

# FBI LAW ENFORCEMENT BULLETIN

JULY 1980





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The Cover: Providing assistance to both young and old, a Jacksonville police officer comes to the aid of a damsel in distress. (Photo courtesy of Frank Smith, *Florida Times-Union*, Jacksonville, Fla.)

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For 2 days there had been sub-zero temperatures with a heavy snow-fall and piercing winds—a rather atypical occurrence in the seacoast city of Newport News, Va. Already weary from answering numerous calls for police service, an officer is dispatched to respond to a domestic disturbance, setting the stage for another tragic death of a police officer.

Feeling his pulse rate rising, the officer entered a dark, cold building, reacted to cries for help by drawing his service revolver, and rushed to the second floor to confront the situation.

Different from most domestic disturbances, a wife was holding her husband at bay with a sawed-off shotgun. The couple continued to argue and curse, disregarding the presence of the officer who was, with some amuse-

ment, watching the big, broad-shouldered man shake as his petite wife took aim at him with the shotgun.

The officer's repeated attempts to quell the argument were to no avail. Finally, because he failed to watch the hands of the woman and failed to demonstrate aggressive and safe action, the argument ended with the officer receiving two shotgun blasts to his chest and face. Once again an officer had become an authority figure—an intruder—the target for unleashed frustrations as often happens when an officer intervenes in a domestic argument and is turned on by one or both parties.

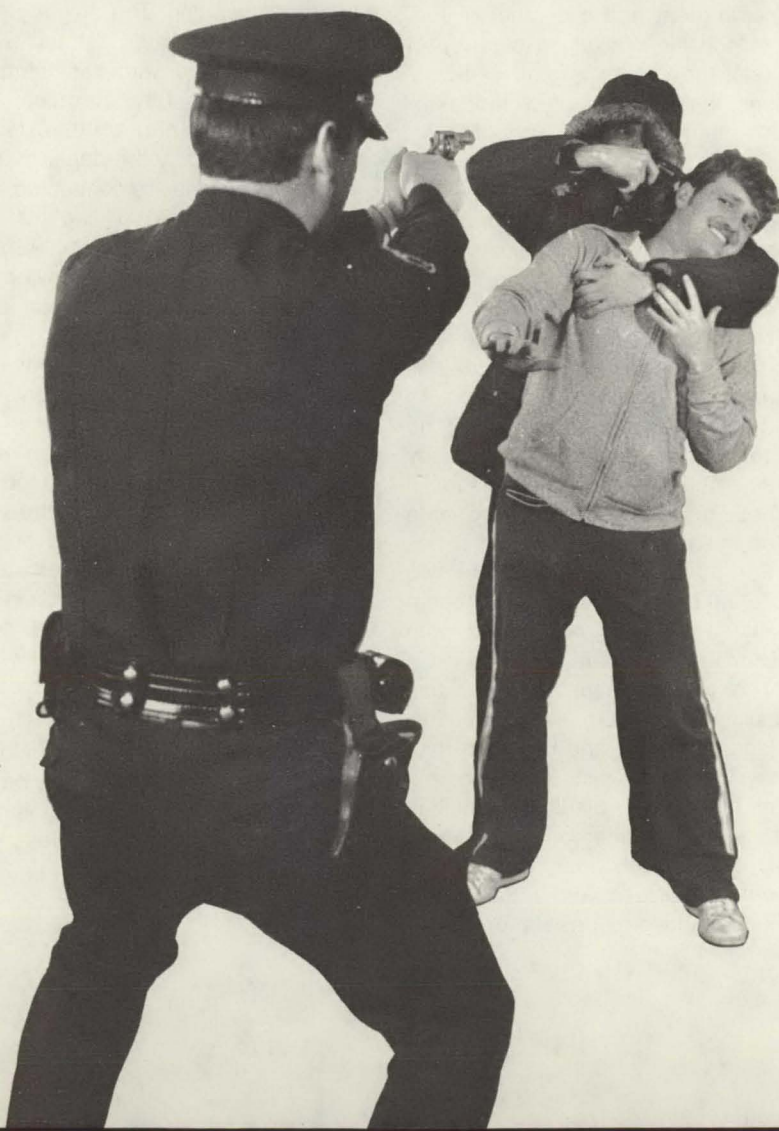
Fortunately, this was a staged situation—one of many used during the "Shoot-Don't Shoot" program, a part of the training given to members of the Newport News Police Department.

# Shoot— Don't Shoot

## A REALISTIC FIREARMS COURSE

By DEP. CHIEF  
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Deputy Chief Hinman



Ms. Washburn



G. C. Austin  
Chief of Police

The criteria for the program were developed by the members of the Newport News Police Department's Tactical Team and put into effect with the permission of the chief of police in December 1978, as mandatory training for all Newport News police officers. This program received immediate favorable review and was approved by the director of the Peninsula Academy of Criminal Justice, located in Hampton, Va., to be included in the training for the basic police and inservice schools.

The "Shoot-Don't Shoot" program improves police training by offering members an opportunity to participate in controlled, high-risk situations. These role-playing situations provide realism, self-awareness, and confidence to the recruit. They also serve to remind the veteran officer how lax he may have become.

With the adoption of this program, the department had a number of factors to consider, including safety precautions, the use of targets or actual persons, the use of empty weapons or blank ammunition, and type of exercises to be incorporated. After experimenting with different ideas, it is now believed that the program offers the realism and maximum stress factors that are most beneficial in the training and retraining of police officers.

Using members of the tactical team as actors in each situation brings the human aspect into the program. As the officer enters each exercise, he has to react to the voices and body movements of the actor/adversary. If he fires, he would be shooting at a person, not a metal target.

For purposes of distraction, two female officers are used, and occasionally, a juvenile participates, with the consent of his parents.

The tactical team members use .38-caliber revolvers, M-16 rifles, 12-gage shotguns, and knives in their portrayal as antagonists during the exercises. The .38 blank ammunition consists of its primer only; the M-16 blank ammunition has a minimal amount of powder; and the 12-gage blank ammunition consists of primer

and 26 grains of black powder with styrofoam wadding. The officer participating in the program is armed with a .38-caliber revolver with blank ammunition. To insure safety, all officers are required to wear protective vests and glasses provided by the department.

The exercises are conducted in an abandoned, 2-story building that has two long corridors with multiple rooms along each corridor. This allows different situations to be staged in each room.

The majority of the situations used are designed after actual incidents that had occurred in our city. Some have been adjusted to place even more stress on the officer. To discourage participants from discussing the exercises with officers who had not yet participated, changes in the types of situations occur at any time during an actual exercise. The tactical team members would usually try a new idea on each other before incorporating it into the program.

During basic police school and the inservice school, the program begins with a briefing. Factors such as safety, self-preservation, aggressiveness, and

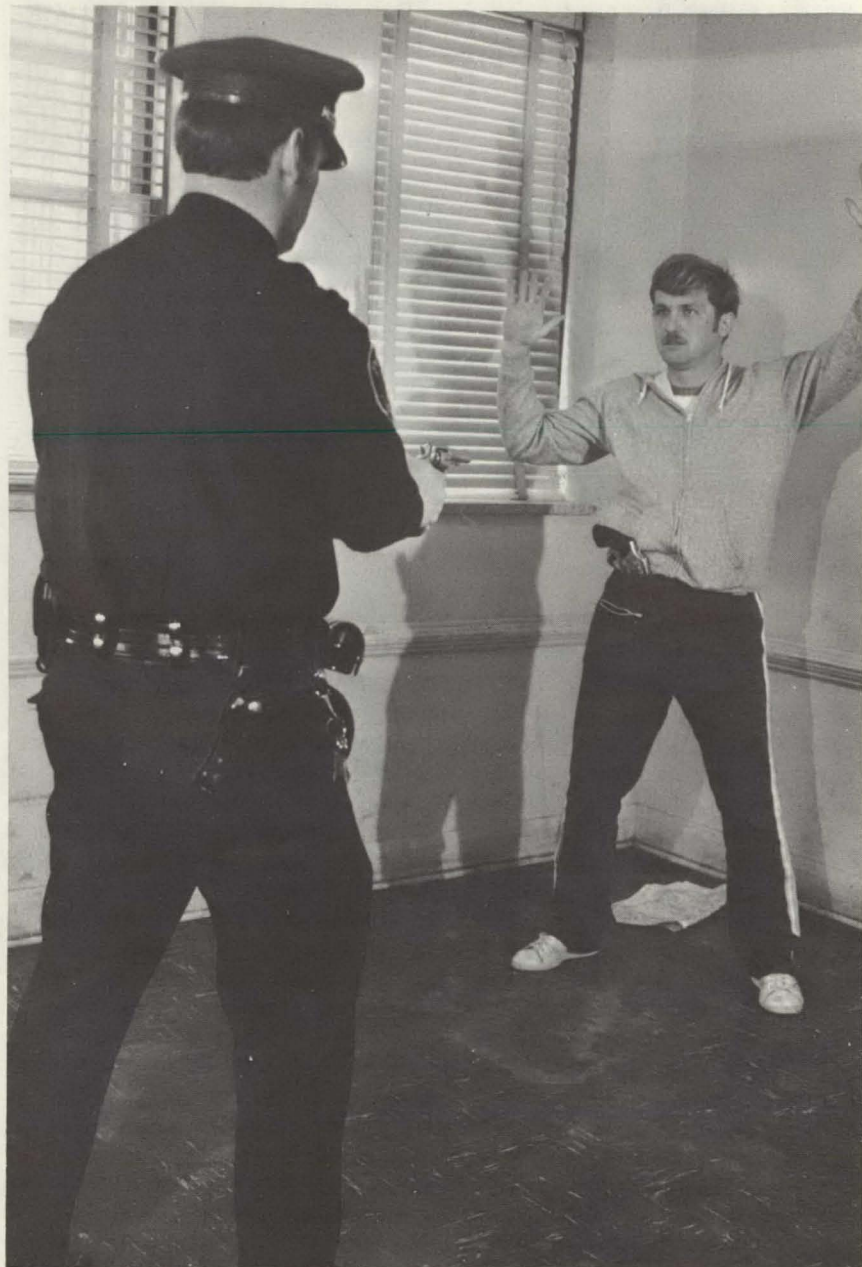


respect for life and property are stressed. Also pointed out are the number of police officers killed in the line of duty and why. Participation is voluntary, except for members of the Newport News Police Department. No one is allowed to participate if they are pregnant or suffer from any known heart disease. Officers are not allowed to carry personal weapons or ammunition in the building where the exercises are conducted. Recruit officers are then shown the department's suggested manner in which to display their firearms, conduct searches, disarm suspects, and properly conduct themselves in any given situation.

