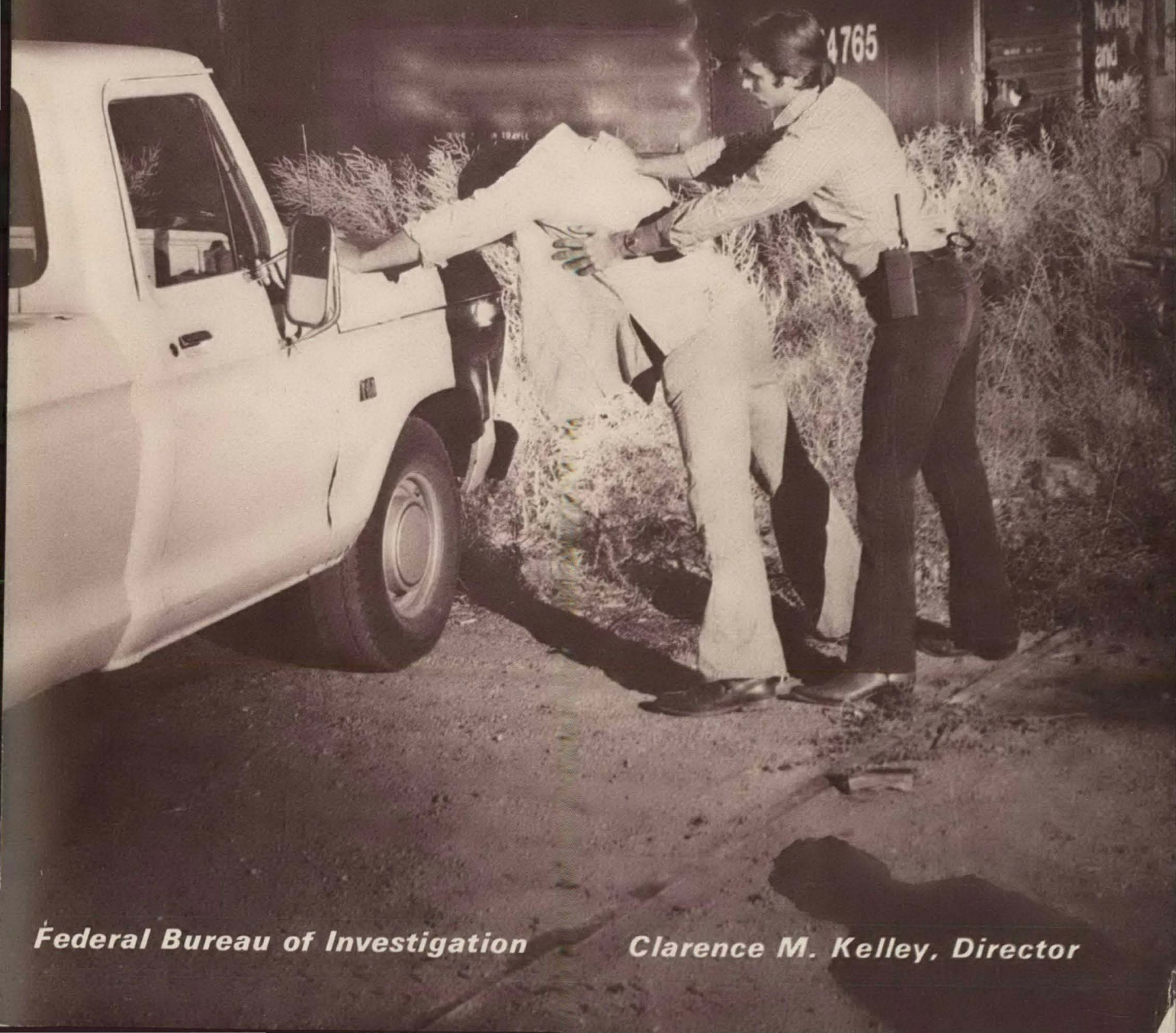


# FBI

## *Law Enforcement Bulletin*

**FEBRUARY 1977**

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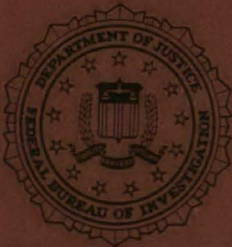
***Federal Bureau of Investigation***

***Clarence M. Kelley, Director***

# FBI

## Law Enforcement Bulletin

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### CONTENTS

#### MESSAGE FROM THE DIRECTOR

*"... the rapidly growing role of the computer in our society has created a uniquely challenging field of criminal activity."*

1

**POLICING SPECTACLES: COOPERATION, COORDINATION, AND OTHER CONSIDERATIONS**, by John D. Swift.

3

**A VIABLE POLICE RESERVE**, by Paul H. Bohardt, Chief, Administrative Division, Dade County Public Safety Department, Miami, Fla.

9

**RAILROAD CRIME: OLD WEST TRAIN ROBBERS TO MODERN-DAY CARGO THIEVES**, by Thomas W. Gough, Staff Assistant to the General Director, Security and Special Service Department, Union Pacific Railroad Co., Omaha, Nebr.

16

**ENTRY INTO PREMISES FOR THE PURPOSE OF EXECUTING AN ARREST WARRANT**, by J. Paul Boutwell, Special Agent, Legal Counsel Division, Federal Bureau of Investigation, Washington, D.C.

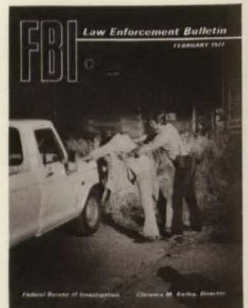
27

**WANTED BY THE FBI**

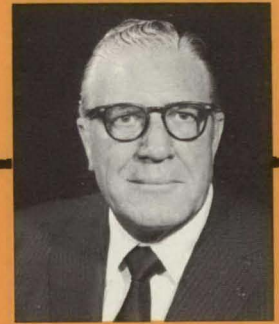
32

#### THE COVER

The photograph featured on this month's cover highlights the role of officers who protect our railways from criminal acts. See related article beginning on page 16 of this issue.



## Message from the Director . . .



IN THE FOREFRONT OF MAJOR technological advances has been the computer. Its uses in business, industry, government, and other areas have dramatically expanded, generating countless benefits. There is every reason to believe that this remarkable proliferation will continue in the future and receive additional impetus with increased availability of minicomputers. In the field of law enforcement, computers have been imaginatively and effectively used as enforcement tools and as aids in analyses, planning, and operations.

Although reasonable safeguards can be implemented to protect computer systems, absolute security against misuse cannot be expected. Not surprisingly, the criminal mind has been quick to devise means to illegally exploit this medium. While the basic classes of crimes occurring in this technical realm are not new (fraud, embezzlement, and industrial espionage, to name a few), other aspects are—for example, the *modus operandi* and the nature of the assets attacked.

It is difficult to accurately assess the true extent of the computer crime problem. Many, however, suspect that the number of these offenses reported is small compared to their actual volume. Certainly, the magnitude of many of those computer-related crimes reported gives cause for serious concern. Losses, in several cases, have approached or exceeded million-dollar totals.

Detection is a major challenge, with most computer crimes detected being discovered purely by chance and then only after considerable time has elapsed since their commission. Further aggravating this problem is the unfortunate tendency

of some administrators not to report such crimes through fears of disclosing existing vulnerabilities or creating other forms of adverse publicity.

Based on recent studies, this type of white-collar criminal generally appears to have several characteristics that set him apart from other lawbreakers. Typically, the offender is a highly intelligent, youthful male either employed or knowledgeable in the computer technology field. He usually has no prior criminal record and frequently occupies a position of substantial trust. It also seems that the prospect of outwitting a complex system frequently motivates him in these acts. When caught, he tends to rationalize his actions and minimize their criminality.

The threat posed by the computer criminal becomes decidedly more menacing when viewed in terms of society's increasing dependence on computers, particularly in respect to performing key functions. Aside from encouraging employment of security safeguards for preventing and deterring computer crimes, law enforcement's role in this area is primarily a reactive one.

Currently, most computer crimes fall within the investigative responsibility of State and local law enforcement. In order to successfully deal with these usually complex offenses, law enforcement officers must possess sophisticated knowledge and specialized skills. Training is, therefore, a prime prerequisite. Programs of this nature should encompass instruction, study, and exercises designed to thoroughly familiarize officers with pertinent technical language, systems equipment, and various computer programs. Other important areas to be covered should in-

## MESSAGE

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clude computer security considerations, previous computer crimes, and successful investigative precedents.

The difficulties in prosecuting those charged with computer-related crimes represent still another formidable challenge. Gathering acceptable evidence in a crime where electrical impulses, data tapes, telephone circuits, or other similar forms of technology may be elemental is not an easy task. A dearth of prosecutive precedents and sometimes ill-defined laws relating to this field, a lack of understanding regarding computers, and the absence of clearly established ethical standards in some areas of computer activity create many of the problems underlying this challenge. The problems are not insurmountable, however, and successful prosecutions have been recorded in highly complex computer crimes.

The FBI has recently provided specialized training relative to computer technology and computer fraud to our own Special Agents, to interested officers attending the FBI National Academy, and to investigative elements of another Federal agency which requested such training. In these endeavors, experts from outside the FBI, as well as our own instructional staff, have been fully utilized. The instruction provided has been well received, and we certainly intend to make training of this nature available to even more officers.

Not unexpectedly, the rapidly growing role of the computer in our society has created a uniquely challenging field of criminal activity. Law enforcement must be prepared to effectively counter this highly complex threat with a commensurate degree of knowledge and investigative skill.

FEBRUARY 1, 1977

  
CLARENCE M. KELLEY  
*Director*

# *Policing Spectacles: Cooperation, Coordination, and other Considerations*

By  
JOHN D. SWIFT\*

*"By working together, public law enforcement and private security contractors are able to employ effective crowd control techniques and thus keep major instances of unruliness at big-crowd events to a minimum."*



Each year tens of millions of Americans throng spectator sports and other events not uncommonly in crowds of 60,000 to 80,000 and more.

And each year a still small but growing element of unruly fans seems to make an appearance at almost every important event.

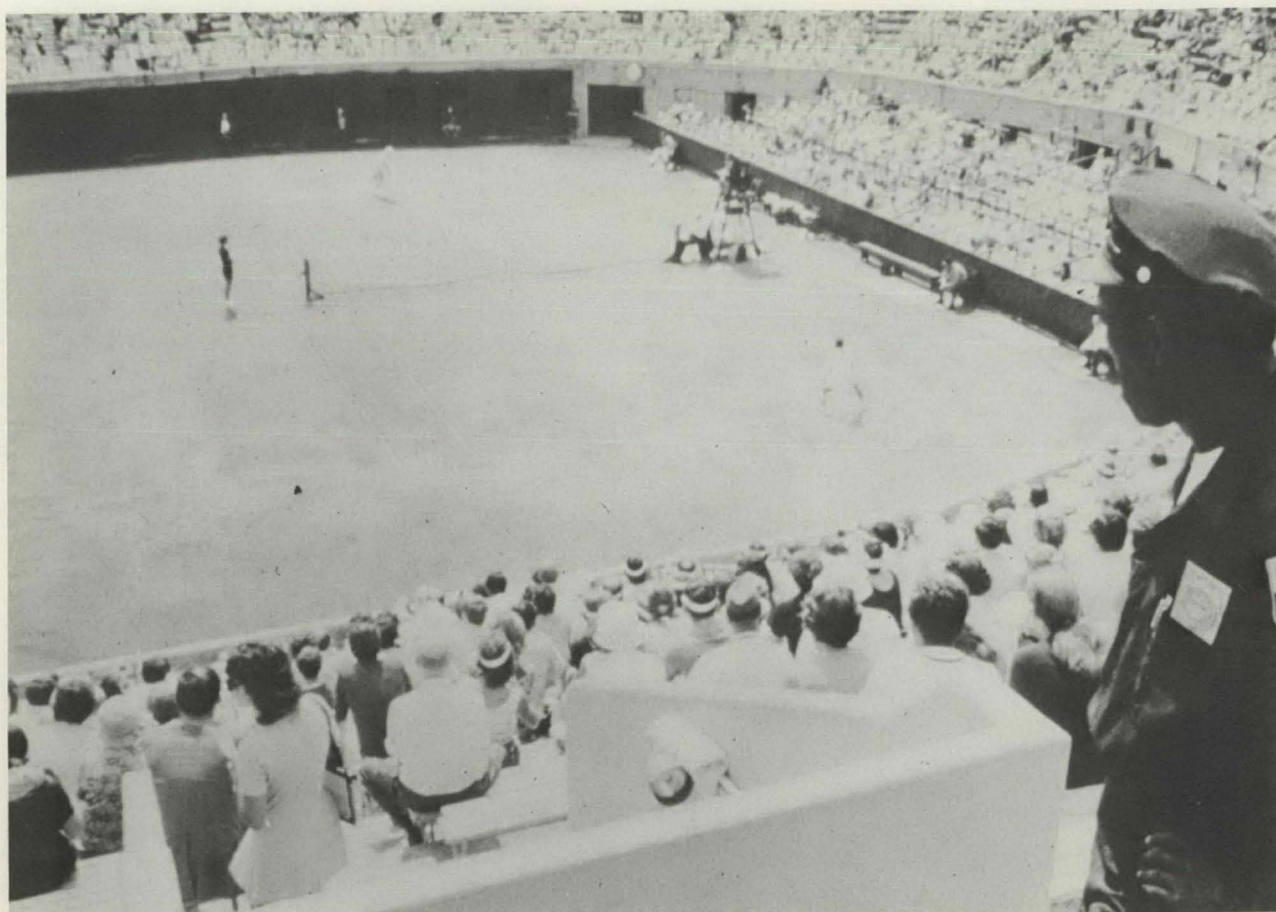
Yet, truly major instances of unruliness involving more than a few individuals are a rarity, reflecting the sophistication and effectiveness of crowd control techniques and close teamwork between police and experienced private security contractors.

