FBI LAW ENFORCEMENT BULLETIN

FEBRUARY 1982

Summertime Cops

Director's Message

Last fall, the President of the United States told the International Association of Chiefs of Police he intended to use his office to arouse national concern for the crime problem. He urged the chiefs to help him mobilize law-abiding citizens willing and ready to help us regain control of our destiny and bring "community" back into our lives.

As fellow members of the law enforcement community, we know that we cannot operate in a vacuum. The problem of crime is too vast today for us to ignore the millions of good citizens who want to help cut the crime rate. We in law enforcement cannot do this alone; fortunately, today we find citizens asking how they can help.

It is your job, as a police professional, to help plan a strategy that includes the whole community in the battle against crime. We don't need vigilante groups, but we do need vigilant citizens who understand law enforcement, who know our police officers as human beings, who respect us and trust us, who will provide windows of understanding to our communities.

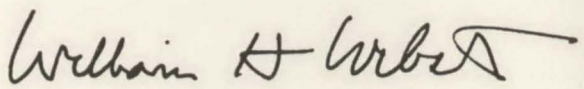
The Two Hundred Clubs, Crusade Against Crime, Backstoppers, Crime Stoppers, Heroes Inc., Victims of Crime Organization, Association for a Better New York, and Riot Relief Fund are all examples of citizens who have banded together to do something about crime. Some of these organizations are supportive of law enforcement, rather than directly resistive to crime. But they let us in law enforcement know that the community is behind us.

Others of these volunteer organizations are learning more about their law enforcement institutions and what they can do to make them more effective and professional. They provide ports of entry for community participation in law enforcement and other government activities.

As Tocqueville observed early in the history of this country, Americans have a passion for joining together in voluntary organizations to achieve public purposes. Our people volunteer because, as Americans, they understand that the glue of our society is the common good and the common good means pulling together. This we do when faced with a common need, emergency, or crisis.

I watched in the early 1970's an alienation of values between generations and the slow but steady efforts of good men and women to heal the wounds and bring community back into our way of dealing with each other. And so, I am even more convinced that the doing of justice, however noble its objective, cannot be achieved in the isolation of law books or in detachment from the mainstreams of community life. A sense of community implies a depth of caring and a willingness to invest heavily of one's self in those things which improve the quality of life in a community.

Are we in danger of letting resignation and complacency become the prevailing reactions to crime? We can prevent this by harnessing the deeply held citizen determination to defend and improve our quality of life, including the safety of our communities. We must foster citizen willingness to support morally and financially whatever it takes to maintain within the community an effective system for the enforcement of its laws.



William H. Webster
Director
February 1, 1982

FBI LAW ENFORCEMENT BULLETIN

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THE COVER

As arctic weather grips most of the Nation, many police departments start preparing for the balmy days of summer. See article p. 2.

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William H. Webster, Director

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S.H.B.P.
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STONE HARBOR
NEW JERSEY

Summertime Cops

By
WILLIAM B. DONOHUE
Chief of Police
Stone Harbor, N.J.

Seashore resort communities share common problems during the summer months. Because of the influx of vacationers and tourists who are attracted to warm, sunny beaches and invigorating surf, these resort communities must augment the size of their police departments to cope with this sudden increase in population.

Cape May County, N.J., is one such seashore resort whose population multiplies tenfold during the summer months. Located on the eastern side of the State, approximately 10 miles south of Atlantic City, Cape May County is often called Philadelphia's "summer playground." Ten of the 13 police departments within the county are in resort communities and employ more than 300 additional police officers during the summer. These seasonal officers more than double the size of the employing department's patrol division and can present monumental problems for the police administrator when considering the scope of their authority and responsibility and the short time available for training.

Recruitment

Over the past 10 years, the upgrowth of criminal justice programs offered by colleges and universities has minimized the need for active recruitment. Highly motivated students seeking internships or work experience abound. Accustomed to the learning environment, they possess a basic understanding of the American system of criminal justice and rarely, if ever, present disciplinary problems, since such actions taken against them would have negative effects on their future career aspirations. Many, in fact, return after graduation to seek permanent positions.

Selection

Each year, early in March, letters are sent to previous seasonal officers to determine who is going to return to duty. Once this has been accomplished, the police administrator knows how many new officers will be needed for the coming season. Applications are then reviewed by the chief of police and his executive officers for those best qualified for employment. Applications of criminal justice students reflect their courses of study in law enforcement, and in many cases, the training they may have received in firearms, emergency medical procedures, lifesaving, and water safety. Qualifications such as these often aid in selection.

Candidates receive letters informing them of the times and dates set for the various phases of the selection process (physical testing and interviewing, psychological evaluation, firearms training and qualification, and classroom instruction). Physical testing includes a timed 1-mile run and repetitions of various exercises. Candidates are also required to undergo a physical examination by a licensed physician at their expense, and the results of the examination must be recorded by the physician on the departmental form which accompanies the letter. This is

Chief Donohue

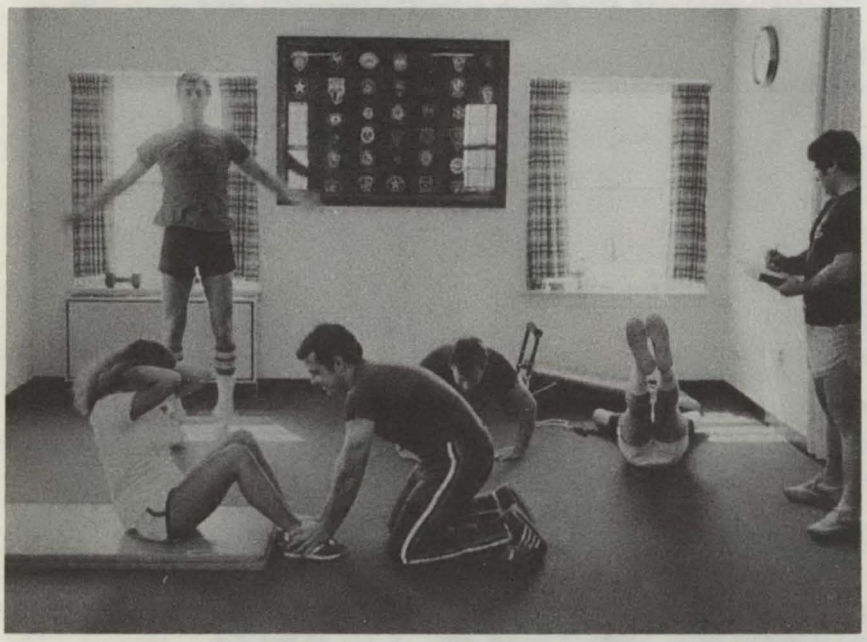
intended to discourage the unqualified from participating, and thereby, eliminates the need for rejection.

Candidates who successfully complete the physical testing are then interviewed by a board consisting of four officers representing all ranks within the department. Each board member has equal voting power. During the interviews, hypothetical situations are presented which require discretionary answers. This process has proved invaluable in eliminating those who would make an arrest for every offense observed, regardless of the circumstances and the nature of the offense. The importance of including rank and file members on the interview board cannot be overemphasized. Years of sitting behind a desk can dull an officer's "street sense," and knowledgeable patrol officers contribute greatly in presenting timely and relevant hypothetical situations to the candidates. Their presence on the board also involves them in departmental decision-making, which maintains good morale.

The physical testing and interviews take place on a selected Saturday rather than a weekday, so as not to require absence from school.

Written tests designed to determine writing and reading ability and knowledge of law enforcement practices are not administered. Scoring in both the physical testing and interviews is determined mathematically and reduced to decimals to eliminate any ties.

Times attained by candidates in the mile run and the number of repetitions achieved while doing the

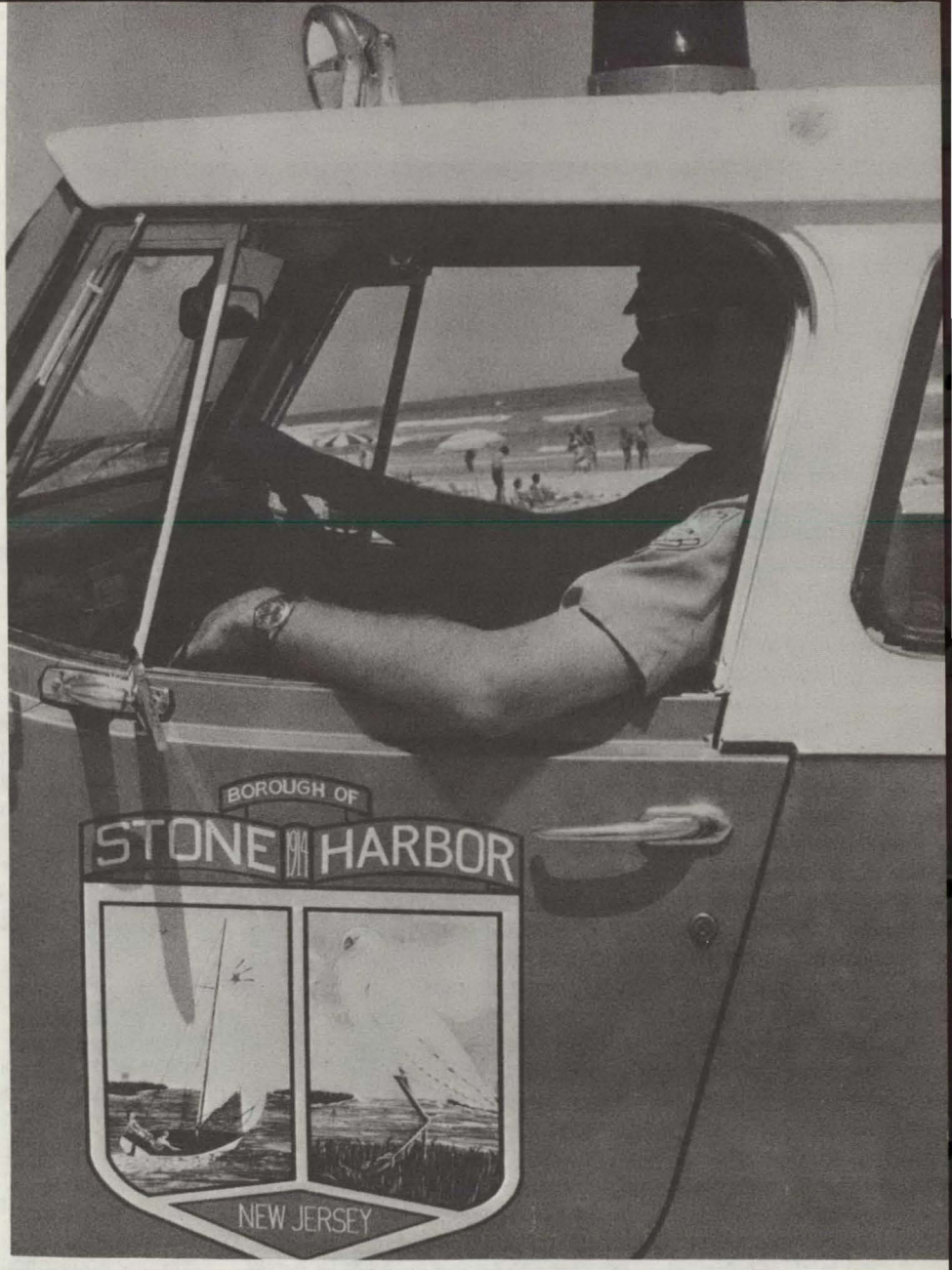


Before being accepted into the program, candidates are required to complete repetitions of various exercises as part of their physical testing.

Seasonal officers stand for roll call inspection by the shift commander.

various exercises are graded on a scale of one to five, as are personal appearance, demeanor, articulation, and other traits observed during interviewing. The results of all phases of selection are carefully documented and preserved in order to refute any claims of unfairness or discrimination that may arise at a later date. All candidates, plus an alternate, are now required to undergo psychological evaluations.

Because of the demand for this service, it is difficult to obtain appointments that are not scheduled several weeks in advance, and it usually takes 2 to 3 weeks before test results are received. Accordingly, appointments can be made well in advance by supplying the examiner with the number of candidates to be tested and providing the names as soon as they are known, which is usually only a matter of days before the actual examination date. This practice allows the police administrator to reject an applicant before he is hired, if test results indicate the individual is not suited for employment. The police executive is placed in an awkward and embarrassing position if he is forced to dismiss a seasonal officer upon the recommendation of the psychologist, if the officer has been working for any length of time. Additionally, the time and monies invested for training purposes are lost. More importantly, however, dismissing the officer at this time and for this reason is extremely unfair to him. Not only must he now carry the burden of having been dismissed from a police department, but he will also find it very difficult, if not impossible, to obtain other employment once the summer season has begun. In all likelihood, he will have to return home, angry and alienated.



In order to reduce cost, psychologists are instructed to administer only those parts of the examination which are intended to measure emotional stability. Career interest, intelligence quotient, mathematical ability, and other tests administered for full-time positions are eliminated. The examiner should be told that the department's only interest is in the candidate's predicted reaction to stress, e.g., whether he can be trusted to carry a firearm.

At this same time, the names of those selected for psychological evaluation are forwarded to the detective division for the purpose of conducting background investigations. This gives investigators time to complete background checks before appointment to the department is made.

