on the butt end. A small hole in the cap accommodates the firecracker fuse. A clamp is attached near the fore-end and can be used to hold the weapon or as a prop during firing. A heavy-duty steel spring slipped over the pipe acts as reinforcement at the butt end or protection from the heat during firing.

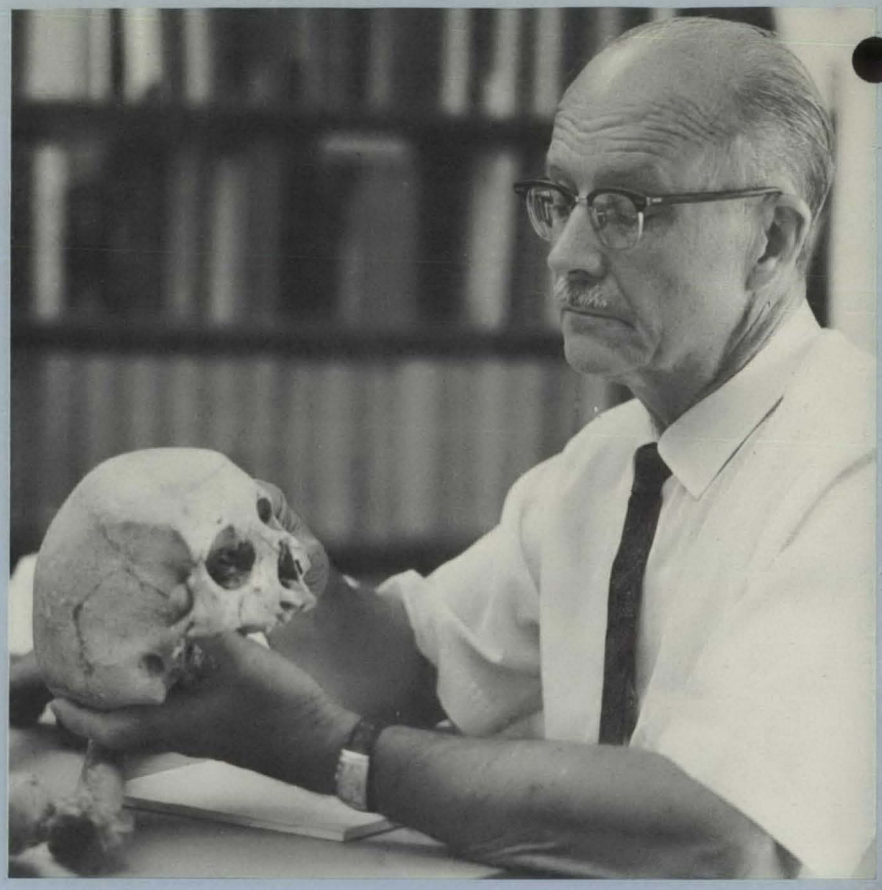


Homemade "BB gun" and ammunition recovered by the San Bernardino, Calif., Police Department.



A firecracker fuse is used as the "trigger" for the homemade firearm.

Physical anthropologists—the experts in bone identification—have been slow in promoting the forensic aspects of their science. This is evident, for instance, in the indexes to periodical literature, where the category "Forensic Anthropology" still is not used, but the categories "Forensic Pathology" and "Forensic Dentistry" have been used since about 1965. Yet, despite the poor showing in literature, physical anthropologists have made extraordinary advances since World War II in understanding what the bones have to tell.



An expert in bone identification, Dr. Stewart examines part of a skull.

What the Bones Tell—To

By

DR. T. D. STEWART*

Division of Physical Anthropology, National Museum of Natural History, Washington, D.C.

*Dr. Stewart, a physical anthropologist emeritus with an M.D. degree, has been associated with the National Museum of the Smithsonian Institution since 1927 and was curator of the Division of Physical Anthropology from 1942 to 1961. He received his education at The George Washington University and Johns Hopkins Medical School and has written over 150 scientific articles in the fields of anthropometry, paleoanthropology, and legal medicine.

The beginning of a period of progress is sometimes difficult to pinpoint exactly, but in this case undoubtedly it falls within the years 1948–49. At that time the Memorial Division of the Office of the Quartermaster General, U.S. Army, was engaged in identifying the war dead from the Pacific "theater." The operation centered in a special laboratory in Hawaii and the anthropological direction there, during these particular years, was in the hands of Dr. Mildred Trotter, on leave from Washington University Medical School, St. Louis, Mo., where she was professor of gross anatomy.

Dr. Trotter was aware of the unsatisfactory state of bone identification and especially the anthropologists' dissatisfaction with their available means for estimating stature from the lengths of the long limb bones. As I explained the situation in this Bulletin in 1951, ". . . we do not know the degree of reliability [of a stature estimate] in any particular case. Also, the formulae and tables [upon which we rely for the estimate itself] are st

based upon a series of 100 French cadavers measured in 1888. This is a shorter population than now exists in America. Research under way should provide a better basis for stature estimation."

Better Estimates of Stature

The "research under way" was that undertaken by Dr. Trotter during her stay in Hawaii. She accumulated long-limb-bone measurements on 1,115 white and 85 Negro males between the ages of 17 and 49. By correlating the measurements of selected individuals with the statures of the same individuals taken in life, she was able to construct superior formulas for estimating maximum stature from either a single long-bone length or from a combination of long-bone lengths, together with the respective errors of estimate and a correction for ages beyond 30 years. Dr. Trotter reported on this work in 1952 jointly with Goldine C. Gleser, a statistician.

Trotter and Gleser augmented their report with data on the Terry Skeletal Collection derived from dissecting-room cadavers in Washington University Medical School. This sample consisted of 255 white and 360 Negro males, 63 white and 177 Negro females. It was used primarily for deriving corresponding formulas for estimating the stature of females.

Following the Korean war the Memorial Division used the Trotter and Gleser formulas exclusively in estimating statures of the war dead and with satisfactory results. Yet there was a suspicion that the Army population of this war was different from that of the preceding war and hence that a review of the relationship between long-bone lengths and stature was in order. Accordingly, since the importance of improving identification methods had been demonstrated, the Army gave Dr. Trotter a contract to undertake the new study.

This time her initial sample consisted of 4,672 white, 577 Negro, 92 Mongoloid, 112 Mexican, and 64 Puerto Rican males between the ages of 17 and 46. She found that, whereas at the time of World War II there appeared to be no significant increase in the statures of American males after the age of 18, by the time of the Korean war American males were continuing to grow to at least the age of 21 and possibly to 23. However, the resulting formulas for estimating maximum stature in whites and Negroes proved to be little different from those developed from the World War II sample. On the other hand, the resulting formulas for the Mongoloids, Mexicans, and Puerto Ricans offered a means of estimating the statures of these American minority groups with more assurance of reliability than theretofore. All this data was reported by Trotter and Gleser in 1958.

It is now possible also to estimate stature from certain long-limb-bone fragments. Using samples of male and female whites and Negroes from the

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***Editor's Note*—Since the mid-1930's, when the FBI Laboratory moved into its present quarters in the Department of Justice Building in Washington's Federal Triangle, a mutually useful arrangement has existed between the Laboratory and the Smithsonian Institution's Division of Physical Anthropology in the museum across the street. Under this arrangement the divisional curators have identified the human skeletal remains submitted to the Laboratory and in return have received such technical assistance in the identification of museum objects as is in the province of the FBI. The Federal Government encourages interagency cooperation of this sort because it makes duplication of staff and facilities unnecessary.**

Of the three curators who successively have headed the Division of Physical Anthropology during this period, only the middle one—Dr. Stewart—has been present since the beginning. For this reason the FBI asked him to update the subject matter of his 1951 article in the Bulletin entitled "What the Bones Tell." That article was developed around a series of court cases growing out of his participation in the identification of material from the FBI. "What the Bones Tell—Today" is a different story, presented insofar as possible in general terms for clarity to Bulletin readers. It is understood, of course, that some technical details and terms cannot be avoided.

Some parts of the earlier article require no updating and therefore can still be read profitably. Two other articles by Dr. Stewart appearing previously in the Bulletin are listed among the references on pages 30 and 31.

Terry collection (now in the National Museum of Natural History), Gentry Steele developed formulas using defined segments of the femur, tibia, and humerus. As published (1970), each formula has an error of estimate. The method is applicable, of course, only when fragments of one or more of these three bones include one or more of the defined segments.

