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**William H. Webster, Director**

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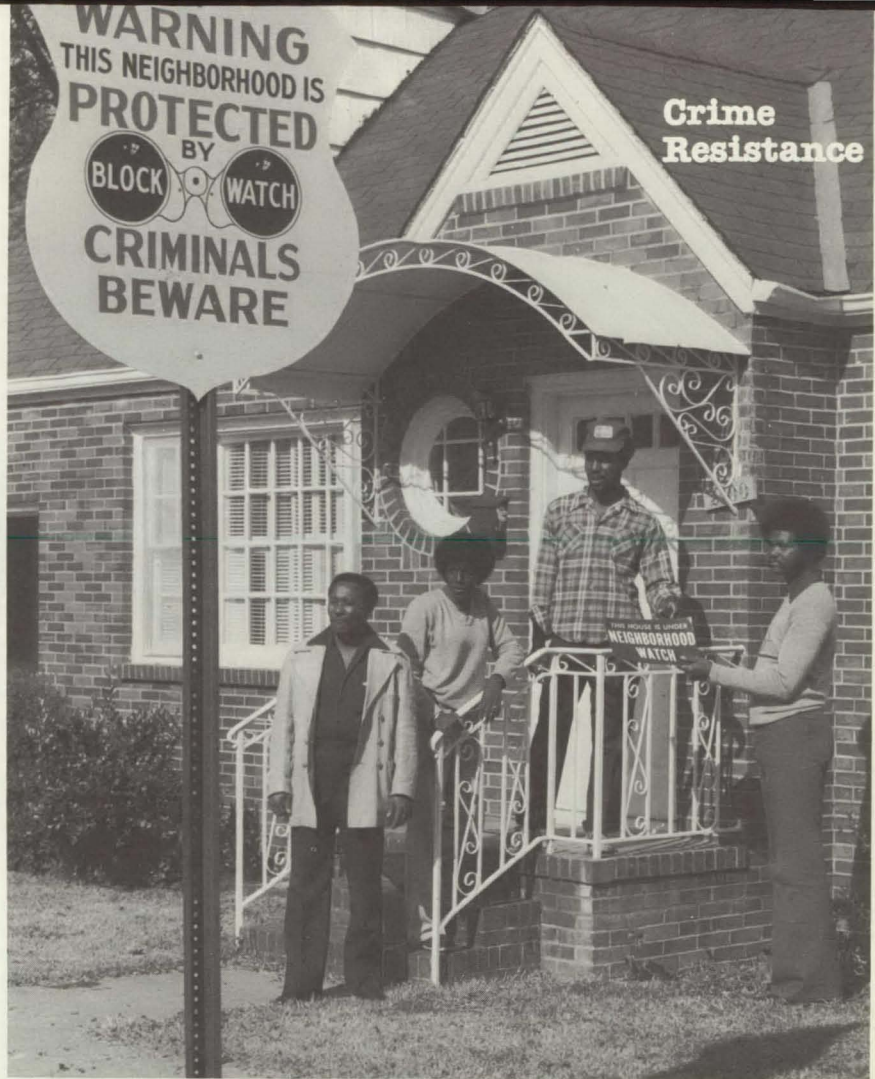
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*Residents participating in the block watch program. Signs are placed at end of participating blocks.*

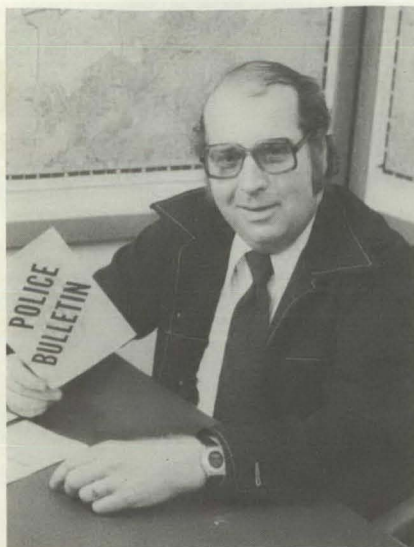
## Neighborhood Involvement

By SGT. JOHN G. RYE

*Commander  
Research & Development  
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Birmingham, Ala.*

Fear of crime is one of the deadlier aspects of criminal activity—deadlier, not necessarily to the victim of a specific crime, but to the community as a whole. It is nourished with each crime committed. Its consequences are more pervasive than the effects of any actual crime. It is an intangible whose cost cannot be allocated to each crime committed, yet its overall cost can be seen in the decline and deterioration of any community. Citizens perceive crime to be more encompassing than it actually is. They are afraid to visit and conduct business in the central business district of any city. Businesses relocate because of lost income, higher costs, or real or imagined danger. Fear of crime is a cancerous growth which affects the whole fabric of society. Like cancer, it is not always recognized or treated until it is too late.





Sergeant Rye



Chief Myers

## Reduce the Fear of Crime—Create an Informed Public

The Birmingham Police Department has adopted the philosophy that it is just as important to reduce the fear of crime in the city as it is to reduce the actual level of crime. Upon entering office, Chief Bill R. Myers established the following goals for the department:

- 1) Reduction of crime through community involvement.
- 2) Reduction of fear of crime.
- 3) Solicitation of information and ideas from the public which would increase the efficiency and effectiveness of the department.
- 4) Involvement of the community in the police function, and
- 5) Improvement of the department's image.

Just as the military has recognized the need to control rumors in order to maintain morale, there is a need to control rumors concerning crime. One story about a crime, spread from mouth to mouth by different citizens, becomes a crime wave to each one, touching their lives. As in any other situation, the best method for sinking a rumor is to use the truth.

To this end, the goal of the Birmingham Police Department has been to create an informed public. Our department maintains that in order to eradicate the rumors, myths, and half-truths surrounding the level of crime in our city, there must be public involvement. We must reach out to citizens at all levels of our society and the best method for reaching people, getting them involved, developing an effective program, and keeping them informed is through neighborhood involvement—getting the facts about crime home to people at their homes.

We must make people aware of the situation in neighborhoods. Who are the victims, i.e. what characteristics of each victim make them unique? When are the crimes happening—is there a pattern as to the time of day, day of the week, or month? Where are the crimes taking place? Are they occurring in the home? What geographical (locale) factors are involved in each crime? By opening channels of communication and making citizens aware

of crime in their neighborhoods, we cut through the clouds of fear of the unknown that cause them to believe that crime is omnipresent. We remove the unknown quality of crime by making people aware of the crime in their neighborhoods and advising them of the measures being used to combat the different types of crime, both city-wide and in their respective neighborhoods. But if such a program is to be effective, it must involve citizens as well as the police.

As a starting point, the Birmingham Police Department explored the possibility of using the existing structure within the framework of city government, with an eye toward establishing a program of neighborhood involvement. Then methods of extending our reach were sought. This required the assistance of agencies far down the ladder of the community's structure—down to each block within the city, if possible.

## Methods

The mayor of Birmingham established a Police/Community Relations Committee within his office. All members of that committee are appointed by the mayor. At present, the committee consists of 16 members, 11 of whom are permanent members with as diverse backgrounds as those of our city's population. The chief of police, two other members of the police department, a representative of the mayor's office, and a representative of the Community Development Department also meet with the committee. The committee does not act as a civilian review board on matters of police conduct or procedures, but operates with the purpose of maintaining the lines of communication between the citizens and the police in order to promote better understanding and cooperation



between the two groups. The committee meets every other week and discusses matters which concern the whole city. It acts as a clearinghouse of information and as an advisory board to the mayor and chief of police. The committee seeks ways and means of promoting better understanding and more involvement by citizens and officers through such programs as its newly instituted "Officer of the Year" and "Neighborhood of the Year" awards. These awards are presented to the officer and neighborhood who have contributed most to promoting better understanding in the field of police/community relations.

The Birmingham Police Department consults this committee regularly in an effort to discover what matters relating to the activities of the police department and crime most concern the overall community.

Another existing agency within the city government is the citizen participation program. Under this program the city is divided into 21 major communities which are subdivided into 90 neighborhoods, with several neighborhoods comprising a community. Elections are held at the community and neighborhood level, with individuals from these respective groups running for the offices of president, vice-president, and secretary. The citizen participation program functions through three committees, one of which is the Citizens Advisory Board which consists of the presidents of all the citizens' community committees. This board maintains a standing committee which parallels those of the mayor-council form of government in the city. The board meets bimonthly and relays the concerns of these committees to the council. With the Police/Community Relations Committee, the board discusses methods of resolving problems that concern both the department and the various communities and brings these matters to the attention of the city fathers and the department. Just as information flows from the board to city government, information from the city government and the police flows to the board and its members.



*Residents of local neighborhoods sign in at the information desk during a community-level crime prevention program.*



*Officer discusses shoplifting and forgery with young residents of a neighborhood.*



The Birmingham Police Department operates out of four major precincts—north, south, east, and west. Each precinct has created a police/citizen precinct meeting, which parallels the existing community committees in that its basic members are the presidents of all the neighborhoods within the geographical boundaries of each precinct. The fact that police precinct boundaries and boundaries of the citizen participation program overlap has not presented any problem since the department's aim is at the precinct neighborhoods. Also attending police/citizen precinct meetings are the precinct commanders, each shift commander, and the precinct police crime prevention officer (PCPO). These committees meet quarterly at their respective precincts to discuss problems within the neighborhoods.

#### **A Team Approach To Involve the Public**

In the beginning, these meetings were stilted affairs, with reservations shown by both the police and citizens. As time progressed and each party came to know, respect, and understand each other, the meetings became lively and candid. The meetings became sessions of "tell it like it is" and "how can *we*, together, resolve the issues confronting *us*?" A team approach to problem solving is stressed with officers and citizens as equal partners. Emphasis is placed on the realization that unless citizens share the burden and participate actively in the police function, effort expended by the police will result only in half-measures toward reducing crime. Another important phase of each meeting is determining from the neighborhood leaders what problems they and their constituents believe they are experiencing during their daily dealings with police officers. Do they feel that their respective neighborhoods are getting the kind of police service they want and need? What types of services or responses do they want and expect from the department? Do their expectations of police-rendered services actually fall under the realm of the police function? How can the police provide better service? The questions

are discussed in an endless effort of self-examination and explanation of factors involved in individual situations.

During these question-and-answer sessions, the nature of crimes occurring throughout the city and how such criminal activity is affecting respective neighborhoods are covered. The Crime Analysis Unit furnishes each precinct and each neighborhood president with the latest information on the criminal activity in his area, along with a monthly recap of the latest statistics. This information is explored as thoroughly as possible at the precinct meetings to insure that a clear picture is being presented. Measures being used to combat a particular problem area are explained, and at the next meeting, the effect of these measures is discussed.

These meetings are also used for the purpose of developing initial contacts between the PCPO and the community. Each of the precincts has a PCPO who is a civilian trained in crime prevention. He explains and coordinates the progress of the various departmental programs aimed at aiding citizens in reducing the opportunities for crime in their neighborhoods and decreasing the possibility that they may become victims. At this time, the PCPO presents to the neighborhood presidents any new or additional information concerning such activities and makes appointments for followup at the monthly Neighborhood Citizens Committee meetings.

The basic element of the citizen participation program is the Neighborhood Citizen Committee, which consists of residents within that neighborhood. Each neighborhood elects a president, vice-president, and secretary to preside over the meetings. The tenure of each of these positions is 2 years. For each Neighborhood Citizen Committee there is an advisory group selected by the president in consultation with the vice-president and secretary. The advisory group's pur-

pose is to keep the elected neighborhood officers aware of local citizens' feelings on issues affecting the neighborhood or city. The Neighborhood Citizens Committee, guided by its elected officers and the advisory group, analyzes its own area in order to maintain a current listing of local problems, priorities, goals, and objectives.

Neighborhood meetings, which are scheduled monthly, are regularly attended by the precinct commander, shift commander, district sergeants, beat officers, and the precinct's PCPO. Here the people get to know the officers regularly assigned to their neighborhoods and the officers get to know the people who live on their beats. The beat officers inform the citizens of the crimes occurring in their area. This exchange of information leads to a better understanding between the officers and citizens. The beat officer tells when and where particular crimes are occurring and what measures citizens can take to prevent themselves from becoming victims. Neighborhood residents also keep the officers aware of things happening in the neighborhood. Though some officers feel that these meetings place an unnecessary burden on them, most find that such interactions are beneficial. There has been some reluctance on the part of some citizens to participate, because they believe that they should not become involved in the police function. Yet, on the whole, the response has been positive—barriers between people and the police have been removed.

