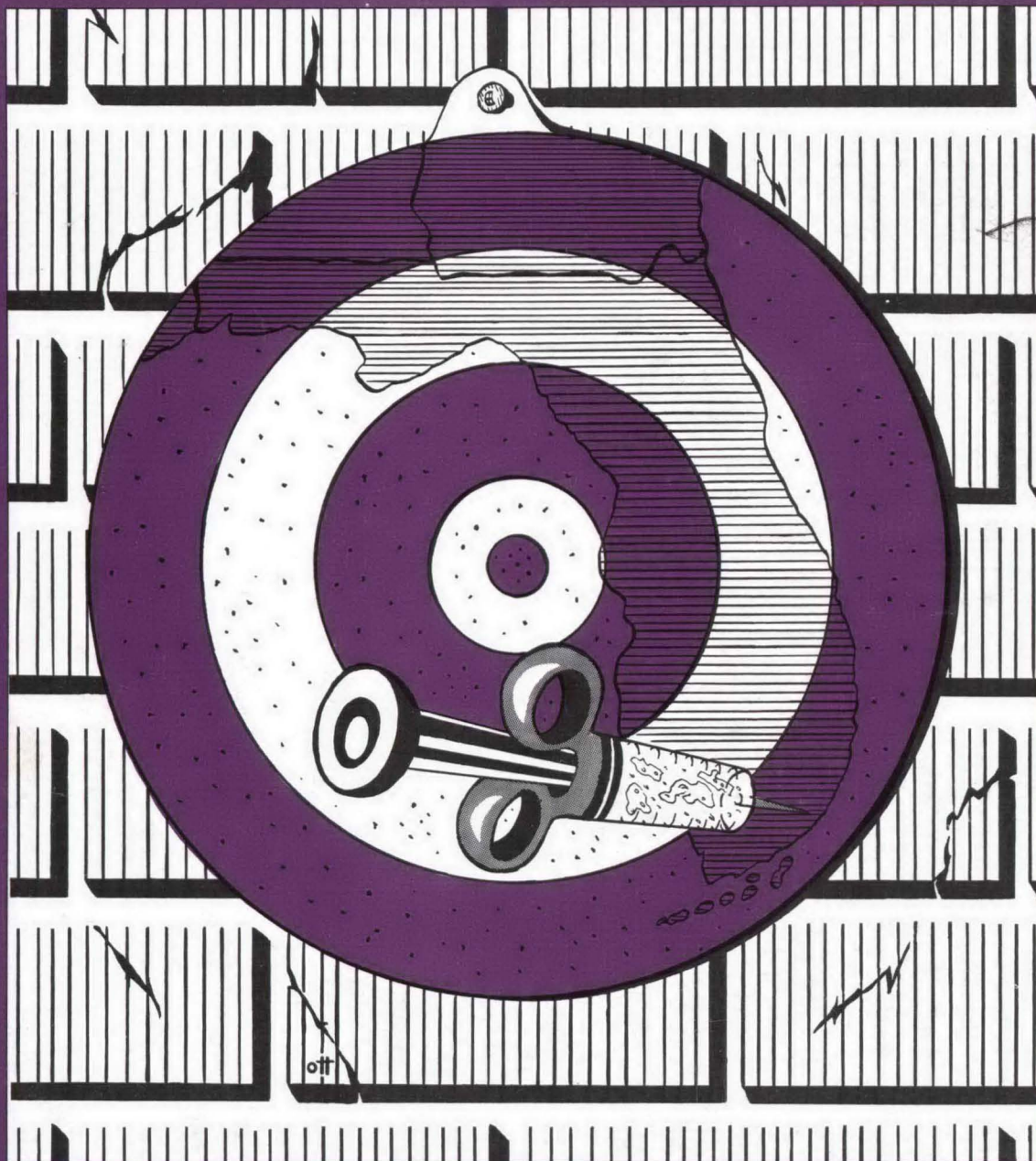




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January 1988

Law Enforcement Bulletin



Drug Stings in Miami

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Drug Stings in Miami

"Miami modified the concept [of stings] for drugs . . . toward reducing the demand . . . by targeting buyers en masse."

By
CLARENCE DICKSON

Chief of Police
Miami, FL

When a community is faced with blatant street sales of drugs in an open air, drive-through setting, can traditional police tactics be effective? In South Florida, the answer has been "no." Increased arrests have kept pace with the epidemic drug use indicated by ever-increasing cocaine-induced deaths, but arrests themselves have apparently not curbed the demand.

Federal efforts on an enormous scale are resulting in the interdiction of record-breaking amounts of illegal drugs; yet, a 14-month congressional study shows that more resources are needed. If the Federal Government with a drug-fighting budget of \$1.8 billion needs more funding to cope with the problem, what can a local police agency do? Despite some major victories, the effort has been likened to reversing the tide with a bucket.

Although nowhere near victory, the Miami Police Department has found

that a variety of innovative strategies, legal tools, community support, and concerted coordination among nontraditional support agencies is paying off with some surprising dividends. The narcotics situation is all too common in cities across the country. Drug use is on the increase among all levels of society. The most-convenient source of supply is often the economically depressed areas of the city where children as young as 12 years are earning up to \$250 a day selling marijuana, cocaine, and the deadly addictive cocaine "crack" rocks.

South Florida is by no means unique in patterns of drug abuse, income disparity (and its resulting tensions), understaffed police, or inadequate jails.

Prior to my appointment as chief, the narcotics situation had already grown from a chronic problem to a full-

scale epidemic. Middle-income youth from the suburbs, junkies, and children of the poor would cruise slum streets to purchase drugs and rip off sellers or rivals. Those venturing into the area would often become victims of a robbery or an assault, increasing the city's index crime rate.

Competing groups would stage occasional turf skirmishes. Families living in once-decent areas were terrorized as their neighborhoods turned into open-air markets for drugs. Gunshots penetrated the walls and windows of their homes. Many families were economically trapped into staying. Those that could afford to move had abandoned the area and accelerated its decay.

The worst fears of police and parents came true in West Palm Beach on August 15, 1986, when a 7-year-old child was killed while playing outside her house. The random, senseless gunfire of a territorial dispute between



Chief Dickson

rival factions of small-time dealers had taken another life.

Based on a case-by-case analysis of medical examiner records, "cocaine-related" deaths in Dade County rose from 31 in 1980 to 211 in 1985, mirroring the rapid rise in street popularity of a drug once thought by some to be a harmless recreational drug. These deaths are all those cases, countywide, where cocaine or its metabolite benzoylcegonine was found in the tissues during a post mortem examination. These deaths do not include homicides attributable to gang violence.

Nationally, smoking cocaine represents 20 percent of its abuse, as opposed to Florida's 60 percent of cocaine use being administered through smoking. Addiction to nasal snorting requires about 4 years of intermittent use, while those smoking cocaine report a similar stage of compulsion within weeks of its first abuse.

The commissioner of the Florida Department of Law Enforcement echoed the sentiments of most police chiefs when he attributed recent increases in index crimes (which for several years had decreased significantly) to the new popularity of cheap addictive "crack" cocaine in the drug subculture. Confessions of once "normal" people who had turned to lives of crime to support free-basing needs have bolstered the statistical evidence linking drug abuse to street crime.

The Problem — The Strategy

It was evident we had a problem on our hands. The question was how to deal most effectively with the problem. A new strategy was needed.

Approach

In 1984, Miami's traditional enforcement approach had resulted in 227 felony arrests for drug sales and 2,836 arrests for possession. A more-concerted approach was needed involving *all* facets of the problem. It was decided that law enforcement would be split into two units. The Special Investigations Section would continue to coordinate with Federal and State agencies to focus on major dealers, smugglers, financiers, and wholesalers. To augment their mission, a RICO squad was added to attack the infrastructure of organized crime.

However, cities are too limited in terms of resources and jurisdiction to solve problems individually which are international in scope. Local drug enforcement is most effective at the street level, where an immediate impact is possible and direct reductions in related index crimes are achievable. The theory is that unless the demand can be reduced, there will always be suppliers willing to take on the risks of trafficking.

Formation of the Street Narcotics Unit was the first organizational change made early in 1985. To fulfill commitments to the community for an all-out attack on drugs, officers were recruited from throughout the department to staff the new unit. By the end of 1985, drug sales arrests departmentwide had more than doubled to 546 and the conviction rate improved. But still more was needed! On April 3, 1986, Operation STING was initiated.

Traditional stings have for some time been used to capture thieves and burglars. Miami modified the concept for drugs, added mass arrest techniques, civil forfeiture laws, confiscated

"The stings changed attitudes among buyers, because they learned that they were now the targets."

contraband for bait, and community support for the first phase of operations directed toward reducing demand for drugs by targeting buyers en masse. The term STING became an acronym for a more-comprehensive plan, "Strategy To Inhibit Narcotics Growth," which was divided into three overlapping phases. Each phase would target a specific component of the problem — buyers, places, and sellers.

Phase I — The Sting

Once specific "hot spots" were located (based on community input, intelligence files, and computer analysis), a video tape of conditions in each area was prepared to document the blatant nature of the street sales. Photographic evidence was available to show passing motorists being flagged down in the street and besieged by entrepreneurs peddling illicit drugs.

Task force teams of uniform patrol officers, traffic enforcement motormen, undercover personnel, and SWAT members were assembled. Careful planning covered every contingency. Each task was coordinated; divisions of labor insured maximum efficiency and minimized control problems. Roll calls involving 75 - 100 officers were usually held at 4:00 p.m. to take advantage of the peak dealing hours between dusk and early morning. Operations began with undercover officers in rental or confiscated vehicles making buys from all the dealers in the target area. The law-abiding residents who had asked to have their blocks cleaned up would sit silently outside and savor the sweet irony of the situation.

Once the street was cleaned of real dealers, undercover officers as-

sumed the role of street dealers. Purchasers who had become accustomed to frequenting the same location would drive up and stop either to buy or to do some comparison shopping. On drive-up sales, the undercover officer would make the sale and then give a predetermined signal. The cover vehicles (unmarked confiscations or rentals) would close in with blue lights on. The vehicle would literally have to be boxed in or else the buyer would attempt to squeeze through the smallest opening. Once stopped, the buyer was removed and taken to the "arrest apartment." There, in the "arrest apartment," a uniformed officer would search and flex-cuff the prisoner. When the "selling" officer completed his or her paperwork (some of which is so standardized that charges and partial narratives could be pre-completed for the most-common situations), the evidence, usually consisting of the narcotics and the buy money, was placed in a sealed envelope and then dropped into a locked box.

Walk-up sales were much simpler and reduced the chance of escape. As the sale is made, two other officers approach, badge the subject, and then walk their prisoner back to the "arrest apartment." The undercover "seller" is then issued more narcotics and is returned to join the other "sellers" awaiting the next buyers. Amazingly, the buyers were often so intent on "scoring" or were so oblivious to their surroundings that toward the end of an evening's operation, when television camera crews were allowed to turn on their lights, buyers would approach the undercover officers, even when marked police vans were parked on the street and officers were making arrests in

plain view. In one incident, a police sergeant was positioned near an arrest team car in a full SWAT uniform when he was approached by a buyer who inquired, "Hey, man, you got any dope?" When the SWAT supervisor answered, "No, go talk to one of the other OFFICERS," the would-be customer actually went to make a purchase and was arrested.

Once six to eight buyers are brought into the "arrest apartment," a transport wagon is requested. A rear exit from the apartment is a necessity and is one of the first considerations when scouting for a sting location. The arrestees are led out of the rear door to the awaiting transport van. They are then taken to the command post. The command post is generally a large vacant lot either at a school yard, park, or parking lot. It is equipped with a generator, portable lights, and a portable copier. The arrestees are taken to a booking sergeant, who logs the prisoners. Corrections officers on the scene take photographs and fingerprints. After an inventory of personal items is completed, the prisoners are placed on waiting buses. Felons are separated from misdemeanor arrestees (as are females and juveniles) until they are transported to the various jail facilities.

Prior to the sting operations, the average buyer had little to fear from police or the courts. Arrests tended to be sporadic, as they were either the chance result of a buyer giving an officer probable cause during routine patrol or the result of a call-for-service dispatch. Small-time buyers knew that dealers were the primary targets. Even when arrested, the buyer with a minor

"Prominent leaders of community groups joined in promoting a cleanup campaign . . ."

record had little to fear from a criminal justice system which was overburdened with career criminals and overcrowded jails.

The stings changed attitudes among buyers, because they learned that they were now the targets. Although the probability of long-term incarceration remained low, there was a chilling effect on those caught when they lost their car through civil forfeiture, and sometimes, their driver's license through statutes designed to keep drug abusers off the roads. The intense news coverage helped convey the message that the police were serious, and that if buyers ventured into the city to buy drugs, they were likely to end up on a police bus en route to a booking.

Phase II — The Drug House

Following the success of the first phase, the department directed its energies to the derelict apartment houses where freebase operations were being conducted in ostensibly vacant quarters. Based on data collected during previous drug operations, the most-notorious base house was targeted for forfeiture pursuant to Florida Contraband Forfeiture Act 934.701. Armed with clear evidence that one 45-unit apartment house, valued at \$270,000, had been the scene of 73 drug-related incidents over an 18-month period, the chief assistant State attorney of the Dade County State Attorney's Office, a member of Dade County's HUD Task Force, and the City of Miami's chief building code enforcer each successfully argued before a judge for seizure. The court ordered the few remaining tenants to vacate and the building permanently sealed. Con-

crete blocks and mortar to cover windows and doors were required by the court after Miami police argued that a mere boarding up would be defeated within days. The court recognized that the building was both unfit for human habitation and created a crime problem. County housing officials provided relocation assistance for the few legitimate tenants.

