

JULY 1966



# FBI

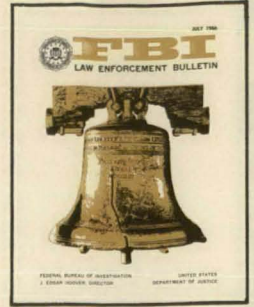
## LAW ENFORCEMENT BULLETIN



FEDERAL BUREAU OF INVESTIGATION  
J. EDGAR HOOVER, DIRECTOR

UNITED STATES  
DEPARTMENT OF JUSTICE

JULY 1966  
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THE COVER—The Liberty Bell. See Mr. Hoover's message on page 1.

# FBI

LAW ENFORCEMENT BULLETIN

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# MESSAGE FROM THE DIRECTOR

INDEPENDENCE DAY is a glorious and meaningful holiday. It commemorates the birth of a new Nation, conceived in liberty and dedicated to the belief that all men are created equal. It commemorates the courageous stand of American patriots for the principle that freedom under God is man's destiny. And it reminds us that there is still virtue in recognizing and supporting the ideals of our great heritage.

In the past 190 years, patriotism has been a sustaining power for America in her darkest hours. It has been a dominant force in our Nation's survival and in the preservation of the self-evident truths which were so dear to our Founding Fathers. However, some sophisticates today think an open show of patriotic emotion is old fashioned. Patriotic symbols and teachings are scorned and neglected. In a Nation founded on an unfaltering faith in God and made great by a rich reservoir of spiritual inheritance, it is shocking to now hear that "God is dead" and that patriotism is unnecessary. Is this trend the vision seen by our forefathers who, "with a firm reliance on the protection of Divine Providence," mutually pledged their lives, fortunes, and sacred honor to the establishment of independence? I think not.

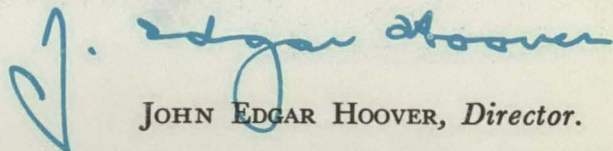
Love of country is a matter of the heart. It is a deep appreciation of the unalienable rights of life, liberty, and the pursuit of happiness. It is a sincere belief in our way of life and a determination to preserve it. Patriotism also is an open declaration of faith and confidence in our constitutional concepts and a heartfelt gratitude for the many blessings God has given to us. If

we love our country, why should we be ashamed to say so?

In much of the world today, young people are being indoctrinated with atheistic communism, a false dogma which imprisons the minds and souls of men. Communists and their followers are strong and dedicated. Their goal is to enslave the world. If young Americans, our future leaders, are to resist and turn back this international conspiracy, they must know what they stand for. They need to be well versed in and have full knowledge of our traditions of freedom. They should be taught not only by words but also by deeds. Their pride in our individual liberties and human rights, including the right to worship God, must be fierce and unshakable. They must be willing to defend these rights even unto death.

Meantime, our rights and privileges cannot endure unless each of us discharges the duties and obligations that go with living in a free society. We are governed by laws which protect and secure the rights of all citizens. One of our major duties, individually and collectively, is to respect and obey these laws. Those who obey only the laws they choose and violate the ones they dislike are undermining the concepts of democracy. Respect for law and order goes hand in hand with love of country.

The need of America in 1966 is for full-time citizens—patriots all, who have pride in our country and in its historic accomplishments. Let us profess our faith in the "living God." Let us shed the cloak of timidity and stand as proud and true patriots, defenders of the priceless heritage forged by the men of '76.



JOHN EDGAR HOOVER, *Director.*

JULY 1, 1966

# Profiles in Crime

*The FBI's "Ten Most Wanted Fugitives" Program—  
A Tribute to Cooperation*

"Ten Most Wanted Fugitives" display at FBI Headquarters as of June 1, 1966.



*Question: What is 5 feet 9 inches tall, weighs 164 pounds, is 37 years old, and has a lengthy criminal record sprinkled with violence?*

*Answer: The average FBI "Top Ten" fugitive.*

THE ABOVE BIT of descriptive data along with other interesting facts about some of the Nation's most dangerous criminals is revealed in a survey of the detailed records maintained during the first 16 years of the FBI's world-renowned "Ten Most Wanted Fugitives" program.

### **The Key**

This vigorous fugitive-catching project, which began on March 14, 1950, with the cooperation of the American press, has proved a highly valuable example of teamwork. It has achieved dramatic success, enlisting the cooperative efforts of the law-abiding public in fighting the criminal parasites constantly striving to undermine national law and order.

Indicative of the achievements of this program is the box score of "Top Ten" captures, which during the first 16 years totaled 215. What is more, everyday citizens, responding to an invitation to help protect themselves through alert vigilance, have directly aided in providing valuable information which helped in the location of 81

of these 215 former "Top Ten."

The FBI feels this program has greatly contributed to the solution of one of law enforcement's most perplexing problems, that of the fast-moving, far-ranging criminal fugitive. Concentrated and continuous publicity has proved exceedingly important in eliminating sanctuaries for these wanted criminals, and FBI Director J. Edgar Hoover has frequently paid tribute to the demonstrated public service interest of responsible American press media, such as newspapers, magazines, radio, and television.

### **Qualifications**

The time-honored criteria for selecting a candidate for the "Top Ten" list include, in addition to current serious crime charges, a long history of vicious and violent criminal behavior of such a degree that the fugitive is considered an acute menace to society. All of the carefully selected proposed additions to the list of "Ten Most Wanted Fugitives" are given final personal approval by Director Hoover.

### **Profile of the Hunted**

Some intriguing statistics have been compiled by the FBI concerning the criminals who have appeared on the "Top Ten" list during its first 16 years. In addition to the average height, weight, and age previously mentioned, a composite "Top Ten" fugitive at the time he was captured would have been on the list an average of 137 days and be captured some 930 miles from the scene of the crime charged against him. His lengthy criminal record, which almost invariably would have begun at an early age, would reflect progressively more serious crimes. He would have served several prison terms and, almost without exception, have been the recipient of some type of judicial leniency which he, in most cases, subsequently abused.

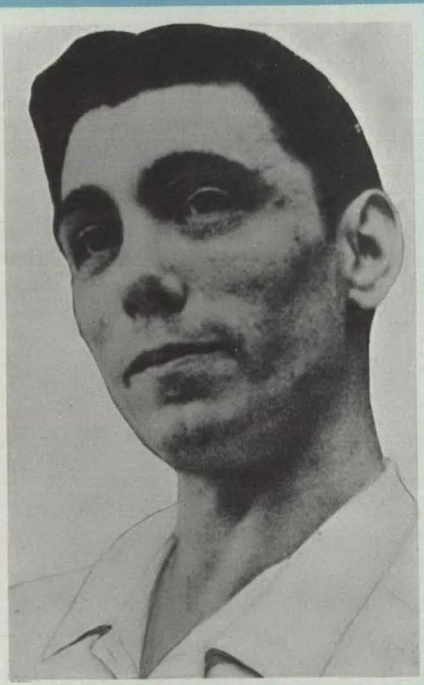
Some "Top Tens," such as Joseph Corbett, Jr., have gone to exhaustive lengths in their flight before being captured. Corbett, a California prison escapee, also sought for the kidnap-murder of Colorado industrialist Adolph Coors III, led Agents on a transcontinental manhunt which began in Chino, Calif., and proceeded through Denver, Colo., Atlantic City, N.J., and Toronto and Winnipeg, Canada. It ended with his capture by Canadian police, accompanied by FBI Agents, at Vancouver, British Columbia, Canada, on October 29, 1960. Convicted in Colorado of murder, Corbett has been sentenced to life imprisonment.

### **End of the Road**

The numbered days of furtive freedom have ended for more than two-thirds of these fugitives with their apprehension by FBI Agents. About one-fifth have been arrested by local authorities and several have been taken into custody jointly by local officers and the FBI. Nine of the apprehended "Top Ten" fugitives decided to surrender, one of them becoming so harried from the relentless FBI search that he telephoned the FBI's Miami office from a gas station and pleaded, "Come and get me, I'm tired of running from the FBI."

### **Little Room To Hide**

While "Top Ten" fugitives have been located in almost all of the States and the District of Columbia, the apparent appeal of sunshine and balmy breezes has been noted with interest, since 27 "Top Tennes" were nabbed in California and 13 in Florida. The other two most productive States have been New York, where 19 were captured, and Illinois, where 17 were found. So far, there have been no apprehensions of "Top Ten" fugitives in Alaska, Connecticut, Delaware,



Leslie Douglas Ashley, who performed in nightclubs as a female impersonator, was caught in Atlanta, Ga., in 1965.



Isaie Aldy Beausoleil, an auto mechanic, was apprehended in Chicago, Ill., in 1953 dressed as a woman.

Hawaii, Maine, Mississippi, Montana, or Rhode Island. And, although membership on the "Top Ten" has been exclusively male to date, it is fully expected that a female criminal, who has strayed severely from the path of righteousness, will some day gain the recognition of being the first woman on the list.

### "Moving Pictures"

Even though fingerprints remain the most practical positive means of identification, the undoing of many criminals has resulted from the presence of tattoos or other body markings. "Top Tens" have carried a variety of tattoos, with initials predominating, closely followed by names and nicknames of girlfriends and a variety of other designs, including the American flag, arrows, hearts, daggers, anchors, skulls, horseshoes, mermaids, and eagles. Favorite tattooed sayings on these individuals have included "Death before Dishonor," "Remember Pearl Harbor," "Born to lose," "Betty Boop," "Good Luck," "Aloha," "In memory of Mother," "Love to Dad," and "The South will rise again."

Some of the favorite pastimes of "Top Ten" fugitives have been gambling, drinking, frequenting race-tracks and nightclubs, portrait painting, canary raising, bowling, gun-smithing, target shooting, horticulture, judo, weight lifting, roller skating, pool, dancing, sculpturing, flying, fishing, motorcycling, and opium smoking. Reading matter for these individuals has ranged from detective murder mysteries, crossword puzzle books, and western fiction to the Bible.

### Guess Who?

Extreme attempts at disguise have been made. Isaie Aldy Beausoleil, a burly auto mechanic, is a case in point. He was caught in Chicago,

Ill., in 1953, dressed as a woman, complete with high heels and handbag. Daniel William O'Connor, sought in 1953 and widely publicized as a thin, youthful, clean-shaven fugitive, displayed a radically different appearance when caught in 1958. He was then 58 pounds heavier, had grown a heavy mustache, and had dyed his hair red. Leslie Douglas Ashley, a mental hospital escapee allegedly involved in a brutal murder, was known to perform in nightclubs as a female impersonator and to wear both men's and women's clothing. The search for Ashley ended in April 1965, when Agents captured him in Atlanta, Ga., where he was working in a traveling carnival as "Bobo the Clown."

### Foiled Again

Disguise attempts by "Top Ten" fugitives have repeatedly been foiled through the science of fingerprint identification. "Top Ten" fugitive Lloyd Reed Russell, for one, was identified by a fingerprint examination made by the sheriff's office in Spokane, Wash., after he had been slain in a gun battle by local police, following an aborted robbery. Jesse James Gilbert, a prison escapee sought for an Alhambra, Calif., bank robbery and the murder of a police officer, was positively identified through fingerprints when FBI Agents arrested him, despite heavy disguise, on a Philadelphia, Pa., street corner in February 1964. In spite of Gilbert's displeasure at being apprehended, he did confer a favorable testimonial upon the arresting Agents when he told them, "You men are real gentlemen, and if I had to be picked up, I'm glad it was by the FBI."

The growing use of disguise by fugitives also was evident in the case of Howard J. Barnard, a Houdini-like escape expert who was apprehended in Sacramento, Calif., in April 1964,



Daniel William O'Connor pictured as he looked when placed on "Top Ten" list in 1953.



O'Connor, 58 pounds heavier, when arrested in 1958.

after a stay of approximately 1 year on the "Top Ten" list. Captured only after being shot in the leg by local police while fleeing from a robbery site, Barnard, true to form, was heavily disguised with actor's makeup, golden-colored hair, and cotton stuffed in his nose and mouth to distort his features.

(Continued on page 19)



HON. HERBERT G. KLEIN

Editor,  
San Diego Union,  
San Diego, Calif.

New pressures are being placed on the well-established relationships between the police and the press.

The strain can be dangerous to both.

More thoughtful looks at the mutual press-police problems are needed in each community if each organization is to be able to continue to best serve its public.

To say this is a complex problem is an understatement. The role of the press relating to the police has almost as many facets as the dance of Salome.