## **Contrasting Trends**

The sports explosion in this country has been accompanied by a construction boom in mammoth, multimillion-dollar stadiums, sports arenas, and convention halls. This expansion has been marked by two contrasting trends.

One is locating sports complexes outside core cities; and the other is

\*Mr. Swift is a former Special Agent of the FBI and is currently an executive with a private security firm.



A guard keeps discreetly in the background at a tennis tournament.



Relaxed attitudes and smiles are an integral part of crowd control.



Smartly uniformed women help keep security low-key.

addition, as many as 300 people may be assigned by the private security contractor to staff the stadium, including ticket takers and sellers, ushers, guards, and plainclothes section supervisors.

Allocation of sufficient police manpower for a sellout event does not usually present an overwhelming problem for big city departments, which usually have permanent stadium details and can draw other officers expert in traffic and crowd control from established task forces without resorting to precinct manpower.

Faced with a similar challenge, however, the small suburban police force would be hard pressed to provide even a fraction of the detail required, without stripping the rest of the community of adequate protection.

A solution to the problem may be one that neither deprives the local taxpayer of his normal police protection nor requires an expenditure of addi-

*"For a major stadium event . . . as many as 300 people may be assigned by the private security contractor to staff the stadium. . . ."*

tional funds. The police chief gathers his full stadium detail from off-duty policemen in nearby towns. State police usually handle traffic on State and U.S. highways, which may relieve local police of much of the traffic problem. The stadium involved pays police coverage costs, both local and State.

Generally speaking, in larger cities where policemen assigned crowd control responsibilities are on regular tours, stadiums are not required to reimburse the municipality. However, at least one big city-owned sports complex pays the police department for whatever manpower must be assigned.

Where local ordinances permit and on request by stadium management,

the building of equally huge civic centers and coliseums in blighted downtown areas as focal points in urban renewal and business revitalizing programs.

In most areas, local police have no jurisdiction inside private premises of this type unless responding to an emergency or arrest situation, and in the main perform perimeter duties

outside gates and on adjoining streets.

Even if legally permitted, manpower considerations and budget pinches often act to limit a police department's capability for handling crowd control outside and in for such edifices.

For a major stadium event, 65 to more than 100 policemen may be required for perimeter duties alone. In

police officials occasionally will designate an experienced private guard as a special officer with limited arrest powers at a specific post outside the stadium, perhaps directing adjacent street traffic. However, the individual will be trained by State or local police to understand and respect the limits of his authority.

Where a stadium is owned and operated by the municipality, a small contingent of police officers is sometimes placed on standby inside the complex on those occasions when trouble is feared, such as at a basketball playoff game between two bitter high school rivals.

Unruly behavior at public events is, of course, not only found among younger people.

Stadium management bluntly main-

tains that general fan behavior today is worse than ever.

In a survey conducted by a research unit that studies and reports on crime-related matters in the private sector, it was reported that 12 of 17 major league team executives in various sports agreed their biggest security headache is the disorderly patron.

In their view, he is

- Drinking more than he ever has.
- Gambling more.
- Posing more of a problem to protect athletes and game officials who incur his displeasure.
- Reacting more abusively and violently than he did a decade ago.

Fourteen of the seventeen stadiums represented in the survey have been forced to initiate package inspection programs at the gates in an attempt to

control the misuse of bottles and cans as missiles.

Team officials regret the great majority of well-behaved patrons must be subjected to polite package frisking along with the potential trouble-

***"Stadium management bluntly maintains that general fan behavior today is worse than ever."***

makers, but for safety's sake, there can be no exceptions. Package inspection is the most basic of security measures.

### **Crowd Control**

While the fan may be tougher, inside the stadium, efforts are made to

Inside-park security begins with trim-looking, courteous ticket takers.





Unruliness seldom occurs at events such as this flower show.

handle security in as restrained and unobtrusive a manner as possible. Security people, including large contingents of women, are trained to use tact and gentle persuasion to curb incidents before they can start. Police on duty outside are called only when

*"Police are summoned . . . only when a series of discreet maneuvers fails to bring unruliness under control."*

diplomacy fails and an arrest situation occurs.

This new image is even projected in the style of uniforms now worn by security personnel. White-gloved men and women are clad in brilliantly colored uniforms as elegant as those for marching bands. Not too long ago,

conventionally uniformed guards had high-visibility posts in an attempt to deter disruptive behavior. Today, they stay in the background while the smartly attired crowd control specialists handle most routine functions.

Section jumpers are more likely to be dissuaded when a female usher smilingly informs them their tickets are for some other place. However, if diplomacy doesn't seem to work, she can signal a guard to come forward.

Police are summoned from the outside only when a series of discreet maneuvers fails to bring unruliness under control.

For example, in the somewhat typical case of a spectator who is properly seated but is using profanity and drinking heavily, an usher will politely inform him that he is creating a disturbance and ask him to please

turn in the bottle until after the game.

If this request is refused, the aisle guard is notified and makes a similar request. The stadium management is informed and, if the spectator still does not cooperate, may decide to eject him. In that case, two plainclothes supervisors, the guard, and the usher

*"When arrests are made, security people are not required to be complainants."*

again try to persuade him to behave in a manner that is not disturbing to other spectators. If this fails, the supervisors try to gently move him. Finally, if he still resists, police are called to escort him from the stadium.

Security people use force only when somebody has to be restrained from

physical attack, stealing, or vandalizing property and then they use only the minimum amount of force necessary to control the situation. They are under orders to remain calm until the police arrive, no matter how trying the circumstances.

The restraint can be rather difficult at contact sports spectacles, such as football, basketball, hockey, and soccer games, where the violence on the field can affect the behavior of some spectators, notably when their teams are doing poorly and they have been drinking excessively.

Drinking may begin on the parking lots long before game time through a popular phenomenon known as "tailgating." This is the expanding practice of ticketholders arriving early and partying with food and drink. Stadium authorities, however, have been reluctant to curb tailgating because of its substantial benefits in alleviating traffic and parking lot congestion.

As a rule, police prefer to stay outside unless there is a valid reason for

calling them in. Unfortunately, this has to be done at times, but not with the frequency the public oftentimes believes.

For sellout events at a major stadium, arrests may average no more than 12 to 15, a minute fraction of the 60,000 or more in attendance. At events such as symphony concerts and

*"... for smooth and effective public safeguards, police and private security coordination and cooperation are essential."*


antique and flower shows, a formal arrest may not be made all season. Of course, both police and private security coverage required for culturally oriented family events are minimal.

When arrests are made, security people are not required to be complainants. A stadium official always has the responsibility for deciding when to call the police and therefore acknowledges he will press charges if

necessary. Usually, when serious crimes or injuries are not involved, management is content to eject offending individuals.

Obviously, for smooth and effective public safeguards, police and private security coordination and cooperation are essential. Stadium authorities, police, and private security officials must leave little to chance or the unexpected.

In preevent and postevent strategy meetings, coverage problems are ironed out, based on anticipated attendance, type of event, and possible problems that may be encountered. Flexibility is the keynote. Assignments outside and in the stadium are changed; manpower at other points augmented. Patterns may be changing constantly, but good planning and coverage minimize surprise elements.

By working together, public law enforcement and private security contractors are able to employ effective crowd control techniques and thus keep major instances of unruliness at big-crowd events to a minimum. 

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## FBI CAMPAIGN AGAINST ORGANIZED CRIME

In a continuing nationwide campaign against organized crime, the FBI concentrated its investigative resources in key areas during the 1976 fiscal year. These investigations resulted in more than 1,300 convictions.

In addition to the 1,300 convictions, some 1,400 organized crime figures, including many in top echelons, were in various stages of prosecution as the fiscal year ended June 30. High-ranking syndicate figures in Boston, Denver, Pittsburgh, New York, Tampa, and other cities were targeted by the FBI for investigation. Subsequently,

these individuals were prosecuted for such criminal acts as loan sharking, prostitution, mail fraud, and fraud by wire. Recoveries and confiscations made during FBI raids and arrests of organized crime figures totaled a recordbreaking \$7 million, an increase of more than \$2 million over the previous year's total.

Title III of the Omnibus Crime Control and Safe Streets Act of 1968, which authorizes Special Agents of the FBI to obtain court-sanctioned wiretaps, assisted immeasurably in obtaining convictions. Since 1969, 2,141

organized crime figures have been convicted as a result of FBI title III investigative procedures.

The fiscal year highlighted an investigative technique that aided in the battle against organized crime—the undercover storefront operation. Undercover FBI Agents, working closely with police officers in New York, Chicago, Milwaukee, and Washington, D.C., established legitimate-appearing business facilities to penetrate local crime organizations. Their efforts resulted in the arrests of scores of suspects and the recovery of millions of dollars worth of stolen items.

# A Viable Police Reserve

By

PAUL H. BOHARDT

Chief

Administrative Division  
Dade County Public Safety  
Department  
Miami, Fla.

Most police administrators would agree that the police service has progressed further and faster within the past 10 years than any other component of the criminal justice system. Contributing to this progression were the civil disorders of the sixties which had a significant impact on research efforts, serving as a catalyst for revised thinking and serious study of the police role and mission.

Many concepts and philosophies grew out of the various studies. From these, at least one common denominator which has been widely accepted emerged: *Without public support, law enforcement cannot succeed.* The idea that police operate in a vacuum is gradually disappearing.

In the February 1976 issue of the FBI Law Enforcement Bulletin, Director Clarence M. Kelley calls for greater citizen involvement in the fight against crime:

"The American people's long, proud heritage of civic responsibility provides a sturdy basis for a national stand against crime—a national commitment on our part to resist crime, as individuals, families, and communities. Toward this end, all possible must be done to engage the citi-



zens of this Nation more fully in crime-reduction activities. Every effort must be made to bring each citizen to the realization that he, as an individual, has a vital role in upholding the law and that it is a role that only he can adequately fulfill."

That same month similar thoughts were expressed by Chief Richard C. Clement, then President of the International Association of Chiefs of Police, in The Police Chief:

"We need a better working relationship with the public we serve and this can only be

achieved through an increased effort on our part. We must forge a police-citizen partnership in crime control and we must begin by giving more than lip service to the goal of improved community relations."

## Controlling Crime

The Dade County Public Safety Department has long recognized the value of citizen and community involvement with the police and police activities. In January 1967, it was proposed that the department activate a police reserve unit. In the discussions that followed, Director E. Wilson Purdy agreed to organize such a unit with the following stipulations:

The reserve unit would not be an honorary group of "police buffs."

The reserve unit would not be a social organization.

Each reservist would be selected, screened, and given the same kind of background check as regularly appointed recruit officers in accordance with the State of Florida minimum standards law.

Each reservist must complete



A reserve officer on desk assignment at a station.

at least 340 hours of training and, after appointment, continue to attend training sessions a minimum of 4 hours per month. (The minimum standards training law of Florida provided for 200 hours of training at that time.)

Each reservist would be assigned to the police division in a district operation where he would contribute at least 16 hours of police duty per month and would be carefully supervised by a permanently appointed officer at all times.

Reservists would be governed by the same police rules, regulations, and departmental directives as full-time officers.