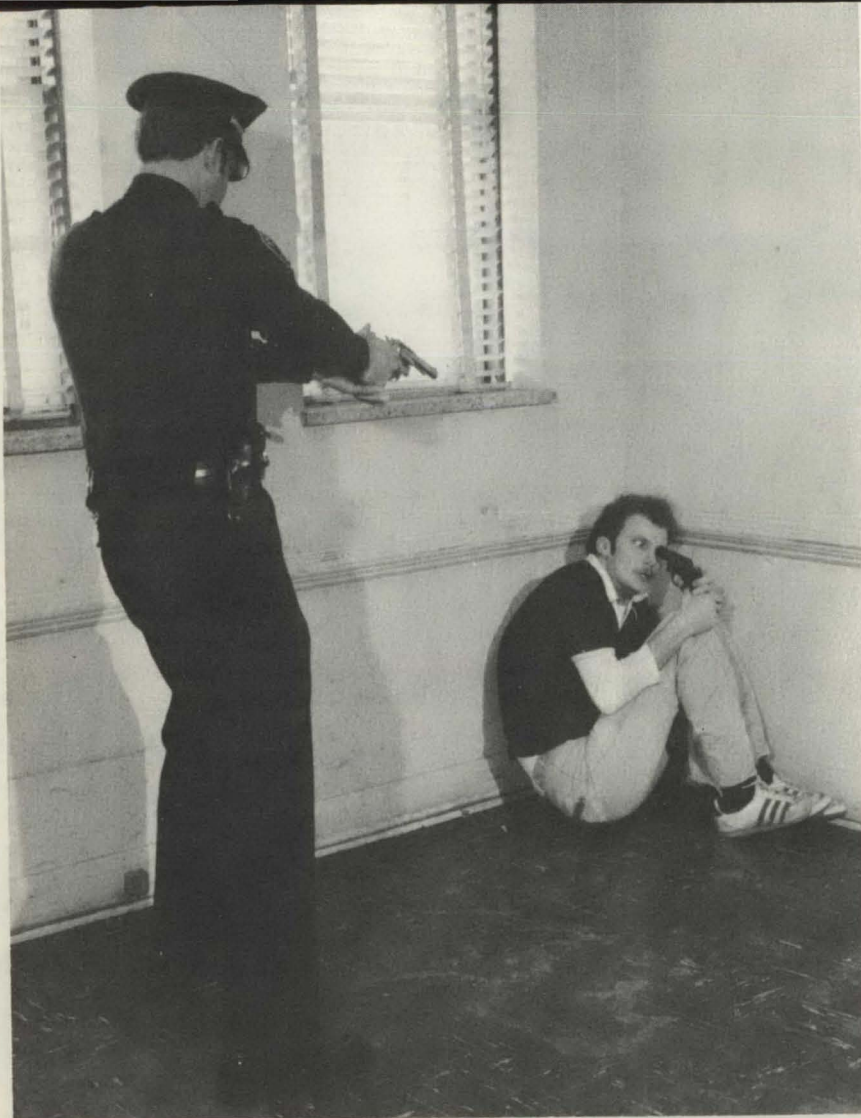
Once the officers are in the building, they move one-by-one to the second floor where they are handed a .38-caliber revolver, blank ammunition, protective vest, and safety glasses. Each officer is escorted through the exercise by two or more ranking police officers. When ready, he is informed that he will encounter approximately eight high-risk situations.

During his journey down the corridor, the officer is rushed from one problem to another, while being constantly barraged with questions from his superior officers about any misjudgments on his part that may have caused serious injury or death to himself or an innocent person. The questions are designed to irritate, frustrate, confuse, and anger the officer and generally to test his ability to cope with stressful situations he may encounter on the street.

He now begins a trip down "stress lane." As the officer approaches the first door, he can hear someone inside the room. When he opens the door, he observes a man with his hands held high and a partially exposed revolver in the waistband of his trousers. While the two exchange words, the suspect reaches down and draws the revolver. Before the officer can react, he is shot. In evaluating the situation, the officer realizes he should have constantly watched the person's hands. He learns how important reaction time can be, still not believing that if the situation were real, he could have been killed. What happens now may be a preview of his own experience at a later time.







Realizing this and being constantly reminded of his errors, it is not uncommon for the officer to be extremely nervous, experience loss of coordination, and become increasingly dissatisfied with his own performance, while attempting to decide whether to shoot.

The officer now approaches the second door. What he finds inside is a small, dark closet with a sink and several shelves. After a few seconds, there is a loud sound, and again, he is shot—he did not see the person lying on the top shelf. This situation demonstrates that police officers rarely look up when searching a room.

The trainee moves to door number three. Twice now, he has been “killed” and it weighs heavily on his mind. He opens the door slowly, and to the left, he sees a female with her arms up. In front of her, on a table, is a sawed-off, double-barrel shotgun. A male with his back to the officer abruptly turns around. Since the officer remembers he has been shot twice, his normal reaction is to assess quickly the situation. This quick assessment prompts him to shoot the unarmed man as he turns around. At the same time, the female reaches for the shotgun and fires. The officer has now shot an innocent person and has been shot with a shotgun at close range. This situation emphasizes the problem of tunnel vision and what additional stress can cause.

As the officer reaches the fourth door, he encounters the situation described in the beginning of this article, getting shot yet again.

The supervisor then tells the officer that the next door is at his right. As he walks toward the door with his gun drawn, a person meets him in the hallway. Disregarding him and concentrating on the doorway, the officer does not notice that a revolver is being drawn, and he is shot in the back—he was not expecting the unexpected.

In the sixth problem, the officer observes a man to his right, with his hands in the air. In the person's right hand is a pistol and to the left is the entrance to another room. The officer sees the hand of a person holding a gun coming slowly out of the room. As this person enters, the officer fires before he realizes he has shot a fellow police officer in full uniform.

At this time, the officer is questioned again. The supervisor may ask how many times the officer has fired his weapon. Very few are able to answer correctly. Some cannot even remember in what direction the cylinder turns.

In the seventh problem, the officer encounters a person sitting in the corner of an empty room. It appears that the person, holding a gun to his head, is preparing to commit suicide. The officer and the suspect exchange words. The suspect tells the officer to leave him alone or he will kill him too. Without additional warning, the person turns the gun on the officer and then on himself. Again, reaction time is important. Even though the officer had the drop on the person, he could not be sure when, or at whom, this person would fire.

As the final door is opened, the officer feels he is now ready for anything. He sees a large man with his back turned. At first, the man refuses to do anything the officer tells him. Finally, he turns and the officer fires.



To his amazement, the person had only a can of soda in his hand. With visible relief and disbelief, the officer leaves the building, pondering what he has just been through.

As an element of training, the program allows the officers and supervisors insight into areas that need work to improve the overall performance of the police officer.

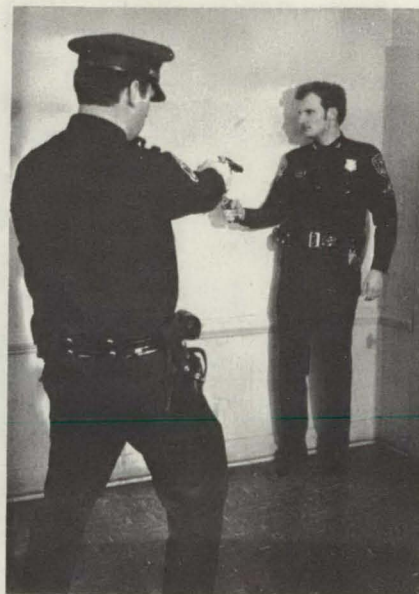
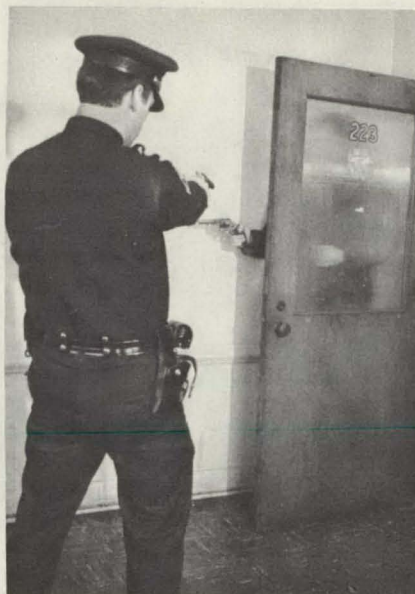
When a police officer takes part in a "Shoot-Don't Shoot" exercise, he comes away with many different thoughts. He cannot believe that he could be so lax that he was shot six times within a 5-minute period. He cannot understand why he looked into someone's eyes instead of looking at his hands. He wonders how he could shoot another police officer in full uniform or how he could shoot an innocent person with only a soft drink in his hands. He cannot comprehend why he was so nervous that he did not know how many rounds he had fired or even if he had fired. It is hard to believe that his knees were shaking so badly that he could not stand still or even load his revolver. The answer is stress.

