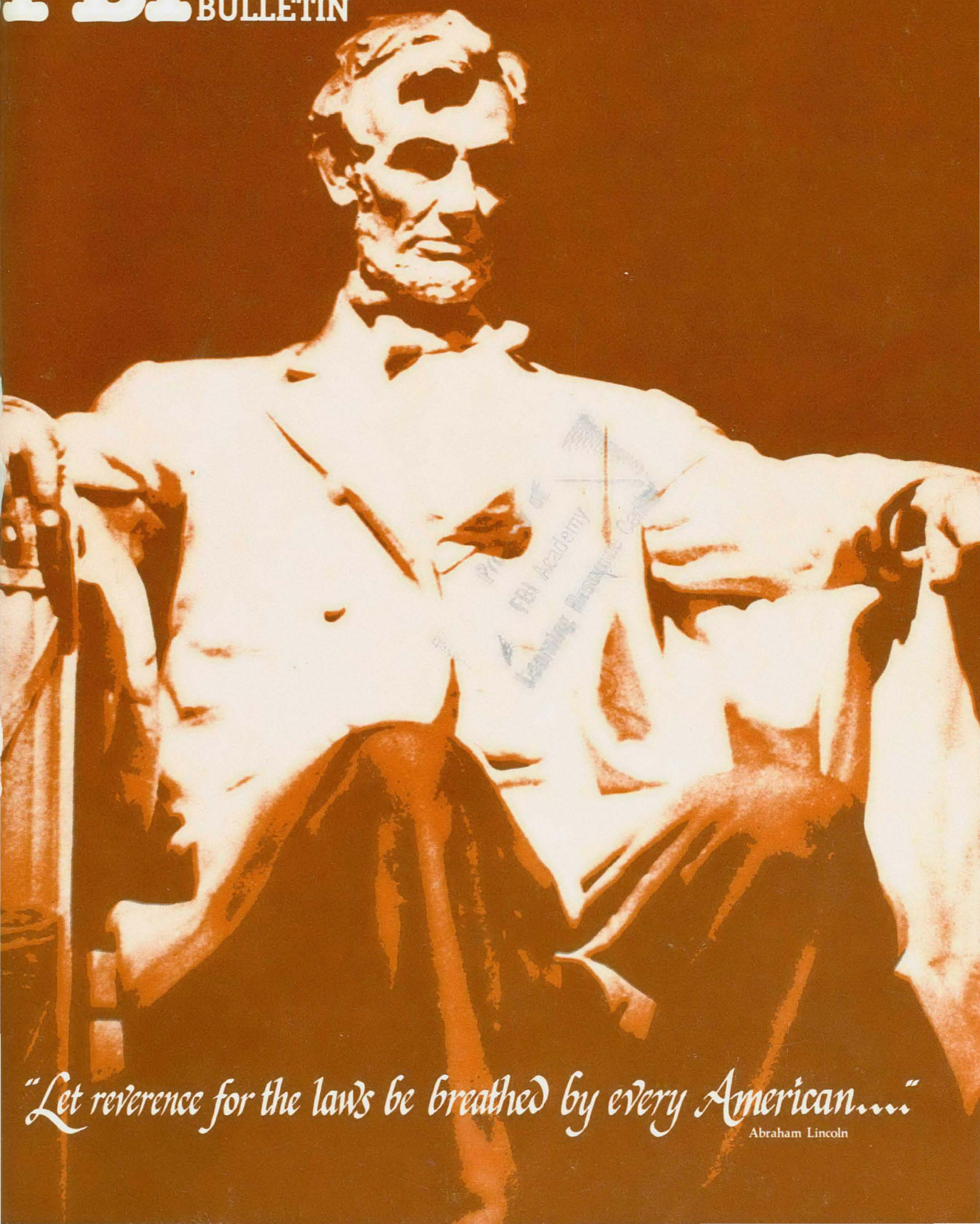


FBI LAW ENFORCEMENT BULLETIN

FEBRUARY 1979



"Let reverence for the laws be breathed by every American...."

Abraham Lincoln

FBI LAW ENFORCEMENT BULLETIN

FEBRUARY 1979, VOLUME 48, NUMBER 2

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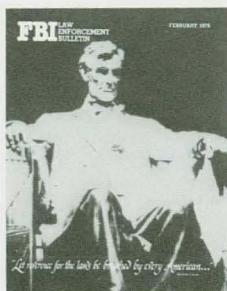
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Lincoln Memorial photograph courtesy the National Archives. Quote from address before the Young Men's Lyceum of Springfield, Ill., Jan. 27, 1837.



**Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535**

William H. Webster, Director

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The multitude of problems an investigator faces at the scene of an "open" or "mystery-" type murder case is compounded when the unfortunate victim has been buried. These cases are not common, but neither are they so rare as to preclude specialized training and instruction in their proper handling. It is a well-recognized fact that mistakes made during preliminary investigations, especially in murder cases, may well prove fatal to the successful conclusion of the investigation. Although no two murder cases are exactly alike, the basic facts remain the same: The main and possibly the ONLY witness is dead, and the investigation of the case forces investigators to make use of all their talent and training. Part of this talent and training should be directed toward preplanning for crises and recognizing the existence of specialized expert assistance which may be available to provide support.

This article is intended to provide an investigator with useful guidelines and procedures, so that the case of a buried body may be pursued confidently and successfully to the identification and arrest of the perpetrator. Specific attention will be devoted to such critical areas as preplanning, availability of expert assistance, surface processing and excavation of a grave site, removal and examination of a body, visual and aerial techniques in searching, and the use of mechanical aids.

Preplanning

One important facet of major case investigations is administrative preplanning, an area that is frequently and unfortunately neglected.

The case supervisor usually is confronted with a series of problems in the initial stage of the investigation, most of them requiring immediate decisions and actions. Quite often, the result is a great deal of confusion, which can hinder the successful completion of an investigation. However, this on-scene confusion can be avoided by good commonsense preparation covering many aspects of the investigation—from having the wherewithal to run a command post in a wooded area to an established written policy dealing with written confessions.

In the instance of buried body cases, this preplanning should include having on call all the various and necessary forensic experts. Such specialists include:

- A forensic pathologist*—one who can interpret and diagnose changes caused by disease and injury and apply them in a court of law (hopefully available to most departments as a medical examiner or coroner's assistant);
- A forensic archeologist*—one who can make a scientific study of material remains (fossils, artifacts, and monuments) and cultures of past human life and activities;
- A forensic anthropologist*—one who can assess skeletal remains and study man in relation to his origin, classification, relationships of races, physical characteristics, social relations, and cultures;
- A forensic odontologist*—one who is involved in the medicolegal system, providing assistance in the

Buried Buried Buried Buried Buried Body Cases

By ROBERT M. BOYD *

Training Division

FBI Academy, Quantico, Va.

**Former Commander, Homicide Squad,
Metropolitan Police Department,
Washington, D.C.*

identification of bodies through dental record examination and also evidence in cases of human bite mark interpretation;

A forensic toxicologist—one who deals primarily with poisons and their effect on organs;

A forensic psychiatrist—one who can deal with and treat mental, emotional, or behavioral disorders;

An entomologist—one who studies insect life; and

A botanist—one who deals with the study of plant life.

(The use of “forensic” applied to these medical specialties means the relation and application of medical facts to legal problems or “suitable for a court of law”—simply, legal medicine.)

Obviously, the evidence or crime scene technician, backed up by the criminalistics laboratory, is also a vital member of the team.

By now, it should be evident the investigator does not stand alone in his quest to answer the questions of who, where, when, what, why, and how.

In all murder cases, the investigator (or detective) is and should be in complete charge of the case, fully bearing the responsibility for any success or failure of the investigation. Notwithstanding this fact, however, the

case should be a joint effort, with all those specialists mentioned being involved and sharing equally in the successful conclusion.

Discovery

A number of cases involving buried bodies develop as the result of a body being accidentally found without prior knowledge or a suspicion that a body existed at that location. Occasionally, information is received that a body is buried and a location is given; these cases will be considered later.

The first duty of an officer responsible for such a case is to establish a list of priority items, despite pressures from both within and without the department. Do not allow yourself to be rushed or misdirected away from the proper and orderly procedures that should be followed. Upon notification of a body's discovery, attempt to ensure the entire scene is safeguarded, before your arrival if possible.

Generally, a hunter, passer-by, or construction worker will find the buried body and notify a police agency, whose representatives will respond to the scene. The entire area should be cordoned off, as with any scene, and access refused to *anyone* prior to the arrival of the investigator in charge, who can appraise the situation before any damage is done.

If the body has not already been removed from the burial site, an archeologist should be called to the scene as well as a forensic pathologist and evidence technician.

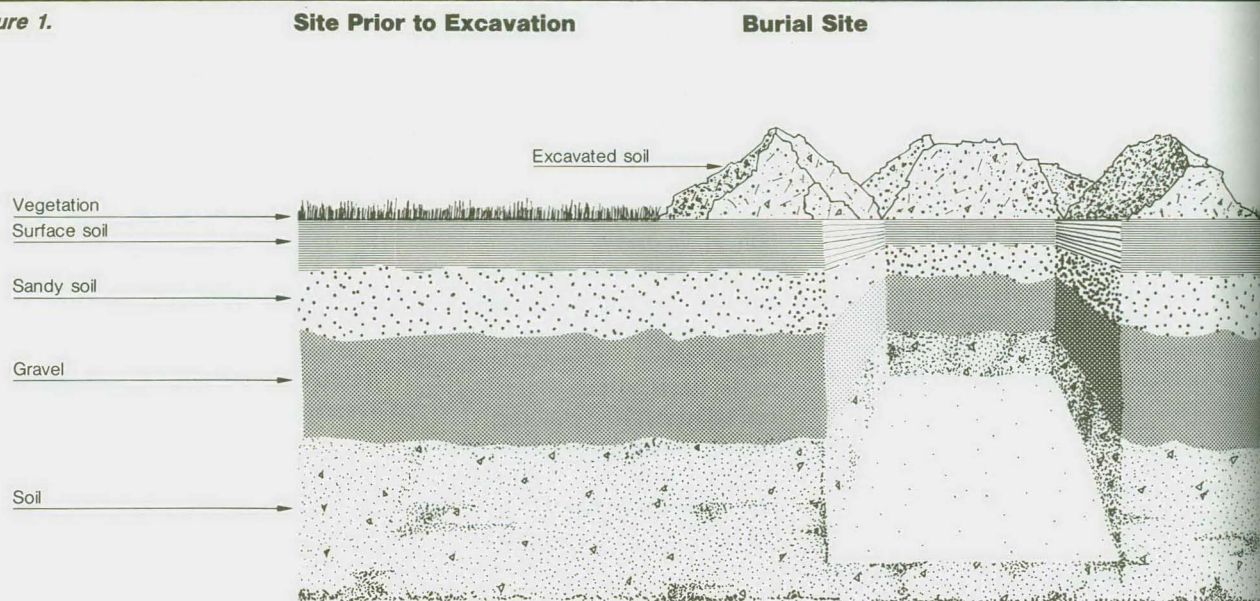
This example of preplanning is a critical element; these experts should have been contacted previously and contingency plans formulated so they will be on call when the need arises. Generally, these doctors look with enthusiasm toward such an opportunity, especially when the crime scene remains undisturbed.

The archeologist is proficient in the careful and systematic excavation of a burial site. Most of this phase of the investigation—the excavation—should be left to his direction, while others of the team assist as necessary.

The forensic pathologist is the expert most familiar to law enforcement officers, and his work is becoming more prevalent throughout the country as a replacement for the coroner. He can provide valuable and impartial expertise when investigating the various forms of death.

Unless some extremely unusual or exigent circumstances exist, there is generally no need to hurry at this stage. If, for example, the weather is inclement, post guards about the area and wait for proper conditions. If there

Figure 1.



is a need for immediate excavation, the erection of a tent over the site should be adequate. (This item should be included in preplanning equipment.) The same rule would apply during hours of darkness. Nothing is to be gained and all may be lost by a premature excavation. After the area is secured, all team members assembled, and plans completed, then the actual work may commence. The golden rule of homicide—"Never move, touch or alter anything until it has been noted, sketched and photographed"—is especially applicable in this type of case.

Prior to a thorough search and processing of the area, the entire site should be mapped. This would usually be done by the crime scene examiners who would draw plan views of the area to a workable scale with tie-ins to permanent landmarks. Then the search may continue, both visually and with mechanical assistance (metal detectors, etc.), and any items noted, sketched, and photographed.

Photographs should be taken of the entire area, including aerial views if possible. The team can then move in slowly to the actual site. Photographs, in both black and white and color, are to be taken at intervals up to and including the actual burial site. If possible, as with any discovered body, determine the path taken to the site by

the finding party, mark it, and then use *only* this way in for the initial investigation in order to preserve as much of the general area as possible. The photographer should be accompanied by the crime scene technician or investigator who can note and preserve any item of evidentiary nature on the way to the site—tire tracks, articles of clothing, possible weapons, or *anything* that might possibly be connected to the crime.

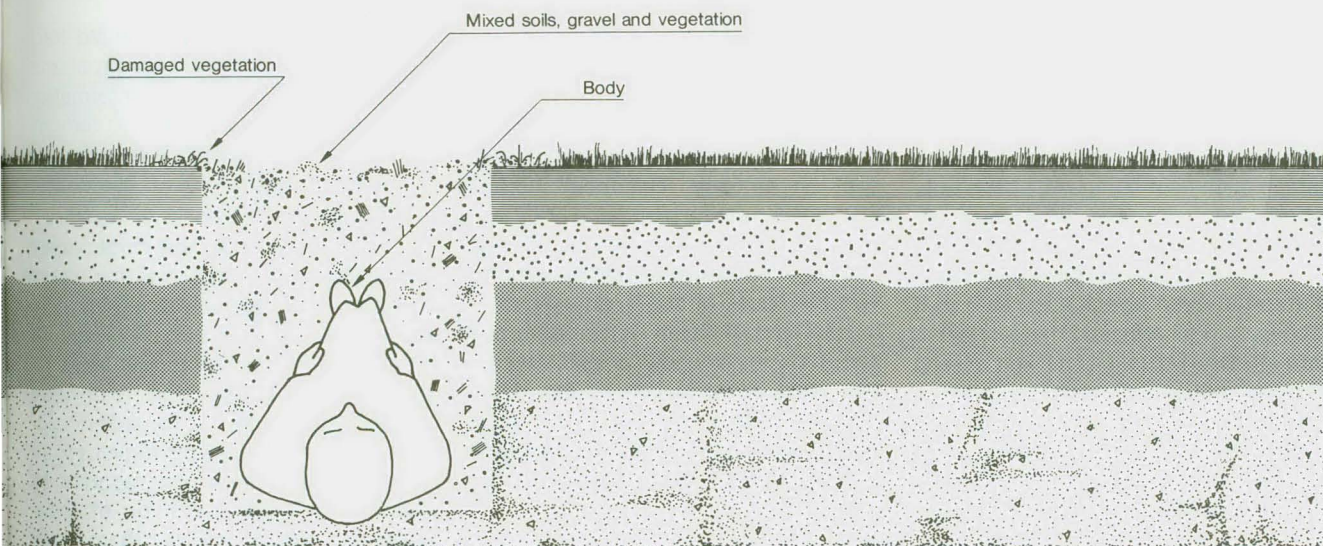
Photographs should *not* include any persons standing around the scene, or any items not originally located there, such as camera boxes, etc. At the same time, any item of evidence that has been moved, either accidentally or by mistake, must never be replaced for purposes of photographing. It can never be put back exactly the same way as found, and the fact it was moved and replaced for photographing could be damaging in subsequent court testimony. Items should be photographed with and without identifying numbers, a scale, and an arrow pointing to magnetic north.