Firearms Training

The next step is firearms training and qualification. This has been placed ahead of the 40-hour classroom training program because experience has shown that it is a waste of time if the trainee, after having undergone the entire training program, fails to qualify with the service revolver and is dismissed.

Contrary to popular belief, it is possible to train an intelligent, physically fit individual to become proficient in the use of a police service revolver in 2 days. Since FBI statistics continue to show that the majority of slain law enforcement officers are killed from a distance of less than 5 feet, the FBI double-action course, with its 7-, 15-, and 25-yard positions, is ideal for seasonal officer qualification.[1] It also provides for a greater number of shooters to participate at one time since the firing line moves in unison, as opposed to the tactical revolver course (the generally accepted qualification course) which requires wide lane separation and consequently fewer participants, due to the individual forward movement of the shooter. The double-action course, administered by well-trained, competent instructors, usually results in all students attaining scores of 90 or above out of a possible 100, well within the prescribed time limits, by the afternoon of the second and final day of firearms training.

Although time is of the essence, sufficient training time must be devoted to safe handling and cleaning of the firearm and the legal, moral, and personal implications of the use of deadly force. Departmental policy concerning the use of warning shots and accountability for discharge must be presented and fully understood by all. A written test, administered to prove and document this knowledge, is mandatory.

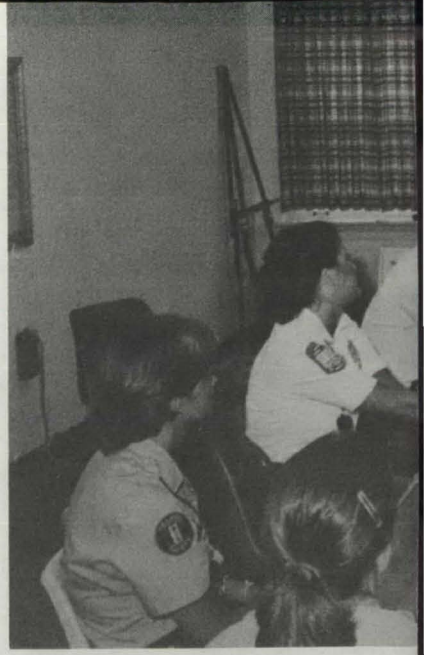
American police officers have traditionally depended on firearms for self-protection. To require an officer, even a seasonal one, to function without a sidearm would be dangerous and unfair to him, his fellow officer, and the citizens he is sworn to protect. Conversely, to arm him without benefit of training would be absurd.

Training Program

With the limited amount of time available for training purposes (7 days), training subjects, therefore, must be pragmatic and carefully chosen. For instance, it would be a complete waste of valuable training time to instruct the seasonal officer in collecting, preserving, and marking crime scene evidence since it is highly unlikely that he would ever be called upon to perform these tasks.

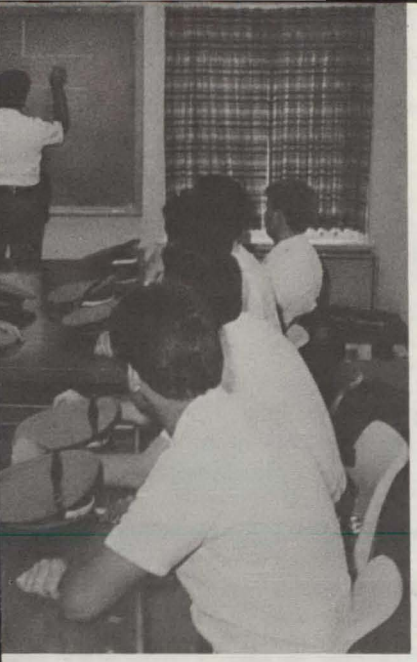
Initially, the trainee should be acquainted with environmental concerns. That is, he should have an understanding of the environment in which he will work, including the community, the type and nature of the local governmental body, and the organizational structure of the police department.

A large part of the program, of course, must be devoted to developing skills. However, the proper application of those skills is equally important and subjects such as human relations, the use of force, and police ethics must also be included in the training.



Seasonal officers complete their walk-through check of a teen recreation area.

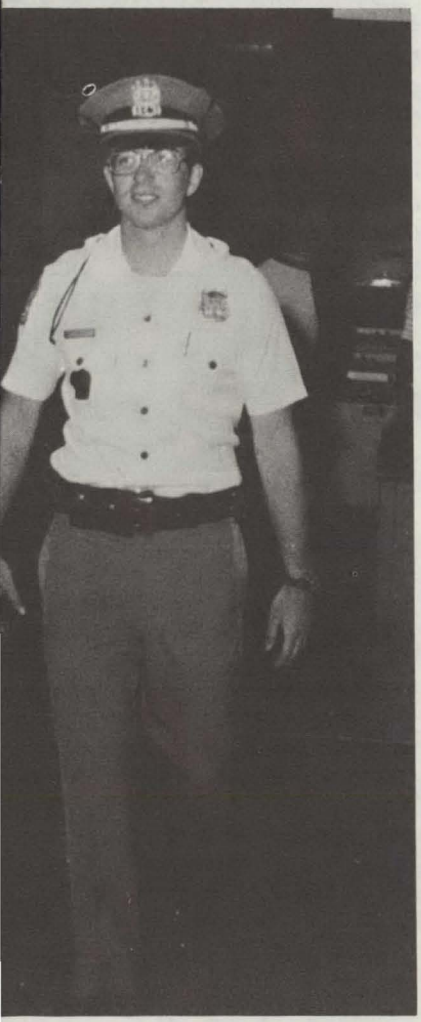
Foot patrol is one capacity in which seasonal officers are used.



One phase of training is 5 days of classroom instruction.

Classroom Training Schedule
Seasonal Police Officers
Stone Harbor, N.J., Police

TIME	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
8:00 am to 8:50 am	Environmental Concerns / Table of Organization	Patrol Operations / Motor-Foot Traffic Marine	Motor Vehicle Stops— Criminal and Traffic	Handling the Juvenile Offender	Radio Communications Systems
9:00 am to 9:50 am	Policy— Rules & Regs	Investigative Division / Investigations, Raids, Crime Prevention	The Drunk Driver	Crimes in Progress	Police Reports
10:10 am to 11:00 am	Human Relations / Enforcement Attitudes	The Use of Force	Summons Issuance Traffic & Borough	Evidence Locker Procedure	Police Equipment Familiarization
11:10 am to Noon	Basic Police Practices and Procedures	Prisoner Transportation and Processing	Testifying in Court	Crime Scene Responsibilities	Work— Schedule Recall Procedure Personal Appearance
	LUNCH	LUNCH	LUNCH	LUNCH	LUNCH
1:00 pm to 1:50 pm	N.J. Criminal Law	Prisoner Fingerprinting and Photographing	Responsibilities of Foot Patrol Duty	Controlled Dangerous Substance	City Orientation
2:00 pm to 2:50 pm	N.J. Criminal Law	N.J. Motor Vehicle Law	Emergency Medical Procedures	Arrest Search and Seizure	City Orientation
3:10 pm to 4:00 pm	N.J. Criminal Law	Accident Investigations	Police Ethics	Defensive Tactics / Disarming Demonstration	Final Examination



Seasonal personnel assist full-time officers with routine patrol duties.

". . . with proper training and guidance, these young men and women can provide valuable assistance to the police departments and the communities that employ them."

Written and oral tests end each training day, and a final test which embraces all subjects is administered at the end of the program. Officers returning from past seasons of employment should also be required to participate in all phases of training. Experience has shown that the length of time between employments and the constant changes in the criminal law and its application mandate this practice.

Successful candidates are now sworn in and presented their badges by the chief of police and the appropriate representative of the governing body. Also at this time the new officers are given an "orientation packet" which contains the city directory, copies of the police radio code, frequently used city ordinances and criminal and motor vehicle statutes, departmental policy and rules and regulation manuals, and the various forms required to be filled out for insurance, payroll, and other administrative purposes. Additionally, each officer is given a "check off" list, which he must complete and return within 2 weeks. Certain routine tasks are listed, such as lighting and placing road flares which, because of time restraints, were not addressed during the training program. He is required to have his skill in performing these tasks checked and documented by the full-time officers he will be working with during this period. By allowing nonsupervisory members to grade these items, the supervisor's burden is lightened and some degree of job enrichment and enlargement is provided for the grading officer.

Legal Issue

Seasonal officers, until recently, were classified as special officers under N.J.S.A. 40A: 14–146, which provides for the appointment of police personnel not to exceed 1 year and removal from office without cause or hearing. They serve under the supervision of the chief of police and are required to conform to rules and regulations, but are not considered to be members of the police force and are not permitted to carry weapons during off-duty hours.[2] The statute provides

While patrolling the beach front, a seasonal officer encounters a young man with a question.

little guidance regarding the scope of their duties and is even less relative to their training.

The use of untrained special officers has been greatly abused and this practice became the subject of litigation brought by the members of the police union who were protesting this misuse. The New Jersey Superior Court ruled that only police officers who had been trained under the State's Police Training Commission's guidelines, which require 13 weeks of formalized recruit training, could carry a weapon and effect arrest. This decision shocked and bewildered resort officials. Thirteen weeks of training would be cost prohibitive and totally impracticable, since the time spent in training would now exceed the time employed. Many officials, realizing that their "winter-sized" police departments would be unable to cope with the huge summer populations, demanded that State police be assigned to patrol their communities since a summer season was rapidly approaching. On appeal, this decision was modified in favor of resort communities. The appellate court ruled that the decision did indeed apply to special officers but not seasonal officers, since it held that seasonal officers were "regular officers on temporary appointments." Since only regular officers on permanent appointments are required by law to successfully complete the 13 weeks of recruit training, police academy attendance is not required for seasonal officers. The question of seasonal officer training was left for future litigation since the court believed it was not an issue at this time.[3]

Conclusion

Seasonal officers can be used for a myriad of duties. During those hours when the workload is the heaviest, they can perform tasks that will allow regular officers to be free to handle more serious matters. They are used mainly to provide two-officer patrol units and to relieve regular officers of foot patrol and routine traffic-related responsibilities. They also assist in routine "booking" procedures, thereby allowing more full-time officers to remain on patrol. However, as with all law enforcement personnel, adequate supervision is the key to success.

Performance evaluations should be conducted monthly, and a final "end-of-the-season" evaluation requiring the evaluator to state why the officer should, or should not, be rehired the following summer is recommended.

Seasonal officers will continue to be used by resort communities to assist their police forces in dealing with the many problems associated with the seasonal increase in population. However, there is, at present, a negative philosophy concerning the use of seasonal officers. Police administrators who consider these officers to be a "necessary evil" must become more positive in their outlooks and recognize that with proper training and guidance, these young men and women can provide valuable assistance to the police departments and the communities that employ them. **FBI**

Footnotes

[1] *Law Enforcement Officers Killed,* Federal Bureau of Investigation (Washington, D.C.: U.S. Government Printing Office, 1981), p. 14.

[2] Seasonal officers are required to leave their weapons in the gun locker at the end of each shift and retrieve them at the beginning of the next tour of duty.

[3] *Belmar Policemen's Benevolent Association* v. *Borough of Belmar.* Decided by the New Jersey Superior Court Appellate Division, April 22, 1981. Docket number A 4065-79, p. 4.

The MMPI and The Prediction of Police Job Performance

By
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and
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Los Angeles, Calif.

The inappropriate use of authority by police and the bizarre behavior of people encountered by them, combined with the stresses, risks, and violence in the job, have led to an increase in the use of psychological tools to aid in police selection. Psychologists and psychiatrists have been employed to participate in this evaluation process with the intent of selecting emotionally suitable individuals capable of handling the various requirements of law enforcement. However, both psychologists and police administrators have a tendency to overlook the crucial issue of validity in their approach to psychological assessment. Much of the research conducted has failed to consider whether the procedures employed are predictive of successful police performance. A major obstacle lies in the unavailability of followup of individuals that are disqualified from entering the system.

The paradoxical nature and requirements of police work must be examined in order to establish the appropriateness of psychological assessment.[1] The demands of policing have multiplied in today's society. Officers often are expected to respond to many situations filled with contradiction and ambiguity. Issuing a traffic ticket, settling family disputes or barroom conflicts, apprehending a robbery or murder suspect, and assisting in riot control are only a few of the myriad of duties today's police officer may be called upon to perform.

The nature of academy training and type of services actually provided are often discrepant. Seventy to 90 percent of police training is devoted to crime control, laws, and police procedures, while frequently 70 to 90 percent of subsequent job duties are devoted to interpersonal communication and interaction.[2]

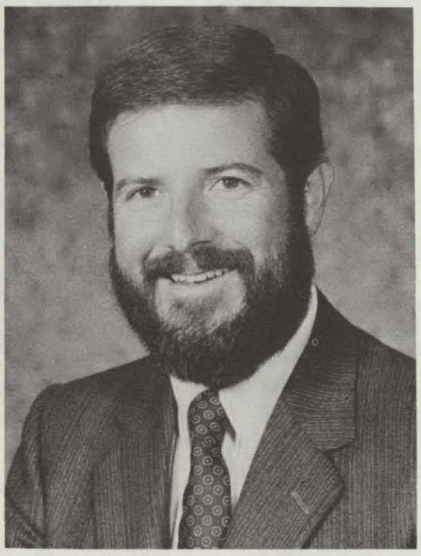
Procedures are often taught in either/or styles of presentation, with one appropriate legal response. The variety of interpersonal skills required in actual situations does not lend easily to this one-way approach. Situations and tasks an officer may be involved in, and hopefully prepared for over the length of his/her career, are almost too divergent to classify in any single or simplistic way.

