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JULY 1977



ETERNAL VIGILANCE
IS THE PRICE OF LIBERTY

FBI

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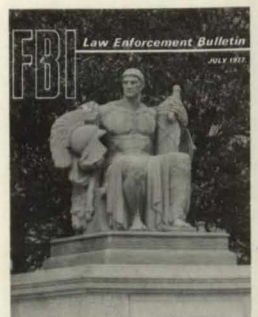
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THE COVER

This month's cover features a National Archives' statue symbolizing guardianship. Inscribed upon the statue is "Eternal Vigilance is the Price of Liberty." See related article beginning on page 16.



Message from the Director . . .



THE NATIONAL ARCHIVES BUILDING, repository of our country's documentary heritage, bears the inscription: "The past is prologue." We can, and must, learn from what has gone before. As this month marks our 201st year of self-government, it is an appropriate moment to urge examination of the role of law enforcement in this achievement.

Organized law enforcement, as an element of government, is a recent development in historical terms. While the "watch" system dates back to the Middle Ages—London was patrolled by a watch established in 1252—modern police methods are generally thought of as beginning in 1829 when Sir Robert Peel set down fundamental principles that are still valid today.

These principles went to the professional nature of policing and called for an organized body of men under government control, with systems of records, and proper training. This country was quick to adopt the innovations developed by the British. In 1844, New York City modeled its Day and Night police after London's force.

Our English forebearers had already wrestled with urban crime problems for almost a century. Henry Fielding wrote one of the first treatises on law enforcement in 1751. Differences in systems of government in this country then led to divergence of police organization between America and England. For example, the State system here led to State police forces, the Texas Rangers being the first established in 1835.

But, principles of training, patrol, and governmental control remained the same. They have

had to be reintroduced at times as the abuses of the spoils system or other corruptions marred police service. On the whole, however, law enforcement has kept pace with the advancements of our society.

Police professionals have utilized the technology of America to field the best equipped officer ever. Today's patrolman is the best educated police officer in history. The police executives of this country use modern management techniques in the operations of their departments.

We have tried to use these techniques in the FBI. We have set priorities for the utilization of available manpower, priorities based on our country's most serious crime problems: white-collar crime and organized crime. We have sought, and adopted, new ideas, such as the Crime Resistance concept.

Today's police managers know that policing a democratic society is a difficult and challenging assignment. One thing we must learn from the past, from innovators such as Fielding and Peel, is to address broad questions of the police role.

What part of police resources must go to crime prevention? To crime detection? To the service function? In order to answer these and other questions, we need to know our present efforts and their effectiveness.

And just as important, we must ask what our society expects from the police. We must then serve those expectations.


CLARENCE M. KELLEY
Director

July 1, 1977

DIVULGE: *Hennepin County's Confidential Telephone Hotline*

By

DONALD J. OMODT

Sheriff

Hennepin County, Minn.

Today, private citizens in the metropolitan Twin City area of Minneapolis and St. Paul, Minn., are providing valuable investigative leads to law enforcement agencies telephonically—by dialing 348-8543, DIVULGE. DIVULGE is an around-the-clock hotline program which guarantees caller anonymity, and since its

“DIVULGE is an around-the-clock hotline program which guarantees caller anonymity. . . .”

implementation by the Hennepin County Sheriff's Department in July 1974, it has proven that local resi-

dents can be of significant assistance to law enforcement agencies.

Central to the DIVULGE program is a tape-recording device which is activated automatically when a citizen dials the DIVULGE number. Callers may remain anonymous or leave their names if they wish to be contacted during the next business day.

At no time are their calls monitored, and no attempts are made to identify the callers.

DIVULGE callers offer their taped information at the conclusion of recorded instructions. These instructions advise them in part, as follows:

Thank you for calling our confidential reporting number. If your call is of an emergency nature or needs immediate attention, please hang up and call our central dispatching number. A deputy is on duty to handle such emergency calls. When leaving your nonemergency confidential information, please try to be as complete as possible. Include, if known, such things as the full name of the suspect, physical description, nicknames, license numbers, and date of birth. Please be assured that the Hennepin County Sheriff's Department will do its best to follow up your lead or refer it to the proper jurisdiction. If you wish to have a deputy return your call on the morning of the next working day, you may also leave your telephone number. At the sound of the tone, you may leave your message.

Every business day at 7:45 a.m., messages from DIVULGE are evaluated and appropriately referred. The Minneapolis Division of the FBI, the Minneapolis Police Department, and many suburban police departments have received through DIVULGE informative leads which have contributed materially to a variety of investigations of child abuse, illicit drug traffic, prostitution, and other criminal activities.

No rewards are offered to induce callers to contact DIVULGE. Should the caller insist on monetary compensation or immunity from prosecution prior to "divulging" usable informa-

tion, he or she is requested to meet personally with a detective from the department's criminal division. If the individual's lead is accurate and contributes to the solution of a particular case, he or she may be compensated

"One of the primary reasons for the program's success is ready identification of the DIVULGE telephone number."

or granted immunity, pending the approval of the county attorney's office.

One of the primary reasons for the program's success is ready identification of the DIVULGE telephone number. The caller is not required to spend time needlessly looking up an unfamiliar, meaningless telephone number; he simply must remember and dial a single word—DIVULGE.

Although less than \$2,000 has been expended on advertising and promo-

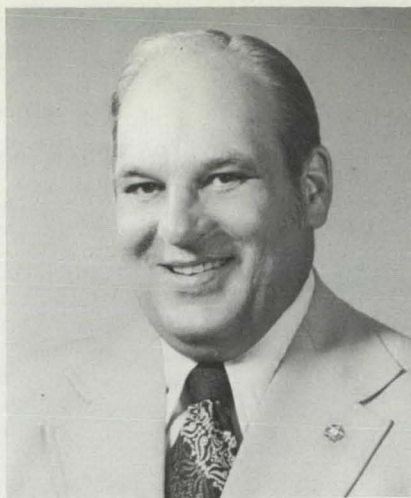


tional materials such as handouts and bumper stickers, DIVULGE has become a household word among Twin Citians. Bus placards have been an inexpensive but highly effective advertising medium, and last winter, these placards appeared as a public service message on more than 400 buses during a 120-day period. The only costs incurred by the sheriff's department were nominal printing expenses and labor charges for the installation and removal of the placards.

DIVULGE gained widespread attention in April 1975, when a local theatrical group performed a satirical skit about the inability of a caller, when attempting to report criminal activities of an emergency nature, to remember the spelling of the word "DIVULGE." The skit appeared during prime time on a local television station in the Twin City area. A week later, during the same time slot, the station broadcast a letter of clarification which stressed the nonemergency nature of the type of criminal activity, actual or suspected, that should be reported to DIVULGE. Matters requiring immediate attention, it was emphasized, are to be reported directly to the department's emergency communications center.

"Matters requiring immediate attention . . . are to be reported directly to the department's emergency communications center."

The effectiveness of publicity and advertising is reflected in the number of calls received through the DIVULGE program. During the first month of operation, when a multimedia promotional campaign was in full swing, more than 590 calls came in on the hotline. Although almost 75 percent of these calls were blank or contained inadequate information, the promotion was successful in introducing DIVULGE to the Twin City area.



Sheriff Donald J. Omodt.

Since that record-setting month, the average number of monthly calls has leveled off to 298. Since the program's implementation in 1974, 6,000 calls regarding criminal activity of a non-emergency nature have been received.

More than 70 percent of the calls received during the first 2 years of the program were not usable. They were either prank calls, blank, or contained insufficient information. The high figure, however, was not considered significant in assessing the overall value of DIVULGE. Even a paucity of usable leads can be a justification for the program. For example, an escape from a county workhouse was averted as a result of a DIVULGE tip received in advance. Similarly, 2 months after the inception of DIVULGE, a call was received which led to the apprehension of two escapees from a State reformatory. A bicycle-theft ring was broken up also as a result of DIVULGE tips.

Typical of DIVULGE calls is one received in early 1976. An anonymous female caller described an automobile, its trunk filled with small business machines, which had pulled into a local gas station. The occupants of the car sold one of the machines to the station manager. The caller recorded the automobile license number, dialed DIVULGE, and reported the incident.

The call was referred to the appropriate department, and suspects were, subsequently, taken into custody.

The narcotics division of the sheriff's department has had good success in pursuing leads that are relayed through DIVULGE. Almost 55 percent of the usable tips that come in over DIVULGE involve the possession and sale of illegal narcotics. Although the majority of the leads do not result in immediate arrests, the information is often helpful in building a case against a suspect arrested at a later date. All usable tips are carefully checked for validity before an arrest is effected or the information is entered in permanent DIVULGE case files. In the interest of protecting the civil rights of the individual, information is not recorded in the DIVULGE case files until corroborating evidence is obtained.

Although the potential for recruiting new informants through DIVULGE exists, the program is not designed to fulfill such a function. The principle of caller anonymity is basic to DIVULGE. It is conceivable, however, if a particular caller regularly supplied reliable information, police would attempt to contact him by tel-

"Even a paucity of usable leads can be a justification for the program."

ephone, assuming he had volunteered his name and telephone number. If such an informant wished to remain anonymous, he might be assigned a number which would be used as an identifier for subsequent contacts. In this way, police might be able to procure warrants when feasible without disclosing the caller's name. But, as of yet, there have been no instances of individuals supplying viable leads via DIVULGE on a regular basis.

To date, less than 3 percent of the callers have revealed their identities

or volunteered their telephone numbers, and no attempt has been made to contact the callers unless circumstances indicate that they or other persons may be exposed to potential danger. An anonymous female caller reported that she had been raped by a suspect who was being sought by police for a number of rapes in the community. Because the caller's description of the rapist was consistent with other known information, an attempt was made to contact her through a notice in a local newspaper. She failed to respond, and additional efforts to locate her were ineffectual. Even though a caller's failure to supply adequate information might present a major problem, police can only wait for the caller to recontact DIVULGE in the near future.

Although the prank calls constitute less than 7.9 percent of all calls

received, every call is taken seriously. In May 1976, DIVULGE received several threats from one individual who warned of a bombing at a Twin City elementary school. Although the voice of the caller indicated that he may have been of grade school age, a thorough search of the school was conducted prior to each of the three times the caller said a bomb was to detonate. Despite the facts that no bomb was discovered and no explosion ever occurred, the risk was too great to ignore such a threat. When the lives of innocent people are on the line, every precaution must be taken.

"As long as citizens continue to provide police with good leads, there will always be a place in law enforcement for the confidential telephone hotline."

It is believed that programs like DIVULGE have a bright future. The potential is great. As long as citizens continue to provide police with good leads, there will always be a place in law enforcement for the confidential telephone hotline.

(FBI)



Educational Assistance for Veterans

*Veterans
Administration*

Law enforcement officers who have served on active duty in the Armed Forces more than 180 continuous days, any part of which occurred after January 31, 1955, but before January 1, 1977, may be eligible for educational or training assistance through the Veterans Administration. The amended Federal benefits, effective January 1, 1977, allow the veteran to obtain assistance while attending accredited educational institutions or training establishments in a curriculum for which the institution has determined him or her qualified.

Each eligible veteran will be entitled to educational assistance for 1½ months (or the equivalent in part-time training)

for each month of active-duty service or fraction thereof after January 31, 1955, up to 45 months. If 18 continuous months or more have been served or started before January 1, 1977, the individual will be entitled to 45 months of training. This eligibility remains in effect for 10 years after release from active duty, but no later than December 31, 1989.

For more detailed information, interested law enforcement officers, who are veterans, should contact their local Veterans Administration office, or obtain a copy of "Federal Benefits For Veterans And Dependents," January 1, 1977, Fact Sheet disseminated by the Veterans Administration.

Facsimile Fingerprint Transmission— *An Expanding FBI Service*

"The feasibility of using computerized optical scanning equipment to rapidly identify and record fingerprint characteristics from inked fingerprint cards has been demonstrated"

Priority fingerprint identification services are currently being offered by the FBI Identification Division to 14 law enforcement agencies in the United States in connection with urgent identity problems regarding suspected fugitives, unknown deceased persons, and amnesia victims. This service involves transmission of fingerprint cards over a Dial-Up Telephone Facsimile System to FBI Headquarters in Washington, D.C., and is available to any law enforcement agency having a need to rapidly establish identity in certain cases.