When a police officer comes away from a "Shoot-Don't Shoot" exercise, the results are astounding. The prospect of death could become real in the few seconds it takes to shoot.

Officers are very pleased with the program and would like more of this type of training. All say that the exercise forces them to think, better preparing them for situations they may encounter on the street. We have included dangerous encounters any officer could happen upon during his career. We believe what the officer goes through in the exercise will affect his judgment in hazardous situations. Upon completion of the program, the officer will be better equipped to handle the responsibilities of his job.

There will continue to be senseless killings of both police officers and civilians. If this program prevents even one death, it will have been a worthwhile effort.

**FBI**



*Members of the "Shoot-Don't Shoot" tactical team.*

*The FBI Law Enforcement Bulletin tries to provide an exchange of views within the law enforcement community. Publication of any article should not be considered an endorsement by the FBI.*







# The Firesetter

## A Psychological Profile

### (Part 2)

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A profile is defined generally as a "concise biographical sketch depicting a personality by vivid outlining and sharp contrast."<sup>48</sup> Its purpose is to provide a distinctive and narrative portrait of an individual.

A psychological profile, more precisely, is a description of the salient psychological and behavioral characteristics of a person. It portrays the individual psychodynamically by identifying personality and behavioral traits or patterns (trait clusters) that uniquely classify and distinguish him from members of the general population.

Behavioral scientists, including psychiatrists and clinical psychologists, have long used profiling techniques in their diagnostic assessment and empirical study of psychopathology. Profiles drawn from such studies have often aided in the understanding and treatment of mental illness, emotional distress, and personality maladjustment. Criminologists have also applied profiling strategies to their study and classification of known offenders.

Psychological profiling appears to have legitimate and practical application to selective criminal investigations. Its employment in matters of this nature, however, is often predicated on a need to identify an unknown subject who has demonstrated some form of psychopathology in his crime—sadistic torture in sexual assaults, evisceration and post mortem slashing and cutting in homicides, and motiveless firesetting. The projected profile of the offender in these instances serves to support the investigative process by aiding in the identification and apprehension of the offender.

The propriety of criminal psychological profiling pivots on three critical issues.

First, it must be determined whether the crime suitably lends itself to psychological analysis. Crimes against the person appear to be best suited for criminal psychological profiling.

Second, psychological profiling should be applied only to those cases in which the unknown subject demonstrates some form of mental, emotional, or behavioral disturbance in the crime. Unless there is perceptible psychopathology present in the crime, a profile cannot be rendered on an unknown subject.

The third factor to be considered concerns the potential value of the profile in aiding law enforcement in its identification of unknown subjects. If only vague generalizations can be drawn from the crime scene about the subject's behavioral style, then the efficacy of the psychological profile is considerably diminished. For this technique to be an effective tool, it must assist the investigator in focusing his investigation.

The purpose of criminal psychological profiling, then, is to provide the investigator with a personality composite of the unknown subject that will aid in his swift and judicious apprehension.

#### Profiling the Firesetter

David Berkowitz, the confessed "Son of Sam" mass murderer who terrorized New York City during 1976 and 1977 by killing five young women and a man and wounding seven other young people, also reportedly informed his attorneys that he set over 2000 fires and made 137 false alarms in New York City from 1974 through 1977. On almost every occasion, he reportedly called in the fires to the police as the "Phantom of the Bronx."<sup>49</sup>



According to a newspaper account, Berkowitz claimed that he set these fires in cars, rubbish, brush, and vacant and unoccupied stores. Allegedly, he set 11 of these fires on a single day and two less than a month prior to his last killing just a block away from the future murder site.

The newspaper further reported that "childhood friends of Berkowitz recalled . . . that they would frequently 'buff' fires in a car outfitted with a fire radio and that Berkowitz—who dreamed of becoming a fireman—would sit in the 'navigator's' seat and log the blazes in detail."<sup>50</sup>

Note pads seized by the authorities, allegedly bearing the handprinted notes of Berkowitz, gave detailed information on 1411 fires for the years of 1974, 1975, and 1977, including the date and time of the fire, street, borough, weather, number of the fire box, and the fire department code indicating the type of responding apparatus and building or property burned.

The question arises as to whether Berkowitz typifies the firesetter.

Are arsonists homicidal? Are they frustrated would-be firemen? Do they keep meticulous diaries of their fire-setting activities? Do they tend to report their fires to the authorities? What are the precursory factors of incendiarism? What are the primary psychological and behavioral characteristics of the firesetter? Are they uniquely different from one another and from other offenders? Do they always leave evidence of their personality at the fire scene?

These questions certainly have intrigued behavioral scientists and investigators for centuries. In fact, the psychological and psychiatric literature is replete with clinical case studies and empirical research concerning pathological firesetting. Significant insight into such behavior has been obtained,

but much still remains speculative or only partially substantiated. Consequently, precise answers to the above questions remain uncertain. More vital and detailed information concerning the psychological and behavioral aspects of firesetting must be collected and assessed if we are to classify and profile more accurately the arsonist and significantly impact his firesetting. Understanding his behavior preceding, during, and after his firesetting experience will greatly enhance the investigative process and possibly accelerate identification and apprehension.

### **Common Characteristics of the Firesetter**

According to Jesse James in his article, "Psychological Motives for Arson,"

"Neither sex, age, education, intellectual level nor economic status in any way limits the possibility of any individual to engage in arson. On the other hand, from a study of large samples, it does appear that, statistically, persons of certain ages and with certain characteristics are more apt to set fires than are others."<sup>51</sup>

### **Age**

Studies have consistently found that firesetters tend to be young, with a high rate of incidence around 17 years of age. Macdonald reports that the highest frequency of pathological firesetters is between ages 15 and 20.<sup>52</sup> According to figures available in the FBI *Uniform Crime Reports* (UCR), arrested arsonists ages 20 and under comprise 65.8 percent of the total arson arrestees and those 13 to 19 years of age account for 42.8 percent.<sup>53</sup>

### **Sex**

The overwhelming majority of known firesetters are male. This has been supported in clinical and empirical research studies of known arsonist populations and demonstrated in the statistical incidence of arrests for arsonists.

### **Race**

According to statistical evidence, arrested arsonists are predominately caucasian. However, there is no evidence that race is a correlate to arson.

### **Intelligence**

A large number of studies have indicated that firesetters tend to be mentally deficient or of below-average intelligence. Yet, it has been suggested that possibly it is the mentally deficient firesetter or at least the less intelligent one who is most often identified or studied. The more intelligent arsonists may avoid detection. Although a large number of studies have identified intellectual difficulties among firesetters, they have not conclusively demonstrated that intellectual impairment or low basic intelligence is a precursor to firesetting.

### **Academic Performance**

Studies of firesetters have consistently found histories of poor academic achievement, severe scholastic retardation, and significant grade failures among arsonists. This may be due not necessarily to intellectual impairment but to social and personal maladjustment. Environmental stress, lack of parental attention, and anxiety may produce learning difficulties. Whatever the reason, firesetting children tend to have problems in school.

### **Rearing Environments**

Firesetters appear to come from disruptive, frustrating, harsh, broken, or unstable home environments. Often their families are large and within the lower socioeconomic level, and it is not uncommon to find one or both parents frequently absent. Some studies have noted that repetitive child firesetters are often middle children; whereas, adult arsonists are likely to have been the first born, last born, or an only child. It has been frequently noted that firesetting children come from father-absent and mother-dominated (over-protective, rejecting, or abusive) environments.



## **Social Relationships**

Firesetters typically experience difficulties in social relationships, especially with women. Because their rearing environments have not fostered normal social development, they generally lack the basic social skills necessary for good interpersonal relations. They have been generally described as socially maladjusted and social isolates.

## **Marital Ties**

Numerous studies have reflected that firesetters typically experience poor marital adjustment. Few are known, in fact, to have marital ties. This possibly stems from their difficulties in developing and maintaining close interpersonal relationships and being reared in mother-dominated environments. Many have also expressed a hatred or fear of women, as well as sexual inadequacy.

## **Employment History**

Poor occupational adjustment is another common characteristic of the firesetter. His work habits are poor, and he frequently changes jobs, has difficulty with supervisors, and demonstrates little interest in advancement. He is often unemployed or employed in an unskilled position.

## **Emotional-Psychiatric Disturbance**

Firesetters have been typically described as psychiatrically disturbed and emotionally distressed and maladjusted. They also appear to lack self-control and self-confidence and experience significant stress and tension. Frequently, they manifest psychopathic, neurotic, and psychotic disorders.

## **Sexual Disturbance**

Firesetting has been universally associated with sexual perversion. Researchers who are psychoanalytically oriented have postulated that "firesetting functions as a sexual substitute. . . ." <sup>54</sup>

The pyromaniac has even been alleged by some investigators to receive sexual excitement in setting and watching his fires. Arsonists as a group have been reported to experience sexual maladjustment and to have an urethral-erotic trait. However, the actual extent of sexual deviance in firesetting is unknown.

## **Physical Deformities and Defects**

The exact relationship of physical disabilities to firesetting is unknown, although researchers have detected a high incidence of physical abnormalities or deformities in study samples. Vreeland and Waller speculate that physical abnormalities, ". . . while not likely to directly predispose an individual to criminal activity, may be a factor in producing a stressful environment which sets the occasion for activities such as firesetting." <sup>55</sup>

## **Enuresis**

Enuresis is the involuntary emission of urine, often identified as bedwetting. According to researchers who follow the psychoanalytic viewpoint, enuresis is associated with hate, parental rejection, fantasies of destruction, violent aggression, and sexual symbolism. Michaels and Steinberg have noted that delinquent males who demonstrate a history of persistent enuresis frequently show tendencies toward pyromania. <sup>56</sup> In fact, a number of researchers have found a history of childhood enuresis in firesetters, as well as in delinquents of many types.