In handling police stories, like everything else, the primary function of the press is obvious—to report the news. In police stories there usually is an emotional factor for the reader. In reporting the facts, the press sometimes finds itself interpreted in the role of critic—sometimes in the role of a friend. Editorially, sometimes the role is that of a judge, and other times that of a defender.

The complexity of the situation exceeds even the relationship between newlyweds during their first year.

# A Matter of Mutual Respect

## *Changes Noted*

During the past 20 years, there have been changes in police science almost as startling as the concepts of piercing outer space. Even atomic energy is now used in some means of detection. Police academies are common. And many of the officers are products of the growing police courses across the Nation. The policeman is a professional man.

We recognize that, but occasionally feel the police have not examined parallel changes with newsmen.

There have been many changes among newsmen and in communications media during the same time. The old headline hunters who cared more for the sensation than the facts have pretty much dropped from the industry. Newsmen also are top professionals, using modern tools, and they are acutely aware of their responsibilities.

Still, in too many cases, the professional policemen fail to recognize the professional qualities of those who report on their daily activities. The problem for the police is accentuated by new emphasis on photography

brought about by television and new news camera equipment.

## *Creating Proper Image*

How good the relationship is between the police force and the press, in most cases, starts at the top of the police organization.

In studies in California we have found some cities where rigid regulations on relationships with the press have caused an open breach. The officer who finds too many warnings against talking to a reporter usually will be reluctant to discuss the facts of the case because that is an easy way to stay out of trouble. The most likely result is inaccurate reporting because of a lack of facts. Thus a bad image is created for both police and the press.

A newsman must earn the respect and trust of his news sources. But once this is established, the police force which does not recognize it makes a mistake.

An excellent example of the value of policies of good relationships with the news media stemming from the top can be found in the Federal Bureau of



Investigation. The policies in this respect set by J. Edgar Hoover have made it easier for newsmen to work with Agents elsewhere. And one need only look at the great public image of the FBI to see the results of full portrayal of the work of law enforcement.

### **Legal Interpretations**

A major part of the pressures which would tend to divide press and law enforcement today comes from interpretations by the legal profession. The warnings against allowing reporters to examine police reports in many States, and the other warnings concerning possible nullification of evidence by publicity, obviously need to be considered carefully by the law enforcement agencies.

Looking back, there were many instances where cases were tried in the press. And there were cases where evidence was compromised through premature release.

### **Not Too Far**

The problem is not to let the pendulum swing too far the other way. In some cities police have limited themselves almost to prisoner-of-war regulations—name of suspect, rank, and serial number.

Without the opportunity for full disclosure of facts surrounding an arrest, the police run the danger of subjecting themselves to false rumor and, eventually, the problems of brutality charges, police review boards, and the like. A police department doing a good job has nothing to fear from cooperation with the press, and it will find that the new breed of newsman also understands the legal limitations placed on law enforcement.

The police department which places confidence in the responsible press will find its work portrayed more dramatically than the one which fails to trust reliable news reporters.

### **Public Education**

One of the ways to build a closer relationship and understanding between the policeman and the reporter is to establish contact during the recruit training. The San Diego Union, for example, has its senior police reporter talk to the recruits during one session of their training.

From the police standpoint, it also is important that the relationship go beyond the police reporters and the police. It is advisable that two-way contact on a general police level also be established.

Apathy is a growing problem for the enforcement profession. Law-abiding persons in the United States turn away from crime. They do not want to become involved because they are afraid. They do not want expensive medical bills, lawsuits, loss of pay, or even (as in the case of the Harlem grocer who was forced out of business for helping a policeman) ostracism within their social group.

Another of our joint news-police problems of public education is to improve the work and image of policemen in the face of the new permissiveness in our society. Part of the problem, we are aware, is the court decisions that impede the effectiveness of police work. The San Diego patrolman was hardly joking when he commented wryly that things have almost reached the stage where the first thing he asks a traffic offender he has stopped is: "Shall I call your attorney?"

### **Problem Magnified**

Unfortunately, this is further magnified by the growing cries that Americans do not have to obey a law they do not like. A regrettable plateau was reached in this regard when a prominent labor leader openly defied a court order on New York television. Cases against the union were later dismissed.

A free press will exist only as long

as there is public support for freedom of speech and freedom to report the news.

And a good police force will exist only as long as it has the support and confidence of the public.

These two reasons alone should cause the press and the police to take a new look at their mutual problems. Calm discussions can avert many of the crises which are bound to develop as the pressures grow to impair what we hold sacred—the public's right to know.

### **Menace of the Road**

*The vacation season, when large numbers of motorists are traveling on the Nation's highways, is an especially opportune time to focus attention on the seriousness of the hitchhiker menace.*

*To police agencies the practice of hitchhiking means additional problems for men already burdened by overwhelming demands made on their time, energies, and manpower. To the individual citizens, whom law enforcement is obliged to serve and protect, the hitchhiker has become a serious threat, as evidenced by the increasing number of crimes committed by these men of the road with their outstretched thumbs.*

*In the interest of crime prevention, law enforcement must assume the initiative in educating citizens regarding the danger of the hitchhiker. To assist in this program, the FBI is making available to police agencies, other organizations, and individuals interested in this problem a poster describing the hitchhiker as "Death in Disguise." Limited quantities may be obtained upon request, free of charge, from Director, FBI, Washington, D.C. 20535.*

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# INVESTIGATORS' AIDS

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## Loaded for Business

Police responding to a 1 a.m. burglary alarm of a drugstore arrested a man who admitted owning a panel truck parked nearby, although it was registered under a fictitious name. Examination of the truck revealed that it contained the following:

A 4-foot telescope mounted on a tripod with a movie camera attached and concealed behind a hinged plywood panel in the rear door of the truck.

A two-way radio attached to a wall of the truck which was powered by two auto-

mobile batteries located in a foot locker at the rear of the truck.

Two transistor receivers and a walkie-talkie radio set.

An assortment of tools that included a wrecking bar, tin shears, steel punches, and a hammer, chisel, and screwdriver set.

A complete change of clothes.

A list of 25 police and sheriff's departments in the State and their radio broadcast frequencies.

Fifteen envelopes containing an assortment of drugs and narcotics.

An address book with entries in what

appears to be code and a list of several drugstores in the area.

The suspect had been paroled 3 months earlier from the State prison after serving a term for burglary and grand larceny. He gave no explanation as to the use he expected to make of the equipment in the truck, stating only that he bought it because he got a good buy on it.

The man was charged with burglary.

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## NO FOWL PLAY HERE

A hunter was staunch in his denial that the bloodstains on a cardboard box in his possession were anyone's or anything else's but his. But the U.S. Game Management, investigating the illegal killing of several wild geese, wanted to be certain the stains were not from blood of a fowl. The box was sent to the FBI Laboratory.

Careful analysis of the bloodstained box by a serology expert of the FBI Laboratory determined that the blood smears were of human origin and not from a goose.

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## VIOLENT CRIMES

Extortion and kidnaping are among the most vicious crimes handled by the FBI. In the 1965 calendar year, FBI investigations led to 59 convictions for extortion and the imposition of more than 191 years in sentences.

Thirty-five kidnaping convictions were recorded during the year. Life sentences were given to six of these kidnapers, and other sentences totaling 426 years were imposed.

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## IT'S AN ILL WIND

During the investigation of a recent interstate transportation of stolen motor vehicle complaint, FBI Agents learned of a novel method used by a truckdriver to foil a finance company.

The reposessor located the encumbered tractor and drove it to the company lot, where he deflated the front tires to prevent its further use. Several hours later the driver found the unguarded tractor and, using the key still in his possession, started the motor. Then, by means of a hose attached to the appropriate valve, he inflated the tires from the tractor's own airbrake system and drove away.

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## SCOFFLAWS PUNISHED

A new Oregon State statute allows municipal and other traffic courts to punish "scofflaws" (those persons who ignore traffic summonses) by revoking their driver's licenses.

This is the way the law operates:

When a traffic offender fails to appear in traffic court on the date set, or post bail, a "notice of hearing" is sent by mail to his home address, setting a new date—usually about a week after the original court date. If the offender does not appear as ordered, the court revokes his driver's license and so notifies the State Driver's License Division. The court must send the State \$5 to cover administrative costs, which is later charged to the offender if and when he obtains reinstatement of his license.

This is a serious penalty, for driving without a valid driver's license carries a mandatory jail term and refusal of renewal of the driver's license for 1 full year.

*"We think it also important in this process of defining the permissible bounds of searches and seizures to make clear what we believe to be correct police procedure, as we have not hesitated to condemn it when wrong. The instant case is a part of a swelling wave of federal bank robberies which has been engulfing the Country. The tools the police most need and deserve to cope with this emergency are guideline decisions from the courts telling them what is right as well as what is wrong with their procedure so that they may get on with their job intelligently."* Federal District Judge Timbers, Second Circuit, in *U.S. v. Thompson*, 356 F. 2d 216 (1965).

## Alice in a Patrol Car

**DWIGHT J. DALBEY**  
Inspector, Federal Bureau of Investigation



\*One hundred years ago an Englishman whose pen name was Lewis Carroll wrote one of the great classics of literature, which came to be called "Alice in Wonderland." It is a fanciful tale of a small child in a summer meadow who followed a talking rab-

*\*This article is an address by Inspector Dalbey before the West Virginia Trial Lawyers Association, Charleston, W. Va., April 1, 1966. Illustrated here are some of the problems most frequently mentioned to FBI representatives during recent years by law enforcement officers of State, county, and city jurisdictions. These problems are presented here not to criticize but simply to illustrate, in graphic form, the condition of the criminal law under which so many officers must work. It is a condition which has been described by one eminent Federal jurist as one of "great confusion."*

bit into his burrow and discovered deep underground a topsy-turvy world. Birds and animals talked to her like human beings, and although she always said and did what seemed to her judgment to be quite right on earth, it was always the wrong thing down there. She was forever in trouble. Of course, it was only a dream, as she happily discovered on waking to find herself beside an older sister who had been reading a book.

If Lewis Carroll were writing his classic story in America today, he would have no need for the fictional device of sending Alice down a rabbit hole in a cow pasture. He could arrange for her to discover a topsy-turvy world much more simply by putting her into a police patrol car making the rounds in one of our major cities. Suppose we put Alice in the patrol car and see through her eyes what she finds.

But first we must set the stage with some common police incident which combines the two factors typical of so many situations with which the police officer is confronted—first, a high degree of ambiguity of fact,<sup>1</sup> and second, an equally high degree of compulsion to act.<sup>2</sup> The facts of the case often are obscure and difficult of ascertainment, but the law requires, and the public expects, that the officer will act quickly, decisively, and accurately in sorting them out. This is the world of the police officer on patrol.

Setting the stage, it is 3 a.m. on a soft summer night in a modest residential section of the city. A householder awakens from his sleep with a vague premonition of danger and walks to the window looking out on his backyard. There in the half light of night he sees the figure of a man staring intently at his house. The man holds some dimly outlined object. It may be a weapon, but the householder cannot know for sure.

Moving quietly to an adjoining

room, the householder calls the police. Two officers in a radio car answer the call. Alice is with them. Now they are rounding the back corner of the house and coming through the gate to confront the situation. Many an officer has answered a call of this same general nature in the past and many will do so in the future. Change the scene, if you wish, to any one of a thousand different common police situations and the result is the same. The officer still is confronted with his constant problem—a high degree of ambiguity of fact and a high degree of compulsion to act.

"Who is this man," Alice wonders. "Is he a murderer, a burglar, an escaped convict, or only a diabetic wandering aimlessly in shock for lack of insulin?" Perhaps he is none of these—nothing more than an irate neighbor intending to wreak vengeance upon a tomcat that has been keeping him awake half the night.

And whoever he is, what will he do? Will he shoot? Will he slash at the officers with a knife? Will he run? Or will he merely beg their pardon for having done something foolish?

Alice does not know it, but these same questions are running through the minds of the officers. They have met these types and these reactions before, and some of them bear the scars of knives, bullets, and broken bottles to prove it. And the officers know something else—a fact that Alice in her childlike innocence may not quite grasp. They know that they are alone and must find all the immediate answers for themselves. They know that if Alice might rub Aladdin's lamp and direct that mythical character to instantly summon into emergency session the Supreme Court of the United States, surrounded by the most eminent scholars of the law, the prosecutors, and the defense lawyers—all those who may speak learnedly of this case after months or years of deliberation—none of them, either singly or

collectively, could possibly shed the slightest ray of light on who this man is, why he is here, or what he will do next; no one knows. They would limit themselves to one single opinion—that the police must do something. But this the officers already know. They are charged by the law with a duty to act. So they must act alone, without legal counsel until morning. This is a police officer's world.

