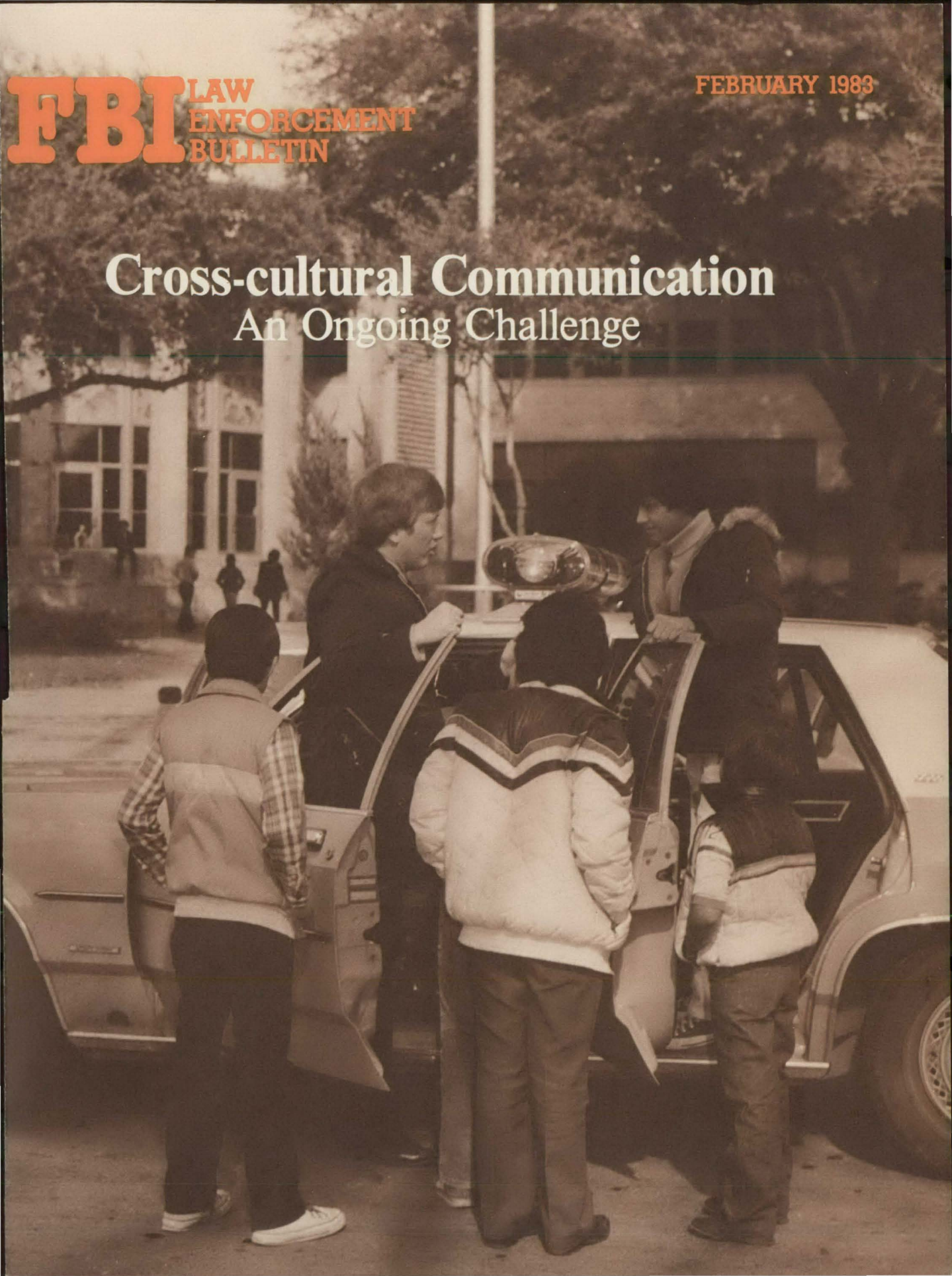


Cross-cultural Communication

An Ongoing Challenge



FBI LAW ENFORCEMENT BULLETIN

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The Cover

Understanding the culture of those with whom they must interact assists police officers in their daily duties. See article page 1.

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Cross-cultural Communication An Ongoing Challenge

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Dr. Quintanilla

In a culturally diverse society, law enforcement officials must cope with stress that may be generated when they are challenged by the duty of effectively communicating with others of a different language. Many police departments throughout the Nation now provide classes to help alleviate stress that officers may face both on and off duty.

The Houston Police Department (HPD), for example, has offered its officers inservice training on stress awareness and management for the last 6 years. During the last 5 years, the department has supplemented that inservice training component with an innovative cross-cultural program designed to emphasize cross-communication as a valuable tool. The program begins at the academy, continues as part of inservice training for experienced officers, and offers information that should help cadets and officers deal more effectively with stress in cross-cultural circumstances. Four hours in the first phase of the program include basic information about Hispanic culture and its variations. Cadets learn some of the cultural differences between Anglo-Americans and Hispanics, as well as cultural differences between Hispanic citizens and recent arrivals of other Hispanics to this country. Stress, what causes it, how individuals can recognize it, how it affects people emotionally, physically, psychologically, and most importantly, how it can be dealt with effectively, particularly in cross-cultural circumstances, is discussed.

The approach is one of interaction, not of straight lecture, and students have an opportunity to share information and strategies for coping. Furthermore, based on the premise that understanding cultural differences (particularly if the language is different from one's own) helps one to cope more effectively with stress in cross-cultural circumstances, the class discussion focuses on one culture—the Hispanic.

Emphasis on the Hispanic community is necessitated by the rapidly changing demographic profile of our country. For example, in 1970, according to the U.S. Bureau of Census, there were 9.1 million persons of Hispanic origin in the United States. The number of Hispanics had increased to 11.3 million by 1977 and 14.7 million by 1980. The U.S. Census figures, however, present a conservative picture of the reality of Hispanic growth in this country. Those figures do not include two important components of that growth—those who choose not to identify themselves as Hispanic and undocumented aliens. Therefore, it is estimated that in the 1980's, Hispanics will be the second largest minority in this country due to immigration and birth rate.

Although the largest concentration of persons of Spanish origin up to the early 1960's was in California, Texas, Arizona, and New Mexico, today there are Hispanics in almost every corner of the country. Members of this group, although different in many ways from each other, share a culture and a distinctive way of life. One of the components of that culture—language—presents a barrier that not only prevents effective communication between law enforcement officers and members of the Spanish-speaking



community but also adds stress to an already difficult and dangerous profession.

Houston, the fastest growing city in the United States, is attracting approximately 6,000 people a month; it is estimated that at least 19 percent of these people are of Hispanic descent. Therefore, the second phase of HPD's training program, implemented during inservice training for experienced officers, includes a language component that should help the officers to function more effectively in their chosen profession. This phase of the program is implemented at Ripley House, a community center in the heart of a Hispanic area, and includes discussions about Hispanic culture and cultural differences, significant leaders and organizations in the community, and important events in the history of the relations between the groups. Officers attend these classes twice a week, 3 hours a day, for 8 weeks. The goal of these classes is to promote communication between law enforcement officers and members of the Hispanic community. The objectives of this phase are:

- 1) To develop the officers' understanding of Hispanic people and their culture;
- 2) To provide some language training to the officers;
- 3) To expose the officers to a cross section of the Hispanic

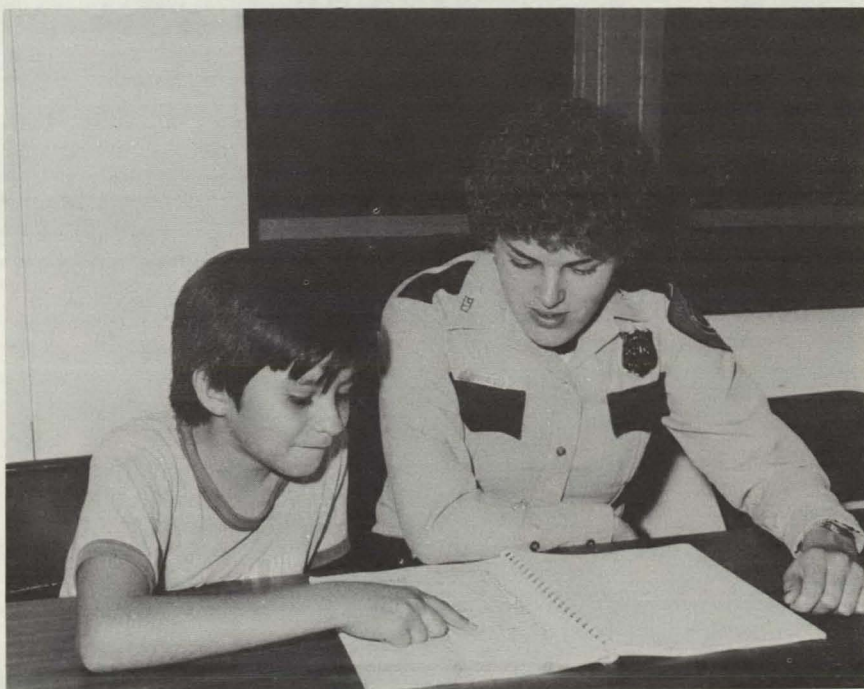
"The goal of these classes is to promote communication between law enforcement officers and members of the Hispanic community."

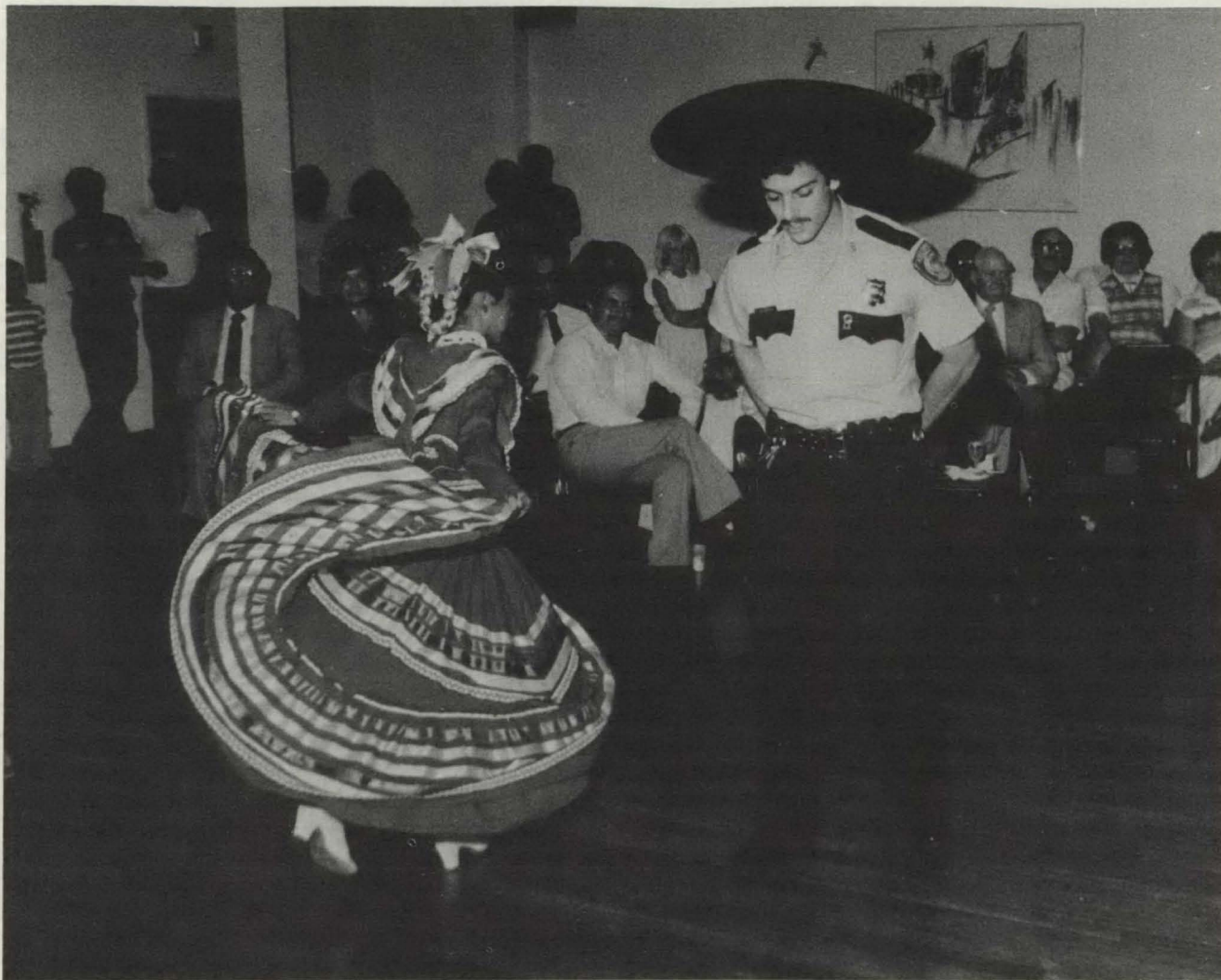
community; and

- 4) To motivate the officers to continue learning about Hispanics and their language.