During the course of the neighborhood citizens meetings, the PCPO details current departmental crime prevention workshops that have been scheduled and goes into detail about the block watch program.

The block watch program is designed to get citizens involved in helping the beat officer protect their neighborhoods. The PCPO presents a general outline of the program and then schedules appointments for meeting with interested residents in their homes.



The basic element in the block watch program is one neighborhood block. The PCPO sets up a date for a meeting at one house on a given block and has as many residents of that block attend the meeting as possible. The PCPO explains the fundamentals of the block watch program and schedules subsequent meetings at interested citizens' homes. Beat officers are introduced to the residents of that block. The officers make the citizens aware of the level and type of criminal activity occurring in their area and what steps can be taken to reduce opportunities for crime. This very basic level of involvement between beat officers and residents of one city block is the foundation of neighborhood involvement. Emphasis is placed on individual rather than direct action by citizens when they witness a crime. The PCPO assists the residents in developing their own neighborhood block watch program. Block captains, who function primarily as coordinators of the program, are elected. For such a program to be successful, it must be emphasized that the citizens run the program. The block watch committees hold monthly meetings attended by the PCPO's and the beat officers. Again, the Crime Analysis Unit furnishes statistical information about criminal activity within the parameter of the block participating in the block watch program. Signs at the ends of blocks warn potential criminals that "this block is under the protection of a block watch program and any criminal activity and all suspicious persons will be reported to the police." Decals and placards are placed on the windows of participating residences. An available form allows citizens to report suspicious persons or vehicles wandering through their neighborhoods. This form goes directly to the beat officer.



*A public information officer discusses various aspects of crime prevention with neighborhood residents during a community development crime prevention program.*

The block watch program is new to Birmingham, and because of its nature, it covers thousands of block-sized units. It takes a great deal of time and effort to establish; however, in those blocks which have subscribed to the program, the effect has been dramatic. In several instances when a neighborhood with a high crime rate created a neighborhood block watch, the rate actually dropped to zero. Such figures effectively demonstrate that the program does work and that neighborhood and citizen involvement does pay high dividends both to the community and the police department. It reduces the fear of crime—people know what's going on in their neighborhoods because they have the facts at hand. Rumors have no chance to grow. The community regains its vitality because the fear of the unknown is no longer present. The unknown has become a known entity with which one can deal.

Because such citizen involvement reduces the opportunities for crime, the actual crime rate declines. People

know what measures can be taken to reduce the chances of their becoming victims.

By attending the various citizen meetings and using the structure within the city government, information and ideas for increasing the effectiveness and efficiency of the department are forthcoming. Knowing what the community wants, expects, and needs of the department allows for better allocation of manpower and other resources.

Attending citizen meetings on the smallest scale, establishing programs for citizen participation, and assisting citizens in participating in these programs, allows the community to become involved in the police function. The most important aspect of these programs, committees, and meetings is that they are citizen-dominated. In order to thrive, they must be nourished by active citizen participation.

Finally, when the results are tabulated and the facts point toward more active people involvement, the perception of the department in the community has only one way to go—up. **FBI**



# Management Control

By DONALD C. WITHAM

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The task of management is frequently subdivided into the following component parts: Planning, organizing, directing, staffing, and controlling. The management function of control, perhaps befitting its position as the last function listed above, is generally less understood and honored than the other managerial processes. There are many different interpretations of and misgivings about the concept of control. Yet, despite the many misconceptions about the nature of control, there is general agreement about its definition. Henri Fayol's definition in 1916 is still commonly accepted today.

"In an undertaking control consists in verifying whether everything occurs in conformity with the plan adopted, the instructions issued and principles established. It has for object to point out weaknesses and errors in order to rectify them and prevent recurrence. It operates on everything, things, people, actions."<sup>1</sup>

The American cultural value of individual freedom is supposedly threatened by any form of control. Highly simplified, the argument goes that freedom is good and control is bad. Although most people are reluctant to admit it, they probably prefer some degree of control in their lives to give them some stability and continuity and to contribute to their general well-being

and safety. Yet, the negative connotation of control still exists; it is amplified by the methods in which controls have been traditionally devised, implemented, and used in both private sector and governmental organizations. Here, we discuss the traditional management control strategies, with particular emphasis on the behavioral implications of these strategies. Motivation theory will also be addressed. Familiarity with such theories may assist law enforcement executives in unleashing the potential of their subordinates, while establishing an organizational climate of self-control and optimum productivity.

## A Traditional View of Control

Many managers view control as the managerial means to insure that objectives are implemented. This process is normally accomplished by establishing policies and procedures and measuring and providing feedback on performance.<sup>2</sup> The process of establishing policies and procedures is related to the concept of control as direction. The father of scientific management, Frederick Taylor, believed that it was a primary responsibility of management to learn the best method and procedures for accomplishing work, prepare written instructions detailing these procedures, and carefully train selected workers in these procedures. Thus, it was the responsibility of managers, and not employees, to provide clear and understandable policies and procedures that would insure the accomplishment of objectives.



# Through Motivation

The distinctions between policy, procedure, or rule are not always clear and are not really central to our discussion. Broadly stated, policies, procedures, and rules set forth guidelines for making decisions, specify ways for carrying out tasks, and provide regulations that require or prohibit certain behavior. What is important is that managers devise policies and procedures that help employees accomplish objectives. In their early years and while they are relatively small, most police departments, or for that matter virtually all organizations, require very few policies and procedures. Gradually, as the department grows and becomes more complex, the need for policies and procedures becomes more pronounced. It is just not efficient or economically feasible to continue handling every problem as unique. The organizations decide to develop some policies that trade upon experience and give guidance to people facing similar problems for the first time. Today, many departments not only rely on their own experience but hire management consultants and staff specialists to analyze the experiences and innovations of other departments to see if they are applicable to their own department.

Even though the development of policies and procedures is inevitable, and in spite of the advantages just discussed, it is equally inevitable that problems will evolve as a result of these policies and procedures. Unless management is careful to avoid providing too much direction, these problems or disadvantages can easily outweigh the advantages. In this era of rapid change and advanced technology, the idea of planning for and controlling every contingency is not feasible. Above all else, police departments must be flexible and adaptive to the environment. Police managers and patrolmen must use discretion in handling unique or unforeseen incidents. Too much direction leads to an inversion of means and ends. Some people regard plans and procedures as an end in themselves, without regard to their contribution to organizational objectives. Many people feel that this "by the book" mentality is essentially synonymous with bureaucracy.

A final difficulty with control through policies and procedures is the continuing necessity to insure that they are up-to-date. Outdated and improper policies can be a strong demotivator. Some management consultants recommend periodically burning all policies and procedures, and after a few weeks, carefully assessing the situation to determine which policies are really needed and which should be eliminated.

The second control process, measuring performance and providing feedback, has its roots in the concept of control not as direction but as verification—checking to see if activities conform to predetermined direction. This approach involves developing and administering measures of key activities that will discover and determine if objectives are being fulfilled. Elaborate budgetary techniques, management audits, time scheduling techniques such as PERT (Program Evaluation and Review Technique), computer technology, and management information systems have the capacity to provide police managers with voluminous amounts of accurate, complex information in a timely fashion. Crucial to the effectiveness of such approaches, however, is choosing what to measure. How well the measurements are designed makes a difference in how much they can help the organization reach its objectives. Probably one of the most damning, but accurate, complaints about management by objectives, at least with respect to the way it is frequently implemented, is the seductive urge to concentrate on that which is quantifiable at the expense of that which is important. If control systems are to avoid being counterproductive, both from an organizational effectiveness standpoint and from a motivational perspective, they must highlight links between effort and performance.



Research on the effects of control systems upon motivation and behavior leads to the conclusion that completeness, objectivity, and responsiveness to employee effort and performance are desirable and necessary qualities of the performance measures.<sup>3</sup> Employees perceive that measurements define important aspects of the job. They assume that what is counted is what matters. As Harold Hook, the president of American General Insurance Company, states, "A company gets what it inspects, not what it expects."<sup>4</sup> In a 1963 report, P. M. Blau comments that law enforcement officials who are assigned an established caseload and a quota for clearing cases pick easy or fast cases toward the end of each month if they anticipate falling short of their quota.<sup>5</sup> Several studies document how employees will make sure, by fair means or foul, that measurements will register at satisfactory levels. The performance measures selected for the control system can, in fact, change the behavior of employees, and if the measures are not a valid indicator of performance, this change in behavior may well be dysfunctional.

Feedback is an integral part of control through the use of performance measurement. Feedback makes it possible to compare actual and intended performance and to make the necessary adjustments. The popular belief that accurate feedback results in improved performance has not always been supported by research studies.<sup>6</sup> Additionally, the effectiveness of feedback can vary depending on who or what provides it. Most individuals seem to find the task and themselves the preferred source.<sup>7</sup> Supervisors often make a poor source of feedback. "Critical feedback from supervisors in a performance appraisal system tends, indeed, to provide more stimulus to defensiveness than to improve performance."<sup>8</sup> In short, feedback can be both valuable and risky.

## Control Through Motivation

Now that the possibilities of controlling the behavior of people in organizations through policies and procedures and through performance measurement and feedback have been discussed, it is necessary to consider the motivational processes of individuals and see how police managers can apply this knowledge to control the behavior of their personnel. According to motivation theory, people have certain needs and beliefs or expectancies

### **"Feedback is an integral part of control through the use of performance measurement."**

about whether or not various ways of behaving will lead to satisfaction of these needs. Within us all, mental and emotional processes are at work to determine how we will behave. This article will briefly review some of the major theories of motivation in order to assist in understanding this psychological process.

## Maslow's Hierarchy of Needs

In a classic work in the 1940's, Abraham Maslow outlined an overall theory of motivation using a hierarchy of needs concept which can be most helpful in explaining the vagaries of human behavior.<sup>9</sup> (See fig. 1.) A basic assumption of the theory is that all behavior is goal-directed. The desired goals represent satisfaction of basic human needs. These needs are arranged in a hierarchical relationship with the lowest needs being prepotent. According to the theory, people are always in a state of want, but what they want is a function of the pattern of need satisfactions within the hierarchy. Lowest-level needs are predominant until they are at least partially satisfied, at which time higher-level needs emerge and become the energizers for future behavior. Maslow states that a satisfied need is not a motivator of behavior.

Just as satisfied needs move people up the hierarchy, unsatisfied needs move people back down the hierarchy to their basic physiological and safety needs. Thus, a young police lieutenant with a graduate degree and virtually unlimited career advancement potential is probably operating normally at a level of ego/esteem need satisfaction or self-actualization. However, if he were captured by a group of terrorists and involved in a lengthy hostage situation, within a relatively short time his behavior would be directed toward the satisfaction of basic physiological needs, as well as the maintenance of his safety and that of the other hostages.

Although Maslow did not intend that his theory be directly applied to work motivation, the need hierarchy can be roughly converted. (See fig. 2.)

The research conducted to validate Maslow's model has had mixed results, and most likely, the model is not the final answer in work motivation. However, the model does serve one very significant purpose—to make managers more aware of the diverse needs of people at work.

## Herzberg's Two-factor Theory of Motivation

Frederick Herzberg extended the work of Maslow and developed a specific theory of work motivation. Using what is known as the critical incident method, Herzberg has posed the following to the many different types of workers—professional and manual.

"Think of a time when you felt exceptionally bad about your job, either your present job or any other job you have had. Tell me what happened. Conversely, think of a time when you felt exceptionally good about your job . . . and tell me what happened."<sup>10</sup>



The responses obtained were fairly consistent. When people were describing good feelings, they were generally associated with job experiences and job content, and bad experiences were generally associated with the environment in which the work was accomplished. Herzberg states that what makes people feel good and bad about their work are two separate and distinct factors. The good factors are called motivators; the bad factors, hygiene. (See fig. 3.)