Once the precedent was set, cooperation between other owners and the police was rapid. The City of Miami offered low-interest loans to encourage the owners of similar properties to clean up their buildings, eliminate freebasing operations, and begin the revitalization.

In a stipulated agreement to a similarly situated group of four apartment buildings, which had accumulated 2,539 housing code violations, the owner agreed to plead guilty to a lesser number, cooperate with the police, evict those who engaged in drug activity, establish a drug hotline to obtain tenant assistance, correct all violations, and remove trespassers. Eight more apartment sites are on Miami's list for closure or compliance by the owner. Slum lords have been given fair warning that unless they help eliminate drug houses and serious code violations, they may be next.

Phase III — Buy-Bust

Traditional buy-bust operations run by police departments across the country, including Miami, target a limited number of dealers. The operations are hazardous, expensive, and time-consuming. It was decided to attempt the use of mass arrests of buy-bust procedures that have worked so well on the sting operations.

The first buy-bust targeting street

sellers began on August 26, 1986. To complement the usual force of plain-clothes officers and uniformed patrol officers, four K-9's recently trained to detect narcotics were added. Knowing that dealers are more wary than purchasers, it was conceded that the volume of arrests would be much lower than those arrested in a sting. Surprisingly, the first night netted 31 dealers and the seizure of 86 grams of cocaine, 173 grams of marijuana, 2 guns, and \$1,461 in cash.

The K-9 dogs have been especially productive in the followup search of an area after the arrest teams have completed their work. Dogs turned up many of the hidden "stashers" that would have gone otherwise undetected. It has become a common practice for dealers to limit the amount of drugs and cash on one's person for a dual purpose: If caught, the penalties will be less harsh and concealment reduces losses to rip-offs.

One difficulty in seizing cash under RICO or Florida's Contraband Act is establishing that the money was a part of a narcotics transaction and not merely incidental assets of a suspect. Dogs trained to alert to narcotics are being used to sniff test cash recovered in drug arrests. The only police personnel to handle the cash have not handled drugs. A positive alert to the money can be strong evidence in a civil forfeiture trial that the funds were an instrumentality or fruit of the crime.

Community Support

Broad-based support is probably the most-critical element in a successful long-term operation aimed at changing behaviors, attitudes, and

perceptions. In those areas plagued by street sales, the community was outraged by the depravity that accompanied the blatant sales of drugs. Prominent leaders of community groups joined in promoting a cleanup campaign which is even more vigorous than when the stings began.

Initially, there had been a fear that after one or two operations, the police would move on to other areas of town and let the pushers return to their corners to resume business as usual. An important part of the strategy was, however, to return time and time again until the situation was under control, repeat customers had vanished, and the area once again a safe place to live. Two or three operations are not sufficient to reduce patterns of behavior that have taken years to grow. It is necessary to go back at frequent intervals in the hardcore areas. Some locations have been repeatedly targeted so that it becomes apparent that the police mean business. This is not a one-shot operation, but a continuous enforcement program.

Education

The day after a sting operation, the target area is canvassed by the Crime Prevention Unit for two reasons: (1) To disseminate information on the number of arrests in the area, and (2) to check the pulse of the community. For several months, this procedure has been followed with great success. Almost all residents in the impacted areas were grateful for the clean-up efforts. Some of the comments heard from the community were, "Nice to see you are interested in what's happening here," "When are you coming back?" "What took you so long to get to our community?" "I am glad to see you getting

them off the street," and "Come back tomorrow night." During this contact, crime prevention personnel can answer any other questions, reducing the likelihood of rumors and false information triggering community tension.

In addition to distributing warning flyers in neighborhoods adjacent to targeted areas the day following a sting, the police department participates in a number of educational and awareness programs. One goal is to educate area youth about the evils of drug use. To that end, the department is in the process of creating a "Drugmobile," a mobile home which will be converted into a showcase/theater for presentations in schools and neighborhoods. Inside the Drugmobile, visitors can view a video tape presentation on the dangers of drugs, a narcotics and paraphernalia display case, and a photo display graphically depicting the results of drug abuse (i.e., effects on the body, including death).

Use of Force

The use of minimal force in making sting arrests was stressed in roll calls prior to an operation. It was perceived that community support of antidrug efforts would be diminished by over-zealous enforcement action. Miami's philosophy was that with the number of arrests that were being made, if a few offenders escaped capture or destroyed evidence, they would be too afraid to buy again or would be caught during a following sting.

Mass Arrests

To be a deterrent, police tactics must appear to a potential law breaker to have sufficient probability of detection, multiplied by the severity of loss to outweigh the potential gains. To reduce the demand for drugs, the casual user

presents the largest market, as well as best opportunity, for reform. He or she is less sophisticated, represents the highest profit margin for organized crime, and is the most likely to be diverted from a life of dependency on substance abuse. To be successful against a mass market, mass arrests are required. While it is conceded that mass arrests are less prosecutable, the sentences meted out in small quantity cases were ordinarily tantamount to acquittal.

Confiscation/Forfeiture

Given then, that in most metropolitan areas of the country, the court calendars are crowded and the jails are full, what meaningful sanctions exist when an otherwise nonviolent drug user is caught purchasing or holding drugs? RICO-type sanctions are strong deterrents and community safety devices, protecting the community from the use of various means of transportation in crimes and from irresponsible operators who may be under the influence of drugs or fleeing the police. Except for the most affluent of criminals, forfeiture of vehicles, funds, property, or driver's licenses are all strong incentives to comply with the law.

Media Support

Word-of-mouth communication that it is unwise to "score" in a particular area is too slow to achieve the desired impact in reducing demand or cleaning up a given neighborhood. The news media was a valuable partner during the sting operations. Not only did the media help spread the word that police were cracking down on buyers, but the reporters were exposed to the dangers of police work, the professionalism of the police, and a real-life view of the

"The news media was a valuable partner during the sting operations."

enormous demand for drugs that until then had only been an abstract problem.

Editors gave each successive operation the same coverage after 20 stings that they gave the first. It seemed that the newness never wore off. Editorial writers, who help shape public opinion about drugs, accompanied officers on the stings and were as impressed by the police tactics as they were dumbfounded by the magnitude of the problem.

Risks: Officer Safety

Drug busts are always a risky business. During mass arrest sweeps, however, the potential is heightened. Of the 3,074 arrests covering 37 operations involving 2,219 man days of activity, there were 3 occasions where undercover officers were the intended targets of gunfire. Luckily, no officers were hurt, and arrests were made on all offenders without serious injury. As a precautionary measure, Miami's SWAT team is deployed on every drug raid. It was considered prudent to have SWAT on standby during the stings. The three occasions where gunfire resulted are thought to have resulted from insufficient identification by the arresting officers to passengers or others. As it becomes increasingly popular to impersonate police when staging a rip-off, it becomes more important that multiple officers display credentials when making a sting arrest. The possibility of recognition of undercover officers increases with each operation.

Delayed Arrival Times On Calls For Service

Commitment of large numbers of personnel always carries the risk that routine dispatching of calls for police

service will be delayed or that normal preventive patrols will have to be sacrificed. Our studies have shown that there has been no measurable negative impact on service to the public; an analysis of delayed response to calls for service showed no significant difference during the hours of stings as opposed to other times of the day.

Displacements

Any time selective targeting is used, the probability is high that crime is not reduced as much as it is displaced to other parts of the community, perhaps to nearby cities. It appears, however, that displacement is not occurring to any significant degree. Buying patterns are not easily reestablished; the infrastructure and support networks take time to rebuild. Other jurisdictions are now employing simultaneous strategies to suppress drug sales in their areas.

Successes

Traditional measures of success do not apply to mass arrest tactics. Invariably, conviction rates are low given that the jails are full and that a majority are first offenders in the eyes of the court, despite years of drug abuse. A more-fundamental set of criteria ask the following questions: Were the objectives accomplished? Is the operation cost-effective? What is the recidivism rate? Is the community safer?

All of these indicators show results which exceeded expectations. In addition, the stings provided unexpected dividends in the form of increased morale, citizen support, community awareness, media support, and legislative awareness which is stimulating lawmakers to enact laws at the State and Federal level aimed at curbing the de-

mand for drugs and providing law enforcement with the tools to combat crime.

As of March 6, 1987, stings alone have netted 927 felony arrests, 2,147 misdemeanor arrests, 153 computer "hits," seizure of 1,000 vehicles, and forfeiture of \$73,577. Personnel committed to the 37 stings amount to 20,459 manhours or an average of 6.6 hours per arrest. Sting productivity is significantly better than the average of 19.2 hours of field-hour per arrest in uniform patrol. Overtime costs are less than half of the monetary forfeitures. As a result, the program (while not generating a positive cash flow) is at least paying for itself without draining the taxpayers.

Since April of 1986, total drug arrests average 665 per month. By the end of the year, total drug arrests exceeded 7,000. That is twice the department's drug arrests for 1985.

Of the 3,074 people arrested during a sting, only 12 have been caught more than once, a good indicator that the demand has been reduced. If demand were unaffected, the normal "learning curve" would dictate that arrests-per-manhour would increase in relation to the officers' increased proficiency. The opposite has occurred. Officers are having difficulty in sustaining their momentum. Arrests per operation have declined despite high initiative. The once notoriously dangerous areas are returning to places where a family can live free from fear.

Anyone desiring more details about operational aspects of stings, buy-busts, or apartment closures should contact Lt. John Brooks, Miami Police Task Force/SNU Commander, (305) 579-6580.

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Selecting An Automated Fingerprint Identification System

"A comprehensive benchmark test, coupled with in-depth documentation and scientific evaluation, will provide administrators with an objective basis to select an AFIS system for their agency."

By

MICHAEL J. FITZPATRICK

*Forensic Science Administrator
Division of Forensic Services and Identification
Department of State Police
Springfield, IL*

EDITOR'S NOTE:

This article reports on benchmark testing used by the Illinois Department of State Police to select an AFIS system for their agency. It should be noted that the National Bureau of Standards and the International Association for Identification are cosponsoring the development of a National AFIS Benchmark Test Standard which is near its final phase/stage of completion.

Automated fingerprint identification systems (AFIS) are replacing labor-intensive, manual fingerprint systems in many law enforcement agencies across the country. The speed and accuracy of AFIS in searching and identifying inked fingerprints and latent prints are little less than astounding. Agencies which are considering and/or are in the process of acquiring an AFIS system know that space-age technology does not come cheap. Although the per case cost of AFIS is a bargain, the purchase of an AFIS and related costs for facilities, personnel, communications, etc., represent a major expenditure of funds.

There are several AFIS vendors,

each claiming their system is superior. Thus, administrators face a difficult task in selecting the system that will best satisfy their agency's needs.

One major element of the selection process is the benchmark testing of the systems that meet the requirements specified by the agency. The Illinois Department of State Police developed and used a unique latent print benchmark test as part of its selection process. The test outlined in this article is but one of several tests developed and used by law enforcement agencies. The recommendations are based on the experience of the Illinois AFIS Task Force.



Mr. Fitzpatrick



Jeremy D. Margolis
Director of State Police

Benchmark Test

According to Webster's dictionary, a benchmark test is a "point of reference from which measurements can be made." In preparing a benchmark test, decisions have to be made as to what will be measured and what points will be used as references for the measurements. In the field of fingerprint identification, benchmark tests can be subdivided into the two basic operational areas — 10-print identification and latent print identification.

The latent print segment of the benchmark test is more complex and demanding than the 10-print segment. This is due to crime scene latent prints being chance impressions, usually consisting of a low number of minutiae deposited by various digits of the hands and areas of the fingers and thumbs. In contrast, 10-print cards contain rolled inked impressions of known digits and will contain anywhere from 50 to 150 minutiae.

AFIS systems and benchmark tests are very technical in nature, so it would be wise for administrators to appoint technical personnel to an AFIS design and selection committee at the onset of the project. The persons selected to design and develop the latent print benchmark test should be senior latent print examiners (fingerprint experts), with basic knowledge of the AFIS systems currently on the market and in use by law enforcement agencies, an in-depth knowledge of the existing latent print operational procedures, and an understanding of

the benefits and changes that will result from the acquisition of an AFIS system.

What Will Be Tested

The next step is identifying what will be measured and prioritizing the measurements from paramount to desirable. The accuracy of searching and identifying 10 prints and latent prints with the inked 10-print data base is the paramount measurement of an AFIS system. Obviously, if the system cannot find the matching print, then what value is it?

Other measurements include accuracy of the minutiae being captured and stored in the AFIS system in relation to the actual minutiae recorded on the 10-print card, accuracy of the minutiae recorded on the optic disc and displayed on the verification screen for comparison and identification purposes, and the resolution of the optic disc image displayed in the screen for comparison purposes. System features should also be tested, such as the latent print auto encoder feature, CAXI search feature; split screen image placement, movement, zoom, color reversal, position reversal, and image copy quality; facsimile subsystem; and equipment ergonomics features.