For many years, the FBI has been actively engaged in efforts to automate the complex manual functions involved in classifying, searching, identifying, and answering requests

concerning the several thousand fingerprint cards received each day in the Identification Division. The feasibility of using computerized optical scanning equipment to rapidly identify and record fingerprint characteristics from inked fingerprint cards has been demonstrated, and the FBI is well on the way toward its goal of using computer technology to speed up the entire identification process. As the manual operations of the FBI Identification Division are automated, the identification services provided will be handled much faster and more efficiently with obvious benefits accruing to criminal justice agencies throughout the United States.

There is an immediate need for rapid fingerprint identification in certain urgent cases, such as suspected fugitives and unknown deceased persons. Missing at present is the expeditious transmission of fingerprint data from the source (the law enforcement agency or the State identification bureau) to the data base to be searched (the large repository of fingerprints in the FBI Identification Division). To attempt to supply this missing element, the FBI has sought out innovative modes of rapid transmission of fingerprint information for the benefit of all agencies involved in the criminal justice system.

From 1950 to 1968, the FBI operated a Speedphoto network, which serviced 30 law enforcement agencies

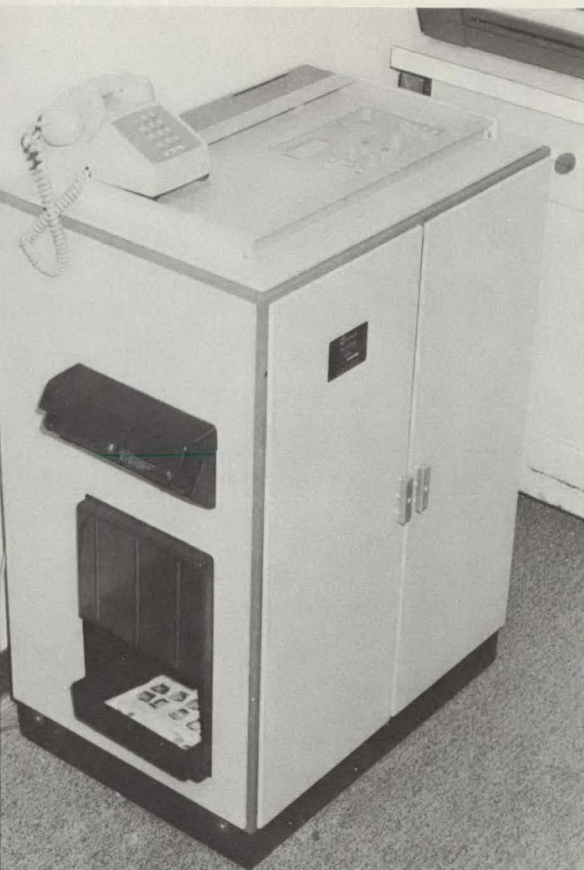


Figure 1. Facsimile receiving unit.

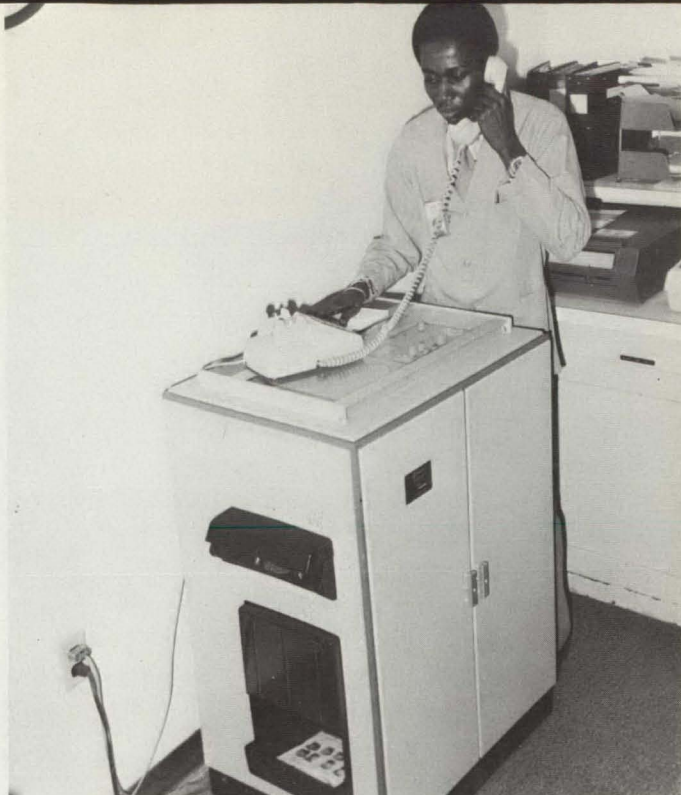
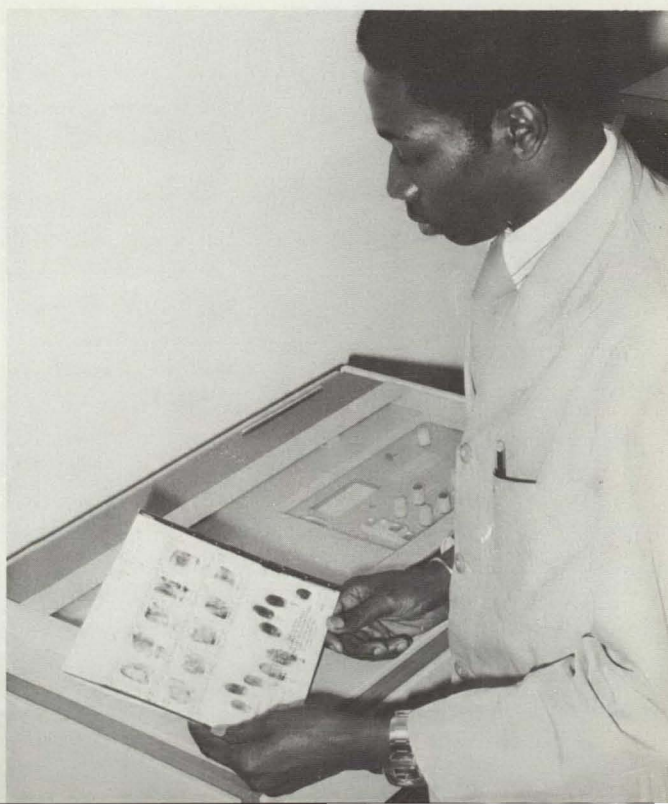


Figure 2. Completed transmission, with facsimile fingerprint card in the receiver tray ready to be classified.

Figure 3. Fingerprint examiner checking quality of the facsimile.



at its peak. This system was eventually abandoned due to marketed equipment obsolescence and high communications cost.

In early 1973, the FBI Identification Division began a joint operation with the Michigan State Police, the Rhode Island State Police, and the Detroit, Mich., Police Department in telephone facsimile fingerprint transmission service using equipment manufactured by DATALOG, a Division of Litton Systems, Inc. Even though the FBI uses equipment furnished by this manufacturer, other compatible equipment of equal or better transmitted fingerprint reproduction equality will be serviced, provided there is sufficient user need.

At present, 14 law enforcement agencies have acquired equipment and

are receiving this special service. In addition, although not a participant in this system, the New York State Division of Criminal Justice Services has established a rather extensive intrastate system using similar equipment to service the needs of certain criminal justice entities within the State of New York.

Currently used by the FBI Identification Division is the DATALOG Model TM-4005 Policefax Fingerprint Recorder (two-speed) capable of receiving fingerprint images at speeds of either 9 or 14 minutes per fingerprint card transmission. (See fig. 1.) Communication by facsimile in this system involves a process by which one side of a fingerprint card is scanned electronically, and all information, including fingerprint minutiae, is converted into electrical impulses that are transmitted over a dial telephone system. The image received is permanently recorded on a piece of photosensitized paper; however, no darkroom or other photographic items are necessary. The card is transmitted and reproduced on a one-to-one basis from the standard 8- by 8-inch fingerprint card, with a resolution of approximately 200 lines per inch; thus, there is no need to photographically enlarge or pretreat the fingerprints prior to transmission. When an agency connected with the system desires to transmit the fingerprint card of a suspected fugitive, for example, a telephone call is placed to the FBI Identification Division, and the sending unit at the agency and receiving unit in the Identification Division are automatically synchronized. The complete transmission will take either 9 or 14 minutes, depending on the transmission channel selected by the sending agency.

Once the transmission is completed, the recorder automatically processes the recorded photographic paper, thereby producing an exact photo-

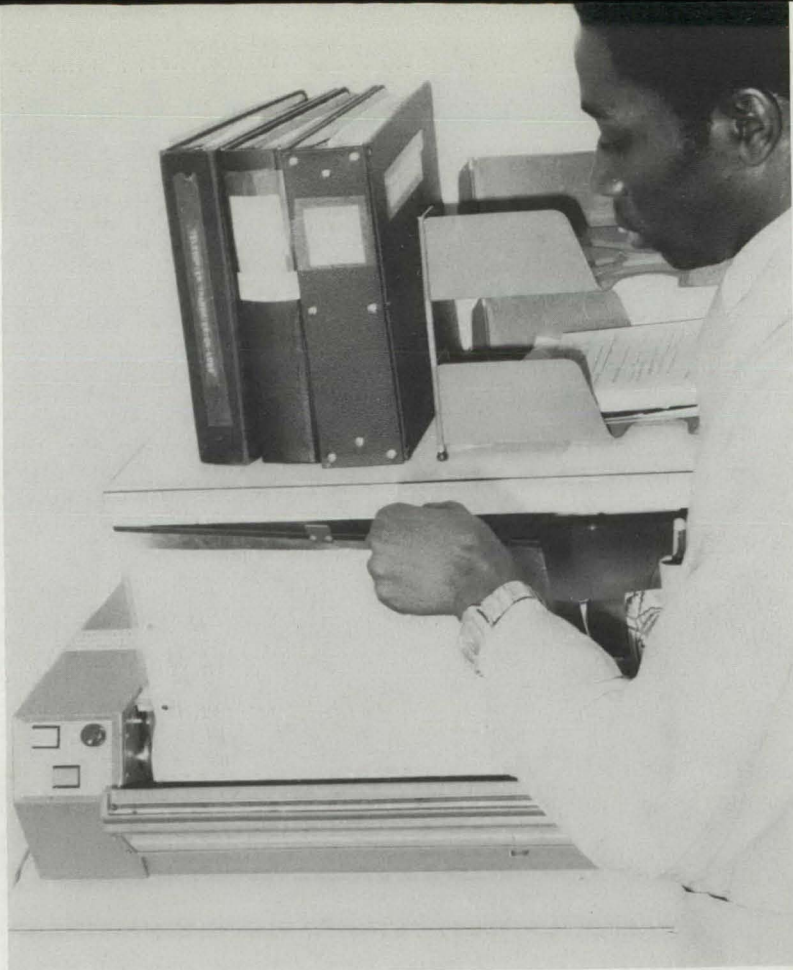


Figure 4. Identification record being loaded into the sending unit.

graphic copy of the transmitted fingerprint card. (See fig. 2.) The fingerprint card is quickly checked by a fingerprint examiner for legibility. (See fig. 3.) Generally, if the original fingerprint card is legible, the transmitted prints are also of good quality. The card is then classified and searched against the Identification Division's fingerprint file. The time it takes to search, of course, will depend largely on the classification of the particular fingerprint card received.

When a positive identification is established, the FBI identification record is transmitted back to the requesting agency over the same system, via the sending unit used in the FBI Identification Division, a DATALOG Model MX-3T Messagefax Transmit-

EDITOR'S NOTE: Articles and other material in the FBI Law Enforcement Bulletin are published solely to inform and assist the law enforcement community. While commercial names may be mentioned in an objective fashion from time to time, their use should not, under any circumstances, be construed as an endorsement or an approval of any particular product, service, or equipment by the FBI.

ter. (See figs. 4 and 5.) The sending time is approximately 6 minutes on the average length record of one page. In this manner, the requesting agency may have a positive identification returned within a few hours after the fingerprints were transmitted.