Herzberg's theory is closely related to that of Maslow. The hygiene factors are preventative and environmental in nature and are roughly equivalent to Maslow's lower-level needs. These factors are important because they prevent dissatisfaction and almost certain poor performance, but they do not lead to feelings of satisfaction and consequent high performance. Herzberg believes that a person must be given a task to perform which is challenging and meaningful to him in order to be motivated.

Herzberg's theory has also been heavily criticized by academicians and practicing managers. The most serious criticism would appear to be with the methodology employed. When researchers depart from the critical incident method (describing one instance when they felt either particularly good or bad about their job) used by Herzberg, they generally obtain results which are quite different from those the two-factor theory would predict.<sup>11</sup> An additional point of controversy over Herzberg's theory is the listing of salary or pay as a hygiene factor. Herzberg states that pay is the most important hygiene factor, but many people feel that even this preeminence among hygiene factors may be an overcorrection for many workers. In other words, pay can be and is a motivator for many people. A study by Lawler in the early 1970's has shown that money can be a powerful motivator for some people.<sup>12</sup> Still, Herzberg's work is extremely valuable to practicing managers because it provides an understanding of job-content factors and worker satisfaction.

Figure 1.

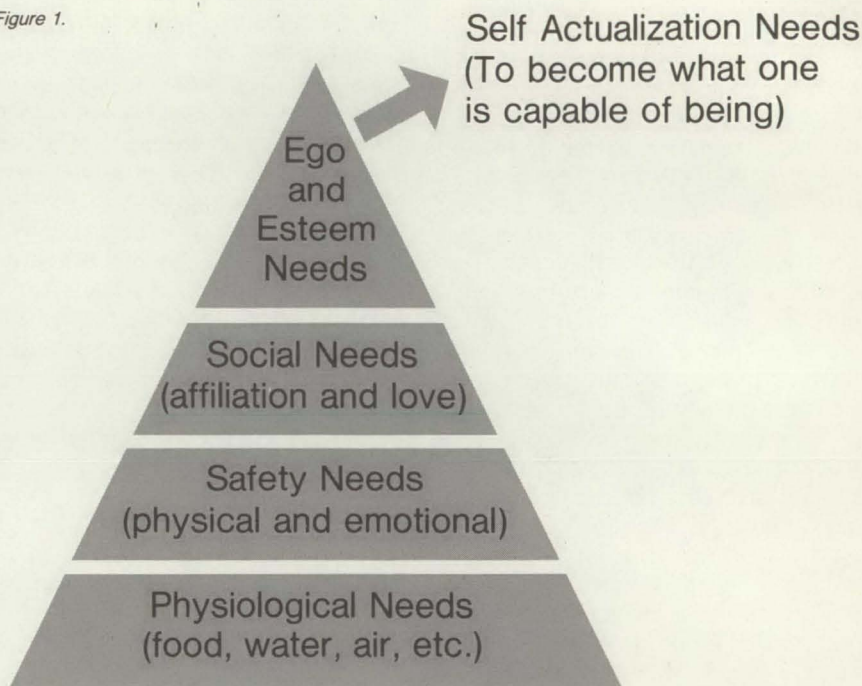
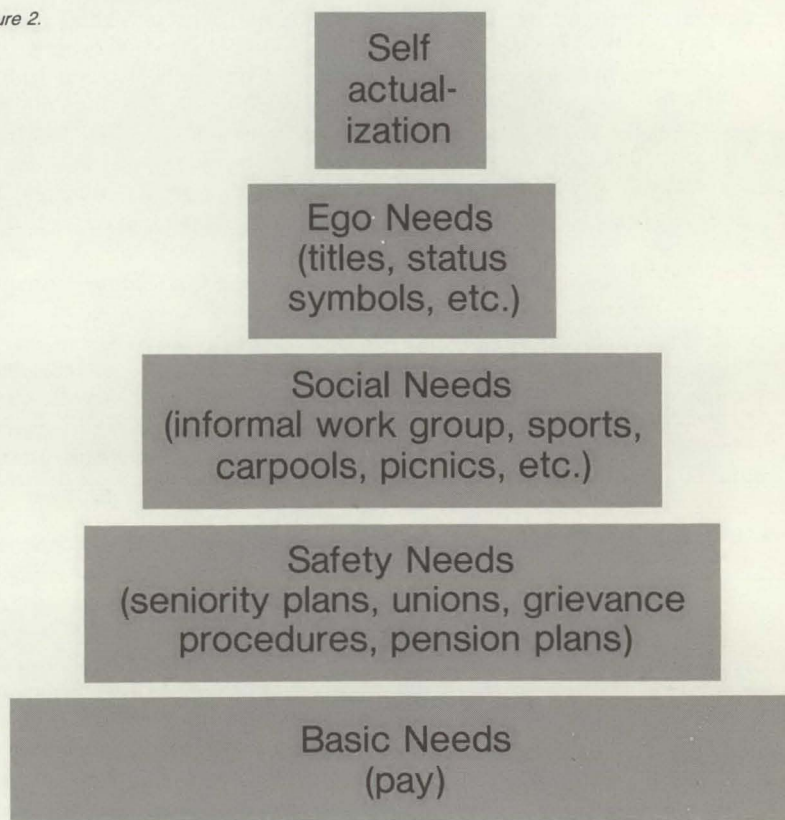


Figure 2.





## Expectancy Theory of Motivation

In an attempt to address some of the limitations of Maslow's and Herzberg's motivation theories, Victor Vroom proposed the expectancy theory of work motivation in 1964.<sup>13</sup> Presently, there are many models of work motivation built around the concept of expectancy theory. Most academicians have embraced the expectancy theory because they feel it more adequately describes the motivational process of individuals than the more simplistic models of Maslow and Herzberg. It should be recalled that Maslow and Herzberg believed that all behavior was goal-directed and that these goals represented satisfaction of basic human needs. By way of contrast, the expectancy theory states that a human being is both emotional—seeking satisfaction of needs—and reasonable—thinking through what alternative actions will satisfy needs—at the same time. In effect, we try to predict the consequences of our behavior with respect to the payoffs we will receive, i.e., there is a cognitive aspect of behavior. Basic to the cognitive view of motivation is the notion that individuals have cognitive (subjective) expectancies concerning the outcomes of their behavior and have preferences among these outcomes. Thus, people have an idea about possible consequences of their acts and make conscious choices among consequences according to their probability of occurrence and their value to them. "Thus for the cognitive theorists it is the anticipation of reward that energizes behavior and the perceived value of various outcomes that gives behavior its direction."<sup>14</sup>

For example, consider the situation of a young patrolman studying for a sergeant's exam. The night before the exam the patrolman is trying to decide how to spend the evening. He has a number of choices. He could stay home and study, go to the local gym and work out, go to the neighborhood bar, or take his girl to the movies. Each choice will produce its own payoffs for the patrolman. The one he chooses will be the one which will provide the greatest payoffs with respect to his needs and values. The

**"If control systems are to avoid being counterproductive, . . . they must highlight links between effort and performance."**

patrolman is likely to have a sense of achievement as a result of studying for the exam, and if he believes (his subjective probability) that studying for the exam will lead to a high grade and he values a high grade and the expected resulting promotion, it is very likely that he will spend the evening in study. It may be that in addition to a need for achievement, the patrolman also has a strong need for affiliation. In this event he could satisfy both needs by studying with other officers preparing for the exam. However, if the officer does not believe (subjective probability) studying will have any effect upon his grade or if he places little or no value on achieving a high grade and possible promotion, there is very little likelihood that he will study.

The expectancy models can become quite complex and frequently involve mathematical equations and formulas to predict behavior. This complexity and quantifiability are obviously attractive to academicians and simultaneously tend to scare off practicing law enforcement executives. This is most unfortunate. Obviously, people do not become mathematicians to figure out their every act, but this does not mean that expectancy theory is of no value.

In real life, people trade upon their experience and knowledge to make quick, subjective estimates of the payoffs resulting from various behaviors. The true value of expectancy theory lies in highlighting the reasoning side of people—the cognitive side of behavior. Generally, if managers can cement the link between task performance and need satisfaction, they raise the probability that employee efforts will be committed to organizational goals and objectives. Managers are employed to assist in realizing organizational objectives, and their effectiveness depends upon the cooperation of their subordinates. They must clarify for subordinates the paths of behavior that will fill the subordinates' need satisfaction and insure these paths are parallel or complementary to attainment of organizational goals.

The central notion of expectancy theory is that people will act in a particular way as a function of how certain they are that the act will be followed by a reward and what value that reward holds for them. The reward must be contingent upon performing specific acts which are organizationally desirable. Management, thus, is able to control organizational behavior by the design and administration of reward practices. By insuring that rewards are linked to organizationally desired behaviors and that the paths to these rewards are clarified for subordinates, management can establish real control of their organization.

## Conclusion

We have reviewed the control process from the perspectives of establishing policies and procedures and also from measuring and providing feedback on performance. Additionally, we have discussed the complex psychological process of motivation in order to gain some insight into why people behave in certain ways. The first two approaches can be of invaluable assistance to law enforcement executives in controlling the behavior of their organizational members, but simultaneously, the limitations and po-



tential disadvantages of these approaches must be considered. The desire for control and uniformity based on policies and procedures must be balanced with the necessity of allowing decisionmakers some flexibility when confronted with new and unanticipated situations. The accelerating nature of societal changes serves to guarantee an increasing number of such situations in the future. Policies and procedures essential to the efficient operation of the department must be regularly reviewed—at least annually—to guard against dysfunctional behavior and negative impact on members' motivation. Similarly, when measuring the performance of police officers, executives must insure that the elements measured correlate strongly with effort expended and performance achieved. Departments must measure the important elements of performance and not just those elements which lend themselves to measure.

Police executives can enhance their ability to achieve organizational objectives and control individual performance by understanding motivational processes and applying this knowledge to work situations. By designing and administering the reward practices (pay, promotions, assignments, etc.) of the organization so that they are obvious rewards of superior performance, managers can increase the probability of receiving satisfactory performance. Officers will discipline their own behavior with self-control to

Figure 3.

## Herzberg's Two-factor Theory of Motivation

HYGIENE FACTORS	MOTIVATORS
Company policy & administration	Job itself (meaningful and challenging)
Interpersonal relations	Recognition
Working conditions	Achievement
Supervisory practices	Responsibility
Salary	Advancement

increase their opportunities to receive organizational rewards. As Drucker states, "People act as they are being rewarded or punished."<sup>15</sup> Management control of the behavior of organizational members can be greatly enhanced by an understanding of the motivational processes and by applying this knowledge on the job.

**FBI**

### Footnotes

- <sup>1</sup> Henri Fayol, *General and Industrial Management*, trans. Constance Stors (London: Sir Isaac Pitman and Sons, 1949), p. 107.
- <sup>2</sup> David R. Hampton, Charles E. Summer, and Ross A. Webber, *Organizational Behavior and the Practice of Management*, 3d ed. (Glenview, Ill.: Scott, Foresman and Company, 1978), p. 525.
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- <sup>4</sup> Harold Hook, "Catchwords Become a New Management Technique," *Business Week*, December 15, 1975, p. 77.
- <sup>5</sup> P. M. Blau, *The Dynamics of Bureaucracy*, rev. ed., (Chicago: University of Chicago Press, 1963), p. 45.
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<sup>8</sup> H. H. Meyer, E. Kay, and J. R. P. French, Jr., "Split Roles in Performance Appraisals," *Harvard Business Review*, January-February 1965, pp. 123-129.

<sup>9</sup> Abraham Maslow, *Motivation and Personality*, (New York: Harper and Brothers, 1954). The hierarchy of needs concept is discussed in detail in Chapter 17.

<sup>10</sup> Frederick Herzberg, Bernard Mausner, and Barbara Bloch Snyderman, *The Motivation to Work*, 2d ed. (New York: John Wiley and Sons, 1959), p. 141.

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<sup>12</sup> Edward E. Lawler, *Pay and Organizational Effectiveness—A Psychological View* (New York: McGraw-Hill Book Company, 1971), pp. 91-92.