New Formulas

I cannot stress too much the importance of the errors of estimate provided with each of the new formulas used in estimating stature. It is recommended that a formula with the lowest possible error of estimate be picked according to the bones available. If, say, the error for the selected formula is ± 1.83 cm., and the stature estimate turns out to be 170.0 cm., then the chance that the individual in question was between 168.2 and 171.8 cm. tall (170.0 ± 1.83) is 68 percent. But what about the remaining third of the population—those who depart most from the mean? To be on the safe side, it is better to double the error of estimate. In that case, using the same example, the chance that the individual in question was between 166.3 and 173.7 cm. tall (170.0 ± 3.66) is 95 percent. When I think of some of the stature estimates I made prior to 1952, I am shocked at how little allowance I made for the range of error.

Better Estimates of Age

In 1951 the most widely used data on skeletal aging were those presented by Krogman in a 1939 issue of this publication. They had been derived mainly from dissecting-room populations in which old individuals predominate. Moreover, some of them had been assembled through studies on separate bones and thus fail to give a picture of the variability of an individual's aging process as a whole. An opportunity to refine the existing data came in 1954 when the Army's

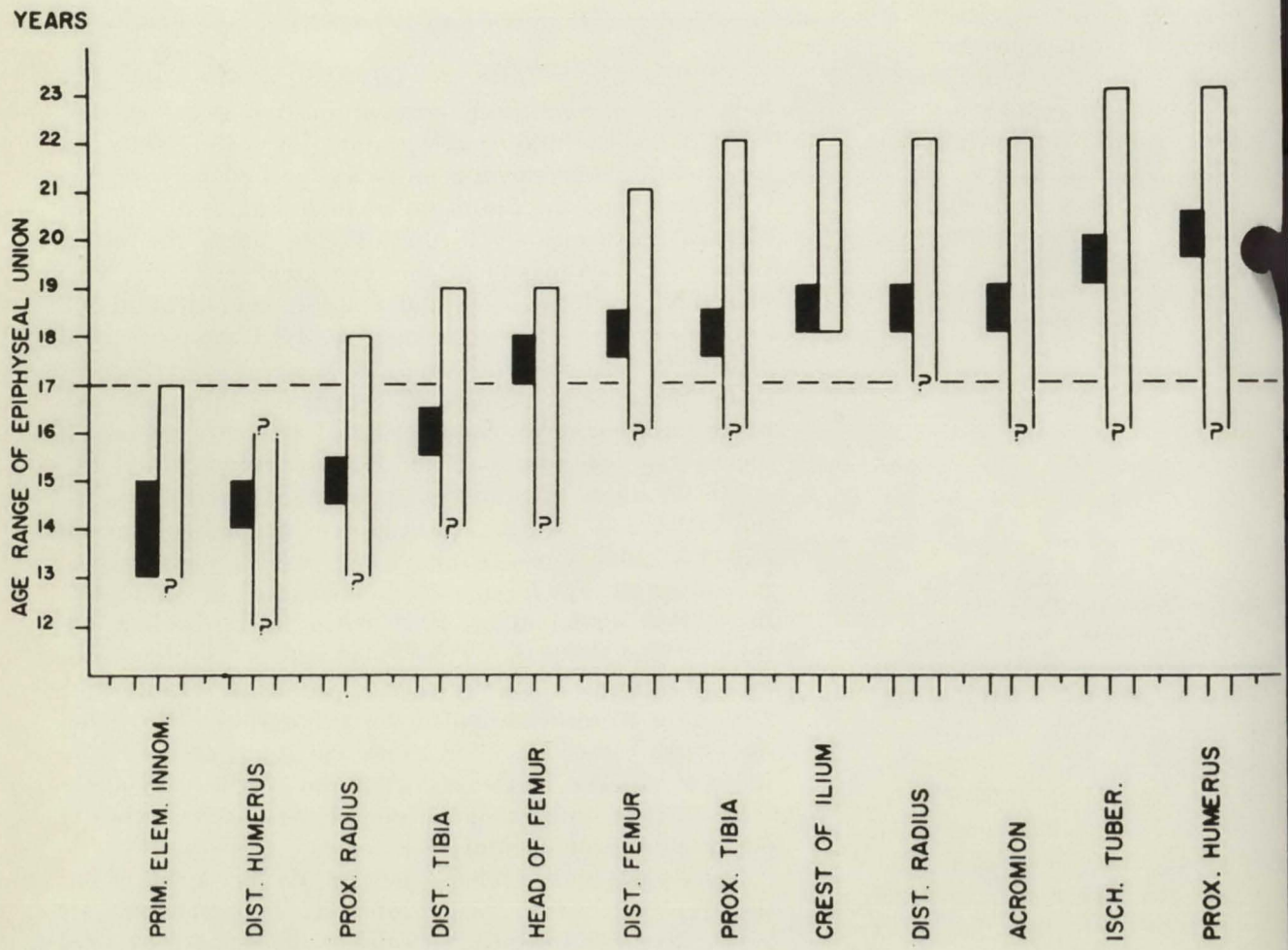


Figure 1. This diagram illustrates the gain in appreciation of the age ranges of epiphyseal union in males. The solid bars are the ranges given by Krogman in 1939; the open bars are those for the Korean War dead (McKern and Stewart, 1957). Both united and ununited epiphyses were observed at all ages represented in these ranges (from Stewart, 1963).

Memorial Division picked the writer to analyze the age changes in the remains of American soldiers killed in Korea. The results of this work, based on 375 skeletons ranging in age from 17 to 50 years, were published in 1957 by Thomas W. McKern and the writer.

Figure 1 compares the time ranges during which certain epiphyses unite, both as stated by Krogman in 1939 and by Stewart in 1963. Since none of the war dead were below the age of 17, certain early uniting epiphyses (for example, that at the distal end of the humerus) were never found ununited in the military series. In these instances (indicated in the figure by question marks), the age of beginning union is derived from Flecker's X-ray study on the living. The point is that, according to the evidence of the American war dead, uniting epiphyses tell an individual's age at death within ranges of from 4 to 7 years, rather than the previously accepted ranges of from 2 to 3 years.

A New Scheme Offered

The Korean war dead also yielded information on age changes other than epiphyseal union. Suture closure was shown to be unreliable for purposes of age estimation, as Singer (1953) had claimed. On the other hand, a new scheme was offered for evaluating the metamorphic phases of the articular surfaces of the pubic symphysis that yields both an age estimate and an error of estimate. Because of the age limitation of the military series, however, the estimation of age from the pubic symphysis by this new scheme decreases in reliability rapidly after the age of 30. This being the case, it is helpful to know that the Korean war study enables one to rate a large pattern of skeletal age changes. Additionally, the writer has shown (1958) that around 35–40 years of age arthritic lipping makes its presence manifest in males with increasing frequency in certain joints, especially in the vertebral column.