Moving closer now, the officers identify themselves. They see that the man holds in his hand a short, stout stick. It is not a weapon, really, yet a burglar or a murderer could put it to his uses. He drops the stick to the ground. Now the danger of physical attack is past, unless he carries a gun, or a knife, or prefers to use his fists.

The officers do what they can. One asks the man who he is and what he is doing here. Now we can stage the scene in two different ways, either of which conforms to reality. Perhaps the man stands mute; some do. Or he gives an answer which only deepens the ambiguity of the circumstances. Police officers often receive answers that are ambiguous and unresponsive to their questions.<sup>3</sup>

Alice is puzzled by the failure of the officers to arrest immediately, and so is the family watching from the window upstairs. Anyone who has read a detective story or seen crimes solved on television knows what to do—arrest him on the spot and take him to the station. But Alice has forgotten something, and so have the sheltered observers upstairs. This is 1966, not 1960.

In 1960 the officers, on receiving an ambiguous reply, or no response at all, would have placed the man under arrest. Then, searching him immediately, they would have taken the gun or knife with which he might have attacked them, and any instrumentality, fruit, or contraband of crime found in his possession. Had

they found in the neighborhood an automobile with a warm radiator, they would have searched that, too, and taken the things of crime found therein. At the station house they would have interrogated this man. If they found that he had committed a crime, the man would most likely have confessed and pleaded guilty. If he elected to stand trial, the question of the legality of the arrest may not have been raised at all since it was not then a Federal constitutional issue, or would have been resolved against him, and the courts in approximately half the States would

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*"In protecting the rights of all citizens we must not be blind to the problems which confront law enforcement agents." Judge Ainsworth, U.S. District Court, Eastern District of Louisiana, in U.S. v. Bailey, 247 F. Supp. 883 (1965).*

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have allowed into evidence against him the things of crime found in his automobile without questioning the legality of the search.<sup>4</sup> And, of course, if the officers found the man to be sick, they would have taken him to a doctor or a hospital. If he had done no more than chase a lovesick tomcat, they would have chided him for his indiscretion and sent him home—in the patrol car. But, as I said, this is 1966. The rules have changed, but Alice and many others do not know it.

How have the rules changed? In 1964 the Supreme Court of the United States said that from this time forward no officer in the land lawfully may arrest anyone, at any time or place, unless there is at the moment of arrest a sufficient quantity and quality of information to show probable cause for belief of guilt as defined under the fourth amendment to the Constitution of the United States.

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# NATIONWIDE CRIMESCOPE

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Of course, the officer still makes the arrest according to the law of his State, as he used to do, but if the arrested man thinks the State law is out of kilter with the Federal Constitution, he now can take his case all the way to the Supreme Court. If that High Court finds that the arrest did not meet the standards of the fourth amendment because there was not enough information to make an arrest, then the arrest simply was illegal, regardless of what the State law and State court said.<sup>5</sup>

In 1961 the Supreme Court said that from now on every officer in the land who makes a search and seizure must do it in a manner that is reasonable under its interpretation of the fourth amendment to the Federal Constitution.<sup>6</sup> If the officer fails to make his search in a manner approved by the Federal courts, none of the things of crime which he finds can be used as evidence against this man in any court, either State or Federal. In 1961 the Supreme Court held that if an officer violates a Federal constitutional right, such as the right to be free from unreasonable searches, or arrest without probable cause, the person whose right has been violated may bring the officer into Federal Court and sue him personally for damages.<sup>7</sup> In 1963 the Supreme Court said that if any person is brought into court charged with a felony, he automatically has a Federal constitutional right to a lawyer for his defense.<sup>8</sup> A lawyer, studying the case at his leisure, has a good chance of finding some fatal flaw in the legality of the action taken by the officers here tonight under the pressure of danger and their duty to act swiftly and decisively. The lawyer, like the judges, has been trained in the constitutional law of arrest and search, but the officers have not. And he has the luxury of time to think and study before acting.

*(Continued on page 12)*

## STOLEN MERCURY

Thieves have found a new source of easy money by selling stolen mercury. According to police in the Southwest, unguarded gasmeters at wellheads in natural gasfields in the four-corners area covering Colorado, Arizona, New Mexico, and Utah are a rich source of mercury for the thieves.

They draw the mercury out of gasmeters attached to the wells, each meter yielding from 7 to 10 pounds.

Some of the thieves reportedly have welded metal tubing around the frames of their cars in which they conceal the stolen mercury. Others use any type of available container to transport the mercury from the gasfields to black-marketeers who are apparently doing a brisk business as a result of continued increases in the price of mercury.

One of the principal victims of the thefts has been a large natural gas company which operates over 5,000 gas wells in this area and has reportedly lost thousands of dollars worth of mercury during the past few months.

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## MAGNETIC MEANS

Bookies in a western State are utilizing a rather common system of concealment for their bookmaking records. They stuff their betting slips into a magnetic container similar to the magnetic "keytainer" used to conceal the ignition key of an automobile. The magnet is then placed on the bottom of any available piece of metal furniture or toilet fixture on the premises.

## SAFE INQUIRY

A topnotch pair of safecrackers took an unusual means for gathering advanced information on the type of safes they might encounter. Visiting the showroom of a well-known safe company, they would pose as businessmen interested in the purchase of a safe for their company. In this way they were given the opportunity to examine numerous safes on the display room floor and in a backroom storage area as well.

By asking many questions during the sales talk, the thieves obtained detailed descriptions and explanation of the mechanisms of the various safes. They meticulously noted which type had two timelocks, two locking bars, etc.—invaluable information for any master burglar.

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## HOAX

Answering his phone, a prominent east coast jeweler was requested to take several sets of wedding rings to a local hospital. The caller, claiming to be a priest, stated that a prominent couple wished to view the bands valued between \$850 and \$1,500. The woman was a patient at the hospital.

Following instructions, the jeweler met the bogus priest in the doctor's library of the hospital. He was then taken to the hospital cafeteria for a cup of coffee for a 15-minute wait while the priest took the rings to the woman's room for selection.

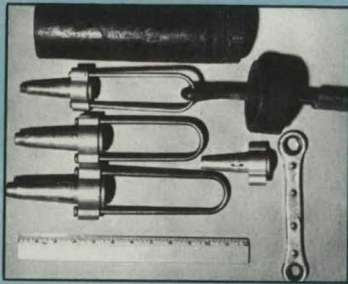
An hour later the impatient jeweler inquired about the priest, only to learn he had left the hospital taking the rings with him.

## CHINESE FINGER

A burglary device known as a "Chinese Finger" was seized by the police in an eastern city from three individuals who were charged with possession of burglary tools, conspiracy, and bringing stolen property into the State.

The Chinese Finger dial-pulling mechanism includes four different grips of varying sizes adaptable to the individual size of the safes encountered in burglary forays.

The burglary tool was described as one of the most elaborate seen by this police department.



Chinese Finger burglary device.

## WHEN ARTISTRY PAID OFF

Investigation of the burglary of a large supermarket in a southern city disclosed an artistic method used by the perpetrators to conceal their movements.

As a safety precaution, the market's management had placed two large safes in plain view in a well-lighted front window, with the hope of avoiding any attempts at tampering, since such attempts would likely be noticed by police as well as by the passing public.

Burglars, however, taking all things into consideration, devised two exact replicas of the safes in cardboard, faithfully reproducing each minute

detail. These they placed in the window—after pulling the real safes to the rear of the store away from public view.

Then, working without interruption, the burglars succeeded in looting the safes of several thousand dollars.

The cardboard replicas were so well made that from outside the store they could hardly be detected from the real thing.

## LETHAL SQUEEZE

A weapon known as Le Protector Systeme Eturbiaux was confiscated from an individual arrested by an officer of the San Diego, Calif., police department.

The weapon is a .22 caliber seven-shot revolver and can be fired merely by squeezing when held in the hand. It was contained in what appeared to be a coin purse when removed from the owner's possession.



Squeeze-type weapon and "holster."

## CLEANED UP

A ring of jewel thieves was recently uncovered in San Francisco when police discovered a case of jewels valued at \$72,000 hidden in a small vacuum cleaner. When opened, the cleaner revealed sparkling gems wrapped in a tattered sock.

Another of the thieves had hidden his share by swallowing \$50,000 worth of the precious stones. These were later recovered by technicians at a nearby hospital.

(Continued from page 11)

The officers know the law has changed. They are now more cautious. That is why they do not yet arrest, here in 1966.<sup>9</sup>

The officers tell Alice why they are cautious. They explain that for the law, as well as for their own safety, this is the most critical moment of the case. As to the law, still another decision of the Supreme Court in 1963 held that if the arrest is illegal because there is not sufficient probable cause for belief of guilt, all evidence obtained directly from the illegal arrest is equally unlawful. The search of the man made incidental to the illegal arrest is unreasonable and the evidence of crime found on his person cannot be used in court. Moreover, any confession or admission of guilt which he makes as a direct result of the illegal arrest must also be excluded from evidence.<sup>10</sup> The result is that these officers must arrest on probable cause or not arrest at all. And for the sake of their safety, this decision must be made quickly. The longer they delay in arresting the man and searching him, if they have the power to take this action, the greater his opportunity to attack them with a gun, a knife, or any other weapon in his possession.

Alice ponders over this explanation for just a moment and then exclaims, "What a topsy-turvy world! They tell you that you must make decisions on the constitutional law of arrest and search, and make them fast, and make them right, and make them when maybe everyone is a little bit scared, and the lawyers and the judges will study them and argue over them, maybe for years and years, and then if they disagree with what you did, they will tell you that you made a mistake here in the backyard facing a stranger in the dead of night. Your job looks as hard to me as theirs. You must make decisions of constitutional law, as they do, but under conditions much more difficult and dangerous. Why doesn't

someone at least teach you the law like they do the lawyers and the judges?"

"That," the officer replied, "is a hard question to answer. I suspect that the reason is that those who control such things are still 6 years behind the Supreme Court. They have not caught up to the fact that as a result of judicial decisions handed down during recent years, every law enforcement officer has become, in effect, a constitutional lawyer on the fourth amendment, the fifth amendment, and the sixth amendment—on those parts of the Federal Constitution which cover the legality of arrests, searches,

They seem more likely to be murdered, robbed at gunpoint, and all that than—well, than anyone else. The reason, perhaps, is that economic circumstances force so many of them to live and work in the high-crime areas. I wonder if they aren't the principal victims of the increase in crime that Director Hoover of the FBI has pointed out in figures so clear that anyone can see except for those who are blind because they do not wish to see. And since there are so many of them, surely there must be, as Abe Lincoln suggested, somebody who loves them. Doesn't that Constitution

tect them right here and now?"

"I suppose I can," the officer replied, "but you see I have been so busy lately with the defendant's rights under the fourth amendment, and the fifth, and the sixth, and . . . ."

"Yes," Alice said "yes, I know."

Then Alice remembers something else—something she read in the newspapers recently. It was about two officers who arrested two men in an alley in a large city, after a citizen had complained of those two men, and the officers were viciously attacked with a broken bottle which one of the men held in his hand. One of the officers spent a long time in a hospital and came out with many disfiguring scars. And the judge, hearing the case later on, studied the matter and reached the conclusion that the men who attacked the officers were right, and the officers were wrong, because the officers did not have enough information of guilt to make a lawful arrest.<sup>11</sup> So Alice wondered aloud, "Is that why these officers are hesitating? Is that why they are not quite sure of what to do next? Does the law really give this man a right to physically attack these officers?"

Now one officer tells Alice the rest of the story. The scholars went back to their lawbooks and read them slowly and carefully, and some of them said the judge was right on the letter of the law.<sup>12</sup> In all but a handful of the States of this Nation,<sup>13</sup> a person illegally arrested has a right to physically resist the arrest,<sup>14</sup> even when the officer's decision to arrest must be made swiftly, under circumstances of danger to life and limb, and under facts so close that no one may know that the arrest was illegal until years later when the Supreme Court of the United States so holds by a narrow majority of 5 to 4.

"Why does the law say that?" Alice asks. So one of the officers explains. The right to resist illegal arrest came

(Continued on page 22)

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*"Because many situations which confront officers in the course of executing their duties are more or less ambiguous, room must be allowed for some mistakes on their part. But the mistakes must be those of reasonable men, acting on facts leading sensibly to their conclusions of probability." Mr. Justice Rutledge, the Supreme Court of the United States, speaking for the majority in Brinegar v. U.S., 338 U.S. 160 (1949).*

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and confessions. I say he is a constitutional lawyer because he is forced to make decisions on questions of constitutional law which may go as high as the Supreme Court of the United States for ultimate decision. In my view, that makes him a constitutional lawyer whether he wants the job or not. No matter whether he is trained in the law or untrained, the law holds him responsible for a knowledge of constitutional law in certain areas and that is the controlling and undeniable fact."