<sup>13</sup> Victor H. Vroom, *Work and Motivation* (New York: John Wiley and Sons, 1964).

<sup>14</sup> J. P. Campbell, M. D. Dunnette, E. E. Lawler III, and K. E. Weick, Jr., *Managerial Behavior, Performance and Effectiveness* (New York: McGraw-Hill Book Company, 1970), p. 343.

<sup>15</sup> P. Drucker, *Management: Tasks, Responsibilities, Practices* (New York: Harper and Row, 1974), p. 504.

## Measuring Blood Alcohol Content

The Law Enforcement Standards Laboratory of the National Bureau of Standards has established a performance standard for collection/storage devices used by police to obtain breath samples from people suspected of driving while under the influence of alcohol. The standard was developed for the National Highway Traffic Safety Administration (NHTSA).

Since breath samples are subsequently analyzed to determine blood alcohol content, the devices used must be capable of collecting a deep-lung breath sample and be able to store the sample for extended periods without degradation, in order to meet performance requirements and test methods. Once the standard is published, the NHTSA will use it as the basis for establishing a qualified products list that State and local governments will rely on to purchase equipment with Federal funds.

**FBI**



## THE ASSESSMENT CENTER:

## Is it the Answer?

By CARROLL D. BURACKER

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During the past two decades, law enforcement personnel have demonstrated an ever-increasing concern for equal promotional opportunities. Court decisions and employee dissatisfaction have caused police administrators to reassess traditional methods of promotion and to focus more attention on the need for upward mobility procedures. Today, police administrators across the Nation are finding that employees are more demanding in terms of opportunities for career enhancement. What was once accepted as the "system" is no longer satisfactory. Today, the ubiquitous question of "why?" is more prevalent than ever. Court challenges and personnel grievances present the administrator with vexing problems. On the one hand, the administrator needs to identify the most qualified candidates within the organization; on the other, he must be responsive to the employees' concepts of fairness, especially when decisions affecting careers are made.

For the most part, police promotions throughout the country have centered around three primary processes: Written examination, performance evaluation, and oral examination. Of course, processes employed by police agencies are often dictated by local civil service rules or State regulations. Therefore, before commenting on the assessment center employed by the Fairfax County Police Department, an overview of traditional exercises is necessary.

### Written Examination

Written examinations have been the most frequently used method for testing police officers for promotion. In large police agencies, it is impractical to interview hundreds or thousands of employees; hence, the written examination is used to reduce the number of eligible candidates before further evaluation. The fundamental purpose of the written examination is to conduct an inventory of job knowledge. The written examination allows the police manager to get an idea of how knowledgeable a candidate is in a certain field—whether it is supervision, planning and organization, or criminal law.

The written examination has come a long way in the 1970's. A number of police departments moved ahead voluntarily in improving their test instruments. In other cases, changes were forced by court challenges. In any event, written examinations appear to have made quantum leaps forward in the past several years. It is believed by some that job-related issues are at the core of employee dissatisfaction with written examinations. If the examination is developed through job-analysis validation techniques and relates to specific functions to be performed at a given level, there is less possibility that the written examination will be challenged. In large organizations, a validated written examination is still necessary to reduce the number of candidates for subsequent participation in an assessment center. In small departments, where there are not more than 40 eligibles, for example, a written examination can be optional. Fairfax County did not use a written examination for the ranks of major and captain.

### Oral Examination

The subject of oral boards has produced more acrimony than any other issue relating to promotions within police agencies. The concept has friends and foes based, in part, on previous experience and rumors. The critics of oral boards point to the impossibility of evaluating a candidate for promotion with a 15-minute to an hour interview. Criticism of this process has some foundation. Often, police oral boards are assembled without specific training with respect to tasks, questions, or rating. In other processes, there are well-documented booklets on what to look for in conducting an oral



examination, the issues to avoid, etc. I define oral board as a "duly constituted panel of expert examiners assembled to assess the relative potential of an employee." Of course, the central issue is "expert examiners." In many police agencies around the Nation, oral boards consist of internal and external staff officers or members of the community who have had little or no training on what to evaluate when interviewing an employee.

The questions in oral examinations are as important as those in the written examination. Again, the term "job-related" surfaces. The candidate should not be asked to identify the first man to walk on the moon. Rather, a more appropriate question to ask would be if he, as a police supervisor/manager, would establish a policy that would tolerate speeding violations.

#### Performance Evaluation

Most police officers want to be evaluated by their superiors, just as most supervisors want to evaluate their subordinates. Therefore, it has been difficult for police managers to establish a promotional process without this phase. In a small police department, evaluations may be more effective than in a large police agency which has decentralized operations. For example, individual commanders may have different standards for evaluating employees. The manager, then, is confronted with different reference points being applied to evaluations. The ideal is to have employees ranked from low performers to high performers, with the average in between. Evaluations, however, tend to be grouped in such a tight pattern that they become irrelevant in determining suitability for promotion. Police managers around the country have voiced this problem, and although some departments have tried training supervisors in order to establish a benchmark or reference point for evaluations, these training programs have marginal impact. However, work performance should be considered in the promotion process.

#### Emerging Examination Process

The Fairfax County Police Department has employed written and oral examinations and performance evaluations. To a large extent, it is felt that the promotion processes have been fair and sound. (See *FBI Law Enforcement Bulletin*, May 1976.) For selection of investigators, the department introduced a mock crime scene as part of the process to measure ability. For supervisors, though, it is believed that the recent establishment of an assessment center to identify managerial po-

**"... a candidate should be evaluated on administrative skills, decisionmaking, and personnel development."**

tential is a far better approach than traditional practices. The assessment center concept, although relatively new in law enforcement, has existed in private industry for many years. The FBI has made considerable use of the assessment center for selecting supervisors and middle managers.

The Fairfax County assessment center experience began in January 1978, at the rank of major. A year later, the department expanded the concept to include the rank of captain. Employees tested in the assessment center were pleased with the process and did not indicate any displeasure with the result. Surely not all were happy with the outcome in terms of rank order, but they appeared satisfied that the approach taken by management seemed to be an improvement in identifying potential.

The term "assessment center" carries a variety of meanings. To some it means a very complex set of exercises to evaluate personnel; to others, a fairly simple process involving several techniques. In fact, it can mean both



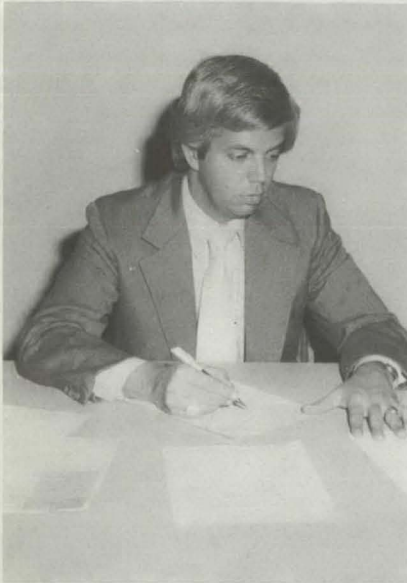
Deputy Chief Buracker



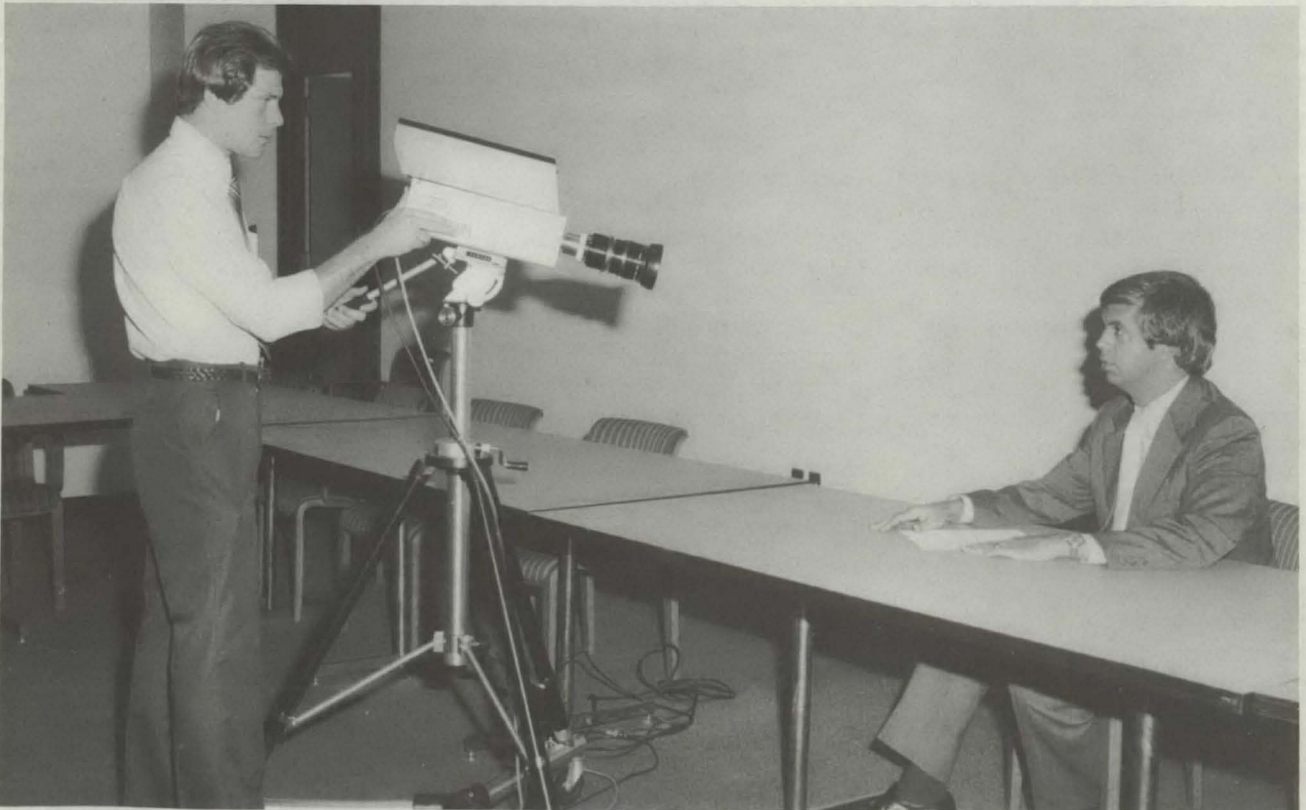
Richard King  
Chief of Police



*A candidate completes in-basket exercise.*



*A candidate is filmed during a simulated press conference.*



depending on the sophistication of techniques employed, the dimensions to be measured, the quality of personnel administering the process, and of course, the testing instruments. While the oral board can determine, to some degree, an employee's relative potential, the assessment center offers a multidimensional approach toward evaluating an employee. However, the written examination should not be abandoned solely for an assessment center. The written examination, if validated, offers a very good way to inventory job knowledge and reduce the number of candidates in large departments. At the command level, written examinations become less important because command-level assessment centers, if properly structured, can be used to inventory job knowledge.

Although there are variations in the application of assessment centers, the Fairfax County experience involved three main components: 1) Group oral, 2) in-basket exercise, and 3) oral presentations.

## Group Oral

The group oral, also called leaderless group discussions or multicandidate orals, proved to be a good technique for evaluating personnel. In Fairfax County's assessment centers, candidates were given several written problems to discuss among themselves, and in the exercise, were told to take the position of a task force convened by the police chief to discuss an issue.

In the group oral, it was not necessarily the most vocal or the most reserved person who received the highest grade. Candidates who were able to articulate responses to a question in a concise, well-defined manner and who took the leadership role emerged as the top candidates.

Assessors were trained to look for the emergence of leaders who could demonstrate knowledge of the issues and identify possible solutions to the problems. The substance of their comments was the most important point.



While participating as an assessor in other agencies, I have observed candidates in group orals sit almost speechless throughout the entire process. Yet, these same candidates had a good written test score. Without the group oral, these candidates would have become supervisors.

In the group oral segment in Fairfax County, the assessors were to evaluate the following dimensions on a scale of 0 to 5. (Each dimension had been clearly defined.)

- 1) Command presence,
- 2) Commitment to service,
- 3) Oral communication,
- 4) Factfinding,
- 5) Flexibility,
- 6) Interpersonal sensitivity,
- 7) Problem analysis, and
- 8) Work perspective.