## **Alcoholism**

Excessive alcohol consumption has been consistently related to adult firesetters. In fact, a number of studies have found that a large portion of arsonists are intoxicated at the time of their firesetting act. Drinking prior to the act may be an important contributing component in firesetting behavior in that it may loosen inhibitions.

## **Sadistic-Aggressive Tendencies**

Sadistic and aggressive tendencies are also thought to be common among firesetters. However, the arsonist is believed to have difficulty in expressing or externalizing his aggression. When his impulses are thwarted, he has the tendency to react by perpetrating crimes against property instead of people.

## **Motive**

The motives for firesetting are multiple, though revenge seems to run like a thread throughout all malicious incendiaryism. Firesetting has been found to be the result of impulsive behavior, as well as premeditation. What specifically stimulates the firesetting act remains unanswered. Rejection, stress, failure, excitement-seeking, revenge, and sexual inadequacy have been credited as motivating factors in pathological firesetting. However, there is little evidence that an urethral-erotic trait activates the desire to set fires. Though the act of firesetting appears to be abnormal and disproportionate to the motive, it may not be from the firesetter's perspective. Typically, it represents his way of coping with rejection and stress.

## **Solitary-Group Firesetting**

A review of the literature consistently reveals that adult arsonists and children are most frequently solitary firesetters, whereas adolescents often set fires in peer groups or pairs.



## Prior Criminal History

Vreeland and Waller have reported that most of the studies of institutionalized (imprisoned and hospitalized) arsonists and nonarsonists as groups show both having extensive histories of criminal and antisocial behavior.<sup>57</sup> However, their particular patterns of criminality appear to be characteristically different. Arsonists as a group consistently perpetrate a significantly greater number of crimes against property and fewer crimes against persons than nonarsonists, though this pattern seems to change after mid-twenties. Lewis and Yarnell report that firesetters under 25 years of age indulge chiefly in property offenses. After age 25, they appear to become more inclined to engage in interpersonal violence.<sup>58</sup>

## Firesetting Targets

There has been little data collected on the types of structures which are generally high-risk targets for firesetters. A number of studies on adolescent-group firesetters indicate, however, that churches and schools are frequent targets. Although child, female, and psychotic firesetters tend to set fires at home, they are also known to start fires away from their premises.

Hurley and Monahan, for instance, found that psychiatric prisoners had most frequently targeted commercial property, with dwelling houses second.<sup>59</sup> Virkkenun noted that schizophrenic arsonists were far more likely to set fires in unoccupied structures than nonschizophrenic arsonists.<sup>60</sup> The revenge firesetter generally targets the property of his real or imagined enemy, and although the pyromaniac compulsively sets fires, he may be selective in his choice of property.

## The Typical Arrested Arsonist

In an effort to determine a profile of the average arrested arsonist by age, sex, and race, a review of the *Uniform Crime Reports* for 1969 through 1978 (10-year period) was conducted, which revealed that 89 percent of those arrested for arson were male and approximately 76 percent were white. However, it should be noted that race has not been demonstrated as a significant variable in predicting firesetting.

When arson arrests were examined by age, it was determined that 54.6 percent of arrestees were under 18 years of age. Almost 43 percent were 13 through 19 years old, and those 10 and under comprised 11 percent of the total arrest population. It was also found that the percentage of arrests for blacks was significantly higher for the 18-and-over category than for those under age 18. The antithesis was found for arrested white arsonists. Seventy-five percent of the total reported arrests for arson were 24 years of age and under.<sup>61</sup> According to this analysis, the typical arrested arsonist is a white male in his teens to early twenties. (See Tables 1 through 5 for details.)

Although the UCR provides data on age, sex, and race of the arrested arsonist, it does not describe his personality characteristics. Therefore, it cannot be determined from these figures whether or not the arrested arsonist is representative of the arsonist population. Since so few arsonists are ever identified, arrested, or prosecuted, they may not represent the typical arsonist. However, comparison of these arrest statistics with available data from case and empirical studies of known arsonists reflects that they are descriptively comparable at least by age, sex, and race.

There are few studies which have provided a comprehensive profile of the arsonist. In fact, there is some real question as to whether a "typical" arsonist actually exists. Rothstein, for instance, contends that individual differences in firesetters preclude the development of a typical profile.<sup>62</sup>

Nevertheless, some researchers have constructed profiles of firesetters based on common characteristics of selective populations. These profiles may not represent all arsonists, but they do appear to illustrate many of those who are commonly encountered in prisons and on parole.

## A Typical Incarcerated Adult Male Arsonist

In 1971, Michael R. Wolford announced the results of an experimental study involving all known incarcerated male arsonists in three Southeastern States. The purpose of the study was to ascertain if there were any significant differences between incarcerated arsonists and incarcerated nonarsonists. The sample population included 68 arson offenders and 57 nonarsonists.

The study revealed no significant differences between arsonists and nonarsonists in age, race, employment background, marital status, number of prior felony arrests, length of military service, or family stability. However, significant differences were noted for educational level, IQ score, rural-urban background, and number of crimes committed against property. The arsonists in this study were found to be less educated, to have lower IQ scores, to be reared in more rural settings, and to have committed more property offenses than did nonarsonists. They were also incarcerated as a group twice as often as nonarsonists. The study did not find any supporting evidence that arsonists are basically sociopathic (psychopathic or antisocial) in their personality structure. Instead, it was purported that incarcerated arsonists "exhibited personality characteristics more closely associated with persons undergoing psychic stress. . . ." <sup>63</sup>



The mean age of Wolford's incarcerated arsonist was 28, which is significantly older than the typical arrested arsonist according to UCR. In addition, only 47 percent of his arsonist population were white, as compared to 76 percent represented in UCR statistics. Coupled with this is the fact that Wolford's imprisoned arsonist had approximately two prior felony arrests and a mean number of four previous incarcerations. In light of these facts, it appears that his arsonist sample population reflected the recidivist and not the typical arson offender.

### A Typical Paroled Adult Arsonist

James A. Inciardi in his study of 138 convicted adult arsonists released on parole from New York State prisons from 1961 through 1966 found that his sample population fit into six behavioral categories based on their motivational patterns, namely, revenge firesetters, excitement firesetters, institutionalized firesetters, insurance-claim firesetters, vandalism firesetters, and firesetters who use arson to cover up another crime.

The median age of the paroled arsonist in Inciardi's study is comparable to the age of Wolford's incarcerated firesetter, but again is much older than the typical arrested arsonist. The profiles depicted by Wolford and Inciardi also appear comparable in IQ level, rearing environments, marital status, and criminal histories. However, Inciardi's study does not provide adequate criminological data on which to base a definite conclusion about the personalities of his subjects.

### The Adult Revenge Firesetter

Revenge appears to be one of the more significant motivational factors in arson. Some researchers believe that it is the undertone in most, if not in all, destructive firesetting. Inciardi found that the revenge motive was represented in 58 percent of his sample population. However, Nolan D. C. Lewis and Helen Yarnell in their study of 1145 pathological male arsonists determined that only approximately 15 percent of their sample expressed revenge as a primary motive for firesetting.

Table 1

### Total Arson Arrests by Age Group 1969-1978\*

Age Groups	Total Arson Arrests 1969-1978	Percent of Total Arrests
Grand Total All Ages	125,513	100.0 <sup>1</sup>
Total Under 18 Years of Age	68,507	54.6
10 and under	13,766	11.0
11-12	11,323	9.0
13-14	18,950	15.1
15	9,849	7.8
16	8,009	6.4
17	6,610	5.3
Total 18 Years of Age and Over	57,006	45.4
18	5,549	4.4
19	4,712	3.8
20	3,871	3.1
21	3,345	2.7
22	2,972	2.4
23	2,833	2.3
24	2,572	2.0
25-29	9,375	7.5
30-34	6,483	5.2
35-39	4,700	3.7
40-44	3,665	2.9
45-49	2,718	2.2
50-54	1,848	1.5
55-59	1,098	0.9
60-64	600	0.5
65 and over	581	0.5
Unknown Age	84	( <sup>2</sup> )

<sup>1</sup> Percentages do not add to 100.0 percent, due to rounding.

<sup>2</sup> Less than one-tenth of one percent.

\*Source: U.S. Federal Bureau of Investigation, *Crime in the United States*, Annual. Washington, D.C.: U.S. Government Printing Office, 1969-1978.



Although the Inciardi and Lewis and Yarnell studies vary on the age factor, their revenge offenders are significantly comparable in many aspects. In brief, they are characteristically male; white; of below-average intelligence; unmarried; personally, socially, and sexually maladjusted; of pathological rearing backgrounds; alcoholic; nomadic; unskilled laborers; and have a hostile and assaultive outlook on life. Their fires are set against persons whom they believe have offended them or whom they imagine have abused them.

#### **The Jealousy Motivated Adult Male Firesetter**

"Immediate retribution is the goal of firesetters incited by wounded vanity and jealous rage."<sup>64</sup> Jealousy is central to this type of firesetting, and Lewis and Yarnell found this category to represent approximately 8 percent of their adult male sample.

#### **The Would-Be Hero (Attention-Seeking) Male Arsonist**

This type of arsonist resorts to firesetting to attract attention to himself. Lewis and Yarnell describe them as "the men with grandiose social ambitions whose natural equipment dooms them to insignificance."<sup>65</sup> Examples have included watchmen, fire and police "buffs," volunteer firemen, and an occasional policeman. "Police-men, or men who want to become policemen, will set fires so that they can demonstrate how clever they are. . . ." <sup>66</sup> They found this type of arsonist (excluding volunteer firemen and fire "buffs") to represent approximately 6 percent of their adult male sample.