While a police officer may be expected to perform many professional duties in the service of his community, the time he is currently given to master these skills range from a few short weeks to an upper limit of approximately 6 months. The high school graduate applicant is expected to learn all the laws relative to his enforcement duties, as well as service-oriented duties, in less that half a year. Doctors, lawyers, and other professionals are given as much as 8 years of specialized training. It is expected that police provide a diversity of professional services with little more training than semi-skilled workers receive. Limited training time makes it necessary to concentrate on the laws, legal aspects, and procedures of the job, leaving minimal time for developing social and interpersonal skills.

In addition to a paucity of training in interpersonal communication, police officers are rarely rewarded by their employers, the citizen-clients, or the media for interpersonal skills.[3] Crime-related rather than service-related efforts are given greater publicity and recognition.

The quasi-military organization of law enforcement presents a second paradox. Agencies have established a hierarchical profile characterized by uniform and rank. The system is organized rigidly.[4] Yet, officers make decisions and perform with little direct supervisory contact, particularly at the lower ranks. Paradoxically, a consistent finding has been that police seem to prefer direction within structured situations.[5] Thus, one finds a personal conflict for officers who must behave

Ms. Mills



Dr. Stratton

along an assertiveness-dependency continuum.[6] The quasi-military component fosters dependency, while the policing aspect itself requires considerable independent assertiveness.

Opposing factions in the community add a third paradox to the climate in which officers perform law enforcement services. Police find themselves caught between forces pressing for sociological change and those forces bent on a rigid, punitive approach to enforcement. Liberal voices command a nonviolent approach to conflict; conservative forces dictate militant control. The physical power, delegated by the community, is met with emotions ranging from indifference to outright hostility. There is often resentment from the very community that depends on police services. Since policing demands individuals who are capable of coping with these paradoxes and other stresses, the use of appropriate and effective psychological assessments could prove valuable.

Social, legal, and economic issues lend an urgency to improved police selection strategies. Police perform important public services that openly and dramatically affect lives. In addition, law enforcement is considered one of the most stressful occupations in the country.[7] Thus, the authoritarian position and the potential for inappropriate use of power evoke a strong need for improved police screening and selection.

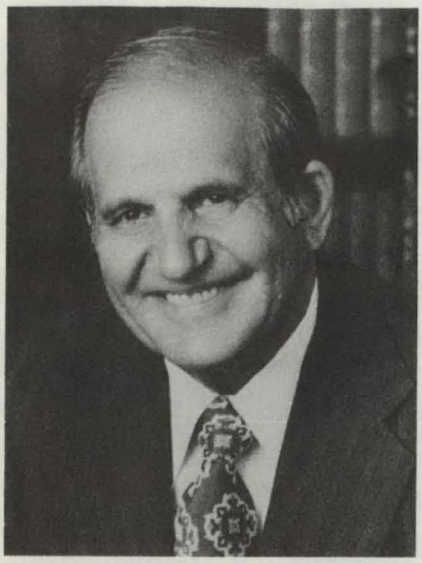
The presence of even a few undesirable officers has enormous consequences, making the identification of valid predictors important to American society. Excessive use of force by an emotionally unstable officer can have tragic results. Severe problems of low job satisfaction, overstress, disability benefits, and early retirement plague both police administrators and the community. In spite of massive expenditures allocated as a result of the Law Enforcement Assistance Act (LEAA), the crime rate remains on the increase and the number of community victims at the hands of the police is on the rise.

Personnel selection procedures have come under critical review for alleged discriminatory employment practices. Guidelines have been set down by the Equal Employment Opportunity Commission (EEOC), calling for the validation of selection procedures.[8] Court decisions during the past decade have mandated equal opportunities for minorities and women, as well as job-related validation. Nevertheless, instruments and procedures are widely used in the psychological selection process without empirical validation.

An officer who terminates employment because of misconduct or stress disability becomes a monetary deficit. The cost of training an officer is approximately $10,000 to $20,000 and disability benefits cost between $250,000 and $500,000 over the officer's lifespan. The unresolved question lies in the procedures that will best eliminate this waste.

The primary criterion for assessing police applicants has deviated little from the process used 150 years ago by the Metropolitan Police of London, England. J. H. Chenoweth described this selection process as follows:

> "Of the first 2,800 men recruited into that organization at least 2,238 (or approximately 80 percent) had to be dismissed from the force. All 2,800 officers had been hand picked by a very careful system of selection. Each candidate had to submit three



Sheriff Peter J. Pitchess

written testimonials of character, one of these being from his last employer; the writers of these testimonials were personally interviewed. If the candidate passed through this stage, he reported for a medical examination which in practice meant an inquiry into both his physical qualifications and his general intelligence. Less than one in three of the applicants were successful in passing through this stage. Those who did were then interviewed by an experienced personnel officer who eliminated the candidates obviously not suited for police work and passed the survivors on to the first two Commissioners of the Metropolitan Police, who again interviewed the remaining candidates. The disapproval of either Commissioner was sufficient to reject the candidate." [9]

Current police selection procedures consist of minimum and maximum qualification levels on criteria of age, general health, physical fitness, visual acuity, civil service "aptitude," character, and sometimes, residency.[10] For the most part, there have been attempts but little success in relating these factors to effective job performance.

The most widely used personality instrument in screening and selection has been the Minnesota Multiphasic Personality Inventory (MMPI).[11] This research instrument is easily administered and objectively scored.[12] However, there are also objective, interpretive procedures available.

The MMPI consists of 566 statements covering a variety of self-report items. The examinee responds "true" or "false" or leaves the statement unanswered. The standard MMPI profile consists of 4 validity scales, 10 clinical scales, and 11 experimental scales. Many psychologists and departments continue to use this instrument even though there has not been any clear relationship established between the test and effective policing. They believe that an applicant's responses to over 500 statements can determine if the individual is psychologically suited to be a police officer.

The Study

This investigation was an effort to demonstrate the validity of the MMPI in predicting successful policing in the Los Angeles County Sheriff's Department (the largest sheriff's department in the world and fifth largest law enforcement agency in the United States). All applicants had previously passed written civil service and oral examinations, background investigations, and physicals. The MMPI was group administered and was a requirement, but not a disqualifier, in the application process.

Two phases were used to demonstrate the validity of the MMPI in predicting police performance. The first phase attempted to identify MMPI scores predictive of success at three levels—academy acceptance, academy graduation, and field employment.

The second and more interesting phase was a longitudinal study to identify personality dimensions measured by the MMPI that might relate to effective police job performance. It studied an identified sample of police officers who had graduated from the academy 5 years prior and were currently working in custody, civil, patrol, and technical services divisions. In addition to

". . . to date, there has been no systematic correlation of tests or interviews with an individual's subsequent behavior and success or nonsuccess in law enforcement."

MMPI scores, educational level, marital status at time of application, and academy grade point average were also examined as predictors. Supervisory ratings, absences, internal investigations, and injuries on duty were used as measures to determine successful performance.

To determine supervisory ratings, a questionnaire was developed by both police personnel and psychologists to provide for the multifaceted nature of police roles. It consisted of 11 bipolar performance items relating to concerns about health, energy level, altercations, self-confidence, attention to detail, organization under pressure, decisionmaking, view toward society, supervisor/rules, interpersonal relations, and communication skills with public (talking and listening). These dimensions were categorized into behaviors that were easily observable, required on the job, and not overlapping.

Direct line supervisors (sergeants) were interviewed individually by psychologists trained in administering the questionnaire, in order that the items were clearly understood. These supervisors were requested to respond to each item by selecting one of five behaviorally anchored statements (assigned a weighted value) that best described the subject. Trial evaluation sessions were conducted with supervisors who were not a part of the study to develop uniformity of the interviews.

The critical aspect of data collection constituted obtaining accurate ratings by the supervisory staff. In order to minimize common rating errors due to indifference, prejudice, the halo effect, leniency, and error of central tendency, the following steps were taken:

1) All evaluations remained confidential. The data were retained for statistical analyses and then destroyed.
2) No promotion or transfer decisions were based on the ratings.
3) Individual identity remained unimportant beyond relating test scores to group performance.

This study attempted to resolve systematically whether the MMPI had the capacity to "screen out" the few extreme clinically undesirable candidates and "select in" desirable individuals that were potentially well-suited to police work. The possibility was also explored that certain traits deemed "pathological" by the MMPI may, in fact, be essential for successful police performance.

Results

A comparison of successful and nonsuccessful groups at all three states (entry, academy, and field) showed no useful differences in MMPI scores. The data from phase 1 reflected that although some comparative groups differed significantly on certain scales, the strength of the relationships was very weak and discounted the validity of the MMPI to differentiate even the highest 10 percent from the lowest 10 percent of scores. The results from phase 2 were even clearer in producing slight significances accompanied by extremely weak associations between the variables. Thus, the use of the MMPI as a prime predictor in either police screening or selection was not upheld by this research.

The results suggest that the agency's prescreening strategies (oral and civil service written tests, background investigations, and two-phase medical examinations), as well as the self-selection process of applicants, have done an exceptionally fine job and produced a generally able and emotionally suitable applicant group. There is little variation between the profiles of the different groups.

The conclusion that the MMPI is not a useful predictor of success in law enforcement cannot be generalized without replication. Law enforcement organizations differ considerably in size, philosophy, and community services, requiring that assessment be specific to the organization.

There were a few significant but weak relationships between MMPI measures and successful policing defined by entrance into academy, graduation from academy, retention in field, and behaviorally anchored supervisory ratings. Applicants produced profiles within the Minnesota norms and presented an emotionally healthy image. As several researchers have already observed,[13] as a group they tend to have slightly higher scores on particular measures. However, there was no evidence to support the MMPI as a predictor of police performance.

Discussion

The objective of this study was to assess the validity of the MMPI for determining an applicant's success in police work. Scores on the MMPI bore no relationship as to how officers actually performed on the job, and to date, there has been no systematic correlation of tests or interviews with an individual's subsequent behavior and success or nonsuccess in law enforcement. However, psychologists and

". . . psychologists should be limited to screening out the pathological and leaving the determination of selection to other aspects of the application process."

agencies continue to reject candidates on the basis of unvalidated strategies whether they be tests, clinical interviews, or both.

Although psychological testing may be important, it is the job of the evaluator to prove that he/she has the knowledge and tools to assess those emotionally suited for police work. Presently, it is doubtful that the psychological profession has the ability to screen or select law enforcement applicants in a valid and reliable manner. Thus, it is the task of psychologists to stay within EEOC guidelines, validate their procedures, and prove that what they purport to do, they actually can accomplish.

The results of this study call for an increased emphasis on the correlation of tests, interview questions, and psychological examinations with an officer's subsequent performance. The evaluator and the tests must be carefully examined to determine whether their use is ultimately detrimental to the individual, society, and law enforcement. The abandonment of psychological testing for law enforcement applicants is not being advocated. Rather, a more scientific approach, greater understanding of the issues involved, and caution by all involved are proposed.

Screening and selection are the two general approaches used to solve the hiring dilemma. Screening is the process of evaluating an applicant's fitness within acceptable psychological limits. If this can be accomplished, screening appears to be the more appropriate procedure, professionally and legally. R. J. Levy has summarized the following drawbacks to a screening approach:

1) The mere absence of unwanted qualities prior to employment does not indicate a continued absence after employment;
2) Psychological tests have not been demonstrated to have predictive value;
3) The definition of emotional suitability for law enforcement remains undetermined; and
4) Some traits which are often deemed pathological may be essential for the stress tolerance needed in effective policing.[14]

In selection, applicants are chosen for their optimal potential on the job. Some psychologists claim to have developed methods to determine specific traits seen as important in police work, such as logical reasoning, decisiveness, organizational compatibility, self-confidence, sensitivity, stress tolerance, nonverbal impact, positive motivation, behavioral flexibility, and/or others.[15] However, with documented inability of psychologists to predict even extreme behavior such as violence, the chances of more refined predictions of behavior seem remote.[16] Psychological instruments as tools to assess nonpathological traits are extremely limited, with clinical interviews faring no better.[17] Unless scientifically validated, the selection approach does not meet acceptable EEOC guidelines and is questioned as an appropriate role for psychologists.

Given the "state of the art" in psychological evaluation of police applicants, psychologists should be limited to screening out the pathological and leaving the determination of selection to other aspects of the application process. The subsequent months of intensive training and observation by the training academy and the continual evaluation during the officers' probationary year provide a more logical opportunity by police personnel to make final judgments about an individual's capacity to handle the job on certain identified dimensions. The screening approach is also seen as advantageous to the successful operation of law enforcement organizations. Progress and more optimal services occur within agencies that are open to new ideas, innovative approaches, and change stimulated by the employment of a diversity of people.