Exercises for the group oral were stated clearly and briefly. Moreover, the issues were job-related and embraced the spectrum of responsibilities for the rank the candidates were seek-

ing. The questions did not center exclusively on administrative or operational activities. Ideally, a candidate should be evaluated on administrative skills, decisionmaking, and personnel development. In selecting personnel for staff-level positions, it is important to keep in focus the fact that an operational lieutenant today may be an administrative lieutenant tomorrow. An example of an exercise for a group oral at the command level is how a candidate would determine where a \$400,000 grant would be spent in the municipality if the candidate were a city council member.

In the group oral, each assessor was given two or three candidates to evaluate, depending on the size of the group and the number of assessors. If there were three assessors and six candidates, each assessor would have two candidates. Those candidates evaluated by one assessor in the group oral were not evaluated by that same assessor in the next two phases of the process.

## In-Basket Exercise

The second phase of the assessment center administered in Fairfax County was an in-basket exercise. This process was developed after a job analysis was conducted at the different ranks. Once the range of duties and responsibilities was defined for a given rank, questions were developed to identify the specific skills necessary to accomplish these duties and responsibilities. Again, it was important that the questions be job-related.

Police managers could take problems encountered by them daily and use these as a basis for developing an in-basket exercise by changing names and dates. Of course, such a routine would be for command-level positions comparable to those performed by police managers. The same process, though, can be used to develop the exercises for other supervisory levels.

In our in-basket exercise, candidates were given 10 assignments. Each candidate was asked to assume the role of a certain police supervisor in a given police department. They were given additional facts, such as how long they had been on the police force, who they were replacing, what the next month's schedule was to be, the possibility of leaving town on emergency leave, and other essential facts about the job. The candidates then had to respond to a series of 10 exercises, some of which were several pages in length, and provide responses to those exercises within 1 hour and 15 minutes. The assessor had previously covered the questions with the moderator, and a list of reasonable responses had been identified for each of the 10 exercises. This process achieved consistency in rating by the assessors and was essential in maintaining a fair process.

*An assessor provides feedback on the candidate's performance.*





The Fairfax County in-basket exercise involved the following items:

- 1) Enforcement policy,
- 2) A complex internal investigation problem,
- 3) A personnel problem with an officer,
- 4) A civic association meeting involving a sensitive issue,
- 5) A recruit field training form,
- 6) A request for criminal statistics from the chief suggesting only good information is desired,
- 7) An issue involving poor police reports,
- 8) A police officers' association meeting dealing with a sensitive issue that conflicts with another meeting,
- 9) An awards board suggestion, and
- 10) A proposed physical fitness test.

These exercises involved conflicting dates and schedules. It was important for the candidate to establish priorities for the activities, recognize the central issues in each case, articulate in writing why the issues were handled in a particular fashion, and what specific action was to be taken on each item. Each candidate had been given a manila envelope containing all of the exercises along with an instructional sheet, paper and pencil, and an outline form to list tasks and priorities.

The second phase of the Fairfax County in-basket exercise involved an assessor interviewing each candidate on a one-on-one basis with respect to the candidate's responses and exhibits from the in-basket exercise. The fundamental purpose of the one-on-one method was to ensure that the assessor could read the candidate's writing and understand specifically what the candidate had said about each point. During these discussions, the candidate was not allowed to change anything he had written.

After each candidate was interviewed, the assessor graded the responses to the in-basket exercise. As noted previously, the assessor did not evaluate anyone he had graded previously.

The dimensions evaluated in the in-basket exercise were:

- 1) Commitment to service,
- 2) Written communications,
- 3) Oral communication,
- 4) Decisionmaking,
- 5) Delegating,
- 6) Followup,
- 7) Judgment,
- 8) Planning and organization, and
- 9) Work perspective.

### Oral Presentation

The third phase of Fairfax County's assessment center was the oral presentation. In this process, candidates were assembled as a group and briefed on the specifics of this phase. The candidates were given a set of instructions consisting of two parts. In Part A, the candidates reviewed the facts of a police incident and then presented a press conference in the form of an oral presentation. At the end of the press conference, the assessors asked questions which required the candidate's prompt reaction to sensitive community/police issues. In Part B, candidates prepared an oral presentation describing their qualifications for the rank being sought and their view of the job. The candidates were selected in random order to provide these presentations. The following dimensions were evaluated:

- 1) Career development,
- 2) Command presence,
- 3) Oral communication,
- 4) Emotional maturity,
- 5) Judgment,
- 6) Planning and organization,
- 7) Work perspective,
- 8) Followthrough,
- 9) Interpersonal sensitivity, and
- 10) Factfinding.

Again, assessors were assigned to evaluate candidates they did not grade during the first two sessions.

To conduct these three phases of the assessment center required approximately 8 hours. The candidates were then assembled and debriefed.

They were allowed an opportunity to comment on the process or ask any questions about the exercises. There were no negative comments about the process. Most of the comments centered around the value of the exercise as a learning experience and requests for feedback on the individual's strengths and weaknesses. All candidates believed the process to be much better than the traditional way of evaluating personnel. The Fairfax County chief of police was pleased with the result of the assessment center and used the list as an exclusive eligibility ranking for promotion. The department is planning to use an assessment center for lieutenant and sergeant promotions in the future.

The assessment center is not necessarily suited for every police agency. In promotional exercises, the basic questions for the police manager are: What promotional process seems best to rank eligibles for my department? and what promotional process will be viewed as fair by employees and is unlikely to be challenged? Cost, candidate population, timing, internal dynamics of the organization, and success of past promotional processes are facts to consider before exploring the application of an assessment center. Obviously, there is no need to buy a tank when a revolver will do the job.

In the Fairfax County experience, three major phases were used. A possible fourth phase would involve a one-on-one discussion with a candidate as to his background in law enforcement.

The assessment center offers the police administrator an effective promotional process. The keys to the success of such a program are the quality and training of the assessors, the quality of the examination materials and evaluation instruments, and feedback to the participants relative to their strengths and weaknesses as determined by the assessors in the process.

Having participated as an oral examiner and assessor in the selection of police chiefs and officials in 10 States, I am firmly convinced that the assessment center concept is one which will be viewed by both police managers and employees as a better way of evaluating supervisory potential. **FBI**



# CITIZEN INVOLVEMENT IN CRIMINAL JUSTICE

## A Crumbling Cornerstone

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*Sheriff's Office  
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*Sheriff Heinrich*

Modern technology notwithstanding, the personal involvement of crime victims and witnesses continues to be the cornerstone of successful criminal investigation and prosecution. Information or direct testimony from citizens is nearly always critical to solving crimes and prosecuting violators. The criminal justice system cannot function properly without the support of the community it serves. Yet, in contrast to the indisputable need for citizen involvement, victimization surveys conducted across the Nation and published in The National Criminal Justice Reference Service Reports have consistently revealed that 40 to 70 percent of all crimes committed are not reported to the police.

Since the deteriorating partnership between the community and criminal justice did not occur over a short period of time, changing public attitudes may prove to be a long and arduous task. Factors which have generated negative public sentiments toward criminal justice responsibilities must now be identified and corrected with a new sense of urgency.

A victim's or witness' refusal to report crimes or otherwise become involved in criminal justice functions are often rationalized by fear or distrust of public officials, personal inconvenience, and fear of reprisal or harassment. Any or all of the factors may



*Captain Appel*



make a victim or witness reluctant to "become involved." The relative importance attached to each usually differs with the individual. However, it is almost certain that one or more of the factors will be present and will be weighed against prevailing circumstances to decide the extent of victim/witness cooperation.

### **Fear and Distrust**

Fear and distrust of public officials (particularly police and courts) have not been entirely the cumulative effect of America's immigrants escaping foreign tyranny. Dual standards of criminal justice, police abuses, and indifference to the concerns of victims and witnesses have also contributed significantly to the problem.

Identifying the root causes of this fear and distrust and implementing corrective measures began more than 20 years ago, and much has been accomplished since then. Courts have repeatedly struck down laws and procedures which were discriminatory, and human rights issues have received extensive judicial attention and support. Dual standards of criminal justice have been virtually eliminated. Within the police segment of criminal justice, a vast majority of law enforcement agencies have adopted procedures to better serve all members of the community without fear or favor. Extensive human relations training is now given to law enforcement officers, and internal systems have been developed to monitor and control the behavior of officers and to take action, if necessary, in cases of citizen abuse. Affirmative action programs have been implemented across the Nation, and law enforcement agencies are actively seeking to become representative of their communities by recruiting from minority groups.

All segments of the criminal justice system have demonstrated sincere responses to the problem of fear and distrust. And while community attitudes are far from positive, there is a growing public awareness of the desire "within the system" to serve the needs of all equally and sincerely. However, even though progress has been made, these efforts must continue.

### **Personal Inconvenience**

Citizens who have once experienced personal involvement in the workings of criminal justice are usually very reluctant to become involved a second time or to encourage others to perform civic duties. Criminal justice officials frequently find that victims and witnesses of misdemeanors are more upset with criminals for involving them in the workings of the criminal justice system than for the criminal acts committed. In some cases, these negative public attitudes toward personal involvement have been well earned by the lack of consideration the system has shown toward victims and witnesses.

Victims and witnesses first enter the system at the scene of a crime or disaster. There they are questioned by officers and are then frequently transported to headquarters, where they are separated from each other (to preserve individuality of testimony) and required to wait for detectives. It is not unusual for victims and witnesses to recite their testimony several times for the benefit of different investigating officers. Frequently, they must arrange for transportation back to their homes or places of business after the interviews have been completed and formal statements signed. There may be numerous required appearances at inquiries, hearings, depositions, and trials. Hearings and trials are usually scheduled for the convenience of all but the victim or witness.

In addition, victims and witnesses receive token reimbursement for their inconvenience and travel expense when attending State attorney hearings and court trials. Other appearances are usually at their own time and expense. Disappointment occurs when defendants escape conviction through technical loopholes or error. Greater frustration is experienced when the accused is found guilty and immediately released on probation. Oftentimes, hostility toward the criminal justice system is generated when victims and witnesses are called to spend several hours waiting for a trial to begin before being informed that their appearance was made unnecessary by a guilty plea

or by an "agreement" between the prosecution and defense attorneys hours earlier.

Cooperation and willingness to perform one's civic duty may be further discouraged by a victim feeling that he did not receive his "day in court" to the extent of restitution or compensation for losses resulting from a crime perpetrated against him. It would certainly appear that the criminal justice system has been punishing victims and witnesses instead of aiding and encouraging them.

Although identifying and correcting these abuses have long been neglected, attention is now being directed toward this important area. The Law Enforcement Assistance Administration (LEAA) has recently announced the availability of Federal funds to support cooperative programs between law enforcement and prosecution agencies to minimize the inconvenience to victims and witnesses and to encourage greater citizen involvement in the workings of the criminal justice system. Many States have already enacted legislation to create crime compensation injury boards to reimburse citizens for losses sustained as victims of crimes. Compensation is usually for medical and hospital expenses and lost wages.

Relatively new innovations in the area of victim compensation are the citizen dispute settlement and juvenile arbitration programs. Originally funded by foundation and Federal grants, these programs have dual functions. First, they provide an alternative to criminal prosecution of misdemeanor or juvenile violators. Second, and probably most important, the victim of the crime benefits directly (in most cases) from the penalties imposed on the offender by the dispute settlement or arbitration hearing officer. These adjudications usually require the offender to reimburse directly or indirectly the victim for losses and tend to renew the confidence of a victim in the criminal justice system.



Another fertile area for correction can be seen in the realm of victim and witness questioning. The use of tape recorders can provide all persons having investigative responsibilities with witness testimony. Tapes may be transcribed, and copies provided to victims and witnesses. Additional inquiries may then be directed to specific statements which can be more easily recalled to memory and clarified or corrected without repetitive testimony.

Transportation should be made available for victims and witnesses, and the times and places of required appearances should be scheduled more conveniently for them.

It is essential that the criminal justice system recognize the importance of victims and witnesses. Correcting abuses should not be limited to programs within police and prosecution agencies, but should also include court reform programs.