The classes consist of a combination of lectures and discussions on Mexican-Americans, Chicanos, Spanish-surnamed, Hispanics, and undocumented aliens. Where do they come from, and geographically, where are they now? When did they appear in this country? What is the relevance of such information to law enforcement officers? Why are officers responsible for learning about these groups? How is this knowledge applied to aid in effective interaction with members of the Hispanic community? How can this knowledge be useful on the streets, particularly during stressful circumstances?

The various components of Hispanic culture discussed include language, values, body language, and





A Houston police officer dances with a member of the Ballet Folklorico during one of the graduations.

bonding, emphasizing the impact that each component may have on an officer's work. For example, the average Mexican-American has a different attitude about time than his Anglo-American counterpart. Most Hispanics perceive time globally, while most Anglo-Americans perceive it in precise units. This means that when officers ask a Hispanic a question about time, such as, "At what time did you leave the house?" the answer, in most cases, will not be concrete. The person may answer "between 3:00 and 6:00," as opposed to "around 3:30." Due to cultural orientation and training, most officers expect a precise answer and perceive the former answer as a sign of the person's unwillingness to cooperate. Understanding this cultural dif-

ference should facilitate the completion of offense reports when the information is provided by Hispanics.

Due to socioeconomic conditions and to cultural orientation, most Hispanics share a household with many other members of their family. It is also not uncommon to find two or three generations living in the same home or even sharing the same room. Therefore, most Hispanics are not uncomfortable in sharing space around them, and they tend to get closer to other people when speaking to them. Such behavior, often misinterpreted as "invasion of territorial space," causes friction.

Language reveals a lot about a culture, and discussions about it and its

symbolism have proven to be both interesting and helpful to the officers. Time does not have as hectic a tempo for Hispanics as it has for others, and the language expresses this. In Spanish, one says a watch "esta caminando"—it is walking—when in English one says it is "running." The double connotation and symbolism of many words is also explained. "Tu madre" is a good example of this. According to the dictionary, this simply means "your mother." However, in colloquial Spanish this phrase is offensive and its use may cause serious misunderstandings. The use of "tu madre" may cause a Hispanic male to become hostile. Officers learn to use "mama" instead of "madre."

Many officers in class acknowledge being annoyed by the fact that Hispanics "talk too loud and too much" in response to a simple question. During class they come to the realization that "talking too loud" is a common fault shared by those trying to communicate in a different language. Furthermore, many Hispanics, in an effort to be polite, give a lengthy explanation to questions as simple as, "Were you here when it happened?" Officers misinterpret such explanations as a refusal on the part of the citizen to provide accurate information.

There are also limitations placed on the Spanish speaker by the language. For example, there is only one infinitive in Spanish, "robar," for "to steal, burglarize, or commit theft." The person who takes somebody else's property is a "ratero" (rat man). For this reason, it is difficult, if not impossible, for a Spanish-speaking person to identify the act for the officers without explanation.

In class, officers learn not only that such an approach to answering questions is a direct result of the culture but also that they need to listen for key words if the response is given in Spanish. Officers learn to concentrate on key words that answer their questions instead of trying to translate every word. Officers are also exposed to numerous words that, if not understood, could increase the danger of a situation. "Cuchillo" is the word given by most dictionaries as the translation for the word "knife." Officers learn that the words "navaja" and "fila" are commonly used on the streets. "Fila," not found in the dictionary, is jargon used by the criminal element, and "cuete" sometimes means firecracker, but the word is also used to refer to a gun.

Both general and ethnic stereotypes held by police officers are discussed in class. This is done to increase the officers' awareness of avoiding stereotype statements.

A nontraditional approach to answering questions students are reluctant to ask is used. Officers write anonymously a question or questions about Hispanics, which are answered by instructors during class. Experience has shown that if names are not required, the questions often reveal prejudices or stereotypes, such as:

- 1) Why do all Mexicans carry knives?
- 2) Why do Hispanics always lie?
- 3) Why can't these people learn English?
- 4) Why do they always give wrong directions?
- 5) Why is the homicide rate so high in the Hispanic community, etc?

Once a question is asked, there is an opportunity to provide accurate information and clarify misconceptions. For example, not all Mexicans carry knives—the majority do not carry

weapons of any type. However, there is also a cultural explanation given as to the Hispanics preference for knives as weapons. The basic premise appears to be that both opponents in a fight are given fair opportunity to defend themselves since they must be in close proximity to each other in order to use a knife. This is not necessary when using a gun. Furthermore, a man is supposed to be able to take care of himself, if necessary. Here again, the language reveals that cultural premise. The word for bodyguard is "guardaespaldas" or "back guard" in English. A man needs someone to guard his back, not his body.

In dealing with questions such as, "Why do Hispanics lie?" and other questions revealing prejudice and misconceptions, a different technique is used. The instructor asks the class, "Why do you suppose Hispanics lie?" Many of the officers' statements provide further opportunity for teaching. An almost standard statement is, "When we ask them for their name, they always give us the wrong one." To dispel this particular misconception, one needs only to explain that in the mind of most Hispanics who are recent arrivals to this country, the concept of a last name is nonexistent. To have a last name implies that one name is not as important as the other. People have surnames, not last names.

Furthermore, Hispanics in most Latin countries use their father's and mother's last names. This causes some confusion as to the surname or legal name. Jose Angel Flores Lopez uses all these names, and if he is asked for the last name, he will answer Lopez. That is indeed the last name of the series, but not the surname, Flores.

He will be giving the right answer to the wrong question. In fact, the first in the series of last names, in this case Flores, is the legal name. Lopez is the maternal last name. This explanation allows students to understand the position and significance of names, to determine the legal one, and to weaken a stereotype.

In giving directions, most Hispanics use body language and explanations instead of north, south, east, or west. This often leads one unfamiliar with the Hispanic culture to the conclusion that Hispanics always give wrong directions. Again, a simple explanation helps the officer understand where the communication problem may lie.

In order to cope more effectively with the language barrier, a basic system of communication in Spanish is provided. The system, developed over 14 years of research, is based on five of the verbs that Spanish-speaking people use most often. Grammar is avoided, but good pronunciation is emphasized. Officers are exposed not only to the universally accepted forms of the Spanish language but also to the combination of English and Spanish used in the streets. For example, not only do they learn "boleto," the Spanish word for ticket, but also "tickete," the word commonly used in the streets of Houston. Officers also learn many shortcuts leading to better understanding of the language.

After completing the language portion of the classes, an officer is better able to complete traffic tickets and offense reports, and in Spanish, read the Miranda warning, give 15 or 20 of the most commonly used commands, provide first aid, and use commonly used courtesy phrases.

To reinforce the officers' interest and participation in the language component of the program, the Houston police officer is able to earn points toward advanced certification and is awarded an insignia identifying his successful completion of the program. The program is regularly evaluated, and the officers are asked to offer suggestions for its development and improvement.

Officers also have input on the material used during class. The lessons used have, with the suggestions of the officers, been improved. Three books are used in class—two as reference books to be used during class sessions, the other to be used while on duty. The latter is a pocket-size booklet that contains pertinent information. The Miranda warning has been printed in Spanish on the inside cover of the book, and emergency numbers have been printed on the inside of the book-cover.

During the last hour of the class, officers work with community people. This reinforces the language training, and its success depends on previous language experience of the officers, progress made by them in class, and the bilingualism of the volunteers. Volunteers come from a cross section of

the community and range from 6 to 80 years of age. They are also from diverse educational and socioeconomic backgrounds. Sources of volunteers include schools, community centers, social and service organizations, and personal acquaintances of the director of the program.

Some of the problems encountered during the implementation of the community/officer interaction segment of the program have been interesting. For example, some of the citizens are reluctant to sit close to an officer wearing a uniform, and when they finally do, tension is evident via posture, body language, and other physical signs such as heavy perspiration. Gradually, friendly interaction takes over—people learn from each other. A good example of this is a 56-year-old man who drove his car for 20 years without a driver's license. He learned from the officers what action was necessary, felt comfortable approaching uniformed officers at the motor vehicle office, and now displays with pride his newly acquired license.



"Officers are exposed not only to the universally accepted forms of the Spanish language but also to the combination of English and Spanish used on the streets."

Volunteers come to class to allow the officers to put into practice what they have learned during the instructional period. In Houston, research demonstrated that non-English speaking citizens are most frequently involved in traffic accidents, traffic violations, and family disturbances. Therefore, this type of roleplaying is most frequently used in the classroom. Volunteers play the role of victims, of a lawbreaker, or any other role that is helpful to the officers.

Officers are asked to set their own roleplaying scenes. This is still done to allow them the flexibility to use whatever vocabulary they need the most, but simple guidelines have been devel-

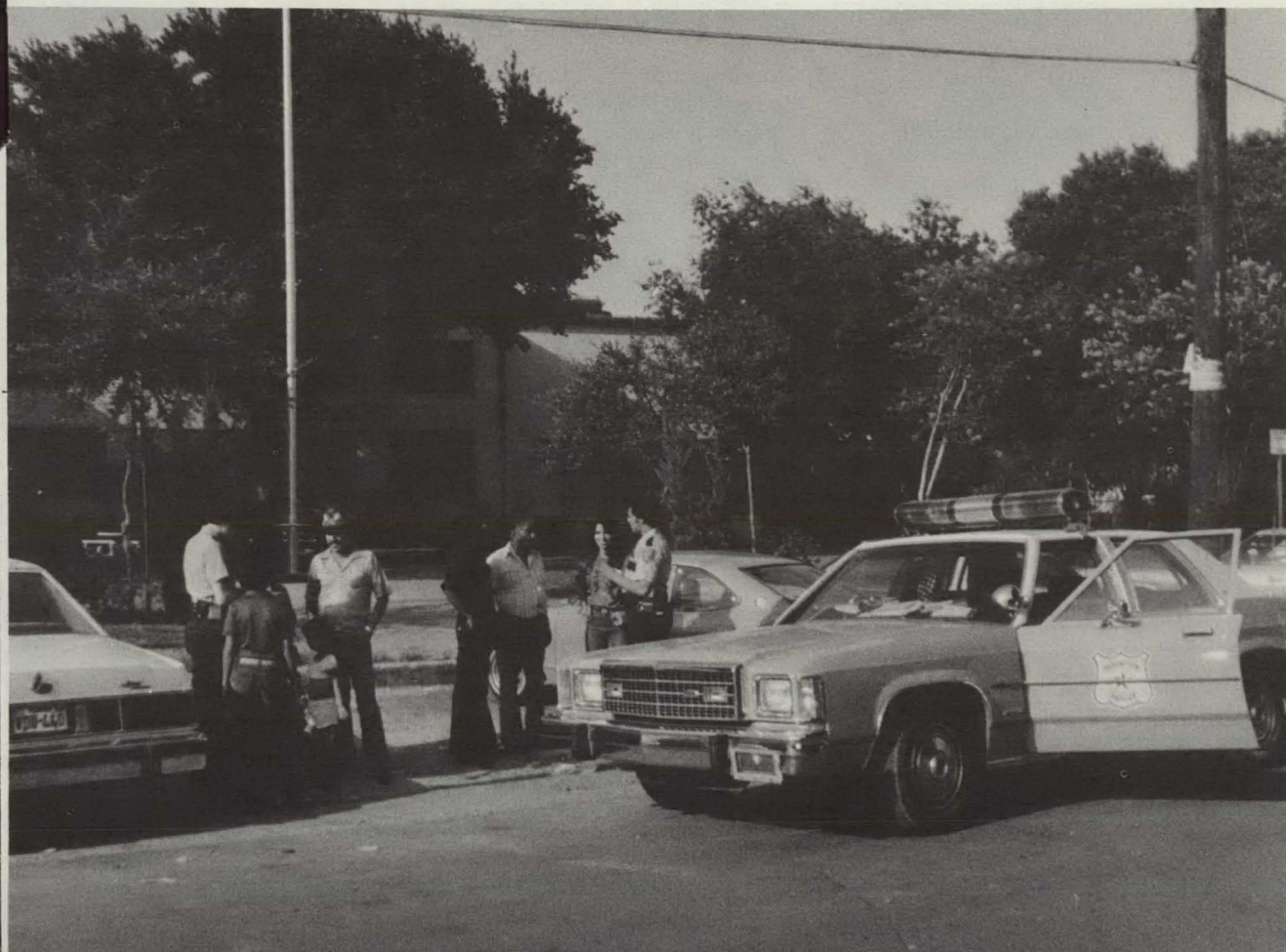
oped to improve the experience. These guidelines include:

- 1) The initial scenes depict the officer helping a citizen, i.e., giving directions, helping at the scene of an accident, and gradually work up to having a citizen being suspected of a crime.
- 2) Volunteers are not placed in culturally embarrassing situations.
- 3) Officers are encouraged to use their dictionaries, but they also receive instruction as to words that are taboo. The better known dictionaries of English and Spanish, for example, define "to take" as "coger," but in the Houston area, and for most

Hispanics, that word means "to have sexual intercourse."