In the current process of screening or selection, psychologists in the same geographic area, using the same test data in conjunction with interviews, reach different decisions on the same applicant. This also happens in other areas of the criminal justice system wherein psychologists, called as expert witnesses in competency and sanity hearings, emerge with conflicting assessments.

Psychology is an inexact science which needs refinement before making decisions about people's futures. With many departments seeking psychological evaluations of applicants, psychologists must develop approaches and methods that are validated, reliable, and legal. Human behavior is complex, and as yet, impossible to predict. In the area of selection, practitioners of psychology must aim to make it more of an exact science by discarding arbitrary tests and subjective interviews

that make arbitrary and subjective predictions and decisions about people and human behavior.

Some psychologists appear quick to claim an ability to evaluate police officers, but are hesitant when it comes to assessing themselves or other professionals in critical occupations, whether they be psychiatrists, surgeons, airplane pilots, or in other careers which dramatically affect people's lives. One can only imagine the reaction of psychologists if they had to be psychologically tested and interviewed before graduation or licensure. Many would consider this approach ridiculous. The fact that none of the previously mentioned careers have this type of screening speaks for itself.

A final implication of this study is the overreliance in selection on a personality explanation of behavior. Perhaps this approach is not as important as an exploration of the job environment (societal and organizational) and the effects it has on normal individuals.

Milgram demonstrated that extremely stressful situations can produce inhumane behavior in otherwise normal people.[18] Likewise, R. Zimbardo and his associates found adverse effects on a "normal" sample of college students in a role-play prison study.[19] They reported that one-third of the "guards" became more aggressive and dehumanizing toward "prisoners" than would be expected in a simulated study. Kirkham joined a police force and experienced a radical shift in both his attitudes and behaviors.[20] He observed that becoming part of the system resulted in an increased politically conservative attitude, greater irritability, and a suspicious nature.

M. E. Wolfgang viewed officers as individuals who become socially isolated, alienated, and forced to retreat within themselves, thereby losing identity with a community that seems to resent them.[21] H. Hahn discussed the same isolation, suspicion, and public animosity that appear to result from the police experience.[22] J. G. Stratton examined the changes that can occur in the officers' social and family relationships, and A. Niederhoffer found that the increased cynicism in police directly relates to time on the force.[23]

Supporters of a situational explanation of behavior propose that selection is not the vehicle by which quality policing will be attained. They propose change in society and the law enforcement system itself, as well as continual training and evaluations by police supervisors.

Greater gains might be made by examining situational factors and their interaction with personality traits. Since the organizational structure of an occupation appears to influence behavior, an important direction for further research would be an examination of the existing law enforcement system and the society in which it functions. A study of the structure, attitudes, values, training, and reinforcement patterns in law enforcement could, perhaps, provide for better policing methods and healthier officers. **FBI**

Footnotes

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Measuring a Police Organization's Effectiveness:

A Case for Improving Job Satisfaction

By
LT. DON H. ERICSSON
Detective Bureau
Police Department
Culver City, Calif.

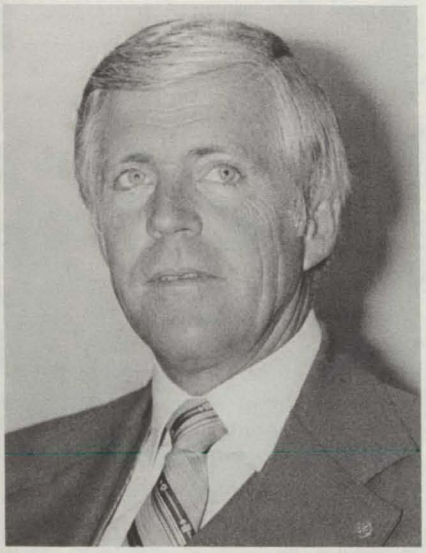
One phenomenon of municipal law enforcement is that many administrators and supervisors are oriented toward crisis management. With present recruiting and retention problems, what is needed in the police profession are managers and supervisors who organize for effectiveness. This requires individuals understanding their role and recognizing what motivates their personnel.

Many police administrators and supervisors are more apt to push numerical objectives rather than define or understand reasons for reaching them. Consequently, they measure "tools," such as field interview cards and citations, and totally miss the point and value of management by objectives.

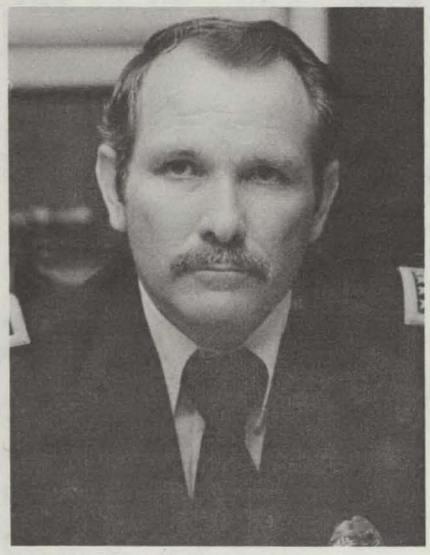
Police professionals do not agree on how to measure the effectiveness of their organizations. However, all of them would agree that whatever measures are used will be influenced in a positive or negative way by the morale of the agency. Morale, in part, has to do with individual job satisfaction, a matter often related to retention.

Many municipal police agencies throughout the United States typically measure productivity and morale of their department based on statistics relating to individual officers, the overall physical appearance of the department and its personnel, or response time to calls for services. These "measurements" do not really measure the overall effectiveness of the police agency. For example, response time in reality is a reflection of the productivity and morale of one division, the patrol division. Individual officer statistics, such as field interrogation cards, citations, and arrests, are also used as indicators of productivity and morale of one division, again the patrol division. The overall image or "appearance" of an agency is usually centered on personnel from one division—those in uniform driving marked police vehicles—the patrol division.

Since late 1978, the management staff of the Culver City Police Department has used three criteria for measuring the effectiveness of its organization—case clearance, morale,



Lieutenant Ericsson



Elwin E. (Ted) Cooke
Chief of Police

and response time. For purposes of this article, response time will not be addressed as it requires separate treatment in specific terms.

Case Clearance

One of the most often neglected, but one of the easiest detectible and least obvious measurements of the effectiveness of any municipal organization, is case clearance. In simplest terms, case clearance is the number of reported crimes versus the number of cases cleared by identifying the persons responsible. This measurement is valuable to each municipal police agency because all work is within the guidelines established by the Uniform Crime Reporting Program.

Since June 11, 1930, when Congress approved legislation recommended by the International Association of Chiefs of Police, the FBI has served as the clearinghouse for uniform crime records throughout the United States. The collection of these reports on a nationwide scale is based on the fact that police need to compare certain basic data for local administrative and operational purposes.

The manner in which this information is reported is tantamount to the overall effectiveness of the program nationally. Quality police records are needed and certain minimum standards have been set in the Uniform Crime Reporting Handbook, which details a well-defined policy on case clearance. Those standards are:

"1. A permanent written record of each crime is made immediately upon receipt of the complaint. All reports of thefts and attempted thefts are included, regardless of the value of property involved.
2. Staff or headquarters' control exists over the receipt of calls for service to ensure each is promptly recorded and accurately tabulated.
3. An investigative report is made in each case showing fully the details of the offense as alleged by the complainant and as disclosed by the investigation. An effective followup system is used to see that reports are promptly submitted in all cases.
4. All reports are checked to see that the crime classification conforms to the uniform classification of offenses. That is, offenses reported to the UCR Program, regardless of what the offense is called at the local or state level, should conform to the UCR classification of offenses.
5. The offense reports on crimes cleared by arrest or exceptional means are noted as cleared.
6. Arrest records are complete, special care being taken to show the final disposition of the charge.
7. Records are centralized; records and statistical reports are closely supervised by the administrator; periodic inspections are made to see that the rules and regulations of the local agency relative to records and reports are stricly complied with.
8. Statistical reports conform in all respects to the Uniform Crime Reporting standards and regulations." [1]

Case clearance can and does reflect productivity, contributes to job satisfaction, and impacts the morale of the entire department. It can be used to make comparisons with adjacent ju-

"Case clearance can and does reflect productivity, contributes to job satisfaction, and impacts the morale of the entire department."

risdictions to determine agency effectiveness. Unfortunately, many agencies use creative figures to show case clearance and mislead the public they serve. When discovered, these distorted clearance rates have serious negative impact on the quality of life in those communities.

Problems Involved with Declining Clearance Rates

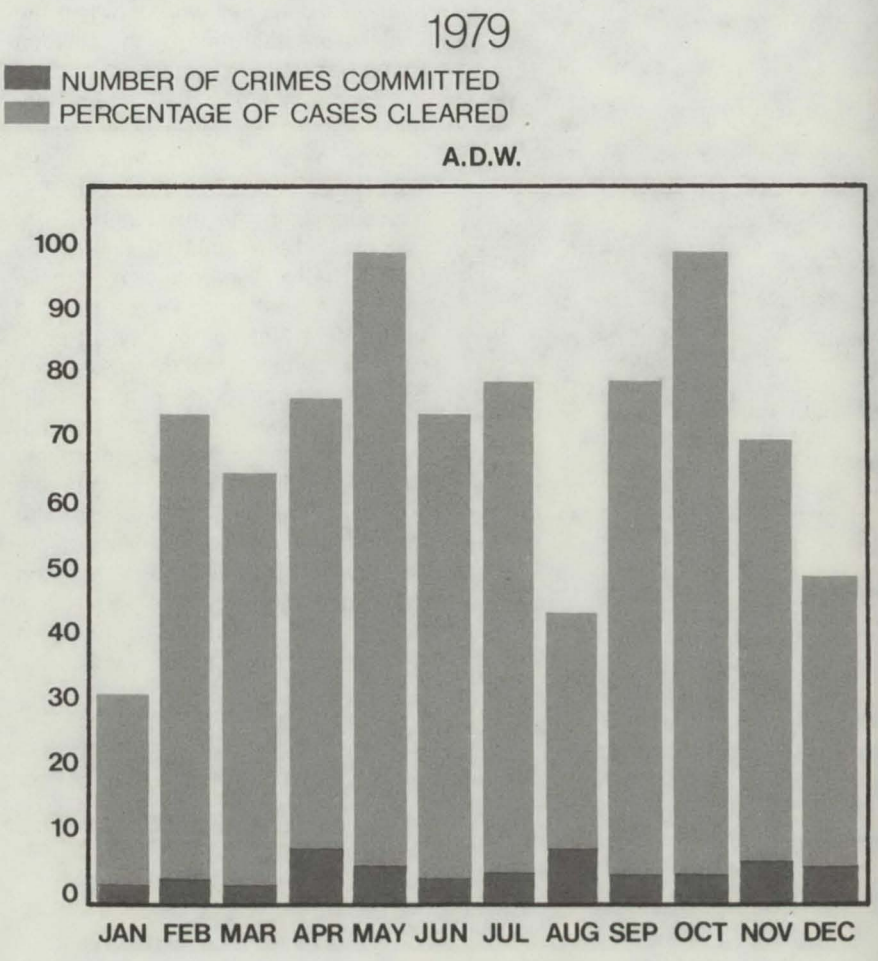
In municipal police agencies, members of the detective division have minimal supervision and tend to display good or bad work habits based on previous experience. It would be an understatement to say that members of the patrol division do not always produce thorough, concise reports, which include interviewing all possible witnesses and obtaining fingerprints or other physical evidence whenever possible. Are patrol personnel "report takers" or "preliminary investigators"? How many personnel know the difference?

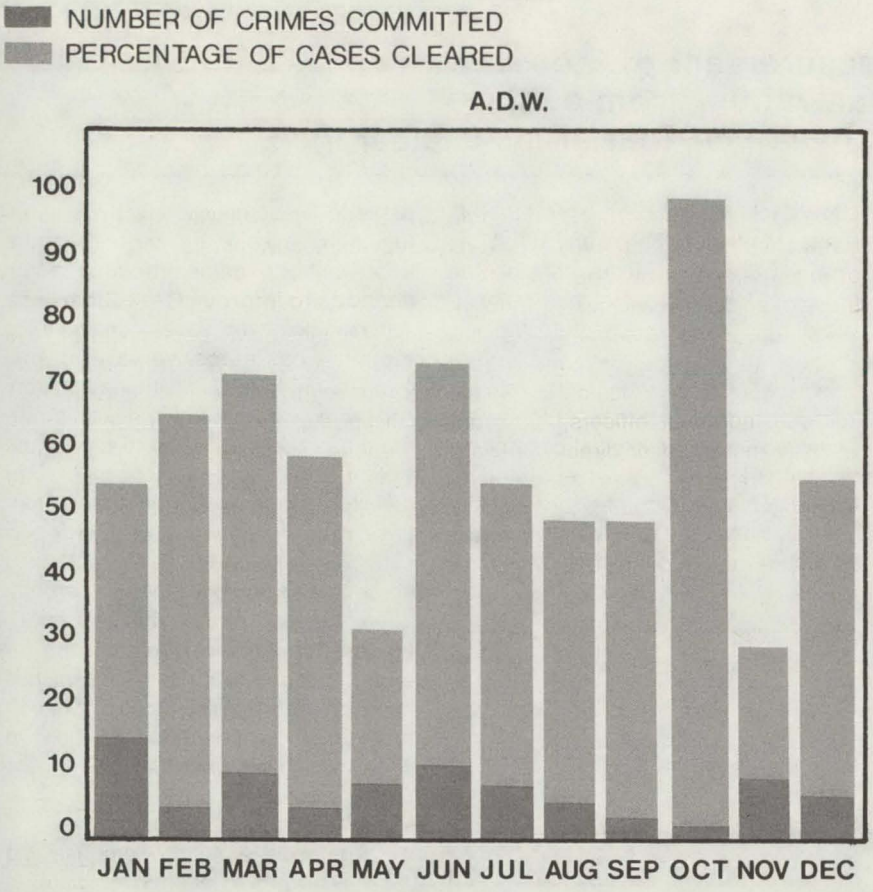
However, the problem is not with detective or patrol personnel, but with the leadership of the organization. In the absence of leadership, each does the best he can, but many cannot work toward an objective without direction. Officers have to know how they fit into all of the department's programs. Initial training programs set forth tasks that lead to performance objectives. But task performance objectives must be reinforced constantly to achieve success. Subordinates must grow to believe in themselves. When encouragement is given to develop accuracy and skills, talent is created.