But the family upstairs is impatient, even after the officer has explained these things. "Hang the law," they shout, "arrest him and get him out of here. Don't we have a constitutional right to be protected?"

"You know," Alice said, "I think they have a point. From reading the papers, I get the impression that plain people like these bear too great a share of an always unequal burden of crime.

of ours say anything about the rights of these people?"

"Of course it does," the officer replied. "Don't be foolish. Constitutional rights apply equally to everyone. If one of those people upstairs ever is charged with murder, he will have a right to a lawyer and a right to say nothing to the police and a right . . . ."

"Just 1 minute, please," Alice interrupted rather sharply. "Do you really need the glare of a morning sun to see the terror in that woman's eyes as she holds her child in her arms? Don't you see her husband's arm around her to quiet her fears? Perhaps I am being foolish, but if you will pardon a personal view, I think those rights which you just rattled off the tip of your tongue are not precisely what these people mean when they ask whether they have any rights. Can't you find just one single constitutional right that you can use to pro-

**Civilian**

**Review Boards**

**in**

**Review**



**RALPH G. MURDY**  
Managing Director,  
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Courtesy Chamber of Commerce, Baltimore, Md.

Aerial view of Baltimore, Md.

“TAKE THE SELF-POLICING function away from the police and put it in an independent board with the authority to investigate and mediate complaints.”

This is the clamor of some organizations and groups which claim ostensibly to support justice and law and order but whose actions often undermine both.

The first “victory” for independent board adherents came on October 1, 1958, when the present Philadelphia, Pa., Police Advisory Board was created as a police review board. Since that time similarly oriented boards have been set up in York, Pa.;

Minneapolis, Minn.; Rochester, N.Y.; and Washington, D.C. With the exception of the Nation’s Capital, ventures in all these cities have been either temporarily or permanently stopped through court action taken by police groups or their supporters. In the same period efforts to create such boards in a number of other cities have been untiring but unsuccessful.

To brush aside all of this activity without carefully examining the nature of the controversy would certainly be foolhardy. Unpleasant situations have a nasty habit of refusing to disappear merely because

we decline to admit their existence. What then is the lesson to be learned from this campaign to establish external controls over police management? To answer this, we need to review the entire area of citizen complaints against police personnel and the various means used to resolve them. Let us start with the independent board idea.

### *Defining Terms*

The characteristics of a typical independent board to review those police actions which involve the personal liberties of citizens are these:

1. The board is an officially established arm of government.
2. Members hold no office or position in government other than board membership.
3. The board receives civil rights grievances of civilians against police officers.
4. Such grievances are investigated for the board and, if ordered, formal hearings are held by the board.
5. The board makes a determination of the truth of the allegations and recommends appropriate action to the police executive.

Thus the boards which are usually advocated by civil libertarians and civil rights organizations must be civilian in makeup, independent of any other arm of government—particularly of law enforcement—but, nevertheless, officially constituted. They normally focus on grievances involving discourtesy, abuse, or excessive force. The latter complaints are referred to as instances of “brutality,” regardless of the amount of force used, although the very circumstances of many complaints show this to be inappropriate.

Another definition which has been stretched and bent is the term “advisory” in the title of such boards. While such boards do make an advisory recommendation to the police executive, the procedure by which they sit as a tribunal which summons and swears witnesses goes well beyond the

usual nature of governmental advisory boards. The pattern was very likely set because the Philadelphia board could only be advisory under the terms of the Philadelphia Home Rule Charter. As the first such board created in the United States, its title probably created a precedent.

### *Experience With Boards*

Both Rochester and Philadelphia, which had the only functioning civilian review boards in the explosive summer of 1964, were among those cities which underwent rioting and looting. In the ranks of cities without review boards, New York City had riots in Harlem and Brooklyn that same summer, and Los Angeles had a more serious outbreak last year. It would seem then that the existence or nonexistence of civilian review boards has been completely irrelevant to the issue of preventing outbreaks of mob violence. This is a most important point and one that has all but been obscured by sloganeering. The cities mentioned, and perhaps some still to come, have felt the explosive violence of riots which no one expedient could hope to contain. But this is not the only crisis in which civilian review boards are impotent.

Even if some officials charged with enforcing the law should clearly refuse to control their subordinates, and even join lawbreakers in trampling basic civil rights and life itself, a civilian review board would be inadequate and absurd. If, by some stretch of the imagination, one were able to convene a dedicated group of civilians in such a town to replace the top executive in reviewing reports of civil rights violations by his force, such a police review board would still fail. Civilians as a group have neither the expertise in police operations nor do community leaders generally have the time to function on a continuing basis in determining justice for all concerned.

A civilian review board cannot fill the void of a grand jury which fails to indict nor a police executive who is unwilling to discipline his men.

The aggressive and conscientious exercise of discipline by police officials is the most effective means of curbing police misconduct. Thus the U.S. Commission on Civil Rights has observed, "Perhaps the single most potent weapon against unlawful police activity is a police commander who will not tolerate it." And J. Edgar Hoover has frequently noted that a police executive "must have full responsibility for the performance, discipline, and control of his officers."

Perhaps it would be well to state at this point that there are adequate means to handle complaints against law officers within the administrative framework of constituted government without resorting to external boards. Further, complaints of brutality and other civil rights violations covered by Federal statutes, when reported to the FBI, receive immediate and thorough investigative attention. The facts developed by the FBI are furnished to the Department of Justice for prosecutive consideration.

### *Legal Action*

As of January 1966 both the Philadelphia and Rochester Advisory Boards were prevented from functioning by court action. This seems to leave the board which was established in Washington, D.C., in August 1965 as the only active civilian board as of this writing. However, in February 1966 Mayor John V. Lindsay of New York City announced his intention to add a majority of civilians to an existing board in that city.

In September 1965 Judge Eugene Alessandrini of Philadelphia, after studying arguments of the Fraternal Order of Police in requesting an in-

junction to restrain the Philadelphia Police Advisory Board, issued a preliminary injunction. The Fraternal Order of Police attorney presented these arguments in behalf of the plaintiffs and all Philadelphia policemen:

1. The actions of the board deleteriously affect their morale as law enforcement officers;
2. The very existence of the board is used as a threat by law violators when they, and other officers, are in the act of making an arrest;
3. They have been, and in the future will be, deprived of many hours of their own time;
4. They have had, and in the future may have, their constitutional rights violated by being deprived of their rights to due process of law and to be free and unhampered in the proper performance of their sworn duties, as well as their constitutional right to earn a living;
5. They are unduly exposed by the board to harassment and embarrassment; and
6. They have been, and in the future will be, forced to reveal evidence obtained by them in their sworn duties as policemen, prior to the trials of the defendants arrested by them.

Of particular note in the Fraternal Order of Police complaint in equity is the estimate that police investigations performed for the Philadelphia Advisory Board and the subsequent hearings had consumed an average of 10 hours or more of police time in each case heard. Considering all cases heard, as well as police investigations made in cases which did not end in hearings, the Fraternal Order of Police estimates police time in excess of 10,000 hours was spent since October 1, 1958, in Philadelphia.

In December 1965 Judge Jacob Ark of the Supreme Court of the State of New York, County of Monroe, ruled that the functions of the Rochester Police Advisory Board were intertwined with the operation of the police bureau "in violation of the rights of a police officer against whom a complaint was filed." While ruling that the board could continue to serve as a means of registering complaints but



Courtesy Baltimore, Md., Association of Commerce.  
**City Hall, Baltimore, Md.**

allowing regular police procedures full opportunity to satisfy complainants, Judge Ark found the board had no legal authority to investigate and recommend action. At the same time the court declared that existing departmental rules and regulations for disciplinary proceedings were "very meager."

### **Memorandum Decision**

Noteworthy in this memorandum decision is Judge Ark's conclusion that the Municipal Code of Rochester charges the Commissioner of Public Safety with the responsibility of disciplining police officers. If the board's purpose, as claimed, were to assist the commissioner in this duty, the court wondered how the commissioner was assisted "by arming the board with the threat of public confrontation with the city administration" when the board is dissatisfied. Judge Ark adds significantly, in speaking of the board as an official body, "Its public criticism of a police officer bears the imprimatur of the city of Rochester, N.Y."

### **Departmental Review**

Since the alternative to civilian review of complaints is departmental review, a procedure which still takes precedence in most areas of the United States, a good look at this practice is in order. It should be noted when comparing methods of civilian and departmental reviews of complaints against police officers that departmental procedures normally handle allegations of every nature while civilian review boards normally restrict themselves to the areas of civil rights.

As a rule, police departments accept complaints by mail, telephone, or in person at the precinct level or headquarters, and most will consider anonymous complaints. Nearly all departments require an investigation of complaints and require that a record be kept.

The various types of departmental investigations for our purposes here could be divided into four groups:

1. *Local Unit Investigation.* The accused officer's unit commander is responsible for the investigation and reports his findings to headquarters.

2. *Supervised Local Unit Investigation.* The accused officer's unit commander is responsible for the initial investigation and forwards it to a special supervisor who reviews it for completeness and objectivity. The supervisor can require additional investigation. When he is satisfied, he forwards it with his recommendation to a higher police authority.

3. *Supervised Local Unit Investigations Supplemented by Independent Investigation.* An internal affairs division not only reviews the precinct investigation but also has authority to conduct its own investigation whenever necessary. This division is directly responsible to the chief and must receive all complaints. It generally refers a majority of complaints received to the precincts for the initial investigation.

When the precinct has completed its investigation, the report, together with the recommendation of the accused officer's commander, is forwarded to the internal affairs division. If the division is not satisfied, it can order further investigation or it can investigate with its own personnel. Moreover, as an additional deterrent to improper investigation at the lower level, the internal affairs division re-investigates a suitable number of cases at random.

4. *Investigation Exclusively by an Independent Unit.* A few departments rely exclusively upon an independent unit to investigate complaints against officers.

### **Complaint Evaluation Board**

Not to be confused with a civilian review board is an alternative now being tried in Baltimore. This city, like many urban areas with mixed racial and ethnic groups, has experienced increasing tension and unrest in police-community relations in recent years. There appeared to be a pressing need for better understanding and greater appreciation of the common problems involved.

There is no more important function in police administration today than to insure that our law enforcement agencies have citizen cooperation. Overworked and understaffed, police cannot hope to beat the forces of crime unless they have the active assistance of every decent citizen. In order to freely give this assistance, the public needs to know that police

officers are not above the law and that any report that one officer thinks he is will be thoroughly and impartially investigated. Many community leaders and city officials felt that an established written procedure for the impartial investigation and review of citizen complaints would be a most important factor in resolving differences. In this connection the Criminal Justice Commission in Baltimore had campaigned since 1963 for a workable alternative to a civilian review board. Within the last 6 months, the Complaint Evaluation Board has come to offer hope that such an alternative is possible.

The Complaint Evaluation Board was first proposed on October 9, 1964, by the attorney general of Maryland as a solution to the criticism of the way in which complaints alleging discourtesy, abuse, or excessive force were handled by police. He recommended the voluntary establishment through agreement of a Complaint Evaluation Board. Those participating are all individuals charged in some capacity with advising, investigating, or prosecuting such complaints. There are no civilians on the board, since all the members are regularly employed or elected officials of government. Yet, with the exception of one police captain who represents the police commissioner, the members of the board are not members of the police department. The officials comprising the board are the State Attorney General, the local prosecutor, the city solicitor, a representative of the police commissioner, and the executive secretaries of the State and city interracial commissions.

The operation of the Complaint Evaluation Board was designed by a biracial committee to assure the public that charges against police are thoroughly investigated and that charges are brought when they should be brought. Its single re-

sponsibility is to insure that the police commissioner exercises his disciplinary responsibilities. It is not intended to usurp those responsibilities by holding hearings or conducting investigations.

Under procedures approved in November 1965, complaints are received at the Legal Aid Bureau or any police station. Each has a registration number to insure control. Copies of the complaint go to the chief inspector of police and to each board member, as do copies of the completed police report of investigation. The board can either accept the chief inspector's recommendation or suggest some other action, including an independent investigation by the State police. Any board member can call a conference to discuss a report, and a final recommendation by the board requires a majority vote. A majority is also required for making any report public.

It is too early to assess the value of the Complaint Evaluation Board in Baltimore as an alternative to a civilian review board. Rules are still being refined and added as the machinery is put into operation for the first time. The entire community stands to benefit from a successful performance, and it could be the answer to better police-community relations and the end of the move for citizen control over police administration.