The definition of the term "site" is important in the buried body case. When a grave is dug and the excavated soil is placed near the grave, the surface of the soil is disturbed, so that

the grave "site" is considered to be the entire disturbed area. Thus, if an average-size body were to be buried, the entire site of grave and disturbed section would easily measure 6 feet wide and 8 feet long. The depth of the excavation is generally dependent on the soil composition and the amount of time the subject had to spend at his task.

When the excavated soil is placed on the surface, vegetation may be compressed and/or broken off. When the grave is refilled, some of this surface vegetation will go back into the grave. (See fig. 1.) Here another expert may come to your aid—the botanist who can provide estimations as to how long the vegetation has been damaged by observing the height, distribution, and depth of root systems involved at the site. If a botanist is not available, measurements and samples should be taken for later study. Damage done by digging and refilling a grave may be visible and measurable for years, when compared to adjacent normal and undisturbed growth. If any dead insects are recovered from the grave, an entomologist may give information to their life span, activities, etc. Maggots, if present, will be included in this examination. An examination of their type, life cycles, etc., may enable the entomologist to give a minimum time span

Refilled Site



on the time of death. Samples of the fly larvae should be taken at each life stage found. These specimens can be placed in a solution of 85 percent alcohol for preservation while they are transported to the examiner.

Excavation

The surface of the grave should now be carefully cleared of extraneous material so that the boundary of the actual grave may be visible. This should be done with tools such as a flat-bladed spade or hand trowel. Then the dimensions should be recorded on the map and excavation begun.

Extreme care should be taken to preserve the exact limits of the original grave or the undisturbed remains, if part of the site had been damaged during the discovery. When the soil had been removed originally and then thrown back into the grave, the various layers and compositions of soil and vegetation became mixed or mottled (as illustrated). Slow and careful removal of this material may reveal the toolmarks made on the outside edges; it may even show the type of blade involved, whether curved or straight, with enough definitions to make toolmark identification later on a suspected shovel or other tool.

Prior to actual excavation, and after the photographs have been taken of the burial site in original condition, additional maps should be made of the site to show both plan and elevation views of the grave and to tie in items found both by horizontal location and depth. (See figs. 2 & 3.) Expert help may be available through a county or State highway department engineer or surveyor, who would have all the tools necessary to do the job properly. (Items such as a compass, plumb bob, string, protractor, and string level are necessities.)

The soil should be removed in somewhat even layers, such as 4 to 6 inches, and all removed material sifted through two screens. The first screen should have ¼-inch squares; the second should be a standard window screen. As items are located and recovered, they should be plotted on the elevation or side view of the drawings.

The completed drawing can then accurately reflect the various vertical levels of such items in the grave, as the plan view will indicate their horizontal distances apart. For comparison, soil samples should be taken where each item is recovered, and each should be accurately documented. Keep in mind items recovered may still bear latent fingerprints.

Body

When the body is uncovered and has tissue remaining on it, the forensic pathologist may make a cursory examination on the scene. When this examination is completed and photographs taken, a freshly laundered or new sheet should be available and the remains carefully placed in it so as to preserve any evidence not immediately visible but which might be lost in transit. Next, fold the edges over and place the sheet in a body bag or container for removal to a proper place of autopsy (hopefully a well-equipped and lighted morgue). The sheet, together with any other physical evidence, will be separately marked for identification, packaged, and handled following proper and proven procedures, as outlined in Part IV of the FBI Handbook of Forensic Sciences.²

After removal of the body, the grave should again be photographed and the area under the body carefully searched and excavated several more inches. A metal detector will be useful here if bullets were fired into the body after it was placed in the grave or if other metal objects are hidden in the soil.

As previously mentioned, if a body is recovered with soft tissues present, the forensic pathologist should conduct an autopsy. This post mortem examination, using blood and body fluid analysis, stomach contents, X-rays, and other routine procedures, may reveal the cause of death, an estimation on the time of death, antemortem and post mortem wounds, possible weapons used, identification of the decedent, and other essential information necessary to successfully investigate the case. The pathologist may be

joined in his efforts by the odontologist and toxicologist, plus the resources of the crime lab and records section.

A badly decomposed body is no reason for despair, as many things can be learned from what appears to be the hopeless caricature of a human being.

If the remains are primarily human skeletal, then a forensic or physical anthropologist is needed. The anthropologist is best equipped to provide the following information:

Sex—Critical bones for sex determination are the pelvis, skull (85 percent accurate), femur, and sacrum;

Age—Critical bones are the pelvis, teeth, skull, and long bones (age determination becomes difficult once a person is past 25 years);

Ethnic group/race—Skull and teeth are good indicators; and

Stature—Critical bones are the femur, tibia, fibula, humerus, radius, and ulna.

It should be noted there are certain limitations in assessing skeletal remains. Primarily they are as follows:

Estimated time of death—With so many variables, it is generally possible to set only broad time limits;

Cause of death—Not generally registered on skeleton, but signs found may be post mortem;

Reconstruction of facial soft tissue—An area under study today, which shows promise but is not yet fully developed; ³ and

Medical histories—May show old fractures, dental work, back problems etc., but this source of information is limited. It is important to remember an anthropologist *cannot* date time of death within a useful time frame, or give cause of death.

It is obvious that law enforcement personnel cannot receive the extensive training in skeletal anatomy necessary to make expert analyses of suspected human bones. But some instruction may be provided by physical anthropologists so as to enable officers to screen out animal remains from human. Many cases are reported to agencies in which the finder of some bones incorrectly believes them to be

Figure 2.

Plan View of Site

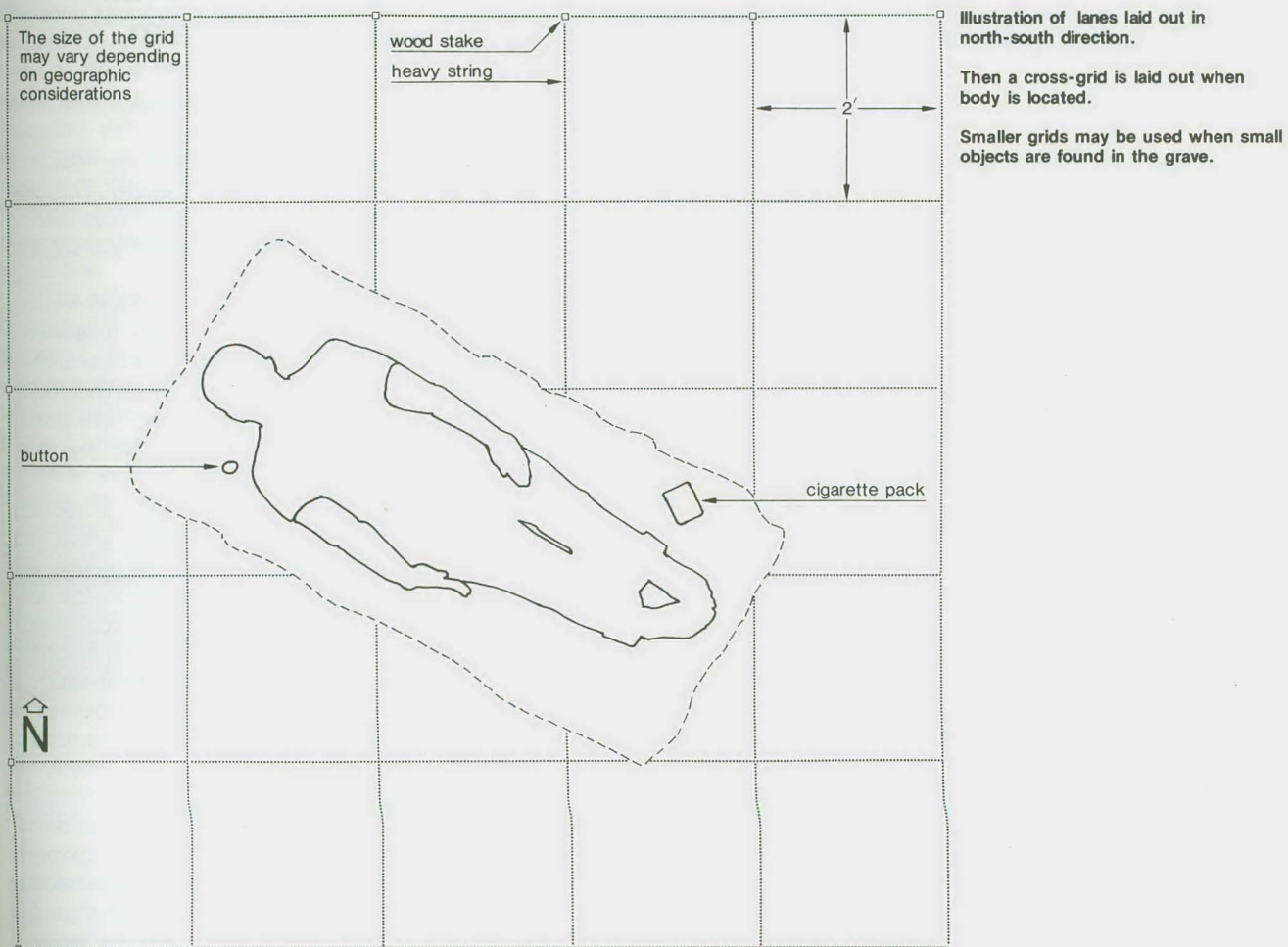
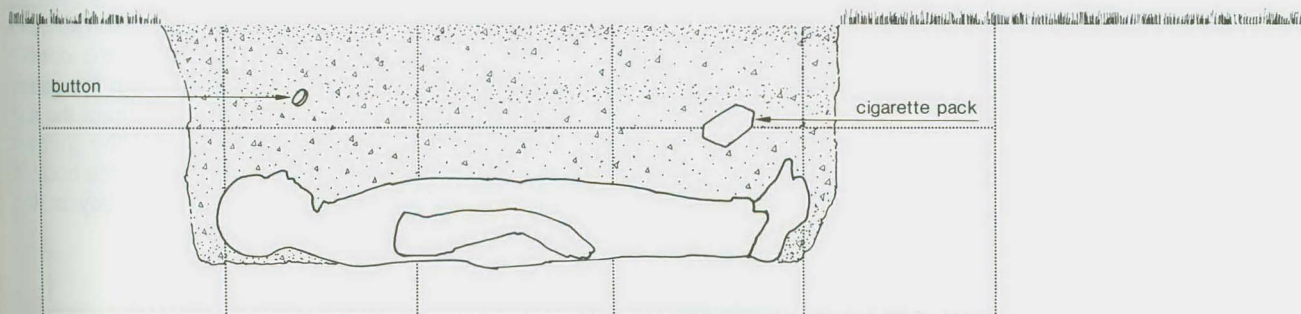


Figure 3.

Elevation View of Site

Photograph items of evidence with ruler and north indicator



"The ultimate goal is to recreate as accurately as possible the circumstances of the crime . . . and successfully guide the case through the criminal justice system."

human, either of historic interest or a murder victim. For example, the paw of a bear in skeletal form closely resembles a human hand, but with some training the difference is readily apparent even to a layman.

Search For A Buried Body

In some cases, information is received through an informant, citizen, or by means of a confession that a body has been buried and an approximate location is given. The grave site may be identified precisely, or an area as small as a city lot or as large as several hundred acres indicated. In either case, again, it is critical to establish quickly security around the entire suspected area to prevent access by unauthorized persons.

Good planning is vital. The more known about the circumstances of the crime and burial, the greater your chances are of locating the site. For example, if it is known or believed the victim was killed elsewhere, then the grave may not be too far from a road. However, if the killing was alleged to have taken place at the site, then the victim could have been made to walk a considerable distance. The time interval since the killing occurred will have a bearing on the condition of vegetation around the site, as well as the actual grave itself, as the grave may have sunk or the surplus dirt may still be in a mound. Again, a botanist can give approximations on damaged plant life which had revived and started growing again. Areas of sparse vegetation will be difficult to estimate due to the lack of growth, but buried insect life may still be useful. A similar problem may be encountered where the surface has been cultivated; the only visual indicator of a grave may be a depression in the surface after some time has passed.

An aircraft, especially a helicopter, may be used prior to a foot search to observe visually a sign of soil or vegetation disturbance. Much progress has been made in the use of thermal infrared photography, which may be of some aid in these cases. Infrared film detects heat—a decomposing body emits heat as tissues begin to rot. However, if the infrared photography is used very soon after a body has been buried, or an extended period of time has passed, then heat is no longer being generated and nothing would be shown on film.

Aerial photographs should be taken of the area both prior to a search, and if the search is successful, at the conclusion.

When it becomes necessary to conduct a foot search in a suspected area, mechanical aids become essential, especially if a visual search has been negative. Probing is the first step. This is done with a steel rod, preferably stainless steel, approximately $\frac{5}{16}$ inches in diameter and $4\frac{1}{2}$ to 5 feet long. A "tee" handle is welded to one end, the other end ground to a sharp point; the success of probing depends on an ability to detect the difference in the disturbed and undisturbed subsurface soil. Some practice is desirable in the immediate area by the persons probing to get a "feel" for the type of soil in that region.

Prior to the start of actual probing, the coordinator of the search must formulate his plans carefully by having a map of the area, making a grid overlay tied into known landmarks, and preparing lanes with stakes and string for the searchers. In areas of woods or heavy underbrush, the establishing of grids is more difficult, and the case coordinator/supervisor will have to be especially

watchful so as to avoid any locations not being checked properly. The area should be probed in not more than 2-foot squares and done in a staggered pattern.

As probing is difficult and requires the use of "new" muscles, care should be taken to plan for shifts of searchers and frequent rest periods. (The coordinator must also keep his map posted on the search area that has been completed.)