"[T]he requesting agency may have a positive identification returned within a few hours after the fingerprints were transmitted."

At the present time, the following law enforcement agencies are users of this facsimile fingerprint transmission system: Detroit, Mich., Police Department; Michigan State Police; Rhode Island State Police; Kansas City, Mo., Police Department; Charleston County Jail, Charleston, S.C.; North Carolina State Bureau of Investigation; Mississippi Department of Public Safety; St. Louis County Police Department, Clayton, Mo.; St. Louis City Police Depart-

ment, St. Louis, Mo.; Missouri Highway Patrol; Boston, Mass., Police Department; Philadelphia, Pa., Police Department; Drug Enforcement Administration; and U.S. Probation Office, Southern District of New York.

Several other agencies are now in the process of obtaining equipment in order to join the system.

Use of the system is limited to law enforcement agencies requesting such service and who agree to comply with the established guidelines regarding restricting the use of the system to situations of an urgent nature involving a suspected fugitive, an unknown deceased person, or an amnesia victim. Of course, communication costs to and from the FBI Identification Division will be borne by the inquiring agencies.

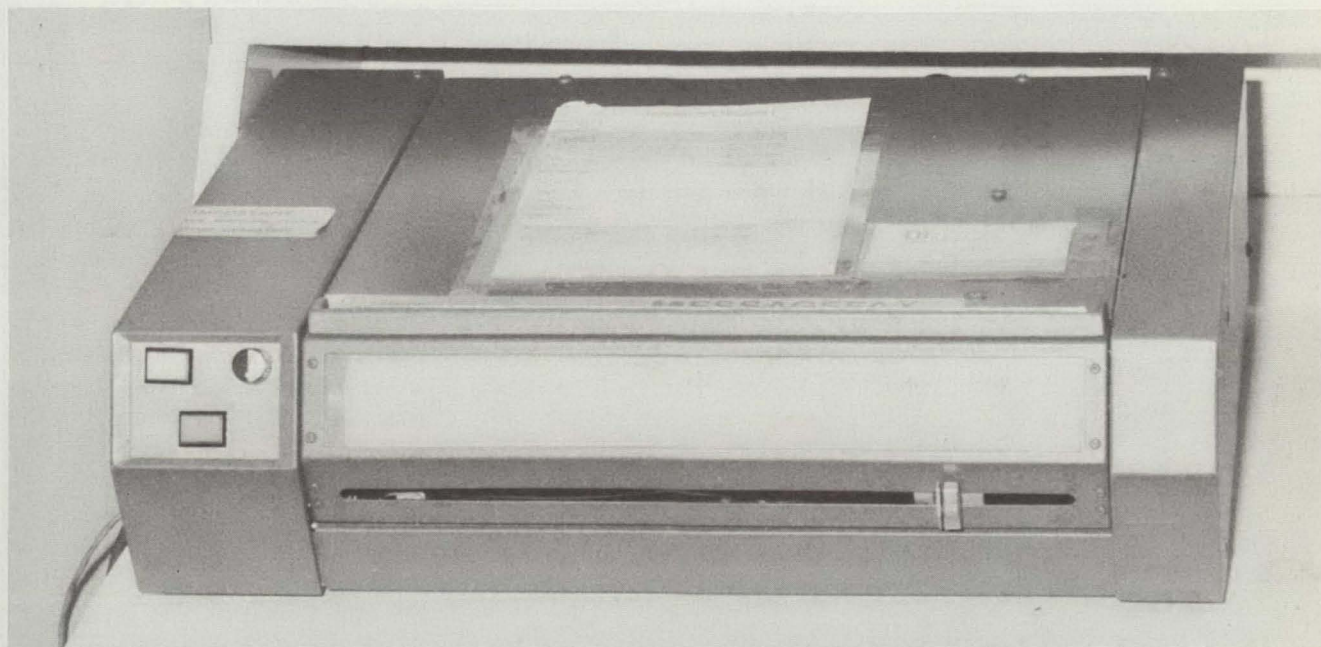
Facsimile copies of fingerprint cards received at the Identification Division will be used only to conduct searches of the fingerprint files and will not be placed in file. If an agency desires that a permanent record be maintained, the agency must mail the

original fingerprint card to the Identification Division. To insure the security of the facsimile system, the FBI Identification Division maintains a record or audit trail of all data it transmits over the system, and specifically identifies the agency receiving the information.

There are several reasons why facsimile transmission is not yet ready to replace the mails as the principal method for transmitting all fingerprint cards to the FBI. First, transmission costs remain substantial because of the long-distance telephone charges incurred. Second, the manual procedures in transmitting and receiving fingerprint cards via facsimile make it operationally unfeasible to send all fingerprint cards by this method. Third, facsimile prints are not considered to be suitable for retention in FBI Identification Division files, since they show only the face of the card and are sometimes degraded in total clarity.

Current rental costs to the FBI for one recorder and one transmitter, in-

Figure 5. Facsimile transmitter.



cluding service and parts, total \$500 per month. For a user of the system, aside from monthly rental charges, the cost obviously depends on the frequency of use; i.e., the telephone charges for transmission. For example, the costs for Direct Distance Dial telephone transmission of the face of one fingerprint card between the Kansas City, Mo., Police Department and the FBI Identification Division for an average 14 minutes per transmission vary from \$5.20 per card during daytime to \$2.15 during nights and weekends. If the higher speed equipment were used (average 9 minutes per transmission), the costs would vary from \$3.40 per card during daytime to \$1.40 per card during nights and weekends.

The return call to transmit the average one-page record from the Identification Division to the Kansas City, Mo., Police Department takes approximately 6 minutes and would cost about \$3.23 per transmission during daytime hours and \$2.60 per record nights and weekends.

"The FBI and the users are highly pleased with the success encountered since the facsimile network was established . . ."

During 1976, 803 fingerprint cards were transmitted to the FBI Identification Division over the facsimile system. Out of that total, 450 positive identifications were made. The FBI

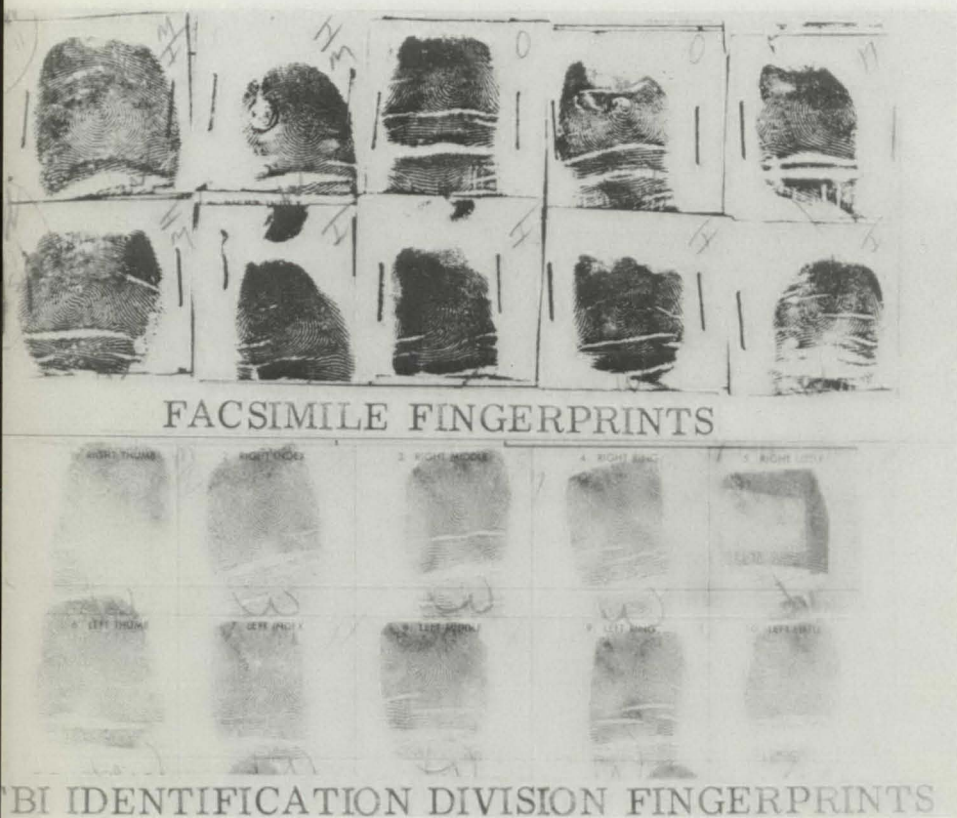
and the users are highly pleased with the success encountered since the facsimile network was established, particularly with respect to identifications of fugitives and unknown deceased persons.

For example, in 1975, the Rhode Island State Police transmitted a fingerprint card on behalf of the East Greenwich, R.I., Police Department. The transmitted card was for one Mitchell Robert Wilson, born November 10, 1946, at South Bend, Ind. The East Greenwich Police had arrested Wilson as a suspicious person after he was observed in the vicinity of a bank. Within an hour after receipt of the facsimile in the FBI Identification Division, a positive identification was made against the fingerprints on file for Cameron David Bishop, who had been sought as a Top Ten Fugitive since 1969.

Typical of the success encountered in cases involving unknown deceased persons is a matter which occurred recently, when the St. Louis Police Department transmitted a set of prints from a homicide victim. The set of prints was received at 11:20 a.m., February 11, 1977, and was classified and searched in the FBI Identification Division's criminal and civil files. A positive identification was made against a single U.S. Navy enlistment card, and the victim's identity was given to the St. Louis Police at 3:45 p.m. the same day. (See fig. 6.)

The facsimile inquiries are afforded priority processing within the Identification Division; however, because there can be considerable variance in the relative difficulty of fingerprint searches when conducting a search in a file of 21.7 million criminal master cards, no specific processing time can be guaranteed. Processing fingerprints of unknown deceased persons or amnesia victims frequently requires searching the FBI's civil fingerprint file, which contains fingerprint records of over 40 million individuals.

Figure 6. The facsimile fingerprint card of the deceased person, as compared to the fingerprint card against which the positive identification was made. (The tops of both cards are not shown in the interest of privacy.)




Many law enforcement agencies in the United States not connected to the facsimile system make daily telephone calls to the FBI Identification Division requesting a name check concerning urgent identification problems under the criteria established for facsimile transmission. Based on the request for a name search, the Identification Division may respond that the record being quoted "may be" identical with the subject of the inquiry. Of course, a positive identification can be made only when an actual fingerprint comparison is involved. On the average,

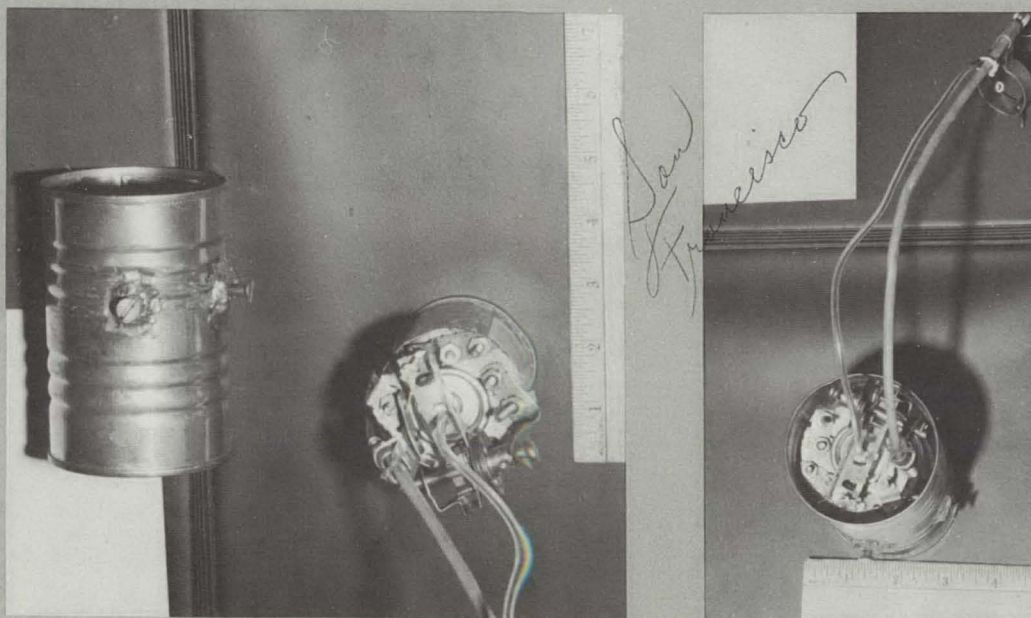
the Identification Division responds with approximately 1,500 "may be ident" reports to these agencies each month. The inquiring agency therefore does not have a positive identification, since the search was based on name only. When fingerprints are sent over the facsimile transmission net-

"When fingerprints are sent over the facsimile transmission network, a positive identification is provided the requester and doubt is eliminated."

work, a positive identification is provided the requester and doubt is eliminated.