- 4) Touching is common among members of the Hispanic community. It is a way of reinforcing expression and communication. It is important for officers to understand that when people touch their backs, arms, or hands during class interaction, it is because they are being extended special, friendly gestures. However, touching little girls, even in a friendly gesture, is culturally taboo and simply isn't done by strangers.

A new component is now being incorporated into the roleplaying phase



"The overall evaluation of the program by Hispanic citizens and participating officers has been positive. . . ."

of the program. Citizens are being taught important points about police work. This is done informally by the officers who, on an individual basis, share information that may clarify misconceptions about their work. For example, during a scene where the citizen's car has been stolen, the officer explains to the citizen that it is not essential for police officers to appear on the scene, but that their complaint has been heard and action has been taken. The importance of knowing one's own license plate number is also stressed.

During scenes of domestic disturbances, women learn that there are places they can go for help beyond the help provided by the officers, that officers cannot take the man out of his home without probable cause, etc. Citizens also learn that if charges are not pressed, action may not be taken by the officer.

There are numerous benefits to this program including:

- 1) Both officers and citizens are sensitized to each other's differences, problems, concerns, and similarities. This has resulted in better understanding, respect, and support for each other as individuals and as a group. For instance, officers are learning that sometimes Hispanic citizens tell them what they think officers want to hear, and this is not necessarily done in a negative manner. Therefore, officers are developing questioning techniques to deal with this challenge.

- 2) Language learning takes place not only on the part of the officers participating in the program but also on the part of community people who learn English from the officers. (Many officers stay after class to continue learning Spanish and teaching English). Furthermore, many children and young adults are studying Spanish on their own to earn the opportunity to "teach the policemen." This is particularly significant when one remembers that historically, there has been little incentive for many Spanish surnamed people to develop their own Spanish ability. The result here has been the development of bilingual individuals who benefit both themselves and their community.

- 3) The officers provide additional and different role models in the community for children and for young people to follow. These young people now indicate an interest in law enforcement as a career. An unexpected result of the program has been support of HPD's recruitment efforts, particularly of Hispanics.

Evaluations are an important part of the program's strength and development. At the end of 8 weeks, evaluations given to students include questions pertaining to the language program, the cultural and community participation component, as well as the applicability of the newly developed skills.

A different evaluation form has been developed for community people to evaluate the program and the officers. This form also includes questions pertaining to the development of mutual understanding and to people's willingness to better support their officers.

The evaluations are used to determine the effectiveness of the program in terms of quality of instruction, value to the officers, and benefit to the Hispanic community. The overall evaluation of the program by Hispanic citizens and participating officers has been positive and indicates very strong support for the program on the part of both groups surveyed. The average response regarding the program has been 1.5 on a scale of 1 to 5, with 1 being the highest rating. This figure indicates strong support of the instruction, teaching, methodology, course content, and program format. It further signifies the value of the learning experience to the officers, as well as the benefit to the individual Hispanic citizen and the Hispanic community as a whole.

At the conclusion of the course, a fiesta is prepared by community people for the officers. Hispanics of all ages participate in this endeavor.

The demand for the classes has increased and airport police officers and firefighters are now participating in the program. Officers who have completed the class are eligible to participate in a refresher class.

The success of this program can be attributed to the enthusiasm and dedication of the officers, the support of the administration of the Houston Police Department, and the support of the members of the Hispanic community of the Houston area.

FBI

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Aerial Surveillance to Detect Growing Marihuana

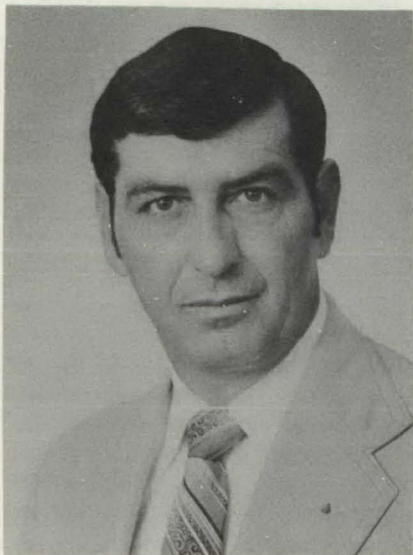
By
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Domestic marihuana, once considered a minor problem, is rapidly becoming a major concern of Federal, State, and local law enforcement officials. With increased emphasis being placed on smuggling activities, those involved in marihuana trafficking are turning to domestic production to meet the demands for the product.

Many rural areas of the country are ideal for the cultivation of marihuana. Over the past decade, the marihuana growers have become so sophisticated that they are now producing a product which, in many cases, is superior to imported marihuana.

Inset photo depicts the greenhouse operations that growers have resorted to as a result of previous years of aerial surveillance. This operation yielded 256 growing plants (12' to 14' tall) with green weight of 550 pounds. Entire operation is under one roof and was found as a result of aerial surveillance.





Mr. Williams

Marihuana is adaptable to almost any area, provided it receives a minimum amount of care, cultivation, and fertilization. Fortunately, for those charged with locating and destroying the illegal substance, marihuana needs sufficient amounts of sunlight to flourish. Because of this characteristic, the airplane has become an indispensable enforcement tool.

In the past, the detection of growing marihuana has been mainly dependent upon intelligence information from confidential sources and "plain luck." Even after receiving information, it is often difficult, if not impossible, to locate growing marihuana, the reasons being both logistical and legal. In rural areas, the logistical problems become especially apparent with vast expanses of forest, fields, and swamp land. The airplane provides a method of covering such areas that may otherwise prove inaccessible.

Selection of Aircraft

The best aerial surveillance aircraft is the single engine, high-winged, fixed-gear plane. The high-winged craft is recommended because of excellent downward visibility and the ability to photograph from open windows with minimum obstructions. The Cessna 172, which has a sufficient payload and excellent slow-flight capability, travels at approximately 70 knots (80 mph) in slow-flight configuration (10° flaps, 1,800 rpm, trimmed for level flight). This speed allows for safe flight, permits ample time for ground observation, and is suitable for aerial photography when the proper equipment is used.

Pilot and Observer

The pilot should be certified in the aircraft he will be flying and be proficient in slow-flight maneuvers. Since his primary responsibility is to fly the aircraft, which includes scanning for other aircraft that may be in the vicinity and for terrain and manmade obstacles, a trained spotter or observer should be assigned to fly with him. As in any endeavor, teamwork pays off. The same pilot/observer team should be used whenever possible, since they learn to work together and know what to expect from each other.

Training

Before launching a mission to locate and destroy growing marihuana, it is necessary to train those persons who will be involved in the actual search, ideally by taking them to a location where growing marihuana has been abandoned and is about to be destroyed. Trainees should be allowed to examine the marihuana for as long as necessary so that they can compare it to the surrounding vegetation and note the color difference, which is especially apparent if the marihuana plants have been irrigated and fertilized. They should also be instructed to choose a nearby landmark, e.g., tree, fence, etc., in order to identify the location from the air. After this exercise, the group should then be flown over the same location for the purpose of observing the growing marihuana from the air.

This method is more successful in instilling confidence in observers and pilots than attempting to first spot the marihuana from the air. The usual response to the "flying first" method is, "I think I saw it," which reduces positive reinforcement for the trainee and feedback to the instructor.

If it is not possible to take trainees to a location where marihuana is growing, the next best method is to assign experienced persons to work with the trainees in order that suspected locations may be verified when seized at a later time. Confidence develops by reinforcement which occurs when marihuana spottings have been confirmed.

Detecting Growing Marihuana

The ability to detect growing marihuana is attributed to three factors—color difference, location, and anything that appears “out of the ordinary.” However, in most cases, marihuana plants will be detected not by a single factor but by a combination of all three.

Color Difference

The color difference is the most difficult of the three factors to explain, although it is usually apparent between growing marihuana and surrounding vegetation. “Shade variation” is actually a better term to explain this difference, since we are usually referring to green marihuana plants surrounded by other green vegetation.

The rational explanation for this variation in color is that growing marihuana commonly enjoys certain attention that the surrounding vegetation does not receive, such as irrigation, fertilization, and cultivation, resulting in new growth and a healthy appearance.

What is meant by a different color of green? Is it a lighter shade of green or a darker one? These are difficult questions to answer, since in some areas, the marihuana will be of a lighter shade, while in others, it will appear darker. Experience will help the observer to detect plants based on color difference, which is responsible for the majority of marihuana sightings made.

Location

The discovery of a “garden” in an unlikely area will generally demand closer scrutiny. Marihuana plants are often found in areas that have been cleared out of a thicket of trees. The obvious reason for this is to conceal the plants from detection on the ground. However, while this method may be very successful for that purpose, it is a welcome sight to the aerial observer.

Things “Out of the Ordinary”

Although the location factor and the out-of-the-ordinary factor are sometimes closely related and overlapping, there is a distinction between the two. For example, on several occasions, flower pots had been spotted in a wooded area some distance from any residence. It was subsequently determined that the pots contained growing marihuana plants. In each case, it was the appearance of something out of the ordinary that first drew attention to the location. On subsequent passes over the area, growing marihuana was observed in gardens in the woods. In one case, 1,049 growing marihuana plants were found in 10 different locations on the property. Yet, it was the flower pots that first caught the observer's attention.

Man has a certain need for order about him. It is human nature to arrange things in a pattern. Mother Nature, on the other hand, does not have this need. Man will usually arrange growing things in rows, or in some cases, circular patterns. The appearance of these unlikely patterns in unusual places proves productive.

Searching Techniques

The morning hours are the best time of the day for aerial surveillance, especially during the summer months. Marihuana plants have a fresh, radiant appearance in the morning as opposed to a wilted appearance that often occurs on hot afternoons. Another consideration is that summer afternoons are generally hot, and at the altitude aerial surveillance is flown, the temperature becomes uncomfortable. Also, the air is more stable during the morning hours, which is especially beneficial if the observer is not accustomed to the bumpy ride that accompanies thermal activity.

Experience has shown that growing marihuana is easier to detect if the aircraft is positioned between the sun and the plants. In this position, the observer is looking at the sunlit side of the plant as opposed to the shadow side, which makes shade variation more apparent.

Persistence is especially important. If reliable information indicates that plants are growing in a certain location, the pilot/observer team should not give up easily, particularly in wooded areas where the plants may be visible from only one position. It may be necessary to fly over the location several times before the plants can be seen. Consider flying those locations at different times of the day to take advantage of the sunlight illumi-

“Although there are several cases in point, two court decisions . . . specifically address the issue of aerial surveillance and favorably view this technique. . . .”

nating the plants from different angles.

Before leaving the location, the observer should know exactly where the plants can be found. It is futile to locate growing marihuana if the observer cannot return to that location on the ground. Therefore, it is ideal for either the pilot or observer to be familiar with the area flown.

Altitudes for Aerial Surveillance

The surveillance altitude will vary, especially when flying over wooded areas where there are tall trees. Actually, a higher altitude is more beneficial, since the observer will have more time to scrutinize the area. However, even in slow flight, the plane is still traveling approximately 80 mph, a speed which does not allow time for extensive observation. Once a suspected spot has been located, it can then be observed from a lower altitude to confirm suspicions.

Most aerial discoveries are made from an altitude of 500 to 800 feet above ground level. Terrain and man-made obstacles may prevent flying at such altitudes in many areas. Federal aviation regulations specifically state the minimum safe altitudes for aircraft. Safety should be of foremost concern to the pilot and should not be jeopardized under any circumstances.

Time of the Year for Aerial Surveillance

The growing season of a particular geographic area will be important in determining when to look for growing marihuana plants. The most productive months are generally July and August. By then, the plants are maturing and are much easier to detect and identify.

Flying earlier in the year, such as during the spring, may be beneficial in disclosing areas being prepared for planting. Intelligence information may

be gathered for re-flying during the peak growing season.

In most areas, the seedling plants are germinated in a greenhouse and then transplanted at the growing site. This method permits an earlier start for the plants and ensures a lower mortality rate for the seedlings.

Intelligence Information

The key to locating growing marihuana plants is incoming intelligence information. A system should be established to start the flow of information to those who will be conducting surveillance, since the chance of success is much greater if aerial surveillance is begun in known areas of activity.