When a "soft" spot is located, indicative of a possible grave, the probe should be left in the ground, and no further probing done to the area since damage to the body could result. At that point a second mechanical aid is employed—an instrument which is capable of verifying the presence or absence of a body without the need of excavating. One such instrument, using methane gas as a primary source of verification, operates on the detection of hydrogen sulfide, hydrogen phosphide, carbon dioxide, ammonia, and methane gases formed by a decomposing body.

The gas formation is minimal at low temperature, 32 degrees to 35 degrees, but as the ground would be frozen also, probing would not likely be attempted. In warmer temperatures, the gas forms and may be detected by the gas-sensing probe.

After a suspected site is located, a temperature-sensing probe is inserted in the site and a reading taken so as to set the gas instrument to the correct sensitivity. The vapors from the gases of a buried body will penetrate the soil upward in a V-shape, with the greatest concentration directly over the body. A probe inserted beside a body or too

deeply could therefore miss the gas area. Consequently, several probings are made at different depths to ensure complete coverage. (See fig. 4.) This probe can be an invaluable aid in checking suspected areas without an excavation at each one. It can also be used to check under concrete—roadways, patios, floors—after a small hole is drilled through the concrete. This instrument or one of similar design and/or capabilities should be a part of a crime lab's equipment, especially where rural areas are included in the jurisdiction.

The discovery and excavation of a buried body is a challenge to law enforcement, taxing abilities and patience and requiring a firm control over the entire investigation. There is no place in these cases for the investigator who wants to be the "whole show," lacks training, and is ignorant of available resources. Expert help should be utilized if at all possible. Generally, a delay in initiating the crime scene processing in order to marshal necessary resources may insure a more successful investigation.

Remember that the ultimate goal is to recreate as accurately as possible the circumstances of the crime committed, identify and apprehend the perpetrator(s), and successfully guide the case through the criminal justice system.

FBI

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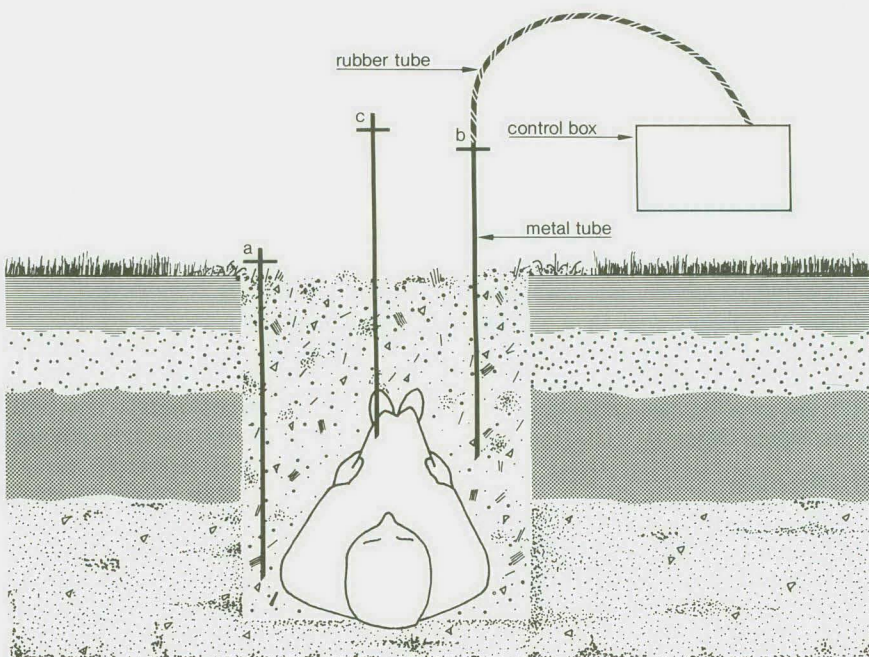
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 Scott, Dr. G. Richard, Anthropology Program, University of Alaska.

Figure 4.

Vapor Detector

- (a) Missed vapors — too deep
 (b) Not directly over body but shallow enough to catch vapors
 (c) Directly over body — strongest vapors



Turning Inward

The Police Officer Counselor

By ROGER L. DEPUE

*Special Agent
Training Division
FBI Academy
Quantico, Va.*

If there is one call which evokes an immediate response of assistance from all police officers, it is the broadcast that a fellow officer is in trouble and needs help. It is almost as if a separate emergency switch exists inside every officer which is specially reserved for this type of call. When the switch is activated, police officers rally to the aid of one of their own to a degree unlike any other profession. Such a response is a tribute to the tremendous bond of brotherhood among police officers; they all face the stark realization that at any particular moment "that call could be for me." This common identity and awareness of mutual problems may be a relatively untapped resource for dealing with serious *personal* problems associated with the policing job, as well as the professional dangers.

The Problem

Many police officers are in trouble today and need help. The trouble is caused by stress overload, and the

need is as urgent as the patrol car broadcast requesting assistance. Current literature on the police profession abounds with articles discussing police personal problems, such as divorce, alcoholism, and suicide. The April 1978, issue of *The Police Chief* is devoted to an examination of the "Pitfalls of Policing." Its editorial declares:

*"The impact of psychological stress appears to be reaching crisis proportions and manifests itself in forms of behavior ranging from reduced job effectiveness to suicide, an act constituting the ultimate loss for the officer's family as well as for the department and the community."*¹

A recent and controversial book by a police psychiatrist claims that 35 percent of the police officers presently employed are psychologically unsuited for their jobs. Not only are they unfit for duty, according to Dr. Edward E. Shev, a San Francisco area police psychiatrist, but they are dangerous.

Dr. Shev goes on to say that an additional 60 percent of today's police officers, although basically sound from the psychiatric point of view, are often

in need of some sort of guidance in order to recognize their personal weaknesses and to overcome the adverse effects of job pressures.²

Psychologists from the National Institute for Occupational Safety and Health have been studying the effects of job stress on police officers for several years. They conclude that:

*"... police work becomes one of the few jobs which has a potent adverse effect on the total life of the worker. That is, the policeman's job affects his own personal social life, his family's social life, his children's perception of him as a father, etc."*³

The job makes great demands on the mental, emotional, and physical capabilities of the officer—demands that are all too often so stressful that they begin to destroy the individual.

There has been a great deal of research conducted on the occupation of the police officer in recent years; the results of much of this research sug-

gest several major stress problem areas which are associated with the law enforcement profession.

The Problem Areas

One major stress area involves the basic philosophical question, "What is the role of the police in today's society?" Most of those who have analyzed the police role have noted that on the street level the job is fraught with contradictions and inconsistencies.⁴ Except for general statements like "enforce the law and maintain order," the duties of the police officer depend upon such diverse factors as the oath of office, the law, court decisions, departmental policy, informal quota systems, the political climate, community pressures, commonsense, and the personality of the chief of police.⁵ However, police officers who patrol the street find that legalistic solutions to human problems are often inappropriate, and commonsense solutions are frequently second guessed.

The role conflict and ambiguity inherent in the job itself are compounded by the distorted, fictionalized media image of the police officer, creating unreal expectations in both citizens and recruits. Many new police officers are genuinely confused and mistaken about the nature of the job. Dr. Martin Reiser, Los Angeles, Calif., Police Department psychologist, refers to one "macho" form of mistaken role identity as the "John Wayne Syndrome."⁶ With approximately 39 percent of prime time television based on law enforcement themes,⁷ the public is constantly being bombarded with the tough, aggressive "super cop," an image in contrast with the helpful, friendly, professional officer that modern training academies are trying to graduate today.

A second major problem area concerns the environment in which the police officer must function successfully. The nature of his work takes the officer into sections of the jurisdiction where he is most likely to experience frustration and anxiety in his interactions with people. Even after considerable training and street experience, an officer may often feel ill at ease and disoriented when handling

calls in these areas. He tries to deal with serious matters among people who possess a life style and value system different from his own, and because of this, may suffer from a condition which sociologists term "culture shock." Cultural shock, applied to police work by Victor Strecher in his book, *The Environment of Law Enforcement*,⁸ is the discomfort one feels when he moves from one culture to another and cannot accurately interpret, predict, and influence the behavior of those around him. There is a general loss of familiar cues and symbols, such as words, gestures, facial expressions, customs, etc. This discomfort and social strangeness often predispose the person (in this case, the officer) to the development of negative attitudes about the people, and he begins to anticipate unpleasant interactions with those persons who are unlike himself.

Harvard University Professor James Q. Wilson describes it as follows: "The working environment of the police is not only charged with emotion and suspicion, it is often, in the eyes of the police, hostile and uncooperative."⁹

Real and perceived threats from the outside mix with the interdependence and mutual support from inside the police profession to encourage formation of a separate police subculture. The policeman's world can become insulated from the outside world by a cohesive, high-identity peer group which can exert powerful influence over the officer's conduct and behavior.

Another area of concern deals with the officer's personal life. The job can dominate his life, both on duty and off. Time spent away from home slowly increases, and many police officers become so absorbed in their work that they become a kind of "workaholic."

Shift work and the police subculture combine to limit an officer's friends to associates only. "Shop talk" commands conversation at work and home, and spouses find themselves competing with what appears to be their mates' first love—the job. Add to these problems the officer's greater temptation for sexual infidelity, the development of what appears to be a coldness and hardness in personality, limited family interaction (especially with the children), insensitive "interrogation" techniques used in discussions with family members, and increased use of alcohol and drugs, and marriages become strained to the breaking point.¹⁰

Police departments researching marriage failures among their officers find widely varying results. Dr. Martin Reiser reported in 1972 that the Seattle, Wash., Police Department discovered 60 percent of its officers were divorced during the first 3 years on the force. In contrast the Los Angeles, Calif., Police Department experienced a 5 percent divorce rate during the first 3 years on the job, and found 21.1 percent of the total force in divorced status.¹¹

The Salt Lake City, Utah, Police Department was said to have a 4 percent divorce rate. The Tacoma, Wash., Police Department has been reported as having 82 percent of its force divorced, and the San Jose, Calif., Police Department estimated its divorce rate to be between 50 and 70 percent.¹² Another survey reported divorce rates in police departments in Baltimore, Md., as 17 percent; in Santa Ana, Calif., as 27 percent; and in Chicago, Ill., as 33.3 percent.¹³ Despite what emphasis one wishes to place upon such statistics, most experts would agree that a stable family relationship is a significant contributing factor to a successful law enforcement career;¹⁴ an unstable relationship would most likely have the opposite result.

A fourth area of stress overload for police officers is the situational crisis. Many officers experience trauma after being involved in a highly charged situation, such as a shooting. Some

find it difficult to cope with certain instances of injury and death, and there are numerous occasions when police officers become very depressed by instances of victimization, injustice, and public apathy. Some officers get too deeply and personally involved in certain cases, while those involved in undercover assignments experience intensely stressful ordeals. The situational crisis is a critical, high-stress time when the officer urgently needs help.¹⁵

In addition to these major problem areas, police officers are frustrated by numerous organizational factors, ranging from poor equipment to lack of administrative support.¹⁶ Some officers cannot adjust to a department's disciplinary action; others who are disillusioned are often tempted to take advantage of corruption opportunities.¹⁷ After a prolonged period of time in frustrating and apparently hopeless conditions, many officers experience "burn-out"¹⁸ and culture fatigue,¹⁹ finding it difficult to cope with the boredom and inactivity of some assignments.

One study reported by Wayne C. Richard and Ronald D. Fell reveals police officers in the State of Tennessee to have an incidence of health problems somewhat higher than other occupations.²⁰ (See Hans Selye's "Diseases of Adaption.")²¹ They also have significantly higher rates of premature deaths than the general population and rank third among occupations in suicide rates.²²

The kinds of personal problems confronting police officers range from mild maladjustments to severe disturbances. As with the general population, the majority of these problems do not require hospitalization or intensive psychotherapy; however, most do require attention and assistance for successful resolution.

Programs

In an attempt to meet the psychological needs of their officers, police

departments have instituted a variety of programs. Probably one of the first attempts to help the troubled officer was the inclusion of a police chaplain in the department. The chaplain was usually a local priest, minister, or rabbi who voluntarily worked with the agency in an effort to care for the spiritual needs of the officers. He was available to offer guidance and assistance to officers and their families during troubled times, and also aided police with some of their duties, such as delivering death messages. Today, many police chaplains are involved in counseling, and are generally considered to be a very valuable asset to the department. But, the increase in police personal problems suggests that an additional dimension in counseling is needed.

Most major police departments have initiated psychological service units staffed by psychologists and other mental health professionals. While being on the department payroll and under the direction of the chief, they still possess a certain amount of autonomy. Many of these units have offices apart from the police department so that police officer clients do not risk embarrassment and loss of privacy when seeking assistance, and flexible hours for greater availability to officers and members of their families. Contact is usually on a voluntary basis; however, many police administrators also encourage supervisors to refer officers with problems. Counseling in the unit is conducted on a confidential basis—in accordance with professional ethics and with no report furnished to the department administrators.

In addition to counseling, many psychological service units participate in a wide range of administrative and operational functions, such as recruit selection, screening and promotion boards, training programs, research projects, liaison with mental health agencies, management consultations, and field emergencies (suicide, hostage, etc.). Some are also involved in the psychological profiling of criminals and the use of hypnosis as an investigative aid.

Department psychologists have noted a number of problems in their work with police,²³ one of which is

maintaining client confidentiality. Some police administrators want feedback on problem officers, or occasionally, an officer may be dangerous and his condition should be communicated to his superiors. Police psychologists say the best way to handle these problems is to establish clear ground rules with the department administration, as well as with the client officer early in the relationship.

Another problem involves the acceptance of the psychologist by the officers. Police psychologists note they are initially distrusted by officers and suggest the psychologist accompany officers on patrol to gain insight into the job and acceptance from the officers. Dr. S. A. Somodevilla, Chief Psychologist of the Dallas, Tex., Police Department's Psychological Services Unit, also recommends that the unit be made up of a blend of officer psychologists and civilian psychologists.²⁴ For most police departments, a psychological services unit staffed by full-time professionals is an impossibility, since it is far too expensive.²⁵

A relatively new and interesting program to aid officers having interpersonal problems on their beats is called the Action Review Panel. When police officers are the subject of a given number of citizen complaints, are involved in frequent physical confrontations, or have other negative police-citizen encounters, they are referred to a panel of their peers—police officers selected to serve on the board because they experience minimum social friction yet are very effective on the street. The board officers must enjoy a sound reputation and high credibility among the line officers. Meetings of the board are strictly confidential and nonpunitive in nature. The peer officers try to analyze cases in which the officer has been involved, while pointing out, tactfully, that they all do the same job. They discuss how to handle problem situations and present alternatives and commonsense techniques to the officer experiencing difficulty.