County officials readily agreed, and the county commission passed a resolution which provided for a pilot reserve officer program to involve no more than 50 reservists and \$50,000 to fund the initial effort. In addition, the commission also voted to pay each

reservist a consideration of one dollar per year to legally qualify them for

### FIGURE 1. GENERAL AREAS OF OCCUPATIONAL AFFILIATION

County Government/Public  
Service  
Medical Technicians  
Blue-Collar Labor  
Transportation Industry  
Airline Industry  
Sales  
Executive Management  
Accountants  
Public Relations  
Computer Sciences  
Educators  
Construction Trades  
Food Service Industry  
Medical Doctors

benefits of county insurance, workmen's compensation, and false arrest protection.

The overall objective of the reserve program has been the same since its inception: to provide the public safety department with a well-trained cadre of reserve police officers, thereby expanding the service capabilities of the department and creating community appreciation of police operations.

To further define the position of the department with regard to the police reserve program, the National Advisory Commission on Criminal Justice Standards and Goals is cited.

"Police reserve forces constitute a manpower alternative, not a substitute for trained full-time sworn personnel. They should not be depended upon to serve such a function. Administrators must realize that reserve units exist primarily to supplement regular sworn personnel and provide a qualified manpower resource to assist in emergency situations. If their selection, training, and use are structured to coincide with this role, reserves may be considered a valuable addition to the public service. Most agencies use reserves at special events, civil disturbances, or during natural disasters, to supplement regularly deployed patrol forces. Others have expanded the role of the reserve to include patrol, traffic, communications, and other specialized police functions."<sup>1</sup>

For all intent and purpose, when on duty, police reserve officers have functioned with no less authority and versatility than their full-time counterparts. They have discharged the responsibilities of their office with full police authority and have been held strictly responsible for complete adherence to the oath of office, which binds them to support the Constitu-



Director E. Wilson Purdy

tion of the United States, "the laws of the State of Florida and all ordinances promulgated thereunder."

### Profile of Present Program

At the time of this writing, there are 84 active police reserve officers and 39 recruits in training. The training period encompasses 340 hours, which takes 9 months to complete. Two 4-hour evening classes are conducted each week with several 8-hour firearms and range practices conducted on Saturdays when the citizen-police-officer-to-be is off his regular job. Figure 1 is an occupational profile on the active police reservists and figure 2 is a complete profile on the reserve officer trainees. Overall, the reserve officer program is representative of a large number of occupational and professional areas in Dade County.

### Cost Benefit Factor

Upon graduation from basic training, police reserve officers are assigned to the various district operations as uniformed officers. Their duty responsibilities are the same as their full-time counterparts, which are patrol, traffic, report writing, and other general law enforcement duties.

**FIGURE 2. CLASS PROFILE  
POLICE RESERVE CLASS NO. 10**

Starting Date: October 6, 1975  
Completion Date: June 4, 1976  
Total Training Hours: 338  
Class Strength: 53\*

|           |    |          |    |
|-----------|----|----------|----|
| Male      | 40 | Married  | 35 |
| Female    | 13 | Single   | 15 |
| Caucasian | 41 | Divorced | 3  |
| Black     | 2  |          |    |
| Spanish   | 10 |          |    |

Ages: Range 18 to 60 years  
Average 31  
Mode 24 to 27

|      |      |      |      |      |      |
|------|------|------|------|------|------|
| 18-4 | 24-4 | 28-3 | 32-3 | 37-2 | 54-1 |
| 20-4 | 25-3 | 29-3 | 34-2 | 38-2 | 60-1 |
| 21-3 | 26-4 | 30-1 | 35-2 | 40-1 |      |
| 23-1 | 27-3 | 31-3 | 36-1 | 50-2 |      |

Height: Range 5 feet 1 inch to 6 feet 2 inches  
Average 5 feet 11 inches

Weight: Range 105 pounds to 220 pounds  
Average 165 pounds

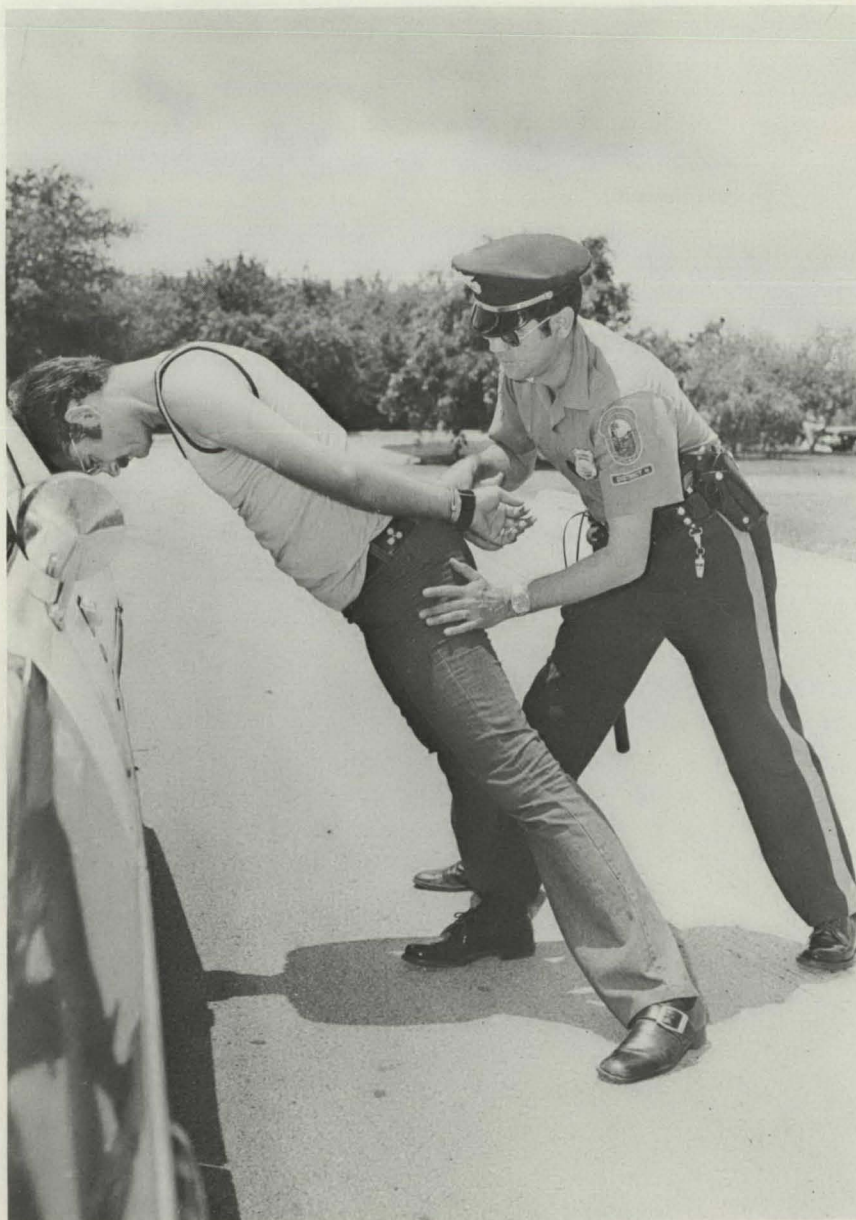
|                         |      |   |     |   |      |   |
|-------------------------|------|---|-----|---|------|---|
| Prior Military Service: | USMC | 2 | USN | 2 | USAR | 3 |
|                         | USAF | 4 | USA | 6 | USCG | 2 |

|                         |              |      |              |   |
|-------------------------|--------------|------|--------------|---|
| Educational Attainment: | GED          | 8**  | B.A. or B.S. | 6 |
|                         | High School  | 29** | Master       | 3 |
|                         | A.A. or A.S. | 6    | Ph. D.       | 1 |

|              |                      |   |                     |   |
|--------------|----------------------|---|---------------------|---|
| Occupations: | Aircraft Maintenance | 2 | Retail Management   | 3 |
|              | Data Processing      | 1 | Mechanic            | 2 |
|              | Stock Worker         | 3 | Insurance Adjuster  | 1 |
|              | Flight Engineer      | 1 | Secretarial         | 6 |
|              | College Faculty      | 1 | Public Utilities    | 4 |
|              | Sales                | 9 | Cargo Agent         | 1 |
|              | Student              | 3 | Commercial Pilot    | 1 |
|              | Pharmacist           | 1 | Carpenter           | 1 |
|              | Registered Nurse     | 2 | Guidance Counselor  | 2 |
|              | Contractor           | 2 | Motor Vehicle       |   |
|              | Truck Driver         | 1 | Inspector           | 1 |
|              | TV Writer-Producer   | 1 | Ordnance Technician | 1 |
|              | Banking              | 1 | Electrician         | 1 |
|              |                      |   | Domestic Engineer   | 1 |

\*Class strength on first day of class.

\*\*28 of the 37 trainees with GED or high school diplomas have begun work toward a college degree.



Reserve officers have full police authority.

Police reserve officers are required to be on duty for 16 hours per month and to attend a 4-hour inservice training session each month for a total of 20 hours of obligated time. However, a majority of the current reserve officers exceed this requirement. Average active duty is approximately 25 hours per month.

In translating these services to dollar values, the calculations are based upon the salary of one police officer at \$6.12 per man-hour, for an esti-

mated total monthly realization of police services in the amount of \$12,852. This figure is representative of services performed by 84 active police reserve officers. (84 officers  $\times$  25 hours per month at \$6.12 per hour = \$12,852.)

Over the past 8 years, the police reserve program has consistently been impressive with regard to cost benefit to Dade County. Figure 3 shows the estimated contribution of services by reserve officers.

The basic advantage of the police reserve program stems from the fact that Dade County realizes a minimum of 25,200 man-hours or 3,150 man-days of additional law enforcement expertise per year at a negligible cost to the taxpaying citizen of the county. In addition, the police reserve officer is a representative of the community and a vital link between the police and the community, which is most effective in maintaining a meaningful public-police-community relations program.

### Types of Assignments

Police reserve officers fill a number of varied and diversified assignments while on duty. Of course, the majority of assignments fall within the areas of line assignments or police patrol. This is the stated purpose of the program, and as such, police reserves are most effective in this type of duty assignment. However, there are occasions whereby the reservist has certain special capabilities or occupational expertise which would benefit the department if this resource was used to an advantage. Thus, some reservists, upon personal request, are assigned to duties consistent with a particular specialty. At the present time, police reserve officers are assigned to the following types of duty:

|  |    |
|--|----|
| Police patrol-----                     | 76 |
| Police reserve training staff-----     | 2  |
| Forensic crime lab-----                | 1  |
| Organized crime bureau-----            | 1  |
| Public information office -----        | 1  |
| Special enforcement/aviation unit----- | 2  |
| County manager's office -----          | 1  |
| Total -----                            | 84 |

Generally speaking, police reserve officers can and will be utilized in

**FIGURE 3. ESTIMATED CONTRIBUTION OF SERVICES  
BY RESERVE OFFICERS\***

| Fiscal<br>Year | Number of<br>Officers | Salary<br>Per Hour | Total<br>Dollar Value |
|----------------|-----------------------|--------------------|-----------------------|
| 1968-69        | 21                    | \$3. 70            | 23, 310               |
| 1969-70        | 40                    | 4. 03              | 48, 360               |
| 1970-71        | 50                    | 4. 28              | 64, 200               |
| 1971-72        | 65                    | 4. 70              | 91, 650               |
| 1972-73        | 80                    | 4. 94              | 118, 560              |
| 1973-74        | 80                    | 5. 56              | 133, 440              |
| 1974-75        | 80                    | 6. 12              | 146, 880              |
| 1975-76        | 84                    | 6. 12              | 154, 224              |
| <b>Total</b>   |                       |                    | <b>780, 624</b>       |

\*All figures are computed at midstep patrolman's salary for the fiscal period indicated.

any assignment which will further the objectives of the public safety department in achieving the overall missions.

### Turnover Rate

The public safety department has trained 205 officers since 1968. Many have left the program for various reasons. Primarily, they leave the program due to conflicts attributed to their occupation. However, to date, a total of 59 police reserve officers have resigned to go into full-time police positions. A total of 31 reserve officers have been reemployed as full-time officers with the public safety department and 28 have been employed by other police departments in Dade County. No reservist is considered for lateral entry into full-time police duty with the public safety department until he has performed for 2 years in the field as a reserve officer. He must, in addition, be recommended for full-time duty by his district captain and be processed through the regular screening system. The remaining 62 have left for various other reasons. This, of course, speaks well of the reserve program, since out of the 205

persons trained, 143 are still active in law enforcement.

During the years this police reserve program has been active, the average turnover rate was calculated to be 4.85 percent, which is far superior to

**"During the years this police reserve program has been active, the average turnover rate was calculated to be . . . far superior to the turnover rate for full-time police officers."**

the turnover rate for full-time police officers. This high-retention factor far surpasses initial departmental expectations. Those reserve officers who have remained with the program have shown a high degree of proficiency as law enforcement officers.