An educational program to inform officers in the field of whom to contact will bring surprising results. Often, these officers have received valid information but do not have probable cause for a search warrant. Aerial surveil-



High-winged aircraft offers an unobstructed downward view for the pilot and observer.





lance of these locations may provide the probable cause that is needed.

The officer providing information should become involved in the operation as much as possible, even to the extent of being allowed on surveillance flights. This rapport is necessary for the success of any program. If it is impossible to involve the officer in followup work, he should at least be informed of the outcome of the case. This provides feedback on the information he has given and perhaps will help in establishing the reliability of an informer or source.

Intelligence information can save time and expense in locating growing marihuana. The smaller the area to be searched, the more likely growing marihuana will be located. However, when searching a large area, it is advisable to fly a grid pattern. Flying off course just a short distance will prevent the observer from detecting growing plants.

Well-traveled roads and footpaths in remote areas should be checked closely, since they will sometimes lead to a target. Possible drying barns and storage sheds should also be inspected, as well as irrigation systems in unusual locations. On some occasions, these facilities can be spotted before the growing plants can be seen.

Materials

A map or chart of the area to be flown and a general highway map of the county are essential items for aerial surveillance in order to pinpoint the location for followup work on the case. The sightings should be located on the map and marked for reference when obtaining a search warrant for the parcel or land. A legal description of the land is often possible by using these maps.

A 35 mm camera with a zoom lens and 400 ASA color film is an asset when taking aerial photographs for use in court. The recommended shutter speed is 1/1000 of a second or as near to that as possible. Because the plane is traveling at a high rate of speed, any movement causes blurry photographs. Extreme care should be taken to obtain

clear photographs since color difference will be more apparent and will demonstrate to the jury exactly what was seen.

In addition to aerial photographs, pictures should be taken when the marihuana plants are seized. Not only are these photographs of value in court, but they also help to train others in surveillance techniques.

Legal Aspects

Once the marihuana plants have been located, it is time to decide which course of action to pursue. Hopefully, through followup investigation, an arrest and successful prosecution can result. Different jurisdictions pose different problems. Some jurisdictions will require a search warrant; others will not. If in doubt, the best course is to obtain a warrant, with the person responsible for detecting and identifying the suspected plants as the affiant.

A decision must also be made on whether to keep the plants under surveillance in an attempt to connect a defendant with the illegal crop or to destroy it in cases where long term surveillance is not possible.

The officer doing the aerial surveillance should work closely with the prosecutor to determine how the courts in the jurisdiction view aerial surveillance, since it may be necessary to be prepared to justify this technique in court. Although there are several cases in point, two court decisions, *State v. Davis*¹ and *United States v. DeBacker*,² specifically address the issue of aerial surveillance and favorably view this technique to detect growing marihuana.

“ . . . we [must] continue a conscientious use of aerial surveillance in order to preserve that avenue of detection in the battle against domestic-grown marihuana.”

In *State v. Davis*, the trial court suppressed marihuana seized pursuant to a search warrant. The warrant was issued after the marihuana was observed growing on the defendant's property by a police officer engaged in aerial surveillance. The court found that the officer was in a fixed-winged aircraft, flying 600 to 700 feet above ground level during the surveillance. The area observed had at least 50 to 75 homes, a school, a medical clinic, and a store within a 1-mile radius. The defendant had posted “no trespassing” signs and had a locked gate on his driveway. The defendant's property was in a “wooded and secluded area.”

The trial court concluded from the altitude of the airplane and the population of the area that the airplane was in violation of FAA regulations regarding the minimum altitude for fixed-winged aircraft.

The Oregon Appellate Court disagreed with the trial court's use of the FAA regulation as the determinative factor for establishing the parameters of fourth amendment protection in situations involving aerial surveillance. The appellate court stated:

“We also find little attraction in the idea of using FAA regulations because they were not formulated for the purpose of defining the reasonableness of a citizen's expectation of privacy. They were designed to promote air safety. . . . The aerial observation did not violate the Fourth Amendment to the United States Constitution. *The marihuana was observed in plain view.*”

In another case, *United States v. DeBacker*, the court stated:

“In what it views as a case of first impression in the federal court system, the U.S. District Court for Northern Michigan holds that a couple of surveillance flights over an ‘open field’ did not violate the landowner's expectation of privacy.”

In this instance, the defendant moved to suppress evidence seized from his farm pursuant to two search warrants. He claimed that his privacy was violated when the investigating officers verified an informer's tip that marihuana was growing on the defendant's farm by flying over at a height of 50 feet.

The State police's aerial pass was first made at a height of 200 feet. Although the detective was sure that he had spotted marihuana plants growing in the defendant's fields, the plane made a second pass at 50 feet in order to take a closer look. Government testimony established that the plane's flight did not violate any law by flying this low to the ground.

Justice Hillman, in the opinion, stated:

“I conclude that isolated instances of aerial surveillance over ‘open fields’ do not offend the Constitution. ‘Open fields’ are not areas in which one traditionally can reasonably expect privacy. . . . This is especially true in a case such as this where airplane flights over local farm lands and at low altitudes [200 feet] are not infrequent, though admittedly flights at 50 feet are unusual. Any pilot, commercial or pleasure-craft, might have observed the marihuana and notified the police.

“Moreover, on balance, defendant's minor expectations of privacy do not outweigh the value to society in permitting such non-intrusive surveillance. The police were in a place they otherwise had a right to be, and defendant's fields were plainly observable from the air. . . . *The Fourth Amendment prohibits unreasonable searches and seizures, not all searches and seizures.*”

It is imperative that we continue a conscientious use of aerial surveillance in order to preserve that avenue of detection in the battle against domestic-grown marihuana.

FBI

Footnotes

¹ *State v. Davis*, 29 Cr.L. 2175 (Ore. Ct. App. 1981).

² *United States v. DeBacker*, 27 Cr.L. 2479 (U.S.D.C. N. Mich. 1980).

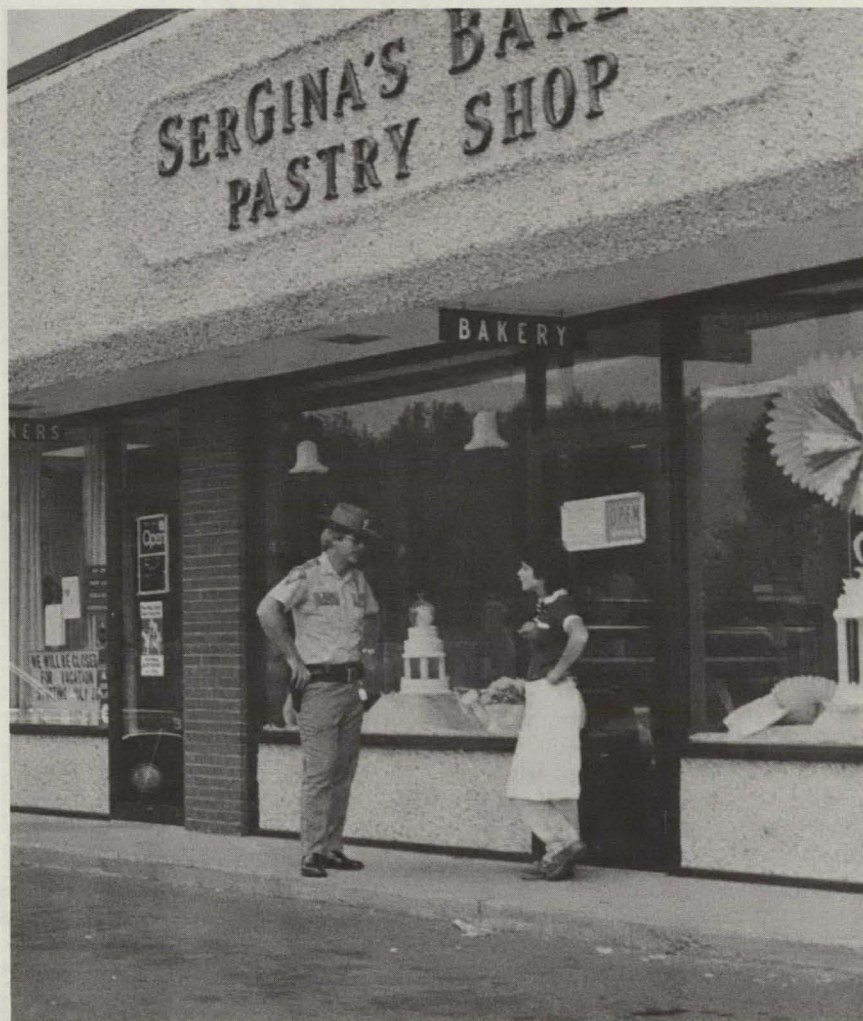
Park, Walk, and Talk Bridging the Gap

By

PHILIP H. SCHNABEL

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"I never see a police officer."

"The police are never there when you need them."

"The police zip by in their cruisers without even a passing glance."

How often have police administrators been subjected to such comments! Unfortunately, even though statistics and computer printouts illustrate that police *are* properly deployed and that calls *are* answered expeditiously, citizens remain uniformly unimpressed.

Balance a public disgruntled at what they perceive to be a lack of police presence with a cost-conscious city administration and what does the police chief face—grief, an impossible situation, being caught between a rock and a hard place. Police chiefs of departments in widely varying areas of the country are aware of the astounding similarity of citizen and city council dissatisfaction with the lack of police visibility. Yet, how do you increase police presence in the community without a massive depletion of the police budget? One such program which bridges the gap between cruiser and foot patrol is "park, walk, and talk."

In most instances, a park, walk, and talk program can be established and refined with dramatic results. However, failure and lack of effectiveness can also result.



Chief Schnabel

The park, walk, and talk concept was introduced in the New York City Police Department because the commissioner had strong feelings about getting police officers out of their cruisers and into direct contact with citizens, especially in minority neighborhoods. A "directed patrol" plan was formulated to take advantage of an estimated 70 percent of the average officer's uncommitted patrol time. The concept was launched with considerable publicity, and to ensure the program's success, supervisors on patrol were deployed to guarantee officers complied with the operation. Yet, several pitfalls developed. The directed times for foot patrol were often in conflict with calls for services. Officers in high-activity minority districts never had time to participate because they were continually dispatched on minor assignments. Within a short period of time the plan ceased to function through inattentiveness and lack of followup. In addition, since operational supervisors had no input in establishing the plan and had not been given a philosophical background of the plan prior to its implementation, many displayed a distinct lack of interest or indifference.

Police officers also believed they had been left out of the process. Yet, these officers were expected to create a new image for law enforcement through their personal interaction with citizens, many of whom were apathetic to any type of contact with the police.

There is no doubt that the commissioner's idea was an outstanding method for providing high police visibility and gaining support for police objectives. However, the key was to get the officers who were going to carry out the program involved and interested in its success as well as in its development.

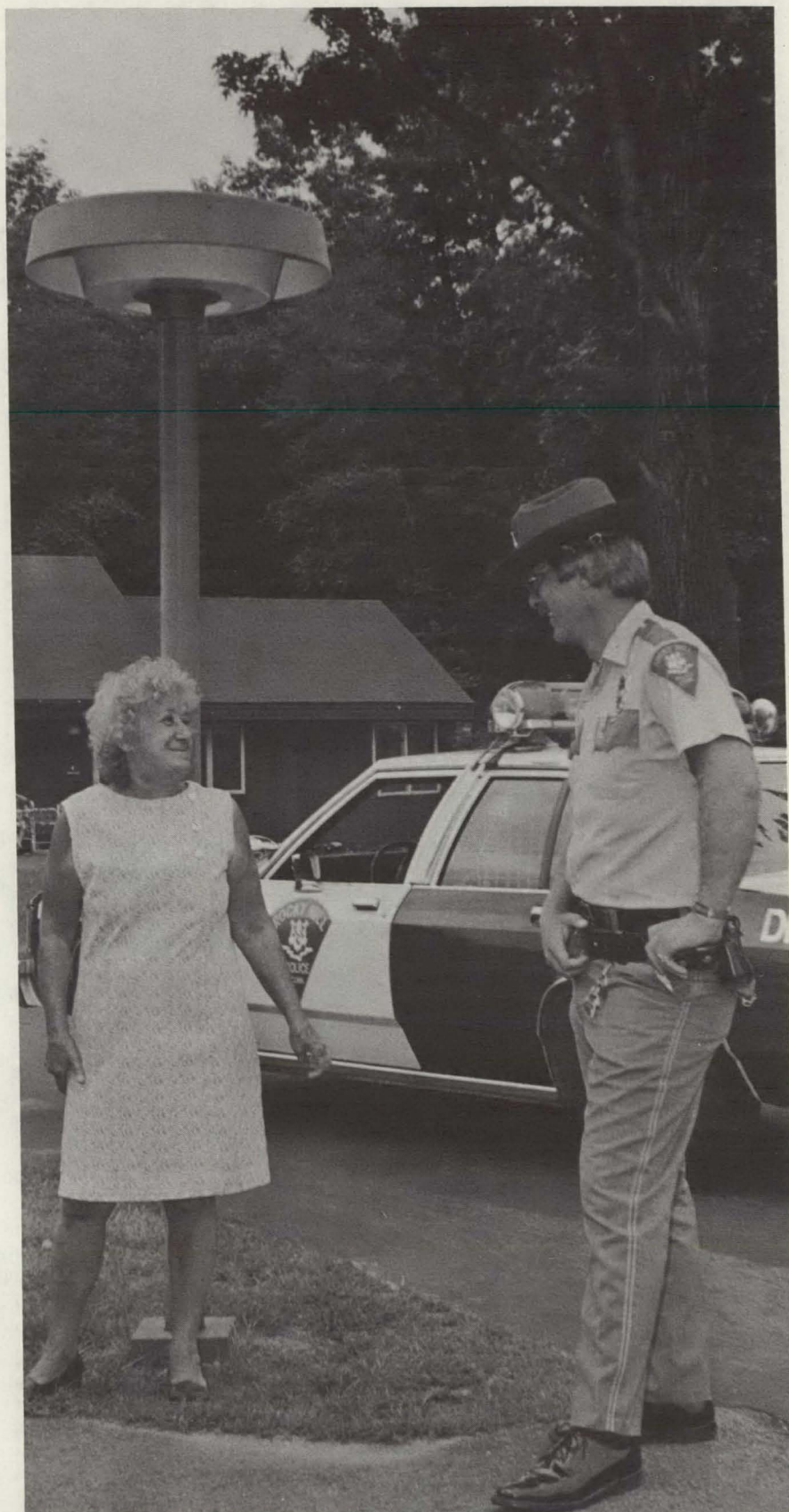
The officers had to be convinced that the program would benefit them personally, as well as gain support for larger objectives.