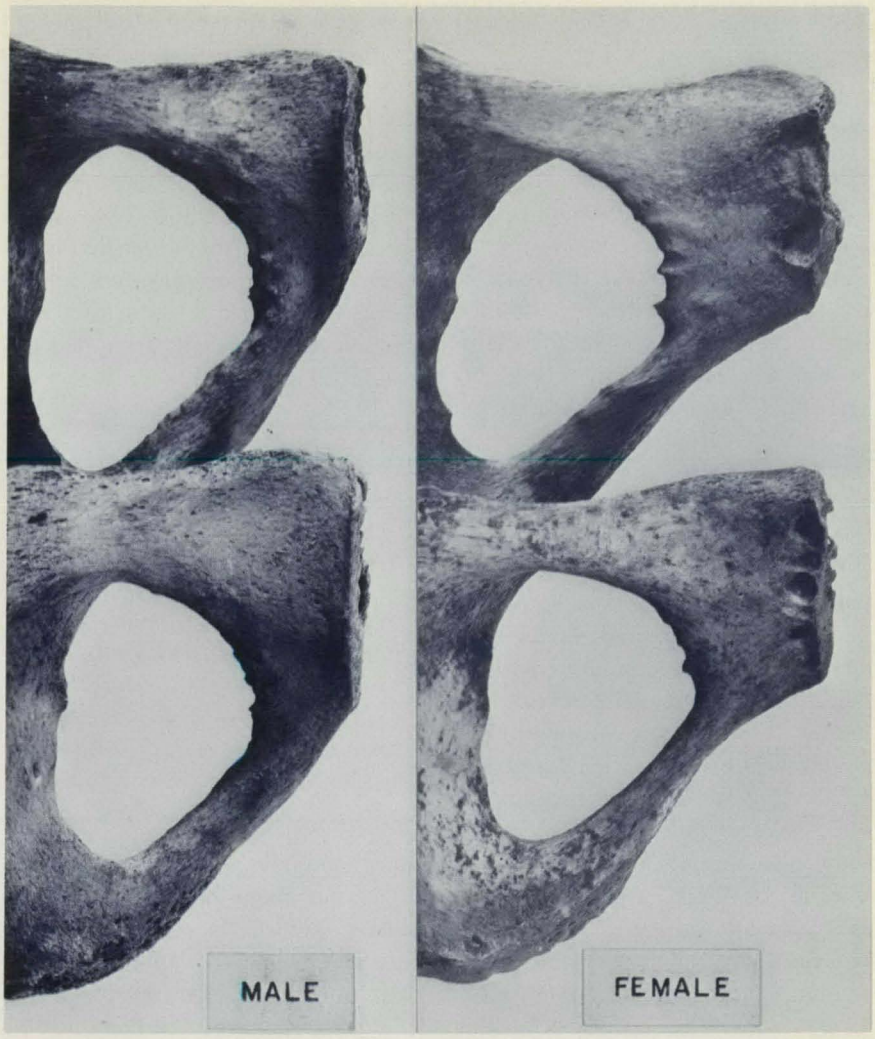


Figure 2. Comparison of the left pubic bones of two adult males (top: U.S. National Museum No. 332,539; bottom, 279,583) and two adult females (top: U.S. National Museum No. 332,548; bottom, 279,585), as viewed from behind. In each case the articular surface of the pubic symphysis presents to the right. Bordering this surface in each of the females is a row of pits representing scars of parturition. Note that the area where the pits occur is more nearly square in the females than in the males and that as a result the profile of the lower border is concave, whereas in the males it is straight or convex. This extension of the pubic bone is part of the adjustment of the female pelvis for childbearing and therefore a good indicator of sex.

Tooth Structure and Age

Aside from these war-connected developments, the main advances in the area of aging during the last 20 years relate to the teeth. The well-known ages of tooth eruption have been supplemented by extensive X-ray documentation on the rate of root calcification. By this means considerable refinement of the age estimate in both sexes is possible between the ages of 2 and 15 (Garn et al., 1958). At much older ages—say, from 30 years onward—tooth structure gives better estimates of age than do the gross bones (Gustafson, 1950; Miles, 1963). Yet, in these advanced years the microscopic structures of teeth and bones probably yield equally good results (often within ±5 years) when the examiners have been properly

trained and have gained extensive experience (Kerley, 1965).

Better Estimates of Sex

Anyone working with human bones over the past 20 years should be better able now than at the beginning of the period to estimate correctly the sex of unknown remains. Besides, having learned more about the significance of certain bony characters (fig. 2, for example), such a person now has a variety of metrical techniques to aid him. One of the simplest of these—the ischium-pubis index—is the ratio between the ischium and pubis lengths as measured from the point in the hipbone socket (acetabulum) where these two bones meet and fuse. This ratio differentiates adult males from adult females in around 90 percent of cases when due attention is paid to race (Washburn, 1948). By adding measurements of other bones and applying rather sophisticated statistical procedures—discriminant function or multivariate analysis—the estimate is said to be improved to around 95 percent, depending on the parts available (Giles, 1970). Note, however, that all of this applies only to the post-adolescent skeleton. Prior to the development of the secondary sex characters, there is, with one exception, still no sure way of distinguishing between male and female skeletons. The exception relates to the fetal period, the only subadult period for which documented skeletal material is available. B. J. Boucher's method (1955) for distinguishing the sexes at this period, based on the shape of the sciatic notch in the pelvis, enabled her to get correct results in 85 percent of 107 British whites, in 84 percent of American Negroes, but in only 68 percent of American whites. How well the method will work in inexperienced hands is open to question.

Figure 2 deserves special attention because it shows pathological changes on the inner or dorsal aspect of two adult female pubic symphyses. In 1957 the writer called attention to the fact that these changes occur almost exclusively in females, beginning in the age period of childbearing. From all indications they are the result of damage—hemorrhage, ligamentous tears, etc.—during parturition. Depending on the extent of the damage, the dorsal margin of the articular surface eventually may become undermined and more or less irregular in outline. Before this observation was reported, such irregularities were often mistakenly interpreted as a sign of old age. Now we know that the scars of parturition reinforce the other signs of the female sex and must be discounted in age estimates (Stewart, 1970). Obviously, evidence that a female decedent has borne one or more children is in itself an important identification feature.

"Estimates of size, age, sex, and race do not provide positive identification of the remains of an individual; they merely assign him to a general class. Only physical characteristics unique to the individual and matchable to records made in life tell for certain who the individual is."

Better Estimates of Race

The only important recent breakthrough in the identification of race has come about through the application of sophisticated statistical procedures to skull dimensions. The methods used are essentially the same as those mentioned for the identification of sex. In both instances the discriminating ability of the dimensions has been determined. The highly trained eye can see the difference, but the untrained eye would do well to turn to the computer.

One area where the metrical approach to the estimation of race has special application is crossbreed populations. The American Negroes fall into this category. By determining the most racial-discriminating measurements of West African and European crania, W. W. Howells of Harvard University has provided (1970) a means for showing how closely a skull suspected of belonging to an American Negro approaches one or the other group represented in the mixture.

More could be done along this line by extending the method to other skeletal parts. The writer pointed the way in 1962 when he showed that Negro femora tend to have much less forward bowing of the shaft and often less forward torsion of the upper end than those either of whites or of American Indians (cf. fig. 3). These features by themselves are never surely diagnostic of race, but are useful as supportive evidence.

General

Estimates of size, age, sex, and race do not provide positive identification of the remains of an individual; they merely assign him to a general class. Only physical characteristics unique to the individual and matchable to records made in life tell for certain who the individual is. From the standpoint of the skeleton, dental records and body X-rays are most likely to be useful for this purpose. In one case studied by the writer—a 35-year-old white male of average height and slender build (indicated by his belt)—there seemed to be no easy way to locate the dentist who had been responsible for the numerous restorations in the teeth. The case was solved, however, when a newspaper published an artist's effort to produce a likeness based on the skull and a

(*Continued on page 30*)

Fifty-one State and local police officials attended the FBI seminar on the urban guerrilla.

The Police Officer: Primary Target of the Urban Guerrilla

FBI Director J. Edgar Hoover has warned: "The urban guerrilla is a clear and present danger—not to law enforcement alone, which must directly face his bitter and diabolic violence, but to the entire Nation."

The credo of the urban guerrilla—that revolution be accomplished by violent and destructive acts of terrorism—was developed by Carlos Marighella, a former official of the Brazilian Communist Party who broke with the Communists over his insistence that revolution should take place immediately and authored the "Minimanual of the Urban Guerrilla." "Every urban guerrilla can only maintain his existence if he is disposed to kill the police," instructs Marighella.

This exhortation has traveled from Brazil to this country and appeared in "The Black Panther" newspaper in California, when Panther artist Emory Douglas wrote, "We have to draw pictures that will make people kill pigs." The urban guerrilla in the United States has turned rhetoric to action: The revolutionary New Left Weatherman group claimed credit for the bombing of New York City police headquarters on June 9, 1970.

Terrorist acts by revolutionaries remain a serious problem. On November 29 and 30, 1971, the FBI conducted a seminar on this subject in Washington, D.C. Fifty-one State and local police officials, either department heads or ranking officers of intelligence units or units responsible for emergency police actions, met with representatives of the FBI to discuss the tactics and goals of the urban guerrilla.

Prime Tactic

The officers at the conference corroborated what has been clear for some time—that a prime tactic of these revolutionaries is the ambush of or sniping at police officers. The logic of the urban guerrilla is simple, but alarming: If police officers cannot protect themselves from ambushes, snipings, and bombings, then what chance has the private citizen against the revolutionary's rifles, explosives, and Molotov cocktails? While urban guerrilla warfare is actually only a new wrinkle on the ancient visage of war, a new way for an extremist minority to impose its twisted rationale on the majority, this seminar recognized that law enforcement in the United States today must be able to define, recognize, and defeat the urban guerrilla.