### **Conclusions**

1. The concept of a civilian review board is an expedient which unavoidably implies a failure of police officials to properly discipline their subordinates. Like martial law, it is an admission that constituted authorities cannot insure the safety of citizens in the community and extraordinary means must be used until the regular governing authority can work unassisted.

2. The preferred measure to a civilian review board is an effective departmental review procedure which maintains discipline and serves the entire community.

3. Any police review procedure, whether civilian or departmental, has to strike a balance between protection of basic civil rights and the hamstringing which could result from false, biased, or exaggerated charges.

4. Our problems of crime control are so complex that society has long since considered it necessary to delegate this function to the specialized profession of law enforcement. This mandate carries with it the responsibility for the police to function within certain constitutional limits. This responsibility given to the management of police departments includes the requirement of internal discipline. The power of discipline cannot be divided nor turned back to society without weakening the authority of the police executive.

5. Recruiting and promotion based on merit, effective training and retraining, and adequate internal disciplinary procedures will protect civil liberties better than any civilian review board ever devised.

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## **LUGGAGE LARCENY**

The assistant manager of a large bus company in the East gave the following report on the method used by some baggage thieves:

The thief usually selects a woman traveler waiting for a bus with several pieces of luggage. When the bus arrives, he offers to help carry her luggage from the terminal to the bus. He then picks up her luggage—along with several other pieces that happen to be nearby—and takes them to the bus. After placing the woman's bags on the bus, he continues on his way with the stolen pieces of luggage.

## TEN MOST WANTED

(Continued from page 5)

Several confirmed criminals have appeared on this list more than once, including Edwin Sanford Garrison, Ernest Tait, Nick George Montos, and Quay Cleon Kilburn. At least 21 former members of the "Top Ten" are known to be dead, several slain in gun battles with law enforcement officers while resisting arrest or escaping jail and several executed for their crimes. The search for one "Top Ten" fugitive, John Gibson Dillon, commonly known as "Matt" Dillon, ended in March 1964, when his badly decomposed body was found by FBI Agents at the bottom of a water-filled well on a remote Oklahoma farm, the suspected victim of a gangland execution.

### Royalty Too

Some "Top Ten" fugitives over the years have been undeniably colorful characters, along with their criminal proclivities, as typified by inveterate bank robber George Zavada, who called himself "The King" and reportedly displayed regal monograms on his car door, wallet, and undershorts. His obsession, it was said, was to rob banks, and he additionally was rumored to be anxious to kill any FBI Agents trying to arrest him. When he was traced to San Jose, Calif., therefore, in June 1964, a month after becoming a "Top Ten" fugitive, Agents were prepared for any eventuality. When they called upon Zavada to surrender, the trigger-happy fugitive responded by pulling a concealed gun and starting to shoot at the arresting agents. His shots missed, but the Agents' return fire was more accurate and Zavada fell wounded in the chest, arm, and hand.

One of the more fantastic criminals to appear on the "Top Ten" list, Frederick Emerson Peters, a master impersonator with well over a hundred aliases, died shortly after being found

unconscious in a New Haven, Conn., hotel room where he had registered, characteristically, under an alias.

The "Who's Who" of "Top Tens" runs the gamut of names, including such colorful ones as White, Green, Black, and Brown. Other names have included Pierce, Sharp, and Payne, as well as Carpenter, Butler, and Taylor. Also appearing on the "Top Ten" have been a King, a Pope, and a Bishop, plus a Singer, Viola, and Byrd. There have been a Lawson and a Davenport and a Hudson and a Buick. Hunt, Fields, and Maps have made the list also, in addition to Rush, Downs, Hill, and Puff. Smith, of course, has been represented but, surprisingly, a Jones has yet to appear on the list.

### Clues

The essential role of the public in helping locate the "Ten Most Wanted Fugitives" has been greatly aided by issuance of publicity about personal peculiarities which might make them stand out from the general public. For example, Philip Alfred La Normandin, publicized as a trigger-happy, three-fingered trumpet player, was arrested by Agents in Jersey City, N.J., within hours of his addition to the "Top Ten" list in April 1961. An alert reader of a Hackensack, N.J., newspaper recalled seeing an individual with the described peculiarities a short time before and expedited the prompt arrest of the fugitive by immediately notifying the FBI. Arresting Agents found two significant items in the wanted man's room, a fully loaded revolver and a trumpet.

The location by the FBI of Stanley William Fitzgerald in September 1960 at Portland, Oreg., was greatly expedited as a result of his well-publicized reputation as a barroom balladier of sentimental Irish lullabies.

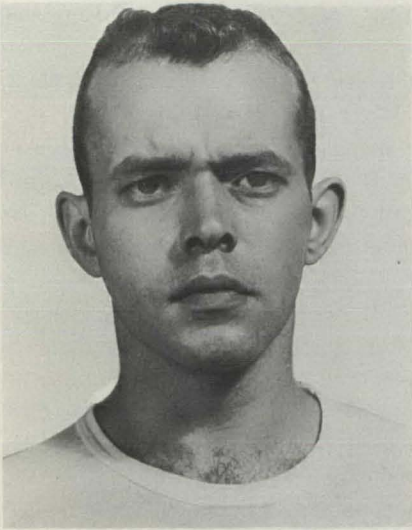
Hugh Bion Morse is a former member of the "Top Ten" list with reason to rue both Friday the 13th and the

FBI. His capture by FBI Agents occurred on that unlucky day in October 1961, in St. Paul, Minn., little more than an hour after a visitor touring FBI headquarters in Washington, D.C., recognized his photograph on a display of the "Ten Most Wanted Fugitives" and noted the similarity to a former neighbor using a different name in St. Paul. Morse, charged with fleeing California to avoid prosecution for attempting to murder his estranged wife, subsequently confessed several brutal unsolved murders in various cities throughout the country, a confession for one of which led to his imprisonment for life.

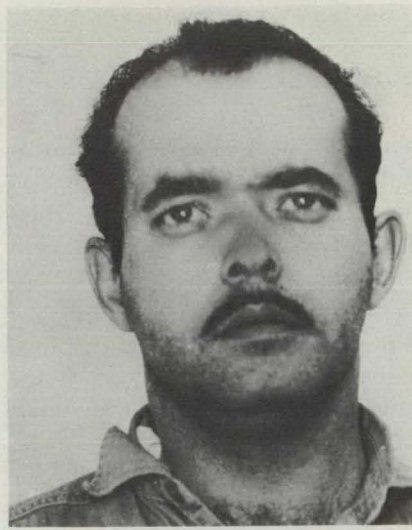
Representative of the vicious and dangerous nature of additions to the "Top Ten" list was Watson Young, Jr., a mental hospital escapee and alleged rapist and double murderer. Highlighted in his fugitive publicity, along with his unpredictable and irrational behavior, was his deep interest in funeral homes. True to form, Young was arrested by Salina, Kans., police in February 1962, one week after his addition to the list, following a wild, highspeed, nighttime chase through Salina streets. He was at the wheel of a stolen funeral home ambulance, complete with flashing red light and blaring siren. Found in his pockets, along with two knives, was a copy of his FBI wanted notice.

### Manhunt

One of the FBI's greatest manhunts in recent years ended in November 1962, with the arrest by FBI Agents of confessed multiple-bank robbers Albert Frederick Nussbaum and Bobby Randell Wilcoxson, who included the cold-blooded murder of a bank guard in one of their well-planned holdups. Following intensive investigative effort, widespread publicity furnished by helpful news



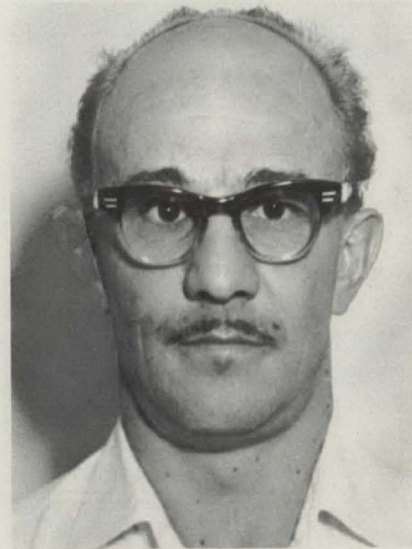
Albert F. Nussbaum's photograph while he was sought as a fugitive.



Nussbaum when arrested by FBI Agents in Buffalo, N.Y.



Bobby R. Wilcoxson pictured as a "Top Ten" fugitive.



Wilcoxson, when arrested, had donned glasses and shaved front of head.

media, and the intelligent cooperation of interested relatives, Nussbaum was seized in the early morning of November 4, 1962, after a highspeed chase by FBI Agents through rainslick Buffalo, N.Y., streets. He was craftily disguised and heavily armed with a rifle and two hand grenades.

Less than a week later, shortly after noon on Saturday, November 10, 1962, the skillfully disguised Wilcoxson was arrested, along with his young paramour, after emerging

from a Baltimore, Md., hideout. FBI Agents gave Wilcoxson no opportunity to use the loaded .38-caliber revolver concealed at his waist. To disguise himself, he had dyed his hair gray and shaved the front portion of his head to give the appearance of baldness. He also sported a black mustache and wore glasses.

An expensive honeymoon with his stripteaser bride ended abruptly for alleged bank robber Jerry Clarence Rush on the morning of March 25,

1963, when FBI Agents seized him near Miami, Fla., as he attempted to enter his sparkling new luxurious automobile parked outside his apartment. Charged with taking over \$100,000 in a Perth Amboy, N.J., bank robbery, and also with being an escapee from the Maryland State Penitentiary, Rush reportedly enjoyed a high-living, fast-spending, cross-country honeymoon until his capture. Arresting Agents found \$5,554 on their quarry and prevented Rush from reaching two loaded revolvers hidden in his car, which also contained 129 rounds of ammunition. Also found in his plush, air-conditioned, red-upholstered sedan was a collection of photographs taken in night spots around the country. The surprised fugitive commented to arresting Agents, "I knew the FBI would find me, but I didn't think you guys would do it so soon." Convicted of bank robbery, Rush received a 29-year sentence.

### *Songbird*

Slayer of a Maryland police officer, Thomas Asbury Hadder, an accomplished escape artist, found his flight from the FBI ended on the night of January 13, 1964, when Agents seized him as he watched a "sing along" at a Salvation Army Center in Oklahoma City, Okla. Although he protested his innocence and utilized an alias, fingerprints established his identity as the wanted man.

### *Brotherly Love*

Samuel and Earl Veney were not only the first brother team to ever appear on the "Ten Most Wanted Fugitives" list, but they were also captured together at Garden City, N.Y., on March 11, 1965. They were charged with a bloody Baltimore crime spree that began on Christmas Eve 1964, when a police lieutenant was shot

while investigating an armed robbery. A Baltimore police sergeant investigating the first shooting was found shot to death on Christmas morning. Samuel Veney was charged with murdering the sergeant, and his brother Earl was charged with attempting to murder the lieutenant.

### *Where To View*

Pictures with descriptions of the "Ten Most Wanted Fugitives" are on display all over the country at such locations as FBI offices, police stations, and post offices, and also appear in newspapers and over television throughout the land. The public is alerted to these individuals through such cooperative news media and can also obtain their descriptions over various radio stations. Magazines also frequently feature stories with photographs and descriptions of the "Top Ten" fugitives.

While the public's wholehearted co-

operation in eliminating these fugitives from free circulation is earnestly desired, the FBI and other law enforcement agencies want to insure that no private citizen becomes endangered as a result of his aid.

### *What To Do*

The public is cautioned, therefore, to avoid becoming directly involved in apprehending one of these desperadoes, but it is suggested that careful note be made of pertinent facts, such as descriptions, license numbers, etc., should one of these individuals be recognized. This information should be immediately reported to the nearest FBI office, and the cooperating citizen can be assured that his supporting role will be maintained in the strictest confidence.

The FBI's "Ten Most Wanted Fugitives" program continues as a living example of the value of teamwork in the war on crime.

## **OPERATION ON GUARD**

The elderly and the gullible have long been the target of bunco artists and medical quacks. Many victims have been drained of their entire life savings by these frauds.

Faced with a wave of such con men, the district attorney's office and the Los Angeles County Department of Senior Citizens Affairs have recently taken steps to educate the elderly in the methods utilized by these parasites.

Much of the instruction, called "Operation on Guard," is devoted to the citation of cases where older persons have been swindled of their life savings by bunco artists. Particular emphasis is placed on medical quacks who claim to have a cure for cancer, arthritis, and diabetes, but whose main objective is to make easy money with no consideration for the well-being of the elderly.

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Mr. George Sampson, Sheriff, Rockingham County, Exeter, N. H., was greeted by Director J. Edgar Hoover on a recent visit to the FBI.