#### **The Volunteer Fireman Solitary Firesetter**

This category also represents an inadequate, attention-seeking male. Lewis and Yarnell identified 51 cases (4 percent) fitting this description within their adult male sample population. Although this group appears to be relatively small in number, it has the propensity for serious destructiveness.

#### **The Fire "Buff" Firesetter**

The fire "buff," like the police "buff," is an enthusiastic "hanger-on." He generally represents a frustrated would-be fireman or would-be policeman. Although many buffs are civic-minded and constructive in their associations with the police and fire service, others are characteristically immature, inadequate, and underachievers. The fire buff who sets fires is seeking attention and attempting in a pathological way to win praise and social recognition for his alertness and heroism in reporting fires and giving assistance in fighting them.

#### **The Pyromaniac**

The pyromaniac differs characteristically from the other arsonists in that he lacks conscious motivation for his firesetting. In fact, he is considered by many to be motiveless. Pyromaniacs have been described as:

"... offenders who said they set their fires for no practical reason and received no material profit from the act, their only motive being to obtain some sort of sensual satisfaction."<sup>67</sup>

Lewis and Yarnell in their study found that the pyromaniac represented 60 percent of their sample population. Of this number, 241 expressed receiving some sort of satisfaction from the fire. The remaining 447 offenders "offered no special reason or persistent interest beyond the fact that something within them forced them to set fires."<sup>68</sup>

This urge to set fires has been referred to as the "irresistible impulse." However, authorities should be cautioned on accepting this explanation.

Some researchers have postulated that this behavior is the release of sexual tension. Gold agrees that sexual tension may be a motivational factor in some incendiarism but rejects it as a major causative factor,<sup>69</sup> and Lewis and Yarnell found only a very small percentage who claimed to have received some sort of sexual gratification from their firesetting.<sup>70</sup>

#### **The Excitement Firesetter**

According to J. H. Magee, the excited firesetter is allegedly prompted to set fires because of a craving for excitement. His satisfaction comes not from seeing the flames but from mingling in the crowd which has gathered at the scene of the fire.<sup>71</sup> According to Inciardi, however, the incentive inducing this type of firesetter is the need to experience the fire and to watch the operations of the firemen and their fire equipment. Some authorities have interpreted Inciardi's "excitement firesetter" to closely resemble that of the pyromaniac; however, because of insufficient descriptive data on Inciardi's sample, a definite conclusion cannot be supported.

#### **A Typical Female Firesetter**

The female arsonist appears to direct most of her firesetting against her own property, possessions, or premises and rarely against her employer or neighbor. Her motives are similar to that of the male's, with the exception that she seems to have more self-destructive tendencies.

Lewis and Yarnell studied 201 female firesetters. This figure represented only 15 percent of the total adult sample population. The majority were found to be mentally defective and approximately 32 percent demonstrated evidence of psychosis, primarily schizophrenic reactions. They were described generally as older women who were lonely, unhappy, and in despair.



## The Child Firesetter

Authorities on firesetting behavior believe that repetitive or chronic firesetting by children represents a severe behavioral symptom and an observable symptom of psychological disturbance. For the disturbed child, firesetting becomes an instrument or outlet for vengeful-hostile reaction, resentment, and defiance of authority.

Yarnell in her study of 60 cases of child firesetters determined that 60 percent were between 6 and 8 years of age. This group demonstrated the following characteristics:

- 1) They set fires with associated fantasies to burn some member of the family who had withheld love or was a serious rival for parental attention.

- 2) Most fires were started in the home or within the immediate vicinity.

- 3) The fires, usually symbolic, caused generally little damage and were often extinguished by the child.

- 4) Prior to the firesetting, the child often had terrible dreams and fantasies of the devil and ghosts.

- 5) They suffered acute anxiety over these dreams and fantasies, as well as their sexual preoccupations.

- 6) All experienced sexual conflicts. Most actively engaged in masturbation and some participated in mutual masturbation, sodomy, and fellatio.

- 7) Boys who were enuretic also frequently demonstrated passive traits.

- 8) Many experienced learning disabilities.

- 9) Some had physical handicaps.

- 10) They also demonstrated other forms of asocial behavior in addition to firesetting, i.e., truancy, stealing, running away, hyperkinesis, and aggressive behavior.

- 11) Some were orphans and institutionalized children.

- 12) Their rearing environments were pathological or broken. It was not uncommon for them to come from father-absent or ineffective-father homes.

- 13) They also lacked a sense of security, love, and attention.<sup>72</sup>

Table 2

### Total Arson Arrests by Sex\*

Sex	Total Arrests 1969-1978	Percent Distribution
Male	112,052	89.3
Female	13,461	10.7
Total	125,513	100.0

### The Adolescent Firesetter

There have been extensive studies on youthful or adolescent firesetting. In 1951, Lewis and Yarnell studied a large population of adolescent male firesetters. This study demonstrated that home-centered firesetting increasingly diminished with the age of the firesetter. As he got older, his firesetting shifted from the home to schools, churches, factories, and homes of strangers. These targets were frequently selected by youths 12 through 16 years of age. The highest incidence of firesetting at schools involved the 12-14 age group. Fires directed at schools were generally associated with school problems and motivated by revenge. This type of firesetting was often preceded by theft, vandalism, and harassment of the teacher. Defective intelligence was not found to be a factor in adolescent firesetting until the youth reached age 16. After age 16, the evidence of fires set by mentally defective youths showed a marked increase.<sup>73</sup>

Common characteristics of the adolescent firesetter include: A history of delinquency, disruptive rearing environment, pathological personality development, sexual immaturity, aggressive or destructive behavior, poor social adjustment and emotional disturbance, and poor academic achievement.

(Continued on page 16)

Table 3

### Total Arson Arrests by Race\*

Race	Total Arrests 1969-1978	Percent Distribution
White	90,555	75.8
Black	26,978	22.6
Other	1,923	1.6
Total	119,456	100.0

Table 4

### Total Arson Arrests by Race Under Age 18\*

Sex	Total Arrests 1969-1978	Percent Distribution
White	51,929	80.0
Black	12,072	18.6
Other	921	1.4
Total	64,922	100.0

Table 5

### Total Arson Arrests by Race 18 and Over\*

Race	Total Arrests 1969-1978	Percent Distribution
White	37,513	70.8
Black	14,492	27.3
Other	993	1.9
Total	52,998	100.0

\*Source: U.S. Federal Bureau of Investigation, *Crime in the United States*, Annual. Washington, D.C.: U.S. Government Printing Office, 1969-1978.



# A PROFILE OF THE TYPICAL PYROMANIAC

(Lewis and Yarnell)

**Age:** Heaviest concentration between ages 16-28; highest frequency at age 17.

**Sex:** Male.

**Race:** Predominately white.

**Intelligence:** Ranged from mentally defective to genius (approximately 22 percent of those with no explanation for their firesetting were low-grade defectives).

**Physical Defects:** Found to be frequently present.

**Enuresis:** Present in some.

**Mental Disorders:** Psychopathy, as well as psychotic disorders, were identified within this category; the compulsive urge also appears to reflect a neurotic obsessive compulsive pattern of behavior.

**Academic Adjustment:** Poor educational adjustment although some pyromaniacs were intellectually bright. Their academic performance was marginal or scholastically retarded—underachievers.

**Rearing Environment:** Pathological, broken, and harsh rearing environment with inconsistent discipline and parental neglect. Pyromaniacs noted an unhappy home life.

**Social Class Structure:** Some pyromaniacs emerged from middle or even upper socioeconomic levels, while others were products of lower class environments.

**Social Adjustment:** Socially maladjusted; severe problems in developing and maintaining interpersonal relationships.

**Marital Adjustment:** Although some pyromaniacs married, their marital relationships were poorly adjusted.

**Sexual Adjustment:** Sexually maladjusted and inadequate; limited contact with women.

**Occupation/Employment History:** Most frequently unskilled laborers, if employed. They accepted subservient positions and became resentful when they realized that their work was degrading.

**Personality:** The pyromaniac has been described as a hopeless misfit and feeble person, a physical coward with feelings of inadequacy, inferiority, insufficiency, and self-consciousness. They are introverted, seclusive, aloof, frustrated, and lonely people. They have unconscious fears of being unwanted and unloved and suffer from a wounded self-esteem and a lack of pride and prestige. They often project an image of calmness and indifference (anxiety and tension are present nonetheless). They have vague feelings, however, that their defenses will fail them and that these repressed impulses will emerge. They tend to be defensive and obstinate in attitude and ambivalent toward authority. Although they have an inner-dependency on authority, they also have contempt for authority. In fact, they have repressed their rage and hatred toward society and authority figures. They lack ambition and aggressiveness. Some stated that they did not want to really hurt anyone. They are apologetic but ashamed for being apologetic. They seek expression through excitement. Some pyromaniacs have been found to be quite intelligent, neat, and methodical in their behavior. They

have a need to be recognized and have a sense of worth. They have a craving for power and prestige. They fail to express remorse or to accept responsibility for their firesetting activities.

**Criminal History:** Many had histories of delinquency and criminal behavior to include: Runaway, burglary, theft, and other property offenses.

**Use of Alcohol:** Alcohol was frequently used as a method of escape and to remove social inhibitions, but they did not set fires because they drank. Of the 447 who offered no explanation for their firesetting except an "irresistible impulse," 70 were alcoholic (approximately 16 percent).