Urban guerrilla warfare can be defined as secret and planned activity designed to disrupt and/or terrorize the "establishment" or Government. It includes the expropriation of money, guns, and explosives to further revolutionary goals. The goals of the urban guerrilla are threefold:

1. To show the "masses" that police and military authorities are impotent to protect themselves against urban terrorism and, thus, powerless to protect society as a whole.
2. To provoke, by acts of outrageous terror, an overreaction on the part of police and the government in order to "radicalize" those who may sympathize with revolutionary aims, but, without the provocation of overreaction, would not engage in acts of violence.
3. Combining the first two goals, ultimately to overthrow the established government.

Acts of urban guerrilla warfare are often basically local crimes. Murder of police officers, theft of money, weapons, and explosives, and many terrorist bombings are primarily the investigative responsibility of local and State police. The FBI has limited jurisdiction over some of these crimes, such as certain types of bombings, theft of Government weapons, and crimes committed on Government reservations; but the FBI, with the help of local and State police, also has the responsibility of determining the overall urban guerrilla situation and informing our Nation's leaders.

Furthering the "Revolution"

One group which opted for terrorism as a "political" weapon was the Weatherman organization, which split from its parent group, the Students for a Democratic Society. The Weatherman group decided to build a small, terrorist organization to carry out urban guerrilla warfare to further the "revolution." In early 1970, the Weatherman organization went underground and claimed the group would engage in strategic sabotage directed against military and police installations involving the use of bombs, assassinations, and direct confrontations with police.

Weatherman leaders claimed there would be bombings, and there were. Although warnings of bombs placed by the Weatherman were often given shortly before detonation, there were still tragedies involving innocent victims. Nor were the bombers themselves immune. A series of explosions demolished a townhouse, a Weatherman bomb factory, in New York City on March 6, 1970, and three died in the blast. As the Weatherman said in May 1970, "We are adapting the classic guerrilla strategy of the Vietcong and the urban guerrilla strategy of the Tupamaros to our own situation. . . ."

Black Panther Party

Recently after an attempted robbery, police confiscated numerous birth certificates (used for false identification), drawings for detonation devices, and a month-by-month plan for trial explosions at unguarded facilities. In another location authorities found electronic equipment, high-powered rifles and shotguns (some of which had been stolen), blank selective service forms, and documents on operating an underground revolutionary apparatus.

The Eldridge Cleaver Panther Faction (the Black Panther Party split into two factions in early 1971) newspaper, "Right On!" September 15–31, 1971, boasted openly of two acts of "armed propaganda and armed expropriation." One was a holdup that ended in a gun battle with police, and the other was an armed robbery.

Since the Black Panther Party was formed in 1969, deaths of 12 officers and the wounding of another 71 policemen have been linked to the group. After the recent critical wounding of an officer, the assailants' car was found, loaded with shotguns, carbines, ammunition, and texts on guerrilla warfare—one indicating it came from the Cleaver Faction of the Black Panther Party. In a nearby town police found more shotguns, pistols, and ammunition, plus money in wrappers of a recently robbed bank. M

tary field telephones and a sketch how to rob a bank were also recovered.

One Black Panther Party leader has prepared a detailed manual on terrorist tactics, apparently in line with Panther leader Eldridge Cleaver's threat to clandestinely return to the United States to lead guerrilla warfare. The manual includes instructions on making pipe bombs, time bombs, and self-igniting Molotov cocktails. This type of inflammatory instruction for would-be terrorists is widely circulated in the United States, as officers at the seminar confirmed.

Weatherman and the Panthers are only two of the groups advocating urban guerrilla warfare today. Members of the separatist Republic of New Africa, which seeks to form a new, all-black nation on the territory of five southern States, have also allegedly been involved in revolutionary-type activity. The revolutionary Vencereemos organization, distinct from the group which recruits canecutters for tro's Cuba, urges urban guerrilla warfare and reportedly is collecting arms and explosives.

Arms and the Enemy

Other terrorists in this country have followed Pan-Africanism advocate Stokely Carmichael's advice: "The guerrilla's main supplier of arms is the enemy. That means when the guerrilla kills a member of the occupying army, he not only takes the gun that's around his waist, he opens up the door and he takes a 12-gauge shotgun."

The FBI seminar participants recognized that terrorists in this country are developing a sophisticated paramilitary capability and that they have the will to put their schemes into effect. Those attending this conference recommended further efforts be made to gain intelligence about urban guerrilla groups and that this intelligence be widely exchanged among law enforcement agencies.

The need for training in responding to guerrilla activity on two levels was also stressed:

1. The patrol officer needs to know all indicators of possible urban guerrilla action that he might better protect himself.
2. The investigator needs to recognize possible extremist activity in gathering evidence of criminal activity.

The threat to America's law enforcement officers was bluntly stated by expatriate Black Panther Party leader Eldridge Cleaver, when he asserted, in November 1971, the "absolute right of the Afro-American people to take up arms and wage war . . . by taking the initiative and actually attacking the pigs (police) with guns, and killing them."

Year-End Press Release, 1-6-72, p.17

FBI IDENTIFICATION MATTERS

The FBI Identification Division received more than 6½ million fingerprint cards during 1971 and processed an average of over 26,000 cards each day.

Working in cooperation with law enforcement agencies throughout the country, the Identification Division conducted searches resulting in the identification of more than 43,000 fugitives during the year. The Latent Fingerprint Section received over 33,000 latent fingerprint cases, and examination in these cases required more than 3 million fingerprint comparisons. Over 4,900 suspects or subjects were identified from latent fingerprints.

J. J. Casper to Mohr memo 1-4-72

POLICE TRAINING

During 1971, the FBI provided assistance in 9,675 law enforcement training schools, an all-time high and over 200 more than the 1970 total. The schools were attended by 308,116 officers, and FBI personnel contributed 84,651 hours of instructor time. Some 100 Police Management Schools, attended by 3,122 law enforcement administrators and command officers, were conducted. Other specialized training programs included courses on extremist groups and violence, antisniper tactics, police-community relations, bombing matters, criminology, and legal decisions affecting law enforcement.

Year-End Press Release, 1-6-72, p.20

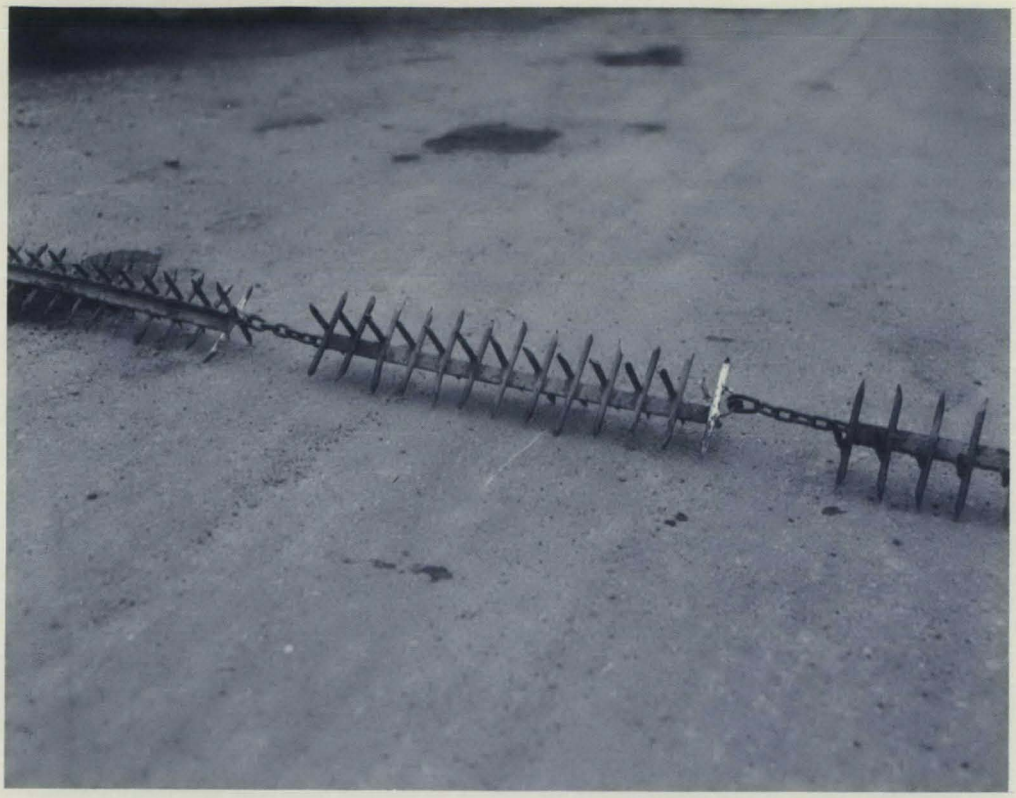
FBI LABORATORY EXAMINATIONS

FBI Laboratory experts and technicians conducted more than 491,000 scientific examinations of evidence during 1971, a 14 percent increase over the 1970 total. During the year, over 311,500 specimens of evidence were received by the Laboratory, 16 percent more than the previous year.