As AFIS systems evolve, additional features will surface for testing. The test should be designed to obtain data pertaining to the weak and strong points of each system tested, which will be of considerable value in finalizing the actual design and operation of the selected system and in training latent print examiners. The test design should

"The accuracy of searching and identifying 10 prints and latent prints with the inked 10-print data base is the paramount measurement of an AFIS system."



Latent print examiners reviewing a latent print prior to conducting a search.

be in layers so that if two or more vendor systems are equal in the primary areas, the measuring process will proceed through the layers until one system surfaces as the most acceptable.

Test Philosophy and Protocol

Benchmark test philosophy and protocol should be established. The test should be as scientific as practical, and each agency should control all aspects of the test with minimal vendor participation. Agency latent print examiners should select the latent prints for the test and the corresponding matching 10-print cards. The latent test print minutiae that will be encoded and used for the test should be predetermined and plotted. The plotted minutiae should consist of actual minutiae that would be used in the identification of latent prints.

Agency latent print examiners should encode and search all latent test prints. No vendor suggestions or directives relative to deviating from the pre-plotted test minutiae should be entertained during the test. The time spent at the test site should be minimal. Any special techniques or training (such as tracing) should be provided by the vendor prior to the test. Any unique latent test print preparation tasks, such as tracing, should be performed by the agency latent print examiners prior to traveling to the test site.

The computation of the test results should be objective, using scientific and mathematical data, and subjective results should be kept to a minimum. The benchmark test should test the system and not the skills of the operator. The test commences with the conversion of

the 10-print cards by the vendor and concludes after the test results are analyzed. No test results need be given to the vendor during the test, but the vendor should be permitted to research the test prints after the test is completed. The agency should review the results of vendor-conducted searches and reserve the right to include or reject the vendor-search results as part of the benchmark test.

Size of Data Base and Number of Test Prints

The size of the 10-print background data base (number of 10-print cards recorded in the test data base) is open to the discretion of the agency. In keeping with the philosophy of the Illinois test, the vendor's data base was not used and the same background

"The type of latent prints to be used in the test should be representative of the case latent prints received and processed by the agency."

data base was used in the testing of all systems. The State of Illinois elected to use 4,600 10-print cards which were selected from its own master fingerprint file and were representative of the file composition, but did not allow for demographics, such as finger number or pattern type which, in effect, forced searches against a 46,000 finger file. The number of latent test prints must be identified and can range from 50 to 100. The State of Illinois placed the number at 70; 50 latent prints had matching impressions in the 10-print data base; 10 latent prints did not have matching 10 prints in the data base, and 10 (duplicate) latent prints had matching 10-print impressions in the data base and also matched 10 of the first 50 latent test prints.

Type of Latent Test Prints

The type of latent prints to be used in the test should be representative of the case latent prints received and processed by the agency. The agency's latent print examiner(s) should prepare

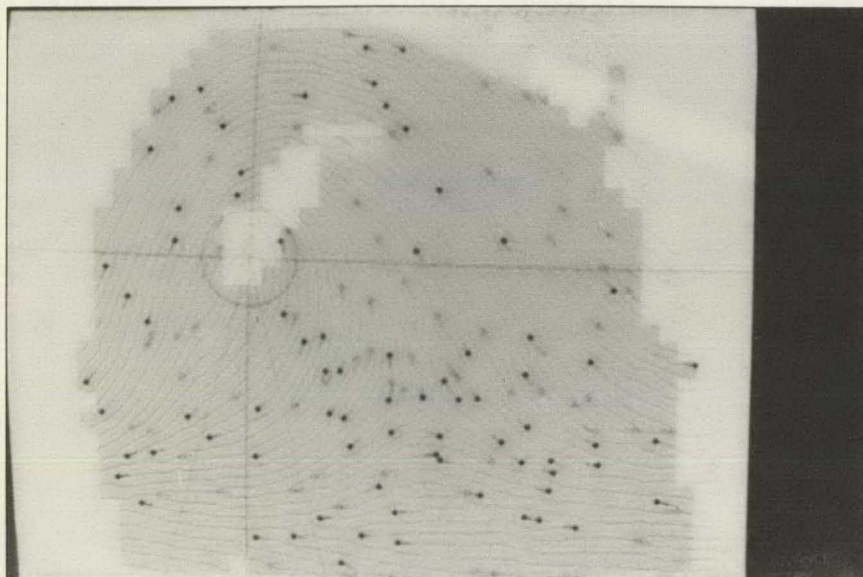
a specified number of latent benchmark test prints. Actual case latent prints do not have to be used for the test. There are several advantages in not using actual case latent prints. First, the location of the benchmark tests can be out of State or out of the country and the security of actual case latent prints should not be jeopardized. Also, control can be exercised in the type and minutiae number of each test print. In the event of the loss or destruction of a test print(s), a substitute can readily be developed, since latent prints developed in the laboratory are essentially the same as latent prints developed at the crime scene.

Plotting Minutiae

Minutiae are the ridge characteristics, sometimes referred to as points, that are used in the identification of latent and inked prints. The minutiae of the latent test prints and the corresponding minutiae on the 10-print card impression should be plotted, and only the plotted minutiae should be encoded

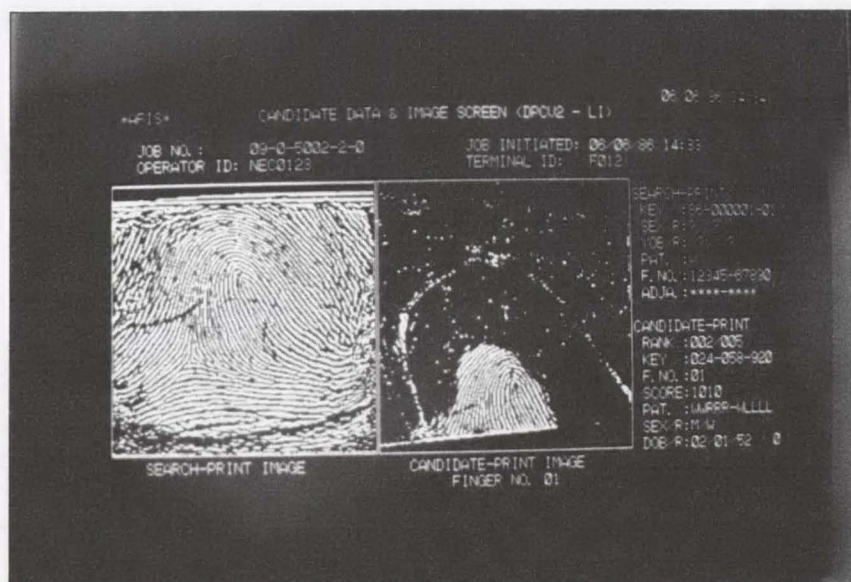
and searched during the benchmark test.

The plotted test print minutiae should be documented. Each latent test print and each corresponding matching 10-print impression should be photographed and an 8" x 10" photograph (5x) made of each. The latent test print minutiae on the photograph and the corresponding minutiae on the 10-print photographic enlargement are plotted with a red felt tip pen. The documented test print minutiae photographs will be of critical value in conducting the test and evaluating the results. The photographs will be used for verifying the presence of the test minutiae in the inked and latent test prints, detecting any problem areas that the AFIS system tested may encounter in the searching of various quality impressions, and comparing the inked print minutiae captured and recorded during the conversion of the 10-print cards and the minutiae captured and stored on the optic disc image system with the actual



*AFIS minutiae
detection image of
an inked print.*

Split-screen image displaying the candidate inked print and the latent search print.



inked print minutiae recorded on the fingerprint card.

Test Site Documentation

In order to measure the test results accumulated at each test site, various test documents should be obtained. The test documents deemed critical were printouts of all test search results and respondent lists, copies of all inked print impressions registered on the optic disc that were missed during the latent print searches, a representative number of 10-print minutiae skeletons, photographs of any images that could not be copied from the image screen, and copies of any vendor research and evaluation of missed identifications. All test site documents become the property of the agency and will be used to evaluate the system being tested. Another important reason to compile and obtain this enormous amount of docu-

mentation is to provide the agency and those persons responsible for evaluating the test the means for justifying all test conclusions and to defend those conclusions in litigation proceedings should the need arise.

Flexibility

The test should be flexible so that any problem encountered at the test site which would preclude a specific test and the collection of certain desired information can be modified to accomplish the desired objective without compromising the test. Test site difficulties can occur as a result of equipment problems, the inability of the system to perform the tasks, the nonavailability of the equipment to conduct specific tests, the lack of in-depth knowledge of the system by the agency, and misunderstanding of what the agency wanted to test versus the vendor's interpretation of a specific test.

Conclusion

A comprehensive benchmark test, coupled with in-depth documentation and scientific evaluation, will provide administrators with an objective basis to select an AFIS system for their agency. The test results will also provide the groundwork for designing the agency's system, training of personnel, and developing the operational procedures for the system. Law enforcement agencies desiring more information can obtain a detailed latent print benchmark test report by writing to Jeremy D. Margolis, Director, Illinois Department of State Police, attention Joseph Ginter, Deputy Superintendent, Illinois Department of State Police, Division of Forensic Services and Identification, 100 Armory Building, Springfield, IL 62706.

FBI

False Alarms — A Drain on Police Resources

By

G. H. KLEINKNECHT

Superintendent

St. Louis County Police Department

and

DENNIS A. GEORGE

Director

Bureau of Central Police Records

St. Louis County, MO

Most police administrators realize that an increase in a demand for service must be met by a corresponding increase in efficiency in order to offset fiscal constraints plaguing most public agencies today. For example, in 1977, the St. Louis County, MO, Police Department handled approximately 600,000 calls-for-service, and 2.5 percent, or 16,000, were for "alarm sounding," of which 99 percent were false. The number of alarm soundings, better known as false alarms, escalated at a rapid pace for several years prior to 1977. The 1977 cost for handling the false alarm calls, in terms of manpower and equipment, was nearly \$125,000.

The St. Louis County Police Department began exploring new ways to become more efficient in handling the "false alarm" problem by using modern

technology and the legislative process. The false alarm problem was identified and analyzed by the department from several viewpoints:

- Potential for injury to citizens and responding police officers,
- Exorbitant cost (\$125,000 annually in 1977),
- Unnecessary out-of-service time for officers investigating false alarm calls (insuring the building is secure, notifications to business/homeowners, etc.),
- Removal of officers from their primary duties of preventive patrol and law enforcement,
- Unnecessary police radio traffic,
- Unnecessary workload by complaint operators answering repeated automatic dialer alarms

and calls from alarm companies, and

—Complacency caused by repeated responses to alarm locations that continually reported a false signal.

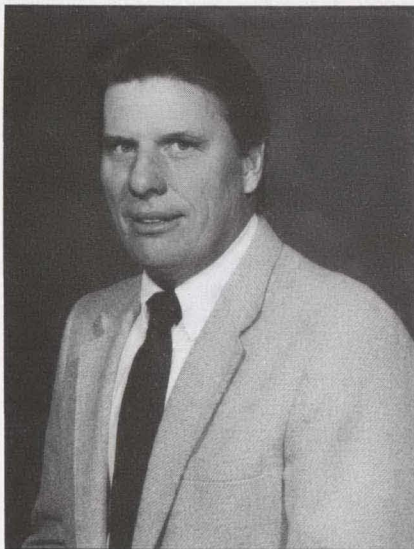
With these problems in mind, the department proposed a strict county ordinance and procedure which would eliminate, or significantly reduce, the false alarm problem.

Alarm Companies

Prior to 1977, alarm companies, appealing to the crime concerns of the community, were doing a flourishing business. Without regulation, there was no accurate way to determine the number of companies in operation or the quality of their workmanship. Faulty installation and undependable equipment



Superintendent Kleinknecht



Mr. George

were responsible for a large number of the false alarms. Some systems were so poorly designed or installed that a slight wind gust would activate the alarm. Likewise, the growing number of alarm users contributed to the problem by accidentally triggering their alarm systems. The false alarm problem was escalating at a rapid pace, primarily because alarm companies were able to operate without any form of control or penalty for improper alarm installations, alarm equipment, or maintenance.

After several months of researching ordinances and codes of other local governments around the United States, the department developed a regulatory package that was adaptable for St. Louis County. This package, although primarily targeting the alarm industry, was also designed to require the alarm user to share in the responsibility for the reliability of the alarm system. With public and alarm industry input, the St. Louis County Council adopted an ordinance.

The St. Louis County Alarm System Code was enacted into law on July 17, 1978, with three major requirements:

- 1) No person could engage in the business of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing alarm systems without a license issued by St. Louis County.
- 2) A service charge ranging from \$5 to \$25 was levied against the alarm owner when police responded to a false alarm, and
- 3) Automatic dialing systems were banned and audible alarms required a 30-minute automatic cut-off timer.

The ordinance specified that alarm company licenses be issued by St. Louis County for a period of 1 year for an annual fee. To be eligible, neither the applicant nor any employee or business associate may have been convicted of crimes involving moral turpitude or have had repeated violations of the alarm ordinance. The license application must include specifications of the alarm system(s) to be sold or installed by the company. In addition, a copy of detailed instructions must be provided to the alarm owner, a statement of repair and maintenance service must be made available, and the name and address of the person designated to receive the violations notice must be provided. The primary goal of the licensing ordinance was to eliminate the so-called "fly-by-night" or unqualified installer, and thereby, upgrade the reliability of alarm industry service and protection of the consumer.