The FBI is now in the process of expanding its facsimile system equipment to accommodate additional law enforcement agencies desiring to join the facsimile dial-up network. The FBI Identification Division will honor requests to join the system from law enforcement agencies having a need for rapid, positive fingerprint identification, provided they are willing to agree to the restricted use which has been established. 

Improvised Flamethrower Possible Threat



Recently, in connection with a traffic stop by a California Highway Patrol officer, an unusual device was observed in the vehicle. (See photographs above.) This device was determined to be an improvised flamethrower.

Basically, the device consists of a 2.5-oz. aerosol can of hair spray inserted in a tin can and rigged with a make-shift nozzle and a pull cable for releasing the spray into the nozzle. The nozzle is made of clear plastic with a small piece of copper tubing attached at the ignition end.

The device was designed to be attached to the forearm. A metal ring at the end of the pull cable can be manipulated

by the thumb or finger. Upon ignition, the user could then presumably direct the spray.

Whether this device would actually function as described is uncertain. Quite possibly, it could pose potential hazards to the user, both in igniting the spray and directing any resultant flame.

This small device was not readily visible to the approaching officer, and conceivably, an attempt could have been made to use it against him. Police officers in the performance of their duties should be aware of the potential dangers such devices may present.

Establishing and Supervising a Vice Bureau



Vice control has been described, in general, as the restraint and suppression of prostitution, pornography, obscenity, illegal liquor, gambling, and narcotics activity. Like organized crime control and criminal intelligence operations, with which it is closely associated, vice control is highly sensitive and usually undercover in nature.

Intrinsic to the vice crime is the consensual act between two parties, the provider and the procurer of vice services, but vice activity is rarely limited to a one- or two-person operation. For example, in order to successfully run houses of prostitution there must exist a stable of available prostitutes,

madams, procurers, contacts, transportation, and a willing clientele. A gambling operation requires bankers, dealers, gambling paraphernalia, and service personnel. Similarly, the drug or illicit liquor dealer is dependent upon transportation, a peddler or street dealer, and an immediate and effective source of supply.

"Paramount to successful vice control are public understanding and support."

Paramount to successful vice control are public understanding and support. Unfortunately, there exist some communities, or groups within com-

munities, which mistakenly believe that lax vice enforcement stimulates local business, such as conventioning and tourism. These vice-tolerant communities usually acquire only increased street crime, police and government corruption, and a reputation as a mecca for the criminal element. But once supported by a sympathetic public, the establishment and maintenance of a vice unit will prove a potent weapon against crime.

Since the police agency does not operate in a vacuum, but is a part of the whole criminal justice system, the prosecutor plays a vital role in vice control. Without his understanding that the vice crime is more than an



By
JOHN K. SWAN
Chief of Police
Police Department
Lynchburg, Va.

immoral act or "victimless" crime, the most vigorous police effort will probably not succeed. Citizens in Lynchburg are fortunate in having aggressive prosecutors who support vice enforcement. For example, soliciting or performing an act of intercourse by a prostitute for money is usually a misdemeanor in Lynchburg as in many other jurisdictions. How-

"Since the police agency does not operate in a vacuum, but is a part of the whole criminal justice system, the prosecutor plays a vital role in vice control."

ever, oral sexual relations, usually referred to as sodomy charges, often constitute a felony crime. Recently, when a massage parlor employee performed an oral sex act for hire, the commonwealth attorney charged her with a felony sodomy charge which carries a maximum 5-year sentence upon conviction, instead of charging

her with a misdemeanor prostitution charge. Hence, the price to practice the "world's oldest profession" is high in Lynchburg, and vice criminals can be expected to avoid communities enjoying this type of vigorous assistance from the prosecutors.

The direct control and supervision of the vice unit should never be far removed from the chief police administrator. It is desirable in smaller departments to have the vice officers report directly to the chief. In larger departments, there should be no more than one commander responsible for vice control, and he should report directly to the chief police administrator. But regardless of agency size, the placing of all vice, intelligence, and organized crime units under the control of one command officer, other than the chief of police, should be avoided. This policy will reduce the possibility of one corrupt individual being in the position to negate the effectiveness of the units' activities. To further reduce the possibility, it is desirable that officers assigned to these operations have the opportunity to communicate directly with the chief police administrator, if necessary.

The selection of a unit commander is a critical consideration when staffing a vice unit and poses the complex problem of trying to match personal capabilities with a unique assignment. The astute chief will select the commander of his vice unit only after affirmatively resolving these questions: Is the person I am considering capable of doing the job? Can other officers work well with him? Can I trust him?

Likewise, by applying the same criteria, vice investigators can be selected. Intelligent, flexible men and women with a deeply embedded sense of personal integrity would deserve first consideration. An inflexible personality type with preconceived ideas will have difficulty in dealing with events that occur unexpectedly or sud-

denly. The single-minded individual can easily become a crusader, pursuing personal goals with little or no regard for the objectives of the unit or department.

All prospective investigators should be required to indicate a desire for the assignment by submitting a résumé, however brief, which contains a statement of his or her career expectations. This résumé will provide a basis for judging the candidate's ability to communicate in writing and offer a personal insight rarely available from personnel files and records. The résumé requirement also tends to discourage candidates who are only casually interested in such an assignment and provides the unit commander with a basis from which to direct intelligent questions during subsequent interviews, which should also be included in the selection process.

The interview is important in that it enables the candidate to demonstrate his capabilities beyond documented reports, and a good interviewer probes far beyond the applicant's personnel jacket and résumé. He seeks to understand the applicant's underlying motivation for vice work, and providing the candidate has had previous investigative experience, he reviews some of his prior investigative reports. They can serve as a basis for more indepth interviewing.

"The field exercise provides the unit commander an excellent opportunity to check the applicant's ability to communicate by writing and his ability to logically plan a course of action to be taken."

Another valuable aid in the selection process is the simulated field exercise which, if designed and evaluated properly, can reveal much about the applicant's ability. The problem can be designed from a composite of actual

cases worked, or situations dealt with, by experienced investigators. The exercise might include checking licenses and researching public records and other sources to obtain information about a criminal suspect. It might also include a routine surveillance covering a person or location for an 8-hour period. The field exercise provides the unit commander an excellent opportunity to check the applicant's ability to communicate by writing and his ability to logically plan a course of action to be taken. In any and all situations, the prospective investigator would be expected to satisfactorily fill out appropriate departmental report forms, logs, and narrative reports.

In the deployment of vice personnel, duty rotation is desirable because it precludes long assignments among those who have exceeded their investigative usefulness, minimizes the opportunity for corruption, and prevents unit stagnation. The covert nature of the vice assignment necessitates bringing new faces into the operation; overexposure reduces effectiveness. Offi-

cers assigned to the vice unit are, in the interest of efficiency, subject to transfer at any time at the direction of the unit commander or chief.

Simply because a specialized vice unit has been established, other segments of the department are not relieved of the responsibility for controlling vice activities. Each patrol officer should continue to be responsible for vice conditions on his beat and also be required to take positive action when vice conditions come to his attention. In the case of no open violation, he makes proper intelligence reports to the vice unit, just as field commanders assigned to patrol operations submit periodic written assessments of vice conditions in their areas of geographic responsibility. The reports will contain the location and type of vice activities, as well as the vice complaints received and handled and the arrests made.

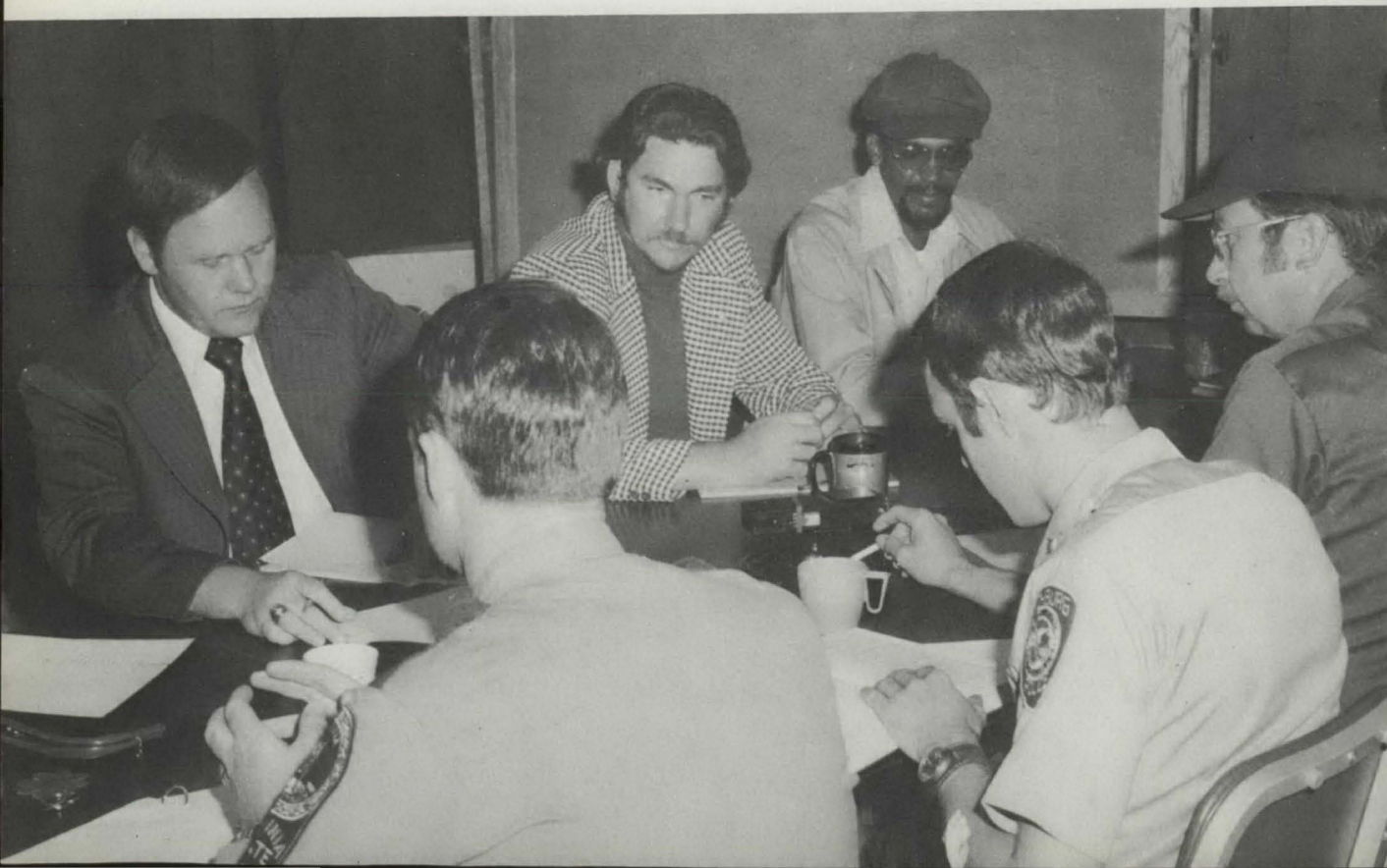
The vice commanders' monthly reports should contain data similar to the field commanders', in addition

to their comments and review of all vice complaints and investigations conducted during the reporting period.