### **Fear of Reprisal or Harassment**

Citizens are becoming increasingly aware of the potential danger of reprisal or harassment. The experiences of victims and witnesses who have been compelled to leave their homes or disconnect their telephones because of numerous threats, prank calls, nuisance solicitations, and vandalism have become common knowledge. Loss of personal privacy may often result in perceptions of inadequate personal security and increased vulnerability. This growing concern for personal vulnerability and fear of reprisal or harassment has increased in significance as a barrier to citizen involvement in the criminal justice system.

Discovery rules and public record laws which have benefited accused law violators and special interest groups have eroded individual rights of personal privacy. Although official police investigation reports are generally excluded from public record provisions, many police agencies furnish information from such reports to the news media in response to pressures for release of information. News agencies have self-imposed ethical restrictions governing their use of information, and the majority of agencies try to work

cooperatively with police to balance the public's right to know against the individual's right to privacy. For the most part, media decisions are made with prudence and good judgment. Yet, a citizen's reluctance to offer information or assistance appears justified when information he confides to law enforcement officers is printed in newspapers almost immediately thereafter. In addition, a potential imbalance is created by the discriminatory nature of media sensationalism. Prominent persons in the community generally suffer greater intrusions into their personal privacy than do the "less newsworthy" citizens.

However, news media accounts and publications are not the only source of potential reprisal and harassment. Official law enforcement documents also provide information for nuisance solicitors. Police radio logs which contain information such as type of police call, date and time, and name and address of victim are considered to be public records in most States and must be displayed to anyone requesting to see them. Use of such information is not limited to reputable persons and business firms.

Harassment from defense attorneys is not as likely as other threats to personal privacy and domestic tranquility. Yet, many citizens are extremely reluctant to have contact with an attorney who is obliged to protect the interest of another, particularly a potential adversary.

Personal privacy is regarded by many as a constitutional guarantee. Failure of legislative and judicial bodies to protect that which is perceived to be an important personal privilege has caused citizens to defend personal privacy by shirking civic responsibilities.

It is unlikely that citizens will be encouraged to involve themselves in a criminal justice partnership merely by eliminating system abuses. New State legislation may be necessary to obviate the need for citizens to forfeit any of their valued privileges, such as personal privacy.

Is there a genuine need for public disclosure of the home addresses of victims and witnesses? Is such specific information essential to freedom of the press or the "public's right to know"? Can communications between citizens and police be similar to privileged communications between attorney and client? Can privileged communications be extended to include noncriminal information of a confidential nature? Can citizens be afforded the choice of restricting the use of information they provide for criminal justice purposes only? Effective operation of the criminal justice system is improbable until such questions are resolved on the State level. The Federal Privacy Act covers these matters, but State laws do not.

There is indeed much to be done. Professional criminal justice administrators must now demonstrate leadership and community responsiveness by developing (and publicizing) effective new programs that will encourage and reward citizen participation. As the community becomes aware of the corrective efforts, widespread reform may follow.

The Hillsborough County Sheriff's Office is currently developing programs that will promote citizen involvement in the criminal justice system. These programs are specifically designed to encourage participation of victims and witnesses and demonstrate our desire to serve and protect the community by working to restore the partnership between citizens and law enforcement. Positive action begins by identifying the barriers and implementing corrective measures. Yet, while positive strides have been taken, much remains to be done. Only through cooperation and assistance between all segments of the community and criminal justice system can we ensure the future welfare of our society. **FBI**



# Speaker Identification (PART 2)

## Results of the National Academy of Sciences' Study

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The first part of this article dealt with the three general categories of speaker identification—listening, machine analysis, and aural-visual comparison. In view of the recent increase in the use of voice identification technology and the problems that have ensued, a study was conducted by the National Academy of Sciences (NAS). Part II of this article reports on the committee's findings and recommendations.

During the past 15–20 years, the Federal Bureau of Investigation has witnessed the expanded use of voice identification technology, conflicting scientific opinions, court rulings for and against evidence based on sound spectrograms, and the establishment of an organization of voiceprint examiners. Therefore, in March 1976, the FBI requested that the NAS undertake a study on the practice and use of spectrographic or voiceprint identification, its reliability, and its use as evidence in court.

In July 1976, the National Research Council of NAS appointed the Committee on Evaluation of Sound Spectrograms which included eight independent experts representing both the scientific and legal communities. The committee included experts on acoustics, speech science, speech pathology, electronics, electrical engineering, audio recording systems, and criminal law and laws of evidence.

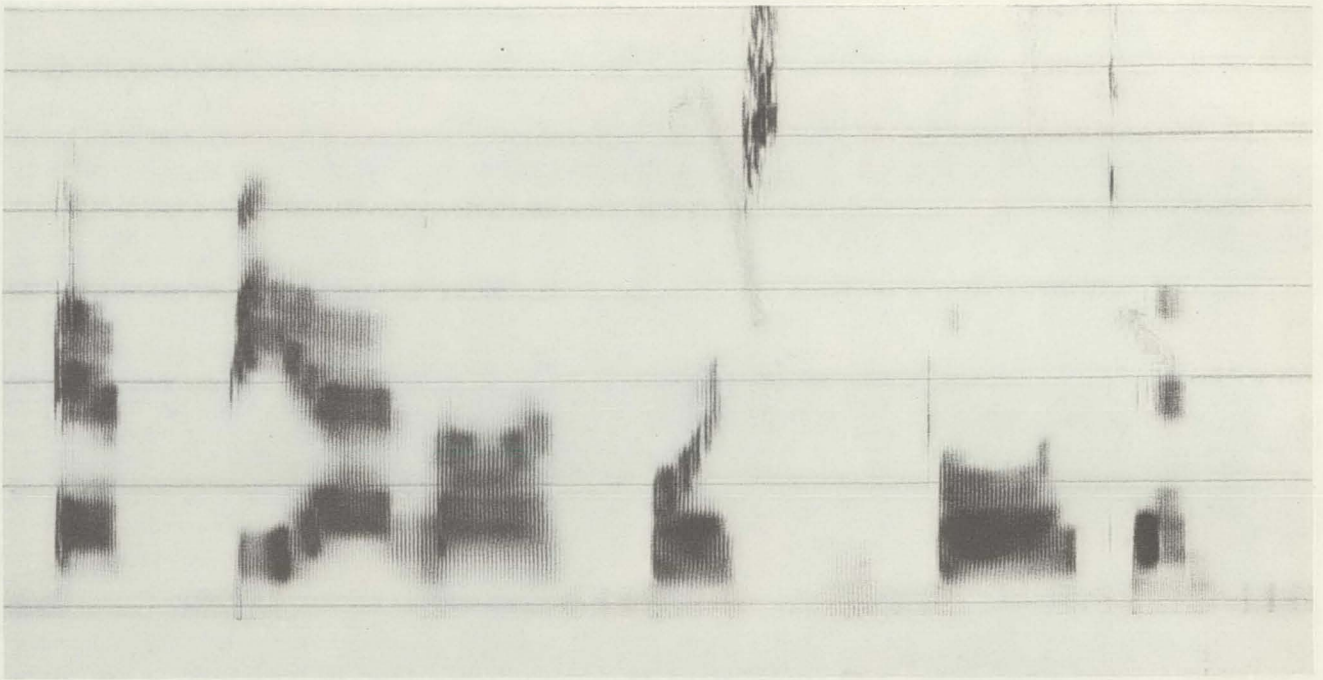
In February 1979, a detailed report of the committee's findings on voice identification, entitled "On the Theory and Practice of Voice Identification," was published. The committee throughout the study uses the term "voicegrams," which is synonymous with spectrograms or voiceprints. The committee did not address the issue of voiceprint admissibility in courts of law, which it considered to be a responsibility of the judicial and legislative bodies.

### Committee Findings

The findings of the study discuss, in part, three general areas:

- 1) Some information on the identity of an individual is obtainable through listening and by looking at voicegrams of that person's speech.





2) Voicegrams are fundamentally different from fingerprints in that fingerprints are unchanging for an individual, whereas the same word changes acoustically, at least slightly, every time it is spoken by a particular person.

3) "The degree of accuracy, and the corresponding error rates, of aural-visual voice identification vary widely from case to case, depending upon several conditions including the properties of the voices involved, the conditions under which the voice samples were made, the characteristics of the equipment used, the skill of the examiner making the judgments, and the examiner's knowledge about the case. Estimates of error rates now available pertain to only a few of the many combinations of conditions encountered in real-life situations. These estimates do not constitute a generally adequate basis for a judicial or legislative body to use in making judgments concerning the reliability and acceptability of aural-visual voice identification in forensic applications." <sup>7</sup>

### Conclusions of the Committee

The committee listed the three following conclusions in the areas of practice, research, and forensic use:

1) "... some improvement in the practice of aural-visual voice identification could be achieved in the near term by applying knowledge and techniques that are available now. . . .

2) "... the full development of voice identification by both aural-visual and automated methods can be attained only through a longer-term program of research and development. . . .

3) "The decision about whether to use the aural-visual method of voice identification for forensic purposes depends on the answers to several subsidiary questions. First, it is necessary to have some measure of the error rate associated with the technique. . . . but objectively justified error rates are virtually impossible to determine for most of the forensic experiences reported to date." <sup>8</sup> Second, it is necessary to decide whether, in principle, the error rate is acceptably low for use in the particular case, which "is a value question and not a question of scientific or technical fact." <sup>9</sup> Third, it is neces-

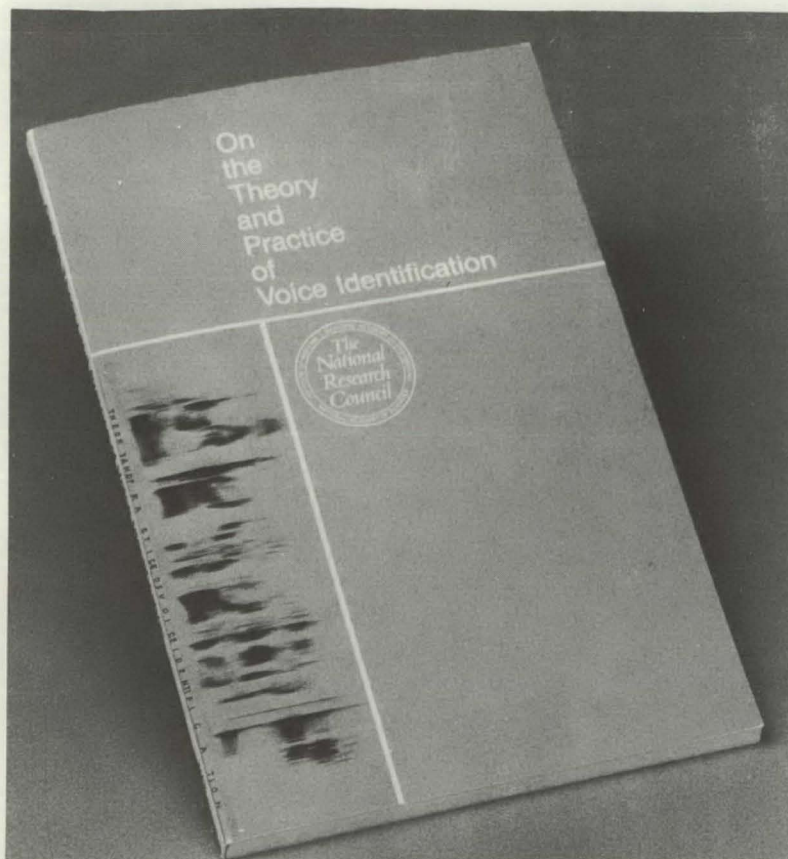
sary to decide whether, in practice, the nature of the error rate and the possible sources of error can be explained adequately to the lay fact finder, whether judge or jury, who will decide the case. "Therefore any presentation of voicegram evidence should be accompanied by a clear and thorough explanation of the limits of present knowledge about the accuracy of the technique. Such an explanation under present circumstances may be impossible to achieve or at least unwieldy, or it may be very costly." <sup>10</sup>

### Committee Recommendations

The committee made the following four recommendations regarding the use and practice of voice identification:

1) "We recommend that a mechanism be established to stimulate, guide, and coordinate a broad national program of scientific research on the processes of speech generation, transmission, and analysis as they pertain to the practice of voice identification. . . .