This past year the public safety department's training bureau staff distributed a field questionnaire to elicit further information concerning the reserve program. This questionnaire was designed to provide additional facts on how the reservists felt about the program and to possibly identify problem areas. The survey population was limited to the sworn

complement which totaled 84 male and female members and covered the time period of 8 years.

### Questionnaire Results

The following items have been extracted from the mass of information for the reader's benefit.

The required duty time of 16 hours has not been met 1 or more months by 30 active reserve officers, with a total of 103 sessions missed. The primary reasons offered for not meeting requirements were vacations, business and/or job commitments, illness or death in the family, and authorized leaves of absence from the program.

Forty-eight reservists made mandatory court appearances stemming from duties as a reserve officer a total of 500 times. A total of 800 hours was lost from full-time employment by 35 reservists as a result of these court appearances. The average hours lost per man was 10.

Eighteen injuries during duty hours were reported by 16 reservists. The types of injuries were automobile (departmental vehicle), 4 (driver, 1; passenger, 3); assault on officer by subjects or injuries suffered as a result of actual officer-subject contact, 10; and other (falling during foot chase, injuries sustained during rescue operations, etc.), 4.

Four reservists reported a total of 112 hours lost from full-time employment as a result of injuries received during service as a reserve officer. The average hours lost per man was 28.

The most common types of incidents, rated on frequency, in which reservists reported involvement while off duty were traffic accidents, disturbances, assisting an on-duty officer, assaults in progress, hit and run or driving under influence (DUI), and breaking and entering offenses.

The respondents indicated the following types of incidents in which they were prevented from taking ac-

tion as a result of being unarmed while off duty: armed robbery, 11; aggravated assaults, 3; serious disturbances, 2; breaking and entering in progress, 2; stolen vehicle, 1; exposure, 1; and illegal sale of a firearm, 1. Although prevented from taking action, the reservists did report the incident by phone or in person.

The survey also revealed several other items of an informative nature which may be of interest in a study of the police reserve program.

Seventy reservists (89 percent) thought the reservists should be armed while off duty and nine (11 percent) thought they should not. (Recently published revision of rules and regulations prohibit carrying of weapon by reservists when off duty. This rule merely legitimized former verbal policy.)

Fifty-four reserve officers, which is 68 percent of the population surveyed, reported that the existing badge is a hindrance, while 25, or 32 percent, reported that it is not. The most common explanation offered by those who felt the existing badge (which is of a slightly different shape than that worn by a full-time police officer) was a hindrance was that it encouraged a questioning and challenging of their authority. New badges which duplicate regular departmental badges but carry the word "Reserve" have been ordered.

Of the reserve officers, 67 percent felt they could function as a one-man patrol unit as needed, while 33 percent said that they could not. Those who indicated that they could not most often felt that it would interfere with their regular jobs due to

court appearances. (Reservists normally ride or work with permanently assigned police personnel.)

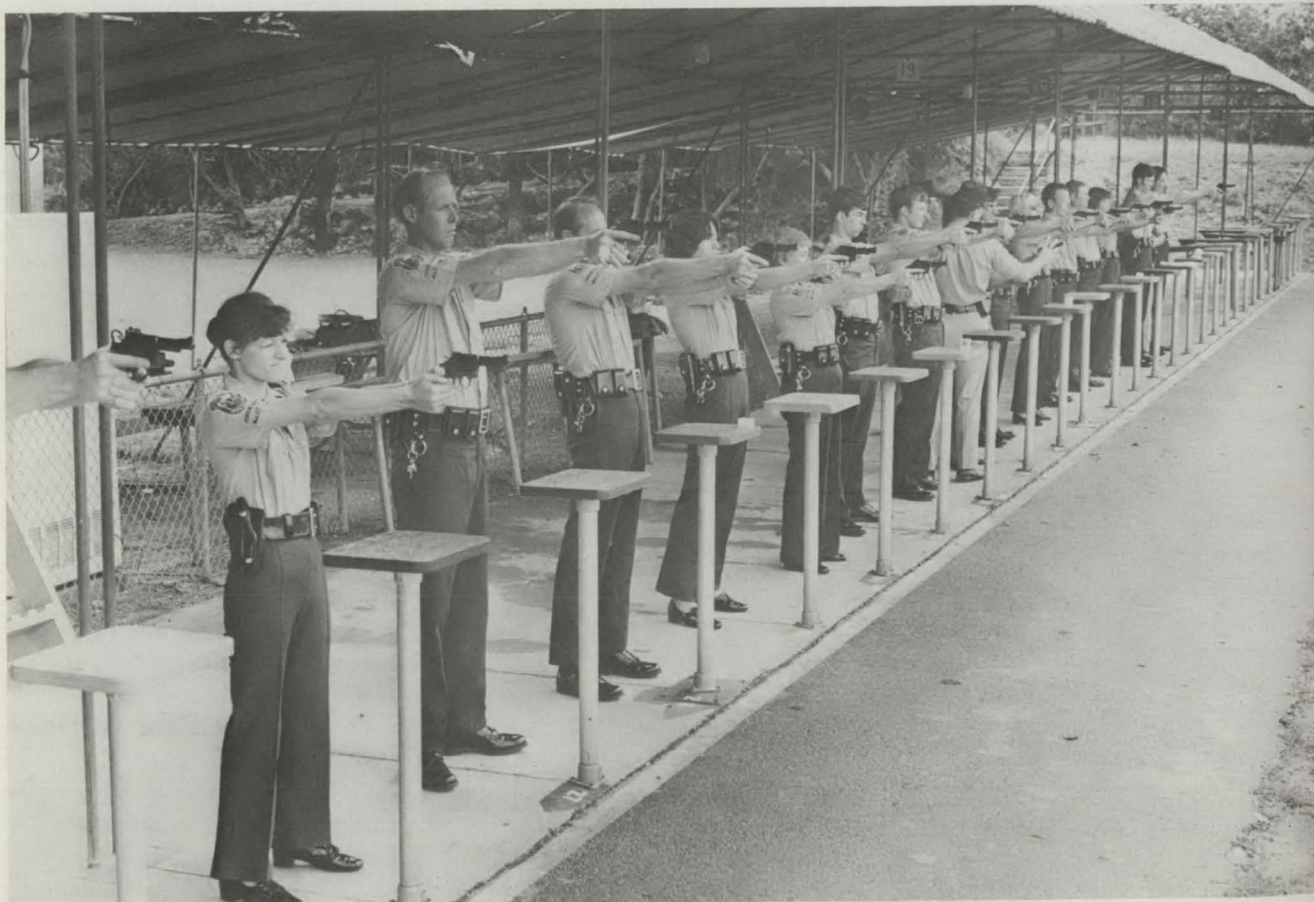
When asked about the existing requirement of 16 hours duty time per month, 14 percent replied it was too little and 86 percent about right. No one indicated that it was too much.

The days of the week that the reserve officers report for duty are as follows in order of frequency indicated: Saturday (50 percent of population), Sunday, Friday, Wednesday, Tuesday, Monday, Thursday. The shifts most often worked were listed in order as afternoons, midnights, and days.

### *Program Success*

Citizen participation in the total law enforcement effort is one of many

**"Getting the fundamentals of marksmanship."**





Several of the reserve officers are employed in the airline industry.

methods of gaining community support for other law enforcement programs. Community service programs are enhanced and strengthened through citizen participation. Citizen self-help programs are likewise more successful when there is effective community participation in law enforcement. Through citizen and law enforcement interaction, crime prevention programs gain support and acceptance from the community. In addition, there is a greater understanding by the citizen of the role of law enforcement and the mission and objectives of the police.


The Dade County Public Safety Department has found its police reserve unit to be an effective method of enlisting the help of citizens in combating crime and will encourage the continued development and growth of

the unit. The dedication of these citizen-police cannot be overemphasized.

**"The Dade County Public Safety Department has found its police reserve unit to be an effective method of enlisting the help of citizens in combating crime. . . ."**

Police reserve officers interact directly with the community, not only as law enforcement officers, but through occupational associations and professional relationships not readily accessible to the average police officer. Through these contacts, an attitude of community concern is generated toward law enforcement.

In a recent conversation, one of the original reservists (of the 21 gradu-

ates of class No. 1, 3 are still active) was asked what the reserve program meant to him. He replied: "I believe the police reserve program is the best police-community relations vehicle that a police department can employ. I have truly been enlightened as to what the police problems are. Before I joined the reserve I believed that I was as knowledgeable about the police as the average citizen but the past 8 years have given me an appreciation and understanding of the crime problem that no book, no school, or any other educational effort could have provided. . . . I have learned to respect our police officers and the law they are sworn to uphold." 

#### FOOTNOTE

<sup>1</sup> Police, National Advisory Commission on Criminal Justice Standards and Goals, U.S. Government Printing Office, 1973.

## Railroad Crime:

# *Old West Train Robbers to Modern-Day Cargo Thieves*

By  
**THOMAS W. GOUGH**

Staff Assistant to the General  
Director  
Security and Special Service  
Department  
Union Pacific Railroad Co.  
Omaha, Nebr.



Members of the Union Pacific "Rangers" led by Tim Keliher (th



Many new law enforcement officers are genuinely surprised to learn that America's railroads employ full-time law enforcement personnel to protect their interests. Use of personnel in such a role goes back many years to 1855 when Allen Pinkerton had the distinction of becoming the first railroad law enforcement officer hired to protect railroad interests. As

the rails were laid westward in the 1860's, railroad law enforcement experienced rapid growth and became a vital link between the railroads and other law enforcement agencies.

Pinkerton encouraged the use of burglarproof safes in all railroad express cars. By using such a heavy safe, any outlaws intending to rob the train had to use a large charge of black

powder or dynamite to blow it open. The resulting blast's magnitude usually destroyed the contents of the safe, as well as the roof and sides of the express car. Pinkerton also rec-

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**"As the rails were laid westward in the 1860's, railroad law enforcement experienced rapid growth . . . ."**

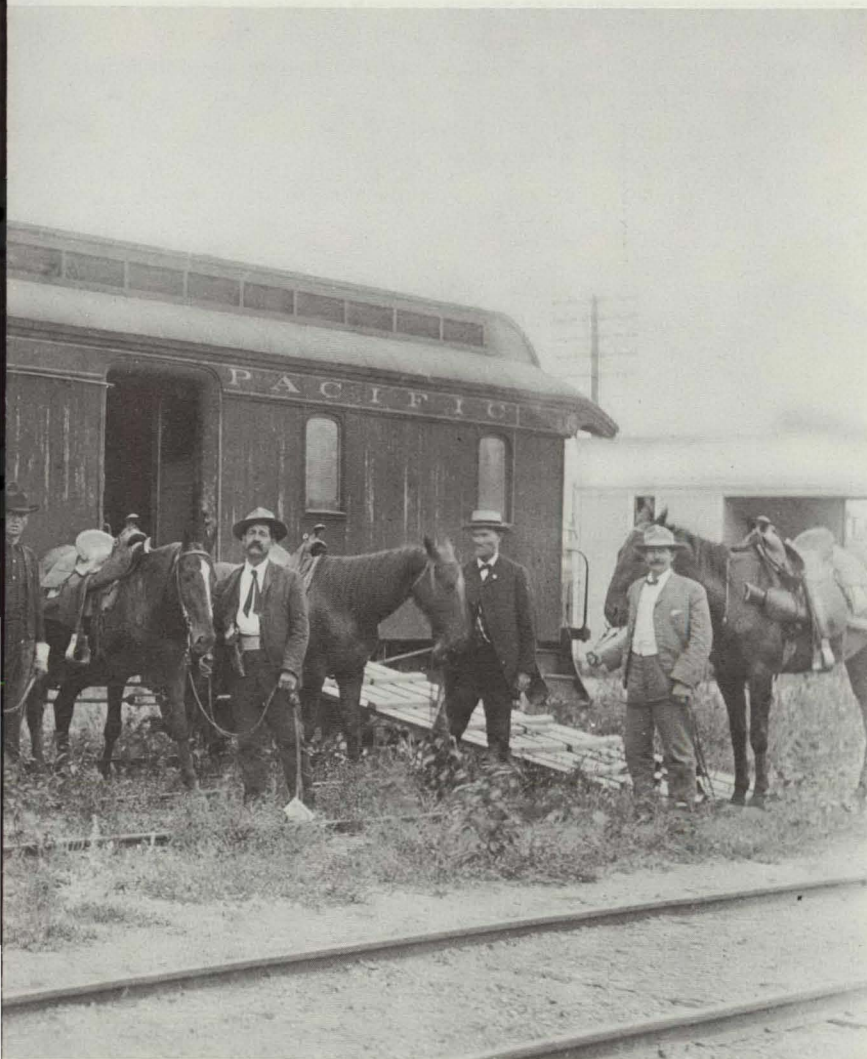
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ommended the employment of express guards heavily armed with high-powered rifles.