The periodic reports of both the vice unit and field commanders insure that the chief police administrator maintains the necessary means of checks and controls, and the continuing analysis of these reports can be used to evaluate the effectiveness of the department in combating vice crime.

The operation of informers, individuals outside the police agency who know about vice operations and provide the department with valuable information, prompts special police considerations. The informer must be convinced that his confidentiality will be protected, but this does not always require that the informer be known only to a single vice investigator. The desirable management approach is to establish a central file of informer names which is handled with ultimate security, but allows more than one officer to evaluate the informer. In some

Unit commander holding preraid briefings.



cases, it may be feasible to supply the informer with information which will allow him to win recognition by his criminal cohorts as a "sharp operator," thereby more firmly entrenching him in their vice operations. This judicious use of feedback information might conceivably generate even more vice intelligence information, but the practice should be used cautiously.

"Every dollar must be accounted for in undercover vice activity."

Special funds are often created for the purpose of compensating informers. This special allotment must, of course, be approved by the governmental agency which funds the department, and the use of such moneys places the responsibility for meticulous accounting on the unit commander or chief police administrator. Every dollar must be accounted for in undercover vice activity. Each transaction should be documented by a receipt signed by the officer who expended the funds, the informer, and a witness. If the informer will not sign a receipt, the risk of ignoring the accountability safeguard must be carefully evaluated. Documentation should also include a brief notation justifying the expenditure and a control number referring back to the actual case file.

"Because vice operators sometimes function over multiple - jurisdictional boundaries, special jurisdictions may be considered in combating their activities."

Because vice operators sometimes function over multiple-jurisdictional boundaries, special jurisdictions may be considered in combating their activities. In recognition of the need to combat drug traffic beyond just the local jurisdictional boundaries, a reciprocal agreement was entered into by

all 10 police agencies (4 county sheriff's departments and 6 police departments, including Lynchburg) in Virginia's planning district No. 11. The agreement allows all officers in the planning district to exercise drug enforcement powers in all jurisdictions. A single police department acts as the coordinating and recordkeeping unit and provides staff and line assistance to all other agencies. Officers have the same powers, rights, and benefits, including the power to make arrests anywhere in the district, and to date this drug enforcement program on a regional basis has proven to be a successful cooperative effort.

Vice enforcement often necessitates that provisions be made for special equipment, such as a special radio fre-

quency allocated to vice/intelligence operations only, nonpolice-type vehicles (either purchased or rented) for surveillance activity, and special clandestine electronic devices. Night vision devices, binoculars, and cameras with telephoto lenses all lend flexibility and should be considered.

"Vice activity must be recognized and dealt with effectively."

The importance of vice control cannot be overstated. Vice activity must be recognized and dealt with effectively. The failure to do so can have disastrous results for the chief police administrator, his department, and the community they serve.



*Stealing
America's
Heritage:* Thefts of
Documents
from
Archives
and
Libraries

by
TIMOTHY WALCH
Associate Director
Society of American Archivists'
Archival Security Program
Chicago, Ill.





great documents of America—the Declaration of Independence, the Constitution, and the Bill of Rights—are protectively enshrined in the Exhibition Hall of the National Archives.

It is generally agreed that thefts have become an aggravated problem in American society, and law enforcement authorities are encountering a growing assortment of bank robberies, truck hijackings, motor vehicle thefts, and similar felonies. Likewise, another kind of theft, perhaps more obscure but no less serious than those enumerated above, has reached alarming proportions. The theft of invaluable and often irreplaceable literary and historical manuscripts has be-

“The theft of invaluable and often irreplaceable literary and historical manuscripts has become a serious problem. . . .”

come a serious problem that should concern all who have an interest in our Nation’s history. And law enforcement officials, providing they familiarize themselves with the subtleties of

the problem, can more effectively combat this type of crime.

An excellent example of the complexities of the document theft problem is offered by a recent larceny at a major State library. By all reasonable standards, this particular State library possessed a good security system. At the time of the theft, it contained only one large archives reference room, with public access through a single entrance. An archivist was on duty in the room at all times during the day, and two attendants were additionally assigned to the area, so the professional staff did not have to leave the room. Patrons were requested initially to complete a registration card and provide identification; on subsequent visits, they were required to sign in before beginning their day's work. Access to other areas of the library was not permitted to visitors. Yet, despite these measures, 1 man acting alone stole over 100 documents valued at approximately \$20,000.

The State library first learned of the theft when a local collector became suspicious that the franked envelopes he was purchasing were State documents. Upon searching, the State archivist could find no evidence that these items had belonged to his institution. Unfortunately, there was some confusion over the dates on the documents, a fact that was not discovered until 2 months later.

When it was finally determined that a major theft had in fact taken place, a meeting was arranged between the State librarian, legal authorities, the collector, and the dealers who were selling the stolen material. The dealers each identified the same individual as the source of their documents.

A subsequent search of the registration cards and the visitors' register disclosed that the suspect had made 11 visits to the library and used 65 boxes of State papers in the previous 3 months. And although a visit to the suspect's home revealed that he was

in possession of a large number of State documents, he refused to admit that he had obtained the letters illegally.

One interesting aspect of the case concerns the contraband itself. Even though the stolen letters bore the comments of such notables as Alexander Hamilton, Benjamin Franklin, Thomas Jefferson, and James Madison, they were taken for the rarity and clarity of their postmarks rather than for their signatures or historical content.

Proving that the suspect had taken the documents was difficult. Not only did the prosecution have to prove that the documents were indeed State property and that the suspect had used the letters, but also that he had been the *last* person to use them before they were discovered missing. Fortunately, however, in order to return a guilty verdict, the jury needed only to be convinced that a single document had been stolen by the defendant. State ownership was proven by obtaining copies of the stolen documents sent to previous patrons, the defendant's use of the documents was proven by call slips, and a combination of the two established that the defendant had indeed been the last to use one of the documents. He was subsequently convicted and fined \$1,000 plus court costs.

"[R]egardless of differences, each library and archives must become more security conscious."

The case highlights a number of important points. First, regardless of how effective a library or archives security system would appear, it can usually be penetrated. Second, documents and books can be monetarily valuable for reasons other than signatures or historical content. Third, it reveals how difficult it can be to legally prove ownership and use of the con-

triband by the suspect, and fourth, the lengths to which one must go to convince the courts that a \$20,000 manuscript theft is indeed grand larceny. It was through perseverance and vigilance that this State library recovered its documents; most institutions would not have been so fortunate.

This example also raises the question of what security procedures are necessary to provide adequate protection for special library and archival collections. Certainly, the answer to this question differs with the size and resources of each institution. Yet, regardless of differences, each library and archives must become more security conscious.

Some institutions have only recently begun to use registration forms and require positive identification of researchers; only a handful use closed-circuit television or other monitoring devices. According to an informal survey conducted by the Society of American Archivists of a number of institutions, practically no library or archives has a "plan of action" to deal with situations in which a researcher is suspected of or observed stealing library property. In fact, there have been several incidents in which individuals admitted witnessing thefts, but indicated they had not taken decisive action because they lacked information regarding proper procedures for apprehending suspected thieves.

A review of various "shoplifting" laws in different States underscores the complexity of the legal problem, the need for a carefully planned procedure, and the indoctrination of those in charge of reading rooms.

Yet, libraries and archives *can* implement a number of practical security procedures which cost little or nothing, but offer a definite improvement, and law enforcement officials can contribute valuable assistance in this area. Crime prevention units, with their knowledge of locking systems, electronic security devices, and

land as before - with Grant the
 ranking officer in command of the
 whole - but Grant made it a
 condition of accepting the com-
 mand that you should be re-
 moved - The importance of the conse-
 quence is great - the cause that the President
 a sufficient reason for his action - but
 he did not want it understood that
 he was not still your friend - that
 he had withdrawn his confidence
 from you as an officer. I have never
 before known the whole cause - but
 this clears up many other things - The
 statement at the top of this page I would
 not like to have repeated except in the
 strictest confidence - unless I can
 get permission of the President to ~~write~~
 more ~~publicly~~ ^{in view of the fact that}
~~scholarship~~ ^{now here} ~~and the fact that the~~
 President wants to assign you to a command - but
 me to expect that you will soon be assigned
 to the Dept of Missouri - Let me hear
 from you - Give my love to Mrs R
 and the children - Also kind remembrance
 to the Bishop - You truly your friend
 J. A. Garfield

Confidential

Washington, Dec. 18th 1863

My Dear General.

I am perfectly overwhelmed
 with work, sitting on the Military
 Committee, and looking such a flood
 of propositions of all sorts submitted
 to us in regard to our military legis-
 lation. But I have taken time
 to watch the movement of affairs at
 the War Office - and to feel the pulse
 of the government somewhat in reference
 to yourself. Day before yesterday I had
 a full, direct and very satisfactory
 talk with the President in reference
 to your removal from the Army of the Cum-
 baid - and though he did not
 authorize me to repeat the conversation
 yet I am sure he would
 not object to my telling you what
 he said, which I like pleasure in
 doing as a matter of confidence ac-
 tually enclosed. I got one trade to
 do with me, and he is, by the way.

Not all valuable manuscripts are attractive to the eye. This letter from Congressman James A. Garfield, who later became President, to Gen. William S. Rosencrans contains important information relating to President Lincoln and the Civil War.

surveillance equipment, can help archivists and librarians realize how vulnerable their institutions really are. More importantly, crime prevention units can educate archivists and librarians about the modus operandi of thieves, especially shoplifters.

"Vigilant reference room surveillance is the nucleus of an effective library and archives security program. . . ."

Vigilant reference room surveillance is the nucleus of an effective library and archives security program, but is only one of a variety of low-cost measures. Another important technique is the routine stamping of manuscripts and rare books with an indelible and distinct property mark, although such a procedure often cre-

ates a dilemma for librarians and archivists. On the one hand, marking is a proven deterrent to theft and provides good legal proof of ownership, but on the other, it tends to disfigure and damage the document or volume. As the number of thefts has escalated, however, the decision to mark special items has become more and more popular. Law enforcement authorities can encourage archivists and librarians to initiate such a program.

There are a number of other measures which also offer promise. Libraries and archives should consider the bonding of employees who are in sensitive positions. This helps to insure that only an individual of high quality can be considered for employment. Such institutions should also require researchers to sign a consent-to-search form before granting them access to special collections. In order

to avoid confrontation or embarrassment, a discreet sign should be placed in the reference room reminding patrons that their belongings are subject to search. Good legal practice suggests that institutions should make every effort to verify the presence of particularly valuable items at least once every 3 years. Such inventories can provide excellent proof of ownership, and once again, a good word from the crime prevention unit could make the difference.

"[T]he most important service that law enforcement officials can contribute . . . is the aggressive prosecution of manuscript and rare-book thieves."

Perhaps the most important service that law enforcement officials can con-

Modern library security devices include sensor posts which scan for sensitized materials. When sensitized documents are detected, an alarm sounds and exit gates are locked.



Library personnel quickly and easily sensitize or desensitize books in a compact unit installed beneath the circulation desk.



tribute to libraries and archives is the aggressive prosecution of manuscript and rare-book thieves. This is a far more difficult task than it might appear, for in most States the theft of library and archival materials is covered only by general provisions of the criminal code. Unlike commercial establishments which are protected by shoplifting detention statutes, libraries and archives are not covered by special legal provisions. Consequently, the prosecution of thieves is far more difficult than it need be. The State of Virginia has recently changed its code to address this problem, and the new act is worthy of the attention of law enforcement officers. What makes the new law so special are two provisions. The first states that a person who conceals library property with the intention of converting it to his own use, and is apprehended, will be presumed to have committed larceny. The burden of proof rests with the offender to show that he did not intend to commit larceny. The second provision states that a library or archives employee will not be held civilly liable for the false arrest of a theft suspect as long as the employee had probable cause to believe that a theft had taken place. The new Virginia law goes a long way toward providing the adequate protection to ar-

chives and libraries, and there is presently underway a move toward adapting the Virginia law to other State codes.