The ordinance also addressed the alarm user by assessing a false alarm service charge aimed directly at false alarm abusers. It provided for a warning for the first alarm in any calendar year, a \$5 charge for the second false alarm, a \$15 charge for the third false alarm, and a \$25 charge for the fourth or any subsequent false alarm in the same year. The initial impact of the alarm ordinance with the staggered service charge was favorable. From 16,000 in 1977, false alarms dropped to 10,100 in 1978, and 9,020 in 1979; however, the trend began to reverse in 1980, when false alarms increased to 10,434. The figure rose to 12,093 in 1981 and reached 12,534 before the ordinance was amended at the end of 1982. The increase in false alarms was believed

"[The program] significantly reduced the false alarm problem and recovered a major portion of the cost for responding to false alarm calls."

to be due, in large part, to the increasing number of citizens and businesses obtaining alarm systems.

It became evident to those administering the program that the service charge system, with its initial warning letter and extensive bookkeeping requirements, was becoming too cumbersome, confusing to alarm users, and an inadequate deterrent to repeat false alarm offenders. An ordinance change was adopted which streamlined the program and reduced administrative processing time. This change was the replacement of the "sliding" service charge schedule with a flat rate fine of \$16. The amount of the fine was determined by the actual cost of having a police officer respond to a false alarm. The impact of the change was immediate and favorable. The number of false alarms leveled off and the revenue collected increased dramatically in each subsequent year.

Program Administration

The administration of the alarm program is the responsibility of two staff members — an alarm coordinator and an administrative clerk. Alarm activation reports, prepared by patrol officers who have responded to the alarm sounding, are forwarded to the alarm coordinator on a daily basis. Such reports are reviewed by the patrol officer's supervisor who recommends if a fine should be assessed. These decisions are based on whether the false alarm falls within the exceptions stated in the ordinance. Exceptions include:

- 1) Damaging, testing, or repairing of telephone lines,
- 2) When there is visible evidence that an attempted unauthorized

or illegal entry had been made, or

- 3) When an alarm is intentionally activated by a resident acting under reasonable belief that a need exists to call the police department.

When the alarm is false, that is activated intentionally, by inadvertence, or as a result of a system malfunction, procedures are initiated to collect the fine. The administrative clerk enters data from the alarm report into the computer. This causes the in-house computer program to generate a notification letter which is mailed to the alarm user. This notification letter includes the name of the business/homeowner, location, date, time, and file number of the false alarm report.

The notification letter was designed to include a tear-off portion which is mailed back to the department along with the fine to insure proper credit. The remaining portion of the notification letter is retained for the user's personal records.

If payment is not received within 30 days, as specified by the ordinance, the computer system generates a "final notice" letter, giving the user an additional 15 days to pay the fine. Statistically, more than 95 percent pay their fines within 45 days, leaving only a small percentage requiring any additional attention. Less than 1 percent require court action.

Although not designed to increase revenue, the amended ordinance has resulted in the collection of more than \$904,000 in service charges or fines since 1979.

Program Results/Benefits

Using management reports generated by the false alarm computer program, the alarm coordinator identifies frequent violators and any alarm companies which may be operating without a license. This information is provided to the Division of Uniform Patrol for follow-up investigation. Patrol officers will assist the alarm user in correcting false alarm problems/procedures.

Studies indicate equipment failure is the cause 60 percent of the time, and employee or citizen error is responsible for another 15 percent. These efforts have had a positive impact on false alarms, as demonstrated by a 13-percent decrease in the number of repeat violators.

The accomplishments of the St. Louis County Alarm System Code may be measured in many ways. The major goal of reducing the number of false alarms to make police officers more readily available for legitimate emergency calls was achieved immediately.

Since modifying the ordinance and enacting a set fine for each violation, the number of false alarms between 1981 and 1986 has stabilized at approximately 12,300 false alarms annually. During the same period, the number of alarm installations on homes and businesses has more than doubled. Therefore, while the number of false alarms remained relatively the same, the ratio of false alarms to the number of alarm systems in use decreased considerably.

The quality of alarm systems and their installation improved dramatically, either because alarm companies needed a better product to stay competitive or because they did not want to

be deluged with complaints from customers who were being charged false alarm fines. Regardless, the results of the program have been beneficial to the police department, since it has significantly reduced the false alarm problem and recovered a major portion of the cost for responding to false alarm calls. The alarm industry, likewise, has benefited from the alarm system code. Licensing requirements have forced the disreputable dealers out of the county, thereby upgrading business opportunities for the remaining legitimate, qualified companies.

Conclusion

As alarm systems become more and more sophisticated with advances in both electronics and computerization, citizens and police alike should consider them as excellent crime pre-

vention devices. The false alarm ordinance has proven to be a cost-effective, false alarm deterrent, and at the same time, has helped upgrade the quality of the alarm industry in St. Louis County.

Several area municipalities have enacted false alarm ordinances similar to St. Louis County. To further insure unqualified operators from conducting business, the Alarm Association of Missouri (with the backing of law enforcement organizations) is pushing for statewide regulation of the industry. Pending legislation calls for the appointment of a Missouri Private Security Alarm Business Licensing Board to determine rules, regulations, and established minimum educational, experience, and training qualifications for licensing. License holders would be tested twice yearly to determine their

knowledge and competency. The State law, when passed, will prevent conflicting local rules and regulations, yet will not ban the establishment of appropriate fines or other sanctions by local communities for false alarms.

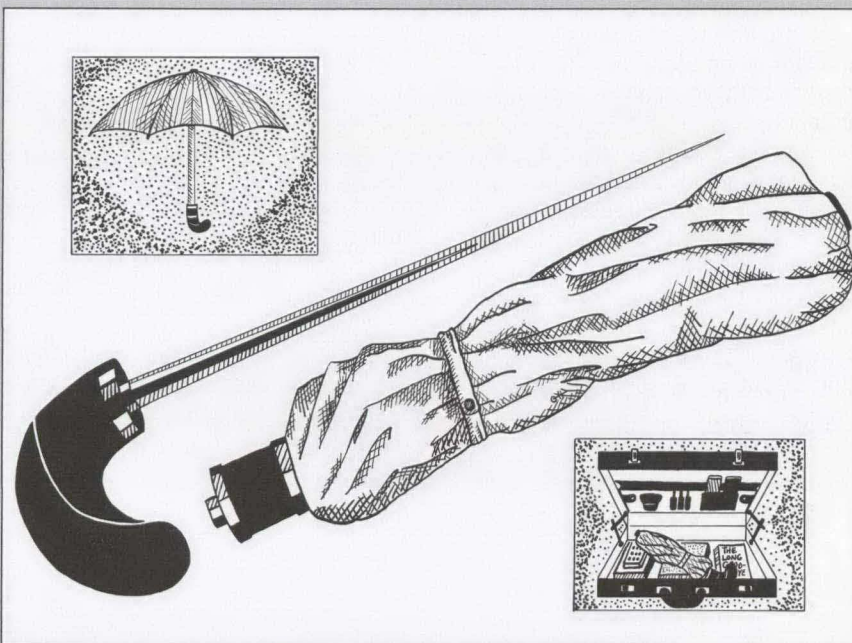
The St. Louis County False Alarm Code has proven to be a model of success and has met or surpassed all of its expectations. The problems associated with responding to false alarms have been significantly reduced, and in some cases, eliminated. Through proper research, design, and follow-up, this program has kept pace with the rapidly changing alarm systems market and should be considered a "must" for any police agency interested in controlling the use of its manpower while dealing with the ongoing problem of false alarms.

FBI

Umbrella Sword

A commercially produced 10-inch stainless steel blade hidden in a folding umbrella is now on sale in this country. The U.S. Customs Service warns that security personnel operating baggage X-ray machines may not be able to detect the potential threat of this weapon as the stiletto blade may be considered the shaft of the operating umbrella. The folding umbrella telescopes to only 17½ inches in length. The blade is attached to the umbrella's handle and is secured by a double lock system opened by unscrewing the ring below the handle one full turn.

Courtesy U.S. Customs Service
Office of Intelligence



New Intelligence Concept Curbs Crime

"[T]he Iowa Law Enforcement Intelligence Network . . . trains local officers in intelligence investigations, collects and disseminates intelligence on career criminals . . . and stresses cooperation among LEIN members. . . ."

By
THOMAS R. RUXLOW
Director
and
STEPHEN HENSON
Special Agent
Division of Criminal Investigation
Iowa Department of Public Safety
Des Moines, IA

In 1984, a new concept dealing with criminal intelligence storage, dissemination, and cooperation between law enforcement agencies was initiated. The Division of Criminal Investigation (DCI), under the direction of the commissioner of the Iowa Department of Public Safety, established the Iowa Law Enforcement Intelligence Network (LEIN). This program trains local officers in intelligence investigations, collects and disseminates intelligence on career criminals who cross jurisdictional boundaries, and stresses cooperation among LEIN members during intelligence investigations. Since its in-

ception, the LEIN membership has risen to 315 sworn officers from 197 law enforcement agencies throughout the State of Iowa and surrounding States.

In the past, State law enforcement agencies encountered criminal patterns which were substantially attributed to organized career criminals who roamed the State at will. Many times, agencies that had information on these criminals or their intent did not have the means to pass this criminal intelligence to those in need of it. In fact, some of the smaller law enforcement agencies in the State did not have the expertise, manpower, or equipment for a sus-

tained investigation on these sophisticated street-wise criminals.

LEIN Schools

Starting in the fall of 1984, the DCI initiated Iowa Law Enforcement Intelligence Network schools for local departments. The State of Iowa was divided into six regions, and selected officers from each region were admitted for training.

The curriculum for the 2-week schools concentrated on such topics as the development and use of informants, intelligence process and analysis, use of electronic surveillance equipment,



Mr. Ruxlow



Special Agent Henson

surveillance techniques, corruption investigations, legal aspects and considerations, and seizure and forfeiture proceedings, to name a few. The schools concluded with a 3-day field problem in which the participants actually spent time working on the criminal element and applying the skills they had just learned.

The DCI believes the LEIN school to be the cornerstone of the organization. Local officers, in learning how to deal with criminal intelligence, become better prepared to follow State laws and guidelines on its use and dissemination.

Central Coordinating Agency

LEIN is governed by local law enforcement agencies, with each region providing three regional coordinators. One coordinator from each region serves on the LEIN Executive Board, which sets policy and directs the daily operations of the program. DCI holds the seventh seat on the executive board.

Intelligence information which is collected by the membership is sent to DCI Headquarters in Des Moines, IA. The information is then reviewed, placed in a computer, collated by criminal analysts, and disseminated to the membership as directed by the submitting officer. DCI's Intelligence Unit acts as the central coordinating agency (CCA), with the responsibility of reproducing the intelligence forms and assuming the expense of mailing the information throughout the State.

Each year, a training conference is held in Des Moines. These conferences stress the continuing need for proactive investigative procedures and criminal

intelligence dissemination and assist members in promoting cooperation and maintaining contacts with each other.

Task Force Operations

All but 10 of Iowa's 99 county sheriff's departments have deputies involved in the LEIN program, as do most police departments in the State. Because career criminals cross jurisdictional boundaries, the LEIN organization facilitates task force operations by drawing on the resources, equipment, and manpower of LEIN departments.

Numerous task force operations have been successfully conducted on targeted career criminals. The most notable case, to date, involved a group of criminals who worked Iowa and surrounding States stealing farm chemicals and farm equipment. In the year prior to their arrests, Iowa suffered a loss in excess of \$500,000 in farm chemicals; following their apprehensions, the State recorded only a \$26,000 annual loss. Over 35 agencies provided manpower on the month-long surveillance which culminated in the arrest and prosecution of the offenders.

A Concept Worth Noting

In June 1986, the Council of State Governments reported on "Iowa's Law Enforcement Intelligence Network" in their report *Innovations*. The council reviews innovative concepts on the State level and publishes its findings nationwide. Since the publication, several other States, including Illinois and South Dakota, have established similar programs geared to collecting and disseminating criminal intelligence to law



Gene Shepard
Commissioner
Iowa Department of
Public Safety

enforcement, while other States are adapting the concept to meet individual needs.

End Results

Since implementation of the LEIN program, DCI has observed several distinctive advantages. One of the most obvious is the total cooperation between local, county, and State law enforcement agencies. Police departments, sheriff's departments, and State law enforcement officers are sharing information, manpower, and other resources in a common quest.

A data base of criminal intelligence is available to LEIN members, which assists them in ongoing investigations and also allows department heads to direct departmental goals according to criminal patterns.