In general, municipal police supervisors keep track of day-to-day statistics and review these statistics occasionally for crime trends, but few supervisors wage a continuing battle on a month-to-month basis with crime statistics in their jurisdictions. In some instances, the case clearance records of these agencies may be lower than those of adjacent jurisdictions. Unfortunately, this is where some supervisors sit back and do nothing more to fulfill their responsibilities. Again the issue is not with individual officers, for if not properly motivated or directed toward the tasks involved with performance objectives leading to high case clearance records, they miss a great opportunity to achieve basic job satisfaction—an issue which has a direct impact on morale.

Methods to Improve Case Clearance

Management personnel of the Culver City Police Department became aware of the problems in increasing or maximizing the organization's effectiveness. Since 1978, three criteria—case clearance, response time, and morale—have been used. Through this experience it was discovered that the most critical measurement of the overall effectiveness of the organization,





from a job enrichment perspective, has been that of case clearance. The morale "spinoff" is obvious.

Control Ledger

For the past 3 years, the department has been measuring its effectiveness by comparing present case clearance percentages with previous ones. (See fig. 1.) To accomplish this, a control ledger is maintained by the detective division. The control ledger offers accountability of individual officers assigned to cases, shows all reports received by the detective division, and insures that all cases are followed up in a timely fashion.

Before forwarding a report to a specific detail, the detective division supervisor logs in the ledger the daily report (DR) number, the type of crime committed, the investigator assigned, and appropriate information in the miscellaneous information column, such as suspects, descriptions, or license numbers. The reports are then distributed to each assigned detail. Any crimes against persons, such as robbery, assault with a deadly weapon, rape, or grand theft require that the victim be contacted within 3 days. All other crimes, with the exception of those without any leads or suspect information, require a 30-day contact. If there are no leads or suspect information, a form letter is sent to the victim indicating receipt of the report. This letter informs the victim of the detective assigned to the case and the report number. It also directs the victim to the person to contact if there are any inquiries and when to do so. The letter is a good public relations device as it lets the victims know that the police department is aware of the crime and has assigned an investigator to the case. It also alleviates unnecessary phone calls by the victim to the

Figure 1

Six Month Case Clearance Study

	CASES REPORTED			CASES CLEARED		
	1979	1980	1981	1979	1980	1981
Repressible Crimes						
Burglary	478	459	406	62	49	118
Grand Theft Auto	304	301	351	31	60	68
Burglary from Motor Vehicle	215	292	347	21	17	22
Theft from Motor Vehicle	164	145	165	7	4	8
Grand Theft Person	0	30	37	0	3	4
Violent Crimes						
Robberies	156	230	196	33	30	46
Aggravated Assaults	29	56	48	22	44	28
Forcible Rape	11	9	5	6	0	3
TOTAL	1,357	1,522	1,555	182	207	297
				(13.4%)	(13.8%)	(19.1%)

". . . the most critical measurement of the overall effectiveness of the organization, from a job enrichment perspective, has been that of case clearance."

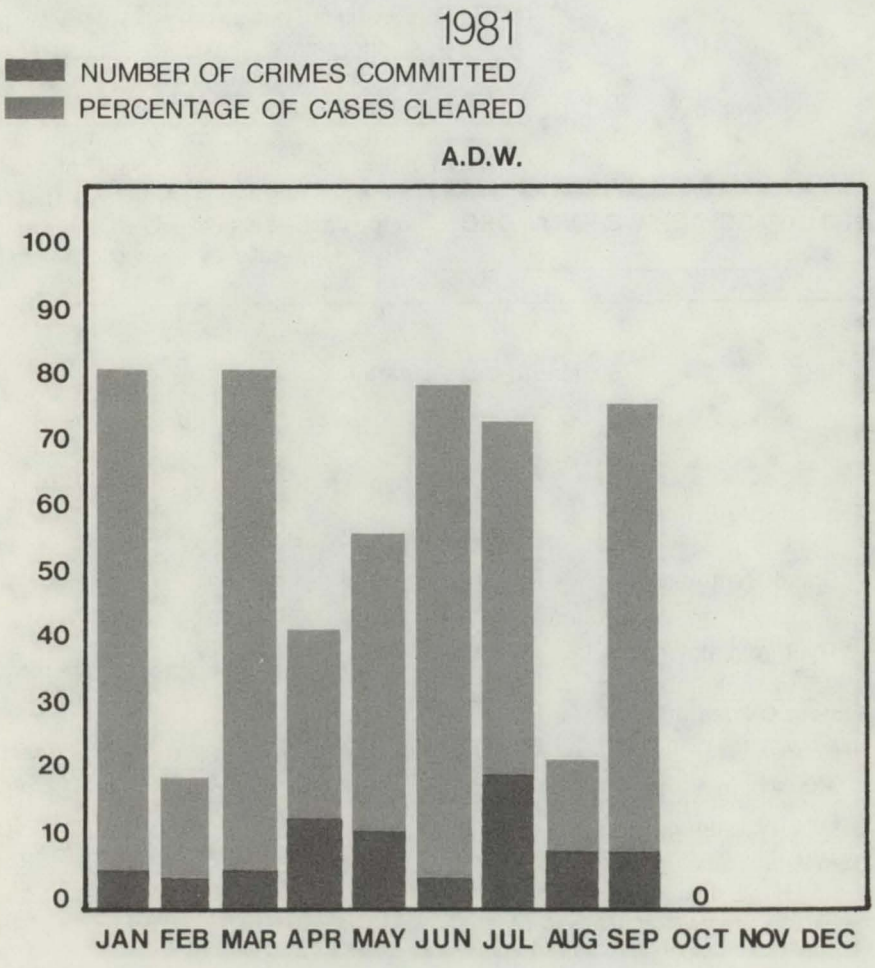
police department to ascertain who is working their case and if any leads have been developed.

A monthly tally is also kept as to the frequency of crimes in each category. At the end of the month, this shows a supervisor how many cases of each crime a section has received. This also helps with monitoring the case assignments of the detectives and will show if they have logged all cases given them in a particular month.

The control ledger is an important instrument for the detective division supervisor. He must be accurate with entries and must make any notations that will assist him in overseeing the proper followup of all crimes committed.

Case Clearance Chart

Another tool used by the Culver City police is the individual case clearance chart. Each officer assigned to the detective division has a composite chart depicting the case clearance rate by month from January 1, 1979, to the present. These charts, which are maintained by each detective, depict the total number of crimes for each month and the clearance rate for each month. The simplicity and ease of maintaining the chart has a positive value in that each officer identifies with his function. An example of how effective this program has been would be to review the violent crime section in figure 1. For the first 6 months of 1981, the clearance rate for robberies was 23.5 percent; aggravated assaults, 58.3 percent; and forcible rape, 60 percent. There have been no homicides reported, and the overall clearance rate for violent crimes is 30.9 percent, which is approximately 8 and 10 percent higher than the clearance rates of the two cities bordering Culver City.



Conclusion

The positive effect of emphasizing case clearance to each investigator is that they become more concerned with the tasks involved in initial followup performance objectives. This encourages and fosters more communication between the detective division and the operations division to insure they are working in consonance with each other. This also results in more one-on-one relationships between the two divisions.

By implementing these programs, managers and supervisors of the Culver City Police Department believe they have made all officers more aware of their individual performance, have removed self-doubt, have increased productivity, but more importantly have enhanced job satisfaction at the officer level. **FBI**

Footnote

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The Houston Mock Trial Program

By
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Police Department
Houston, Tex.

Police officers perform a myriad of tasks, all of which require the learning of several skills. The public, for example, expects police officers to possess the skill needed to arrest perpetrators. Police officers, however, know that their job is much more intricate than just arresting a criminal. Most officers realize that if they are going to arrest a criminal, they must possess specific skills that will facilitate the arrest in a safe, efficient, and effective manner. These skills include the learning of survival tactics, the acquisition of legal expertise, the ability to collect, organize, and transmit information for an offense report, and above all, the ability to testify successfully in a court of law as to what transpired before, during, and after an arrest.

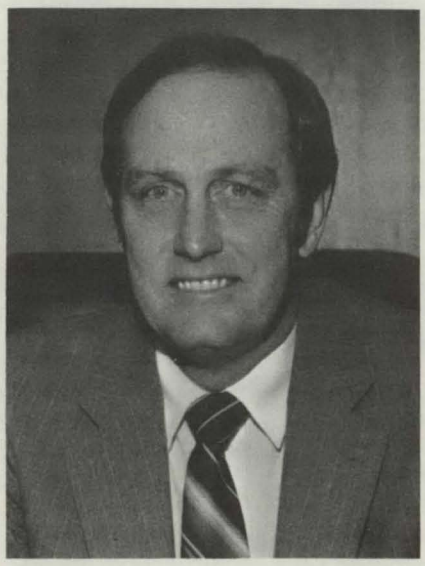
The development of these skills should occur within a department's recruit (cadet) training program. Fortunately, for most police officers, it is in the area of training that law enforcement has made its greatest gain over the last 10 to 20 years.

Gone are the days when police cadets are simply "told" how to perform the numerous facets of their job. Training has evolved to the point where time is now spent not only telling and showing the recruits how to perform various skills but in allowing them the opportunity to perform these skills under controlled conditions.

Serious attempts have been made by numerous departments across the country to bring portions of an officer's job inside the academy for learning purposes. More "hands-on" training programs are being developed for cadets, especially in the areas of officer safety and survival tactics, shoot-don't-shoot exercises, traffic ticket writing exercises, firearms training programs, and in some instances, the development of mock trial programs.

The Houston Police Academy has developed and administered several "hands-on" training programs for cadets. Of all available programs, the mock trial program appears to be one of the most successful and popular with the cadets.

Sergeant Oettmeier



J. P. Bales
Chief of Police

Purpose of the Program

The Houston mock trial program was instituted within the recruit training program approximately 2 years ago. At that time, efforts were made by members of the training staff to meet with various representatives from the Harris County District Attorney's (D.A.'s) Office to discuss the viability of such a program. The idea was readily accepted without any hesitation or reservation by the D.A.'s office.

After several meetings, it was concluded that the program should be multifaceted, with special emphasis being placed on the following areas:

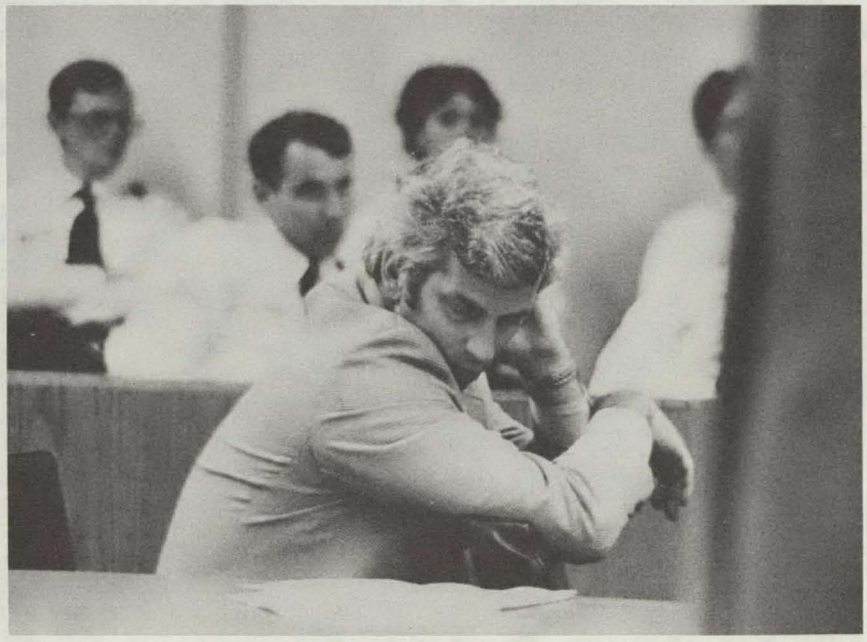
1) To develop specific courtroom experience by testifying under realistic conditions;
2) To experience the stress of having to testify in a court of law before an active judge, a resourceful prosecutor, and a very determined and sometimes ruthless defense attorney;
3) To magnify errors on offense reports that jeopardize the successful prosecution of a case;
4) To illustrate the importance of preparing oneself prior to being called to testify; and
5) To identify the most common mistakes made by veteran officers that not only contribute to the demise of a successful prosecution but which can cause personal embarrassment for the officer.