In a large department, development, coordination, and deployment in a park, walk, and talk program is naturally difficult, but not insurmountable if given sustained attention and followup. To develop an effective program in a smaller agency is considerably easier; however, the pitfalls faced are still present to a certain degree.

Line officers should be given an opportunity to voice their ideas and criticisms in the initial planning stage. They should be asked to suggest likely patrol areas for the park, walk, and talk concept, as well as times that such patrol activities could achieve the greatest possibility of effectiveness. Dispatchers should be familiar with the objectives of the program and should interrupt assignments only for major calls.

Officers can participate in the evaluation of the concept, conveying what they perceive the reaction to their presence will be. Naturally, the caliber and professional orientation of the patrol officers in the department will affect the program's effectiveness. If the agency has a significant number of militant officers, encouraging such individuals to interact with citizens on a personal basis may, in fact, result in a lowered level of community support. In such a case, there must be an intensive orientation program for all officers. Unfortunately, many agencies will recognize such a problem as being applicable to their operation, but with better preparation, positive peer pressure will develop. Certain officers will still try to undermine the program and use their expanded on-duty personal contacts with citizens to downgrade the department. However, informed, interested, and involved offi-

"A park, walk, and talk program uses the knowledge and experience of officers involved . . . it can 'bridge the gap' not only between cruiser and foot patrol but also between officers and the citizens they are sworn to protect."



cers meeting those same citizens will overcome the adverse reaction of malcontents.

A determination must be made as whether to structure patrol patterns rigidly or allow flexibility. Where the concept is initially resisted, the natural reaction of an administrator determined to see the plan succeed is to define time and area deployment precisely and to direct rigid supervision so that reluctant subordinates realize that the program *will* succeed. Such a technique is actually counterproductive. Even though lapses may initially occur, it is far better to provide broad operational guidelines for the officers to follow. Some marginal officers may slide by in the formative period, but as the program becomes accepted and citizens expect to see officers in various locations, the officers themselves will begin looking forward to the increased attention the "line cop" receives from the public.

As the program develops, citizens begin to look upon the police as fellow human beings, not as dehumanized, insensitive individuals they may perceive them to be. Also, police officers regain the knowledge that the public is composed of persons who are sympathetic and supportive of the goals of professional law enforcement and increased benefits for "their" officers.

By increasing police visibility, the park, walk, and talk program provides a measure for crime deterrence. More important, however, it increases a feeling of security in the average citizen where personal contact with the police may have never occurred or which may have taken place in a negative setting.

Feedback should be encouraged. Comments should be sought from officers, supervisors, politicians, and the public. Merchants in the downtown area are particularly impressed and expressed support and appreciation for

the program. They credit the recent decline in shoplifting, harrassment, and loitering to increased police presence in the business district. One proprietor stated, "There is more of a feeling of law and order downtown."¹ Another commented that the walk and talk patrols make people feel safer. "The public's attitude has changed—they feel more secure."² To date, the reaction has been uniformly enthusiastic, until some areas begin to note that their neighborhood is not receiving the same coverage as others. It is important to keep the plan flexible and to consider such comments as constructive criticism. This dramatically illustrates that the objectives of the program are being realized and that more people want to get involved. Increased coverage can be gained by paring time devoted to each location from 30 minutes to 15 minutes.

Another byproduct of the program is reduced gas consumption. With the park, walk, and talk program targeted at a minimum of 2 hours of foot patrol per 8-hour shift, there is a considerable reduction in fuel usage.

The strict admonishment with which every foot patrol officer is painfully aware—"Stay out on the street"—is not a desirable facet of the program, but some restriction must be exercised. A recommended format is to divide the jurisdiction into business and residential beats, each of which should be covered by the patrol officer during his shift. On business beats, officers should be encouraged to visit with proprietors and customers in their establishments. However, on residential patrols, obvious complications could result from officers visiting citizens in their homes during various peri-

ods of the day. Therefore, as a general guideline, officers on residential assignments should not enter a citizen's residence without prior knowledge and approval of a supervisor.

To ensure success, supervisory personnel should be brought into the program during the planning stage, as are patrol officers, and should be afforded considerable input prior to implementation. Supervisors must be assured that a flexible supervisory style is a critical element of the concept. Such flexibility might include allowing assignment time and area to be at the discretion of the officer, as long as the assignment is covered during designated portions of the shift. It may also be necessary to curtail park, walk, and talk assignments during inclement weather.

Of course, periodic evaluation of all aspects of the operation is critical to maintain enthusiasm and to take into account fluctuating community needs. A park, walk, and talk program uses the knowledge and experience of officers involved, employs a flexible supervisory style, and encourages input from the officers and citizens. While subject to review and modification, it can "bridge the gap" not only between cruiser and foot patrol but also between police officers and the citizens they are sworn to protect. **FBI**

Footnotes

¹ Pat Bellinghausen, "Police patrols curbing downtown problems," *The Sedalia Democrat*, June 3, 1978, p. 8A.

² Ibid.

"The increase in gang violence and its deep-rooted social problems pose a massive challenge to law enforcement."

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Gang Behavior

Psychological and Law Enforcement Implications



Dr. Breen

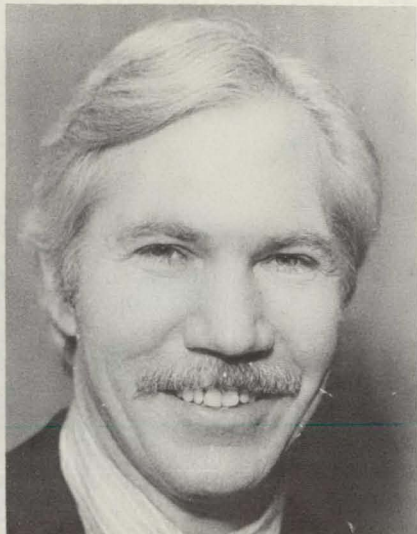
Today, law enforcement officers are facing an ever-expanding problem of gang membership and activity within their communities.¹ These gangs are present both on our city streets and in our correctional institutions. This link between the "streets" and prison is of concern, given that it most likely displays a lifelong commitment to the gang and to criminal behavior.² In 1980, for instance, there were a total of 351 gang-related homicides in Los Angeles County. This is an increase of 155 in 1 year.³ Perhaps just as dramatic is the fact that in Los Angeles County, a criminal incident involving a gang member will occur approximately every 25 minutes.⁴ These incidents range from petty theft and public drunkenness violations to armed robbery, felony assault, and murder.

A gang is a group of youths, known criminals, or convicts from the same neighborhood or penal facility and generally of the same race, banded together for antisocial and criminal activities. Gang members vary in their affiliation with the gang. The classifications which appear most relevant are:

- 1) Hardcore members who are totally involved;
- 2) Affiliates or associates who socialize with the gang for status, recognition, and protection; and
- 3) Peripheral members who join and leave the gang as their need for the gang arises.

At present, the greatest concentration of gangs is found within large metropolitan cities that contain pockets of segregated people—either racially or economically—in areas called ghettos or barrios. These rundown and overcrowded neighborhoods have become the home, or "turf," of the street gangs. The ghettos or barrios are further divided into neighborhood gang turfs where lifelong battles with other ghetto or barrio neighborhoods are waged. Because of the diverse ethnic backgrounds of gangs, membership in and the actions of these gangs are somewhat different, although they do maintain the common objective of criminal activity.

An illustration is the Brown gang (Spanish or Mexican-American). These gangs are found throughout the southwestern portion of the United States. Some gangs in this area have been in existence since 1930. Almost as common as their existence are their mannerisms, language, and code. Typically, Brown street gang members live in a particular neighborhood and attend a common school. At 10 or 11 years of age, they are sought out by current gang members and a degree of "courting" is undertaken. Gang members attempt to influence a neighborhood youth to join their gang for the protection of the "barrio"—his neighborhood—his family, himself, and his "homeboys"—fellow gang members. The youth is attracted to the gang because gang members frequently do not attend school, they have luxury items, such as stereos, everyone is intimidated by them, and many of the neighborhood girls hang around with the gang. All of these factors, coupled



Sergeant Allen

with the somewhat romantic gangster image put forth by the gang members, are often perceived as attractive, particularly by impressionable youths.

When a youth offers resistance to initial gang overtures, physical beatings by gang members begin. Eventually, unless he becomes a good athlete or excels in another recognizable area, the youth submits and joins the gang. An exception to this is the peripheral gang member who "backs up" the neighborhood.

In Brown gangs, a new member joins a subdivision called a clique, which is comprised of gang members of his approximate age. Initiation of most new members consists of a ritual called "jumping in." Gang members invite the candidate to either drink or use narcotics with them. When all are "high," the candidate is surrounded by gang members and asked to fight with them for an unspecified period of time. During this ceremony, the candidate is expected to prove his manhood and courage. These rituals may last for as little as 30 seconds or as long as 5 minutes. It is not infrequent to find an initiated gang member in a bloody and lacerated state, at times with broken bones.

After a person is initiated, the gang socialization process begins. For example, gangs tend to dress in a particular manner. Brown street gangs usually wear khaki pants, black shoes, and plaid wool shirts. The clothes appear to be too large for the gang member, with the pants gathered around the waist and dragging on the ground. This look is meant to intimidate those who are not in the gang. A trenchcoat may be worn to conceal illegal weapons.

A language called "calo," consisting of fragments and modifications of both English and Spanish, is spoken among gang members in order to conceal some of their communications from nongang members. The new gang member will frequently be given a moniker, or "street name," which reflects one of his physical traits or personal characteristics, such as "Flaco" (thin), "Pelon" (balding), "Lizzard" (pockmarked face), or "Sleepy."

The Black street gang, similar to the Brown gang, subdivides the ghetto into small "hoods" or areas of turf. Their members are also drawn from the immediate hood and either join willingly or are intimidated into joining by other gang members. Unlike the Brown gang, however, there are no "jumping in" ceremonies in most Black gangs. Instead, many require that a prospective gang member commit a criminal act prior to actual membership.

Black gangs are usually broken down into "sets" which, unlike cliques, are determined by actual location of residence within the "hood," as well as by age. Although they may deny that there is a formal leader, Black gangs tend to follow a particular member. This member, usually the oldest or most feared, will determine the general personality of the gang and the direction of their activities.

"The 'Just World' hypothesis suggests some insights into the psychological dynamics of the gang."

Blacks also have their own language, commonly referred to as "smack," and their own manner of dress. Members are frequently seen in bomber-type jackets, "stingy brim" hats, and more recently, warmup suits in the appropriate color for the gang. Black gangs will frequently pick a color—red, blue, or black—which not only identifies them to one another but also to other gangs. A colored handkerchief or bandanna is also a common piece of Black gang clothing.

Unlike Brown gang members, a Black gang member will sometimes change his affiliation from one gang to another. Few possess a lifetime membership as do Brown gangs.