**Suicide:** Some attempted suicide after arrest and incarceration.

**Motives:** The exact motivation in each case was unknown; however, the following motives were identified:

- 1) Desire to be a hero and center of attention (craving for excitement and prestige). Play detective at the fire; render first-aid; help rescue victims; assist firemen.
- 2) Desire to show themselves sufficiently clever to cause the "experts" (the firemen and detectives) problems and to render them helpless. They have grandiose ambitions to be the executive who directs the firefighting activity and puts the firemen into action.



3) Enjoy destruction of property (vagrants exhibiting pyromania receive sadistic pleasure in watching the destruction of buildings).

4) Irresistible impulse (could not offer an explanation except driven by unexplainable force or impulse to set fires).

5) Revenge, although not consciously present, was also considered to be a possible factor.

6) Sexual satisfaction (this was noted in only 40 cases.)

**Irresistible Impulse:** No single precipitating factor produced this impulse. It was believed to be the result of an accumulation of problems which caused stress, frustration, and tension. Examples included: Thwarted sexual desires; loss of employment; refusal of employment; death of parent or loved one; threats to personal security and masculinity; explosive protest over imagined immorality or promiscuousness of mother or spouse; fear of impotency, etc.

#### **Firesetting Experience:**

**Type of Fires:** Their fires were generally made in haste and in a disorganized fashion; often set in rubbish, basements, and in and around inhabited dwellings, office buildings, schools, hotels and other structures in thickly populated sections of cities. Frequently, they were made in rapid succession. Matches, newspapers, and other available materials were used in starting the fires.

**Number of Fires:** Frequently they started numerous fires, sometimes hundreds, until they were caught.

**False Alarms:** They were also known to set false alarms.

**Time of Day:** Their fires were often nocturnal.

**Regard For Life:** There was no regard for life. (Fires were frequently set in and around occupied buildings)

**Type of Firesetter:** Solitary (An insignificant number set fires in groups or with a partner).

#### **Emotional State and Behavior Just Prior to Firesetting:**

Pyromaniacs frequently expressed the following symptoms preceding their firesetting: Mounting tension and anxiety; restlessness—an urge for motion; conversion symptoms, such as headaches, pressure in the head, dizziness, ringing in the ears and palpitations; a sense that the personality was merging into a state of unreality; and an uncontrollable urge or irresistible impulse to set fires.

#### **Emotional State and Behavior During Firesetting:**

While setting the fire, pyromaniacs felt that the act was so little their own; they described the emergence of a sort of dissociative state (a transient sensation of being controlled by an external force—a feeling of being automated). They recognized that the firesetting was senseless but they did not have the control to prevent it. To a casual observer, they would appear normal and controlled.

#### **Emotional State and Behavior After Setting the Fire:**

Pyromaniacs expressed a sense of relief and even exaltation. After setting fires their tension subsided. Few expressed sexual satisfaction in setting fires. They often stayed at or near the fire as a spectator, or to assist the responding firemen by rendering first-aid or rescuing victims from the fire. Some enjoyed playing detective at the fire scene. Some pyromaniacs, after setting their fires and insuring that the firemen would respond, went home to a restful sleep.

**Arrest:** Some pyromaniacs insured that they would be identified and arrested; some even turned themselves in to the police. Many continued to set fires till apprehended. The arrest seemed to release the magical hold the irresistible impulse had on them. It was a relief for them to be stopped from setting fires.

**Confession:** Pyromaniacs often readily confessed or admitted guilt, though they expressed no remorse or regret for their behavior; neither did they generally accept responsibility for their firesetting activity. They were most often quiet and cooperative under arrest.

**Selection of Target:** Firesetting targets were often randomly selected for no apparent reason.

**Recidivism:** 28-percent recidivistic rate in the study.



Moll, as well as Lewis and Yarnell, has purported that adolescent firesetting is generally committed for excitement rather than for destructive reasons.<sup>74</sup>

Yet, whatever the specific motive, vandalism fires appear to represent 80 percent of juvenile firesetting.<sup>75</sup> The adolescent firesetter generally works in pairs or groups, since this provides support for his behavior and encourages the act. These pairs or groups generally consist of one boy who assumes a dominant role and others who accept a submissive role.<sup>76</sup>

### The Schizophrenic Male Firesetter

Psychosis is generally defined as a severe form of personality decomposition characterized by marked impairment of contact with reality and personal and social functioning. Delusions, hallucinations, emotional blunting, and bizarre behavior may also be present in varying degrees.

The most serious of all psychotic disorders is schizophrenia, which has been defined as "a group of psychotic disorders characterized by gross distortions of reality, withdrawal from social interaction, and disorganization and fragmentation of perception, thought and emotion."<sup>77</sup> According to the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-III), schizophrenia includes several specific subtypes, each of which has specific symptomatology which uniquely characterizes and distinguishes it from other forms.

Lewis and Yarnell in their study of 1145 male firesetters found that 154 of them could be diagnostically classified as psychotic. This represented 13.4 percent of their total sample population—a small fraction of the total incidence of male firesetters.<sup>78</sup>

In describing the psychotic firesetter, Lewis and Yarnell noted that "they seemed distinctive, in that their fires were set for suicidal purposes, their motives were apparently delusional in character or they manifested bizarre behavior either during or immediately after the firesetting."<sup>79</sup>

Though the psychotic appeared distinctive in that his firesetting was suicidal and delusional, he was found to fall naturally within other firesetter categories, i.e., revenge firesetters and pyromaniacs. Consequently, Lewis and Yarnell included the majority of psychotic firesetters in other subgroups rather than devising a special classification for them. Eight percent of these psychotics were classified as pyromaniacs, and approximately 90 percent of the male psychotics were diagnosed as schizophrenics.<sup>80</sup>

Virkkunen's study of 30 schizophrenic and nonschizophrenic firesetters revealed that both groups were characteristically motivated by hate. The schizophrenic subjects typically set fires against outsiders or the community in general. Their target selection was often an unoccupied structure. The nonschizophrenics tended to direct their firesetting against relatives or acquaintances and set fires to residential houses. The nonschizophrenics were likely to be under the influence of alcohol when setting fires, whereas the schizophrenics tended to set fires as a result of delusions and hallucinations.<sup>81</sup>

### A Review

The section on "Profiling the Firesetter" briefly discussed many of the common and salient characteristics associated with pathological firesetting. In addition, reference was made to a number of specific firesetter profiles in an effort to provide the reader with a better understanding of the various types of arsonists and their etiological, psychological, and sociological bases, as well as their distinguishing characteristics.

It is interesting to note that pathological arsonists frequently manifest the following cluster characteristics:

- 1) Under 25 years of age,
- 2) Victims of pathological and distressed rearing environments,
- 3) Come from father-absent homes,
- 4) Mother-dominated,

- 5) Academically retarded,
- 6) Slightly below-average intelligence,
- 7) Emotionally and psychologically disturbed,
- 8) Socially and sexually maladjusted,
- 9) Unmarried,
- 10) Psychologically inadequate and insecure, and
- 11) Cowardly.

Their firesetting is often immediately preceded by a precipitating stressful situation or experience.

Although pathological firesetters share many common characteristics, a "typical" firesetter just does not exist. Each appears to be unique and motivated by a multiplicity of factors.

These types of arsonists do not appear to be representative of those engaged in arson-for-profit schemes, although they cannot be totally eliminated in all cases.

In preparing a psychological profile of a firesetter, the following variables should also be analyzed:

- 1) The structure (type of structure burned, location, fire history, ownership, and recent structure history);
- 2) Time factors (date and time of fire);
- 3) Identity of reporting person (resident, neighbor, unknown caller, law enforcement officer, etc.);
- 4) Use or lack of devices or accelerants;
- 5) Type of devices and accelerants;
- 6) Style of fire (hastily or methodically set);
- 7) Occupancy factors (occupied or unoccupied at time of fire and description of occupants—elderly, women, mental patients, etc.);
- 8) Burn pattern and points of origin, (number of points of origin, exact location of points of origin, and burn pattern);
- 9) Modus operandi;
- 10) Evidence of forced entry;
- 11) Evidence of preparation of structure for burning;
- 12) Presence of other crimes; and
- 13) Evidence of similar fires in the community (structures, time variance, and similarities and differences in those fires)



In next month's issue of the *Law Enforcement Bulletin*, arson-for-profit, the hired-torch, and his conspirators will be explored. Hopefully, the profiles provided in this and the next section will assist the investigator in effectively targeting arson in his community. It must be remembered, however, that the profile serves as a tool for narrowing the investigative process. It is not a magical answer to either the prevention or solution to incendiarism. **FBI**

#### Footnotes

- <sup>48</sup> Webster's Third New International Dictionary, unabridged (Springfield, Mass.: G. & C. Merriam Company, 1971) s.v. "profile."  
<sup>49</sup> Robert Lane and Martin Gottlieb, "He Bares Himself as Pyro Champ," *Nassau Suffolk Daily News*, final ed. May 9, 1978, p. 3:2.  
<sup>50</sup> Ibid.  
<sup>51</sup> Jesse James, "Psychological Motives for Arson," *Popular Government*, March 1965, p. 24.  
<sup>52</sup> John M. Macdonald, "Many Motivations are Behind Acts of the Arsonist," *FBI Law Enforcement Bulletin*, vol. 29, No. 7, July 1960, p. 4.  
<sup>53</sup> U.S. Department of Justice, Federal Bureau of Investigation, *Crime in the United States*, annual. (Washington, D.C.: U.S. Government Printing Office, 1969-1978).