"The police experience which [the police officer counselor] holds in common with his client would give him valuable insight and might make him more acceptable to the client than an outside psychologist."

The Oakland, Calif., Police Department pioneered this approach and claims a great deal of success with it.²⁶ On the other hand, the Kansas City, Mo., Police Department experimented with a form of peer panel and determined it to be largely nonproductive.²⁷

Other attempts to set up programs to help police officers with problems have been oriented toward specific problem areas; many major police departments have programs designed to aid the alcoholic. These programs are often begun and staffed by rehabilitated police officer alcoholics and are usually associated with national treatment associations.

If police departments seeking help for troubled officers do not have "in-house" programs, they are forced to refer their troubled officers to community mental health facilities or private counselors. There is limited research concerning the success of such referrals, but initial efforts suggest that police officers are reluctant to utilize community mental facilities for their own problems. Although police officers seem to experience a great deal more stress and resultant emotional problems than the average person, they do not appear to seek help at mental health centers at greater than average rates.²⁸

There are many problems involved in the referral of troubled officers to outside mental health professionals. First, a police officer is a member of a subculture which says that he must handle his own problems. Emotional problems are frequently perceived as weaknesses and therefore become threats to the macho self-image of "the crime fighter." Secondly, the officer may be reluctant to go for counseling where many of his own "street people" may be occupying seats next

to him. Then, there is the general distrust of behavioral scientists which seems to stem from the fact that behavioral scientists and law enforcement representatives have too often been on opposite sides of the great law enforcement debates of our times, i.e., punishment, rehabilitation, social disorder, civil disobedience, etc.

The Need

Literature reflects that a large number of police officers have job-related personal problems which adversely affect their job performance and personal lives. The majority of these problems are not of the major mental illness variety and probably would not require long-term psychotherapy. Enlightened police administrators from large departments are responding to this need with a variety of programs, but many police officers go unaided because of lack of funds, unavailability of trained counselors, and reluctance to turn to community mental health resources.

A Potential Solution

Police departments could set up "in-house" counseling programs utilizing their own officers who are properly trained in counseling skills. Selected police officers, perhaps with undergraduate degrees in the behavioral sciences, could go to local colleges and universities, enroll in counseling programs, and begin to learn the urgently needed skills. Courses designed to address special police problems could also be established, modeled after modern schools of education which offer student development courses for education counselors to aid them in

understanding specific student problems. Gary S. Belkin, professor of counseling at Long Island University, offers a definition of practical counseling for education which could easily be altered to fit the needs of the police agency.

*"Practical counseling may be defined as the total counseling process, underlined by a coherent philosophy and self-awareness, practiced with a commitment to the client's total growth, and encompassing face-to-face interviews, group processes, school services, testing programs, extracurricular activities, vocational and educational information, and anything else which contributes to the client's development and fulfillment as a person."*²⁹ [Italics Omitted]

Belkin distinguishes between counseling and psychotherapy in the summary of the first chapter in his book.

*"Counseling and psychotherapy, although often used interchangeably, were shown to have different meanings in their operational senses. Both do treat emotional, adjustment, and behavioral problems, and both vary in the degree of intensity, depending upon the practitioner. But while psychotherapy is built upon a comprehensive theory of personality, a psychopathology, and a specific corpus of techniques, counseling is built upon an underlying philosophy of life, including theories of value, knowledge, and reality. In this respect, we may consider counseling as a broader discipline than psychotherapy, since it treats the whole person in the context of his interpersonal and experiential environment, whereas psychotherapy concentrates on the symptomatic, neurotic, or pathological aspects of the personality."*³⁰

There are some departments which have attempted this approach; the Boston, Mass., Police Department is one example. Its counseling unit began as an alcoholic counseling program. Soon police officers with other kinds of personal problems began seeking the assistance of the alcoholic program counselors (three police officers who are rehabilitated alcoholics themselves). As more nonalcoholic clients sought help, the need to learn greater counseling skills became apparent. The officers contacted the Boston University Counselors Education Program, and a course of study was set up to teach the counseling officers a variety of counseling techniques.³¹ Today, the Boston Police Department's "Stress Program" is well-established and is helping hundreds of fellow officers through difficult times.

As with any new venture, setting up such a program would entail a number of problems both for the university and for the police department. But little by little, the problems would be worked out and the benefits would be tremendous.

Such a counseling program would be in reach of most police budgets. The police officer counselor could apply his new found knowledge to a variety of common police problems. He could assist in training programs in areas such as crisis intervention, use of community resources, dealing with police personal stress, etc., and could set up peer review panels from the counseling perspective. The police experience which he holds in common with his client would give him valuable insight and might make him more acceptable to the client than an outside psychologist. Finally, the police officer counselor could refer clients to nonpolice counselors and psychotherapists when necessary and also serve to smooth out some of the distrust and suspicion which might arise in the formation of that relationship.

Reaching a greater number of these troubled police officers would be of great benefit to the police department and to the community. But most of all, the call for assistance of a police officer in trouble would be answered as it has been in the past, by one of his own.

FBI

Footnotes

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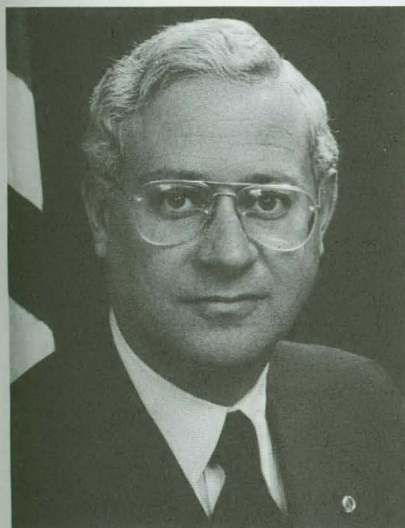
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Drug Law Enforcement

A Team Effort

By PETER B. BENSINGER

*Administrator
Drug Enforcement Administration
U.S. Department of Justice
Washington, D.C.*



Mr. Peter B. Bensinger

According to FBI "1976 Crime Clocks,"¹ Americans are victimized on an average of once every 3 seconds by a major crime and once every 32 seconds by a crime of violence.

Traditionally, we have indexed the crimes of murder, rape, robbery, aggravated assault, burglary, larceny, and auto theft. How about drug trafficking, a far more insidious but equally damaging crime, for which we have no "clock"?

Any concerned citizen can see that millions of Americans have become victims of the drug trafficker. But since the victims do not usually complain to police, we can only make a guess at the number of drug crimes which occur in our country each year.

At the Federal level, the principal responsibility for dealing with this problem belongs to the U.S. Drug Enforcement Administration (DEA). Working with limited resources and few complainants makes our job, to say the least, difficult.

DEA has agents in every State and in more than 40 countries around

the world. With just over 2,000 agents, we are spread thin. As a result, we must concentrate on the highest-level domestic and international drug traffickers.

I have been encouraged by recent trends which indicate progress is being made in reducing the availability and abuse of our top priority drug, heroin. Retail heroin purity has dropped from 6.6 percent to 4.2 percent, and wholesale importations have been cut from an average of 40 to 60 percent purity to about 20 percent. These developments have been attributed to strong domestic enforcement operations, coupled with cooperation of overseas governments. In recent years, the Mexican Government, with U.S. assistance, has eradicated thousands of poppy fields which could have produced tons of heroin for sale in our country. Also encouraging has been the cooperation we have received from nations in Southeast Asia.

DEA Central Tactical Units (CENTACS) have focused across national and international borders to put a long string of high-level traffickers in prison. Among these have been Leroy "Mickey" Barnes, life in prison and a \$125,000 fine; Leslie Atkinson, 25 years and a \$50,000 fine; Matthew Madonna, consecutive 15 years and a \$50,000 fine; Jose Valenzuela, life plus 60 years; and Raymond Moreno, 70 years followed by parole supervision for the rest of his life.

The responsibility for drug enforcement is not the DEA's alone. Federal, State, county, and municipal law enforcement agencies play an extremely vital role.

One of DEA's long-term aims is to equip State and local law enforcement agencies with the basic drug enforcement expertise to suppress intrastate illicit drug traffic. The principal targets are the mid- and lower-level traffickers in the priority drugs of abuse.

In addition to a nationwide police training program in drug investigations, DEA now helps fund 22 State and local police task forces in many large cities. Composed of State and local police officers and DEA agents, the task forces enhance local drug enforcement, promote interdepartmental and interagency cooperation, and provide for the exchange of drug intelligence on a continual basis. Based on current and projected resources, no significant change is foreseen between now and fiscal year 1982.

The task forces' accomplishments are impressive. From January 1974 through June 1978, they accounted for 16,655 arrests and 9,202 convictions in Federal and State courts. Of these arrests, heroin accounted for 39 percent (6,500), cocaine for 22 percent (3,673), and marihuana for 20 percent (3,379).

DEA investigates drug trafficking of three kinds: (1) Drugs originated in foreign countries, (2) drugs manufactured in domestic clandestine laborato-

ries, and (3) drugs diverted from the legitimate manufacturing and distribution system. DEA, State, and local task forces target their investigations to impact on the first two, and another important DEA enforcement effort, Diversion Investigative Units (DIU's), impacts on the third.

DIU's are teams of State and local regulatory and enforcement personnel and DEA agents operating at the State level. DIU's investigate the diversion of legitimately manufactured drugs from the retail level, i.e., physicians and pharmacies.

"The responsibility for drug enforcement is not the DEA's alone. Federal, State, county, and municipal law enforcement agencies play an extremely vital role."

Approximately 15 billion dosage units of controlled drugs are manufactured in the United States annually. Conservative estimates put the number diverted to the illicit market each year between 50 and 75 million units. Approximately 35 percent of this diversion occurs at the retail level.

Such diversion is carried out by dishonest medical practitioners and pharmacists. Forged prescriptions or theft is a criminal offense.

DIU's are manned primarily by State authorities who are trained by the DEA, and a DEA special agent is assigned on a full-time basis to supply continuing support and liaison.

The DIU's draw investigators from State regulatory boards and State law enforcement agencies. These investigators, when assigned to the DIU, are released from other duties in their respective agencies to enable them to concentrate solely on diversion cases.

Since the beginning of 1975, DIU's have been responsible for 1,521 arrests. Physicians accounted for 46.3 percent, while registered pharmacists accounted for 27.9 percent of all registrants, licensed handlers of drugs, arrested.

The successes of drug enforcement in recent years at the international, national, State, and local levels reflect admirably on the men and women who have made them possible.

It would be extremely foolish, however, to say that we have beaten the problem. The demand and the profits are incredibly high. In many cases, the punishment for trafficking is a relatively short prison term or probation. We are making efforts to insure that the judiciary is fully informed as to the gravity of these drug trafficking offenses, including those involving phencyclidine (PCP). Compounding the situation is that when we shut off or impede the flow of drugs from one source, the slack is taken up elsewhere. A good example is that a year or two ago, most of our heroin was coming from Mexico. With the Mexican supply reduced through enforcement and eradication programs, an increased proportion now comes out of Southeast Asia.

The cycle is vicious. But I am hopeful that, working together, we can make significant progress in the years ahead.

FBI

Footnote

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Soft Body Armor

Some Basics

By SGT. DON DRAGLAND

Police Department, Seattle, Wash.

EDITOR'S NOTE: *Material published in the FBI Law Enforcement Bulletin is solely for the information and assistance of law enforcement members. While brand names and companies may be mentioned from time to time, this is done in a strictly objective manner to help present articles in their entirety from authoritative sources. In such instances, publication of the article in the BULLETIN should not, under any circumstances, be construed as an endorsement or an approval of any particular product, service, or equipment by the FBI.*

Seattle, one of 15 cities selected for field testing of soft body armor, has the dubious distinction of being the first to have an officer shot while wearing one of the test garments. Shot at close range with two bullets striking him in the chest, one directly over the heart, the officer is alive and well today only because of that armor.

The Incident

On December 23, 1975, at 5:15 p.m., the officer reported to an off-duty job. He was in uniform but had a plain jacket, unbuttoned and open, over his uniform shirt. The officer had just made a purchase when he heard the clerk say, "Here's another robber." The stickup man, wearing a ski mask, appeared surprised when he saw the police uniform under the jacket. The officer went for the man's gun, and the holdup man fired one shot which struck our officer in the chest, just to the left of center. The officer went backwards, then regained his balance and started

toward the assailant, who took aim and fired again, striking the officer in the chest. A struggle ensued over the gun, and at least one more shot was fired which wounded the officer in the hand. Then the offender fled. The officer dialed the police emergency number, and from the taped conversation of that call, the officer calmly gave relevant information to the dispatcher regarding the incident and the suspect. The officer did not lose consciousness, nor was he knocked down. It was later determined that where the bullets struck, there was considerable bruising. The assailant's weapon was a .38 caliber. The protective armor was seven-layer Kevlar.¹ As just described, the garment worked exactly as predicted.

In purchasing soft body armor, consideration must be given not only to the protection level but also to the comfort factor. It should be remembered that the protection level is the ratio between caliber and plies (layers) of protective material. The comfort factors are personal and may be compared to a pair of shoes—if they are not comfortable, they will not be worn. And, what good is body armor if it is not worn?

Determining the Threat Level

These are quasi-technical considerations in determining the protection level desired. Be participative in making this decision, discuss the pros and cons, such as caliber-incident probabilities, weight, and comfort factors. In discussing incident probabilities, recent



Sgt. Dragland



H. A. Van den Wyer
Chief of Police
Seattle, Wash.



Two points of impact of .38-caliber bullets—one is to the right of center (note powder burns), the other is in the upper left area.



Inside of the body armor garment which was struck twice with a .38-caliber bullet, no penetration.

information on impounded weapons reveals that less than 1 percent of the handguns were caliber .41 or .44 magnum. Consider this also: A large percentage of officers feel the need for protection against the 9mm and the .357 magnum. A review of data from the *FBI Uniform Crime Reports* discloses the greatest number of officer fatalities are from handguns of .38-special caliber or less.

To assist in determining the protection level desired, it is suggested that three July 1977, documents be obtained from the National Institute of Law Enforcement and Criminal Justice, 633 Indiana Avenue NW., Washington, D.C. 20531. The documents are all entitled "Body Armor Program" with the following subtitles: The Executive Summary, Model Procurement Document, and the Background and Test Results. At this point what to look for is a balance between protection level and comfort factors consistent with continuous use. The higher the threat protection, the heavier and less comfortable the garment becomes. Alternatively, if the garment's comfort factor is over emphasized, its area coverage and threat protection may be reduced.