Another result of the LEIN organization was the identification of the need

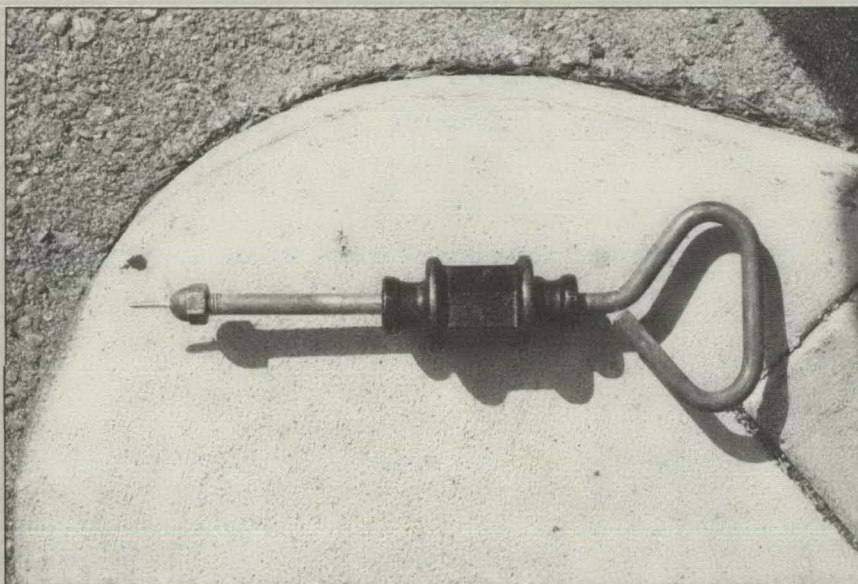
for specialized equipment. Monetary donations were made to LEIN to purchase frequency-hopping radios and other high-tech items used primarily in the proactive field. The equipment has been extensively used and is exchanged readily between LEIN agencies statewide, which has been extremely beneficial to smaller law enforcement organizations who did not have prior access to such equipment. In fact, statewide equipment pools are in the process of being established which will allow quicker access by all LEIN agencies.

Detailed information on Iowa's LEIN program is available by contacting the State LEIN Coordinator, S/A Stephen Henson, Iowa Division of Criminal Investigation, Wallace State Office Building, Des Moines, IA, 50309, (515) 281-3558.

FBI

Lock Punch Device

In a recent arrest of three juveniles for auto burglary, officers of the San Carlos, CA, Police Department confiscated a homemade lock punch device. One of the suspects took a threaded handle and slipped a weight over the shaft of the handle. The weight is secured by a cap nut, which has been drilled with a $\frac{1}{8}$ -inch hole. A sheet metal screw inserted into the hole acts as a punch. The weight slides freely on the shaft and can be used to open a door lock.



Criminal Patrol Techniques

"[The Criminal Patrol Techniques School is] designed to enhance the uniformed troopers' ability to detect, identify, and apprehend criminals traveling State highways."

By
COL. WILEY D. McCORMICK
*Superintendent
Louisiana State Police
Baton Rouge, LA*

FEBRUARY 1986—The identity of a fugitive on the FBI's "Ten Most Wanted List" was discovered by uniformed Louisiana troopers during a routine traffic stop. Another State police traffic investigation led to the arrest of another FBI "Top Ten" fugitive the following December.

JULY 1986—Officers stopped a Cadillac limousine for speeding. The driver produced five alias driver's licenses from various States. An inventory of the car revealed 10 pistols, 1 fully automatic .45-caliber machinegun with a silencer, and various items of police equipment, including 2 scanners. Information gained from this seizure led to the arrest of two fugitives being sought by the FBI.

AUGUST 1986—State police seized 44 pounds of cocaine. Troopers stopped a

1984 Chevrolet, again for a routine traffic violation, and located the cocaine in a hidden compartment.

JANUARY 1987—Twelve illegal aliens were turned over to the U.S. Border Patrol after troopers stopped a van to issue a traffic citation.

FEBRUARY 1987—Three unrelated traffic stops by State police netted over 650 pounds of marijuana and \$75,000 in cash.

The Concept

The Louisiana State Police (LSP) probably would not have made the above arrests had these criminals been detained in a "routine" traffic stop prior to July 1985. However, because of an enforcement program implemented at that time, uniformed troopers working traffic assignments are making signifi-

cant criminal arrests on a daily basis.

The new program, called "Criminal Patrol," resulted from fiscal necessity. When budget problems forced the State police to implement tremendous cutbacks in manpower and equipment, increased efficiency became essential. Many departmental operations were computerized; commissioned troopers were reassigned from office positions to enforcement and replaced by clerical personnel. The Detective and Intelligence Sections were merged, allowing many troopers to be reassigned patrol duties. While these dramatic changes worked well to keep the organization viable, any additional cuts would greatly reduce services to the people of Louisiana.

In the spring of 1985, a program instituted by the New Mexico State Police



Colonel McCormick

was fast becoming the talk of the law enforcement community. In their successful "pipeline" drug interdiction program, uniformed troopers were trained to stop drug couriers on the highways.

Due to the manpower shortage in the Criminal Investigation Bureau, an expanded version of this concept was determined to be more appropriate for Louisiana. Concern was also expressed for the relatively low ratio of criminal arrests to traffic contacts. Obviously, traveling criminals committed traffic violations too, but statistics showed that these criminals were apparently "slipping through the cracks." To address this issue, a training program was developed and implemented to teach troopers to look beyond routine traffic offenses.

Training

In June 1985, the first 5-day Criminal Patrol Techniques School was held at the Louisiana State Police Training Academy in Baton Rouge. Twenty uniformed State police troopers, traditionally assigned to traffic patrol, were trained to develop a keener sense in the detection of criminal activity. Since this first training session, over 200 troopers have been trained in criminal patrol techniques.

Instructors were recruited from various law enforcement and medical fields, as well as representatives from the U.S. Department of Treasury, Bureau of Alcohol, Tobacco and Firearms; National Auto Theft Bureau; and the U.S. Department of Justice.

The school was designed to enhance the uniformed troopers' ability to detect, identify, and apprehend criminals traveling State highways. The

broad range of critical areas included the recognition, recovery, and/or apprehension of missing and exploited children, stolen equipment and automobiles, drug traffickers, outlaw motorcycle gangs, illegal aliens, and air and marine smugglers. Instructors also addressed such topics as interview and interrogation techniques, courtroom testimony, the law of search and seizure, identification and coordination of crime scenes, use of the field interview and intelligence report, and defensive tactics.

The training program alerts troopers to view the "totality of the circumstances." Any motorist stopped for a moving violation may indeed be involved in criminal activity. The trooper is taught to scrutinize each violator quickly, recognizing both the limitations of State police authority and the constitutional rights of all persons. An officer simply asks a few routine questions and observes the reactions of the violator. This "attention to detail" provides vital clues to possible ongoing criminal activity.

These specially trained troopers continued traffic enforcement duties, while increasing their awareness when issuing a citation. To achieve maximum results, troop supervisors refrained from assigning these units routine traffic accident investigations, intersection point details, and other time-consuming duties.

The First Evaluation (45 Days)

An evaluation was conducted after a 45-day period to determine the effectiveness of the program. The results were beyond most expectations. A total of 345 criminal arrests were accomplished by the 21-man unit in only 45

"The training program alerts troopers to view the 'totality of the circumstances.' "



State police seized \$141,000 during a routine traffic stop.

days. Arrests included fugitives wanted for murder, child abuse, burglary, drug trafficking, and auto theft.

A Case History: Top Ten Fugitive Arrested

On February 13, 1986, at approximately 1:20 p.m., a Louisiana State trooper observed a 1979 Chevrolet Camero traveling eastbound on I-12 in Covington, LA. The trooper stopped the vehicle because it was being driven in an erratic manner.

The driver displayed a driver's license with the name Ronald Charles Beatz and stated that his passenger, James Robert Anderson, was the owner of the car. The trooper obtained a driver's license from each individual, as well as valid registration papers on the vehicle.

Perhaps prior to specialized training, the trooper would have issued a citation and allowed the occupants to go on their way. However, the trooper had noticed that both driver and passenger were nervous and overly talka-

tive. The trooper, who had been given very vague answers to "routine" questions, was now suspicious and asked Beatz to voluntarily sign a consent-to-search form, which he agreed to do.

The trooper found a small black leather zipper bag in the front of the car which contained a small amount of marijuana. Also found was a Baretta 9mm semi-automatic pistol in a shoulder holster, a .38-caliber revolver, burglary tools, a programmable portable police scanner, and aircraft navigation maps. Beatz and Anderson were arrested for possession of marijuana.

Upon arriving at troop headquarters, the trooper contacted Criminal Investigation Bureau investigators about the case. Perhaps prior to specialized training, the trooper would have booked the two suspects with possession of marijuana and continued with his daily activities.

The subsequent investigation produced startling results. Beatz was an alias being used by Ronald Charles

Johnson. Anderson was an alias being used by David Jay Sterling.

Sterling had committed a series of brutal rapes in Oregon, Oklahoma, and Washington before being apprehended and sentenced to 20 years at hard labor. Sterling, while confined in a mental institution, had escaped during March 1985, and joined forces with Johnson in a notorious series of armed robberies. The pair's method of operation had been to steal an aircraft, land on a roadway near a rural bank, rob the bank, and fly to safety. Sterling's criminal activity had placed him on the FBI's "Ten Most Wanted List."

The apprehension of a FBI "Top Ten" fugitive was indeed a morale booster for the unit and the department. The arresting trooper was presented the Meritorious Service Award issued for acts of duty greatly exceeding normal demand.

The Problem

Interestingly enough, the only organized opposition to the program has

"The Criminal Patrol Program has had tremendous positive impact on the operations of the Louisiana State Police."

OVERALL 20-MONTH STATISTICS JULY 1, 1985 — JANUARY 31, 1987

Apprehensions	
Aliens	1,035
Criminal Arrests	310
Fugitives Wanted by Other States	164
Fugitives Wanted by Louisiana	65
Fugitive Runaways	25
Narcotics Arrests	575
Traffic Arrests (DWI/Suspensions)	291
Total Apprehensions	2,465
Seizures of Vehicles	
223 Vehicles (NADA Value)	\$756,781
Property Seizures	
Weapons, Drug Paraphernalia, etc.	\$22,723
Narcotics Seizures	
Marijuana — 8,485 pounds	
Cocaine — 421 pounds	
Crack — 100 nuggets	
Other drugs including LSD, PCP, Hashish, Preludin, Amphetamine, Valium, and Methaqualone	
Value	\$21,294,165
Stolen Property Recovered	
Value	\$14,555
Stolen Vehicles Recovered	
117 Vehicles	
84 Apprehensions	
Value	\$687,900
U.S. Currency Seizures	
Cash	\$3,140,743

been from the attorneys for narcotics traffickers. Narcotics arrests account for only 24 percent of the criminal arrests made.

Louisiana is situated in a drug "corridor" located between the State of Florida and the west coast. Accordingly, a sizable portion of narcotics seizures/arrests stem from vehicles stopped with Florida plates. Additionally, Texas is also overrepresented in the criminal statistics because of its large population and geographic prox-

imity. Lawyers have accused the Louisiana State Police of "profiling" vehicles from these States. Yet, all investigations leading to a seizure or arrest have resulted after the traffic stop — not before it.

Troopers make traffic stops because they have observed a motor vehicle violation, not because a certain type vehicle has come into their view. Substantial seizures have resulted from inexpensive as well as expensive cars, trucks, vans, and motor homes display-

ing license plates from States throughout the country. Nor is the age, sex, or ethnic origin of the driver of any consequence. Troopers are trained to make stops for moving violations and to look for robbery suspects, fugitives, drug traffickers, car thieves, and other criminals. There has not been one complaint filed with the department concerning improper conduct by criminal patrol officers.

The Results

The Criminal Patrol Program has had tremendous positive impact on the operations of the Louisiana State Police. The effects are interrelated; increased criminal arrests as a result of uniform personnel working more closely with plainclothes officers has been a tremendous morale booster for the entire department.

Dramatic drug seizures and other criminal arrests have received a great deal of positive media attention. Success of the program has generated a certain notoriety within the law enforcement community. The Louisiana State Police presented its program at the National State Police Conference in New Mexico where 40 State police agencies were represented. Since that time, the agency has been instrumental in initiating similar criminal interdiction programs in Arkansas, Kansas, Mississippi, Missouri, Oklahoma, Georgia, Nebraska, California, and Montana.

The success of the Criminal Patrol Program had made it an integral part of Louisiana State Police. The message to traveling criminals is clear: "If Louisiana highways are used to perpetuate your illegal activities, the State Police intend to lengthen your visit as a 'guest' of the state!"

FBI

Book Review

The Automobile Theft Investigator,
by Claude W. Cook,
Springfield, IL Charles C. Thomas,
Publisher.
1987. \$38.25, 282 pages.

A detective sergeant in the Midwest found this book very useful in setting up a new auto theft investigation team, because of the limited amount of written material available on the investigation of auto thefts. The author of this work is the former commanding officer of the U.S. Army Crime Laboratory (Europe) and a former agent of the Colorado Bureau of Investigation. As he notes, auto theft investigation is not taught at most police academies and there are few texts around. This work, from probably the oldest and best non-academic law enforcement text publisher around, fills this gap.

As this author points out auto theft investigation is not taught in any depth at police training academies or in college criminal justice courses. And there is not a current text on the subject, because automobiles are, and always will be, in a transitory state. "Laws change, manufacturing practices change, and practices and techniques within this and allied fields are constantly being changed, modified, or superceded." But, the author goes on to describe a number of sources of information and assistance to the investigator, starting with the National Automobile Theft Bureau (NATB), the non-profit group supported by insurance companies, and the FBI, which the author notes "in recent years, the bureau has become *more willing* to work with local authorities." (Emphasis in original.)