J. J. Daunt to Bishop, NCIC, Weekly Status, 12-15-71

STOLEN GUN RECOVERED THROUGH NCIC—23 YEARS LATER

Recently, police officers in a southern State found a 5-shot revolver in the possession of an individual arrested on charges of theft by misuse of a gasoline credit card. A check on the gun through the FBI's National Crime Information Center revealed it had been reported stolen in Canada in 1949. The Royal Canadian Mounted Police confirmed the gun was identical with one reported stolen in Upper Gagetown, New Brunswick, on January 19, 1949.



The steel alloy spikes with sharp chisel points will penetrate belted and radial tires.

Legat, Ottawa (66–68) (RUC) inc artel, 5-13-71

Spikeblock

Over the years the apprehension of an offender fleeing in an automobile has presented serious problems to law enforcement officers. An article entitled "Spikeblock," by Chief W. A. Pearson, Saanich, B.C., Police Department, which appeared in the Royal Canadian Mounted Police Gazette, discusses the use of a "spikeblock" as an aid in lessening these problems.

The principle of using various forms of spikes across a highway as a roadblock is an old idea and has been used in the past, but with some doubt as to its efficiency. The "spikeblock," developed by Constable William Turner of the Saanich Police Department, according to the article, provides a relatively lightweight, compact, and safe means of stopping fugitive vehicles.

A standard unit, six 2-foot-long sections, is carried in a box measuring 29 by 12 by 10 inches and weighs 55 pounds. It can be permanently stored in the trunk of a patrol vehicle. Sections are made of high-carbon steel spikes welded to a length of ridged angle iron joined by short lengths of chain with twist-on fasteners. Sections are interchangeable, making any number of combinations possible. The sectional construction allows the spikeblock to lay to the contours of any road surface.

The spikeblock is painted with light reflective paint making it visible in darkness from a considerable distance. A folding sign, painted black on yellow and reading "STOP POLICE ROADBLOCK STOP," is included and uses the spikeblock storage box for its base.

Where traffic is being checked and allowed to proceed, the device can be placed to one side of the road and pulled across the checking lanes when the fugitive vehicle is observed

proaching. If the vehicle does not stop, instead attempts to drive over the spikeblock, the steel alloy spikes, which are equipped with sharp chisel points, will penetrate the tire tread of all four tires. The result is a loss of pressure in all tires. The driver has an average of 200 yards of travel before he is driving on the wheel rims.

Tested at speeds from 5 to 50 m.p.h., the spikeblock proved effective against all types of tires, including belted and radial ply designs, on passenger cars and light trucks.

The device should not be used to stop minor traffic offenders, but when used to stop a fugitive vehicle, it presents a comparatively safe alternative to gunfire, solid roadblocks, or forcing a fugitive off the road with a police vehicle.

At a roadblock scene the spikeblock and sign are in use.

A standard spikeblock unit can be permanently stored in the trunk of a patrol car.

The Gazette points out that circumstances in which the police officer finds himself will determine whether the spikeblock is a reasonable degree of force. The ultimate decision regarding use of force in any given circumstance rests with the policeman on the scene. He has the authority to decide and the responsibility to act, and is ultimately judged on how reasonably he decided to act in the circumstances he faced.

Law enforcement organizations considering the use of equipment of this nature should first consult their legal counsel concerning any liability problems.

NCIC

(*Continued from page 5*)

and a figure that continues to increase month after month. In 1 week recently the NCIC provided information identifying 1,262 fugitives wanted for serious offenses, 2,333 stolen vehicles, and over 1,000 other stolen articles, securities, firearms, boats, etc.

The number of valid operational "hits" per day since the beginning of the NCIC has always been in the range of 1 to 2 percent of inquiries made. This "hit" rate appears to be a fairly consistent return for the money and effort put into these systems and provides solutions to more crimes, particularly auto theft, as well as a greater recovery rate for stolen property. While the apprehension of a fugitive and/or recovery of property falls in the "tangible" benefits category, the intangibles include the inestimable savings of investigative time accrued through the rapid apprehension of wanted persons who probably would have committed additional crimes. Another intangible benefit is the safety of patrol personnel when, for instance, they are able to determine, before approaching a suspect vehicle, that (1) the vehicle is stolen or, more importantly, (2) that a wanted individual known to be armed and dangerous may be driving the vehicle.

CCH File Developed

All of these examples indicate the worth of the system from an operational standpoint but do not touch on the administrative benefits. The necessity for nationwide teletype communications and for the posting of wanted notices and lists of stolen property is substantially reduced as is the need for manually maintaining thousands of local files. Also, the system has improved the quality of information exchanged and has increased the cooperation among agencies at all levels. These are but a few of the basic "management" benefits provided by NCIC and its participating computer systems. There can be no doubt but that the NCIC and its related systems have substantially improved the efficiency and effectiveness of law enforcement.

During its development the NCIC recognized a computerized criminal history (CCH) file as a logical application in the system. However, in 1966 and 1967, stress was wisely placed on implementing the more urgent and less complex file applications, such as wanted persons, stolen vehicles, and so forth.

In September 1968 NCIC staff and Working Committee members met to discuss standards, procedures, and policies for a CCH file. At this meeting a criminal history summary and a complete criminal history record were examined for the first time. By February 1969, the basic offense classification standards were established. Late in 1969 and during 1970, the Law Enforcement Assistance Administration sponsored Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories). The purpose of this project was to demonstrate the feasibility of exchanging criminal history data interstate by means of a computerized system.

On December 10, 1970, the Attorney General authorized the FBI to proceed with its plan to develop an operational exchange of computerized criminal history with the States. After the Attorney General's decision, appropriate NCIC committees and the Advisory Policy Board and FBI representatives held national and regional meetings in January, February, and March 1971 to finalize the plans for the CCH file.

Director Hoover pointed out to the House Subcommittee on Appropriations on March 17, 1971, the desperate need to speed up the criminal justice process, especially the prosecutive and court administrations. Mr. Hoover also stressed the necessity for more realistic decisions with respect to bail, probation, sentencing, and parole. He testified that if there is to be a speedup in the criminal justice process then there must also be a speedup in the flow of meaningful information on which vital decisions are made.

Centralized Operation

NCIC staff and members of the criminal justice community through the NCIC Advisory Policy Board, NCIC Working Committee, Technical Committee, and Security and Confidentiality Committee worked together to develop the computerized criminal history system, and in November 1971 it became operational.

Criminal history records are now available to authorized criminal justice agencies through an expanded NCIC communications network. The requests for criminal history information from Federal, State, and local police, prosecutors, courts, and correctional agencies can be met immediately.

A basic tenet of the NCIC is that it serves as a national index and network for 50 State criminal justice systems. As a developing police information system, NCIC places the responsibility for each record on the entering agency. As each State computer system was developed, all record entries, clearances, modifications, and so forth, were required to funnel through the State to fix control terminal responsibility and to provide the State with a complete and current file. The criminal history file requires that records be entered, updated, and modified only by the responsible State criminal justice agency in each State or by an appropriate Federal agency since each entry or update must be supported by a criminal fingerprint card.

Because NCIC complements the [illegible]e systems of the criminal justice community, many thousands of duplicate indices in local, State, and Federal agencies can be eliminated. All participating agencies share in centralized operational information from a minimum number of computer files.

Not all charges are considered sufficiently serious or significant for storage in the national file pursuant to the recommendations of the NCIC Working Committee and Advisory Policy Board. As a guide, the board specifically recommended excluding arrest data concerning juvenile offenders as defined by State law (unless the juvenile is tried in court as an adult); charges of drunkenness and/or vagrancy; certain public order offenses, such as disturbing the peace, curfew violations, loitering, traffic violations generally, gambling arrests involving "players" only, and so forth.