In terms of history, Asian gangs are probably the oldest of gangs. They tend to thrive in Chinese or Vietnamese communities. Their membership is, on the average, older than both Brown and Black street gangs. They are also more secretive about membership, displaying no dress code, and rarely using tattoos as a means of gang identification. Furthermore, their conflicts with other Asian gangs are generally on a more limited scale—there are no gang wars.

Asian gangs are operating more in the organized crime tradition. Asian street gangs have recently been observed in the Chinese community of Los Angeles. Information at this time indicates that they are financed by older, more well-established Asian gangs. Their role appears to be that of enforcers for the "organized" faction of the gang. The small number of members are schooled by older members, and most are well-trained in martial arts. Membership in the Asian gang is for life.

The most commonly confronted Caucasian gangs are those of the outlaw motorcycle groups. Interestingly, these gangs attempt to avoid, rather than confront, police officers. Their members range in age from the late teens, well into the fifties and sixties, with women companions who are as young as 13 or 14 years old. Their primary objectives are the control of drug traffic and acting as paid executioners for organized crime. Membership is very ritualistic, consisting of courting prospective members, a vote of the membership, and an initiation ritual involving the prospective member and his wife or girlfriend. A typical initiation involves numerous sexual acts, with certain badges—sew-on patches for jackets—awarded for the member's "colors"—his sleeveless denim jacket. Also, most of these gangs require initiates to commit a felony prior to membership. This can be a theft, rape, or even murder. This requirement was originally designed to prevent law enforcement officers from conducting covert activities within the gang.

Motorcycle gangs are extremely well-armed and well-organized for any criminal endeavor. They conduct most individual activities in a very secretive manner. Only at large gatherings where their members can intimidate small law enforcement contingents are they found "flying" their colors. These gangs are territorially inclined and are broken down into chapters. Each chapter has a president, vice-president, and

other officers. Members must follow specific rules such as, "We are Outlaws and members will follow the Outlaws' way or get out. All members are your Brothers and your family. You will not steal your Brother's possessions, money, woman, class or his humor. If you do this your Brother will do you."⁵ Penalties, ranging from fines to death, are imposed on members for rule violations.

There are no written rules in the Black or Brown gangs and few rules in general. Their meetings are usually held at "safe houses," with members looking as if they were ordinary neighborhood visitors. Police communications are closely monitored, and members are instructed to be alert so as not to lead law enforcement officers to their meeting places.

What, in addition to fear and intimidation, motivates a person to become a gang member? Obviously, these are very strong factors, but they alone are not sufficient to maintain the temporal integrity of the gang. It is one thing to join a gang while a teenager but it is quite another to maintain a lifelong membership. The "Just World" hypothesis suggests some insights into the psychological dynamics of the gang.⁶ In essence, Lerner and Miller hypothesize that most individuals wish to believe that the world is just and ordered. That is, people get what they deserve and that one has control over his environment, and more importantly, the significant events in one's life. Viewing gang behavior from this prospective makes their activities more interpretable.

Most gangs represent either social or economic minority groups. Despite their potential for violence, use of threats, and intimidation, these gangs and their members are essentially

powerless—they cannot control the police or the court system. While they can control their neighborhood, they cannot control the territory or “turf” beyond that. In a great many cases, they run a substantial risk if they leave their turf and cross through enemy “territory.” It is not unlike being in prison. Yet, even in prison there is an attempt to maintain some control, order, and predictability on the part of inmates. Within a particular section or cellblock of the prison, there is most often a dominant leader or group ensuring that their regulations are enforced. The group’s sanctions are often harsh and severe, in some cases resulting in death. What is evident is a microcosm, albeit distorted, of the dominant society. It is not uncommon for gang members to regard themselves as the police on their turf. Although they control little else in their world, they can at least control their turf.

Because of fear and intimidation, victims of youth gangs rarely come forward to assist the police. Evident also is a much more subtle form of persuasion consistent with the “Just World” hypothesis. The victims of these gangs display what is called the “shared common fate” phenomenon—both the perpetrator and the victim perceive that they may share a common fate.⁷ As an example, suppose we have a member of a particular ethnic group that is the focus of discrimination. This person works outside the

ghetto in a subservient occupation and can only afford to live in a ghetto or barrio, where her family and friends also live. She believes that she shares a common fate with her neighbors. In fact, her son may even be a member of the gang. It is because of this that when the police respond to the scene of a crime, they are seen as outsiders. Even though the police may be Hispanic or black, they are still seen as outsiders—they are agents of the establishment. After all, they no longer live in the ghetto. They, despite their racial origins, no longer share a common fate with the ghetto or barrio residents.

The situation may sound futile, but there are those who are able to move out of the ghetto or barrio. These persons are most likely to be the “dominant” girls who usually complete their secondary education, and if the household has the luck to have an employed wage earner, they sometimes go on to college. . . . They are the most likely to obtain secretarial or other pink-collar jobs, the most likely to marry ‘up’. . . .”⁸

What are some of the practical implications and applications of the foregoing for the police officer on the street? First, one must look beyond the gang’s criminal activities and consider what motivates them. Secondly, at a more pragmatic level, there are some basic principles that may assist law enforcement officers in dealing with these groups. These include the frequently noted observation that gangs believe they need to “advertise,” either by wearing club jackets or writing on walls, streets, buildings, or other stationary objects. They may also call out their gang name at the scene of a criminal incident. This is particularly true with Black and Brown gangs.

Once turfs are identified, individual members must be sought out and appropriate records made. These records should include, but are not limited to, monikers, photographs, tattoos, and other gang members frequently observed with a particular subject. It is important to learn their habits and some of their slang. When given encouragement, gang members will often talk for hours about their gang. The listener should appear impressed by the information and must remember that behavior on the street is quite different from that in the controlled environment of the station house so one must practice a degree of understanding and tolerance.

Family members, particularly females, will sometimes supply a great deal of information about the gang. It is important to remember that the primary code of all gangs is that one never divulges information on a fellow gang member; however, information may be obtained if tactful questioning is employed.

Careful display of knowledge by the officer about individual gang members (family, school, moniker, arrest incidents, etc.) serves not only to impress the member but also creates a degree of respect for the officer and the authority he represents. Since gang members usually respect strength, it is imperative that the officer be firm, and above all, fair. The officer should not mislead the gang members

"The most successful investigative approach appears to be one of patience by the investigator. . . ."

by promising things he has no intention of doing or cannot do. The officer should also remember not to favor one gang over another. His position should be one of encouraging them to stay in their own area.

It is not advisable to play one gang against another in conversation. When gang members discuss other gangs, the officer should concentrate on directing the conversation. He should emphasize his desire to prevent conflict and protect all of the ghetto or barrio people.

Gang members are often offended by patronizing law enforcement officers. If the officer is comfortable joking with them and using their slang, it will be obvious to the members and they will probably accept it. If it is not, it will serve only to antagonize the gang.

Gangs generally prey on victims within their own neighborhood—it is unwise to victimize persons in another gang's turf. Because gang members know the personal habits of most residents in their neighborhood, crimes are likely to occur with no witnesses. Stolen property is also easily disposed of by the gang through their contacts, among whom are neighborhood businessmen who engage in criminal activity.

The most successful investigative approach appears to be one of patience by the investigator, who should make frequent contacts with victims and potential or known witnesses to gain their confidence in an attempt to prosecute the violators. Protection should never be promised unless it is sure to be provided.

Another successful technique is trading a weak and probably unsuccessful prosecution case for the simple return of stolen items, no questions asked. Young persons, 8–14 years of age, are frequently an excellent source of leads. The officer should remember when questioning these children to ask specific questions, guarding against their use of imagination.

The increase in gang violence and its deep-rooted social problems pose a massive challenge to law enforcement. Gang culture is so encompassing that the use of specialized gang units is probably the most desirable approach to the problem. Through the use of these units, law enforcement officers can become attuned to the gang's culture, its operations, and its members. Also, the seeming omnipresence of the investigators creates confidence in reluctant neighborhood residents and serves as a deterrent to violence. It is an important problem to be dealt with, and only by the total commitment of the gang officer will preventive measures become effective.

FBI

Footnotes

¹ J. W. Sharff, "Free Enterprise and the Ghetto Family," *Psychology Today*, vol. 15, 1981, pp. 41–48.

² Attorney General's Youth Gang Task Force, *Report on Youth Gang Task Force*, Department of Justice of the State of California, June 1981.

³ Synopsis of Gang Homicides Occurring Within Jurisdictional Area of Los Angeles County Sheriff's Department, 1980.

⁴ Estimate based on statistics of gang-related incidents reported by Los Angeles Sheriff's Stations, 1982.

⁵ Excerpt from the bylaws of the Outlaw motorcycle gang.

⁶ M. J. Lerner and D. T. Miller, "Just World Research and the Attribution Process: Looking Back and Ahead," *Psychological Bulletin*, vol. 85, 1978, pp. 1030–1051.

⁷ M. J. Lerner and G. Matthews "Reactions to the Suffering of Others Under Conditions of Indirect Responsibility," *Journal of Personality and Social Psychology*, 1967, pp. 319–325.

⁸ *Supra*, note 1.

MICHIGAN v. SUMMERS: DETENTION OF OCCUPANTS DURING SEARCH WARRANT EXECUTION (CONCLUSION)

In *Terry v. Ohio*,⁴⁴ the U.S. Supreme Court held that the standard of reasonable suspicion, rather than probable cause, justifies an investigative detention. Part I of this article reviewed the *Terry* decision and surveyed many of the "stop and frisk" cases decided by the Supreme Court during the last 14 years. It was suggested that the location of the detention was a common thread that tied these opinions together. The Court has permitted the detention of pedestrians on the street and motor vehicle operators on the road. These particular locations oftentimes present an officer with a rapidly changing situation where his or her safety is of concern. The Court has also permitted detentions at or near the Mexican border in response to problems associated with aliens illegally entering the country.

Part I then considered the Supreme Court's latest decision where the location of an investigative detention supported its reasonableness. In *Michigan v. Summers*,⁴⁵ the Supreme Court held that the occupant of a private residence may be detained while police officers execute a search warrant for contraband. It was pointed out how narrowly the Court drew its opinion and how many questions it left unresolved. The conclusion of the article addresses some of these questions as they have been discussed by the courts both before, and in a few instances, subsequent to *Summers*. These opinions establish that as a general rule:

- 2) A detention can be made at a business establishment;
- 3) Those who unexpectedly enter while the search is underway are also subject to detention;
- 4) The detention of a resident may continue for a much longer period of time than the brief street stop; and
- 5) A lawful detention need not be strictly confined to situations where the warrant authorizes searches for contraband.

United States v. Stevens,⁴⁶ a post-*Summers* Federal court decision, suggests just such an expansive view of investigative detention in the search warrant context. Paramount Pictures received an anonymous telephone tip that an employee of a movie theater planned to make an unauthorized print of a movie. The tip provided a specific time and location where the copyright violation was to occur. This information was passed on to the FBI, which placed the theater under surveillance. On a night specified by the tip, the named employee was seen leaving the theater. An investigator entered the theater shortly thereafter and determined the film was missing. FBI Agents followed the employee to a warehouse.

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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.

- 1) The occupant subject to detention at a private residence may be a visitor as well as one who actually lives there;



Special Agent Campana

By 3:10 a.m., the Agents had obtained a search warrant and entered the building to search for evidence of Copyright Act violations. They found four men playing cards, one of whom was the defendant Stevens, and told them they were being detained while the warrant was executed. They were then interviewed to determine their identities and purpose for being in the building. The interviews continued until the Agent in charge of the investigation arrived between 5:00 and 6:00 a.m., at which time he too interviewed Stevens and two other defendants.

Stevens was thus detained and interviewed for at least 2 hours in a warehouse while FBI Agents executed a search warrant. He was subsequently indicted on various counts of copyright violations and filed motions to suppress statements made during the course of the interviews. One motion concerned the legality of the detention.

The court read *Summers* to permit law enforcement officers to detain anyone present at any premises where a proper search is conducted for contraband. It also believed the Agents acted properly in detaining Stevens and asking him basic identification information.⁴⁷ However, there is no explanation for such a broad view of *Summers*, nor is there any question concerning the 2-to-3-hour length of Stevens' detention. In effect, the court was merely affirming a long-standing view that the execution of a search warrant may result in the detention of a variety of people for extensive periods of time and at locations other than a private residence.