Chapters in this work include the automobile as the object of crime, the

parts of the automobile and how they work, for the investigator to learn the terminology, motor vehicle identification numbers (VIN's), the restoration of obliterated serial numbers, thefts of motorcycles, boats, and marine equipment. Chapter 7, "Staying Alive," is the most thought-provoking, beginning with the author's determination to be the "oldest living law enforcement officer." He recounts his earliest patrol experience with an veteran officer who always carried rocks in his pockets to throw at cats. Asking the veteran why he hated cats, the author was told that cats were the veteran's best friends — he just wanted to keep them on their toes. When he entered a dark alley at night he wanted to see cats running out; when they don't, "someone else has been up that alley before me and he may still be there." The author also details how to "stay alive" legally with some sound advice on Constitutional matters and the law; his philosophy is that if the "system beats you in one skirmish, learn from the experience." This chapter also includes good advice on contacts with outlaw motorcyclists.

There is also a chapter on repair and upkeep of automobiles, useful to the automobile theft investigator so that he or she can "converse with some semblance of intelligence" with auto and truck mechanics, victims, witnesses, and suspects in these type of cases. This work also includes a glossary of terminology regarding the motor vehicle and tools used to repair same, plus truckers' language. All in all, a very useful text for the auto theft investigator.

SA Thomas J. Deakin, J.D.

Emergency Searches of Persons

"... awareness of the threat present in a particular situation is the key to correct on-the-spot decisions that avoid violations of citizens' fourth amendment rights"

By
JOHN GALES SAULS
Special Agent
Legal Counsel Division
FBI Academy
Quantico, VA

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.

Shortly after an armed bank robbery, a police officer approaches a man who matches a description of the robber. He orders the man, at gunpoint, against a wall and pats down his clothing, discovering a handgun. Another officer encounters a well-dressed businessman collapsed on a downtown street. Searching the man's pockets, he locates cocaine. A third officer interviewing a juvenile suspect in the investigation of a recent homicide spots what appears to be blood on the shoes of the youth. Without arresting the youth, he seizes the shoes.

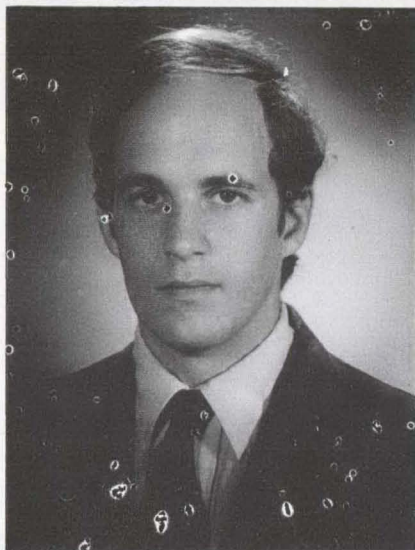
Each officer has made an on-the-spot decision to conduct a search, and each officer has seized what may be evidence of crime. The searches have been made without warrants, because the officers were confronted with circumstances that appeared to require immediate action. In the prosecutions that follow, the defendants will likely challenge the admissibility of the seized evidence, claiming it was obtained as a result of violations of their constitutional rights. Because the searches were performed without warrants, the burden of establishing their legality will rest upon the government.

What emergency circumstances justify an officer searching, without a warrant, a person who is not under arrest? This article seeks to answer that

crucial question through an exploration of the "emergency" or "exigent circumstances" exception to the fourth amendment warrant requirement.²

Courts commonly recognize three threats as providing justification for emergency warrantless action — danger to life, danger of escape, and danger of destruction or removal of evidence. Presence of any one of these threats may provide justification for a warrantless search of a person. Because there is one legal standard for emergency action based upon danger to life and a different one where the threat is risk of escape or destruction of evidence, awareness of the threat present in a particular situation is the key to correct on-the-spot decisions that avoid violations of citizens' fourth amendment rights and result in the judicial admissibility of evidence located.

This article will first examine U.S. Supreme Court and lower court decisions considering the legality of warrantless searches of persons based upon perceived threats to life. It will set forth the legal standard for such emergency searches and seizures and examine application of the standard by courts. In doing so, the article will focus on the circumstances courts commonly deem sufficient for establishing a threat to life and the allowable scope of action for dealing with the threat. It will then similarly examine warrantless searches of persons based upon perceived



Special Agent Sauls

emergency threat of destruction of evidence. Because an officer, having probable cause to believe a person has concealed on his body information that will prevent the escape of another, will almost always possess probable cause to arrest that person (and therefore the legal justification for a search incident to arrest), searches of persons based on the emergency threat of escape will not be examined.

THE EMERGENCY EXCEPTION TO THE WARRANT REQUIREMENT DEFINED

The fourth amendment protects persons in the United States from "unreasonable" searches of their bodies.³ The U.S. Supreme Court, in determining what government intrusions are reasonable under the fourth amendment, has expressed an emphatic preference for searches and seizures made pursuant to judicially issued warrants. As the Court has stated, the "Constitution requires that the deliberate, impartial judgment of a judicial officer be interposed between the citizen and the police . . . [and] searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment — subject to a few specifically established and well-delineated exceptions."⁴

In most situations, then, a "reasonable" search is one performed with a valid warrant. Consequently, for fourth amendment purposes, "reasonable" is a legal term with a meaning different from that attached to the word as it is commonly used. There are exceptions to the warrant requirement, "reasonable" warrantless searches, but these exceptions are created not by what a police officer might believe to be reasonable but by a court's assessment of necessity. The "exceptions are 'jealously and carefully drawn,' and there

must be 'a showing by those who seek exemption [from the warrant requirement] . . . that the exigencies of the situation made that course imperative.' " (citations omitted)⁵ The Court has recognized the need to provide for emergency situations ". . . where the societal costs of obtaining a warrant, such as danger to law officers or the risk of loss or destruction of evidence, outweigh the reasons for prior recourse to a neutral magistrate,"⁶ but the government bears the burden of showing the warrantless action was necessary.⁷

DANGER TO LIFE EMERGENCY

Because of the high value our society places on life, a circumstance that has a profound impact on the reasonableness of a warrantless search is whether such action was taken to neutralize a suspected threat to human life. The U.S. Supreme Court has stated that "[t]he Fourth Amendment does not require police officers to delay in the course of an investigation if to do so would gravely endanger their lives or the lives of others."⁸ The Court has approved warrantless searches of persons where there was a showing that such actions were taken to protect the lives of police officers or others.⁹ In fact, the Court has approved a lowered standard of proof — reasonable suspicion — for justifying warrantless searches based upon a perceived danger to life, so long as the action taken is no greater than necessary to eliminate the danger.¹⁰ Thus, ". . . where a police officer observes unusual conduct which leads him reasonably to conclude in the light of his experience that criminal activity *may* be afoot and that the persons with whom he is dealing *may* be armed and presently dangerous . . . he is entitled for the protection of himself and others in the area to conduct a carefully limited search . . . of such persons in an attempt to discover

"... courts require a greater factual justification for warrantless searches and seizures based on perceived danger of escape or destruction of evidence."

weapons which might be used to assault him." [emphasis added]¹¹ Therefore, where a warrantless search or seizure is made in response to a perceived threat to life, the government must be prepared to show that at the time of the action: (1) Facts were known that would cause a reasonable person to suspect that prompt action was necessary to protect human life, and (2) that the action taken was no greater than was necessary to eliminate the suspected threat.¹²

Persons Suspected to be Armed and Dangerous

Numerous warrantless searches of persons are based upon the suspicion that the person to be searched is armed and dangerous. Where no probable cause to arrest (and therefore no legal right to perform a search incident to arrest) exists prior to the search, such a search is legal only where the person is lawfully stopped and the officer has reason to suspect that he is presently armed and dangerous.¹³ Under these circumstances, the search must be no more intrusive than necessary to locate and control the weapon, usually a pat-down of the outer clothing.¹⁴

Such a "frisk" search is an excellent example of the danger to life emergency search, both in its justification and its limited scope. An officer who reasonably suspects that a person he confronts is engaged in criminal conduct and is armed and dangerous obviously has reason to suspect both his safety and that of others in the vicinity is threatened. He therefore knows facts that would cause a reasonable person to suspect immediate action is necessary to protect life. To eliminate the threat, he needs to disarm the person suspected to be dangerous. The least

intrusive means of accomplishing that goal is usually a pat-down of the outer clothing, with additional intrusion allowed only in the case that a weapon is detected and must be removed.

Other limited searches of personal apparel may be necessary to locate and eliminate the suspected deadly weapon. For example, in *United States v. Miller*,¹⁵ a Federal marshal looked into Miller's handbag based upon his suspicion that she was armed. On the day Miller's husband was to be arraigned for a felony, she entered the courtroom with a coat draped over her arm concealing a large handbag. She sat near the rear of the courtroom along the center aisle where her husband, who was in custody, would soon be walking. She rested her hand upon her partly opened bag. The marshal, aware of these facts and having been informed that a report had been received that Miller's husband might attempt an escape, opened Miller's bag further and located a firearm. In holding the marshal's actions reasonable under the fourth amendment, the court noted that coupled with the report that an escape attempt might occur, "... Miller's concealment of her handbag upon entry, the strategic seat she selected, and the convenient placement of her open bag made reasonable the belief that she might be armed."¹⁶ It further stated that the search of the bag was a minor intrusion and was necessary under the circumstances.¹⁷

Persons Suspected to Require Rescue

During the course of their duties, law enforcement officers occasionally encounter persons who are either unconscious or otherwise unable to vol-

untarily furnish information due to injury or illness. Humanitarian considerations, as well as an officer's duty to protect life, require a search under such circumstances to determine the cause of the person's condition in order to seek appropriate treatment. Despite the laudatory motive for this search,¹⁸ the end result is still an intrusion into the person's privacy. Consequently, this warrantless search must comply with the fourth amendment's "reasonableness" requirement.¹⁹

Under such circumstances, the high value society accords human life is given substantial weight in the process of determining the reasonableness of an officer's actions. As stated by the Florida Court of Appeals, "... preservation of human life is paramount to the right of privacy protected by search and seizure laws and constitutional guarantees; it is an overriding justification for what otherwise may be an illegal entry."²⁰ Thus, where an officer reasonably suspects that a prompt search of a person is necessary to discover a condition threatening life, he may conduct the search so long as it is limited to that which is necessary to accomplish the purpose, obtaining information necessary to facilitate prompt, appropriate treatment, or to protect the safety of the person searched.²¹

An example of the application of this principle is found in *Vause v. United States*.²² Vause was found on a public street in an unconscious condition by two policemen. Failing to rouse him, the officers called an ambulance. One of the officers searched Vause seeking identification for the purpose of preparing a report for the hospital concerning him. He located in Vause's pockets 15 cellophane envelopes containing a narcotic drug. In affirming the reasonable-

ness of the officer's search, the Circuit Court of Appeals for the District of Columbia Circuit stated that the "... search of one found in an unconscious condition is both legally permissible and highly necessary. There is a positive need to see if the person is carrying some indication of a medical history, the rapid discovery of which may save his life; there is also a need to identify persons so found in order to notify relatives or friends. That the cause of appellant's being unconscious was not known in no way impaired but rather enhanced the need and inherent power to search appellant."²³

Unconsciousness of a person in apparent need of aid is not a prerequisite to a legal search for medical or identifying data. In *People v. Smith*,²⁴ the Illinois Supreme Court approved a search by police of the wallet of a semi-conscious shooting victim that revealed the presence of drugs. The court stated, "[e]veryone is aware that a wallet typically contains cards or other materials identifying its owner. One of the reasons for this is to permit the owner's identification in the event of illness or accident. It is common for the identifying material to contain also the identification of the person to be notified in case of emergency."²⁵ Additional potential information supporting such a search included, "... information concerning his blood type, being a diabetic, being unable to tolerate certain medications or anaesthetics, [and] religious affiliation."²⁶

The object of a search to protect the ill or injured may be something besides medical or identifying data as well. In *Gilbert v. State*,²⁷ the Court of Appeals of Florida approved as reasonable a search of Gilbert's jacket for potential instruments of suicide. Officers

discovered Gilbert during pre-dawn hours staggering in the middle of a major thoroughfare. She was disheveled, disoriented, and apparently intoxicated and her clothing was torn. She stated that she had been assaulted by an unknown male. She was taken to the police station for the purpose of investigating the alleged assault. She cried and became more nervous and agitated and made statements to the effect that she wished she were dead and wanted to kill herself. Concerned that she might harm herself, one of the officers present took her jacket, and over her objection, searched it. Illegal drugs were discovered, and she was arrested. In holding that the drugs were admissible, the court noted that the facts known to the officers were sufficient to create a concern for Gilbert's safety. The court stated, "Under such circumstances, the reasonable belief that appellant might harm herself justified the search, and the fact that illegal drugs were found does not render the search illegal."²⁸

Items of evidence discovered during the course of subsequent, medically necessary emergency treatment are also admissible as the product of reasonable government action. For example, in *Borchardt v. United States*,²⁹ heroin revealed during the course of treating Borchardt for a drug overdose was ruled admissible in his prosecution for possession of the drug. Borchardt, a Federal inmate, was discovered unconscious in his cell. His heart stopped in route to the prison infirmary and he was revived by cardiopulmonary resuscitation. A physician's assistant at the infirmary, concluding Borchardt was near death from a drug overdose, administered three doses of Narcan, a drug used to reverse narcotic effects.