## "ALICE"

(Continued from page 13)

into the law centuries ago in England when most arrests were made by private citizens and both participants were armed with no more than barrel staves or swords, much less dangerous than six-shooters and automatics. It was a time when bail for a felony usually could not be had, when there was no right to speedy trial—years might pass before the royal judges heard the case. The jails were dungeons, torture chambers, in which the prisoner might die before trial.<sup>15</sup> It was a time totally unlike today when jails are relatively clean and humanely operated, when bail is a constitutional right in most cases and is now being widely and quickly allowed under a broadening concept of that right, and when the accused has a constitutional right to a speedy trial (to say nothing of instant habeas corpus), a right to make no confession to the officers, and a right to demand a lawyer, relative, or friend before the officers interrogate him for evidence of his own guilt.

"What a topsy-turvy world," Alice said again, half to herself. "You would think that with all these constitutional rights available to a person under arrest, civilized people in this day and age would make it the law that this man must go peacefully with the officers and decide the legality of the arrest in the courts instead of starting a fist fight over it in the street. And wouldn't that be better for everyone? If we let someone kick an officer's teeth in because he made a mistake of constitutional law, won't the officer—like anyone else—perhaps be afraid to arrest the next time, and not arrest someone who should be arrested and who will hurt some innocent person if he isn't? Do we let a man kick a lawyer's or a judge's teeth out if he makes an honest mistake on the constitutional law of arrest?"

"No," the officer said, "we do not—

the law says that's not right, and I agree. And you have some good company when you say it should not be right in the case of a police officer either. A few States have abolished the right to resist illegal arrest.<sup>16</sup> The Superior Court of New Jersey recently did so in that State. They said that resistance to arrest is 'anti-social in an urbanized society. It is potentially dangerous to all involved. It is no longer necessary because of the legal remedies available.'<sup>17</sup>

"And newspaper editors in big cities have said the same thing. One said, 'Strange as it may seem, it is now lawful to kick, bite, or punch an arresting officer in uniform, if the arrest is one that a court lawyer finds is technically defective and hence unlawful. In these days of increasing hoodlumism and street crime, the community rightly expects the police to assume risks in the course of their duty, but in return it owes them reasonable protection. Policemen forced to make instantaneous decisions under trying circumstances should not become fair game for a mob.'<sup>18</sup>

"Another said that if the law does condone a vicious assault upon a policeman with a broken bottle, then the law ought to be changed because 'Otherwise the police will predictably find it far harder than it already is to control the hoodlums who prey upon the public in every large city in this era of growing lawlessness and whose particular pleasure seems to be to maim or kill policemen. A police officer's job is perilous and thankless enough without leaving this kind of legal weapon in the hands of thugs.'<sup>19</sup>

"But look," Alice said, "there's another way out. Even if you don't have enough facts indicating crime to make a legal arrest, why don't you search him for a gun or a knife now and take it if he has it—then, at least, he can't hurt you while you are asking questions of him. All that you would be

doing is protecting your own lives and mine, and maybe even his. Surely there is no law against that."

"No," the officer said, "you are wrong again. A search like that might be unreasonable under the fourth amendment to the Constitution. We don't have a search warrant, or his consent to search, and we haven't arrested him, so we still don't have a right to search him. A few States have laws saying we could search him before arrest for our own protection,<sup>20</sup> but we aren't in any of those States now. Anyway, some lawyers say the Supreme Court will make those States change their minds as soon as it gets a good chance."

"You mean to tell me," Alice said, "that while you stand here making up your mind on probable cause for arrest, a difficult decision of constitutional law, the law will not let you search that man first, just to prevent him from pulling out a gun and killing you, or those people up there in the window, or me?"

"Yes," the officer said. "That is the way it is."

"Would the law let him shoot a judge in court while the judge was making up his mind on a question of constitutional law?" Alice asked.

"No," the officer said. "It would not."

Again Alice was heard to say, half to herself, "What a topsy-turvy world!"

"But there is a way, there is a way," Alice shouted excitedly, "even if he does have a gun. There are two of you and only one of him and you can just arrest him, even if the arrest isn't legal, and grab him by both arms and handcuff him and then he can't hurt you. Do it that way."

"No," the officer said. "That's not so good either—it might hurt in my pocketbook."

"You mean he would kick you?" Alice asked.

"Well, sort of. You see, Alice, the



Supreme Court said in 1961 that if an officer violates a man's constitutional rights—such as the right of this man right here not to be arrested without probable cause for belief of guilt—the man can haul the officer into Federal court and sue him personally for damages.<sup>21</sup> This possibility of being sued frightens us, because in many of the States, or perhaps most, the officer has to pay the judgment out of his own pocket. The State either will not pay it for him or it pays only a part.

“Now some of the scholars in the law say this is bad because if an officer allows his pocketbook to influence his decision to arrest, the public interest

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*“It is axiomatic that one of the best defenses in criminal matters, if no other exists, is to try the police officers or the witnesses who have turned state's evidence.”* Federal Circuit Judge Barnes, Ninth Circuit, in *Dege v. U.S.*, 308 F. 2d 534 (1962).

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in good law enforcement is sure to suffer.<sup>22</sup> You know what they mean—the officer often will be afraid to arrest when he should arrest, and his fear will leave a dangerous criminal on the street to kill, rob, or steal. And the scholars say it isn't right on principle because this same man is not allowed to sue anyone else. He cannot sue the State's attorney for prosecuting him on evidence which is just not quite enough to convict, and he cannot sue the judge who erroneously makes a ruling against him on the law. So why should he have the right to make the officer pay a judgment out of his own pocketbook for the same kind of mistake? The scholars may be right. The newspapers that I read say that some policemen are now beginning to be afraid to arrest for fear they will be sued for all they've got.<sup>23</sup> If that is true, we have created a condition dangerous to society.

“A few years before you were born, Alice, a wise old man on the Supreme Court of the United States said something I think more people should remember. He was talking about the difficult problem that officers have in deciding whether to arrest or not, and he said that because officers must face many situations which are more or less ambiguous, some room must be allowed for their mistakes, so long as their mistakes are those of reasonable men.<sup>24</sup> But I guess most everyone has forgotten what he said.

“The law seems to tell me now that if I make any mistake of judgment at all on this constitutional law question of probable cause for arrest, then ‘bingo,’ no matter how honest I am, I can be sued for every penny I have. So I am very careful, and sometimes, perhaps, I fail to arrest when I should,<sup>25</sup> and I wonder if that really is proper for the public good. Would it not be much better if I used my own judgment and, when I made an honest mistake, the Government would say to the man arrested illegally, that the officer made a mistake in your case, but he did it not for his own profit but in performance of a public duty, so here is the money paid by the State to compensate you for this mistake? When the law won't let a judge or a prosecutor be sued for a mistake of constitutional law, it says the reason is that he must be allowed to do his duty as he sees it without fear and without having to risk being sued for making a wrong guess on the law.<sup>26</sup> Shouldn't that apply equally to a police officer, here in this backyard in the dead of night?”

“Very odd,” Alice said, “very odd.”

“Then there's nothing to do,” Alice suggested, “but to hope that the man will not run away while we call the State's attorney to see if he will approve a warrant of arrest. That will settle the issue of probable cause and you won't have to stick your neck out.”

“Basically a good idea,” the officer

said. “Arrest by warrant is the American system, and the fairest of all. The magistrate who decides whether the warrant shall be issued is neutral and unbiased and he doesn't care, at least theoretically, whether the arrest is made or not. Being neutral makes him a good judge of probable cause, fair to both sides. The Supreme Court likes it that way. Sometimes they criticize us for not getting warrants. Not long ago they warned us, as they have done several times before, that ‘The point of the Fourth Amendment, which often is not grasped by zealous officers, is not that it denies law enforcement the support of the usual inferences which reasonable men draw from evidence. Its protection consists in requiring that those inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime. Any assumption that evidence sufficient to support a magistrate's disinterested determination to issue a search warrant will justify the officers in making a search without a warrant would reduce the Amendment to a nullity and leave the people's homes secure only in the discretion of police officers.’<sup>27</sup>

“But the fact which I think the courts sometimes fail to grasp, Alice, is that the officer whom they criticize for not getting a warrant is not *allowed* to decide whether he will ask for a warrant or not. Someone made a scholarly study of this matter and found that the prosecutor dominates the warrant decision.<sup>28</sup> By that I mean that the prosecutor—not the officer—decides whether the officer can have a warrant or not, and he usually tells the officer to go ahead and arrest without a warrant. You see, Alice, this is exactly the opposite of what the Supreme Court says we should do. The Court tells us to get a warrant and the prosecutor tells us to arrest without a warrant. And

that's not all. If the State's attorney did approve a warrant, who would issue it to us at this time of night? Most magistrates keep office hours, which crime and the criminal do not. At this time of night the magistrates are deep in the arms of Morpheus" (the mythical Greek God of sleep).

"That doesn't make sense!" Alice exclaimed. "The Supreme Court telling you to make arrests on warrants as much as you can, and being really quite right at that, but no one will

quirements of the law, which had now been explained to Alice and the people upstairs for the first time in their lives, they echoed the view of Dickens' famous character, Mr. Bumble, who said, "If the law supposes that, . . . the law is a ass, a idiot."<sup>29</sup> Yet, when the officers asked them to specify which crime this man had committed, Alice and the people upstairs fell silent. They did not know, either.

Then Alice had still another idea.

"Now that," said Alice, "sounds like the answer."

"Not so fast," the officer replied. "We are not in one of those States. Outside of a few States an officer does not really know whether he has the power to detain or not."<sup>31</sup> A Federal judge said not long ago that American law has 'inadequately articulated' the power of an officer to detain for investigation,<sup>32</sup> which I take to be a judge's scholarly way of saying that the law simply does not say for sure whether we can detain to investigate or not. Because the law hems and haws on this point, some other scholars who call themselves the American Law Institute recently proposed that the law clearly and unequivocally gives us this power. But do you know what happened? It was no sooner suggested than some other scholars on the other side of the fence hit the ceiling,<sup>33</sup> if you don't mind me mixing my metaphors. So where does that leave the officer like me? Everybody hollers for him to obey the law so he hollers back, 'what is it?' And then they start fighting among themselves while he stands there facing an unknown quantity in the dead of night."

"Okay," said Alice, "we're licked, let's get out of here."

"No," the officer said, "we can't. We wouldn't get three blocks before the night chief would come bawling over the radio for us to come in to explain why a citizen had complained that two cowards in blue uniforms had run out on him. I have a wife and kids to feed. We will arrest this man for vagrancy. It isn't a very good answer. Arrests for vagrancy have been bitterly criticized in recent years.<sup>34</sup> If the critics get hold of this case, they will shout that it is just another example of illegal arrest on suspicion only—another example of tyrannical abuse by the police. If we walk away from here and this man attacks the people upstairs, or someone else, the law and the critics will

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*"We may strangle law enforcement and court function if in these cases distinctions become too finispun and unreal. We can quibble forever as to when the arrest took place: at the stopping of the car, or the stepping out of the car at the command of the detectives, or after the brown paper bag was found on the floor of the automobile." Chief Judge Foley, U.S. District Court, Northern District of New York, in U.S. ex rel. Wilson v. LaVallee, 251 F. Supp. 292 (1966).*

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permit you to have the warrant and no one to give it to you even should it be approved. If this man's constitutional right not to be arrested without probable cause for belief of guilt is as important as the Supreme Court says it is, and the function of the magistrate in making a fair decision on probable cause is as critical as the Supreme Court says it is, why can't one of those—one of those magistrate people—be appointed to work nights like you do?"

"You think too much," the officer replied. "Kids like you are dangerous."

The conversation between Alice and the officers continued. Alice and the people upstairs grew increasingly impatient with both the officers and the law. As to the officers, it seemed so elementary that something must be done here, and what could be more simple and direct than for two big and burly policemen to take the man down to the station and learn what he was up to. As to the technical re-

If the officers doubted that they had sufficient information of crime to make probable cause for arrest, why not simply keep the man here while they investigate. One officer could hold him and the other could check through the neighborhood for break-ins, a suspicious car, or anything else. "Not a bad idea," one officer said, "at first glance. The law of a few States has allowed this action for many years, mostly under the Uniform Arrest Act.<sup>30</sup> Some call it detention for investigation. If the officer has a reasonable basis for simply *suspecting* that the man in front of him might have committed a crime, he can hold that man for 2 hours or so, whatever the law of that State specifies, while he investigates. If the officer then finds enough facts to make probable cause for arrest, he can arrest the man. And if he doesn't he must turn the man loose, but the act of the officers in detaining the man during investigation is not an arrest and the man cannot sue the officer for false arrest."

condemn us—and perhaps worse—for dereliction of duty. If we walk away and nothing happens, the people upstairs will register a complaint against us anyway. We are squeezed between the law which restricts our action and often fails to tell us what we can do, and the demand of the citizen that we do something. Do you see the problem?”