The Occupant

The Supreme Court referred to *Summers* throughout its opinion as the "occupant" and to the category of persons covered as "residents of a house"⁴⁸ who would ordinarily want to remain and "observe the search of their possessions."⁴⁹ As a result, at least one legal commentator believes the *Summers* rule is restricted to the dictionary meaning of occupant—one who resides as an owner or tenant—as opposed to a guest or visitor.⁵⁰ However, it can also fairly be said that the Supreme Court was merely repeating the characterization given to *Summers* and the seven others present in his home by the Michigan Supreme Court.⁵¹

Further support for a more generic use of the word can be found in prior Supreme Court decisions where passengers in motor vehicles are routinely referred to as occupants.⁵² Recently, the Court referred to customers in a tavern as occupants of that location.⁵³ Lower court decisions also support this position. A leading case in point is *City of Olympia v. Culp*,⁵⁴ decided in 1925. Police officers forcibly detained a visitor at a private residence while it was searched pursuant to a warrant for contraband liquor. When the visitor challenged his detention, the Supreme Court of Washington expressed this common law view:

"Officers making a search of premises under a search warrant may lawfully detain all persons found therein until the search is concluded. Any other rule would frustrate the purpose of the search; the officer would be compelled to stand idly by while the articles for which the search was instituted were carried away. The law is not so impotent as this. . . . The officers having the right to detain [Culp], could use such

“... if individuals are left free to roam about the premises or leave while the warrant is being executed, they could well hide, destroy, or carry off objects of the search.”

force as was necessary for that purpose.”⁵⁵

Some States have codified this common law authority. On two recent occasions, the Court of Appeals of North Carolina affirmed the validity of a State statute which reads, in part:

“An officer executing a warrant directing a search of premises not generally open to the public . . . may detain any person present for such time as is reasonably necessary to execute the warrant.”⁵⁶

In the first case,⁵⁷ decided early in 1981, a guest at a private home was detained while a warrant for narcotics was executed. The court held the detention valid pursuant to a lawful statute. As soon as *Summers* was decided, the statute was again challenged and again upheld in a case⁵⁸ where a visitor to an apartment was detained as officers searched it for stolen property. The court cited *Summers* for the proposition that officers had the right to detain a guest on the premises while an apartment was being searched pursuant to a warrant.

These decisions and others like them are based on the common law reasoning that if individuals are left free to roam about the premises or leave while the warrant is being executed, they could well hide, destroy, or carry off objects of the search.⁵⁹ Since the courts generally will not tolerate such interference, the location where the detention takes place should not be, and indeed has not been, limited to a private residence.

The Location

The First Circuit Court of Appeals⁶⁰ treated a challenge to the detention of a defendant at his business office as “clearly frivolous.” The U.S. Secret

Service obtained a search warrant for the office of the Hillside Press in Boston, Mass. A co-owner was present and detained while the agents searched the office for evidence of counterfeiting. Incriminating evidence was located and the businessman was arrested and convicted. The court dismissed his claim of unlawful detention with these remarks:

“While appellant also contends that the search warrant [for the premises of his office] did not permit government agents to forcibly detain him, and that the restraint thereby imposed upon him prior to his actual arrest invalidated the warrant, we find these latter claims clearly frivolous.”⁶¹

To hold otherwise, the court noted, would permit those unexpectedly found on the premises subject to search to frustrate any attempt at identification and association with the premises, and thus thwart the investigative process.

With such a rationale in mind, the detention of customers at a small business location open to the public would be equally reasonable. *United States v. Festa*,⁶² a Federal district court case, is an excellent example. Deputy U.S. marshals obtained a search warrant to search a shoe store for gambling records and paraphernalia. A number of apparent customers were present when the officers arrived. They were told to remain where they were until things got “straightened out.” The officers implied that no one would be allowed to leave until all were questioned. Guards were placed at the

doors and those present were made to stand against the wall. Festa, one of the detainees, claimed he was illegally arrested by this display of authority. Although the court agreed, it did so prior to *Terry v. Ohio*, and at a time when such detentions had to be viewed from a probable cause standard. But foreshadowing *Terry*, the court stated:

“Perhaps it is permissible for an officer validly executing a warrant . . . to order a person on the premises to remain until the officer can be certain that the detainee is not engaged in removing the property specified in the warrant. . . . [I]f limited, as suggested, in time and purpose, it might be a reasonable . . . seizure.”⁶³

In a more recent decision, the Supreme Court of Delaware,⁶⁴ citing *Festa*, affirmed the propriety of a detention of customers at a small grocery store. Although the search of one customer was held to be unlawful, the court noted that if the officers were justifiably suspicious of the surrounding circumstances, they could have properly detained the defendant during which time inquiries could have been made as to his name, address, and business on the premises.

Likewise, the Oregon Court of Appeals⁶⁵ affirmed the propriety of a detention of customers at a public restaurant and bar undergoing a search for narcotics. Everyone was ordered to remain still, but one customer started to move rapidly toward the door and was physically restrained. A subsequent frisk and arrest were challenged, but the court believed that under the totality of the circumstances, the officers’ reasonable suspicion to detain was well-justified.

“... the officer’s experience and investigation leading up to the warrant forewarn that the guest or customer is not inconsequently on the premises.”

The Mere Presence Rule

The foregoing decisions conveniently avoid discussing the particularity requirement of *Terry*. That is, reasonable cause for an investigative stop requires the detaining officer to have articulable knowledge of particular facts sufficient to suspect each detained person of criminal activity. Such particularity seems somewhat self-evident when the owner of a home or business is detained as he or she is usually a suspect. But does mere presence make a guest’s or customer’s detention reasonable?

The Supreme Court pointed out the difficulty of satisfying this requirement in a case where a detention was made at a commercial establishment. In *Ybarra v. Illinois*,⁶⁶ officers obtained a warrant to search for narcotics at the premises of the Aurora Tap Tavern. Ybarra was 1 of 9 to 13 customers who had the misfortune of being present when the warrant was executed. Although the Court only addressed the issue of the validity of a frisk and search of customer Ybarra, it pointed out that the fourth amendment protects the legitimate expectation of privacy of persons and cannot be undercut or avoided by simply pointing to the fact that coincidentally there exists probable cause to search the premises where the person may happen to be:

“Each patron who walked into the Aurora Tap Tavern on March 1, 1976, was clothed with constitutional protection against an unreasonable . . . seizure. . . .

Although the search warrant, issued upon probable cause, gave the officers authority to search the premises and to search ‘Greg’ [the bartender], it gave them no authority

whatever to invade the constitutional protections possessed individually by the tavern customers.”⁶⁷

The Court then recited the position it took more than 30 years before in *United States v. DiRe*,⁶⁸ where it was held that the presence of a passenger in a car for which there was probable cause to search could not also be searched without some indicia of a connection between him and the contraband.

The *DiRe* decision is regarded as having established the “mere presence” rule: A person’s presence at the scene of suspected criminal activity does not permit an automatic arrest, frisk, or full body search.⁶⁹ The rule seeks to protect innocent persons who happen to be in the company of a suspected criminal. To conduct an arrest or search of the person, something more—“presence plus”⁷⁰—is necessary. After *Terry*, a frisk search requires that the “plus” relate to the presence of a hidden weapon. But for a detention, that little extra is merely reasonable suspicion of some criminal activity. Lower court decisions suggest that a search warrant can itself usually provide that suspicion, as the officer’s experience and investigation leading up to the warrant’s execution forewarn that the guest or customer is not inconsequently on the premises. They are, as one court pointed out, “usually in the company of a key suspect on highly suspicious premises at a time when illicit dealings likely to involve a number of persons were expected.”⁷¹

Similarly, the mere presence rule’s inapplicability to detentions at locations being searched pursuant to a warrant is illustrated in cases where people detained came upon the scene after the search was in progress. In *United States v. Clay*,⁷² a 1981 Eighth Circuit Court of Appeals decision, State officers entered the residence of one Donald Love and began searching it in the early morning hours under the authority of a warrant for narcotics and firearms. Shortly after the search began, Clay, who was not a suspect and whose presence was unanticipated, approached the house and knocked on the storm door. An officer opened the door, identified himself, and ordered Clay into the house. Clay hesitated and began to step backward. The officer pulled out his revolver and again ordered Clay into the house, where he was frisked, arrested, and convicted on a Federal firearms charge. On appeal, the court reversed the conviction on the ground that there was no reason to believe Clay was armed and dangerous and no justification to frisk him immediately upon entry. However, the court implied that a brief stop was justified for the purpose of asking a few questions:

“Because there was an opportunity for inquiry when [Clay] appeared at the door, inquiry should have been made. . . . This is particularly true where the person in question is only a visitor to the premises. . . . In our view Sgt. Moss had nothing more than ‘mere suspicion’ of possible criminal activity or danger based upon [Clay’s] approach to the house. . . . Sgt. Moss should have provided [Clay] with an opportunity to explain his presence before subjecting him to a search.”⁷³

A recent decision from the Court of Appeals of New Mexico⁷⁴ is even broader in its ruling. As officers approached a private residence, armed with a warrant to search it for drugs, they intercepted four individuals who were about to depart in an automobile. All four were brought into the home and detained while it was searched. When one of the nonresident guests challenged his detention, the court cited the common law *Culp* rule that officers conducting a search of premises under a warrant may lawfully detain all persons found therein or nearby.

The suspicion in these cases was no more than unanticipated presence plus a search warrant. Although minimal, it is apparently sufficient for *Terry* purposes. Even in *Summers*, where the detention was permitted, the searching officers presented no specific facts to believe they were in danger or that evidence would be hidden or destroyed. In addition, the Supreme Court recognized in *Ybarra* that an officer must make a realistic appraisal of the situation when he enters a public tavern with a search warrant and confronts numerous individuals therein. The Court outlined the kinds of circumstances that would be appropriate for a frisk, and presumably, a detention:

- 1) Compact nature of the location and number of customers present;
- 2) Nature of the contraband and accessibility of removal or destruction;
- 3) Reputation of the neighborhood and prior knowledge by the officers of criminal activity at that tavern; and

- 4) Recognition of customers with criminal histories and observations of furtive conduct.
- The *Summers* court pointed out that it was formulating a rule which: ". . . does not depend upon . . . an ad hoc determination, because the officer is not required to evaluate . . . the quantum of proof justifying detention or the extent of the intrusion to be imposed by the seizure."⁷⁵

The best way to avoid ad hoc decisions is to detain everyone present at, near, or entering any limited location subject to lawful search pursuant to a warrant. Naturally, as the Court noted in *Summers* and as commonsense would tell an officer, such a rule would not include a detention of hundreds of customers at a large department store.

Length of Detention

The opinion in *City of Olympia v. Culp* cited earlier is also referred to as expressing the common law view that a detention may continue for as long as it takes to execute the warrant.⁷⁶ However, the Supreme Court cautioned in *Summers* that the detention should not be "unduly prolonged."⁷⁷ The facts do not indicate how long *Summers* was actually detained,⁷⁸ but the dissent argues that as a matter of course, the occupant will in fact be detained for such time as it takes to execute the warrant. Certainly a resident, who the Court believes will usually want to view and assist in its execution, will usually be detained several hours. The Court conceded a time limit, but a review of lower court decisions indicates that the breaking point is not easy to find. This is especially so when the detainee is a nonresident.

In *United States v. Stevens*, discussed earlier, a Federal court permit-

ted the detention of four men in a warehouse in the middle of the night for periods of time ranging from 45 minutes to 3 hours. The Federal court in *United States v. Timpani*,⁷⁹ also decided after *Summers*, was more restrictive. FBI Agents restrained a bookmaker in his own home for 45 minutes while they searched it for evidence relating to loansharking and gambling. They would not let him call his lawyer or leave until they were satisfied that other coordinated searches were under way. Based on these facts, the court held the detention reasonable in time, but pointed out:

"[T]he restrictions on [Timpani's] freedom were carefully tailored to fit the legitimate need that gave rise to them. They lasted for forty-five minutes of a five hour search. As soon as the risk of premature warning disappeared, the Agents told [Timpani] he was free to telephone or leave."⁸⁰

In *United States v. Miller*,⁸¹ yet another Federal court held that the detention of a visitor or guest should only continue for as long as it takes to determine identity and reason for presence. Miller, a guest being detained in a private residence undergoing a search for narcotics, kept asking for permission to leave. The officers ignored his request. The drugs were located after only 15 minutes, at which time Miller was frisked and a weapon discovered on his person. He was then arrested and subsequently convicted on a weapons charge. On appeal, the

“... restrict nonresident detentions to no more than a few minutes. This should be enough time to identify those detained and to insure that no evidence subject to seizure will be removed.”

court recognized that when the officers first arrived, they had a right to hold Miller briefly for the purpose of questioning him with respect to his identity and purpose for being at premises covered by the warrant. But because the officers had no particular knowledge that he was there for any unlawful purpose, the detention could not be prolonged:

“As Terry emphasizes, the right to seize a person . . . absent probable cause for arrest, is a very limited one and a person should not be detained for such purpose longer than is reasonably necessary to accomplish the foregoing objective. No reason is asserted why the officers could not have interrogated the defendant immediately upon their entry upon the premises. No reasonable basis exists under the facts of this case to maintain the seizure for more than ten minutes.”⁸²

The Second Circuit Court of Appeals has recently held that a 20-minute detention by the Coast Guard of residents on a large ship was permissible because the boarding party wasted no time searching the cargo hold and were thus as least intrusive as possible.