In the Last Analysis

In addition, the board noted that it is a State agency's prerogative to decide the "significance" of any offense for national file entry. In the same manner this prerogative has been historically exercised with regard to the FBI's manually operated criminal history file. In the last analysis only the contributing agencies can determine if a particular charge is significant enough to be included in the national file. The question they must ask themselves is: "Will the entry of this charge assist other users of the system or will the failure to enter this charge be detrimental to other users of the system?"

A criminal fingerprint card must be the source document for a record entry and any subsequent updating, but under the new concept the card may be retained at either the State or national level. Each record must, of course, be backed by at least one card [illegible]he national level for file integrity. Further, the concept provides that each State determine its own capability of servicing intrastate criminal fingerprint cards. Whenever a State has determined that it is ready to assume processing of all intrastate criminal fingerprint cards, the State agency will inform contributors within the State to forward all criminal fingerprint cards to the State identification bureau and will so inform the FBI through a ranking State official.

Summaries or complete criminal history records can be obtained from the NCIC's computerized criminal history file on line. The summary may be requested by any authorized criminal justice agency having either a computer interface with the NCIC computer or a low-speed manual terminal. Only an authorized criminal justice agency having computer interface with NCIC may request the online full record.

Included in the computerized criminal history summary are the personal identification and descriptive data for an arrested individual followed by the total number of times arrested. The arrest charges and convictions resulting therefrom are then shown by number of times for each offense category. Also included are the last arrest, court, and custody status.

"Specific procedures have been adopted to protect the confidentiality of criminal history data in the NCIC system."

The full record includes, in addition to the personal identification and descriptive data, complete information as to each arrest and charge within an arrest together with disposition of each charge. Also included is complete information for each prosecutive count together with disposition of each count and any appeal data. Lastly, the full record will show any custody status of an individual and any change in that status, such as parole. Every agency entering data in a record is identified with the data submitted.

The new system will change not only the flow of fingerprint cards but also the definition of felony and misdemeanor offenses. The interstate exchange of offender criminal history has required the establishment of standardized offense classifications, definitions, and data elements. Since definitions of a specific crime by State vary widely, a common understanding of terminology used to describe a criminal act and the criminal justice action is essential.

Keeping Files Confidential

The implementation of this file imposes on agencies at all governmental levels a most significant responsibility for strong and correct management control. The sensitivity of criminal history has long been recognized, and to this end the NCIC Advisory Policy Board endorsed the following statement by the Director of the FBI to the Subcommittee on Constitutional Rights on March 17, 1971: "If law enforcement or other criminal justice agencies are to be responsible for the confidentiality of the information in computerized systems, then they must have complete management control of the hardware and the people who use and operate the system. These information systems should be limited to the function of serving the criminal justice community at all levels of government—local, State, and Federal."

Specific procedures have been adopted to protect the confidentiality of criminal history data in the NCIC system. A number of these procedures have been in use in connection with the other NCIC files while others are new. These procedures include, but are not limited to: (1) the use of dedicated communications lines accessible only by terminals in criminal justice

agencies, (2) assuring the physical security of participants' computer sites, as well as that of all remote terminal sites on line for criminal history data, (3) limiting the number of personnel having access to terminal devices, (4) screening all such personnel as well as all data center personnel having access to criminal history data, (5) maintaining logs and other appropriate records to identify users of the file, and (6) establishing edits to assure file accuracy.

With regard to the accuracy of records maintained in the CCH, a person's right to see and challenge the contents of his record in line with reasonable administrative procedures is an integral part of the system. Further, in operation of the CCH file, followup measures will be taken by NCIC to obtain court disposition data concerning arrest charges if such dispositions are not entered in the record within a reasonable time.

Technological Advances

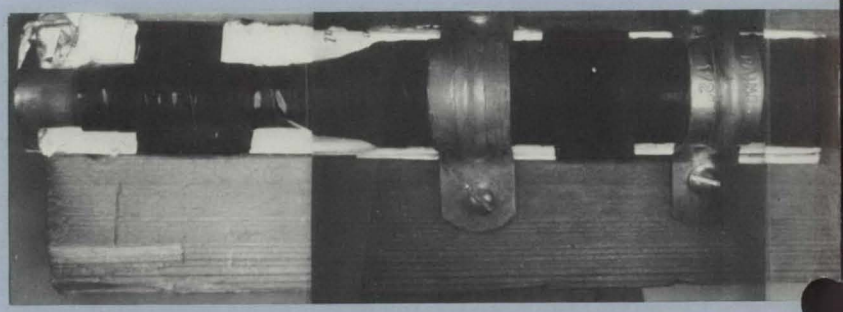
Criminal justice systems throughout the country are undergoing long-needed and drastic changes. Technological advances are being adapted for use by police, prosecutors, courts, and correctional agencies. Results of efforts such as the NCIC system have been most impressive and rewarding and are forcing change. The ultimate national public safety and criminal justice system is still evolving, and much needs to be done in terms of technology, standards, information flow, organization, legislation, and so forth. The application of an efficient, acceptable, and successful criminal justice system which will best meet the needs of society is the common goal of all engaged in this endeavor. The NCIC is a most successful step in this direction and a tribute to the cooperative spirit of law enforcement nationwide which has made this system possible.

Submitted with incident 10-12-71, by Keith Craig, Coroner's Office, San Rafael, Calif.

AN UNUSUAL RIFLE

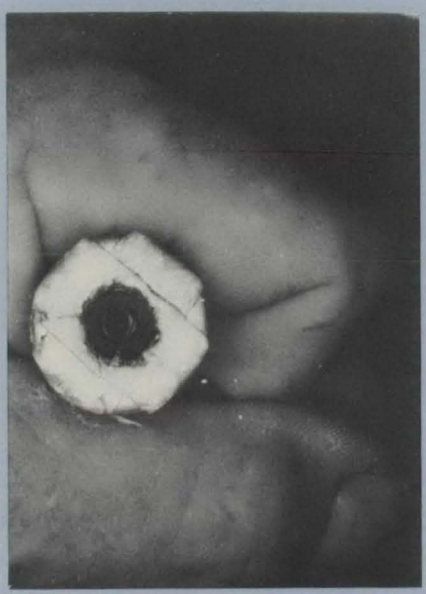
Authorities in a west coast city recently investigated an incident involving a makeshift .38 caliber rifle which had been crudely fashioned from a springload BB rifle.

An ordinary BB rifle was securely fastened to a 3- by 4-inch piece of wood approximately 4 feet long. At the end of the barrel was a ½- by 4-inch galvanized pipe which contained a .38 Special caliber wad cutter cartridge in one end. Inserted from the other end of the pipe was a length of fishing pole tubing which fitted firmly over the cartridge and seated against the rim. The area between the tubing and the pipe was filled with glue to the tubing in place. A washer cover the end of the pipe where the prim of the .38 was exposed, and the ent combination was taped securely. T extension was affixed to the muzzle the BB rifle and clamped to the wo A small nail in the rifle barrel serv as firing pin. When the rifle was fir the nail was forced into the prim of the .38 cartridge, thus firing lead bullet forward through the fi ing pole tubing. The improvis weapon withstood the firing of cartridge in spite of its inherently da gerous imperfections.



The improvised muzzle houses a .38 Special wad cutter which is fired by a nail and for forward through the tubing.

The primer end of the attachment after removal.



The rifle is secured to a piece of wood.

CIVIL LIABILITY

(*Continued from page 8*)

levels is questioned. Long accepted practices are attacked, and law enforcement as a front-line representative catches the brunt of many attacks.

The trend, especially under the civil rights acts, is to claim redress for even the most subtle grievances. A few years ago allegations of invasion of privacy and harassment were rare. Today these contentions are virtually commonplace. Militant groups know and adamantly press for their rights—some to the extent that they trample the rights of others. Freedoms protected by the first amendment are cited in many such suits. Artfully drafted petitions and unlicensed assemblies nudge the line between "a clear and present danger to the public" and "freedom of speech."

Independent Judgment

A civil rights case in New Mexico grew out of distribution of leaflets by Navaho youths at a crowded Indian ceremonial. The pamphlet was entitled and ended with the phrase, "When our Grandfathers Carried Guns." The beginning sentences of the one typewritten page were: "When our grandfathers carried guns, they were free and they were people. The Anglos had to reckon with them and the Anglos were careful not to anger our People. Our grandfathers stood up for what they felt was right and they condemned what they knew was wrong."