2) "We recommend that a national mechanism be established to develop objective standards and methods for testing the performance of voice identification examiners and to certify their competence as examiners. An existing organization, the International Association of Voice Identification (IAVI), was established to perform some of these functions. However, the Committee believes that [the] IAVI as presently constituted does not possess the broad base of representation usually considered appropriate and perhaps essential for a national certifying board. . . .

3) "We recommend that practitioners of aural-visual voice identification make full use of certain available knowledge and techniques that could improve the voice identification method. . . .

4) "We recommend that if evidence on voice identification is admitted in court—and we take no position on admissibility—then the inherent limitations in the method and in the performance of examiners should be explained to the fact finder, whether the judge or the jury, in order to protect against overvaluation of such evidence. . . . the testimony should explain that up to the present time, error rates for voice identification have been measured for only a limited number of experimental conditions. All the scientific results and forensic experiences to date, taken together, do not constitute an adequate objective basis for determining the error rates to be expected for voice identification testimony given in forensic cases generally. Error rates reported in specific cases cannot be much more than informed guesses based on practical experience combined with fragmentary results from scientific experiments. . . . These limitations bear directly upon the problem of overvaluation of technical evidence." <sup>11</sup>

## Committee Summary

The summary of the NAS study states, in part, the following:

"The practice of voice identification rests on the assumption that intra-speaker variability is less than or different from interspeaker variability. However, at present the assumption is not adequately supported by scientific theory and data. Viewpoints about probable errors in identification decisions at present result mainly from various professional judgments and fragmentary experimental results rather than from objective data representative of results in forensic applications.

"The Committee concludes that the technical uncertainties concerning the present practice of voice identification are so great as to require that forensic applications be approached with great caution. The Committee takes no position for or against the forensic use of the aural-visual method of voice identification, but recommends that if it is used in testimony, then the limitations of the method should be clearly and thoroughly explained to the fact finder, whether judge or jury." <sup>12</sup>

**FBI**

*Copies of the NAS study are available for \$7.00 prepaid through the Office of Publications, National Academy of Sciences, 2101 Constitution Ave., Northwest, Washington, D.C. 20418.*

*The FBI conducts voice identification examinations for Federal, State, and local law enforcement authorities for investigative guidance only and will not provide expert testimony.*

## Footnotes

<sup>1</sup> *On the Theory and Practice of Voice Identification* (Washington, D.C.: National Academy of Sciences, 1979), p. 60.

<sup>2</sup> *Ibid.*, pp. 60-62.

<sup>3</sup> *Ibid.*, p. 62.

<sup>4</sup> *Ibid.*, p. 63.

<sup>5</sup> *Ibid.*, pp. 63-69.

<sup>6</sup> *Ibid.*, p. 2.



# The Role of Defense Counsel at Lineups

By LARRY E. RISSLER

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Washington, D.C.*

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

In 1967, the U.S. Supreme Court decided three cases dealing with police lineups.<sup>1</sup> In one of these, *United States v. Wade*, the Court discussed at length the dangers inherent in eyewitness identification and concluded:

"The influence of improper suggestion upon identifying witnesses probably accounts for more miscarriages of justice than any other single factor—perhaps it is responsible for more such errors than all other factors combined."<sup>2</sup>

The "miscarriage of justice" referred to by the Court is the mistaken identification that can result if a pretrial identification procedure is conducted in a suggestive manner. Because the subsequent conviction may rest on an in-court identification, which is the product of the suggestive pretrial identification, a suspect appearing in the lineup is exposed to a "grave potential for prejudice."<sup>3</sup> The Court noted that the presence of counsel could help avoid the prejudice of a mistaken identification by preventing unfairness at the lineup itself and allowing the de-

fendant to reconstruct the lineup at trial through cross-examination of the lineup witnesses. It then went on to hold that a postindictment lineup is a critical stage of the prosecution at which the suspect is entitled to the assistance of counsel.<sup>4</sup>

The Court's "constitutionalization" of pretrial lineups carried with it an exclusionary sanction. A lineup held in violation of a defendant's sixth amendment right to counsel will result in suppression of any testimony about the lineup identification. It will also result in suppression of any in-court identification by the lineup witness, unless the government can establish by clear and convincing evidence that the in-court identification is based on the witness' recollection of seeing the defendant's features at the crime scene



## **"Once the lineup actually begins, the lawyer should function merely as an observer. . . ."**

and not from his recollection of the defendant at the tainted lineup. Because of the seriousness of this sanction, officers conducting lineups should be aware of those situations that frequently result in claims of a sixth amendment violation.

It is clear from the *Wade* decision, and from cases decided subsequent to that opinion, that the right to counsel at a pretrial lineup can be violated in one of two ways. First, and most obvious, is the situation in which an attorney is not present at the lineup and the defendant has not executed a voluntary waiver of his right to counsel. Less obvious, but possibly of more potential concern to officers conducting pretrial lineups, is the situation in which it is contended that "the attorney's role during the lineup was so severely restricted by the government that the attorney could not effectively carry out the purpose for which . . . [the *Wade* decision] . . . require[s] an attorney's presence."<sup>5</sup>

The purpose of this article is twofold: (1) To identify the proper role of a defense attorney attending a pretrial lineup, and (2) to discuss steps lineup officers can take to accommodate that role and thus avoid subsequent claims that the defendant was denied the effective assistance of counsel at his lineup.

### **Reasons for Presence**

The role of the lineup lawyer probably can best be ascertained by examining the very reasons for his presence. As stated earlier, the purposes of having defense counsel at lineups are to minimize the likelihood of misidentifications by eliminating or reducing suggestiveness and enable counsel to make informed challenges to subsequent identification testimony

through motions to suppress and cross-examination of lineup witnesses.

With these purposes in mind, the limits of the lawyer's activities can be established by answering the following questions, one or more of which are common to most police lineups:

- 1) In the event the suspect's lawyer does not appear, under what circumstances may the lineup proceed without him?
- 2) Should the lineup officer solicit or accept suggestions offered by the defense attorney regarding the composition or conduct of the lineup?
- 3) What participation should the defense attorney be allowed once the lineup has begun?
- 4) Should the defense counsel be present at the moment of the identification attempt or be allowed to attend the postlineup interview of the witnesses?

### **Failure To Attend Lineup**

One problem that can develop even before the lineup begins is the failure of the defense counsel to appear. It may be that the lawyer was not notified of the lineup, or if notified, prevented from attending by other commitments or unforeseen circumstances. To the officer running the lineup, this is a major cause for concern. Delaying or rescheduling the lineup may be costly, time-consuming, or inconvenient and may result in a less-reliable identification. But may the lineup be conducted in the absence of the defense attorney? Several possibilities exist.

First, the defendant may be willing to waive his right to counsel. This appears to be a common solution to the problem and was contemplated by the *Wade* decision itself. ". . . counsel's presence should have been a requisite to conduct the lineup, absent an 'intelligent waiver'."<sup>6</sup>

If the suspect is unwilling to execute a waiver of counsel, consideration should be given to obtaining a substitute attorney. Although the question of whether substitute counsel would suffice was left open in *Wade*, the lower courts generally have approved the practice.<sup>7</sup> Logical sources of substitute counsel would appear to be the public defender's office, a legal aid bureau, or possibly a court-appointed lawyer.

In the event the suspect refuses to waive counsel, substitute counsel is impossible or impracticable, and it is absolutely imperative to conduct the lineup immediately, consideration might be given to conducting a "photo lineup." A "dry" lineup (a lineup which is not attended or viewed by the witnesses) is conducted. The suspect and the elimination participants are assembled in the lineup room, while the witnesses are sequestered in a remote location. The lineup array is then video taped or photographed and the pictures shown to the sequestered witnesses. Because there is no constitutional right to have counsel present when a suspect's photograph is shown to witnesses for identification,<sup>8</sup> the sixth amendment is not implicated. It should be observed, however, that this procedure is somewhat extraordinary and has, at this time, received limited judicial approval.<sup>9</sup> It is recommended that officers consult with their prosecutor or legal adviser before resorting to its use.



## **"Presence of counsel is required to minimize the likelihood of misidentifications and enable counsel to intelligently challenge subsequent identification testimony."**

One other solution appears available in those infrequent situations when the suspect is not indigent and has the means to hire his own lawyer, but has failed to do so.

In *United States v. Clark*,<sup>10</sup> the defendant was arrested on bank robbery charges and appeared before a U.S. magistrate who determined he was not indigent and thus not entitled to court-appointed counsel. A lineup was arranged for the purpose of exhibiting Clark to the robbery witnesses, but it was postponed as Clark had not retained the services of an attorney. The lineup was rescheduled and subsequently held, although the defendant still had not hired a lawyer and did not execute a waiver. He was identified and later convicted. On appeal he contended that he was denied his right to counsel at the pretrial lineup.

The court of appeals rejected his contention, pointing out that Clark was financially able to retain counsel and was given a reasonable time to secure one. "In these circumstances, his failure to retain counsel was properly treated by the court as a waiver of his right to counsel."<sup>11</sup>

It is emphasized that the steps taken by the officers in the *Clark* case appear to have application only to those situations in which the lineup suspect is not indigent and has been instructed to make arrangements for hiring his own attorney, but has failed to do so even though he has been given ample opportunity and has been placed on notice regarding the impending lineup. If a retained or appointed lawyer does not appear, through no fault of the accused, a lineup would most likely be ruled in violation of the suspect's right to counsel (absent a waiver or substitute attorney).

### **Lawyer's Suggestions**

Once the lineup is about to begin, should the defense counsel be permitted to make suggestions regarding the composition or conduct of the lineup? Or should his role be limited to that of a passive observer?

Language in the *Wade* opinion states that "... the presence of counsel itself can often avert prejudice. . . ."<sup>12</sup> It was not immediately clear whether this passage meant that the mere presence of the defendant's lawyer at the lineup would deter the police from employing suggestive tactics, or whether the counsel was to be given an active role in setting up and running the lineup. In 1973, the Court itself appeared to state a preference for the former when it summarized the *Wade* holding as follows:

"The Court held, therefore, that counsel was required at a lineup, primarily as an observer, to ensure that defense counsel could effectively confront the prosecution's evidence at trial. Attuned to the possibilities of suggestive influences, a lawyer could see any unfairness at a lineup, question the witnesses about it at trial, and effectively reconstruct what had gone on for the benefit of the jury or trial judge."<sup>13</sup>

Four years later, however, in *Moore v. Illinois*,<sup>14</sup> the Court strongly suggested that the attorney's role was not limited to that of a mere observer.

"If an accused's counsel is present at the pretrial identification, he can serve both his client's and the prosecution's interests by objecting to suggestive features of a procedure before they influence a witness' identification."<sup>15</sup>

One can easily see how the "client's interests" can be served by allowing the defense attorney to participate in the arrangements for the lineup—misidentifications resulting from suggestive confrontations could be avoided. But to what "prosecution interest" was the Court referring? An obvious one, "preventing the infiltration of taint in the prosecution's identification evidence" was mentioned in the *Wade* opinion.<sup>16</sup> Two others have been suggested by the lower courts.

First, it is likely the government will be required to respond to fewer motions to suppress identification testimony if the defendant's attorney has been allowed a role in staging the lineup. Having been afforded the chance to suggest lineup procedures, he may be less likely to object later to identifications made at the lineup. This seems especially true if his recommendations were adopted. As stated in *United States v. Eley*,<sup>17</sup> "... suggestions of defense counsel may be followed and lineup contests averted."<sup>18</sup>

Second, even if a motion to suppress is made, judges may be reluctant to suppress eyewitness identification testimony because of an allegedly suggestive lineup, if the defense attorney had been given the opportunity to take part in the actual preparation of the lineup. As noted by the Court of Appeals for the District of Columbia Circuit:



## **"... the prosecution is not constitutionally required to furnish the defense names and addresses of witnesses attending the lineup."**

"... it might well be that, absent plain error or circumstances unknown to counsel at the time of the lineup, no challenges to the physical staging of the lineup could successfully be raised beyond objections raised at the time of the lineup."<sup>19</sup>

Because both the defense and prosecution can benefit if the accused's lawyer is allowed to offer suggestions about lineup composition and procedure, it appears reasonable to provide for it in departmental lineup policy. Further, it is advisable from a prosecutive standpoint to accept those recommendations that are reasonable. (Clearly, unreasonable recommendations should be rejected.) All suggestions offered by the defense attorney, whether or not adopted, should be noted by the lineup officer and made a part of the written record describing the lineup.