The infamous "Hole-in-the-Wall Gang" first struck a defenseless railroad in August 1878, when they held up and robbed a Union Pacific train at a site near Carbon, Wyo. Several days later, the gang reportedly killed two posse members—a deputy sheriff from Rawlins, Wyo., and a Union Pacific detective—who had been in pursuit disguised as prospectors.

### **"The Wild Bunch"**

Probably the most colorful and best known "Wild West" railroad crime occurred on June 2, 1899, near Wilcox, Wyo. The Wild Bunch, consisting of the roughest elements of the Hole-in-the-Wall Gang (primarily Harvey Logan, alias "Kid Curry," Robert Leroy Parker, alias "Butch Cassidy," and Harry Longbaugh, alias "The Sundance Kid"), forced the Union Pacific Overland Limited crew to uncouple the express car and remove it some distance from the passenger cars. Once this was done, the safe in this car was dynamited, and in the process, the entire express car was



destroyed. Thereafter, a select group of railroad special agents formed a posse called the "Rangers" and chased after The Wild Bunch.

This special outlaw-hunting posse (perhaps one of the first "SWAT" teams) had a specially equipped baggage car designed to carry eight members and their horses. The group was led by a former Lincoln County, Wyo., sheriff who later became the chief special agent for the Illinois Central Railroad. Upon notification that a train robbery had occurred, the Rangers were promptly taken to the scene by train in their special car. Upon arrival, they relentlessly pursued the outlaws on horseback.

Outlaw members of the gang all reportedly met violent deaths in diverse locations in Kansas, Missouri, Texas, Utah, Colorado, and South America.

Harvey Logan, the gang leader, was arrested at Knoxville, Tenn., in 1902 on a Federal charge stemming from another crime. He escaped in 1903 and pulled his last job on June 7, 1904. He, along with two other masked men, reportedly held up a Denver & Rio Grande train near Parachute, Colo. Their only loot consisted of a worn gold watch taken from an express guard. The next day, members of a posse wounded Logan, and he reportedly thereafter took his own life.

### ***Other Bandits***

There were other gangs, too. Sam Bass and the "Collins Gang" made a big strike against the Union Pacific on September 18, 1877, at Big Springs, Nebr. On this occasion, they robbed

the express car, obtaining \$60,000 in 20-dollar gold pieces.

Less well known, but every bit as troublesome, were the lone bandits such as "Parlor Car Bill Carlisle," who hit the Union Pacific four times. Carlisle once wrote a Denver newspaper and identified himself as the culprit after two hoboes were falsely accused of perpetrating one of his crimes. He also announced to the newspaper his plans for his next holdup, specifying the train he intended to rob. As a result, special guards were assigned to this train, but Bill disarmed one of them near Hanna, Wyo. and then forced him to collect the loot.

### ***"Shoot Fast and Ride Hard"***

From the beginning, the railroad special agents' responsibilities have

Photo of "The Wild Bunch" taken at Fort Worth, Tex., during the winter of 1900-1901. Standing: Bill Carver, Harvey Logan ("Kid Curry")  
Sitting: Harry Longbaugh ("The Sundance Kid"), Ben Kilpatrick ("Tall Texan"), Robert Leroy Parker ("Butch Cassidy").





Express car blown up by "The Wild Bunch" at Wilcox, Wyo., June 2, 1899.

been similar to those of public law enforcement—the protection of society (both life and property) and the prevention and detection of crime. The railroad special agent was a colorful part of the old Wild West. Being able to shoot fast and ride hard were important skills in the late 1800's. In addition to train robbers, there were also station holdup crooks, pickpockets, con men, and bootleggers to contend with. Because of his mission in countering such problems, the railroad special agent of the old West was considered as nearly a duly commissioned law enforcement officer as is his modern-day counterpart.

### ***Modern Railroad Police***

The railroad special agent of today is educated and well trained and equipped. Many railroads utilize the

Association of American Railroads (AAR) National Railroad Police Academy at Jackson, Miss., to provide formal law enforcement training for new personnel. The director of train-

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**"The railroad special agent was a colorful part of the old Wild West."**

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ing of the AAR's Police and Security Section coordinates entry level and advanced law enforcement training related to railroad needs. Approximately 500 railroad police attend training at this academy each year. It is located at the Mississippi State Law Enforcement Officers' Training Academy, one of the finest institutions and facilities of its type in the country.

Railroad police students attend two 2-week sessions covering areas germane to railroad law enforcement.

Basic law enforcement subjects covered include: Criminal law, mechanics of arrest, crime scene search, coordination with other law enforcement agencies, and firearms proficiency. Academy instructors include enforcement and security experts from the various railroads, as well as representatives of the Mississippi State Highway Patrol and special agents of the Federal Bureau of Investigation.

While attending the academy, railroad special agents participate in a particularly excellent firearms training program. Many railroads require their special agents to fire a minimum score of 60 out of a possible 100 on the Practical Pistol Course during the training. This stimulates many special agents to become interested in competitive combat shooting, and several railroads are usually represented at police pistol competition champion-

ship matches held each year at Jackson, Miss.

Another training medium is the International Railroad Police Academy Course. This consists of a 2-week session designed for management-level personnel held annually in Chicago for the past 26 years. Training time is divided between a comprehensive review of the state-of-the-art of railroad law enforcement and management training.

Various States specifically recognize individual railroad's efforts in

training. In California, the Commission of Police Officer Standards and Training (POST) issues a basic POST certificate to railroad special agents successfully completing the Southern Pacific Railroad's 240-hour academy. This certificate indicates that the holder has completed the necessary basic training required for a law enforcement officer in that State.

### **Responsibilities**

The railroad special agent's respon-

sibilities include the protection of personnel, cargo, and property. Investigations relating to thefts of cargo, burglaries of company property, and acts of vandalism occupy most of the agent's time. However, train derailments, extortion attempts, crimes of violence, and many other felony and misdemeanor crimes that involve railroad interests are also investigated by railroad special agents.

Theft losses from rail shipments in 1974 amounted to \$15.2 million and

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**"Theft losses from rail shipments in 1974 amounted to \$15.2 million and in 1975 rose to \$20.7 million."**

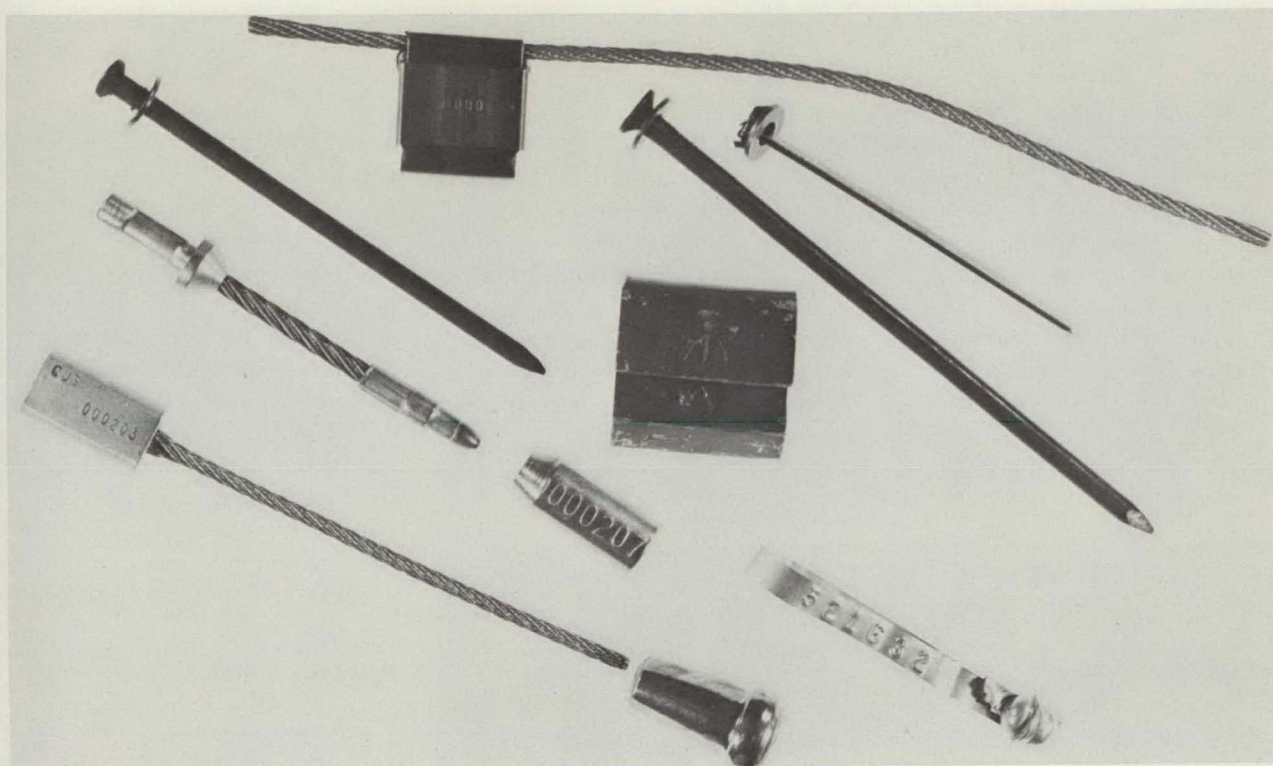
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Boxcars are usually sealed with a small metal seal which provides proof-of-load security only. Some form of additional security is usually applied, and in this case, a 60-penny nail is applied to the door hasp to prevent easy entry.



in 1975 rose to \$20.7 million. It may be surprising, but often cargo worth thousands of dollars is loaded on one coast and transported across the country protected only by a small and fragile metal seal. The seal's purpose is to show proof-of-load security only. To cover such weaknesses in security, railroad police, marketing, and traffic-sales departments all work with the various shippers to develop security awareness. Cargo crime is often reduced after the railroad police have helped the shipper analyze his transportation security needs and the shipper has thereafter taken necessary protective actions. This analysis includes security considerations relating to methods of packaging the product, shipping schedules, routes of shipment, and the desirability of applying a security device designed to prevent casual theft.

Frequently, if a thief is smart enough to close the railroad boxcar door following a theft, the loss is not discovered until the boxcar reaches its destination. Claims for theft or loss are paid by the railroads based on the records maintained regarding the car seals—from the last good record to the first bad record. "No record" is considered a bad record. Therefore, it



Just a few of the various devices used by the railroads and shippers to seal loads, and in some instances, to assist in preventing easy entry.

benefits each railroad handling a load to maintain proper inspection records concerning such cargo throughout its transit.

### Cargo Security

Security of cargo is a high-priority interest of the railroads; however, the problem must be approached from a cost-effective basis. It is often financially unrealistic to apply \$10 worth of security devices to a boxcar everytime it is loaded.

By utilizing the computer, and through faster methods of handling claims, the railroads are identifying loads with high-theft risks. They can then be afforded special security. Physical inspection of loads at intervals en route helps the railroads identify theft prone routes and areas where special attention must be given to

prevent theft. Sometimes altering train schedules or making route changes solve particular theft problems.

Railroad police provide vehicle and foot patrols for their yards and industrial areas where freight cars are located. These patrols place special emphasis on discouraging trespassing on railroad property. In some instances, railroads are using dog and handler patrols to deter crime in railroad yards. When high-value or risk loads have to remain for a period in areas with a crime potential, a stakeout is often provided to insure their protection. Onsite teams may stakeout a particular cargo load or a group of loads. Remote surveillance can be accomplished through the use of radio transmitters with noise-activated microphones. Closed-circuit television and high-powered infrared optical de-

vices also are employed in certain instances.

Obviously, railroad special agents cannot provide continuous protection for approximately 2 million freight cars scattered over more than 200,000 miles of mainline track. The Eastern United States provides the greatest security challenge to the railroads as rail yards are often located in densely populated areas where socioeconomic conditions are a factor in breeding crime.

Hiring security personnel is only one aspect of a program for protecting cargo on railroad property. The use of adequate fencing and extensive lighting, as well as a program of good housekeeping and other measures, can also be complementary theft deterrents. It is recognized that fences are a costly budget item and they frequently stop only the casual thief.