The Program

Logistically, the deployment of the mock trial program called for several important decisions. One of those decisions involved the proper timing of the program within the cadet training curriculum. A large number of mock trial programs are randomly placed within a curriculum—the Houston model immediately follows the crime scene program. The cadets, therefore, must first respond to and resolve several crime-in-progress calls, prepare all the necessary paperwork generated by these calls, and then be expected to testify in any one of the cases some 2 to 3 weeks later. This type of sequencing is vitally important to the recruit for it prepares him in a manner that is consistent with the demands placed on veteran officers. It also facilitates the learning process, as the cadets are able to participate actively in a proce-

Complete with judge, prosecutor, and defense attorney, the mock trial program allows recruits to gain valuable experience.

Under the watchful eye of the judge, the defense attorney challenges the cadet's testimony.



Cadets sometimes make mistakes veteran prosecutors have a hard time believing.

dure that is similar to their expectations about what a police officer's job entails.

Another crucial decision regarding the successful development of the mock trial program involved the recruitment of veteran prosecutors and judges. Due to the large size of the cadet classes, a decision was made to conduct two mock trials simultaneously. It became necessary, therefore, to enlist the assistance of at least four prosecutors and two judges. Each mock trial used one defense attorney (portrayed by a prosecutor), a prosecutor, and a judge to oversee the courtroom activity.

Members of the D.A.'s office were so impressed by the potential success of this program that the initial volunteers were those persons who were responsible for teaching the legal courses within the Houston Police Academy's recruit training program. This established even greater consistency for both the cadets and the prosecutors as both groups sought to share and experience similar learning expectations.

The judges are primarily responsible for overseeing the administration of the program from their bench. All courtroom activities are conducted under the watchful eye of a judge. There is no question who controls the tempo of the case being heard. Not only are the cadets able to testify under realistic conditions, but they do so under the intense scrutiny of a trial judge who routinely sustains or overrules objections that are vital to a fair judicial process. Cadets who look to the judge for help when the defense attorney embarrasses them are usually disappointed. Furthermore, much to the cadets' dismay, the judge all too often will appear to let the defense attorney badger them. Given time, they rapidly discover that their discomfort can be attributed to their inexperience.

Testifying is obviously the most exciting aspect of the mock trial program for the cadets. What they sometimes fail to recognize is that a successful prosecution depends upon preparatory efforts. To aid the cadets with this aspect of the program, the training staff critiques their offense reports at least a week before the start of the trial. A copy of the critiqued report is given back to the cadet, while another copy is sent to the prosecutors participating in the mock trial program.

The cadets, consequently, have ample time to analyze their mistakes and seek out answers to any additional questions they may have. They are also expected to check with their partner (from the crime scene program) regarding the uniformity of their upcoming testimony and their offense report.

"It is through this type of program that the cadets learn to conduct themselves in a professional manner in a court of law."

The prosecutors also review the offense reports prior to the start of the program. Their purpose for doing so is threefold:

1) To gage the progress of the cadet's report writing capabilities compared to reports completed by veteran officers;
2) To analyze the reports in terms of inconsistencies, such as the listing of inaccurate times, names, addresses, etc.; and
3) To evaluate the content of the narrative portion of the report in terms of completeness and accuracy. A final decision is then made as to which cadet(s) will be testifying during the course of the trials.

During the administration of the program, several cadets are called to testify about their own particular case. The length of questioning by the defense and prosecution is dependent upon the success of the recruit's responses. Cadets who have a tendency to make mistakes are subjected to lengthier questioning. While this may cause a great deal of embarrassment for the cadet(s), it serves as a learning catalyst for the observers. Once the questioning of a particular cadet has concluded, another cadet is called to the stand.

Since only one cadet can testify at a time, the remaining recruits play the roles of jurors and spectators. As jurors, the cadets find themselves drawn into the program by the prosecutors as they actively seek to manipulate their attitudes. As spectators, the cadets are somewhat more relaxed. This allows them the opportunity to analyze the motives of the defense and prosecution. It also allows them the luxury of witnessing their fellow classmates make humorous, yet damaging, blunders without having to experience any personal remorse or regret for having made such critical mistakes. Laugh as they may, before the night is over, the cadets may find themselves sitting on the stand, making an equally devastating mistake.

Just prior to the conclusion of the evening's activities, the judge and prosecutors hold an informative, impromptu session with the cadets. The prosecutors discuss the merits of the cadets' testimony by emphasizing the importance of being consistent and accurate. The judges discuss the importance of courtroom demeanor. Even though the cadets are exposed to the rules of etiquette in the classroom, applying those rules under the bombardment of the relentless questioning by an adamant defense attorney proves to be extremely difficult. The judges help ease the burden by sharing their experiences and offering suggestions for controlling oneself during these circumstances. The interaction between the cadets, the judge, and the prosecutors represents yet another learning experience, further enhancing the overall value of a mock trial program.

Discussions between the training staff and the prosecutors yield additional benefits for the cadets. First, the cadets are given a rare opportunity to interact openly with a district court trial judge. Second, the cadets discover how easy it is to be inconsistent in their testimony, oftentimes leaving out vital elements of the crime from their report in addition to contradicting their partner's testimony. Third, the cadets are given a real taste of the psychological warfare that occurs in a court of law.

Conclusion

It is through this type of program that the cadets learn to conduct themselves in a professional manner in a court of law. Once in the courtroom, the cadets realize that they will come into contact with members of the community, as well as with other professionals. It becomes readily apparent to them that they must be firm, accurate, patient, and courteous throughout the duration of their testimony. This will assist them in projecting a professional image before the members of the community. Failure to do so may not only jeopardize the successful prosecution of their case but could also lead to personal as well as departmental embarrassment. Police departments, therefore, should consider adopting and deploying a mock trial program within their cadet training program in order to avoid these adverse consequences.

The cadets, the training staff, and the D.A.'s office believe the Houston mock trial program has been a success. Efforts are now underway to enlarge the program in order to accommodate even more cadets. Given the cadets' willingness to learn and the continued cooperation from the D.A.'s office, the Houston program will continue to prosper. **FBI**

ENTRAPMENT, DUE PROCESS, AND THE U.S. CONSTITUTION

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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.

Origin of Defense

The first U.S. Supreme Court case which examined the defense of entrapment with close scrutiny was *Sorrells* v. *United States,*[1] decided in 1932. In *Sorrells,* an undercover prohibition agent visited Sorrells' home and made several requests that Sorrells obtain whiskey for him. Finally, after conversation disclosed that both men had been members of the same division in World War I, Sorrells acquiesced and sold a half-gallon of whiskey to the agent for $5. Sorrells was indicted for possession and sale of illegal whiskey, a violation of the Federal prohibition law. At trial, he relied upon the entrapment defense; however, the judge refused to submit the entrapment issue to the jury and ruled as a matter of law that entrapment was not present. The jury returned a guilty verdict and the Federal appellate court affirmed. The Supreme Court granted review limited to the issue of whether the evidence was sufficient to require the trial judge to submit the entrapment question to the jury.

Justice Hughes, writing for the majority, answered this question in the affirmative, and in so doing, recognized the viability of a defense grounded in the entrapment concept. It was his view that the entrapment defense had its roots in a principle of statutory construction. He concluded that Congress, in enacting the National Prohibition Act, could not have intended that a person be found guilty of violating the statute if his conduct was instigated by the Government and if he was not predisposed to commit the crime. Justice Hughes observed:

> "We are unable to conclude that it was the intention of the Congress in enacting this statute that its processes of detection and enforcement should be abused by the instigation by government officials of an act on the part of persons otherwise innocent in order to lure them to its commission and to punish them."[2]

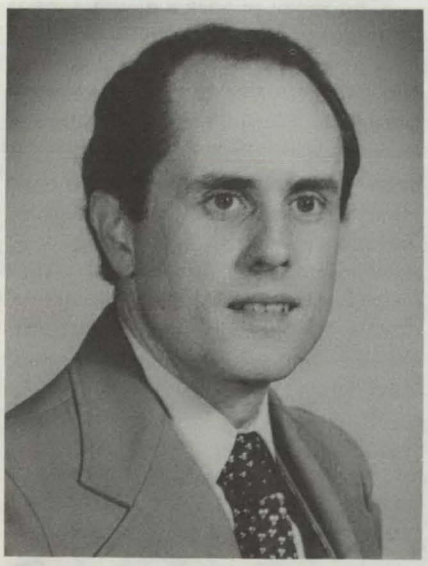
The majority held that the scope of the entrapment defense includes the right of the defendant to offer evidence that he committed the crime at the instigation of the Government. It made equally clear that when the defense is raised, the Government is permitted to prove that the defendant is not otherwise innocent, but rather predisposed to commit the crime. The majority concluded that the issue of entrapment, including the question of whether the defendant already possessed the state of mind to commit the offense, is in most cases a question for the jury to decide.[3]

Thus, the so-called "subjective view" of the entrapment defense was born. It was labeled as such because of the *Sorrells'* majority view that the critical factor in the entrapment equation is the state of mind of the defendant and whether he was predisposed to commit the offense charged.

Justice Roberts wrote a concurring opinion in *Sorrells,* which is the origin of what has come to be known as the "objective view" of the defense of entrapment. Justice Roberts criticized the majority's statutory construction approach as amounting to judicial amendment of the National Prohibition Act. It was his view that the entrapment defense should focus upon the conduct of the police, and specifically, whether that conduct instigated the defendant to commit the crime. Justice Roberts believed that this defense has its roots in the idea that the court has a right to protect itself from becoming a vehicle through which a citizen is prosecuted after committing a crime at the instigation of the Government.[4]

Consistent with Justice Roberts' view that the focus of the entrapment defense should be on the conduct of the police was his criticism of the majority's emphasis on the state of mind

". . . the scope of the entrapment defense includes the right of the defendant to offer evidence that he committed the crime at the instigation of the Government."



Special Agent Callahan

of the defendant. Justice Roberts observed:

> "To say that such conduct by an official of government is condoned and rendered innocuous by the fact that the defendant had a bad reputation or had previously transgressed is wholly to disregard the reason for refusing the processes of the court to consummate an abhorrent transaction."[5]

He also criticized the majority view that the entrapment issue in most cases should be decided by the jury. It was his belief that the issue was for the court and not the jury to decide. Finally, Justice Roberts believed that the conviction should be reversed and the indictment quashed rather than allow the Government to retry the defendant as the majority opinion would have done.

The *Sherman* Case

Twenty-six years later, the Supreme Court was once again faced with deciding a case in which the issue of entrapment was a predominant factor. In *Sherman* v. *United States,*[6] a Government informer, initially working on his own, met Sherman in a doctor's office where both were being treated for narcotics addiction. The defendant turned down repeated requests from the informer to provide narcotics for him. Only after the informer appealed to the defendant's sympathy, based upon his knowledge of narcotics addiction withdrawal, did the defendant acquiesce. After several unmonitored sales took place, the informer alerted Federal narcotics agents who observed the three sales for which Sherman was indicted. Sherman raised the entrapment defense at trial. The issue of entrapment went to the jury and a conviction ensued. A Federal court of appeals affirmed. Sherman appealed to the Supreme Court, arguing that entrapment had been established as a matter of law and the trial court erred in allowing the jury to consider the issue.

Chief Justice Warren wrote the majority opinion which reversed the conviction. The majority held that the evidence of predisposition was so deficient that entrapment should have been determined to exist by the trial judge as a matter of law. In so holding, the majority placed no weight at all on two previous narcotics-related convictions of the defendant within the previous 9 years.

The majority affirmed the statutory construction approach to the origin of the entrapment defense which first appeared in the *Sorrells'* majority opinion. Moreover, it broadened that approach by making it applicable to all Federal criminal statutes, not just the prohibition law. The majority reemphasized that the focus should be on the defendant's state of mind, that is, whether he was predisposed to break the law, and criticized the so-called objective view of the defense as being unduly restrictive upon the prosecution.[7]

Justice Frankfurter, while concurring with the majority in the reversal of Sherman's conviction, disagreed with its reasoning. He adopted the objective view of entrapment and rejected the idea that the defendant's state of mind should have any bearing on the issue. He suggested that the entire focus of the Court should be upon the nature of the police conduct in the case and whether it falls below acceptable standards.

Justice Frankfurter attempted to further refine the objective view by expanding it from a test that focuses solely on police conduct. He suggested that it include a "hypothetical innocent man" test, i.e., whether police conduct in a particular case would have successfully tempted a person not involved in criminal activity.[8]

The importance of *Sorrells* and *Sherman* lies not in the result but rather in the emergence of the subjective view of entrapment over the objective approach. Notwithstanding this fact, three Federal appellate courts applied the objective view of the defense to cases presented to them in the early 1970's.