Suffice it to say, however that courts, willing to turn to on-the-street detention cases for guidance on this problem, will find sufficient authority to restrict nonresident detentions to no more than a few minutes.⁸⁴ This should be enough time to identify those de-

tained and to insure that no evidence subject to seizure will be removed. In addition, these interviews should take place as soon as practicable after arrival of the officers on the premises, and enough officers should be available to conduct these interviews quickly. As the Supreme Court acknowledged in *Adams v. Williams*, a suspicious individual may be stopped and detained “for the purposes of a limited inquiry or to maintain the status quo momentarily while obtaining more information”⁸⁵ about the suspicious circumstances.

The Contraband Restriction

Summers explicitly restricts its holding to searches for contraband. There is no suggestion in the opinion that a search for property otherwise lawfully possessed, such as clothing or business records, would also justify a detention. In fact, the Court referred to a prior opinion of Justice Stevens wherein he noted that “countless law abiding citizens—doctors, lawyers, merchants, customers, bystanders—may have documents in their possession that relate to an ongoing criminal investigation”⁸⁶ about which they may have no knowledge or connection. A search for such evidence would not usually create a risk of sudden violence or a “frantic effort” to conceal or destroy evidence, two rationales used by the Supreme Court to justify the detention of *Summers*.⁸⁷ Thus, if officers execute a warrant to search a newspaper office for photos taken by a photographer at a crime scene, the photographer and his business associates should not ordinarily be detained absent consent. But if the occupants are possible suspects in the investigation, a search for mere evidence might create the same frenzied attempt to interfere with the search and harm the officers.

In *United States v. Timpani*, cited earlier, the court held that the nature of the criminal behavior underlying the warrant—organized loansharking—permitted a detention of the suspect loanshark while FBI Agents searched his home for documentary records relating to that crime. Other lower court cases arise from a factual context wherein the warrant seeks drugs, gambling paraphernalia, illegal alcohol, stolen property, and the like. But, with the dual rationale of *Summers* in mind, it seems fair to say that detentions are not exclusively restricted to contraband searches. In each case, the officer will have to consider the nature of the evidence and the relationship between it and the person detained. Until such a determination is made, a brief detention of all occupants seems reasonable.

Conclusion

Summers is an important decision for law enforcement because the Court has affirmed, at least in part, a long line of prior decisions that provide officers executing a search warrant with “unquestioned command of the situation.”⁸⁸ Although *Summers* can be read to only permit detentions of residents in their home while contraband warrants are executed, a more reasonable view suggests that the Supreme Court merely addressed the specific factual setting before it. Neither the facts of *Summers* nor the Supreme Court’s treatment of those facts appear to require the presence of any particular suspicion of flight, destruction of evidence, or danger to the officers, before the occupants can be detained.

The large public gathering aside, a review of State and Federal lower court decisions provides ample authority to detain people in a variety of settings. In fact, no case has been found where a court restricted detentions to resident occupants only. In addition, an officer should remember that the *Summers* Court intended to provide a procedure as uniform as possible so that ad hoc decisionmaking will be held to a minimum.

With this in mind, the officer executing a search warrant should recognize that he or she has the authority to detain briefly anyone present at a compact location, be it a private residence or business establishment open to the public. Included within this authority are those about to leave as the officer arrives and those who show up while the search is in progress. A resident may be detained for more than just a few minutes and perhaps for the entire time the officers are present. Nonresidents may be detained for short identification interviews, which should be designed exclusively to learn more about the property specified in the warrant. Any further detention will require a connection between the guest or customer and the items subject to seizure. Contraband items will more than likely create a presumption that an effort may be made to interfere with the search by those with an adverse interest in its discovery. If the search is for noncontraband items, no such presumption will be made, and the officer will have to find an adverse interest by an appropriate and brief interview of everyone present. If, under the circumstances, an innocent person would reasonably expect to be released, the detention should cease.

FBI

Footnotes

- ⁴⁴ *Supra* note 1.
- ⁴⁵ *Supra* note 2.
- ⁴⁶ 543 F. Supp. 929 (1982).
- ⁴⁷ *Id.* The court did suppress incriminating statements about the defendants' purpose for being in the building at that time, holding that the men were in custody for *Miranda* purposes and had not been advised of their rights.
- ⁴⁸ *Summers*, *supra* note 2, at 705.
- ⁴⁹ *Id.* at 701.
- ⁵⁰ See W. LaFave, *supra* note 42, at 44 & n.102. The dictionary definition of "occupant" is cited as "one who takes possession under title, lease, or tenancy at will," or "one who occupies," that is, "reside[s] as an owner or tenant" at a "particular place or premises." Webster's Third New International Dictionary, 1560-61 (1961). See also *United States v. Hansen*, 652 F.2d 1374, 1390 n.10a (10th Cir. 1981).
- ⁵¹ *People v. Summers*, 286 N.W.2d 226 (Mich. 1979) reversed, *Summers*, *supra* note 2.
- ⁵² See, e.g., *United States v. DIRE*, 332 U.S. 581, 587 (1948); *United States v. Brignoni-Ponce*, *supra* note 14, at 876; *Adams*, *supra* note 11, at 145; *Pennsylvania v. Mims*, *supra* note 20, at 661.
- ⁵³ *Ybarra*, *supra* note 32, at 95.
- ⁵⁴ 240 P. 360 (Wash.), *aff'd*, 240 P. 236 (Wash. 1925).
- ⁵⁵ *Id.* at 361.
- ⁵⁶ North Carolina General Statutes, sec. 15 A-256, cited in *State v. Brooks*, 275 S.E.2d 202 (Ct. App. N.C. 1981).
- ⁵⁷ *Id.*
- ⁵⁸ *State v. Guy*, 282 S.E.2d 560 (Ct. App. N.C. 1981), *cert. denied*, 288 S.E.2d 803 (N.C. 1982).
- ⁵⁹ See, e.g., *Van Horn v. State*, 496 P.2d 121 (Ct. Crim. App. Okla. 1972) (detention of driver while vehicle searched pursuant to a warrant); *State v. Ryan*, 1 P.2d 893 (Wash. 1931) (proprietor of a hotel detained in a maid's living quarter while a warrant for contraband executed); *State v. Valdez*, 577 P.2d 465 (Ct. App. N.M. 1978) (detention of four guests about to depart a private residence and standing outside near an automobile).
- ⁶⁰ *United States v. Micheli*, 487 F.2d 429 (1st Cir. 1973).
- ⁶¹ *Id.* at 430.
- ⁶² 192 F. Supp. 160 (D. Mass. 1960).
- ⁶³ *Id.* at 163.
- ⁶⁴ *State v. Wise*, 284 A.2d 292 (Del. 1975).
- ⁶⁵ *State v. Muckleroy*, 552 P.2d 257 (Ct. App. Ore. 1976).
- ⁶⁶ *Supra* note 32.
- ⁶⁷ *Id.* at 91-92.
- ⁶⁸ 332 U.S. 581 (1948).
- ⁶⁹ See *Sibron v. New York*, 392 U.S. 40 (1968) (arrest unlawful when based solely on officer's observation of defendant conversing with several known addicts); *Ybarra*, *supra* note 32 (mere presence of customer in a bar cannot, without additional facts, justify a frisk). *Contra*, *United States v. Vilhotti*, 323 F. Supp. 425, 432 (S.D.N.Y. 1971) (doctrine not applicable to two suspects arrested for hijacking when found at a warehouse where the stolen goods were being stored).
- ⁷⁰ See J. Carr, *Michigan v. Summers: Detentions Permitted While Search Warrant Is Executed*, 8 Search and Seizure Law Reporter, 115, No. 8 (August 1981).

- ⁷¹ *United States v. Vilhotti*, *supra* note 69, at 432.
- ⁷² 640 F.2d 157 (8th Cir. 1981).
- ⁷³ *Id.* at 161-62.
- ⁷⁴ *State v. Valdez*, *supra* note 59.
- ⁷⁵ *Summers*, *supra* note 2, at 705 n.19.
- ⁷⁶ *Supra*, note 54. See also *State v. Blea*, 587 P.2d 47 (Ct. App. N.M. 1978), *cert. denied*, 441 U.S. 908 (1979).
- ⁷⁷ *Summers*, *supra* note 2, at 701.
- ⁷⁸ See 28 Cr. L. 4221, 4222 (March 4, 1981) (summary of oral argument in *Summers*). Justice Powell asked counsel for the State of Michigan how long *Summers* was detained. He replied, "at the outside it was 50 minutes."
- ⁷⁹ 665 F.2d 1 (1st Cir. 1981).
- ⁸⁰ *Id.* at 3.
- ⁸¹ 546 F.2d 251 (8th Cir. 1976).
- ⁸² *Id.* at 253.
- ⁸³ *United States v. Streifel*, 665 F.2d 414 (2d Cir. 1981).
- ⁸⁴ *United States v. Chamberlin*, *Sharpe v. United States*, and *United States v. Bloom*, *supra* note 36. *But cf. United States v. Bautista*, 684 F.2d 1286 (9th Cir. 1982) (reasonable to handcuff and detain two bank robbery suspects on the street for 10-12 minutes because followup questions were made necessary by defendants' unconvincing and suspicious answers to initial, routine questions).
- ⁸⁵ *Adams*, *supra* note 11, at 146.
- ⁸⁶ *Summers*, *supra* note 2, at 705 n.20, citing *Zurcher v. Stanford Daily*, 436 U.S. 547, 579 (Stevens, J., dissenting).
- ⁸⁷ Professor LaFave makes this point well. See W. LaFave, *supra* note 42, at 703.
- ⁸⁸ *Summers*, *supra* note 2, at 703.

WANTED BY THE FBI



Date photographs taken unknown

Photographs taken in 1978

Richard Charles Williams

Richard Charles Williams, also known as Robert A. Dawkins, Robert Alan Dawkins, Robert A. Farnham, Robert Farnum, Jesse Lockman, Jesse Lockman, "Dickey"

Wanted for:

Interstate Flight—Murder

The Crime

On December 21, 1981, Richard Charles Williams allegedly shot a New Jersey State trooper who was making a routine traffic stop. A Federal warrant was issued on January 21, 1982, for Williams' arrest, charging him with unlawful interstate flight to avoid prosecution for this crime.

Williams is reportedly an associate of FBI "Ten Most Wanted" fugitives Raymond Luc Levasseur and Thomas William Manning. He has been convicted of illegal possession and distribution of marihuana, auto larceny, and armed robbery.

Description

Age 35, born November 4, 1947, Beverly, Mass.
Height 6'.
Weight 190 to 200 pounds.
Build Medium.
Hair Brown.
Eyes Blue.
Complexion Medium.
Race White.
Nationality American.
Occupations Carpenter, coppersmith, laborer, moving truck-driver, patternmaker, printer.

Scars and

Marks Tip of right little finger missing; birthmark on right wrist; minute mole on left side of chin and cheek above mustache; scar over right eye; needle marks on right arm.
Remarks Wears mustache and beard at times.

Social Security

Nos. Used 034-34-5647
034-60-4809
034-56-0739.
FBI No 257 117 G.

Caution

Williams, a reported narcotics user and known associate of Ten Most Wanted fugitives, Raymond Luc Levasseur, FBI Identification Order 4733, and Thomas William Manning, FBI Identification Order 4734, is being sought in connection with the murder of a New Jersey State trooper. Williams is known to carry a 9-millimeter automatic handgun and keeps a knife in his boot. Consider Williams armed and extremely dangerous.

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:
PO74POPO22DIP162322

Fingerprint Classification:

24 O 13 R OOO 22 Ref: 13
I 27 W IOO 31

I.O. 4902



Right middle fingerprint

Change of Address

Not an order form

FBI LAW ENFORCEMENT BULLETIN

Complete this form and return to:

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

Name _____

Title _____

Address _____

City _____

State _____

Zip _____

Toy Gun For Real



A cap gun, made in Italy by Edison Giocatoli Spa and sold in a nationwide discount store for approximately \$4, can be converted into a firearm by anyone having a little knowledge of weapons. The gun was recovered from a 15-year-old juvenile by an officer who initially believed it to be a toy.

The juvenile bored out the plugs in the barrel and cylinder, making the weapon capable of firing six .22-caliber LR rounds. There were burn marks on the cylinder to show that it had been fired.

(Submitted by the Lombard, Ill., Police Department)

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Washington, D.C. 20535

Interesting Pattern

While not questionable, the horizontal position of this pattern is unusual and interesting. It is classified as a loop with 18 ridge counts.