Fencing of rail yards has proven ineffective in some areas as the fences have been vandalized or destroyed faster than maintenance crews can repair them. However, keeping company property in good repair with an uncluttered and orderly appearance, as well as the availability of lots of artificial light during darkness hours, have been effective security aids in some areas. The brightness and neat appearance avoids creating an image which could be capitalized on by would-be thieves.

### ***Outsiders Usually Involved***

Other modes of cargo transportation find that many of their losses are due to thefts perpetrated by employees. Railroad thefts, however, usually involve outsiders. This phenomenon may be attributed to the industry's early development of an internal security element and firm support of prosecution of any persons determined to be involved in criminal acts.

Once a theft from a load is ascer-

tained, agents are assigned to establish where the theft occurred. Unless there is evidence that the load was entered where the theft was discovered, there is usually little chance of apprehending and prosecuting the parties responsible as just locating where the crime occurred can be quite difficult. Occasionally when stolen cargo is recovered, investigators find they are unable to prove that the cargo had been stolen from a particular car because some shippers do not record the serial numbers of the products they ship. This problem can be solved only if the shipper is convinced that accurate documentation is a necessity. Whenever available, serial numbers of stolen cargo are entered into the National Crime Information Center.

Stealing railcar journal brass has been a source of income for some thieves for many years. The railroad car axle pictured has a brass journal on each end. Pictured are several different pieces of journal brass, and each may weigh from 10 to 30 pounds.



### ***Precious Metal Theft***

Railroads are often victims of precious metal thefts which involve losses of copper communications wire and railcar journal brass. Often, the same thieves that steal copper wire from telephone and electric companies also steal it from the railroads, who utilize extensive telephone networks and rely on thousands of miles of communication lines to relay train signals.

Stealing journal brass requires more effort on the thief's part than snipping copper wire. Brass thieves remove journal brass bearings from the car wheel axle by lifting the car to remove the weight from the axle. After removing the journal brass, it is usually sold for scrap. The initials of the railroad installing the brass are always stenciled on it. Fortunately, this type of car axle is being replaced by new roller bearing equipment, and such actions should eventually eliminate this particular theft problem.

### ***Support From Others***

The railroads greatly appreciate the support received from public law en-



Andals broke this van window with a rock. Railroad personnel record the damaged load, make temporary repairs, and attempt to stop any acts of vandalism observed.

enforcement agencies. America's estimated 4,500 railroad police could not begin to protect such a vast responsibility without a tremendous cooperative effort from all law enforcement agencies.

Railroad agents work closely with the FBI on appropriate theft from interstate shipment cases. As most

**"The railroads greatly appreciate the support received from public law enforcement agencies."**

cargo thefts and losses of company property are usually within the purview of local jurisdictions, a close working liaison is maintained with many city and county law enforcement officers, as well as with local prosecutors.

On the national level, the Associa-

tion of American Railroads, through member railroads, participates in various national efforts striving to reduce cargo crime. In this regard, 12 of the anti-cargo-crime "City Campaigns"<sup>1</sup> have active railroad representation on their steering committees.

A representative group of different railroad chief special agents comprise the AAR's Police and Security Section Committee of Direction. This committee provides guidance for the industry and is responsible for arranging the annual railroad police conference held in conjunction with the International Association of Chiefs of Police National Conference. This railroad conference provides a medium for top railroad security and enforcement people to discuss common problems and to seek sound solutions.

Some railroads approach cargo

crime from yet another angle—by participation in activities of the American Society for Industrial Security. Through this organization, professional security personnel employed by shippers and carriers exchange valuable information relating to their common cargo-theft problem.

Railroad police also participate in local, regional, and national seminars and panel discussions called to discuss various aspects of the cargo problem. And, of course, through informal contacts during the transaction of regular business, railroad police exchange information with representatives of various agencies which have a mutual interest in reducing cargo security problems.

Public law enforcement agencies assist the railroads in many areas. These include investigation of railroad cross-

ing accidents, internal crime problems, and vandalism or theft of company property.

Without the valuable aid and assistance of the public sector of law enforcement, railroad security personnel would have a much tougher job, and vice versa. The true value of this relationship is mutually beneficial.

### ***Illegal Trespassing***

A traditional area of railroad law

never ridden a passenger train and yet, surprisingly, some of them will not hesitate to hop a freight train and ride under the dual wheels of a piggy-

**“Strict enforcement of trespassing laws and maintenance of a record of previous offenders discourage trespassing and attendant vandalism.”**

back trailer mounted on a railroad car. “Riding the rails” is illegal in most States, and due to this factor and

locomotive and train has often attracted the interest of people of different ages. Many think it's harmless fun to see trains run over objects placed on the track. This game for many is limited to placing small coins on the track. For others, however, it sometimes progresses to larger objects such as rail cross-ties, oil drums, or even automobiles. Track obstruction, sometimes even of a small nature, can cause serious train derailments.

Malicious vandalism of railroad



Train derailments are not as prevalent as they once were. Railroad police with the assistance of local law enforcement agencies provide protection against looting.

enforcement relates to efforts to control the railroad-riding hobo or knight-of-the-road. The prevalence of this colorful figure is almost a thing of the past. Today's illegal train rider often has a better chance playing Russian roulette as the speed of today's trains, combined with the frequent unfamiliarity of the rider with the train's movement, presents a most dangerous situation. Many young people have

the many serious hazards involved, it should be discouraged whenever possible.

Another form of trespass stems from the urban congestion prevalent in many regions. Invariably, if people are allowed to travel across, or play on, railroad property, problems will eventually develop. The excitement of placing objects on the tracks or attempting to impede or stop a powerful

signals and switches costs the railroads millions of dollars each year and in many instances poses potential or actual hazards for the trains. Vandalism to cargo carried by the railroads is also a serious problem. The total claim payout for cargo vandalism exceeds that paid out for actual thefts. Throwing of rocks and other objects at trains is a fairly common problem and this sometimes pro-



Local law enforcement agencies and railroad police in most areas have a close working relationship. In this scene, two Union Pacific special agents discuss a mutual problem with a Kansas City, Mo., patrolman.

resses to shooting at trains, their cargoes, and signals.

Strict enforcement of trespassing laws and maintenance of a record of previous offenders discourage trespassing and attendant vandalism. Preventing informational programs to children attending schools near rail yards and tracks has been a successful means of preventing railroad property from becoming a playground. When the hazards of trespassing and the illegal nature of related activities are illustrated and emphasized, the problem usually is substantially eliminated.

## Train Wrecks

Under the Federal Train Wreck

Statute (title 18, U.S.C., sec. 2153), the FBI has jurisdiction when a person (or persons) willfully attempts to, or actually does, derail, disable, or wreck a train engaged in interstate or foreign commerce. Violations under the act could also be present under various specified conditions if a person (or persons) willfully damages or attempts to damage railroad property or facilities used in connection with interstate or foreign commerce.

If a train is wrecked, disabled, or derailed, regardless of cause, railroad special agents provide for security and crowd control at the scene during these serious situations. They also, of course, offer their assistance to appropriate public officials who may

have jurisdiction for investigating such incidents.

## Conclusion

The next time you are waiting for a train to clear a road crossing, remember this article and scan the train with a professional eye. You might see or think of something related to railroad security that hadn't been noticed before. If so, contact the railroad involved (many cities are served by several railroads) and someone will be able to direct you to the railroad police or a special agent or investigator. Most cities with rail yards also have a railroad special agent in residence. Usually the territory between major terminals is assigned to a special agent working out of the major terminal. Where there is a railroad track, somewhere not too distant there is usually a railroad special agent assigned. Your input will be appreciated and could contribute to improving the security of an important element of America's transportation system.

The railroad police appreciate the frequent assistance they readily receive from various law enforcement agencies. They in turn are willing to assist law enforcement agencies, whenever and wherever possible, consistent with their railroad responsibilities. Through cooperation and effective communication, everyone's job in this area is made easier and more efficient.

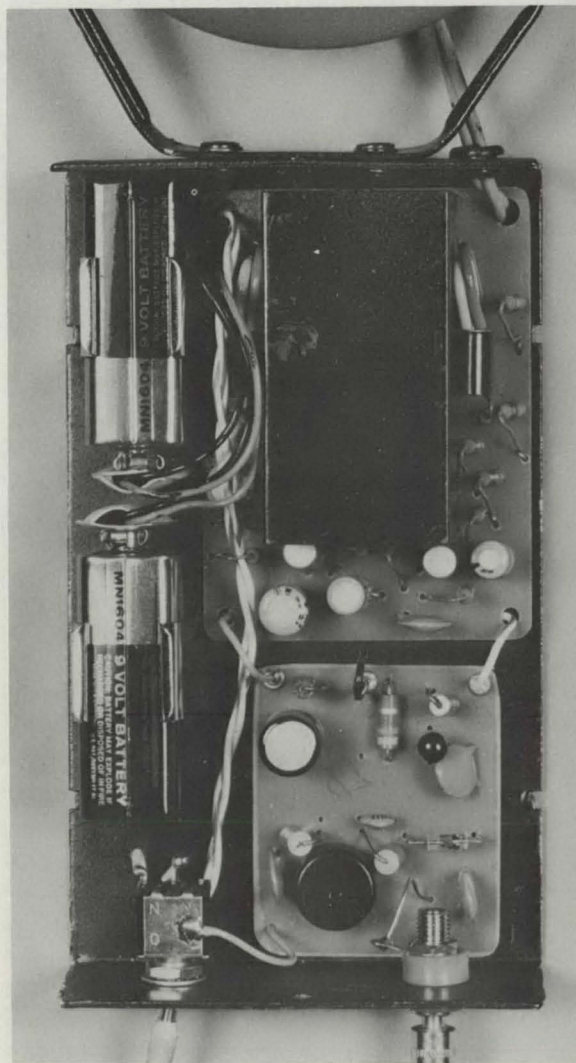
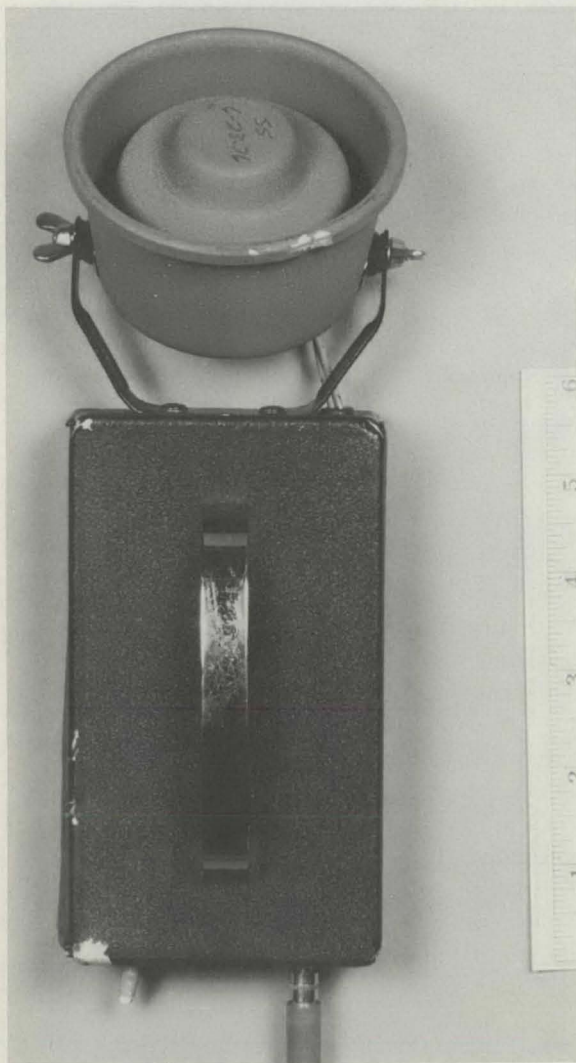
## FOOTNOTE

<sup>1</sup> In recent years, at Presidential direction, the U.S. Secretary of Transportation has provided leadership, guidance, and technical assistance in coordinating the efforts of Federal agencies and the transportation industry in the search for solutions to cargo security problems. The railroad police have eagerly accepted this help and have joined with pertinent Federal agencies, State and local officials, and various transportation components in a spirit of cooperation in combating cargo crime through a National Cargo Security Program (NCSP). As a key part of the NCSP, the "City Campaigns" seek to reduce cargo crime through effective interaction and communication between various transportation industry elements and the diverse levels of law enforcement including prosecution components. Cities participating are major ones with significant transportation industry concentrations and attendant security problems.