In *United States* v. *McGrath*,[9] U.S. Secret Service agents infiltrated an already existing counterfeiting ring and took substantial control over it. In *Greene* v. *United States,*[10] an undercover agent for the Bureau of Alcohol, Tobacco and Firearms contacted persons recently convicted of manufacturing and selling illegal whiskey, and over a protracted period, urged them to resume their operation, supplied them with resources, and offered to supply them with additional equipment. And in *United States* v. *Bueno*,[11] the uncontradicted testimony of the defendant was that the Government, through an informant, provided him with heroin that he was ultimately charged with selling to a Government agent. In all three cases, the courts reversed the convictions and held as a matter of law that the defendants were entrapped, notwithstanding substantial evidence of predisposition. In view of the rejection of the subjective view of entrapment by three appellate courts, the time was ripe in 1972 for the Supreme Court to reconsider the entrapment question.

The *Russell* Decision—Due Process Emerges

In *United States* v. *Russell*,[12] an undercover agent was instructed to infiltrate an ongoing operation suspected of producing methamphetamine. The agent offered Russell a scarce but lawful chemical ingredient essential to the production of the drug. Russell accepted the offer and the agent provided Phenyl-two-Propanone. Russell was eventually indicted for manufacturing and selling the drug. At trial, his sole defense was entrapment. The evidence disclosed a substantial predisposition on Russell's part to produce and sell methamphetamine. The jury rejected the entrapment claim and returned a guilty verdict. The Ninth Circuit Court of Appeals reversed, holding that:

> "Regardless of the significance of predisposition . . . there is merit in Russell's contention that a defense to a criminal charge may be founded upon an intolerable degree of governmental participation in the criminal enterprise." [13]

The court adopted the objective view of entrapment and also suggested, without specifically so holding, that the objective view was premised on due process of law.[14] The United States appealed, and the Supreme Court reversed.[15]

In urging that the appellate court decision be affirmed, Russell argued two alternative theories. First, he suggested that the Court adopt the objective view of entrapment, which might allow him to prevail, notwithstanding his concession in the appellate court that he may have been predisposed.

Justice Rehnquist, writing for the majority, declined Russell's invitation, and once again affirmed the subjective view as the predominant view of the defense. He also made it clear that entrapment is a defense that is not constitutional in origin. He observed:

> "Since the defense is not of a constitutional dimension, Congress may address itself to the question and adopt any substantive definition of the defense that it may find desirable." [16]

Justice Rehnquist took the opportunity to criticize the objective view by suggesting that if the Government could not offer evidence of predisposition after the defendant had raised the issue of entrapment, it would be difficult for the Government to secure convictions in cases where the crimes are normally carried out in secret. In addition, he pointed out that application of the objective view is tantamount to a judicial grant of immunity to a clearly guilty defendant because of police actions which might have induced not the predisposed defendant, but some hypothetical innocent person to commit the offense.

Finally, he faulted the objective test as one enabling the judiciary to exercise "a chancellor's foot" veto over law enforcement practices of which it does not approve. Under the objective view, the judiciary can impose its own subjective belief of right and wrong to reject police activity which it finds offensive.[17]

". . . where the conduct of Government agents is challenged, there exists the possibility of a separate, constitutionally based defense lodged in principles of due process."

Russell also argued that the entrapment defense should rest on constitutional grounds. He claimed that Government involvement in his case was so great that any prosecution emanating from such conduct violated fundamental principles of due process. Justice Rehnquist, in rejecting this contention, recognized the difficulty that police encounter in attempting to detect drug-related crimes. He approved of police infiltration of drug rings and specifically sanctioned police participation, which includes providing some item of value to the conspirators to gain their confidence.

Justice Rehnquist refused to rule out the possibility of a constitutionally based due process defense based upon a different set of facts. The following language from the majority opinion could be viewed as the genesis of a separate defense:

> "While we may some day be presented with a situation in which the conduct of law enforcement agents is so outrageous that due process principles would absolutely bar the government from invoking judicial processes to obtain a conviction . . . the instant case is distinctly not of that breed."[18]

The importance of *Russell* is twofold. It solidified the preeminence of the subjective view of entrapment, and it gave birth to the notion that where the conduct of Government agents is challenged, there exists the possibility of a separate, constitutionally based defense lodged in principles of due process.

Hampton—Due Process Solidified

The most recent Supreme Court case dealing with the entrapment issue and the separate constitutional due process issue was *Hampton* v. *United States*.[19] *Hampton* involved a disputed fact situation which included claims by the defendant that a Government informant suggested to him that he (the informant) had a friend who could produce a nonnarcotic, heroin-like substance which could be sold to gullible persons. Following Hampton's arrest for participation in a distribution scheme, he was tried on two Federal charges of selling heroin. At trial, Hampton testified that the two sales leading to the charges against him were solicited by him. The trial judge rejected Hampton's proposed jury instruction which would have enabled the jury to find entrapment, regardless of predisposition, if it found that the heroin sold by the defendant to Federal agents was supplied to him by the informant. Hampton was found guilty by the jury, which suggests by implication that the jury disbelieved his claim that he did not know what he sold was heroin. Both a Federal appellate court and a divided Supreme Court affirmed.

The judgment of the Supreme Court was announced by Justice Rehnquist in an opinion in which two Justices joined. For the sake of analysis, Justice Rehnquist adopted Hampton's view of the facts of the case, that is, he appeared to accept as correct Hampton's claim that a Government informant provided the substance which resulted in the charges being brought against him.

Hampton, because of his clear predisposition to commit the crime, recognized that past Supreme Court cases effectively barred him from arguing entrapment. Therefore, his argument before the Court was based upon a separate constitutional defense grounded in due process. Justice Rehnquist, in rejecting this constitutional argument, retreated from his statement in *Russell* that due process might be a viable defense in a future case. It was his view in *Hampton* that if police act improperly in concert with an equally culpable defendant, the remedy should not be to free the predisposed defendant, but rather to prosecute the police. Justice Rehnquist also made it clear that the subjective view of entrapment is the correct one to be used in the Federal courts.

Justice Powell, in a concurring opinion in which one other Justice joined, agreed with Justice Rehnquist that Hampton's predisposition effectively precluded him from claiming entrapment.[20] Thus, five Justices in *Hampton* accepted the subjective view of entrapment.

Justice Powell was not willing to agree with Justice Rehnquist that predisposition of a defendant would bar him from making a constitutional due process claim. However, he believed that the conduct of the Government did not amount to a due process violation in *Hampton* any more than the Government conduct in *Russell*. He was not willing to rule out the successful application of a due process defense in circumstances that would merit its application even when the defendant was predisposed to commit the crime.[21]

Justice Brennan wrote a dissenting opinion in which he was joined by two Justices. Justice Brennan agreed with Justice Powell that a separate defense on due process grounds should be available to even a predisposed defendant when Government conduct reaches beyond acceptable levels.[22]

The *Hampton* decision is important for several reasons. It represents the fourth Supreme Court case in which a majority of the Justices adopted the subjective view of the defense. *Hampton* could be said to stand for the last rites, if not the death, of the objective view of entrapment in the Federal courts. Secondly, *Hampton* is a case in which five Justices affirmed a conviction after accepting the defendant's view of the facts, which included a claim that the Government provided him with the substance for which he stood convicted. Finally, five Justices agreed as to the viability of a separate constitutional defense based upon due process principles in cases where Government conduct is deemed outrageous, regardless of predisposition. Hence, out of the ashes of the objective view arose a strikingly similar but separate defense with a constitutional dimension added to it. Therefore, it is important to examine the parameters of this new defense, its similarities to the objective view of entrapment, and its differences.

Due Process and the Lower Courts

Since *Hampton,* the Supreme Court has not decided any case involving this new defense. The only Federal appellate decision since *Hampton* in which the defense has been successful is *United States* v. *Twigg.*[23] In *Twigg,* one Kubica, as part of a plea bargain, agreed to assist Federal drug enforcement agents in detecting narcotics violators. He told the agents that 3 years previously, he operated a methamphetamine laboratory with a person named Neville. Kubica was told to recontact Neville to determine if he was interested in resuming operations. Neville responded to that contact in a positive manner. Kubica undertook responsibility for setting up the laboratory, and the Government provided considerable assistance. They supplied him with the same scarce chemical that the agents supplied to the defendant in *Russell.* Kubica received from the agents 20 percent of the glassware needed for manufacture, and when difficulty ensued in finding a suitable location for production, the agents rented a farmhouse where the lab could be set up. The agents told Kubica where he could purchase the rest of the needed chemicals. The entire manufacturing process was controlled by Kubica. Neville had little, if any, involvement in it. While leaving the farmhouse with a suitcase containing contraband, Neville was arrested and later tried for a Federal narcotics violation. The Government's case included uncontradicted evidence of predisposition on the part of Neville. The jury found him guilty, and by implication, predisposed to commit the offense. On appeal, he argued that the Government involvement was so overreaching that the prosecution should be barred on due process grounds as a matter of law. In a split decision, a three-judge appellate court agreed and reversed the conviction. In doing so, the court balanced the defendant's predisposition and the great difficulty facing law enforcement in detecting drug-related offenses on one side of the ledger against the conduct of the Federal drug agents on the other. The court noted that the defendant was not known to be involved in illegal activity when Kubica made the initial contact with him. In finding that the conduct of the Government violated the Constitution, the court stated:

> "They set him up, encouraged him, provided the essential supplies and technical expertise. . . . This egregious conduct . . . generated new crimes. . . . Fundamental fairness does not permit us to countenance such actions by law enforcement officials and prosecution for a crime so fomented by them will be barred."[24]

Due Process v. Objective View

There are marked similarities between the objective view of entrapment and the constitutional due process defense. Both defenses focus primarily upon the conduct of the Government in terms of whether it falls below acceptable standards. Both defenses are available to the defendant, regardless of predisposition.[25] And both defenses present an issue which is to be decided by the court as a matter of law rather than by the jury as a question of fact.[26] These similarities might suggest that the due process defense is nothing more than the objective view of entrapment reincarnated. Judge Adams, dissenting in *Twigg,* took the position that regardless of these similarities, the Supreme Court considered the defenses different. It was his belief that the due process defense which emerged from *Hampton*

". . . it is important for law enforcement officers from all jurisdictions to recognize the existence of a separate, constitutionally based defense which may be available to a defendant regardless of predisposition."

should be applied only to truly outrageous cases. He stated:

> "For once the Supreme Court has decided to eschew close scrutiny of law enforcement techniques under the objective approach to entrapment, it would seem inconsistent for it to announce a new doctrine allowing just such a review. Had a majority of the Court intended that due process review of government involvement in crime should constitute anything more than a seldom used judicial weapon reserved for the most unusual cases, it would have been more forthright for it to have adopted the position . . . urged by the minority voices in *Sorrells, Russell* and *Hampton.* ..."[27]

Justice Powell, in his concurring opinion in *Hampton*, pointed out the unique nature of the due process defense. It was his view that this defense should be reserved for the rare case wherein police conduct was particularly offensive.[28] He cited *Rochin* v. *California*[29] as an example of such a case. It should be noted that *Rochin* involved a particularly flagrant exercise of police power. Several Federal appellate decisions have articulated the view that the due process defense should be applied only when police conduct is particularly flagrant.[30] It is also true that in *Hampton*, a majority of Justices found nothing constitutionally objectionable in highly questionable police conduct. Since most police conduct in due process cases probably will not be as offensive as that in *Hampton,* the likelihood that the defense will prevail is remote.[31]

The most salient factor supporting the view that the constitutional due process defense was intended by the Supreme Court to be reserved for the exceptional case involving flagrant abuse of fundamental fairness by the Government is the fact that although this defense has been raised in many Federal appellate cases after *Hampton,* only in *Twigg* has it been successful.[32]

Another distinguishing factor which sets the due process defense apart from the objective view of entrapment is the manner in which the predisposition of the defendant is considered. Under the objective approach, predisposition to commit the crime is irrelevant. The total focus of the court is upon the conduct of the police. The manner in which the due process defense has evolved in the post-*Hampton* Federal appellate cases suggests that predisposition, far from being irrelevant, is considered by the courts in a balancing process. The predisposition of the defendant, along with other factors, are weighed against the flagrant and intrusive nature of the police conduct.[33] Thus, predisposition does not preclude the defendant from making a constitutional argument and is far more important in the due process equation than it was in the objective approach to entrapment.

The Federal courts, in deciding whether the due process defense will prevail, consider many factors. Among them are the following:

1) The degree of difficulty that the Government has in detecting certain types of crime, such as narcotics and bribery offenses;[34]
2) The level of predisposition of the particular defendant;[35]
3) Whether the Government created an essentially new crime[36] or infiltrated an already existing enterprise;[37]
4) Whether the Government took command of the operation or merely followed the orders of the conspirators;[38]
5) The level and degree of Government participation in the crime in terms of providing resources to enable the defendants to commit the offense, i.e., equipment, technical expertise, contraband, manpower, etc.;[39]
6) Whether the Government, through undercover agents or informants, has made threats to the defendants to induce commission of the crime;[40]
7) Whether undercover agents abused the judicial process by furnishing, for example, untruthful testimony to a grand jury;[41] and
8) Whether the Government offered significant enticements to induce the defendants to commit the crime.[42]

While the foregoing list is not exhaustive, it does represent the kinds of factors which the courts have considered in making the difficult due process determination.