In addition to the low-cost security measures that can be implemented by individual libraries and archives, there is also a national effort to promote better library and archival security. The Society of American Archivists' Archival Security Program was established in 1975 with the assistance of the National Endowment for the Humanities and serves as a clearinghouse for information on theft and security in libraries and archives. One of the most important aspects of the program is the recently established register of lost or stolen archival materials, which was de-

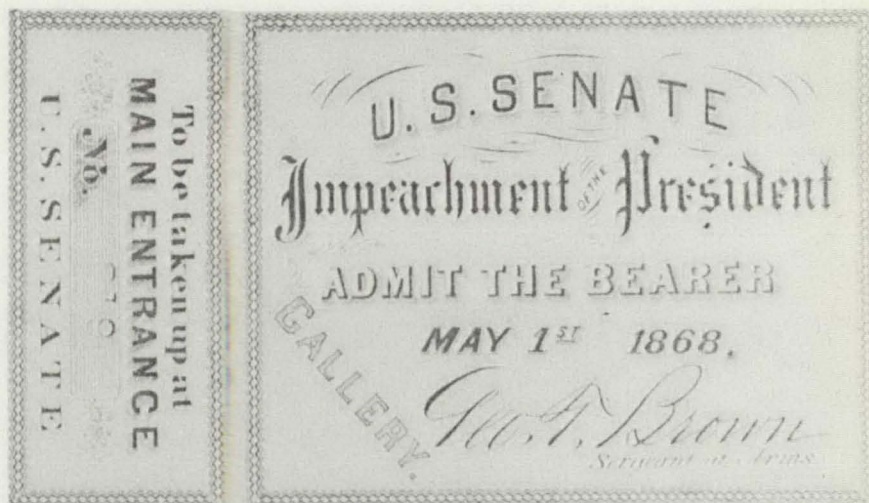
"One of the most important aspects of [the Society of American Archivists' Archival Security Program] is the recently established register of lost or stolen archival materials. . . ."

signed to facilitate the recovery of missing manuscripts and other unique textual materials. Printed materials, such as rare books, can be listed if they have markings which make them unique and distinguishable from other

extant copies. Items, such as general circulation volumes, photographs, microfilms, maps, and artifacts, will not be listed unless the Society of American Archivists (SAA) is certain that such items are identifiable. Moreover, since there is little chance of recovering items that have been missing for more than 20 years, the register includes only manuscripts that were discovered missing after 1955. Forms for the registration of missing items are available from the Society of American Archivists, Box 8198, University of Illinois, Chicago Circle, Chicago, Ill. 60680, and there is no charge for the service. Neither is its use restricted to SAA members.

Although the value of the register is in the location, identification, and recovery of missing items, equally important are better security systems *within* institutions, an area in which librarians and archivists generally need the most assistance. It is essential that libraries and archives have competent experts to advise them regarding security systems, internal procedures, and apprehension of suspected thieves. In response to this need, the SAA has established a consultant service as part of its security program. Institutions wishing to use the service are requested to fill out an application identifying their security

Manuscripts and books are not the only documents stolen from archives and libraries. Printed items, such as tickets to the impeachment trial of President Andrew Johnson, are highly prized by dealers and collectors.



needs and select an individual from an approved list of consultants. Once a consultant has been agreed upon, the program staff contacts him and ar-

"[T]he protection of valuable manuscripts and rare books is the responsibility of everyone who is interested in the preservation of our American heritage."

ranges for a 2-day visit. Libraries and archives are expected to share in the cost of the consultant service.

The final phase of the program will be the preparation and publication of a manual on the security of special


collections and archives. The manual includes chapters on planning a security program, security procedures in staff areas, security procedures in the reference room, legal ramifications of library security, and a summary and checklist. The manual will be available later this year.

Even though the SAA's Archival Security Program and the previously mentioned security measures promise to improve matters, good library security cannot end there. Clearly, the protection of valuable manuscripts and rare books is the responsibility of everyone who is interested in the preservation of our American heritage.

Nearly a decade ago, the present

Archivist of the United States noted "through our collective efforts we can make real progress toward convincing the document thief that he has made a tragic error in his choice of a ca-

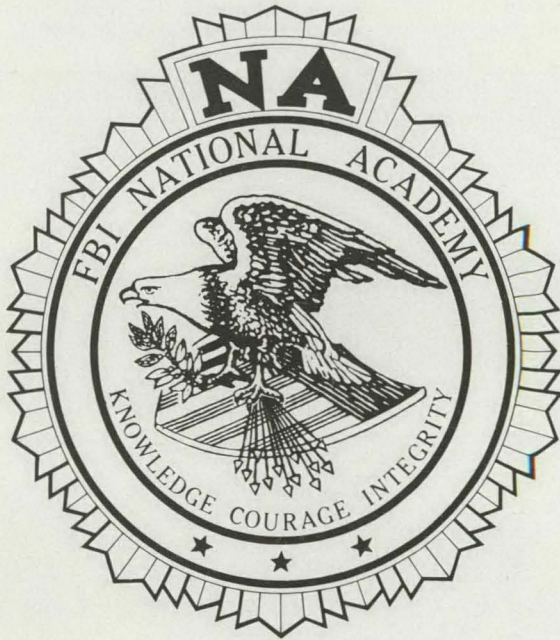
"Concerned law enforcement authorities, in cooperation with librarians and archivists, share an important role in protecting the written record of our past."

reer." Concerned law enforcement authorities, in cooperation with librarians and archivists, share an important role in protecting the written record of our past. 



LAW ENFORCEMENT—

A Profession of Total Commitment



On March 24, 1977, Director Kelley awarded diplomas to 248 select law enforcement officers who comprised the 108th Session of the FBI National Academy. The graduation ceremony, which is held in the auditorium of the FBI's training complex at Quantico, Va., recognizes those officers who complete the extensive 11-week advanced police training courses

offered by the FBI. The curriculum provides study in such vital areas of law enforcement as police management, ethics, legal matters, urban police problems, and behavioral sciences. Many friends and relatives gathered to observe this special event along with distinguished guests.

Officers of the 108th Session represented all 50 States, the District of

Columbia, Puerto Rico, and the countries of Canada, Egypt, Taiwan, Cyprus, and Japan.

Following a musical selection by the U.S. Marine Band, the proceedings were called to order by Assistant Director William A. Meincke of the FBI's Training Division. The invocation was delivered by Comdr. Salvatore Rubino, Chaplain Corps, U.S. Navy.

Next on the program was an address by Capt. John G. Henderson, Sr., of the Alabama Department of Public Safety, selected by his class as spokesman.

In his remarks, Captain Henderson compared a police officer's calling to that of the ministry in that, "Like the ministry, law enforcement is a profession of total commitment. Anything less is unacceptable and can only lead to frustration and defeat."

He also told the officers that they must never quit in the face of adversity because adversity builds character, and that character is the cornerstone of success.

"To be successful as a police officer requires that we remain calm and courageous in the face of danger, scorn, and ridicule," continued Captain Henderson. "Our private and

public lives must always remain above reproach. We must walk upright and remember our responsibilities toward ourselves, toward others, but most of all, toward God."

He went on to say that a police officer's fundamental duty is "to serve mankind; to protect lives and property; to shield the innocent against deception; the weak against oppression or intimidation; the peaceful against violence and disorder; to respect the rights of all people to liberty, justice, and equality—the task before us then is that of making our communities safe so that all people may walk the streets alone and unafraid."

In closing, Captain Henderson emphasized the importance of sharing the knowledge that the officers gained at the Academy, stressing that if the knowledge gained is locked tightly in the archives of the mind, "then all our efforts will have been in vain."

Following this address, Mr. Meincke introduced FBI Director Clarence M. Kelley who in his speech reminisced about the early years of the Academy.

Director Kelley began by explaining how the idea of a police academy originated at the Attorney General's Crime Conference in 1934 at which time Attorney General Homer S. Cummings and Director J. Edgar Hoover presented a proposal for a police training school.

"The first Session of the FBI National Academy convened with a class of 23 officers, July 29, 1935," remarked the Director. "There was as yet no Academy building, nor was the school called the Academy. The small group of officers, congregated in Washington, D.C., and had come to attend what was then known as the Police Training School of the FBI."

Director Kelley went on to tell how during the 1939-40 period, the FBI Academy got its own facility at the kind invitation of the U.S. Marine Corps and with special congressional

authorization and appropriation. The brick barracks are now referred to as "The Old Academy."

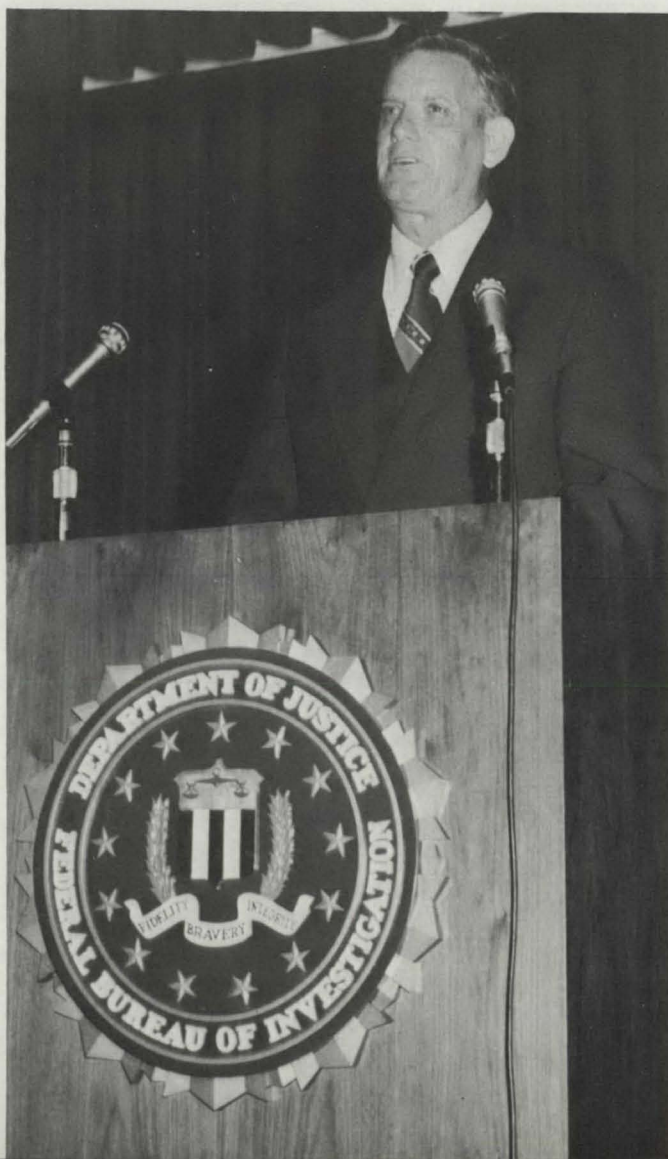
He continued, "With the graduation of the 30th Session in 1945, the total number of alumni went over the 1,200 mark. And the 89th Session—the final one in the Old Academy—brought the total number of graduates to 6,134."

In stressing the effectiveness of the new facilities, the Director added that the National Academy had reached a milestone with the opening of its new facilities on May 8, 1972. "What do these superb facilities really mean to law enforcement?" questioned Kelley.

"From 1935 through 1972—nearly 37 years—only 6,134 individuals received National Academy training. Since May 8, 1972—five years ago—an additional 4,771 (almost a thousand a year) have been added to the total."

In his closing remarks, Director Kelley emphasized how the staff and graduates of the Academy "through personal dedication and great effort, have breathed life and spirit into the concept on which this institution was founded. That concept is simply the belief that study and training in the police sciences will enhance the supervisory capacity, the professional-

Capt. John G. Henderson, Sr., of the Alabama Department of Public Safety is shown addressing the graduating class of the 108th Session of the FBI National Academy.