# WARNING FOR UNDERCOVER OPERATIVES

Undercover narcotics deputies of the Los Angeles County, Calif., Sheriff's Department have encountered a number of transmitter detectors similar to the device depicted in the photographs below. Such a unit is specifically designed to detect small transmitters concealed in a room or on a person. Although the device must be placed quite close to the hidden transmitter in order to detect it, this type of detection device reportedly works remarkably well. Recovered units appear to be well made, possess good circuit boards, and are apparently being semi-mass produced.

In planning undercover operations wherein body transmitters are to be utilized, plans should include adequate and prompt response and rescue options should the transmitter be discovered on the undercover officer through use of a transmitter detector or other means.



# Entry Into Premises for the Purpose of Executing an Arrest Warrant

By  
**J. PAUL BOUTWELL**  
Special Agent  
Legal Counsel Division  
Federal Bureau of  
Investigation  
Washington, D.C.

Consider the following hypothetical case: your department has an arrest warrant for Richard Roe and efforts to locate and apprehend him have been unsuccessful to date. An anonymous telephone tip informs your switchboard operator that he is currently at 114 East 14th St., Apartment 3-A, in your city. The operator notifies the officer to whom the case is assigned. The address furnished is not Roe's address of record but that of an unknown third party. The officer, with assistance, proceeds immediately to the address furnished by the tipper, knocks on the door, identifies himself, states

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

his authority and purpose, and demands entry. A voice from within refuses admittance. The officers force entry, and the apartment is searched for Roe.

Assume the following factual variations:

- (1) Richard Roe is not in the apartment, and the officers depart.
- (2) Richard Roe is not in the apartment, but the officers observe contraband lying on a table-top. The evidence is seized, and the occupant arrested.

(3) Richard Roe is in the apartment, and the search of his person, incident to the arrest, reveals a loaded gun. While arresting Roe, one officer observes contraband on top of a chest of drawers in "plain view." The evidence is seized, and the third-party occupant arrested.

The hypothetical case and its number of factual variations are designed to emphasize the constitutional significance of an entry into private premises, especially those of a third party, in order to execute an arrest warrant.

The legal sufficiency of the arrest is essential. The existence of an arrest warrant represents judicial authority for the arrest of the person named in the warrant. The problem presented in our case, however, is with the reasonableness of the entry rather than with

the lawfulness of the arrest. While the entry may not deprive the court of jurisdiction of the person arrested,<sup>1</sup> it may well have adverse effects as far as the officer is concerned. The reasonableness of the entry arises in two contexts: (1) Evidence seized in "plain view" is challenged; and (2) a civil suit is brought against the officer for an alleged abuse of process or violation of constitutional rights.

**"The arrest warrant . . . does not represent judicial determination that any particular premises may be entered to execute the warrant."**

This article discusses the legal principles that govern arrest entry. Highlighted is a recent case that indicates

a search warrant may be necessary absent exigent circumstances, before an arrest entry is deemed reasonable at least in the premises of a third party. A short discussion of what facts constitute exigent circumstances is included. In conclusion, the possible legal consequences of our factual hypothetical case are discussed.

## ***Entry Into Premises To Execute Arrest Warrant***

### **Majority View**

An officer with a warrant for the arrest of an individual may enter upon private premises to arrest the individual named therein, if he has reasonable cause to believe that such party can be found there.<sup>2</sup> An officer seeking to make such an arrest may demand entrance to effect the arrest, and use force to enter if his demand is not complied with.<sup>3</sup> If making the demand would lead to the escape of the person to be arrested or destruction of evidence, or endanger the officer or other persons, the demand may be omitted.

The arrest warrant, while it represents judicial authority for the arrest of the individual named therein, does not represent judicial determination that any particular premises may be entered to execute the warrant. The arresting officer must, normally, make the judgment of whether reasonable grounds exist for believing that the person to be arrested is in a particular premises. His judgment must not be arbitrary. It must be supported by objective facts.

Courts generally recognize the conflict caused by an arrest in private premises, especially when the premises are those of a third party. They attempt to balance competing social interests, which are: (1) The desire to give the arresting officer the widest possible discretion in deciding the time and place to make an arrest; and (2) the need to recognize the privacy

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## **FBI DRIVE AGAINST WHITE-COLLAR CRIME**

The FBI reported noteworthy achievements during fiscal year 1976 as a result of its national drive against white-collar crime.

Investigative accomplishments in this field involved, among others, disclosure of land frauds in Arizona, forged and stolen securities in Missouri, industrial espionage in Illinois, and short loadings of grain in Louisiana, each of which involved millions of dollars in costs to the American consumer and the business community. In total, more than 4,600 convictions resulted from FBI investigations into matters of this nature, a record and an increase of 856 over 1975. During the fiscal period, FBI investigations of white-collar crimes resulted in fines, savings, and recoveries totaling \$206 million, an increase of \$11 million over the previous year.

According to FBI Director Clarence

M. Kelley, white-collar criminals, whose trademark is the covert criminal act, have increased in number within recent years, and the FBI anticipates even greater investigative involvement in this area as a result of the Bureau's recruitment of more Special Agent-Accountants. Director Kelley also indicated that FBI Agents are being provided increasingly sophisticated training in regard to crimes of this nature. Along these lines, a recently developed 4-week advanced computer training program for the Special Agent-Accountant is offered at the FBI Academy in Quantico, Va. Computer documentation and automated banking procedures are covered during this training, and a banking environment is simulated to better prepare attendees for investigating frauds against the banking community.

of premises, and not allow the arrest power to undermine the policies limiting searches without a warrant. When urged to require a search warrant before entry, most courts have refused to do so.<sup>5</sup> Reasons given are that prior judicial determination as to probable cause for arrest, the mobility of the person, plus the reasonable grounds requirement before entry, constitute sufficient protection of one's privacy interest. An opposite holding, it has been stated, would "encumber criminal prosecutions with endless litigation with respect to the existence of exigent circumstances, whether it was practicable to get a warrant, whether the suspect was about to flee, and the like."<sup>6</sup>

A case which illustrates the majority view is *Monette v. Toney*.<sup>7</sup> In that case, Mrs. Toney sued the chief of police, Monette, for unlawful search of her house. She was awarded a judgment against the chief, and he appealed. At the time of the search, the chief had in his possession an arrest warrant for one Gus Nelson. Reliable information was received that Nelson was then at the home of Mrs. Toney. Upon receiving this information, Chief Monette, accompanied by two officers, went to the home of Mrs. Toney. After informing her of the purpose of their visit, they searched the house and grounds for Nelson. Monette did not have a search warrant for Mrs. Toney's home, and there was no indication that she consented to the search. The jury awarded a judgment to her on the theory that her constitutional rights had been violated since the chief searched her house without first having secured a search warrant. The Supreme Court of Mississippi reversed the case and held the entry and search of the premises to have been reasonable. The court wrote:

In order to make the arrest of a person charged with crime, an officer has authority to enter and search any dwelling house, when

he acts upon probable cause and reasonable belief that the party whom he seeks to arrest is then in such dwelling house.

Such officer, in seeking to arrest one charged with crime, whose arrest he is legally authorized to make, may enter and search the dwelling house of the accused, or the dwelling house of any other person when acting in good faith upon reasonable belief that the accused is in the house, and this is true whether the owner or possessor dwelling in the house consents to such search or not; and when search

**"An arbitrary invasion of the privacy of the home is the 'chief evil' to which the fourth amendment is directed."**

by an officer is made in a reasonably necessary manner under these circumstances for the purpose only of apprehending the person whose arrest he seeks, the officer violates no right or law and is not liable for damages, and is not required to have a search warrant. . . . The constitutional provision against unreasonable seizure and search never intended that the execution of criminal process in the apprehension of persons convicted or charged with crime should be thereby delayed or hindered. Such reasonable search in the due enforcement of the criminal laws of the land is not an invasion of the personal security of the citizen.<sup>8</sup>

As long as the purpose of the entry has been tied to the arrest, and not as a pretext to justify a search and seizure of evidence, the authority to enter has gone largely unchallenged. The Supreme Court's decision in *Chimel v. California*<sup>9</sup> limiting the per-

missible scope of a search of premises incident to arrest, decreased the incentive to use an arrest on private premises as a substitute for a search of those premises under a warrant.

### Minority View

An entry into premises of a third party to execute an arrest warrant should be made under authority of a search warrant. Entry may be without a search warrant when the officer is faced with exigent circumstances and when probable cause exists to believe the person to be arrested is inside.<sup>10</sup>

An arbitrary invasion of the privacy of the home is the "chief evil" to which the fourth amendment is directed. To prevent such invasions, the framers interposed a search warrant requirement between private citizens and the police, reflecting a belief that, absent special circumstances, the decision whether the right of privacy should yield to a right to enter and search a particular place should rest not with the policeman, but with a disinterested judicial officer whose approval for a search could apply only to a particular place and after a showing of probable cause.<sup>11</sup> While the objective of an arrest entry is an arrest, the arrest can only be effected if the subject is first found, and thus a search is a necessary prerequisite to the possible arrest. Preference for prior judicial determination should control a contemplated entry of a third-party's home, regardless of what is sought. "If the policeman has probable cause to believe that a suspect he wishes to arrest is inside the home, he can demonstrate this to a magistrate and obtain a search warrant for the suspect. If he fails to obtain a warrant, then an arrest entry without a search warrant will be permissible only if exigent circumstances . . . obtain."<sup>12</sup>

A case which illustrates the minority view is *United States v. Cravero*.<sup>13</sup>

In this case, Federal officers had arrest warrants for three individuals. They had probable cause to believe that the subjects of the warrant were located inside a third-party's premises (an individual for whom they had no warrant). Entry to arrest was made at 1:15 a.m. The officers had delayed an earlier arrest opportunity at a restaurant because of fear that an informant's identity would thereby be jeopardized. One of the individuals named in the arrest warrant was arrested in the living room, another in the doorway of the bedroom, within reach of a pistol. The pistol was seized. Scuffling sounds were heard from an adjacent bathroom. Believing the third individual to be inside, agents entered the bathroom and observed another individual for whom no warrant existed, with a large quantity of

**"Generally, the phrase ['exigent circumstances'] can be taken to mean those circumstances which indicate a need for immediate action."**

cocaine. He was arrested, and the drugs seized. All three were convicted.

On appeal, the court held the delay in making the arrest was reasonable. The arrests made under the authority of the warrant were legal. The gun seized near the second subject was reasonable as a search incident to a lawful arrest. The court noted, however, that the officers were not faced with exigent circumstances and thus they should have obtained a search warrant before entering the premises to execute the arrest warrants. The entry was therefore unreasonable. The court related the officer's entry into the bathroom (where they heard scuffling sounds) to the legal arrest and therefore justified the bathroom entry as a proper safety check. Since the officers reasonably entered the bathroom,

the drugs were seen in "plain view" and therefore reasonably seized. The court sought to explain in a footnote, "Something found in the living room in plain view would not have been admissible because the officers' presence there was improper. Only the legal arrest of Cravero . . . followed by scuffling sounds, created the 'extraneous valid reason' that in turn validated the safety check of the bathroom."<sup>14</sup> The conviction was affirmed.

Even in those few decisions which would require a search warrant prior to entry to arrest, the courts have recognized that "exigent circumstances" will excuse such compliance.

### ***Exigent Circumstances***

The phrase "exigent circumstances" is used increasingly by the courts in justifying warrantless arrests or searches. Even those courts which do not require as a matter of law that an officer first obtain a warrant, rely upon such factors in justifying the officer's conduct. Generally, the phrase can be taken to mean those circumstances which indicate a need for *immediate* action.

The following factors are significant in the showing of "exigent circumstances":

- (1) The crime for which the subject is sought is one involving violence.<sup>15</sup>
- (2) The subject is currently believed armed and dangerous.<sup>16</sup>
- (3) There is a likelihood that the subject will flee.<sup>17</sup>
- (4) Hot pursuit.<sup>18</sup>
- (5) Fear that the suspect might be summoning reinforcement by telephone or other means of communication, or ordering retaliation on an informer.<sup>19</sup>
- (6) Entry by one believed dangerous into the home of another believed by the police not to be in league with him.<sup>20</sup>

Other considerations affecting reasonableness of the entry are:

- (1) Entry was not forcible.<sup>21</sup>
- (2) Entry was made in daytime rather than nighttime.<sup>22</sup>
- (3) Length of time the subject has been in fugitive status.<sup>23</sup>
- (4) Arrest was not planned so as to take place in certain premises.<sup>24</sup>

### ***Conclusion—Hypothetical Case***

The hypothetical case presented at the beginning of this article raised the question as to the reasonableness of the entry to execute an arrest warrant. That determination, as we have seen, depends upon whether or not the officer had probable cause to believe that Roe was inside at the time the entry was made. Under the facts hypothesized, he obviously did not. An uncorroborated anonymous telephone tip does not constitute probable cause.<sup>25</sup> Therefore, the officer's entry was unreasonable. What are the legal consequences?