If for some reason the previously mentioned articles are not obtained, the following minimum specifications should be considered: Eight to 10 layers of Kevlar 29, 1,000 denier, plain weave (31×31 per inch), and scoured finish with Zepal-D. The carrier of the Kevlar material should be a polycotton 5-ounce shell, full wraparound sides that butt together, polycotton tails front and rear, 2 velcro fasteners per side—each at least 2-inches wide, velcro bottom closures for the Kevlar material, a 2½-inch width on shoulder straps, and a U-shaped neck.²

Purchasing Tips

There are two avenues for purchasing body armor. One is through the use of the governmental unit's purchasing agent and the other is individual purchases.

If required to follow the bidding process, first prepare your specifications, using the above-mentioned documents as guides. Then draft a list of

the desired qualities that are deemed necessary. As the garments are submitted, indicate if they meet the specifications, exceed them, or do not have the desired qualities. Some ideas for bid evaluation factors could be: Comfort (which the users should assist in determining), ballistic properties (material, weave, etc.), and price (given a lower weight). You may even want to check with the manufacturers as to consistent quality control.

If there is no requirement to go through the purchasing agent, consider the following: Develop a system where officers privately purchase their garments, then are reimbursed (with a set ceiling), if there is proof of purchase and their garments meet the minimum specifications. Through this process, specifications are more easily met, and there is greater assurance the garment will be worn (at least more assurance than if Brand X were purchased).

Repeatedly, officers have expressed their dissatisfaction with the comfort and appearance factors of their garments. Nevertheless, it should be remembered that the most cosmetically attractive garment may not be what is desired; e.g., a very soft garment may meet the specifications, but the experts are skeptical. Also, this garment is a very personal item; it should not be subjected (if possible) to the politics of the day.

The durability of these garments is not well established, but an estimate would be 3 to 5 years or longer, if reasonable care is exercised in maintaining the garment.

Regardless of how the garments are purchased, the National Bureau of Standards or the International Association of Chiefs of Police (IACP) may prove to be worthwhile sources of information.

Residual Benefits

Soft body armor is designed primarily to be a protective device from handgun assaults. It does not pretend to be an all purpose form of protection from knives, shotguns, or bombs. But, there are other benefits. One case was

that of a motorcycle officer traveling 55 miles per hour on a freeway who had the front wheel disengage from the rest of his bike. The officer's outer uniform—helmet, leather boots, and jacket—was ruined. He received many abrasions, but none in the area protected by the body armor. His body armor, incidentally, was a seven-ply garment. Another very unique case occurred to a motorcycle officer in southern California. The officer was hit in the chest with a .30-caliber carbine at a distance of 50 feet and survived. And, it was later determined that the perpetrator had hand loaded the round.

As you may be aware, there are outerwear protective garments, like sport coats and jackets available. Realistically, these garments are not (or should not be) intended to be worn all the time because they are stiff and follow styles, not body contours. One

trade off in favor of body armor outerwear is that the amount of protection can be increased without significant discomfort because it is not worn all the time. But there are two negative factors: (1) Not knowing in advance when assaults occur, and (2) the closer the garment is to the body, the more protection afforded (other factors being equal).

Safety Standards

Considering the Occupational Safety and Health Act (OSHA) and local and State laws governing safety, body armor may someday be viewed as a safety device and required equipment. In California, for example, a 1972 State law requires police departments to supply safety equipment to officers. Conceivably, body armor might at some time in the future be included in this category.

Who Should Wear the Garments and When

As stated earlier, officers will wear "their" garment more willingly than an issued one. The decision to make it mandatory for officers to wear the garments while on duty is, of course, up to the department head.

This author believes there are too many factors involved, such as the problem of heat buildup, the weight of the garment, the binding and riding up of the garment, etc., to make the garment mandatory for officers to wear all the time. Rather, a department head should carefully assess and balance these factors against safety considerations prior to making the garment mandatory for his officers.

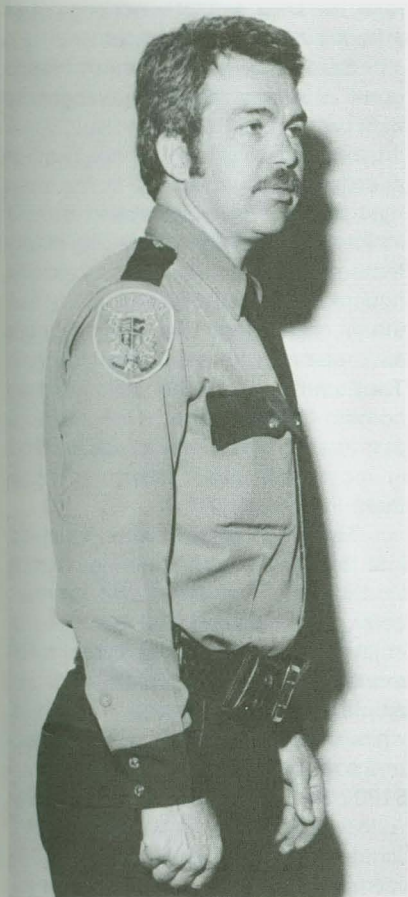
From the reactions received from many departments and officers, it is apparent that these garments are somewhat uncomfortable. Nevertheless, there are two large west coast agencies that require all their members to wear garments.

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Footnotes

¹Registered trademark of E. I. duPont.

²"Body Armor Program," The National Institute of Law Enforcement and Criminal Justice, 633 Indiana Avenue NW., Washington, D.C. 20531.



Male officer wearing 12-ply body garment.



Female officer wearing 12-ply body garment.

Child Pornography



Inspector McKinnon



Chief William L. Hart
Detroit Police Department

By INSP. ISAIAH MCKINNON
*Commanding Officer
Youth Section
Police Department
Detroit, Mich.*

The term "pedophilic erotica" was introduced by Kraft-Ebing in 1912 to label behavior which manifests abnormal erotic sexual desire for children. Although pedophilia literally means love of children, it is generally used today to signify sexual deviance. In our culture, it is generally agreed that an adult who receives gratification from sexual intimacies with a child is legally and psychologically abnormal.¹

Oftentimes, society believes that law enforcement officers' emotional responses to crimes become hardened due to the nature of their work. However, a problem has recently surfaced in news headlines that has raised the wrath of private citizens and police alike. Not exclusive to a particular area, but in fact prevalent in many cities throughout the country is the problem of child pornography and prostitution—a situation that has permeated every aspect of society. And as evidenced in the national media, practically every ethnic, professional, and social group in the United States has been affected in some way by this crime.

There is no denying the fact that young children of all ages are being procured and pandered by what are called "chicken pimps" to take part in prostitution and/or the manufacture of pornographic films for a price. These procurers exploit runaways, neglected

children, and children from broken homes to solicit their participation in illicit acts. They lure their victims through veiled friendships, cash enticements, abduction, drugs, or simply by preying upon the child's ingrained concept of unquestioned adult authority. And once the child has been subjugated, the chicken pimp maintains tight control by keeping him or her in what is referred to as stables—working out of a house or from a street corner.

Surprisingly, panderers of "kiddie porn" are not necessarily strangers to their victims. Persons involved in recruiting can be a relative, neighbor, or a child already involved in the business. There have also been alleged incidents of this activity existing in foster homes, group homes, or halfway houses. What must be realized is that these children are not criminals, but are persons who are being exploited. They suffer not only from broken homes, but from the humiliation and degradation of this type of assault. And in most cases, it is fear that keeps them from talking.

The majority of children recruited into this business range in age from 9 to 14 years and depending on their color, youthfulness, and type of sex act, can earn sizeable amounts of money for their participation. For example, the price for an 11-year-old white male with blond hair, blue eyes, and soft features can vary from \$75 to \$100 per night. However, it is generally

believed by the procurers that the younger the child the better, since the user of the child prostitute can act out more of his fantasies, and the excitement and challenge of having an untouched child adds to the pleasure. Unlike prostitution as we know it, the majority of contacts in kiddie porn and prostitution are with young boys who, according to the statistics compiled by the Sex Crime Unit of the Detroit Police Department, are more sought after than girls.

On the other hand, our experiences have shown that a typical chicken pimp is a white male, 30 to 40 years of age, married with children, and usually has a good job. He loves children, sees this relationship with them as true love, and justifies his actions by saying that the children want to do this. He appears to be sexually deviant in an immature way. Generally speaking, these men consider this type of sexual relationship sacred and see absolutely nothing wrong with their feelings.

During the past year, the sex crime unit has investigated numerous cases of sexual abuse of children involving either pornography or prostitution. As a result of these investigations and the evidence discovered at the scenes, it appears that movies and other printed materials involving children are marketed through a subculture of small dealers who make their wares readily accessible to select customers. Our efforts have also revealed the importance of community awareness and increased efforts by law enforcement agencies to eradicate these crimes; cooperation between city, State, and Federal agencies is essential.

With the alarming increase in the production and marketing of pornographic materials, it is evident that law enforcement agencies must direct their manpower to combat this crime. The Detroit Police Department has attempted to test Federal and State statutes and local ordinances by purchasing child-related pornographic material, either directly or by mail. The sex crime unit is collaborating with Federal and State authorities on initiating prosecution for transmitting obscene material through the mail, and confidential

sources are being developed in attempts to obtain information about the procurers responsible for the enlistment of young people in these services.

In conjunction with these efforts, the Wayne County, Mich., prosecutor's office has assigned a special prosecutor to handle all sex crime unit investigations, which increases their firsthand knowledge of the severity of all criminal sexual conduct cases and provides the unit with almost on-the-spot legal advice. Our experiences in the courts have been extremely gratifying in that recent public outcry has prompted judges to deal severely with sexual transgressors against children.

As another means to combat the spread of child pornography, the unit has undertaken a public education program. Officers from the unit and counselors from the rape counseling center make public appearances advising parents that they should be more aware of the problem and of their responsibility to protect their children from sexual deviants. They are urged to discuss the subject with their young ones and to caution them of situations that are potentially dangerous. They should en-

sure that their children travel in groups or in their company, since a child walking alone is a likely target. It is also recommended that they be cautious of their child's relationship with friends and even family members.

Yet, no matter how much care is taken, there are children who still become victims of sexual abuse. When this happens, it is important that both parents and police officers give prime consideration to the child victim, who oftentimes is not even aware that a violation has been committed.

Police officers must take into consideration the child's initial reaction. A child's response to a sexual assault is different than that of an adult. Children get their ideas of what is right and wrong from adults closest to them—especially their parents—and it is the parents' reactions they watch the most. If the parent shows shame and disgust, the child will usually reflect the same feelings. On the other hand, if the parent is compassionate and understanding, the child is better able to come through the experience with less trauma. Unfortunately, this is not usually the case. When confronted with assault, adults react with hysteria or some outward show of emotion, and

Two Detroit police officers interview a victim child.



the child, especially the younger ones not understanding the emotional crisis, find it difficult to cope with the situation. The child needs to know why people are upset and why he or she has to talk about this thing with police, parents, or doctor. Most of all, the child needs to be relieved of any responsibility of having anything to do with the precipitation of the act, which is of major importance to the recovery of the child. It should be explained that it wasn't any fault of theirs and that there are people who take advantage of other people, especially children.

When teaching children caution in emergency or crisis situations, it is necessary to contradict what they have been taught since their earliest years—kindness and trust of everyone. Yet, children must be cautioned to report to their parents or guardians any molestation by an adult or older child. If parents suspect their child has been assaulted, they should be instructed

that the easiest way to obtain an answer is simply to ask the child, since most children will tell the truth. If such an assault has occurred, the parent should talk calmly with the child, while assuring the child that he or she is safe. However, they should be informed as to your concern. Police officers and parents must be extremely careful of their reactions, even though it is most difficult at this time. Be as concerned and affectionate as before. Remember, the child is watching you and will sense any change in emotions. Also, do not refuse to discuss the incident with the child. Help the child to understand and to cope with the occurrence as much as possible.

What must also be understood is that a child's reaction to parents or other adults will alter as a result of a serious attack. Many children will show anger or distrust. In their minds, they

feel betrayed—the parent was not there to protect them. Others will exhibit obstinate behavior, for much the same reason. Patience and understanding cannot be overemphasized at this time.

The presence and ready availability of kiddie porn has a menacing effect on the moral values of children, participants, and the community. It has been suggested that forced involvements in these illicit acts may result in mental and emotional instability, leading to total depreciation of life and law. Law enforcement personnel can educate the public to the fact that child pornography and prostitution can and is happening in our country. But, it will take the efforts of everyone—parents, educators, and law enforcement personnel—working together to combat the problem.

FBI

Footnote

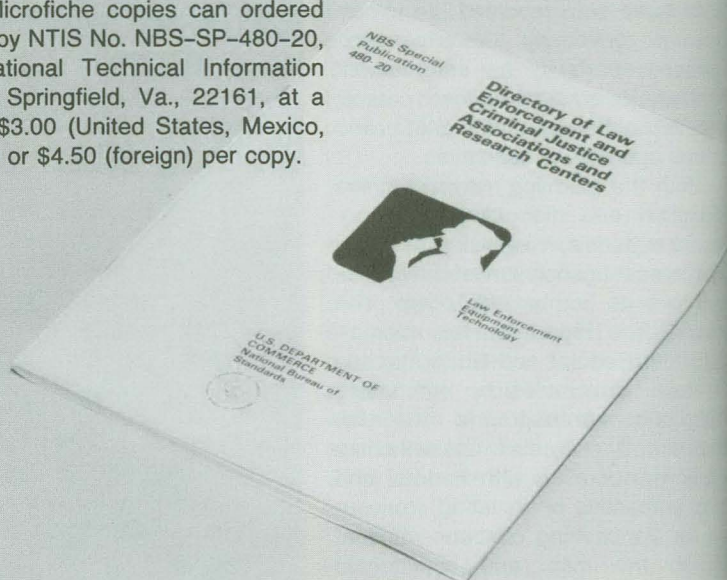
¹ S. B. Kopp, "The Character Structure of Sex Offenders," *American Journal of Psychotherapy*, vol. 16, p. 64, 1962.

The National Bureau of Standards Law Enforcement Standards Laboratory has issued a directory listing national, nonprofit professional and volunteer social action associations and research centers active in law enforcement and criminal justice. Also listed are those international and foreign organizations having associations with American law enforcement. Described are the purpose and activities of each organization, and its affiliations and publications. Mailing addresses, telephone numbers, names of officers, year of formation, membership information, and staff size are included, as well as a subject index.

The 46-page directory, published in March 1978, can be ordered prepaid by stock number 003-003-01904-6 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at a cost of \$2.20 per copy. Foreign remittances must be in U.S. exchange and include an additional 25 percent of the

Law Enforcement Directory

publication price to cover mailing costs. Microfiche copies can be ordered prepaid by NTIS No. NBS-SP-480-20, from National Technical Information Service, Springfield, Va., 22161, at a cost of \$3.00 (United States, Mexico, Canada) or \$4.50 (foreign) per copy.