Pictured with FBI Director Clarence M. Kelley are the section leaders of the 108th Session. Shown, left to right, are: Lt. David Malcolm Howells, Sr., Allentown, Pa., Police Department; Assistant Chief Kenneth Aubrey Ball, Florida Department of Business Regulation, Division of Beverage, Tallahassee, Fla.; Director Kelley; Capt. Thomas Gallagher, New York City, N.Y., Police Department; Sgt. Fred Cipriani, Indianapolis, Ind., Police Department; and Capt. John G. Henderson, Sr., Alabama Department of Public Safety, Montgomery, Ala.

ism, and the general productivity of all law enforcement officers and enable them to serve their communities much more effectively."

Following his remarks to the graduating officers, Mr. Kelley introduced the Honorable Griffin B. Bell, Attorney General of the United States, who discussed the importance of law enforcement in America today.

"There are many vital ingredients that hold our society together and make it function properly. None is

more important than the law enforcement and justice system," stated the Attorney General.

He added, "Your presence here is a tangible sign that meaningful cooperation can exist in the fragmented justice field. And if we are to succeed, that cooperation must grow."

Mr. Bell furthermore pledged that "the entire criminal justice system—local, State, and Federal—will be viewed as an integrated whole. I will ask every part of the Justice Depart-

ment to be aware of its impact upon local law enforcement. This is not an offhand comment. It is a firm pledge."

Following the Attorney General's address, Inspector James V. Cotter, Supervisor of the National Academy program, presented the class to Director Kelley, who then awarded the diplomas.

The program was concluded with a benediction and the rendering of the National Anthem by the U.S. Marine Band.



Students and the Fourth Amendment:

Searches *in* *Secondary* *Schools*

PART I

Seven Montgomery County teenage boys were arrested this week in connection with a junior high school pipe bomb business, police said yesterday.

* * *

One 15-year-old boy sold at least 16 homemade pipe bombs to fellow students at Western Junior High School in Bethesda [Md.] . . . before a teacher found three of the small bombs in a jacket someone had left behind after school last Tuesday.

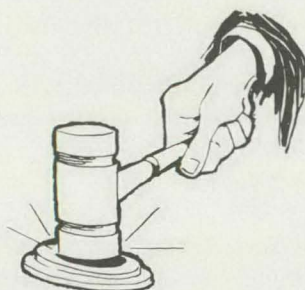
The Washington Star
March 5, 1977

One need go no further than his daily newspaper to determine that crime spawned on city and suburban

"In entrusting children to school authorities, [parents] reasonably expect that such officials will not permit schools to become sanctuaries for those bent on violating the law."

streets has spilled over to the classroom. Murder, robbery, extortion, assault—the school sees them all. But possessory offenses seem to be the most common—possession of narcotics, stolen property, explosive devices, guns, and other weapons.

By
DONALD J. McLAUGHLIN
Special Agent
Legal Counsel Division
Federal Bureau of Investigation
Washington, D.C.



Parents sending their children to public schools, particularly secondary schools, have a justifiable fear for their safety. In entrusting children to school authorities, they reasonably expect that such officials will not permit schools to become sanctuaries for those bent on violating the law. Specifically, they expect that students will not be free to roam the halls trafficking in contraband. They further expect that school lockers assigned to students will not become repositories for narcotics to be used or distributed in the school, or for weapons to be available for strong-arm tactics or to settle student disputes.

School officials, not law enforcement officers, are primarily responsible for order and discipline in second-

ary schools. Yet officers often find themselves enmeshed in school problems. A student's watch is stolen, and

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

police are called. A principal receives a report that heroin is being retailed by a student and contacts the police.

School officials have reason to believe a student is keeping a pistol in his locker and notify the sheriff's office. In all these cases, law enforcement officers may be asked for assistance. And having reason to suspect a crime is being or has been committed, they also may begin an investigation. Indeed, they would be remiss if they did not.

The investigation of criminal activity in the school may eventually lead to a search of the student, his belongings, or his locker. It is at this point that officers, whether directly or indirectly involved, must be familiar with the constitutional problems raised by the schoolhouse search.

Court decisions on secondary school searches in recent years demon-

strate two competing judicial concerns: (1) Protection of a student's right of privacy in his person and effects; and (2) determination that the learning atmosphere of the secondary school will not be disrupted, and to that end, a recognition that reasonable steps must be allowed to assure order, discipline, and protection in the school.

The purpose of this article is to consider how the courts have resolved these sometimes conflicting concerns. In analyzing the problem of school searches, the threshold question is whether in the high school or junior high school a student enjoys the protection of the fourth amendment in his person and belongings.

It might be noted at the outset that compared to other areas of search and seizure law, reported decisions on school searches are relatively few. Perhaps this is because the seizure of evidence in such searches seldom generates a criminal prosecution. Most cases presumably are disposed of in unreported juvenile proceedings. Moreover, vagaries of State juvenile law, and the statutes relating to rights and duties of school officials, make it difficult and risky to offer broad generalizations concerning the legality of school searches. Nevertheless, there are some common threads that wind through the cases, and since many of the decisions raise Federal constitutional issues, it is useful for the law enforcement officer to recognize these issues and the proper role he may play in enforcing the law in the secondary schools.

Searches conducted on university campuses or in college dormitories are judged by different standards than those in secondary schools, and thus are beyond the scope of the discussion that follows. See *Smyth v. Lubbers*, 398 F. Supp. 777 (W.D. Mich. 1975) (secondary school pupils are minors and presumptively subject to a

greater degree of supervision than college students).

The Student's Right of Privacy

The Supreme Court has held that secondary school students do not relinquish their first amendment rights under the Constitution when they enter school. The Court has stated: "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. This has been the unmistakable holding of this Court for almost 50 years." *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 506 (1969). More recently, in *Goss v. Lopez*, 419 U.S. 565, 574

"Court decisions . . . demonstrate two . . . concerns: (1) Protection of a student's right of privacy . . . ; and (2) . . . that the learning atmosphere of the secondary school will not be disrupted. . . ."

(1975), a case which concerned procedural due process in connection with student suspension, the Court had this to say: "The authority possessed by the State to prescribe and enforce standards of conduct in its schools although concededly very broad, must be exercised consistently with constitutional safeguards." See also *Wood v. Strickland*, 420 U.S. 308 (1975) (procedural due process); *West Virginia Board of Education v. Barnette*, 319 U.S. 624 (1943) (substantive due process).

Does the same jealous regard for the preferred freedoms of speech and expression carry over to the student's fourth amendment right against unreasonable search and seizure? The question is critical. If the student is not so protected in his person, locker, and effects, he has no right: i.e.,

standing, to object on constitutional grounds to a search conducted by either a school official or a law enforcement officer or both.

Since the ruling of the Supreme Court in *Katz v. United States*, 389 U.S. 347 (1967), the reach of the fourth amendment has been measured by a person's "reasonable expectation of privacy." In the context of a secondary school search, the issue then is whether the student possesses such an expectation in his person, locker, and personal property. Since the Court has yet to speak on the fourth amendment rights of secondary school students, the answer is to be found among the decisions of the lower Federal and State courts.

In *Picha v. Wilgos*, 410 F. Supp. 1214 (N.D. Ill. 1976), students brought a Federal civil rights action against Illinois school officials and law enforcement officers. It was alleged that the school principal, suspecting the students possessed illegal drugs, called in the police who, acting in concert with school officials, caused the students to be searched in violation of their fourth amendment rights.

In commenting on student Picha's protection against unreasonable search in the school, the court was explicit and emphatic:

"The court holds that Renee Picha [plaintiff] possessed settled, undisputed constitutional rights, which based on the evidence in this case would permit a jury to consider whether these rights had been violated." Id. at 1216.

More frequently, the assertion of constitutional rights has been made in a criminal prosecution or delinquency proceeding. In one such case, the New York Court of Appeals considered the search of a student's wallet by a teacher without a warrant, without consent, and without police participation. Narcotics were found.

Before defining the proper standard to be applied in determining the reasonableness of the search, the court addressed the more basic question of whether the student is protected at all:

"High school students are protected from unreasonable searches and seizures, even in the school, by employees of the State whether they be police officers or school teachers." *People v. D.*, 315 N.E. 2d 466, 467 (N.Y. 1974).

On appeal of a criminal conviction for possession of marihuana, the Louisiana Supreme Court heard the argument of a 17-year-old high school senior who claimed his constitutional rights were infringed by a warrantless search, without consent, of his wallet by a physical education instructor. Marihuana was found in the wallet. The court agreed and reversed the conviction, holding the instructor to be a "governmental agent" who conducted an unlawful search. As to the problem of a student's constitutional protection against unreasonable search and seizure in school, the court observed:

"Because of the function of these school officials and their strict accountability to the State, we must conclude that these school officials, insofar as they are discharging their duties by enforcing State policies and regulations, are within the purview of the Fourth Amendment's prohibition; therefore, their students must be accorded their constitutional right to be free from warrantless searches and seizures." *State v. Mora*, 307 So. 2d 317, 319 (La. 1975) [emphasis added].

The *Mora* decision was vacated by the U.S. Supreme Court in *Louisiana v. Mora*, 423 U.S. 809 (1975), and remanded to determine if the judg-

ment was based on Federal or State constitutional grounds. On remand, the Louisiana Supreme Court held that its original decision was required by a Louisiana statute (La. R.S. 17:416) and by both the fourth amendment and the comparable provision of the State constitution, Art. I, Sec. 7, Louisiana Constitution of 1921. *State v. Mora*, 330 So. 2d 900 (La. 1976).

The foregoing cases, indeed every secondary school search decision in the past 10 years, share the view, expressed or implied, that a student at school does enjoy the right of privacy in his person, possessions, and locker. Where they part company is on the extent (or to put it another way, the limitation) of the privacy expectation.

Assertion of the Right

Having established the student's right of fourth amendment protection, the next question is whether he can assert the right under any and all circumstances and against anyone who enters his locker or searches his person. Though confusion has sometimes attended court decisions considering this problem, several points emerge clear and consistent: (1) The fourth amendment is aimed at controlling arbitrary and obtrusive conduct of governmental agents; (2) the penalty for violation of the fourth amendment is the exclusion of evidence seized as a direct or indirect result of the violation, whether in a criminal prosecution, *Mapp v. Ohio*, 367 U.S. 643 (1961); *Wong Sun v. United States*, 371 U.S. 471 (1963), or in a juvenile delinquency proceeding, *In re Marsh*, 237 N.E. 2d 529 (Ill. 1968); *In re Harvey*, 295 A. 2d 93 (Pa. Super. Ct. 1972); (3) since the amendment seeks to deter unlawful governmental action, neither the fourth amendment nor the remedy for its violation, exclusion of evidence, is applicable to private persons, *Burdeau v. McDowell*, 256 U.S. 465 (1921).

The student may successfully invoke his right where the unlawful search is conducted solely by law enforcement officers. Likewise, the cases either hold or imply that where school officials act in concert with police, the penalty of exclusion will operate. For example, in *In re Donaldson*, 75 Cal. Rptr. 220 (Cal. App. 1969), a California appellate court was presented with a case in which a high school vice principal entered a student's book locker without his consent and without a warrant. Marihuana was found. The student objected to the use of the evidence at a juvenile proceeding, claiming that its seizure was unlawful. The court concluded otherwise, but was careful to point out that there was no evidence of a "joint operation" undertaken with police.

In *People v. Stewart*, 313 N.Y.S. 2d 253 (Crim. Ct. N.Y.C. 1970), a high school dean, informed that the defendant student possessed narcotics, directed him to empty his pockets. There was no warrant. The student had not consented. Narcotics were found. The court approved the actions of the school official inasmuch as he was acting as a "private person"; the fourth amendment was found inapplicable. However, the court also made plain that had the dean been acting as a "tool of police" or in a "joint venture," a different result may have been reached: "... when police involvement is shown, the exclusionary rule does apply."

The more troublesome problem concerns the search made by the school official acting entirely on his own. Is the school official a "governmental agent" or a "private person" for purposes of the fourth amendment and the exclusionary rule? Courts have disagreed. If the school official is a private person, the constitutional inquiry ends. He may be sued, he may be enjoined, he may be criticized, he even

may be fired—but the evidence he finds is not tainted—it is not subject to exclusion.