As to the first factual variation where Roe is not in the apartment and the officers immediately depart, the only context in which the reasonableness of the officer's entry will be questioned is in a civil suit against the officer. Although the officer decides in the first instance whether or not he has probable cause to believe the subject is within the dwelling, this determination is of course subject to judicial review in the event a civil proceeding is subsequently brought against the officer.

As to the second factual variation where Roe is not in the apartment but a "plain view" seizure and arrest of the occupant are made, the court must examine the lawfulness of the officer's presence. It has long been settled that objects falling in the plain view of an officer who has a right to be in the position to have that view are subject to seizure and may be introduced in

vidence.<sup>26</sup> The officer's determination of probable cause is of course subject to judicial review. The court must decide if the officer's presence was lawful. If the entry was unreasonable, it could not be said that he is "lawfully present," thus, the seizure is unreasonable and the arrest on which it was based would be illegal.

In the third factual variation where the officer is present in the apartment, the court must address the lawfulness of the arrest. Here it was sanctioned by an arrest warrant. The seizure of the apartment was justified, not under the "plain view" doctrine but as a search incident to a lawful arrest. The Su-

**"Most States limit the permissible objects of search and seizure to property."**

reme Court has held that items seized without a warrantless searches incident to lawful arrests are admissible. Such searches are considered "reasonable" under the fourth amendment terms because they are necessary to protect the arresting officers' safety and prevent the concealment or destruction of evidence.<sup>27</sup> On the other hand, the seizure of the contraband could be justified only under the "plain view" doctrine. As in the second factual variation, such a seizure depends upon the lawful presence of the officer. The fact that the subject was found in the apartment could not be used to justify the arrest entry since the reasonable grounds determination depends upon the facts that were known to the officer before the entry was made.

The obvious point of this hypothetical case is to illustrate the constitutional significance of developing probable cause before any arrest entry is made. Careful application of the probable cause standard to arrest entries will not only protect the arresting officer against potential civil liability but also will afford the best pro-

tection for evidence seized under the "plain view" rule.

The minority view as expressed earlier, that a search warrant be obtained before entering premises to execute an arrest warrant, absent exigent circumstances, raises the serious question of whether adequate procedures currently exist to obtain a search warrant when the thing to be seized is a person rather than property. Most States limit the permissible objects of search and seizure to property. Only two States—Delaware and Vermont—authorize the issuance of search warrants for persons for whom an arrest warrant has been issued.<sup>28</sup>

Officers should stay alert to any development regarding a search warrant requirement, absent exigent circumstances, before entering to make arrest. When in doubt, the best advice is to check with your legal adviser.

#### FOOTNOTES

<sup>1</sup> *Frisbie v. Collins*, 342 U.S. 519 (1952). See also *United States v. Cravero*, 536 F. 2d 637 (5th Cir. 1976); *Gerstein v. Pugh*, 420 U.S. 103 (1975).

<sup>2</sup> *United States v. Shye*, 492 F. 2d 886 (6th Cir. 1974); *United States v. Brown*, 467 F. 2d 419 (D.C. Cir. 1972); *United States v. McKinney*, 379 F. 2d 259 (6th Cir. 1967); *Lankford v. Gelston*, 364 F. 2d 197 (4th Cir. 1966); *United States v. Hall*, 348 F. 2d 837 (2d Cir. 1965).

<sup>3</sup> *Sabbath v. United States*, 391 U.S. 585 (1968); title 18 U.S.C. sec. 3109.

<sup>4</sup> *Ker v. California*, 374 U.S. 23 (1963); American Law Institute (ALI), A Model Code of Pre-Arraignment Procedure, Proposed Official Draft No. 1, 1972, sec. 120.6(2), captioned "Entry Without Prior Demand."

<sup>5</sup> *United States v. James*, 529 U.S. 999 (5th Cir. 1976); *United States v. Titus*, 445 F. 2d 577 (2d Cir. 1971).

<sup>6</sup> *United States v. Watson*, 423 U.S. 411, 423-424 (1976).

<sup>7</sup> 81 So. 593 (1919).

<sup>8</sup> Id. at 593-594.

<sup>9</sup> 395 U.S. 752 (1969).

<sup>10</sup> *Fisher v. Volz*, 496 F. 2d 333 (3d Cir. 1974); *Government of Virgin Islands v. Gereau*, 502 F. 2d 914 (3d Cir. 1974); *United States v. Cravero*, 536 F. 2d 637 (5th Cir. 1976); *England v. People*, 488 P. 2d 1347 (Okla. Cr. 1971).

<sup>11</sup> *United States v. U.S. District Court*, 407 U.S. 297 (1972).

<sup>12</sup> *United States v. Cravero*, 536 F. 2d 637 (5th Cir. 1976).

<sup>13</sup> Id. at 647.

<sup>14</sup> Id. at 649, footnote 38.

<sup>15</sup> *Dorman v. United States*, 437 F. 2d 385 (D.C. Cir. 1970); *People v. Bradford*, 104 Cal. Rptr. 852 (Cal. 1973).

<sup>16</sup> *United States v. James*, 529 F. 2d 999 (5th Cir. 1976); *Rodriguez v. Jones*, 473 F. 2d 599 (5th Cir. 1973).

<sup>17</sup> *Dorman*, supra; *McKinney*, supra.

<sup>18</sup> *Warden v. Hayden*, 387 U.S. 294 (1967); *United States v. Santana*, 49 L. Ed. 2d 300 (1976).

<sup>19</sup> *Cravero*, supra.

<sup>20</sup> *Cravero* at 647, footnote 30.

<sup>21</sup> *Dorman*, supra.

<sup>22</sup> ALI, supra, sec. 120.6(3) entitled "Special Restrictions on Arrests at Night."

<sup>23</sup> *Brown*, supra.

<sup>24</sup> *James*, supra.

<sup>25</sup> *Lankford*, supra.

<sup>26</sup> *Harris v. United States*, 390 U.S. 234.

<sup>27</sup> *Chimel*, supra.

<sup>28</sup> Del. Code Ann. Title 11, sec. 2305 (Supp. 1970); Vt. Stat. Ann. Title 13, sec. 4701 (Sub. 1971). ALI, supra, sec. 210.3(d), entitled "Permissible Objects of Search and Seizure."

## AGGRAVATED ASSAULTS INCREASE 45 PERCENT SINCE 1970

In calendar year 1975, there were an estimated 484,710 aggravated assaults in the United States, a figure comprising 47 percent of all crimes of violence reported. In one-quarter of the serious assaults reported, a firearm was used, and in almost one-half, a knife or other cutting instrument, blunt object, or other dangerous weapon was utilized. The summer months recorded the highest frequencies of aggravated assault. This 1975 volume is a 45-percent increase over 1970.

Law enforcement agencies were successful in solving 64 of each 100 cases of aggravated assault reported and persons under 18 years of age were identified in 11 percent of the clearances. Due to the nature of these offenses, arrests are frequently made upon the response of patrol units to the scene, a situation traditionally hazardous to the officers. During the period 1966-75, 157 officers lost their lives responding to disturbance-type calls, which frequently involve family or neighborhood arguments.

# WANTED BY THE FBI



Photograph taken 1975.

Photograph taken 1973.

**JAMES PAUL MAGOUIRK**, also known as **James Paul Bond**, **James Allen Lee**, **Louie Beaman Lefevre, Jr.**, **Ted L. Maddox**, **James Paul Magourik**, **Jim McGuric**, **Keith Lee Richards**, **J. White**, "Hot Rod"

## *Unlawful Interstate Flight to Avoid Prosecution—Grand Theft*

James Paul Magouirk is currently being sought by the Federal Bureau of Investigation for unlawful interstate flight to avoid prosecution for grand theft.

### The Crime

On May 27, 1973, Magouirk was arrested in Los Angeles, Calif., and charged with grand theft. When he subsequently failed to appear for trial, a bench warrant was issued for his arrest. Later, on December 17, 1974, a Federal warrant was issued at Los Angeles charging Magouirk with unlawful interstate flight to avoid prosecution for grand theft.

On April 10, 1975, Magouirk

was arrested by the FBI and Shreveport, La., authorities and charged with kidnaping. He escaped from the Confederate Memorial Hospital in Shreveport on April 14, 1975, at which time he commandeered a taxi cab and severely beat the cab driver with a railroad spike. He then allegedly drove the stolen vehicle to Houston, Tex., where it was found abandoned.

### Description

Age ----- 25, born July 26, 1951, Olney, Tex.  
Height ----- 5 feet 8 inches.  
Weight ----- 150 pounds.  
Build ----- Medium.  
Hair ----- Brown.  
Eyes ----- Brown.  
Complexion ----- Medium.

Race ----- White.  
Nationality-- American.  
Occupations ----- Auto salvage yard worker, custodian, electrician, painter, salesman, welder.  
Scars and Marks --- Scar on left side of chin.  
Social Security Nos. used ----- 467-94-1280, 467-94-1290.  
FBI No. ----- 199,981 L4.  
Fingerprint Classification:  
26 L 9 R I O M 12  
M I U O I O  
NCIC Classification:  
265513PM121313081413

### Caution

Magouirk is a psychiatric ward escapee who at the time of his previous arrest barricaded himself in a dwelling while threatening suicide. He should be considered armed and dangerous, possibly psychotic with suicidal tendencies.



Left index fingerprint.

### 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.

# FBI LAW ENFORCEMENT BULLETIN

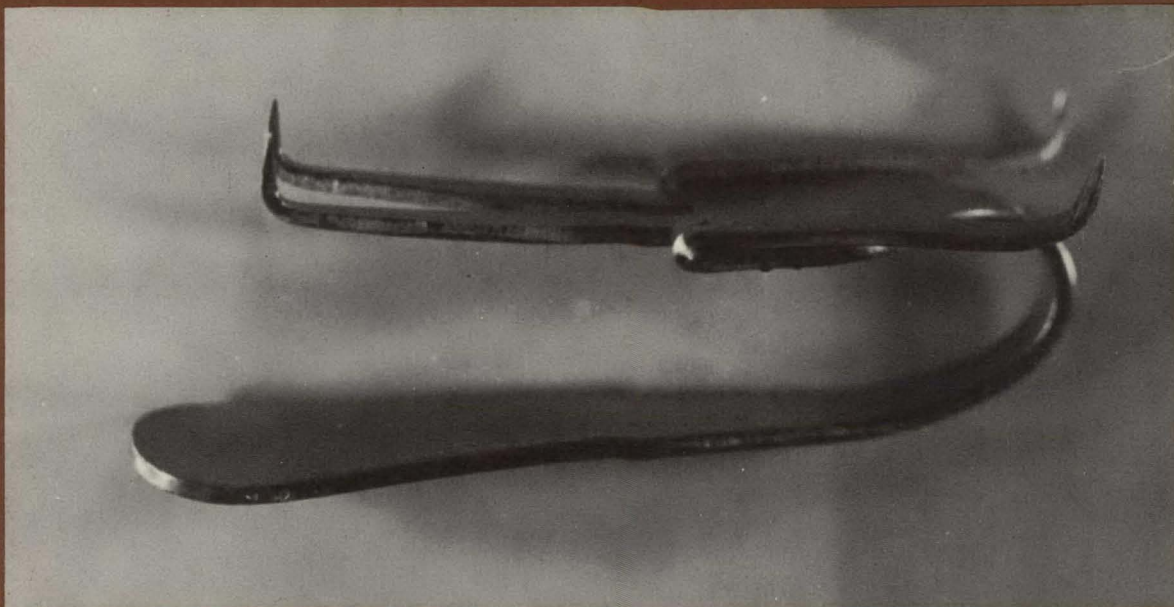
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WASHINGTON, D.C. 20535

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| (City)    | (State) | (Zip Code) |

## FORMIDABLE FORK



Recently, the U.S. Army brought to the BULLETIN'S attention a potentially dangerous homemade weapon recovered at their military ocean terminal in New Jersey.

Pictured above is an ordinary tablefork fashioned into a "brass knuckles" type device with razor sharp points. It is designed to be gripped by the handle with the bent tines facing outward and in the fist of an attacker could cause serious injury.

Law enforcement personnel should be alert to the dangers posed by homemade devices of this nature which are readily available, easily concealed, and often very effective weapons.

UNITED STATES DEPARTMENT OF JUSTICE  
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## QUESTIONABLE PATTERN



The above fingerprint impression has the appearance of a loop-type pattern. Close examination reveals the absence of a sufficient recurve (one of the three requirements for a loop), therefore, it is classified as a tented arch.