Conclusion

In the Federal courts, the law regarding the defense of entrapment is clear. The subjective view of the defense has been established as the correct one to be applied in Federal criminal cases. However, since the entrapment defense has not been held by the Supreme Court to be of constitutional dimension, the States are free to adopt either the subjective or objective view of the defense. The majority of States have adopted the subjective interpretation of the defense;[43] others, the objective approach.[44] Among the States which have adopted the latter, some have done so by decision of the highest court of the State;[45] the remainder have done so by statute.[46]

It is important that police officers at the State and local level determine which view of the entrapment defense has been adopted in their jurisdictions because, as has been suggested, the objective view of this defense is much more restrictive on police investigations than the subjective view. This is true because evidence of the defendant's predisposition to commit the charged offense is irrelevant in those jurisdictions which espouse the objective test. Thus, police work which might be deemed acceptable in a jurisdiction holding to the subjective view might be considered improper in a jurisdiction where there is adherence to the objective idea.

Finally, regardless of what interpretation of the entrapment defense prevails in a particular jurisdiction, it is important for law enforcement officers from all jurisdictions to recognize the existence of a separate, constitutionally based defense which may be available to a defendant regardless of predisposition. Such defense is grounded in due process and notions of fundamental fairness. This defense, as it has developed, is available as a remedy only in the extraordinary case in which law enforcement conduct has been found to be particularly overreaching. **FBI**

Footnotes

[1] 287 U.S. 435.
[2] *Id.* at 448.
[3] *Id.* at 451, 452.
[4] *Id.* at 456–459.
[5] *Id.* at 459.
[6] 356 U.S. 369 (1958).
[7] *Id.* at 371–377.
[8] *Id.* at 382–384.
[9] 468 F.2d 1027 (7th Cir. 1972).
[10] 454 F.2d 783 (9th Cir. 1971).
[11] 447 F.2d 903 (5th Cir. 1971).
[12] 459 F.2d 671 (9th Cir. 1972).
[13] *Id.* at 673.
[14] *Id.* at 674. U.S. Const. amend. V states in part: ". . . nor shall any person . . . be deprived of life, liberty, or property, without due process of law." Similar language, operative against the States, is found in U.S. Const. amend. XIV.
[15] 411 U.S. 423 (1973).
[16] *Id.* at 433.
[17] *Id.* at 434, 435.
[18] *Id.* at 431, 432.
[19] 425 U.S. 484 (1976).
[20] *Id.* at 492, note 2.
[21] *Id.* at 491–493.
[22] *Id.* at 499.
[23] 588 F.2d 373 (3d Cir. 1978).
[24] *Id.* at 381.
[25] *Id.* at 378, 379 (due process); *supra* note 5 (objective view).
[26] *United States* v. *Wylie,* 625 F.2d 1371, 1378 (9th Cir. 1980) (due process); *supra* note 4, at 457 (objective view).
[27] *Supra* note 23, at 385.
[28] *Supra* note 19, at 495, note 7.
[29] 342 U.S. 165 (1952).
[30] *United States* v. *Johnson,* 565 F.2d 179, 181 (1st Cir. 1977); *United States* v. *Leja,* 563 F.2d 244, 246 (6th Cir. 1977); *United States* v. *Quinn,* 543 F.2d 640, 648 (8th Cir. 1976); *United States* v. *Smith,* 538 F.2d 1359, 1361 (9th Cir. 1976); *United States* v. *Artuso,* 618 F.2d 192, 196 (2d Cir. 1980); *United States* v. *Tavelman,* 650 F.2d 1133, 1140 (9th Cir. 1981).
[31] *United States* v. *Johnson, supra* note 30, 182.
[32] The due process defense has been successfully raised in two Federal district court cases: *United States* v. *Janotti,* 501 F.Supp. 1182, 1204 (E.D. Pa. 1980); *United States* v. *Batres-Santolino,* 30 Cr.L. 2004 (N.D. Cal. 1981). For recent Federal cases which have rejected defense claims of due process violations, see note 30, *supra;* notes 33, 37, 39, 40, *infra.* See also, *United States* v. *Bocra,* 623 F.2d 281 (3d Cir. 1980); *United States* v. *Gentry,* 642 F.2d 385 (10th Cir. 1981); *United States* v. *Fekri,* 650 F.2d 1044 (9th Cir. 1981); *United States* v. *Diggs,* 649 F.2d 731, 738, note 6 (9th Cir. 1981).
[33] *United States* v. *Lentz,* 624 F.2d 1280, 1288 (5th Cir. 1980); *United States* v. *Nunez-Rios,* 622 F.2d 1093 (2d Cir. 1980); *United States* v. *Caron,* 615 F.2d 920 (1st Cir. 1980); *United States* v. *Perez,* 600 F.2d 782, 785 (10th Cir. 1979); *United States* v. *Wylie,* 625 F.2d 1371, 1378 (9th Cir. 1980).
[34] *Supra* note 23, at 380; *supra* note 19, at 491; *supra* note 15, at 432, *United States* v. *Myers, et al.,* 29 Cr.L. 2421, 2423, (E.D. N.Y. 1981).
[35] *Supra* note 33.
[36] *Supra* note 23.
[37] *United States* v. *Brown,* 635 F.2d 1207 (6th Cir. 1980).
[38] *Id.*
[39] *Supra* note 23; *United States* v. *Gray,* 626 F.2d 494, 498 (5th Cir. 1980); *United States* v. *Nunez-Rios,* 622 F.2d 1093 (2d Cir. 1980); *United States* v. *Corcione,* 592 F.2d 111, 115 (2d Cir. 1979).
[40] *United States* v. *McQuin,* 612 F.2d 1193, 1196 (9th Cir. 1980); *United States* v. *Johnson,* 565 F.2d 179, 182 (1st Cir. 1977).
[41] *United States* v. *Archer,* 486 F.2d 670, 677 (2d Cir. 1973).
[42] *United States* v. *Janotti, supra* note 32, at 1204; *United States* v. *Myers, et al., supra* note 34, at 2423.
[43] 21 Am.Jur.2d 372; see, e.g., *State* v. *Anderson,* 16 Wash. App. 553, 558 P.2d 307 (1976); *State* v. *Hogerworst,* 90 N.M. 580, 566 P.2d 828 (1977).
[44] 21 Am.Jur.2d 375.
[45] See, e.g., *People* v. *Barraza,* 23 Cal.3d 675, 153 Cal. Rptr. 459, 591 P.2d 947 (1979).
[46] See, e.g., *Commonwealth* v. *Jones,* 242 Pa. Super. 303, 363 A.2d 1281 (1976).

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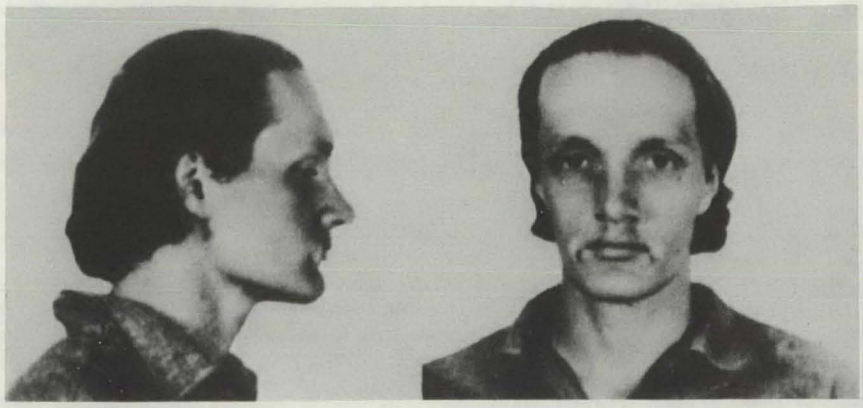

Photographs taken 1972.

Carl Alfred Eder

Carl Alfred Eder, also known as Charles Eder, Charles Harrison, and John Wehee.

Wanted for:

Interstate Flight—Murder

The Crime

Eder, who is being sought as an escapee from custody, was serving a life sentence for the murders of a woman and her four children at the time of his escape. The victims were stabbed and shot repeatedly.

A Federal warrant was issued for his arrest on October 18, 1974, at Bakersfield, Calif.

Description

Age	39, born June 30, 1942, Rochester, N.Y.
Height	6′2″.
Weight	165 to 175 pounds.
Build	Slim.
Hair	Blond, with receding hairline.
Eyes	Blue.
Complexion	Fair.
Race	White.
Nationality	American.
Occupations	(In prison) cabinetmaker, lab technician, leatherworker, machinist, boat engine mechanic.
Scars and Marks	Scar on left hand between thumb and forefinger, scar from gallbladder surgery.
Remarks	Follower of Zen Buddhism, a loner, recluse, and an outdoor type.
Social Security No. Used	557-92-5576.
FBI No.	144 932 D.

Caution

Eder has stated that he will go to any length to avoid recapture. Consider him armed, extremely 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:
185408050819TT081007

Fingerprint Classification:
18 M 1 R I I I 8 Ref: T T R

L 1 T I I T U U

Right index fingerprint.

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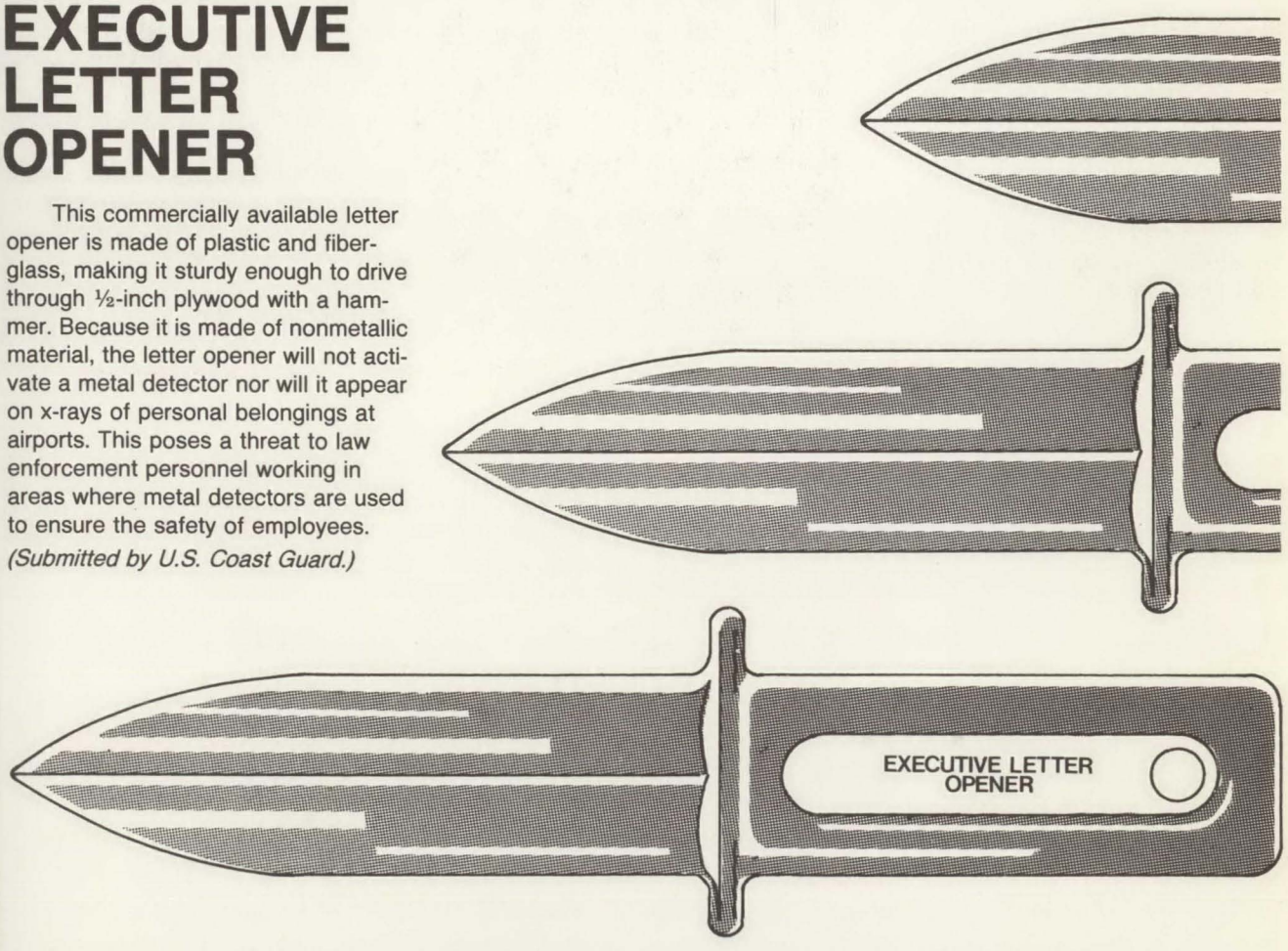
(Submitted by U.S. Coast Guard.)



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Interesting Pattern

The illustrations depict the effect a scar can have on a fingerprint pattern. The picture at top shows a 16-count loop before it was scarred. The picture at bottom shows the fingerprint pattern after it was scarred, causing it to appear as a double loop whorl.