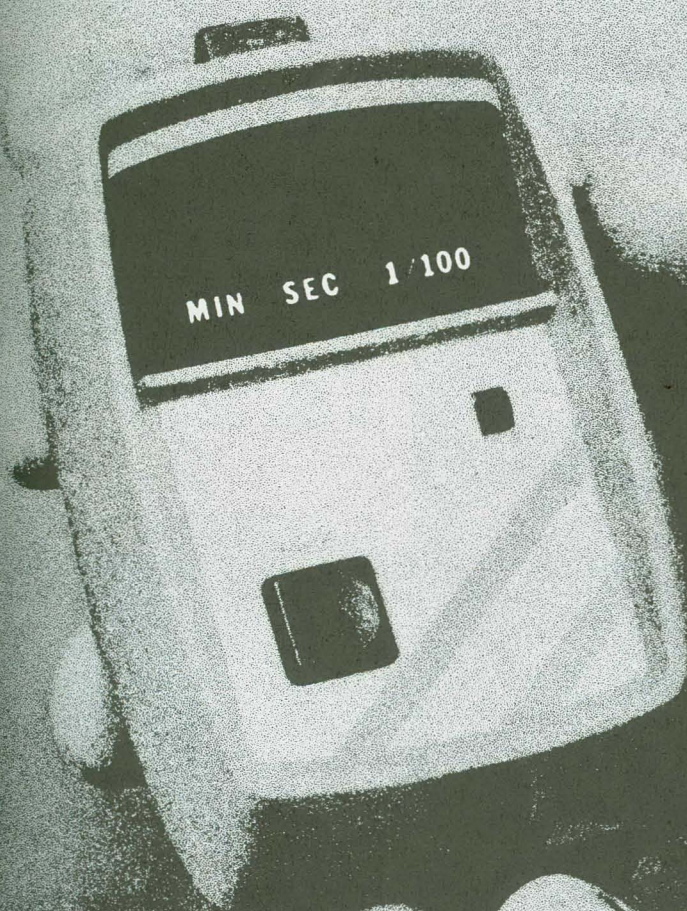


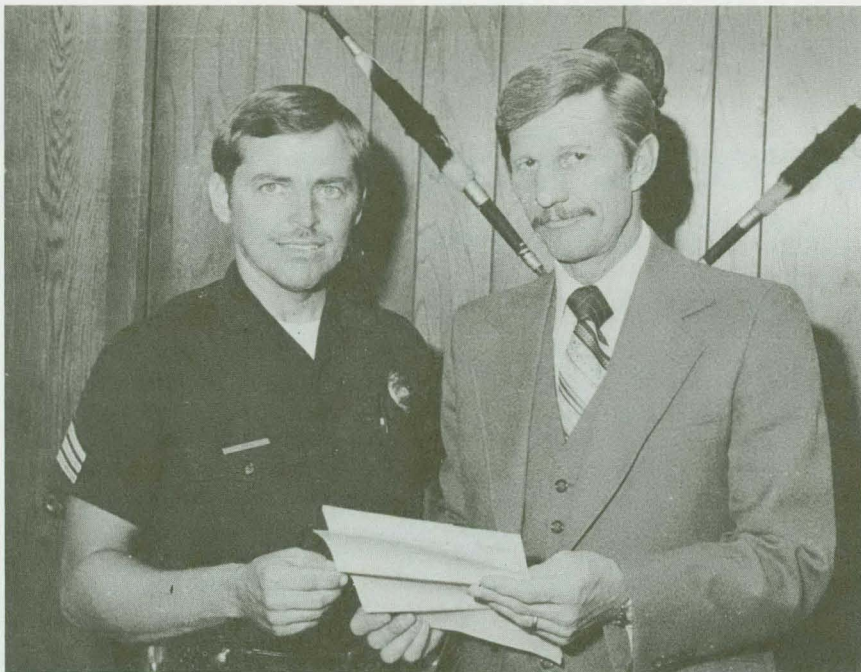
The Electronic Stopwatch:

An Accurate and Inexpensive Tool
for Measuring Speed

By SGT. JOSEF V. KULKA

*Police Department
Albuquerque, N. Mex.*





Sergeant Kulka and Bob V. Stover,
Chief of Police, Albuquerque Police Department.



Officers with the equipment needed to set up and mark the stopwatch zone. The bottom of a cardboard box is used to make template (approximately 8 x 20 inches) for spraying zone markers on street.

The stopwatch has long been in use to measure the time it takes to move across a premeasured distance, such as at horse races, car races, track meets, and other similar events. The average speed can be calculated from distance traveled and time elapsed.

While many police departments are using the electronic stopwatch clocking to apprehend speed violators, most are still using the mechanical stopwatch. Even though this type of stopwatch is accurate, it has many disadvantages in its use:

1. It can only be read to one-tenth of a second.
2. There is a possibility of making a reading error when reading a pointer on a dial.
3. Many courts require a monthly certification on the accuracy of the stopwatch.
4. Long zones are required for accuracy (600 feet or longer), and
5. Long zones limit the use of the stopwatch to outlying areas of cities and highways.

On the other hand, the electronic stopwatch eliminates these disadvantages:

1. With a quartz crystal timing base, it is very accurate.

Police car is positioned to protect officers while they paint markers for stopwatch zone.



2. It gives readouts to one-hundredth of a second.
3. There is less possibility of making a reading error because of the digital readout.
4. The accuracy of the electronic stopwatch is certified as long as the batteries light the display.
5. Zones of as little as 100 feet can be used accurately. However, 200 feet is recommended, and
6. The shorter zones make the use of the stopwatch situations possible in most selective traffic enforcement.

The electronic stopwatch clocking also has the following advantages over radar and the visual average speed computer and recorder:

1. The cost per unit of the electronic stopwatch is \$30, while radar sets cost \$1,400 and up.
2. Portability of stopwatch is limited only to the users' imagination: Foot patrolman working alone or with a partner, motorcycle officer working alone or with a partner, patrol car officer working alone, or an officer in an airplane working with ground units.
3. The operation of the stopwatch is very economical. A set of 3 AA batteries will supply about 20

hours of continuous operation, amounting to approximately 3 months of average use.

4. Repairs have never amounted to over \$30. After about a year of use, the only problems occurred when the watches were dropped and broken. The remainder are still operating like new. However, with radar, our repairs averaged \$125 per unit, and had to be shipped to the manufacturer for repair.

If your department is already using the stopwatch, shifting to the electronic stopwatch will be no problem. For departments that are not using the stopwatch, the basics of using the stopwatch should be studied.

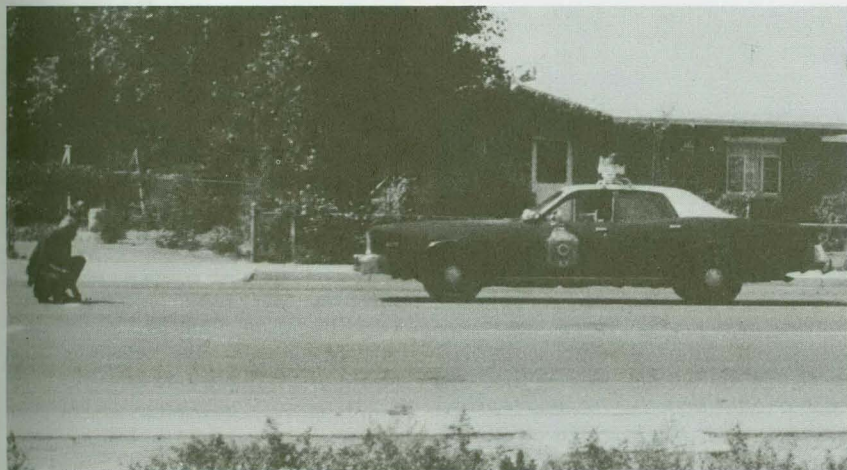
The stopwatch operates on the same principle as the visual average speed computer and recorder. With this device, the officer drives his patrol car past two reference points to establish his zone and records this information into the computer. Having established his zone, the officer then parks his car so as to have a clear unobstructed view of the zone. The officer starts his clock when a suspected

violin crosses the first reference point and ends it when the suspected vehicle crosses the second reference point. This information is computed and the speed reading is displayed.

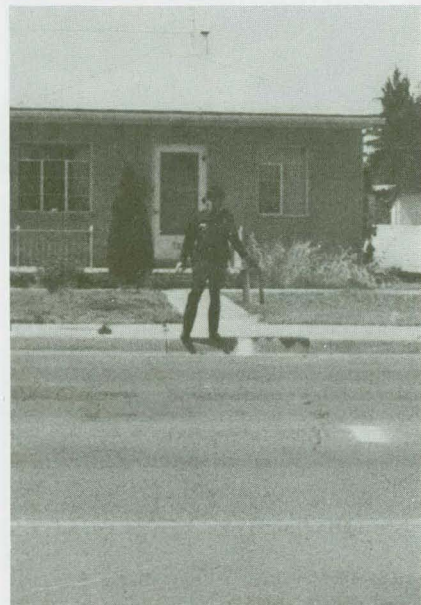
With a stopwatch, the officer has to measure the distance between two reference points. He then makes up a chart for that zone, using a pocket calculator showing various speeds and times it takes a car to pass through the zone. Once the chart is made, the officer is ready to clock cars. Once a stopwatch zone is established and a chart made for that zone, any officer can accurately determine the average speed of a car passing through the zone.

The problem arises when the officer appears in court and must explain how the stopwatch clocking is made. The officer using the stopwatch must be familiar with the mathematics involved and must be able to demonstrate the method in court. In our department, each officer is required to attend a formal training session in the use of the stopwatch. We have determined that a 2-hour training session with class size limited to 15 officers is sufficient. The officers must familiarize themselves with the following exercises:

The end of zone after being marked. To conserve time and paint, marker lines are not painted in a continuous line. Also to make sure the zone is visible, the painted mark extends on side of curb.



Officers measure zone.



1. How far an object can move in a second at 1 mile per hour.

One mile=5,280 feet

One hour=60 minutes

One minute=60 seconds

To get total seconds in an hour, you multiply 60 minutes \times 60 seconds=3,600 seconds in one hour. Divide feet in miles 5280 by seconds in an hour 3600 to get 1.4666666 or 1.467 feet per second, which is the distance an object travels at 1 mile per hour.

2. How to transcribe the distance an object travels at selected speeds. With this knowledge, written or otherwise, a chart is made out in 1 mile per hour increments covering all the speeds you expect to encounter.

EXAMPLE:

35 miles per hour \times 1.467 feet=51.35 feet traveled

36 miles per hour \times 1.467 feet=52.81 feet traveled

37 miles per hour \times 1.467 feet=54.28 feet traveled

38 miles per hour \times 1.467 feet=55.74 feet traveled

39 miles per hour \times 1.467 feet=57.21 feet traveled

40 miles per hour \times 1.467 feet=58.68 feet traveled

3. How many seconds it takes a car to go through a zone.

length of zone/miles per hour \times 1.467=seconds to go through zone.

200/35 \times 1.467=200/51.35=3.89 seconds or a clocking of 35 miles per hour in a 200-foot zone.

150/35 \times 1.467=150/51.35=2.92 seconds or a clocking of 35 miles per hour in a 150-foot zone.

A sample chart would look like the following. This chart is abbreviated for clarity using the above example.

200-FOOT ZONE

seconds=miles per hour

=35

=36

=37

(and so on)

150-FOOT ZONE

seconds=miles per hour

=35

=36

=37

(and so on)

Once an officer sets up this chart, the next step is the establishment of a zone that meets the following criteria:

1. He must have an excellent and unobstructed view of the zone.
2. Must have ready access to pursue the violator if need be, and
3. The zone must be properly marked (painted lines on street, street repair marks, or any other clear markers).

It has been found that the best stopwatch zones are the ones where reference lines are painted on the street and all zones are of a standard length, such as 150 or 200 feet. With standardized zones, officers need only measure the length of the zone with measuring tape or similar device and then refer to the chart.

In our department, the electronic stopwatch has become a valuable tool to supplement radar and other means for measuring speed. The breakdown of speeding violators among the 3 methods during the first 4 months of 1978 is: Radar, 61 percent; stopwatch, 22 percent; and visual average speed computer and recorder, 17 percent.

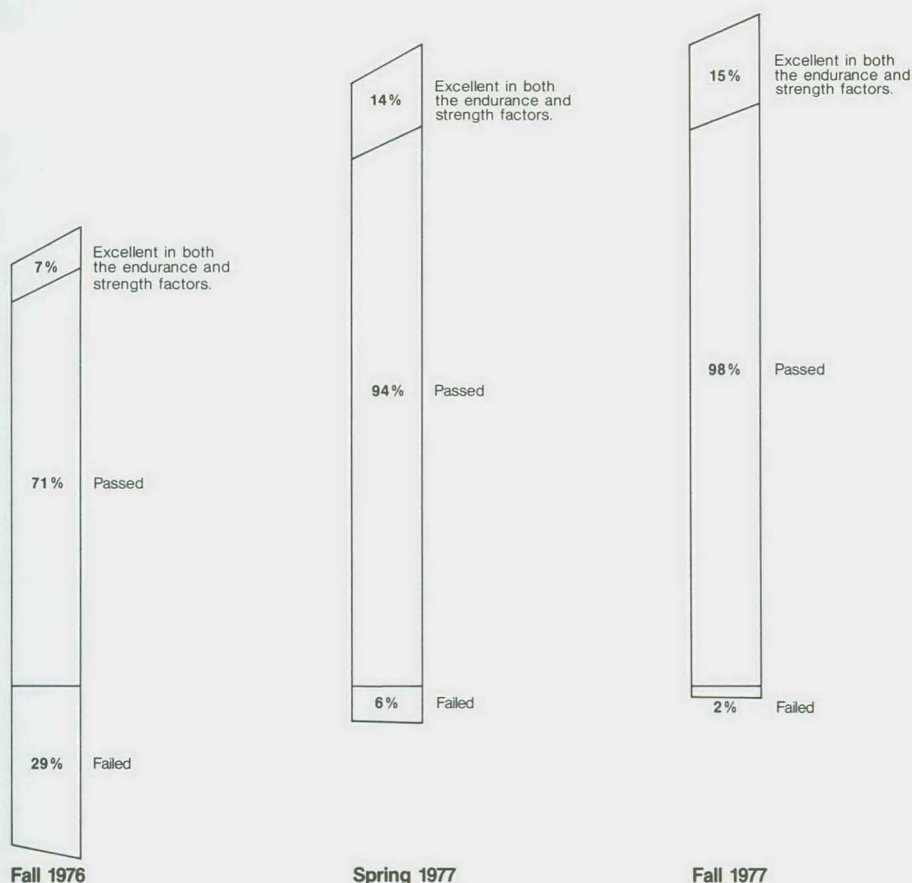
Overall, the stopwatch shares many similarities with the visual average speed computer and recorder and operates on the same principles. Its main advantages are its portability, low initial cost, and economy of operation. It enables many officers to work independently at many locations instead of their focusing on one location as is done with radar. In addition, the stopwatch cannot be detected by electronic devices.