“I see the problem,” Alice replied, “but I don’t see why the critics who are so certain on what you should not have done after you did it are so uncertain on what you should do before you do it. I should think that they have some responsibility for coming up with the other half of the answer. They ought to tell you what you *can* do. If they think this arrest is illegal, they should tell you to not make an arrest in a case like this, and then defend you all the way to the Supreme Court when the mayor tries to fire you for not doing your job.”

Alice was relieved, nevertheless, as were the people upstairs, that an arrest would be made. But one officer cut their relief short with a reminder that his troubles with the law were by no means ended. “The requirements of the law on confessions,” he said, “interacting with the community demand that the case be solved will baffle us again before the night ends. The high courts of some States, interpreting a 1964 decision of the Supreme

Court,<sup>35</sup> have told the officers that a confession of guilt given under arrest and in the interrogation room of the police station is not admissible in evidence against that man unless the officer first tells the man that he has a right to remain silent and a right to counsel.<sup>36</sup> The high courts of some other States disagree. They say it is enough if the man is told only that he has a right to remain silent.<sup>37</sup> The high courts of still other States have disagreed with both these positions. They say the officer doesn’t need to tell the man anything so long as the man’s request for counsel, if he makes it, is not denied.<sup>38</sup> So the officer is left standing at the crossroads with at least three signposts, each pointing in a different direction and each saying that it alone shows the true path. Some say that the officer needs to know more law. I agree, but he also needs the patience of Job and a sense of humor.

“Of course,” the officer continued, “it would be easy enough for us to tell this man that he has a right to silence and a right to counsel. But commonsense tells you that the more we warn him against confessing, the less likely he is to tell us the truth. That isn’t so true, I’m sure, of cases where a long investigation before arrest gives the interrogating officer a file of facts 10 inches thick on the man and his crime. If the officer re-

cites a few of the facts from that file and shows the man that he is caught cold, the man can see that the game is lost and that perhaps the intelligent thing for him to do is confess and throw himself on the mercy of the court. But that isn’t our case, Alice, and it isn’t the case with which police officers so often are confronted. Our case contains, through no fault of our own, a minimum of fact and a maximum of ambiguity. If we solve this case—and that is what the people upstairs and the people of this community expect—we will do it only from what this man tells us. In circumstances like these you can understand our reluctance to say anything which might encourage him to say nothing.

“The heart of the problem, Alice, is that we serve two masters, and we have it on high authority from long ago that no man can accomplish that feat.<sup>39</sup> He will cleave to the one and reject the other, or reject the one and cleave to the other. One master is the community which we serve. This master is powerful. It can hire us and fire us, raise our pay, or refuse a raise, according to how well we satisfy its demands. This master wants an honest confession, because from a confession it learns the facts important to its health and well-being. The other master, also very powerful, is the law, which instructs us that we can obtain the confession only under legal restrictions which the first master neither knows nor understands. A confession pleases one master but often displeases the other. In fact, our master in the law seems sometimes to doubt that we ever need a confession to solve a criminal case.<sup>40</sup> This master seems occasionally to suggest that we can solve any case by talking with witnesses and by finding the gun, the tire track in the mud, the vial of poison, and all those other things with which Mr. Hoover’s FBI Laboratory can do so

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*“Yet every day hundreds of cases must be decided in the 50 States and in the Federal courts. Each case has its unique facts that bear only on one small area of no man’s land. The courts cannot just do nothing as the legislatures have done. They must decide the particular case before them, and they must decide it without any knowledge of police requirements, with little understanding of how the protection of individual rights may be affected and surely with no information about the far-reaching effect their decisions may have on law enforcement generally and the havoc that their dicta may cause.”* Chief Judge J. Edward Lumbard, U.S. Court of Appeals, Second Circuit, in “New Standards for Criminal Justice,” American Bar Association Journal, May 1966.

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much. That is not true. As a wise old man who sat on the Supreme Court not so long ago—two of them, in fact—said so well, there are crimes, often of the worst kind, in which there simply are no witnesses, no guns, no tire tracks, and no vials of poison to be found. And moreover, these two learned men of the law asked how the police can possibly solve such cases except by getting information from the man who committed the crime. Those two wise men of the law asked that question on two different occasions, Alice, during the last two decades.<sup>41</sup> We are still waiting to hear the final answer. If the law thinks we should not try to solve a murder or any other crime by asking questions of the man whom we have arrested, then let it say so, straight out, loud and clear, and we will obey. The crime may go unsolved, of course, and a criminal may be set free in the street once more, but that will not be our fault.”

“But haven’t you forgotten something?” Alice asked. “Suppose this man had kidnaped my baby brother and you arrested him for that crime. Now my father and mother and I want to know where he has hidden the baby, who might die if we don’t find him. If you ask the man, but tell him first that he has a right to refuse to answer, do you not perhaps sign a death warrant for that child? Isn’t this a corruption of values? They teach us, you know, in school and at home and in your office and in church that we have a moral and religious obligation to tell the truth. And then they turn right around and say that you must tell this man that *he* has no such obligation, even when the likely result will be to deprive an innocent child of life itself. What do you suppose the experts on the law would say if it were their baby instead of ours?”

“You are all mixed up,” the officer replied. “I don’t know how to explain it, but you seem to think religion

and the law live in the same house, so to speak. They did once, way back in the days of Moses, but it is my impression that they are now divorced. Anyway, that’s no subject to discuss with a kid like you—let’s get on with this case.”

“No,” said Alice, glancing at her watch, “I can’t. You have been saying nothing but ‘No’ to me all night whenever I mentioned the law. You sound like you have picked up a bad habit from one of your masters. Now it is my turn to say ‘No.’ My parents knew that I would be with you, but they must be wondering about me. I live just down the block. You can watch me until I go in the door. And it was awfully nice to meet you. I will see you again and if I ever need you, I will call you.”

“Thank you,” the officer replied, “but don’t be disappointed if we don’t show up.”

“But surely you don’t mean . . . !” Alice exclaimed.

“No, again,” the officer said, “that is not what I mean. I just mean that there are not enough of us to do everything. Our department, like so many others all over this Nation, is understaffed. We have a budget for a certain number of officers, but we can’t get that many. We are trying to recruit new officers in areas hundreds of miles beyond the city, reaching into other States, and still we can’t find enough officers to fill the jobs.<sup>42</sup> More and more of the young men who would become fine policemen are taking a long look at the pay and the working conditions offered. They see the law taking away some of the tools which law enforcement officers always have used in all civilized countries since time began, including this one until a very few years ago, and the apparent assumption on the part of the public that the officers still have all the power necessary to do the job demanded of them. They see the odd hours and dangerous conditions under

which we must work. They see the increasingly frequent physical assaults upon policemen by persons being arrested. They see that mobs form and start riots, that blind and unreasoning mobs can be controlled only by physical force, that if we fail to attempt to stop the mob, we can be discharged or prosecuted for dereliction of duty, that if we do stop the mob, the tumult of battle has scarcely died down before we are charged with police brutality, for which we can be discharged or prosecuted. They see the facts, and more and more of them appear to be making the same decision that the critics of the police made long ago—that they do not want the job for themselves.”

“Well, no offense intended to a good friend,” Alice said as she started away, “but that is the only smart decision that I have heard all night.”

### *Epilogue*

This was “Alice in a Patrol Car.” The comparison with the original is not perfect, of course. The Alice of “Alice in Wonderland” was only dreaming, but our Alice is not. What our Alice saw here is the raw stuff of Life itself, the material out of which the law should be shaped and reshaped as necessary in a Nation whose criminal environment is now newly dominated by the sprawling metropolis where dense concentrations of millions of human beings make possible a rate of criminal activity greater than ever before in our history. With few exceptions, however, this raw stuff of Life is known only to a few—to police officers and to the victims of crime, to those who by occupation or unfortunate circumstance bear in their bodies and in their fortunes the unequal burden of crime. It has been said that these are predominantly the poor and those of modest income. Most others turn a blind eye and a deaf ear to the facts. Some call it apathy.

Federal Circuit Judge Edward Lumbard said a few years ago that "Police officers need to know their powers to question, detain and arrest, but federal law and the laws of all the states on these questions are in great confusion . . . no one can say with any certainty what powers the police officer has until the particular case is decided by the courts."<sup>43</sup> Federal Circuit Judge Homer Thornberry said only last year that "There is a crying need for reform in criminal law and procedure, but little has been accomplished . . ." <sup>44</sup> Past President Lewis F. Powell, Jr., of the American Bar Association said last year that "There is a growing consensus that outmoded criminal codes and the dramatic reinterpretation of constitutional safeguards have rendered the process of law enforcement far more difficult."<sup>45</sup>

you, the responsible citizen who depends upon the police for protection of person and property. Take a ride with the police officer and see this "topsy-turvy" world for yourselves.

<sup>1</sup> Mr. Justice Rutledge, in *Brinegar v. U.S.*, 338 U.S. 160, 174-176 (1949); *Wayne v. U.S.*, 318 F. 2d 205 (1963); Congressional Record, Feb. 8, 1965, p. 2165.

<sup>2</sup> *Draper v. U.S.*, 358 U.S. 307 (1959); Mr. Justice Clark in *Henry v. U.S.*, 361 U.S. 98, 106 (1959); *Wayne v. U.S.*, *supra*.

<sup>3</sup> *Wren v. U.S.*, 352 F. 2d 617 (1965); *Bell v. U.S.*, 254 F. 2d 82 (1958), *cert. denied* 358 U.S. 885.

<sup>4</sup> *Elkins v. U.S.*, 364 U.S. 206 (1960), Appendix.

<sup>5</sup> *Beck v. Ohio*, 379 U.S. 89 (1964).

<sup>6</sup> *Mapp v. Ohio*, 367 U.S. 643 (1961).

<sup>7</sup> *Monroe v. Pape*, 365 U.S. 167 (1961); *Batista v. Weir*, 340 F. 2d 74 (1965).

<sup>8</sup> *Gideon v. Wainwright*, 372 U.S. 335 (1963).

<sup>9</sup> "The Detective," *Life Magazine*, Dec. 3, 1965; *Detroit Free Press*, Apr. 4, 1965; *Miami Herald*, Sept. 5, 1965; *Portland (Maine) Sunday Telegram*, Sept. 19, 1965; *Illinois State Journal*, Springfield, May 12, 1965; *Fond du Lac (Wis.) Commonwealth Reporter*, Jan. 26, 1966.

<sup>10</sup> *Wong Sun v. U.S.*, 371 U.S. 471 (1963).

<sup>11</sup> *Chicago Tribune*, Mar. 15, 16, 17, 23, 1965; *Chicago's American*, Mar. 18, 22, 23, 1965; *Chicago Daily News*, Mar. 17, 19, 1965.

<sup>27</sup> *Johnson v. U.S.*, 333 U.S. 10, quoted in *U.S. v. Ventresca*, 380 U.S. 102 (1965); *Aguilar v. Texas*, 378 U.S. 108 (1964); *Ford v. U.S.*, 352 F. 2d 927 (1965).

<sup>28</sup> Miller & Tiffany, "Prosecutor Dominance of the Warrant Decision: A Study of Current Practices," *Wash. Univ. L. Quarterly*, February 1964.

<sup>29</sup> Dickens, *Pickwick Papers*, chapter 47.

<sup>30</sup> 28 Va. L. Rev. 315 (1942), adopted with modifications in Delaware, New Hampshire, and Rhode Island.

<sup>31</sup> *Police Power and Individual Freedom*, Aldine Publishing Co., Chicago, 1962.

<sup>32</sup> Judge Kaufman, *U.S. v. Bonnano*, 180 F. Supp. 71 (1960).

<sup>33</sup> See, for example, the "Bazelon and Katzenbach Letters," *The Evening Star*, Washington, D.C., Aug. 4, 1965.

<sup>34</sup> Douglas, "Vagrancy and Arrest on Suspicion," *Yale L. Journal*, November 1960; "Over-expanded Application of Vagrancy Statutes," *Wash. Univ. L. Q.*, December 1961.

<sup>35</sup> *Escobedo v. Illinois*, 378 U.S. 478 (1964).

<sup>36</sup> *People v. Dorado* (Calif.), 394 P. 2d 952 (1964); *State v. DuFour* (R.I.), 206 A. 2d 82 (1965).

<sup>37</sup> *Ward v. Comm.* (Va.), 138 S.E. 2d 293 (1964); *Mefford v. State* (Md.), 201 A. 2d 824 (1964).

<sup>38</sup> *People v. Hartgraves* (Ill.), 202 N.E. 2d 33 (1964); *People v. Gunner* (N.Y.), 205 N.E. 2d 852 (1965).