- <sup>54</sup> Nolan D. C. Lewis, "Pathological Firesetting and Sexual Motivation," in *Sexual Behavior and the Law*, Ralph Slovenico, ed. (Springfield, Ill.: Charles C. Thomas, 1965), p. 627.  
<sup>55</sup> Robert G. Vreeland and Marcus B. Waller, *The Psychology of Firesetting: A Review and Appraisal* (Washington, D.C.: U.S. Government Printing Office, 1979), p. 26.  
<sup>56</sup> Joseph J. Michaels and A. Steinberg, "Persistent Enuresis and Juvenile Delinquency," *British Journal of Delinquency*, vol. 3, 1952, pp. 114-120; Sheldon Glueck and Eleanor T. Glueck, *Unraveling Juvenile Delinquency* (New York: Commonwealth Fund, 1950).  
<sup>57</sup> Robert G. Vreeland and Marcus B. Waller, *supra*, p. 23; Michael R. Wolford, "Some Attitudinal, Psychological and Sociological Characteristics of Incarcerated Arsonists," presented at the 17th Annual Arson Detection and Investigation Seminar, Sarasota, Fla., August 4, 1971, p. 1.  
<sup>58</sup> Nolan D. C. Lewis and Helen Yarnell, *Pathological Firesetting* (pyromania), Nervous and Mental Disease Monographs, No. 82 (New York: Coolidge Foundation, 1951), p. 42.  
<sup>59</sup> W. Hurley and T. Monahan, "Arson: The Criminal and the Crime," *British Journal of Criminology*, vol. 9, 1969, pp. 4-21.  
<sup>60</sup> M. Virkkunen, "On Arson Committed by Schizophrenics," *ACTA Psychiatrica Scandinavica*, vol. 50, 1974, pp. 152-160.  
<sup>61</sup> U.S. Department of Justice, Federal Bureau of Investigation, *Crime in the United States*, 1969-1978.  
<sup>62</sup> R. Rothstein, "Explorations of Ego Structures of Firesetting Children," *Archives of General Psychiatry*, 1963, p. 247.

- <sup>63</sup> Michael R. Wolford, *supra*, p. 8.  
<sup>64</sup> Nolan D. C. Lewis and Helen Yarnell, *supra*, p. 46.  
<sup>65</sup> Ibid., p. 228.  
<sup>66</sup> Ibid., p. 240.  
<sup>67</sup> Ibid., pp. 228-242.  
<sup>68</sup> Ibid., p. 86.  
<sup>69</sup> Louis H. Gold, "Psychiatric Profile of the Firesetter," *Journal of Forensic Science*, vol. 7, No. 4, October 1962, p. 407.  
<sup>70</sup> Nolan D. C. Lewis and Helen Yarnell, *supra*, p. 118.  
<sup>71</sup> J. H. Magee, "Pathological Arson," *Scientific Monthly*, vol. 37, 1933, p. 361.  
<sup>72</sup> Helen Yarnell, "Firesetting in Children," *American Journal of Orthopsychiatry*, vol. 10, 1940, pp. 262-286.  
<sup>73</sup> Nolan D. C. Lewis and Helen Yarnell, *supra*, pp. 286-287, 311-345.  
<sup>74</sup> Kendall D. Moll, *Arson, Vandalism and Violence: Law Enforcement Problems Affecting Fire Departments* (Washington, D.C.: U.S. Department of Justice, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, 1974), p. 13; Nolan D. C. Lewis and Helen Yarnell, *supra*, pp. 311-345.  
<sup>75</sup> John G. Boudreau et al., *Arson and Arson Investigation: Survey and Assessment* (Washington, D.C.: U.S. Government Printing Office, 1977), p. 92.  
<sup>76</sup> Bernard Levin, "Psychological Characteristics of Firesetters," *Fire Journal*, vol. 70, No. 2, March 1976, p. 37.  
<sup>77</sup> James C. Coleman et al., *Abnormal Psychology and Modern Life*, 6th ed. (Glenview, Ill.: Scott, Foresman and Co., 1980), p. 395.  
<sup>78</sup> Nolan D.C. Lewis and Helen Yarnell, *supra*, p. 428.  
<sup>79</sup> Ibid., p. 376.  
<sup>80</sup> Ibid., pp. 377, 428.  
<sup>81</sup> Virkkunen, *supra*.

## Crime Increase Continues

According to the FBI's Uniform Crime Reports' preliminary annual statistics, the upswing in crime continued as Crime Index offenses soared 8 percent during 1979. All city and county population groups, areas, and regions of the United States shared in the increase.

Director William H. Webster noted that there has not been such a dramatic increase since the 1974 crime surge of 18 percent, followed by the 10-percent increase in 1975.

"The 1979 increase clearly indicates that crime remains one of our Nation's most serious problems," stated Mr. Webster. "I am, of course, troubled by this trend. Every American should be troubled. Crime, after all, diminishes freedom; it casts an intimidating shadow across our free society. All of us—not just law enforcement—all of us should do what we can to reduce crime."

The crime figures are based on the Crime Index offenses reported by law enforcement agencies around the country and include statistics on the violent crimes of murder, forcible rape,

robbery, and aggravated assault, and the property crimes of burglary, larceny-theft, and motor vehicle theft.

The greatest increase for the year was experienced in cities outside metropolitan areas where crime climbed 11 percent. Cities over 50,000 in population registered an 8-percent upturn, while in both the suburban and rural areas crime increased 9 percent.

Violent crimes rose 11 percent, with forcible rape and robbery each increasing 12 percent and murder and aggravated assault each rising 9 percent. The only reported decrease was a 2-percent decline in murder in rural areas.

Property crimes rose 8 percent as a whole, with gains in motor vehicle theft of 10 percent, in larceny-theft of 9 percent, and in burglary of 6 percent.

Geographically, all regions showed increases over 1978 figures. The South, the most populous region, experienced the greatest increase, 10 percent. The Northeast, West, and North Central regions followed with rises of 9, 8, and 7 percent, respectively.

**FBI**





*A defendant awaits the jury's decision.*

# Police and You

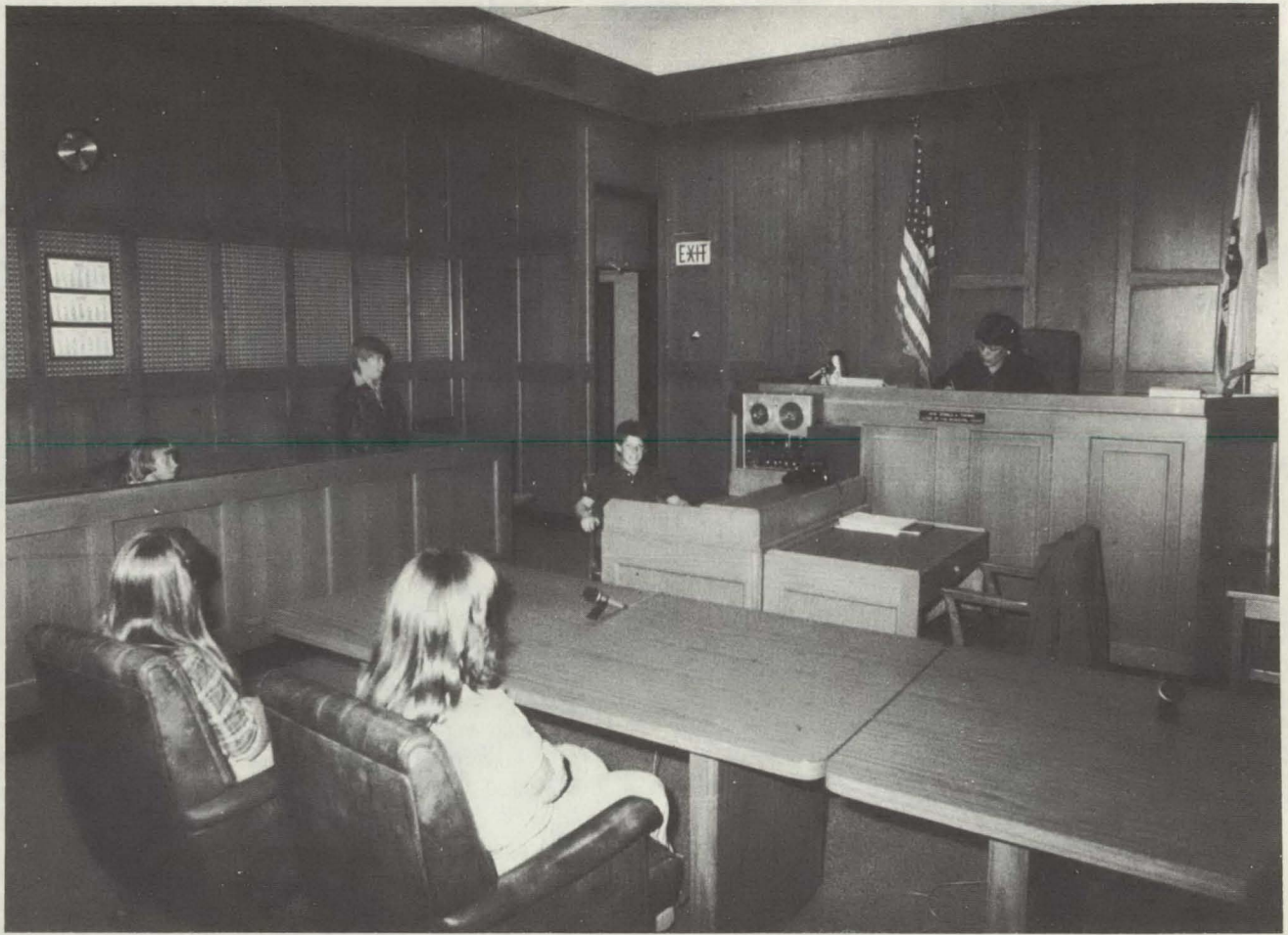
## A PUBLIC RELATIONS PROGRAM

By OFFICER JORUNE JONIKAS

*Police Department  
Carmel, Calif.*

"Your Honor, we find the defendant guilty." The verdict, delivered in a decisive, clear voice by the jury foreman, is not unlike those handed down since the inception of the trial-by-jury system hundreds of years ago. This trial, however, will never be immortalized in casebooks, nor will its transcripts be filed away in the courthouse archives to gather dust. And while the proceedings could be considered unconventional by being held in an empty courthouse at night, the participants are even more so—girls and boys, 8 to 13 years of age, who attend the elementary and junior high schools on California's Monterey Peninsula.