For police departments that have not previously used the stopwatch clocking, it is advisable to place strong emphasis on informing the local judges on its operation and educating the public to get their support.

Officer uses stopwatch to clock potential violator.



Physical Fitness Program Yields Unexpected Dividends



To improve the overall physical condition of its officers, the Ohio State Highway Patrol implemented a physical fitness maintenance program in the fall of 1976. The program was initiated in an effort to increase the performance quality of two factors: Endurance, gaged by a timed 1 1/2-mile run, and strength, measured with pushups, situps, and squat thrusts. (See "Ohio State Troopers Shape Up," *FBI Law Enforcement Bulletin*, August 1977, pages 8-11.)

Three division-wide tests have been administered since the start of the program, as follows, and the findings (in percentage) are:

Adminis- tration	Passed	Failed	Excel- lent in Both
Fall 1976	71	29	7
Spring 1977	94	6	14
Fall 1977	98	2	15

Positive results were noted in three additional areas: The number of overweight officers decreased from 43 to 21; average sick leave dropped 16 percent; and the number of perfect marksmen in the combat qualification course testing revolver marksmanship rose from 13 to 36. As results improved, failure rate dropped from 29 percent in 1976 to 2 percent 1 year

later. While no definite conclusions can be drawn regarding these results, it is logical to assume that the improved physical condition of the officers contributed substantially.

An immediately apparent benefit of the physical fitness program is a trimmer, more physically able group of law enforcement officers. In addition to being impressive to the public, it is also important to the officers themselves. A sense of pride is instilled in individual officers who belong to a group in top mental and physical condition. **FBI**

Cartridge Cases Come Clean With... Corncobs

By WAYNE A. HENDREN

*Chief of Police
Spokane, Wash.*



The Spokane, Wash., Police Department has discovered that corncobs are useful when cleaning brass casings for reloaded ammunition. The corncobs are not the type from which pipes are made, but are ground-up in the form of grit to clean and polish the casings.

Since the early 1950's, it has been the practice of this police department to use reloaded ammunition. For the most part, the manual reloading process was slow and tedious, and resulted in only 2,000 rounds per day. Now the task proceeds considerably faster with 2 reloading machines, each turning out 85 rounds per minute. However, while the reloading process was facilitated, another problem remained unsolved; it was difficult to clean satisfactorily the used brass casings.

A number of techniques were tried before it was decided to employ a method using ground-up corncobs. Initially, the dirty cases were loaded and then tumbled in sawdust and solvent. However, loaded dirty cases caused considerable wear on the loading dies. The next approach was to wash the cases in solvent before reloading. This also created a problem because to dry the cases completely was next to impossible. In addition, it was time-consuming, even when heat and forced air were used. Washing the cases in chloroethene was costly. And even though the chemical dried in a short time, the process was not worth the expense, since it cleaned only the loose material from the shells. Then, a Spokane chemist developed a cleaning solution combining solvent and chloroethene. However, when as many as 250,000 cases were laid out to dry, the odor

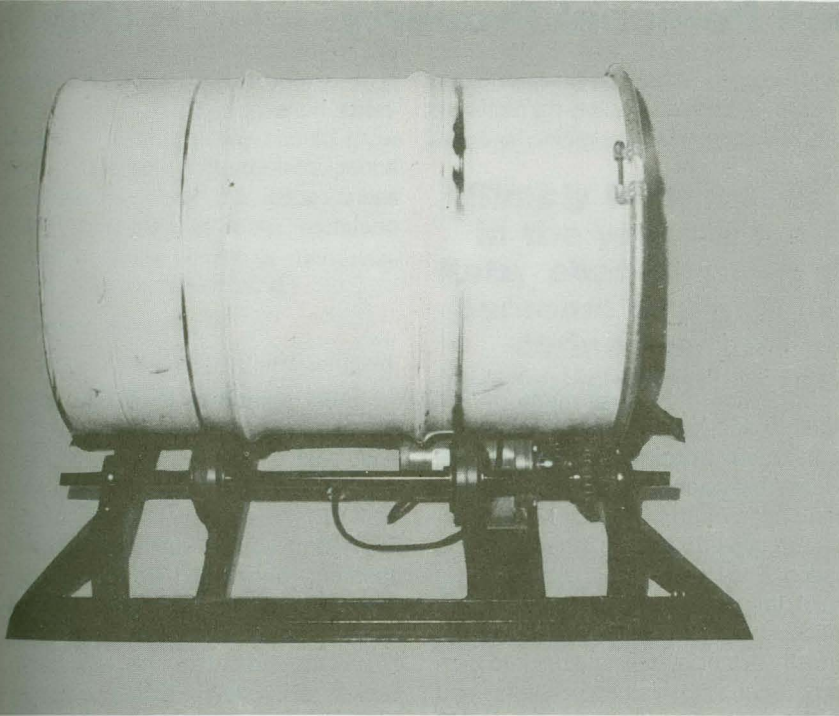
was overpowering, which raised questions about the effects of harmful vapors.

Only after all these procedures proved unsuccessful did the police department experiment with a process used by the owner of a gun shop in Montana. The owner was using ground-up corncobs in a revolving barrel to clean cartridge cases. After a local rancher donated some grit, the police department attempted the same process. Corncob grit was placed into a 3-pound coffee can, along with some brass cases, and revolved. Within minutes, beneficial results were apparent. All that remained was to build a device to clean cases on a larger scale.

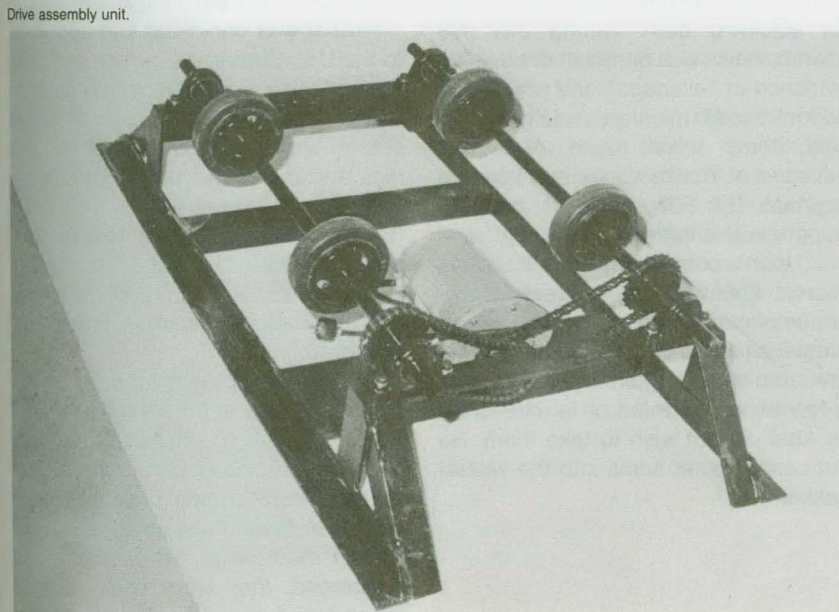
Expanding on the gunshop owner's idea, a police officer and a local machine shop employee collaborated to "invent" a device consisting of a 50-gallon barrel with a removable top (and no dents), a 60 rpm electric motor, 6-inch rubber wheels, 4-inch chain sprockets, and angle iron shafts. With this device approximately 10,000 rounds could be processed at one time. After the cases have been cleaned, they are rotated in a cylindrical drum of heavy wire screen, which separates the grit from the brass cases.

Corncob grit costs \$5 for 50 pounds, an amount which could clean 100,000 rounds. Considering the police department reloads about 600,000 rounds of .38-caliber ammunition annually, this process represents a substantial savings in time and expense. **FBI**

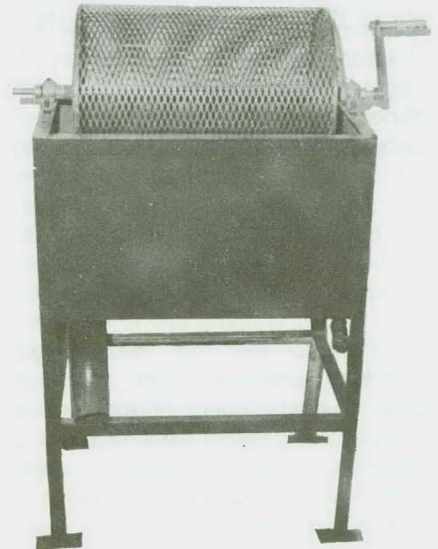
“Considering the police department reloads about 600,000 rounds of .38-caliber ammunition annually, this process represents a substantial savings in time and expense.”



Cleaning drum on drive unit.



Drive assembly unit.



Revolving cage used to recover grit in the final cleaning operation.

Katz in the Trash Barrel

Seizure of Abandoned Personal Property

(Part 1)

By DONALD J. McLAUGHLIN

Special Agent

Legal Counsel Division

Federal Bureau of Investigation

Washington, D.C.

Perhaps the late master spy Rudolph Ivanovich Abel was an accomplished student of the arcane ways of international espionage. As a common criminal, however, he gets failing grades. Consider his less than effective response to arrest and search.

The events leading to Abel's arrest began some weeks earlier. A defected Soviet spy, Hayhanen, informed the FBI that he had worked for several years with Abel in an effort to commit espionage. The FBI thereupon began an investigation of Abel. It was soon clear, however, that successful prosecution of Abel would depend heavily upon the statements of Hayhanen, who was reluctant to testify should the case go to trial. The U.S. Department of Justice concluded that without his testimony, the evidence was insufficient to justify arrest and indictment on espionage charges.

A decision was made to furnish the FBI's information to the Immigration and Naturalization Service (INS), with a view toward deporting Abel as an illegal alien. With such information, the INS decided to arrest Abel on an administrative arrest warrant, a common practice in alien cases. INS officers, accompanied by FBI Agents, went to Abel's hotel on June 21, 1957.

The first move was made by FBI Agents, who had no warrant for Abel's arrest. They knocked on the door, and when Abel opened it, they made entry and began efforts to solicit his cooperation relative to the espionage investigation. They were unsuccessful. At this point, they called into the room the INS officers, who immediately executed the arrest warrant by taking Abel into custody. Abel, with his captors, remained in the room for about an hour. INS agents undertook a search of Abel and all of his belongings in the room and in an adjoining bath. During this INS search, which was aimed at uncovering evidence of "alienage" and which lasted for 15 to 20 minutes, certain evidentiary items were found and later admitted at Abel's espionage conspiracy trial. The FBI Agents did not participate in this search.

Upon completion of the INS search, Abel was told to dress, gather his belongings, and prepare to leave. Almost all items of personal property in the room were packed into Abel's bag. A few things were left on a windowsill, as Abel did not wish to take them. He put certain other items into the wastebasket.

Abel agreed to check out of the hotel. FBI Agents obtained the bill, Abel paid it, and he was handcuffed and driven to INS headquarters in New York City. As soon as he was gone, an FBI Agent secured from the hotel management permission to search the room vacated by Abel. A warrantless 3-hour search of the room was made. The Agent found in the wastepaper basket a hollow pencil containing microfilm and a block of wood containing a cipher pad. Both were introduced in evidence at Abel's espionage trial.

Abel was convicted and appealed to the U.S. Supreme Court on grounds, among others, that his fourth amendment right against unreasonable search was infringed by the warrantless seizure of the pencil and cipher pad from the wastebasket. The Court disagreed with Abel and held the evidence admissible. *Abel v. United States*, 362 U.S. 217 (1960). Speaking for the majority, Justice Frankfurter observed:

"Nor was it unlawful to seize the entire contents of the wastepaper basket, even though some of its contents had no connection with crime. So far as the record shows, petitioner [Abel] had abandoned these articles. He had thrown them away. So far as he was concerned, they were bona vacantia [abandoned goods]. There can be

nothing unlawful in the Government's appropriation of such abandoned property." *Abel v. United States*, 362 U.S. at 241 [emphasis added].

Abel's case draws attention to the potential of finding highly relevant evidence amid the trash or rubbish disposed of daily in wastebaskets, garbage cans, trash barrels, and the like. It is one of the few decisions in which the Supreme Court has considered the constitutional problem of the seizure of abandoned property. It is ironic that this leading case on abandoned personal property should grow out of a foreign counter-intelligence investigation, when the issue arises almost invariably in more mundane criminal cases—gambling, narcotics, extortion, and counterfeiting.

The Katz Decision

Seven years after *Abel* was decided, the Supreme Court delivered an opinion which radically modified the traditional approach to fourth amendment analysis. Justice Stewart, speaking for the Court in *Katz v. United States*, 389 U.S. 347 (1967), declared:

"... the premise that property interests control the right of the Government to search and seize has been discredited. . . . [I]t becomes clear that the reach of that Amendment cannot turn upon the presence or absence of a physical intrusion into any given enclosure." *Id.* at 353 [quoting from *Warden v. Hayden*, 387 U.S. 294, 1967].

Prior to *Katz*, property concepts governed the application of fourth amendment law. Such considerations as trespass, entry, protected areas, and curtilage were critical in deciding whether a constitutional right against unreasonable search had been infringed. It became apparent, however, that in *Katz* a broader approach to protected fourth amendment interests had been fashioned. The Court concluded that a person's reasonable expectation of privacy is the controlling principle. The constitutional protection attaches whenever and wherever an individual harbors a privacy expectation under circumstances wherein the

expectation is reasonable. Justice Harlan's oft-quoted concurrence puts it most succinctly:

"As the Court's opinion states, 'the Fourth Amendment protects people, not places.' The question, however, is what protection it affords to those people. Generally, as here, the answer to that question requires reference to a 'place.' My understanding of the rule that has emerged from prior decisions is that there is a twofold requirement, first that a person have exhibited an actual [subjective] expectation of privacy and, second, that the

"Simply formulated, in the years since *Katz*, abandonment of personal property is defined as the relinquishment of the right of privacy in the place searched or the property seized."

expectation be one that society is prepared to recognize as 'reasonable.' Thus a man's home is, for most purposes, a place where he expects privacy, but objects, activities, or statements that he exposes to the 'plain view' of outsiders are not 'protected' because no intention to keep them to himself has been exhibited." *Id.* at 361.