### **Participation During Lineup**

Once the lineup actually begins, the lawyer should function merely as an observer and should not be permitted to converse with any of the lineup participants or witnesses. Any attempts by the attorney to disrupt the lineup should be noted by the lineup officer on his written report of the proceedings.

### **Presence at Moment of Identification**

Another situation frequently resulting in litigation is the question of whether the defense attorney should be allowed to be present at the mo-

ment the lineup witness is asked to make an identification. The answer depends, in part, on whether the identification attempt takes place during the physical confrontation between the witnesses and the suspect or later in a postlineup interview. Although "it may be good procedure to identify the accused at the lineup"<sup>20</sup> itself, the common practice is for the identification attempt to take place after the lineup has ended and the witnesses have been removed to an interview room.

Clearly, the defense attorney should be present if the identification attempt takes place in the lineup room, while the suspect is still within view of the witness. But what if the identification occurs later, after the confrontation is terminated? This issue has not been addressed squarely by the Supreme Court. But with few exceptions, "[v]irtually all the [lower] courts which have had occasion to consider this problem have refused to extend . . . [the right to counsel] . . . beyond the actual confrontation between the accused and the witnesses to a crime."<sup>21</sup>

The rationale for allowing the attorney at the lineup confrontation, but denying him access to the postlineup interview, rests on the view that a substantial potential for misidentification exists during the actual time "the accused is exhibited to identifying witnesses."<sup>22</sup> This is because of the suggestive manner in which the lineup might be conducted. Due to nervous tension or inexperience, the accused is unlikely to be able to correct the suggestiveness at the time or reconstruct it later at trial without the assistance of counsel.

Conversely, even though the prosecution may improperly assist the eyewitness in the postlineup interview, the potential for prejudice is not as great as at the lineup itself. The defense

attorney can easily reconstruct the circumstances of the interview by skillful cross-examination of those present. "To hold otherwise is to require the presence of counsel whenever a witness who will testify about the identity of the accused is interrogated by the police."<sup>23</sup>

It should be noted, however, that some courts which have held that defense counsel need not be present at the postlineup identification have based their decisions, in part, on the fact that the witness was made available to defense counsel for interview immediately after the lineup, or later, before trial began.<sup>24</sup> And one court has held that if defense counsel is denied access to an identification witness, a verbatim recording (video tape or tape recording) of the postlineup interview should be made and furnished to the defense attorney in time for a pretrial suppression hearing.<sup>25</sup> Although this practice may be commendable, the majority view appears to be that the prosecution is not constitutionally required to furnish the defense names and addresses of witnesses attending the lineup.<sup>26</sup>



## Conclusion

A lineup held after the initiation of adversary judicial proceedings is a critical stage of the prosecution entitling the defendant to the assistance of counsel. Presence of counsel is required to minimize the likelihood of misidentifications and enable counsel to intelligently challenge subsequent identification testimony. If defense counsel is denied his proper role at the lineup, a violation of the suspect's right to counsel ensues, which can result in suppression of eyewitness testimony.

In the event the defendant's counsel fails to appear for the lineup, officers should attempt to secure a waiver of counsel from the accused or locate a substitute lawyer. If the suspect refuses to waive and substitute counsel is unavailable, a "photo lineup" is a possibility.

The lineup attorney should be allowed to make suggestions regarding the composition and conduct of the lineup, prior to its commencement. After the lineup has begun, however, he should function only as an observer and should not be allowed to converse with lineup participants or witnesses or disrupt the lineup.

It is advisable for the witnesses to make the identification attempt during the actual confrontation, when the defense counsel is present. However, if the attempt at identification takes place later in a postlineup interview, the defense attorney may be excluded. The prosecution is under no constitutional duty to furnish to the defense the names and addresses of lineup witnesses.

**FBI**

## Footnotes

<sup>1</sup> *Stovall v. Denno*, 388 U.S. 293 (1967); *Gilbert v. California*, 388 U.S. 263 (1967); *United States v. Wade*, 388 U.S. 218 (1967).

<sup>2</sup> 388 U.S. at 229 quoting *Wall, Eye-Witness Identification in Criminal Cases* (1965), p. 26.

<sup>3</sup> *Wade*, *supra* at 236.

<sup>4</sup> Five years later, in *Kirby v. Illinois*, 406 U.S. 682 (1972), the Court indicated that the right to counsel for lineup purposes does not attach until the formal commencement of adversary judicial proceedings. Clearly, adversary judicial proceedings may begin prior to indictment. See *Moore v. Illinois*, 434 U.S. 220 (1977) (preliminary hearing); *United States ex rel. Robinson v. Zelker*, 468 F. 2d 159 (2d Cir. 1972), *cert. denied*, 411 U.S. 939 (1973) (issuance of arrest warrant). Additionally, the right to counsel applies only to lineups dealing with the crime for which the defendant is charged. See *Boyd v. Henderson*, 555 F. 2d 56 (2d Cir. 1977), *cert. denied*, 434 U.S. 927 (1977) (defendant who was charged with car theft had no right to counsel for viewing by robbery victim inasmuch as robbery charges not yet filed); *Bruce v. State*, 375 N.E. 2d 1042 (Ind. 1978), *cert. denied*, 439 U.S. 988 (1978) (in-custody murder suspect had no right to counsel at lineup for witnesses to rape for which charges not yet filed).

<sup>5</sup> *United States v. Bierey*, 588 F. 2d 620, 623 (8th Cir. 1978), *cert. denied*, 99 S. Ct. 1260 (1979).

<sup>6</sup> 388 U.S. at 237.

<sup>7</sup> See *United States v. Smallwood*, 473 F. 2d 98 (D.C. Cir. 1972); *United States v. Kirby*, 427 F. 2d 610 (D.C. Cir. 1970).

<sup>8</sup> See *United States v. Ash*, 413 U.S. 300 (1973).

<sup>9</sup> See *People v. Lawrence*, 4 Cal. 3d 273, 481 P. 2d 212 (1971), *cert. denied*, 407 U.S. 909 (1971) (photo of simulated lineup shown to kidnap victim); *People v. Lewis*, 74 Cal. App. 3d 633 (1977) (video tape of lineup displayed to hospitalized witness).

<sup>10</sup> 499 F. 2d 802 (4th Cir. 1974).

<sup>11</sup> *Id.* at 808 quoting *United States v. Terry*, 449 F. 2d 727, 728 (5th Cir. 1971).

<sup>12</sup> 388 U.S. at 236.

<sup>13</sup> *United States v. Ash*, 413 U.S. 300, 324.

<sup>14</sup> 434 U.S. 220 (1977).

<sup>15</sup> *Id.* at 225.

<sup>16</sup> 388 U.S. at 238.

<sup>17</sup> 286 A. 2d 239 (D.C. Ct. App. 1972).

<sup>18</sup> *Id.* at 240.

<sup>19</sup> *United States v. Allen*, 408 F. 2d 1287, 1289 (D.C. Cir. 1969).

<sup>20</sup> *State v. Favro*, 487 P. 2d 261, 263 (Wash. 1971), *cert. denied*, 405 U.S. 1040 (1972).

<sup>21</sup> *United States v. Bierey*, 588 F. 2d 620, 624 (8th Cir. 1978) *cert. denied*, 99 S.Ct. 1260 (1979). See also *United States v. Tolliver*, 569 F. 2d 724, (2d Cir. 1978). *Contra, State v. McGhee*, 350 So. 2d 370 (La. 1977) (right to counsel extends to postlineup interview; ruling based on interpretation of sixth amendment and State constitution); *People v. Williams*, 3 Cal. 3d 853, 478 P. 2d 942 (1971).

<sup>22</sup> *Wade*, *supra* at 272.

<sup>23</sup> *Favro*, *supra* note 20, at 263.

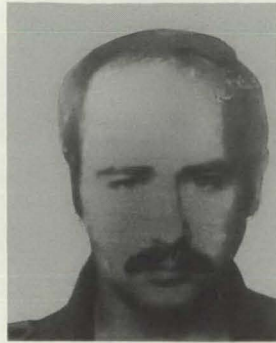
<sup>24</sup> See *United States v. Wilcox*, 507 F. 2d 364, 367 (4th Cir. 1974), *cert. denied*, 420 U.S. 979 (1975); *United States v. Banks*, 485 F. 2d 545, 548 (5th Cir. 1973), *cert. denied*, 416 U.S. 987 (1973).

<sup>25</sup> See *Tolliver*, *supra* note 21, at 728.

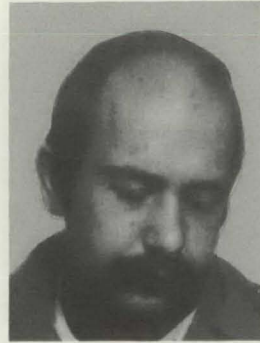
<sup>26</sup> See *United States v. Eley*, 286 A. 2d 239 (D.C. Ct. App. 1972). Nor is production required under the exercise of a court's supervisory authority. See *United States v. Yates*, 279 A. 2d 516, 518 (D.C. Ct. App. 1971). This is compatible with language in *Wade* which suggests that officers might mask lineup witnesses to conceal their identities from defense counsel. 388 U.S. at 239, n. 28.



# WANTED BY THE FBI



Photograph taken 1976.



Photograph taken 1975.



Date of photograph unknown.

## WILLIAM JOHN POSEY, Jr.

William John Posey, Jr., also known as Earl D. Cox, James Joseph Loutz, Jamz Josef Loutz, James William Lutz, Russell Martin, Bernard Posey, Bernard David Posey, John William Posey, William J. Posey, Jr., William J. Posey, William John Posey, William Snyder, Robert Thibedore, and others.

### Wanted For:

Kidnaping; escaped Federal prisoner; parole violator.

### The Crime

Posey, an escapee from custody who has been armed with a pistol in the past, is being sought in connection with a series of assaults on females, including the kidnaping and apparent murder of one victim.

A Federal warrant was issued on April 6, 1978, at Burlington, Vt., charging Posey with the crime of kidnaping. A Federal warrant was also issued on April 26, 1976, at Philadelphia, Pa., charging Posey with violating the terms of his parole.

### Criminal Record

Posey has been convicted of fraud, bond default, and false declaration under oath.

### Description

Age .....32, born April 17, 1947, North Charleroi, Pa.  
Height .....5'8" to 5'9".  
Weight .....160 to 170 pounds.  
Build .....Medium.  
Hair .....Brown/receding.  
Eyes .....Brown.  
Complexion .....Medium.  
Race .....White.  
Nationality .....American.  
Occupations .....Bartender, cab driver, farmer, foundry worker, jeweler, maintenance man, salesman, truck driver.

Scars and Marks .....Scar on right palm; red birthmark on back of left hand; appendectomy scar.

Remarks .....May be wearing mustache and/or beard; deaf in right ear; has been characterized as a schizophrenic with a propensity for violence against women.

FBI No. ....190,996 G.

### Caution

Posey should be considered armed, dangerous, and an escape risk.

### 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.

### Classification Data:

NCIC Classification: 2322PMPO17DI15PIPI15  
Fingerprint Classification: 23 L 15 U OMO 17  
I 10 U O I I



Right ring fingerprint.



# 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 \_\_\_\_\_

## Nasty Knuckles

These brass knuckles have been modified to be used as a claw when confronting an opponent. Not only can the custom-made knuckles inflict serious bodily injury but will also leave the striker's initial on the victim, if used in the conventional manner.







## Interesting Pattern

At first glance, this impression appears to be a loop-type pattern. However, a closer examination reveals the presence of a second loop formation in the left center segment of the pattern area. Therefore, this impression is properly classified as a double loop whorl with a meeting tracing.