Borchardt was then transported to a municipal hospital. There, Borchardt, who had regained consciousness, signed a consent to treatment form and was examined. Borchardt told the examining nurse that he might have unknowingly or unintentionally ingested heroin. Borchardt then refused treatment to pump his stomach or induce vomiting and objected to additional doses of Narcan. Because he was becoming increasingly lethargic, indicating that the previous doses of Narcan were wearing off, Borchardt was administered another dose of Narcan. About 5 minutes later, Borchardt vomited nine full bags and two burst bags of heroin. The nurse gave the bags to correctional officers who were nearby. In ruling that the heroin was admissible, the court noted that the medical treatment was reasonably thought to be "... necessary to prevent respiratory arrest and death ..." and that disregarding "... Borchardt's objection to treatment was reasonable given the gravity of his condition and the fact that his judgment was impaired by the narcotic effect of the heroin."³¹

Reasonableness of such an emergency search is based on the reasonably suspected *necessity* of the action taken. Consequently, if the suspected threat to life is eliminated prior to the search, the right to search is lost. In *State v. Loewen*,³² for example, a law enforcement officer searched the tote bag of an accident victim after she was in a hospital emergency room and responding to treatment. No medical necessity was shown for additional information in order to assure proper treatment. In assessing the legality of the search, the court said it could not find "... under the attendant circumstances a reasonable person would

"... the intrusion must be limited by its justification and can be no greater than necessary to obtain the needed information."

have thought an emergency existed or continued to exist."³³ As a consequence, illegal drugs found during the search were ordered suppressed.

Persons Suspected to Possess Information Crucial to Preserving Life

Officers occasionally are confronted with facts that would cause them to reasonably suspect that a prompt search of a person is required to obtain information necessary to preserve the life of another. Under such circumstances, a limited search is reasonable. For example, in *United States v. Mayes*,³⁴ an infant was discovered unconscious and not breathing by rescue personnel responding to a call for help by the child's father. Resuscitation efforts were begun, and a wad of tissue paper was extracted from the child's throat and left in the apartment where she was found. The child was rushed to the hospital, and one of the rescuers was directed later by the treating physician to return to the apartment to retrieve the tissue. This direction was partly based on the physician's concern that part of the obstructing matter might have entered the child's lungs, necessitating emergency surgery. The tissue was seized, the child died, and the father was prosecuted for homicide. The court, in ruling the tissue lawfully seized, stated, "... the critical condition of Mayes's daughter constituted an exigency of sufficient proportions as to render the warrantless entry of Mayes's apartment reasonable for Fourth Amendment purposes."³⁵ Although there are apparently no reported cases of this sort involving the search of a person, there is no reason for the result to have been different had the wad of tissue been located on Mayes. As with

other emergency searches, the intrusion must be limited by its justification and can be no greater than necessary to obtain the needed information. Thus, once the tissue was located no further emergency search would be justified.

DANGER OF DESTRUCTION OF EVIDENCE EMERGENCY

In addition to danger to life, the U.S. Supreme Court has recognized two other emergency situations confronted by law enforcement as embodying exigent circumstances sufficient to justify warrantless searches and seizures. They are danger of escape³⁶ and danger of destruction or removal of evidence.³⁷ Although society clearly has an interest in preventing the escape of criminals and in preserving evidence necessary to the judicial process, this interest is a lesser one than the interest of preserving life. As a consequence, courts require a greater factual justification for warrantless searches and seizures based on perceived danger of escape or destruction of evidence.³⁸

An officer who has made a warrantless search of a person to prevent the destruction of evidence must be prepared to factually demonstrate each of the following: (1) That there was probable cause to believe at the time of the search that there was evidence concealed on the person searched; (2) that there was probable cause to believe an emergency threat of destruction of evidence existed at the time of the search; (3) that the officer had no prior opportunity to obtain a warrant authorizing the search; and (4) that the action was no greater than necessary to eliminate the threat of destruction of evidence.³⁹

The U.S. Supreme Court was presented with a warrantless search of a person in response to a perceived danger of destruction of evidence in *Cupp v. Murphy*.⁴⁰ Police officers took fingernail scrapings from Murphy after he voluntarily came to the police station after having been told of the death of his wife. The body of Mrs. Murphy, who had been strangled and whose neck bore bruises and lacerations, had been discovered in her house about 12 hours earlier. Murphy was not arrested until a month after the search, so the search incident to arrest exception to the search warrant requirement was not applicable. The U.S. Supreme Court nonetheless held the warrantless search of Murphy's person to have been reasonable. In doing so, the Court noted, "... the existence of probable cause, the very limited intrusion undertaken ... and the ready destructibility of the evidence. ..."⁴¹

In *Murphy*, the police officers possessed facts amounting to probable cause that Murphy had evidence of the homicide on his hands. His wife's residence had shown no signs of forced entry or theft when her body was discovered, suggesting that her assailant was someone she knew. She and her husband had experienced a stormy marriage and fought often. After learning of his wife's death, Mr. Murphy had volunteered his whereabouts on the evening of the killing without being asked and had expressed no concern or curiosity about his wife's fate. Murphy had a dark spot on a finger that appeared to be dried blood and rubbed his hands behind his back and in his pockets after being asked to submit to fingernail scraping. The fact that his wife's neck bore lacerations and the

fact of her strangulation made it probable that trace evidence existed on the hands of the killer. The recent occurrence of the crime, coupled with the spot on Murphy's finger and the facts pointing to him as the killer, made it probable that evidence of the crime was presently on his hands. Of course, probable cause to search alone was insufficient to justify an emergency search.

The officers also possessed evidence indicating the probability that an emergency threat of destruction of evidence was present. Trace evidence is by its very nature fragile. In addition, once Murphy became aware of their interest through their request of consent to scrape his nails, he began actions apparently intended to scrub away the evidence.

The officers had no prior opportunity to obtain a warrant. Their probable cause to search was largely based upon their recent observation of Murphy, and the threat of destruction of evidence arose immediately thereafter.

As a consequence, the officers were required to act or evidence would vanish. In choosing their course of action, they selected the least intrusive option — an immediate scraping of the nails. This caused Murphy much less discomfort and inconvenience than would have physically immobilizing his hands while a search warrant was obtained. No other options appear to have been available.⁴²

Other courts have applied this destruction of evidence emergency doctrine to the search of persons.⁴³ For example, in *United States v. Juarez*,⁴⁴ agents of the Drug Enforcement Administration had probable cause to believe that Juarez was in possession of \$4,000 that he had received in a bar

a few minutes earlier, which was evidence of his involvement in the sale of heroin. They searched him without arresting him or obtaining a search warrant and located the money concealed in his sock. In holding the search to have been reasonable, the U.S. Circuit Court of Appeals for the Fifth Circuit noted the recent acquisition of probable cause and the likelihood that the evidence would vanish forever if the agents delayed to obtain a warrant and stated the agents faced a "'now or never' situation,"⁴⁵ and that their response to it was reasonable under the fourth amendment.⁴⁶

It is important to note that an officer performing an emergency search to prevent the destruction of evidence may only take the least intrusive action necessary to eliminate the threat of destruction. Where the evidence is believed to be concealed on a person, the least intrusive action is to locate and gain control of the evidence so that it may be protected. Where the evidence is believed to be concealed in a separate container, such as a package or briefcase, the least intrusive action is to seize and control the container. Once the container is controlled, the threat to the evidence is eliminated, and a search of the container should be postponed until after a warrant is obtained.⁴⁷

SUMMARY

Returning to the hypothetical situations presented at the beginning of this article, each officer is confronted with circumstances apparently requiring an immediate search. The officer approaching the suspected bank robber suspects the man is armed and dangerous. He pats down his clothing, locating a gun. If the gun is to be admissible in court, the officer must be

prepared to show at the time of the pat-down search that he knew facts that would cause a reasonable person to suspect that the suspect was armed and dangerous. This standard of proof, short of probable cause, is allowed because the search was made in response to a suspected danger to life. The officer must also be prepared to show that the scope of his search was no greater than necessary to accomplish this purpose — locating and controlling deadly weapons.

The officer confronted with the unconscious businessman is also faced with a danger to life search. He, however, is searching for information necessary to preserve the life of the businessman — medical information, the names of friends or relatives of the man who might provide medical information, the name of the unconscious man, and the cause of the unconsciousness. If the cocaine he locates in the man's pocket is to be admissible in court, the officer must show that at the time of his search, he knew facts that would cause a reasonable person to believe a search of the man was necessary to preserve his life. The fact of the man's unconsciousness, coupled with the common knowledge that persons in our society carry identification and medical information, will likely suffice.

The third officer who seizes the apparently blood-spattered shoes of the juvenile homicide suspect faces a higher factual burden. Since his search is for the purpose of protecting evidence from destruction, he must be able to demonstrate that at the time he conducted the search he knew: (1) Facts that would cause a reasonable person to conclude that it was probably true that evidence of a crime was

“... an officer performing an emergency search to prevent the destruction of evidence may only take the least intrusive action necessary to eliminate the threat of destruction.”

present on the shoes; (2) facts that would cause a reasonable person to conclude that it was probably true that the evidence would be destroyed if he delayed his search to get a warrant; (3) that there was no prior opportunity to obtain a warrant; and (4) that the action taken was the least intrusive means to eliminate the threat of destruction.

CONCLUSION

This article has set out requirements for emergency searches of persons based upon threats to life and threats of destruction of evidence. Because the requirements differ depending upon the class of emergency threat involved, it is essential that officers evaluating the lawfulness of a proposed emergency search determine which class of threat is present. Once that determination is made the appropriate standard may be applied to the facts known. If a warrantless search is necessary, clear awareness of the threat involved will also facilitate limitation of the search to that action necessary to eliminate the threat.

FBI

Footnotes

¹The right to do a full search of the person of an arrestee is well established, see *United States v. Robinson*, 414 U.S. 218 (1973), and is justified by the arrest rather than emergency circumstances.

²For a discussion of emergency searches of premises, see Sauls, "Emergency Searches of Premises," *FBI Law Enforcement Bulletin*, vol. 56, No. 3, (Part I) March 1987, pp. 23-30, No. 4, (Conclusion) April 1987, pp. 24-30.

³*Terry v. Ohio*, 392 U.S. 1 (1968).

⁴*Katz v. United States*, 389 U.S. 347, 357 (1967).

⁵*Coolidge v. New Hampshire*, 403 U.S. 443, 455 (1971).

⁶*Arkansas v. Sanders*, 442 U.S. 753, 759 (1979).

⁷*McDonald v. United States*, 335 U.S. 451 (1948).

⁸*Warden v. Hayden*, 387 U.S. 294, 298-99 (1967).

⁹*Terry v. Ohio*, supra note 3; *Adams v. Williams*, 407 U.S. 143 (1972).

¹⁰*Id.* See also *Warden v. Hayden*, supra note 8; *Mincey v. Arizona*, 437 U.S. 385 (1978). The U.S. Supreme Court has yet to decide whether reasonable

suspicion is the standard by which the reasonableness of all danger to life emergency searches should be measured. The Court has stated, however, that probable cause is not always the standard by which the legality of a search should be measured, even where the search constitutes a substantial intrusion into a person's privacy. "Ordinarily, a search — even one that may permissibly be carried out without a warrant — must be based upon 'probable cause' to believe that a violation of the law has occurred. See, e.g., *Almeida-Sanchez v. United States*, 413 U.S. 266, 273 (1973); *Sibron v. New York*, 392 U.S. 40, 62-66 (1968). However, 'probable cause' is not an irreducible requirement of a valid search. The fundamental command of the Fourth Amendment is that searches and seizures be reasonable, and although 'both the concept of probable cause and the requirement of a warrant bear on the reasonableness of a search, ... in certain limited circumstances neither is required.' *Almeida-Sanchez v. United States*, supra, at 277 (Powell, J., concurring). Thus, we have in a number of cases recognized the legality of searches and seizures based on suspicions that, although 'reasonable,' do not rise to the level of probable cause. See, e.g., *Terry v. Ohio*, 392 U.S. 1 (1968); *United States v. Brignoni-Ponce*, 422 U.S. 873, 881 (1975); *Delaware v. Prouse*, 440 U.S. 648, 654-655 (1979); *United States v. Martinez-Fuerte*, 428 U.S. 543 (1976); cf. *Camara v. Municipal Court*, supra [387 U.S.] at 534-539. Where a careful balancing of governmental and private interests suggests that the public interest is best served by a Fourth Amendment standard that stops short of probable cause, we have not hesitated to adopt such a standard." *New Jersey v. T.L.O.*, 469 U.S. 325, at 340-341 (1984).

¹¹Supra note 3, pp. 30-31.

¹²Supra note 9.

¹³*Id.* For an excellent discussion of investigative detention and frisk searches, see Hall, "Investigative Detention: An Intermediate Response," *FBI Law Enforcement Bulletin*, vol. 54, No. 11, (Part I) November 1985, pp. 25-31; No. 12, (Part II) December 1985, pp. 18-23; vol. 55, No. 1, (Conclusion) January 1986, pp. 23-29.