Abel, Katz, and the Concept of Standing

The *Abel* decision stands for the proposition that there is "nothing unlawful" in the Government's seizure of abandoned property. *Katz* articulates the reason *why* there is no impropriety in its seizure. A person who voluntarily abandons property surrenders what right of privacy he or she formerly possessed in it. Simply formulated, in the years since *Katz*, abandonment of personal property is

defined as the relinquishment of the right of privacy in the place searched or the property seized. *United States v. Kahan*, 350 F. Supp. 784 (S.D.N.Y. 1972), affirmed in part, reversed in part, 479 F. 2d 290 (2d Cir. 1973), reversed on other grounds, 415 U.S. 239 (1974). The relinquishment is primarily a question of intent, and intent may be inferred from words, acts, and other objective facts. *United States v. Cella*, 568 F. 2d 1283 (9th Cir. 1977).

Having defined abandonment in the post-*Katz* sense, the final analytical step is reached. Many courts hold the former possessor of the abandoned property is stripped of his "standing" to object to a search or seizure of the property discarded. A person with standing is one against whom an unlawful search or seizure is directed, one who has a relationship to the place searched or the property seized sufficient to justify a finding that he or she has been victimized by the search or seizure. *Jones v. United States*, 362 U.S. 257, 261 (1960); *Alderman v. United States*, 394 U.S. 165 (1969). One who abandons property severs his relationship with that property. The result is that he thereafter may not claim his fourth amendment protection has been violated. *Parman v. United States*, 399 F. 2d 559, 565 (D.C. Cir. 1968), cert. denied 393 U.S. 858 (1968).

Understanding *Abel*, *Katz*, and the principle of standing is one thing; applying these rules to the practical matter of seizing and inspecting garbage and trash is quite another. Recall the reasoning: A person who abandons property gives up his reasonable expectation of privacy in the items discarded; having done so, he is deprived of the right to complain.

The critical question thus becomes, "At what point or under what circumstances has a possessor of property divested himself of his privacy right so as to bar a future assertion of fourth amendment interest?" The answer to this question is the key that unlocks the trash search cases, and can be found in a review of Federal and State court decisions.

The Approach of Federal Courts

Constitutional challenges to the warrantless search or seizure of trash have been generally unsuccessful when made in Federal courts. While factual patterns may be somewhat distinguishable, and the language of the courts slightly different, recent Federal decisions agree that personal property discarded in a common trash pile or garbage can placed out for collection has been abandoned. No privacy interest remains in the property; no standing may be claimed by the prior possessor.

In *Magda v. Benson*, 536 F. 2d 111 (6th Cir. 1976), one Magda was suspected of burglarizing a U.S. Post Office. He was placed under surveillance by postal inspectors, who observed him at 2:35 a.m. placing a plastic garbage bag on a treelawn next to the street adjacent to his residence. It was near some other garbage bags. An inspector retrieved the bag without warrant and found evidence therein incriminating Magda in the burglary. Furthermore, the evidence found led to the issuance of a search warrant for Magda's apartment, which yielded additional incriminating materials offered in evidence at his trial.

Following a judgment of conviction, Magda appealed, claiming that the warrantless seizure of the garbage bag violated his fourth amendment right of privacy. He argued that the evidence from the bag and from the subsequent apartment search should have been excluded. His claim was rejected.

The court agreed with the finding of the trial judge that the garbage was abandoned when placed for collection beyond the curtilage of Magda's residence:

"Magda had no Fourth Amendment rights as to the garbage bag in question; therefore the search and seizure of its contents without a search warrant were not illegal, and a search warrant subsequently obtained in reliance upon the fruits of the said garbage search was not tainted." Id. at 113.

The court also dismissed with little comment Magda's contention that a city ordinance prohibiting unauthorized persons from rummaging through the garbage of another creates an expectation of privacy in the refuse. The court noted: "This is a matter of local municipal law, not federal constitutional law." *Id.* at 113 (citing *United States v. Dzialak*, 441 F. 2d 212, 2d Cir. 1971, cert. denied 404 U.S. 883, 1971).

The *Magda* decision reasoned that the trash was abandoned, and the defendant's privacy interest given up.

"Many courts hold the former possessor of the abandoned property is stripped of his 'standing' to object to a search or seizure of the property discarded."

Implicit is the recognition that the defendant had no standing to challenge the seizure. A more recent decision of the Eighth Circuit Court of Appeals supports the conclusion of *Magda* and states explicitly that standing is surrendered by a person who abandons property.

The St. Louis area had been plagued by a series of bank robberies committed by an agile felon who customarily vaulted over the tellers' counter in effecting the robbery. By virtue of his apparent athletic abilities, he was dubbed "the Bionic Bandit" by the local media.

Following an intensive investigation by FBI Agents and local police, and based in part on an informant's tip, the subject was found and arrested. True to form, he attempted to escape by leaping over a car and fence, but to no avail. He was captured and subdued.

Following the arrest, officers went to the subject's residence in an effort to locate and interview a woman whose husband was also a suspect in the bank robberies and who was still at

large. The house was surrounded as a precaution against possible violence from armed accomplices. A patrolman positioned near a pile of partially burned trash in the yard noticed a piece of cardboard with radio scanner channels listed thereon. This was brought to the attention of an FBI Agent, who thereafter seized without warrant the cardboard and other evidence from the trash. At trial, some of the items were introduced into evidence over the defendant's objection. He was convicted and appealed.

Faced with the same issue raised in *Magda v. Benson*, *supra*, that seizure of the trash amounted to a fourth amendment violation, the appellate court held the items seized had been abandoned. The court pointed to trial testimony that the property taken had been placed in the trash pile for burning or other disposal. Further, there was no evidence that the defendant intended to retain anything in the trash pile. The court found the traditional test of abandonment, a combination of intent and action to renounce any reasonable expectation of privacy, had been met.

Having decided this question, the court logically concluded the defendant's "abandonment of the items in the trash pile deprived him of standing to challenge the introduction of those items into evidence." *United States v. Alden*, 576 F. 2d 772 (8th Cir. 1978).

The result reached in the recent Federal decisions of *Magda* and *Alden* is not new. It follows a line of cases that began before *Katz*. See *United States v. Mustone*, 469 F. 2d 970 (1st Cir. 1972) (defendant renounced any reasonable expectation of privacy in trash bags placed on the sidewalk near garbage cans); *United States v. Jackson*, 448 F. 2d 963 (9th Cir. 1971), cert. denied sub nom. *Willis v. United States*, 405 U.S. 924 (1972) (persons placing items in trash can outside motel room surrender their fourth amendment right of privacy with respect to

such articles); *United States v. Dzialak, supra* (trash left between sidewalk and street in front of defendant's home has been abandoned); *United States v. Stroble*, 431 F. 2d 1273 (6th Cir. 1970) (no right of privacy, hence no fourth amendment protection, accorded trash left by garbage cans adjacent to the curb); *United States v. Minker*, 312 F. 2d 632 (3d Cir. 1962) cert. denied 372 U.S. 953 (1963) (user of common trash receptacle for apartment house has insufficient interest therein to give him standing to assert constitutional right against its search); *United States v. Wolfe*, 375 F. Supp. 949 (E.D. Pa. 1974) (warrantless search of trash in backyard of business premises and removal therefrom of empty paper carton did not violate protection against unreasonable search); *United States v. Harruff*, 352 F. Supp. 224 (E.D. Mich. 1972) (warrantless search of community trash container located at the curb and used by all residents of apartment complex did not violate any fourth amendment protection).

The rationale in the foregoing cases varies, but only slightly. Most of the decisions, either expressly or impliedly, agreed with *Magda* and *Alden* (property abandoned, no expectation of privacy, no standing). An exception is the recent case of *United States v. Shelby*, 573 F. 2d 1971 (7th Cir. 1978).

In *Shelby*, the defendant was employed as a supervisor by a company rendering janitorial services to a number of banks. When he left this employment, the defendant retained keys to these banks, which he later burglarized of some \$3000 in coins. He became a suspect when he attempted to exchange the coins for bills at a non-victim bank.

Having been alerted to the defendant's unusual activities, the FBI and local police requested the city sanitation department to advise the trash collectors serving his residence

to watch for coin wrappers and trays when picking up the trash. As was the customary procedure, the workers reached over defendant's back fence, removed his garbage cans, carried them to a truck, dumped them, and returned the empty cans to their previous location. The contents of the cans included incriminating evidence, which was later turned over to the police and used against the defendant at his trial.

On appeal from a judgment of conviction, the Federal court held that the person from whose premises the trash was removed had standing to object to the search and seizure. However, having recognized the defendant's standing, the court concluded that he possessed no reasonable expectation of privacy in the refuse and therefore his constitutional claim must fail. The court, while disagreeing on the question of standing, nevertheless cited with approval the *Magda* and *Alden* decisions on the expectation of privacy problem.

Thus, running through all the Federal decisions on trash seizures are the ideas of abandonment and the relinquishment of privacy, and in many, the notion that standing is thereby forfeited.

Finally, the Federal courts recognize no significant difference between trash seizures made directly by law enforcement officers, and those in which a third party is recruited to take and secure the discarded items for later inspection by officers. Compare *United States v. Shelby, supra* (sanitation men) and *United States v. Dzialak, supra* (investigator employed by private corporation), with *United States v. Mustone, supra* (employee of Secret Service) and *United States v. Jackson, supra* (police).

FBI

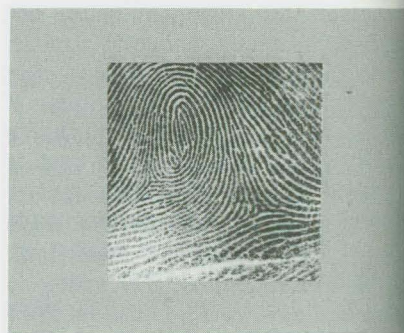
(Continued Next Month)

WANTED BY THE FBI



Photograph taken 1974.

Photographs taken 1975.



Right index fingerprint.

James William Kilgore

James William Kilgore, also known as Charles Adams, Ron Adams, Charles Baker, Charles Barber, George William Dickerson, David Ian Holcomb, James Kilgore, Jim Kilgore, Charles Owen, Charles Ownes, Robin Stewart, Gary Lee Waycott, and "Paul."

Unlawful possession of an unregistered bomb device.

The Crime

Kilgore is reportedly a member of the extremist group, the Symbionese Liberation Army, which has claimed credit for numerous bombings, including that of police facilities and vehicles. He is wanted by the FBI for the unlawful possession of an unregistered bomb device.

A Federal warrant was issued for Kilgore's arrest on August 25, 1976, at San Francisco, Calif.

Description

Age 31, born July 30, 1947, Portland, Oreg.
 Height 5'10".
 Weight 175 pounds.
 Build Medium.
 Hair Brown.
 Eyes Blue.
 Complexion Medium.
 Race White.
 Nationality American.
 Occupations Cook, house painter.
 Remarks Athletically inclined, plays basketball and golf; reportedly very nearsighted and needs glasses most of the time. Kilgore has been convicted of larceny.

Social Security

Nos. Used 553-68-0622
 553-58-0622.

FBI No. 448, 488, L10.

Fingerprint Classification:

13 O 23 W 101 15

I 17 R 001

NCIC Classification:

POC131315DI67PO1315

Caution

James William Kilgore, reportedly a member of an extremist group that has claimed credit for numerous bombings, including police facilities and vehicles, is being sought for the unlawful possession of an explosive device. He may be accompanied by Kathleen Ann Soliah, Identification Order 4804. Both individuals may possess explosives and should be considered armed and dangerous.

Notify the FBI

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

Change of Address

Not an order form

FBI LAW ENFORCEMENT BULLETIN

Complete this form and return to:

Director
Federal Bureau of Investigation
Washington, D.C. 20535

Name _____

Title _____

Address _____

City _____

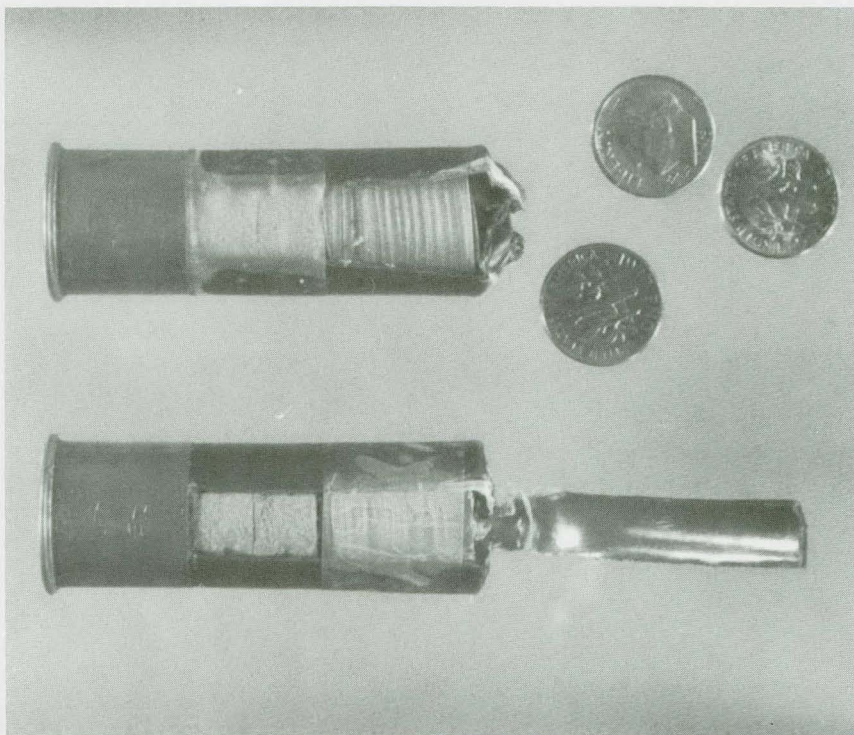
State _____

Zip _____

Deadly Dimes

Following an arrest, the Tennessee Bureau of Criminal Identification, Nashville, Tenn., recovered two 12-gauge shotgun shells loaded with dimes. (See photographs.) It is estimated that these shells, once fired, would be effective for a short distance (15 feet) and then the dimes could possibly take on an unpredictable flight.

In handling these shells, it should be remembered that a full choke 12-gauge shotgun barrel will not permit a dime to pass through. If fired in such a barrel, it could split the barrel and possibly cause serious injury or death to the shooter or bystander. Law enforcement officers are reminded that these shells are not considered safe and should not be fired.



United States Department of Justice
Federal Bureau of Investigation
Washington, D.C. 20535

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Interesting Patterns



The patterns this month show the interesting changes which result when an impression has been scarred.

The reproduction on the left shows a plain whorl-type pattern. After having been scarred, this same impression, as shown on the right, now appears to be a double loop whorl pattern.