<sup>39</sup> Matthew 6:24.

<sup>40</sup> *Escobedo v. Illinois*, *supra*; Justice Sobel, New York Supreme Court, as quoted in "Will the Courts Take Lawmen's Trump Card," *The Evening Times*, Trenton, N.J., Dec. 28, 1965.

<sup>41</sup> Mr. Justice Jackson in *Watts v. Indiana*, 338 U.S. 49 (1949); Mr. Justice Frankfurter in *Culombe v. Conn.*, 367 U.S. 568 (1961).

<sup>42</sup> *The Wall Street Journal*, Oct. 7, 1965; *The Maryland Monitor*, Nov. 4, 1965.

<sup>43</sup> "The Administration of Criminal Justice," *American Bar Association Journal*, September 1963.

<sup>44</sup> 38 Federal Rules Decisions 351, 369 (1965).

<sup>45</sup> "An Urgent Need: More Effective Criminal Justice," *American Bar Association Journal*, May 1965.

<sup>46</sup> *Snyder v. Mass.*, 291 U.S. 97, 122 (1934).

**"The police must feel defeat when constantly bombarded with cries of 'police brutality,' knowing that in most instances this is but a preplanned phrase glibly invoked by self-serving individuals to arouse undeserved sympathy." Federal District Judge Marovitz, Northern District of Illinois, in *U.S. ex rel. Conroy v. Pate*, 240 F. Supp. 237 (1965).**

## MORE THAN A TIGER IN HIS TANK

For several months police in a foreign country had a group of individuals under surveillance on suspicion of dealing in narcotics. Despite close surveillance of the suspects and the vehicles they used, no evidence of narcotics was found.

In studying the surveillance logs, an alert detective noted that the suspects stopped at filling stations more frequently than was normally required. His suspicions were well founded. A later examination of the gas tanks revealed they were divided into two compartments, one for gasoline, the other for narcotics.

Director Hoover of the FBI has repeatedly warned us of the rising volume of crime. Mr. Katzenbach, Attorney General of the United States, is concerned. The President of the United States is calling for action against crime. If these acknowledged authorities are correct in their views on crime and the criminal law, then "Alice in a Patrol Car" is the wrong title. The title should be, "You in a Patrol Car"—you who belong to a profession whose members are charged with the continuing duty of acting as the architects of the law, you whose function it is to enact and to interpret the law so that justice may be done, as Mr. Justice Cardozo once said, to the accuser as well as to the accused,<sup>46</sup> and

<sup>12</sup> Footnote 11, *supra*.

<sup>13</sup> California, Delaware, Illinois, New Hampshire, New Jersey, and Rhode Island.

<sup>14</sup> *U.S. v. Di Re*, 332 U.S. 581, 594 (1948) *People v. Cherry*, 307 N.Y. 308, 121 N.E. 2d 238, 240 (1954); *New Jersey v. Koonce*, Superior Court of New Jersey, Appellate Division, Oct. 26, 1965; 9 Okla. Law Rev. 60 (1956); 39 Univ. of Detroit Law Journal 595 (1962).

<sup>15</sup> Warner, "The Uniform Arrest Act," 28 Va. L. Rev. 315 (1942); Hall, "Legal and Social Aspects of Arrest," 49 Harv. L. Rev. 566, 578-92 (1936).

<sup>16</sup> Footnote 13, *supra*.

<sup>17</sup> *New Jersey v. Koonce*, Footnote 14, *supra*.

<sup>18</sup> Editorial, *New York Times*, May 28, 1965.

<sup>19</sup> Editorial, *Chicago Daily News*, Mar. 15, 1965.

<sup>20</sup> Delaware, New Hampshire, New York, Rhode Island, and Nebraska.

<sup>21</sup> Footnote 7, *supra*.

<sup>22</sup> Davis, "Officers' Tort Liability," 55 Mich. L. Rev. 201 (1956); Foote, "Tort Remedies for Police Violation of Individual Rights," 39 Minn. L. Rev. 493 (1955).

<sup>23</sup> Footnote 9, *supra*.

<sup>24</sup> Mr. Justice Rutledge, footnote 1, *supra*.

<sup>25</sup> Footnote 9, *supra*.

<sup>26</sup> See, for example, *Pierson v. Ray*, 352 F. 2d 213 (1965).

# WANTED BY THE FBI



**DAVID LEE CROSBY**, also known as: Joseph Edward Cantrell, Joseph Canytrll, "Red."

## *Interstate Flight—Child Molesting; Rape*

DAVID LEE CROSBY is currently being sought by the FBI for unlawful interstate flight to avoid confinement after conviction for child molesting and rape.

### The Crime

On September 20, 1961, Crosby was sentenced to serve 10 years at the Georgia State Prison at Reidsville, Ga., for child molesting and rape. On October 1, 1964, Crosby reportedly escaped from confinement by sneaking away from the prison's outside electric shop. He then allegedly fled interstate.

A Federal warrant for his arrest was issued on December 21, 1964, at Swainsboro, Ga.

### The Fugitive

David Lee Crosby has been employed as a carpenter, electrician, and welder. He reportedly has carried firearms in the past and should be considered armed and dangerous.

### Description

Age..... 35, born June 30, 1930, Brantley County, Ga.  
 Height..... 5 feet, 9 inches.  
 Weight..... 134 to 150 pounds.  
 Build..... Small.  
 Hair..... Red.  
 Eyes..... Blue.  
 Complexion..... Fair.  
 Race..... White.  
 Nationality..... American.  
 Occupations..... Carpenter, electrician, welder.  
 Scars and marks... Vaccination scar on left arm, scar on each knee, scar on right ankle, tattoos on right arm.  
 FBI No. .... 995, 844 D.  
 Fingerprint classification:  
     9 S 27 W MIO 10 Ref. 27  
     S 2 U III            1

### Notify the FBI

Any person having information which might assist in locating this fugitive is requested to immediately notify the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C.,

20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local telephone directories.

## C.O.D. THIEF

One enterprising thief has recently devised a unique system of fraud.

Telephoning the store he intends to victimize, the thief orders a specific item to be delivered c.o.d. to a particular address at a specified time. Meeting the delivery truck, he advises the driver that he has moved to a new address but that he has a station wagon with a trailer nearby to take the merchandise to the new address himself. After the merchandise is transferred to his vehicle, he gives the driver a check for the full amount of the purchase, plus a generous tip. This check, of course, is bogus.

In such transactions this individual has acquired air-conditioning units, valuable art objects, a hospital bed, a color television set, etc.

## TESTIFYING INCOGNITO

Officers of a police department in a southeastern city took unusual means to keep the identity of an informant concealed while at the same time eliciting from him testimony on the witness stand that was essential to the successful prosecution of their case.

The informant in the case appeared in court with his head completely swathed, mummy fashion, in bandages leaving openings only for his eyes, nose, and mouth. In addition, he wore dark glasses and a cap—completely concealing his identity.

The case resulted in a conviction which authorities felt otherwise would not have been accomplished.

## FOR CHANGE OF ADDRESS

Complete this form and return to:

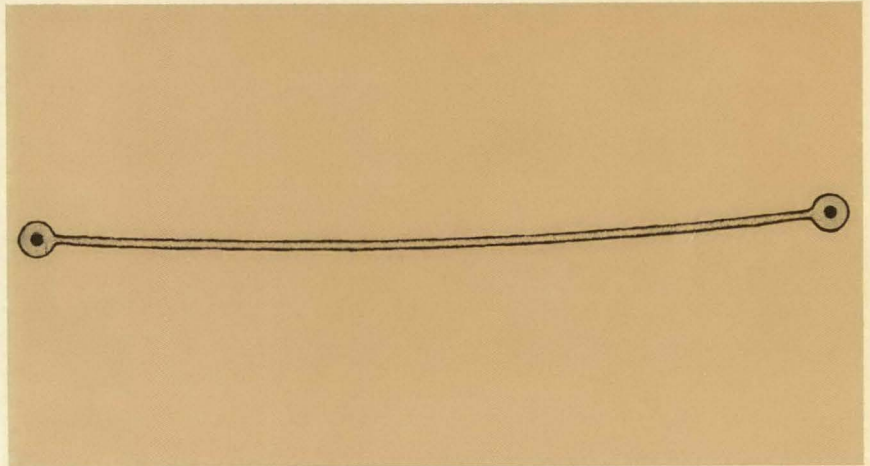
DIRECTOR  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D.C. 20535

_____	_____	
(Name)	(Title)	
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(Address)		
_____	_____	_____
(City)	(State)	(Zip Code)

### NEW ROD SAW

A new product is being put on the market by the Remington Arms Co., Inc. It is a tungsten carbide rod saw similar to a diamond-cutting instrument. The half-ounce saw rod fits a standard 12-inch hacksaw frame and is designed to cut through glass, glazed tile, stainless steel, and other tough-to-cut materials.

Attention is drawn to the fact that these rod saws can easily be hidden in a belt, rolled into a small ball, and otherwise concealed on the person. The possibility of such an item's being secreted in the clothing of an arrested person should not be overlooked.



Tungsten carbide rod saw designed to cut hardened metals and glass.

### BORROWED TOGS

A taste for the finer things led one individual to practices which eventually got him into trouble with the law. He was found to be in possession of clothing belonging to the chief of police!

When questioned concerning his possession of these items of clothing, he said that while working for several months in a cleaning establishment,

he helped himself to various garments of the appropriate size and would wear them for a few days before again having them cleaned and returned to the customer. He said that in this way he had a varied wardrobe and was able to impress many of his acquaintances with his apparent good taste and affluence.

Chances are he is somewhat dissatisfied with the monotony of his present daily garb.

### FINISH THE SEARCH

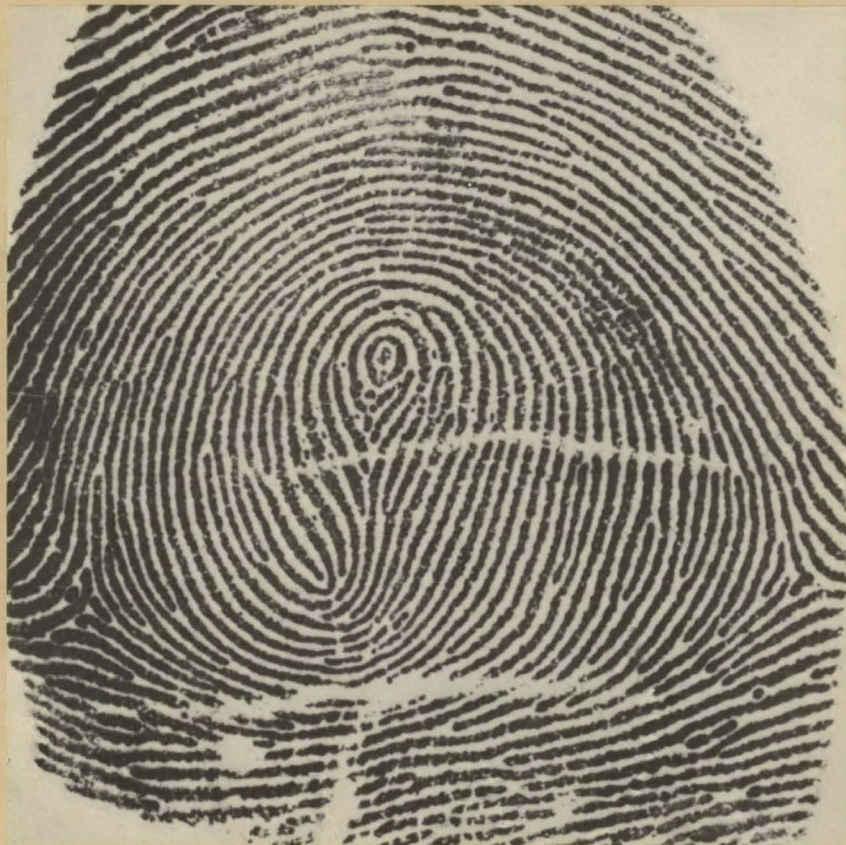
A knife carried in a sheath concealed on the forearm may be more apt to escape detection than if hidden on any other part of the body. A cursory examination of an offender by police usually includes searching the torso and legs, but the arms are frequently overlooked. It would be well to include the arms in such a search to prevent possible attack later.

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D.C. 20535

POSTAGE AND FEES PAID  
FEDERAL BUREAU OF INVESTIGATION

OFFICIAL BUSINESS  
RETURN AFTER 5 DAYS

## UNUSUAL PATTERN



The pattern presented this month is unusual because of its size and complexity. It possesses three deltas and is classified as an accidental whorl with an inner tracing.