An assistant district attorney advised a policeman that the youths had no right to hand out the leaflet on the fairgrounds and could be arrested for trespass. Cautiously, the officer informed the Indians of the legal conclusion and escorted them off the grounds. A year later in court it was discovered that the property was public, trespass was inapplicable, and the leaflet was within the limits of freedom of speech. No damages were awarded against the officer after a trial, but the decision is being appealed.

What is the duty of a policeman who is ordered to do an illegal act? He faces a dilemma. In some instances, the district attorney is protected from liability under the umbrella of quasi-judicial immunity; the officer is not so protected. He must exercise independent judgment. The effect may be indecisiveness and inconsistency of performance.

Court Rulings

Courtrooms are as available to an injured officer as to other citizens. The policeman plaintiff may sue a fellow officer or his department; and, of course, the policeman may sue non-officers as well. In 1971, a policeman passenger in a patrol car driven by another officer won his suit for personal injury caused by the operator's negligence. Such claims usually are paid by department insurance, for example, motor vehicle liability policies.

Lawyers speak of precedent—the effect of earlier cases upon the present matter—and discuss suits in New York, California, and Illinois. Such cases seem remote from Gallup, N. Mex., but litigation against a local man is affected by cases throughout the United States. The key case under the Federal civil rights act, *Monroe* v. *Pape*, alleged: In the early morning hours, James Monroe, his wife, and children were roused from bed by 13 Chicago policemen. They were forced to stand nude in the apartment while the officers tore apart its furnishings. Monroe was removed to the station and held for 10 hours on "open charges." Without arraignment or warrant, he was interrogated about a 2-day-old murder. The U.S. Supreme Court held that Monroe's constitutional rights were violated and that the officers were liable whether or not the constitutional violations were intentional. Subsequent to this decision in 1961, civil rights suits followed the track of *Monroe*.

In 1967, the U.S. Supreme Court in *Pierson* v. *Ray* clarified the liability status of those who are sued under the Federal civil rights law. Municipal policemen in Mississippi arrested several demonstrators who attempted to desegregate "white only" facilities at an interstate bus terminal. The arrestees were convicted for violation of breach of the peace. On appeal one plaintiff was acquitted, and charges against the others were dropped. The Mississippi statute was unconstitutional; thus, the arrests were illegal. Suit was brought in Federal court against the officers and the municipal judge for false arrest and deprivation of civil rights. Under the theory of judicial immunity, the case against the judge was dismissed. Chief Justice Warren, expressing the views of eight members of the Court, held that the defenses of good faith and probable cause were available to the officers. This decision broke the impetus of verdicts against officers under the Federal civil rights act. Plaintiffs still allege violation of this statute, but proof of good faith and probable cause by officers involved is a valid defense.

Just as each case in which one officer's deeds are ruled improper touches all, decisions absolving a policeman who acted in good faith affect everyone. The decision appearing in the lawbooks may not tell the whole story, may not show the street scene as it existed, or may not explain extenuating circumstances. Nonetheless, the case stands as the judge phrased it, and future cases are bound thereby.

Lawsuits against policemen generally have arisen in State courts. However, Federal courts have jurisdiction under the Federal Tort Claims Act and other theories. Constitutional rights, both those in existence for de-

cades and those newly discovered, protect everyone. Recent interpretations of the Federal civil rights acts have swept waves of litigants into Federal courts. There, plaintiffs gain a sympathetic reception and a variety of remedies flow their way. State court suits are primarily the personal injury type; plaintiffs claim damages for physical harm to the individual. Civil rights cases seek dollar awards, declarations that police practices are illegal, and injunctions against future action. Consequently, judges set guidelines on patrol methods, arrest procedures, interview techniques, and handling of weapons. Court directives restrain law enforcement; liability follows in the wake.

The community may be accountable for deeds of police officers. In some jurisdictions, by statute, the community assumes liability for negligence of policemen. Another way in which the public may support officers is by providing them with lawyers. Citizens have attorneys whether or not they can pay the fees—why should not the law enforcement officer be afforded the same benefit? With attorneys for plaintiffs and defendants, the facts are brought to light. Exoneration of the officer who has acted in good faith and with discretion is as important to the community as censure of the negligent man.

Frequently, insurance companies furnish the defense lawyer and the money. Out-of-pocket reparation from an officer may be justified in some cases—for example, from the officer who chases a traffic violator at 100 m.p.h. at 3 p.m. in a school zone. Whereas pursuing an armed robber at 100 m.p.h. at 3 a.m. in a deserted business area is a different matter, and public funds should pay for injuries.

The credibility gap is a popular commentary of national politicians; upon scrutiny, the phrase also applies to police officers. As a rule, policemen have a reputation for honesty. Usually, no immediate suspicion of impeachment obscures their word. But if in the process of making cases, saving face, or covering mistakes, facts are distorted, officers will lose their credibility. The black or white of their testimony will turn into gray. In the environment of disbelief, lawsuits flourish. If courts and juries become reluctant to accept police statements in criminal matters, how much more loathe they will be to believe officer testimony in civil cases against officers. Integrity—and the credibility that accompanies it—is essential to the foundation of a successful defense in a civil suit.

A Proper Balance

Education of officers is crucial. The public insists that policemen be diplomats, sociologists, doctors, and lawyers. Education in these directions requires more than training. A breadth of vision, a view of history, and an understanding of psychology are as necessary as firearms drill. In addition to academic subjects, policemen must be informed of changing statutes and court decisions. Often the man in the field is the last to be told but the first to need the information. Only the educated and trained policeman is equipped to handle effectively the myriad demands of the occupation. This man maintains the proper balance of strength and restraint.

Experience teaches. A mistake pinpointed by litigation, however unfortunate, can be a valuable lesson. But the officer who evades duties through fear of suit resigns the job. Accepting responsibility, admitting error honestly, and growing with each challenge exact the best from every man. Inspired young officers and sage older men are sparking the development of professional policemen. The law enforcement image brightens as these officers aspire to a standard of excellence.

WHAT BONES TELL

(*Continued from page 20*)

reader reported its resemblance to a missing acquaintance. The missing person's dentist verified the identification from his records.

In another case—a young white girl—attention was called to a white spot (aplasia) on an upper front tooth, a conspicuous feature which the relatives and friends of a missing girl remembered.

Bone injuries severe enough to suggest that the individual may have been hospitalized can lead sometimes to existing X-rays and thereby to positive identification. For example, among the remains of American soldiers killed in Korea that I examined was one with an old healed fracture of an armbone which proved to be the key to the identification, but not until considerable time and effort had been expended in locating an X-ray. With one exception, the records derived from the skeleton agreed with the assembled records of the indicated individual made in life. The discrepancy had to do with the fracture: there was no suggestion of the indicated individual's having broken his arm. Even the parents of the indicated individual denied that their son had ever had such an injury. Yet the agreement between the two sets of records was so close otherwise that the authorities persisted in their search and finally located the indicated individual's college roommate. The latter related how his friend had gone out for football practice one spring, had broken his arm, and had stayed on for summer school to prevent his parents from learning about the injury. The college dispensary produced the X-ray that confirmed the identification.