¹⁴*Id.*

¹⁵468 F.2d 1041 (4th Cir. 1972), cert. denied, 410 U.S. 935 (1973).

¹⁶*Id.* at 1045.

¹⁷*Id.*

¹⁸A number of courts seem to require the presence of this life-saving motive before they are willing to approve such a search. See, for example, *People v. Mitchell*, 347 N.E.2d 607 (N.Y. 1976), cert. denied, 426 U.S. 953 (1976). Because motive is often difficult to determine, it appears more illuminating to focus on the facts known to the officer at the time of his action in weighing whether the action was reasonable. If an officer's action is reasonable under a given set of facts, it should be lawful regardless of what the officer's motive might have been at the time. See *Maryland v. Macon*, 472 U.S. 463 (1985), at 470-471, noting "[w]hether a Fourth Amendment violation has occurred 'turns on an objective assessment of the officer's actions in light of the facts and circumstances confronting him at the time.' *Scott v. United States*, 436 U.S. 128, 136, (1978), and not on the officer's actual state of mind at the time the challenged action was taken." Motive should be considered, if at all, only to the extent it bears on credibility.

¹⁹*Vause v. United States*, 370 F.2d 250 (D.C. Cir. 1966).

²⁰*Webster v. State*, 201 So.2d 789 (Fla. App. 1967).

²¹*Terry v. Ohio*, supra note 3. See also *United States v. Dunavan*, 485 F.2d 201 (6th Cir. 1973).

²²Supra note 19.

²³*Id.* at 252.

²⁴254 N.E. 2d 492 (Ill. 1969).

²⁵*Id.* at 495.

²⁶*Id.* at 496.

²⁷289 So.2d 475 (Fla. App. 1974).

²⁸*Id.* at 476, 477.

²⁹809 F.2d 1115 (5th Cir. 1987).

³⁰*Id.* at 1118.

³¹*Id.* Although the court reserved ruling on whether a nurse of a municipal hospital was a government agent and thereby subject to the restraints of the 4th and 14th amendments, the Supreme Court has made clear that government officials besides police officers are so restrained. See *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).

³²647 P.2d 489 (Wash. 1982).

³³*Id.* at 494.

³⁴670 F.2d 126 (9th Cir. 1982).

³⁵*Id.* at 128. A similar case is *Long v. State*, 310 So.2d 35 (Fla. App. 1975), in which a house was searched after officers were told a girl suffering a drug overdose of unknown type had obtained the drugs from the house. The search uncovering the drugs was approved as reasonable since it was suspected to be necessary to save the life of the stricken girl.

³⁶See *United States v. Santana*, 427 U.S. 38 (1976). See also *Warden v. Hayden*, supra note 8. Because an officer, having probable cause to believe a person has concealed on his body information that will prevent the escape of another, will almost always possess probable cause to arrest that person (and therefore the legal justification for a search incident to arrest), this article does not examine searches of persons based upon the emergency threat of escape.

³⁷See *Schmerber v. California*, 384 U.S. 757 (1966). See also *Vale v. Louisiana*, 399 U.S. 30 (1970).

³⁸Compare *Cupp v. Murphy*, 412 U.S. 291 (1973) with *Terry v. Ohio*, supra note 3.

³⁹See *Schmerber v. California*, supra note 37; *Cupp v. Murphy*, supra note 38.

⁴⁰Supra note 38.

⁴¹*Id.* at 296.

⁴²The action necessary to protect the evidence will vary depending on the nature of the threat. In *Schmerber v. California*, supra note 37, blood was drawn by medical personnel at an officer's direction from Schmerber despite his objections. Schmerber was at the time in a hospital emergency room receiving treatment for injuries he had suffered in an automobile accident. The officer had probable cause to believe Schmerber was under the influence of alcohol, and consequently that there was alcohol in Schmerber's blood. In this case, the threat to the evidence was the fact that without external interference, Schmerber's liver would eventually metabolize all of the alcohol from his blood. The least intrusive reasonable action was to immediately remove a sample of Schmerber's blood from his body. Although this is an apparently reasonable emergency search where supported by probable cause and performed by trained medical personnel, some courts have restricted its use to circumstances where the subject of the search, as in *Schmerber*, has been formally arrested. See *United States v. Harvey*, 701 F.2d 800 (9th Cir. 1983).

⁴³See *United States v. Rizzo*, 583 F.2d 907 (7th Cir. 1978), cert. denied, 440 U.S. 908 (1979); *United States v. Hall*, 739 F.2d 96 (2d Cir. 1984); *State v. Badger*, 450 A.2d 336 (Vt. 1982).

⁴⁴573 F.2d 267 (5th Cir. 1978), cert. denied, 439 U.S. 915 (1978).

⁴⁵*Id.* at 275.

⁴⁶*Id.*

⁴⁷See *Arkansas v. Sanders*, supra note 3.

WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 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.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on the fugitives' status.



Photograph taken 1981

Harry M. Bolding,

also known as H. M. Bolding, Harry MacClenton Bolding, Harry MacClinton Bolding, Harry McClinton Bolding, Harry MacClinton.

W; born 4-5-32; Gallatin, TN; 6'; 210 lbs; med bld; brn hair; brn eyes; ruddy comp; occ-construction superintendent; remarks: May be wearing a salt-and-pepper goatee. He was reportedly trained in various unspecified weapon systems while serving in the military. He is a gun collector and a self-described weapons enthusiast and expert; scars and marks: 1/2" scar on back of right hand; pox scars on forehead. Wanted by FBI for BANK LARCENY; CONSPIRACY

NCIC Classification:

16040512071201041608

Fingerprint Classification:

16	M	1	U	III	7
M	1	U	IIO		

I.O. 5025

Social Security Number Used: 569-40-4961

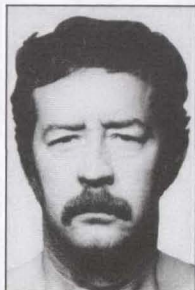
FBI No. 417 193 E

Caution

Bolding, known to own several weapons, is being sought in connection with the theft of over \$600,000 from the Armored Car Dispatch, Incorporated Company in Kennewick, WA. He should be considered armed and dangerous.



Left ring fingerprint



Photograph taken 1985

Carl Hampton Wade,

also known as Carl Wade, Carl H. Wade, Carl H. Wade, Jr., W; born 3-26-46 Anson, TX; 6'1"; 180 lbs; med bld; brn hair; green eyes; med comp; occ-bartender, surveyor, woodcutter; remarks: Diagnosed in the past as having epilepsy and was taking medication for epilepsy. Reportedly a heavy drinker. Enjoys hunting, fishing, and camping. Usually wears reading glasses; scars and marks: Scar on chin, scar on right knee, scar on left knee. Wanted by FBI for INTERSTATE FLIGHT-MURDER

NCIC Classification:

06TT52TT0411TTTTTT03

Fingerprint Classification:

6	S	1	Trt	4	Ref: T
S	1	T2t			R

I.O. 5031

Social Security Number Used: 459-70-6634

FBI No. 103 342 F

Caution

Wade is being sought in connection with a murder wherein the victim was shot in the stomach and head with a .44 magnum revolver. Wade should be considered armed and dangerous.



Right little fingerprint



Photographs taken 1979 and 1981

Gregory Tarkenton,

B; born 7-30-60; Philadelphia, PA; 5'7" to 5'11"; 150 lbs; med bld; blk hair; brn eyes; med comp; occ-store clerk, business manager; remarks: Tarkenton is reported to be a devout Muslim; scars and marks: Scar on corner of left eye.

Wanted by FBI for INTERSTATE FLIGHT-MURDER; ESCAPE

NCIC Classification:

09121010070810101009

Fingerprint Classification:

9	S	1	U	OII	7
S	1	U	OII		

I.O. 5021

Social Security Number Used: 163-54-0825

FBI No. 915 266 T8

Caution

Tarkenton, who is being sought as a prison escapee, was at the time of escape serving a life sentence for murder, wherein the victim was decapitated with a machete. Tarkenton should be considered armed, extremely dangerous, and an escape risk. Narcotics user.



Right thumbprint

WANTED BY THE FBI



Photographs taken 1982

Danny Michael Weeks,

also known as Robert Wayne Bullard, Jimmy Douglas, Bobby Salazar, Danny Weeks, Flaco Weeks, Reggie Lynn Williams, Reggy Lynn Williams, "Gato." W; born 1-19-54; Roswell, NM; 6'1"; 150 lbs; slender bld; blond hair; blue eyes; med comp; occ-roughneck; remarks: Reportedly speaks Spanish. Known to associate in the past with drug addicts and motorcycle clubs; scars and marks: 12" scar middle of abdomen; 2" scar lower right abdomen; 2" scar lower left abdomen; tattoos: Cross on right forearm, panther on chest, cobra on lower right forearm, zig zag man on upper left arm, peacock on outer left forearm, "Louisiana" on small of back.

WANTED BY FBI for INTERSTATE FLIGHT-ESCAPE; KIDNAPING

NCIC Classification:

23DI1720121768172016

Fingerprint Classification:

23 L 17 W IOO 12
L 1 R OOO

I.O. 5017

Social Security Numbers Used: 435-76-7081; 435-76-7180

FBI No. 673 335 J9

Caution

Weeks, who is being sought as a prison escapee, was at the time of escape serving a life sentence for armed robbery and murder. Weeks has been armed with handguns in the past and should be considered armed, extremely dangerous, and an escape risk. Narcotics user.



Right thumbprint



Photograph taken 1982

John William Farr,

also known as Herbert Cameron, Jay Dowell, Benjamin Grens, Clyde Hase, Clide Jack Price, Elmer Reicke, Robert G. Richardson, Charles W. Schultz, Frank Sterart, Reggie Stewart, and others. W; born 4-16-20 (true date of birth); 4-16-16; Detroit, MI; 5'8"; 150 lbs; med bld; gray hair; blue eyes; fair comp; occ-dry wall contractor, pressman, pilot, movie projectionist, painter, roofer; remarks: Farr is reportedly required to wear prescription lenses. He is known to be a heavy smoker and allegedly has emphysema; scars and marks: Scar on upper left arm, scar on upper left forearm; tattoos: Tattoo of a woman's head on inside of right forearm; possible tattoo of a woman's head on outside of upper left arm.

Wanted by FBI for BANK ROBBERY

NCIC Classification:

PO131118200913141419

Fingerprint Classification:

13 O 1 U OOO 20
S 17 U OOO

I.O. 5026

Social Security Numbers Used: 463-56-8753; 463-56-8735

FBI No. 1 045 356

Caution

Farr is being sought for a series of bank robberies for which he disguised himself with masks and wigs. Farr has been armed with a handgun in the past and should be considered armed, extremely dangerous, and an escape risk.



Left middle fingerprint



Photographs taken 1983

Salvatore Michael Caruana,

also known as Mike Bolero, Michael Carey, Salvatore Michael Caruano, Mike Cassidy, Michael Cavanaugh, T. W. Chapman, John Hurley, Mike Hurley, "Face," "Sonny," and others.

W; born 9-30-38; Malden, MA (true place of birth); Boston, MA; 6'; 175 lbs; med bld; blk (graying) hair; brn eyes; dark comp; occ-pilot, ice hockey arena owner/operator, burglar alarm and electronic intrusion device specialist, sport shop manager, automobile salesman; remarks: He is reportedly an accomplished fixed-wing aircraft pilot with multiengine and instrument ratings. He is reportedly extremely outgoing and personable and is an electronics buff with particular expertise in burglar alarms and electronic surveillance devices; scars and marks: scar on left jaw, 2" scar back right side of neck, 3" vertical surgical scar lower spine. Wanted by FBI for OPERATING A CONTINUING CRIMINAL ENTERPRISE; FAILURE TO APPEAR

NCIC Classification:

14540912071453091212

Fingerprint Classification:

14 M 1 R III 7 Ref: T
M 1 R III R

I.O. 5033

Social Security Number Used: 012-28-0393

FBI No. 816 171 B

Caution

Caruana, who is allegedly involved in narcotics trafficking, is being sought for failure to appear after being indicted on charges of marijuana smuggling. He is reportedly heavily armed, in possession of automatic weapons, and should be considered extremely dangerous and an escape risk.



Right ring fingerprint

Unusual Pattern

Although the appearance of this impression is somewhat unusual, the classification is that of the plain whorl. It consists of one or more ridges which make or tend to make a complete circuit, with two deltas between which, when an imaginary line is drawn, at least one recurving ridge within the inner pattern area is cut or touched. The tracing is meeting.



Change of Address

Not an order form

FBI

Law Enforcement Bulletin

Complete this form and return to:

Director
Federal Bureau of
Investigation
Washington, DC 20535

Name _____

Title _____

Address _____

City _____

State _____

Zip _____

Washington, D.C. 20535

Official Business
Penalty for Private Use \$300
Address Correction Requested

The Bulletin Notes

On November 22, 1986, Officer Robin Romano of the Melbourne, FL, Police Department, observed an individual shoot a female in the parking lot of a shopping center. When the subject saw Officer Romano approach, he shot him three times. Although wounded, Officer Romano returned gunfire until the subject was neutralized. Officer Romano and the lady were later released from the hospital, while the male subject was charged with attempted murder. The Bulletin joins Officer Romano's superiors on the Melbourne Police Department in commending his heroic action.



Officer Romano