"If the school official is a private person, the constitutional inquiry ends. He may be sued, he may be enjoined, he may be criticized, he even may be fired—but the evidence he finds is not tainted. . . ."

Legal Status of School Official

Courts in California, New York, and Texas have held that a school official acting alone is a "private person," not controlled by the fourth amendment. In 1970, a Texas youth appealed an adjudication of delinquency, arguing evidence used against him at the proceeding had been seized in violation of the fourth amendment. The appellant, a high school student, had been brought to the principal's office where he was directed to empty his pockets. The principal told him that if he did not comply, his father would be contacted. The pockets were emptied, and marihuana uncovered and seized. Later police were called.

One of the questions posed on appeal concerned the application of the fourth amendment to the marihuana seizure. The Texas court had this to say:

"Unreasonable seizure forbidden by the Fourth Amendment is that undertaken through governmental action, and the security afforded by the Amendment is not invaded by acts of individuals in which the government has no part [citing *Burdeau v. McDowell*, *supra*]. The principal . . . acted *in loco parentis*, not for an arm of the government, when he demanded that appellant disclose the contents

of his pockets." *Mercer v. State*, 450 S.W. 2d 715, 717 (Tex. Civ. App. 1970).

Accord, *In re Donaldson*, *supra* (California: vice principal not a governmental official for purposes of the fourth amendment); *In re W.*, 105 Cal. Rptr. 775 (Cal. App. 1973) (follows *Donaldson*); *People v. Stewart*, *supra* (New York: high school dean of students is a private person, fourth amendment inapplicable); *Ranniger v. State*, 460 S.W. 2d 181 (Tex. Civ. App. 1970) (follows *Mercer*, high school principal not an officer of the State). Also see *Potts v. Wright*, 357 F. Supp. 215 (E.D. Pa. 1973), where in a civil rights action growing out of a search of junior high school students, a Federal court noted that the liability under Pennsylvania law of school officials (when acting alone) is "similar to that of private persons."

Decisions in other jurisdictions have adopted a contrary view, that the school official is an agent of government for constitutional purposes. A New Jersey court was faced with "a question of first impression" in 1972 when it was argued by a student that her fourth amendment rights were violated by a search conducted by school officials without police involvement. The court concluded that the constitutional rights of students "accompany them into the classroom." What is more, public school authorities are considered "government officers." Thus, the student had standing to object to the search on fourth amendment grounds. *In re State in Interest of G.C.*, 296 A. 2d 102 (N.J. Juv. Ct. 1972).

The idea that school officials are agents of the State has found support in other jurisdictions. See *State v. Baccino*, 282 A. 2d 869 (Del. Super. Ct. 1971) (Delaware: principal is not a private individual for purposes of the fourth amendment, but his actions are those of a State official); *State v.*

Mora, *supra* (Louisiana: school officials are within purview of fourth amendment).

The Georgia Supreme Court declined to embrace either of the foregoing positions in 1975 and instead carved out a unique approach to the school search problem. In a lengthy opinion the court concluded that for purposes of the fourth amendment there are three, not two, categories of individuals conducting searches: (1) Private persons; (2) government agents whose conduct is State action invoking the fourth amendment; and (3) governmental *law enforcement agents* for whose violations of the fourth amendment the exclusionary rule applies. Governmental agents are thus subdivided, and while the constitutional protection may be asserted by the student against school official and policeman alike, only in the latter case may the remedy of exclusion be enforced. In short, the principal may be a State officer against whom the fourth amendment is directed, but vindication of the student's right is not to be found in the exclusionary remedy. *State v. Young*, 216 S.E. 2d 586 (Ga. 1975).

The Loco Parentis Doctrine

The concept of loco parentis (in place of the parent) has been injected into several of the school search cases. Loco parentis is an ancient and honorable principle which antedates the Constitution itself. A person acting in loco parentis is one placed in the situation of a lawful parent who assumes the obligations incident to the parental relation and is delegated parental authority to carry out his duties. In the public school setting, many States, by statute or court decision, have recognized the school official acts in such a role with respect to students in his charge.

While the loco parentis doctrine cloaks the official with the right to

act on behalf of the parent, the grant of authority is not unlimited. It cannot submerge constitutional restraints on State action. For example, while a parent properly might demand that his child go to church or salute the flag, a teacher enjoys no such prerogative. It is usually said that school officials are vested with loco parentis authority to carry out matters relating to discipline, safety, supervision, and activities connected with school programs. *Picha v. Wilgos, supra*, at 1220. Therefore, the ultimate question is whether the doctrine confers authority on school officials to search students suspected of criminal activity. Although no decision seems to be based solely on loco parentis grounds, courts have frequently pointed to the rule as lending support to the search by a school official.

"While the loco parentis doctrine cloaks the official with the right to act on behalf of the parent, the grant of authority is not unlimited."

As is apparent from the preceding discussion of a school official's legal status, some States consider him a "private person" for constitutional purposes. See; e.g., *In re Donaldson, supra*; *Mercer v. State, supra*. Where this is the case, the search problem is resolved by that conclusion alone. Yet, these courts seem to offer loco parentis as a supplemental justification for the official's search. As pointed out by the California court in *Donaldson*:

"The school stands in loco parentis and shares, in matters of school discipline, the parent's right to use moderate force to obtain obedience . . . that right extends to the search of the appellant's locker under the factual situation herein related." 75 Cal. Rptr. at 223.

Even where the school official is acting as a governmental official and the fourth amendment applies; e.g., *State v. Baccino, supra*; *In re State in Interest of G.C., supra*, the courts have invoked loco parentis to justify the reasonableness of the search.

What may be gleaned from the cases discussing loco parentis, by whatever court, is the recognition that school officials do enjoy some latitude in controlling the school environment, and this factor will be weighed in balancing the personal privacy of the student against the need to suppress anti-

social conduct in the schools. A Federal court made the point as follows:

"... it is evident that the *in loco parentis* authority of a school official cannot transcend constitutional rights. However, the student-teacher relationship out of which such statutory or common law authority readily flows *does have an impact on the application of constitutional doctrine to the rights of students.*" *Picha v. Wilgos*, 410 F. Supp. at 1218-19 [emphasis added].

(Continued Next Month)

Number of Law Enforcement Officers Killed Decreases JCR

According to preliminary figures, 12 local, county, and State law enforcement officers were killed due to criminal action in the United States and Puerto Rico during the first 3 months of 1977; 37 officers were slain during the same period of 1976.

In the first quarter of 1977, eight officers were killed in the Southern States, and one each in the North Central States, the Western States, the Northeastern States, and Puerto Rico. All

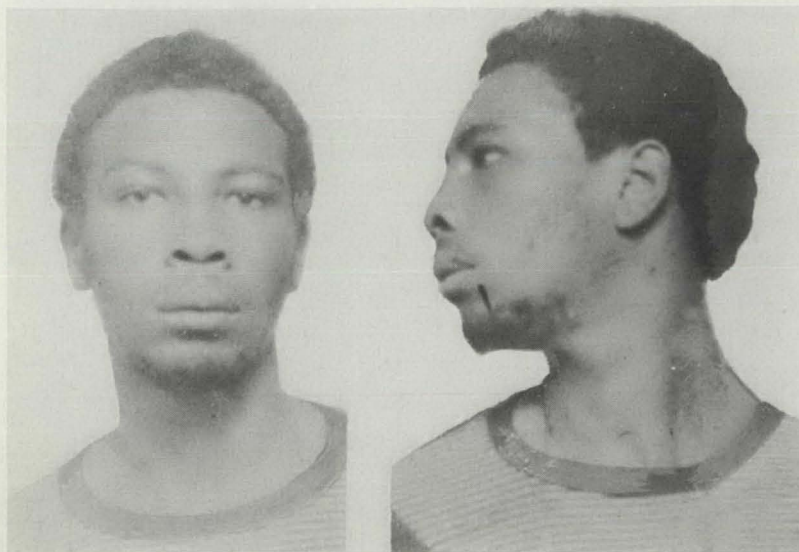
officers were slain through use of firearms.

Five of the officers were killed while handling disturbance calls; two were slain attempting arrests for crimes other than robbery or burglary; two were killed in connection with robbery matters; one was killed in an unprovoked ambush-type situation; one was slain in connection with a burglary matter; and one was killed while enforcing traffic laws.

Photographs appearing with article, "Considerations in Constructing or Renovating Police Facilities," which appeared in the April 1977, FBI Law Enforcement Bulletin, are of the Intake Service Center of St.

Louis County. The Department of Public Works, St. Louis County, extends an invitation to readers to inspect the construction and operation of this facility.

WANTED BY THE FBI



Photographs taken 1973.

ANDREW OTIS MELTON, also known as **James Jackson**, **Otis Melton**, "Farmer"

Unlawful Flight To Avoid Prosecution—Murder

Andrew Otis Melton is currently being sought by the Federal Bureau of Investigation for unlawful interstate flight to avoid prosecution for murder.

The Crime

On February 23, 1973, Melton allegedly shot and killed the owner of a grocery store in Charlotte, N.C., during the attempted robbery of that store.

A Federal warrant was issued for Melton's arrest on October 16, 1973, at Charlotte, N.C.

Description

Age----- 26, born May 30, 1951,
Wadesboro, N.C.

(not supported
by birth records).

Height----- 5 feet 11 inches.
Weight----- 170 pounds.
Build----- Medium.
Hair----- Black.
Eyes----- Brown.
Complexion.. Medium-dark.
Race----- Black.
Nationality-- American.
Occupations_ Construction worker,
cook, laborer,
tavern-lounge
operator.

Scars and
Marks----- Scar over right eye,
scar on jaw, scar
on right forearm;
Tattoo: word "soul"
inside heart on
right bicep.

Remarks---- Reportedly talks with
a distinct stutter,
always wears a

hat, reportedly
accomplished at
pocket billiards.

Social Security Nos.
used----- 242-78-4193;
246-78-7802;
246-78-7402.

FBI No.----- 161,533 L8.

Fingerprint Classification:
11 O 29 W I O O 18
I 19 W O I I

NCIC Classification:
PODI11PO18PIPO081319

Caution

Melton is believed to be carrying a pistol and should be considered armed and dangerous.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.



Right index fingerprint.

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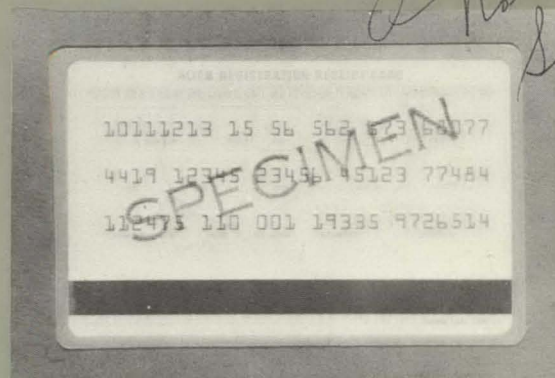
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

_____		_____
(Name)		(Title)

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

New Fraud-Proof Alien Identification Card

*Immigration
Naturalization
Service*



On March 31, 1977, the Immigration and Naturalization Service issued the first of its new fraud-proof, machine-readable alien identification cards. (See photographs above.) The cards are part of a system called Alien Documentation, Identification and Telecommunications (ADIT), which is expected to help end fraudulent use of immigration documents. In addition to a photograph, signature, and fingerprint for manual inspection, the new card will contain an encryption code or cypher, which is a coded identification of the cardholder. If a question arises regarding the authenticity of the card, a telephone call to an Immigration office or computer center will verify the code appearing on the card, establishing whether it is valid or counterfeit. All of nearly 5 million Alien Registration Receipt Cards currently in circulation are targeted for replacement during the next 3 years.

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FEDERAL BUREAU OF INVESTIGATION
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THIRD CLASS

QUESTIONABLE PATTERN



The above impression appears to be a whorl-type pattern. However, the inner delta is located on the only recurving ridge, thereby spoiling it. This pattern is correctly classified as a loop with 13 ridge counts. A reference search would be conducted as a central pocket loop-type whorl with an outer tracing.