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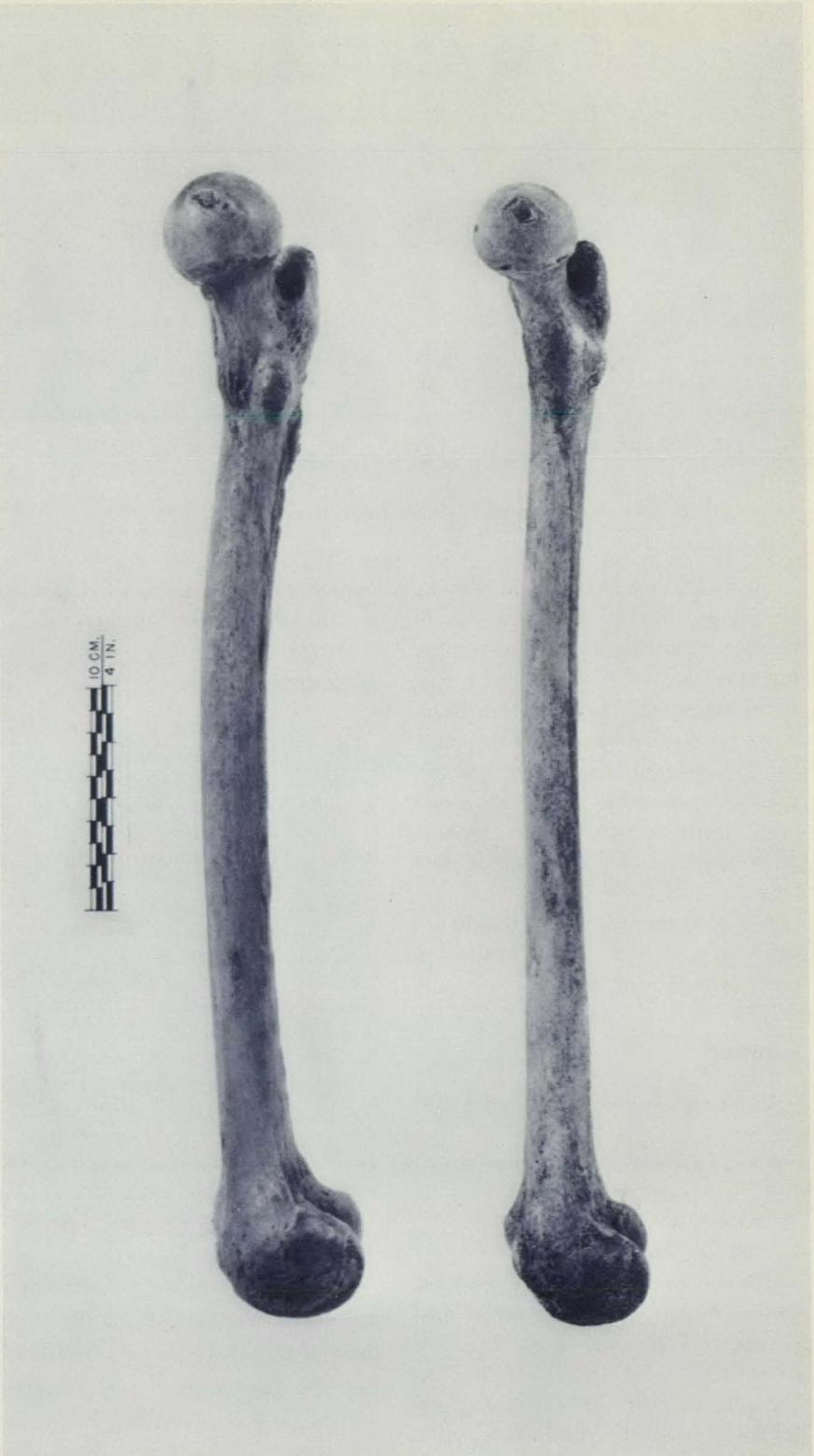
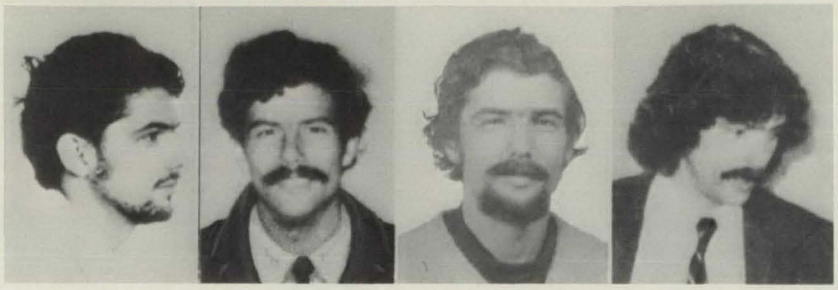


Figure 3. Negroes tend to have straighter bones than Whites. In these two adult male femora, note that the shaft of the left one (Terry Collection No. 1026, White) is bowed to the left (forward) much more than that of the right one (U.S. National Museum No. 255,591, Negro). The often greater forward torsion of the femoral head and neck in Whites does not appear in the example seen here.

WANTED BY THE FBI



STEPHEN MITCHELL BINGHAM.

Interstate Flight—Murder

Stephen Mitchell Bingham is being sought by the FBI for unlawful interstate flight to avoid prosecution for murder.

On August 21, 1971, in San Francisco, Calif., Bingham allegedly smuggled a handgun to a San Quentin prison inmate to aid in a subsequently unsuccessful prison break wherein three guards and three inmates were killed.

A Federal warrant for Bingham's arrest was issued at San Francisco, on September 1, 1971.

Caution

Bingham allegedly has had handguns in his possession in the past and should be considered dangerous.

Description

Age	29, born Apr. 23, 1942, New York, N.Y.
Height	5 feet 11½ inches.
Weight	165 pounds.
Build	Medium.
Hair	Dark brown.
Eyes	Brown.
Complexion	Medium.
Race	White.
Nationality	American.
Scars and marks.	Scar on left side of abdomen.
Occupation	Lawyer.
Remarks	Reportedly wears prescription glasses and may wear contact lenses.

FBI No.	723, 155 G.					
Fingerprint classification.	20	L	25	W	IOO	12
		M	1	U	OOO	

Notify the FBI

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

Casper to Mohr memo, 11-18-71, "Law Enforcement Conferences, [illegible] Organized Crime Contr

FBI CONFERENCES HELD

Conferences on "Organized Crime Controls," sponsored and conducted by the FBI for the benefit of local and State law enforcement, were held during September, October, and November 1971, in all parts of the country. A total of 283 meetings drew 24,023 persons representing 7,105 agencies.

High-ranking law enforcement officials, prosecutors, and members of the judiciary participated in the sessions, and special emphasis was given to explaining the FBI's expanded jurisdiction under the Organized Crime Control Act of 1970. Additional attention was given to gambling, corruption, and other facets of organized crime.

The series of conferences was another phase of the FBI's continuing program of offering cooperation and assistance to local and State enforcement agencies to promote effective law enforcement at all levels.

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Press Release on Police Killings, 1-3-72

LAW ENFORCEMENT OFFICERS KILLED—1971

One hundred twenty-five local, county, and State law enforcement officers were murdered in 1971 as compared with 100 officers slain during 1970, according to statistics compiled by the FBI.

Thirteen officers were killed as a result of felonious criminal action during December 1971, as compared to 9 killed in December 1970.

By geographical region, 48 officers were slain during the year in the Southern States, 28 in the North Central States, 26 in the Northeastern States, and 23 in the Western States.

The FBI said that 20 officers died as the result of ambush-type attacks; 24 were killed responding to robbery calls, seven of which were of the silent alarm type; 7 were slain answering burglary calls; 20 as a result of traffic stops; 9 while handling disturbance matters; 7 were murdered by mentally deranged persons; 22 while attempting arrests for crimes other than robbery and burglary; 7 met death at the hands of prisoners they were dealing with; and 9 were killed investigating suspicious persons or circumstances.

Of the 125 officers slain in 1971, 96 percent of the killings were committed with firearms. Handguns were used in 74 percent of the slayings.

CONVICTIONS

Year-End Press Release, p. 13-14, dated 1-6-72

Convictions in FBI cases reached 14,305 during calendar year 1971, resulting in actual, suspended, and probationary sentences totaling over 49,000 years.

Year-End Press Release, 1-6-72

ORGANIZED CRIME p. 1

During 1971, the FBI stressed the continuing drive on organized crime. Convictions in this field rose from 468 in 1970 to more than 650 in 1971. In addition, cases against some 2,200 other gambling and racketeering figures, including seven national Syndicate leaders and a number of their top aides and lieutenants, were in various stages of prosecution at the end of the year.

RECORD NUMBER OF FUGITIVES LOCATED

During calendar year 1971, 35,214 FBI fugitives were located, a record total. Of this number, approximately 2,800 were fugitives sought at the specific request of State and local authorities for fleeing across State lines in violation of the Fugitive Felon Act.

Quotable Quote

"The shepherd drives the wolf from the sheep's throat, for which the sheep thanks the shepherd as his liberator, while the wolf denounces him for the same act as the destroyer of liberty."

—Abraham Lincoln

F. B. I.'s Book of Quotations p. 494

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

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INTERESTING PATTERN

In the FBI Identification Division the pattern presented here is classified as a central-pocket loop whorl with an inner tracing. This impression is interesting because of the "smiling face" created by the unusual ridge detail in the central area of the pattern.