*An "arraignment" of a case is part of the courtroom procedure explained to the participants.*

The trial revolves around an imaginary crime and fabricated evidence and is the culmination of a 5-hour introduction to the California Criminal Justice System presented by members of the Carmel, Calif., Police Department.

If many adults look upon the criminal justice system as sophisticated, complex, and often puzzling, consider how the system would appear to a child. Yet, it is the best means our society has found to maintain peace, protect life and property, and assure justice. A system that touches each and every citizen should not be a mythical beast surrounded by apprehension and bewilderment.

The most visible representative of criminal justice is the police officer. However, with the apprehension and bewilderment often generated by the criminal justice system, the officer emerges, time and time again, as a symbol of distrust in law enforcement.

These premises prompted three employees of the Carmel Police Department to initiate a "Police and You" program designed to make children aware that police officers are not unapproachable entities and the courts are not of a world apart. The program, which has been presented three times during the past year, is divided into two sessions, each a week apart. The first is held at the police department; the second at the county courthouse.

It simplifies matters, of course, if a department is based in the courthouse or if it has offices there, but even if this is not the case, then a courthouse session and tour on site could be eliminated. Instead, community relations officers conducting the tour of the police department could set aside an hour or so and present the courtroom portion of the presentation at the department, using little more than some tables and chairs and a bit of imagination.





*Officer Jonikas*



*William H. Ellis  
Chief of Police*

With 10 to 16 students participating in each session, the children are divided into smaller groups of 4 or 5 for their initial introduction to the police department. The three "instructors" for the program are police officers and take on the responsibility of explaining the various functions of the police department, its officers, and its support personnel.

One instructor's responsibility involves explaining emergency telephone procedures, radio dispatching techniques, emergency teletype operations, and recordkeeping. Another instructs the participants on the training functions of a department. Special attention is given to descriptions of weapons and explosives, with emphasis being placed on the danger they represent to children and adults alike. This was considered important not only because all children are fascinated by the unusual and unknown but more so because there is a large military installation nearby. The children also witnessed a display of firearms marksmanship when they visited the range.

Patrol cars and police equipment are another instructor's specialty. He also relates the process that a prisoner must go through once an arrest is made. The children are fingerprinted, booked, and spend a few minutes in a cell, while being told the necessity for each step.

What members of one group found most exciting, however, was the actual arrest made while they were learning about the process. They, of course, were kept out of sight of the prisoner, but found the activity intriguing nevertheless.

Rotating each group among the three officers allowed all the participants to see and hear everything without crowding and confusion and gave them the opportunity to ask questions, many of which were of an intelligent and perceptive nature.

Before ending the session at the police department, a crime was staged, using one student as the "criminal," another as the "victim," and a third as a designated witness. The aggressor was "arrested" and the "trial" was scheduled for the following week's session at the courthouse.

Officers of the municipal court made the courthouse available, and Monterey County Sheriff's Office personnel graciously made their facilities at the courthouse substation accessible to the groups.

The public entrance to the courthouse was ignored in favor of the less familiar prisoner's door, in order that the children could follow the path a custodial prisoner takes from a holding cell to the courtroom. They were escorted through the booking room and holding cells and into the prisoner elevator.

Before entering the courtroom, however, there was some deviation in that the students were allowed to do what prisoners are not, that is, briefly tour the building to familiarize themselves with the locations and purposes of the various offices.

Once back on the first floor, the group was led through a back corridor, past judges' chambers, and into the courtroom where everyone was seated in the prisoner's block.

Following a brief explanation of the function of the court and the duties of its various officers, "arraignments" were held, charging each student defendant with a "crime" to which they could relate, such as taking another's lunchbox, riding someone's bike without permission, or pushing a classmate in the hall.



Once the children were introduced to pleas, bail, and court and jury trials through the arraignment procedure, each was assigned a role to play in the upcoming trial. Although everyone wanted to act as attorney, defendant, or witness, some had to be content with a role as juror. However, there was usually enough time to hold a second shorter trial, in which more active roles were assigned to former members of the jury. Parent escorts, too, were welcome to sit on the jury and they always enthusiastically fell into the spirit of the trial.

The trial of the student defendant, arrested the week before, began with a statement of charges, after which the student prosecutor and defense attorney, assisted by one of the instructors, presented their cases, questioned witnesses, raised objections, and finally summed up their arguments to the jury.

After the jury listened intently to the judge's instructions, the bailiff escorted the members to the jury room for deliberation. Following a brief, but usually heated debate, the jurors returned with a verdict. Both guilty and not guilty verdicts have been handed down, and in one case, the defense attorney insisted on polling the jury because he was unhappy with the decision.

Roleplaying took on a very serious and important tone, and the children became so much a part of the proceedings that they continued to argue the merits and deficiencies of each "case" long after it was over.

One of the most gratifying responses was that of the parents who found it intriguing and surprising to debate in the jury room with their fifth-graders, who took their duty seriously and showed a remarkable understanding of their role.

It is extremely satisfying to realize that in the enjoyment of play acting, there was learning. Through this learning process, the criminal justice system became less of a strange beast and more of a comfortable acquaintance. But most gratifying of all is to be greeted as a friend by a child who a short time ago was a stranger.

**FBI**



*The "jury" in deliberation.*



# Occupational Stress and Compensation in Law Enforcement

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The importance of improving the health and safety conditions of employees has increasingly received the attention of government agencies, business organizations, and labor unions. Not only are the physical and emotional well-being of workers an issue of humanitarian concern, but they also have a significant legal and economic impact upon the employer. Adverse working conditions can have a detrimental effect upon employee morale, job satisfaction, attendance, and attrition. Ultimately, productivity can be affected. When this occurs, it becomes costly to the organization.

As a consequence, administrators within both the public and private sectors are committing personnel and resources to the development of programs designed to prevent or reduce the adverse effects of physical and psychological stress. Nowhere is this effort more evident than within the field of law enforcement. Innovative programs of physical fitness and psychological services have been established as a response to these concerns. Police administrators have begun to recognize their responsibility to preserve and maintain a healthy, stable, and productive work force by providing necessary services. This article will alert the reader to the necessity

of compensating law enforcement personnel as a result of the various stresses associated with the occupation.

## Compensation

Compensation may be defined as a payment, indemnity, or benefit given to an employee for a service or loss. It may be provided in the form of a monetary settlement, which includes salary or wages, as well as financial remuneration, after an injury or loss. An example of the latter are the workmen's compensation plans that offer pecuniary settlements to an employee who has suffered a job-related injury. However, compensation does not necessarily have to be in a monetary form—there are several other ways in which an employee can be compensated for his work.

Another method of compensation is provided through early retirement. This frequently occurs when an employee suffers a disability that prevents him from continuing to perform his duties.



Often overlooked as compensation are transfers to less stressful or less sensitive assignments that are provided when it becomes obvious that the employee should no longer function in his original capacity. The employer may also grant a leave of absence to an individual who suffers from a medical or emotional malady.

Preventive or remedial services can be provided by the employer as a form of compensation. Private industry and public service agencies alike have established programs addressing both physical and mental health. Among these programs are scheduled periods when employees may engage in organized recreation. Some industries, most notably chemical and textile manufacturers, periodically evaluate the medical health of their employees in order to detect symptoms of diseases that may be the result of conditions in the work environment.

These diverse forms of compensation have been applied to a variety of occupations. The Federal Government has mandated that certain hazardous occupations in the military service receive higher remuneration or incentive pay. For example, incentive pay is granted for military personnel assigned to submarines or self-propelled submersible vessels used for undersea exploration and research. Personnel also receive special pay when participating in the following:

- 1) Frequent and regular aerial flight;
- 2) Parachute jumping and deep sea diving;
- 3) Demolition of explosives; and
- 4) Specified research projects as experimental subjects.

The Federal workmen's compensation program permits air-traffic controllers with psychological disabilities to retire at 75 percent of their salary, provided they have been employed for 5 years and their condition has been sufficiently documented. Iron workers, painters, roofers, window washers, and other tradesmen whose work entail an element of danger, such as working at precarious heights, often receive more pay than their counterparts who are not exposed to comparable danger.

These examples illustrate the many and varied forms of compensation made available in other occupations.

### Compensation in Law Enforcement

Numerous studies have demonstrated that there is an inordinate amount of stress associated with law enforcement. It can also be documented that the effects of stress can have an adverse impact upon the manner in which police officers perform their duties.<sup>1</sup> Beyond affecting a person's mental and physical health, stress can influence individual and collective productivity, as well as the quality of work. Due to the critical nature of police work, it is imperative that law enforcement personnel be emotionally stable.

Since stress is directly attributable to the work environment and the effects of stress can influence the performance and behavior of law enforcement personnel, *provisions must be made to compensate the police employee*. Compensation may not only benefit the individual officer but will also indirectly benefit the organization, and ultimately, the community it serves.

### Monetary Compensation

Since occupational stress is an intangible factor, monetary compensation is unrealistic. The causes of stress vary in intensity and effect among individuals. While they can be identified, these stressors defy quantification. Since stress cannot be measured empirically, a standard payment schedule is difficult, if not impossible, to establish.

The incentive pay schedules employed by the military are based upon hazardous duty assignments. While it may appear that compensation is awarded for stressful work, it must be noted that stress and danger are not synonymous. Dangerous or hazardous duty may contribute to stress, but should not be considered the equivalent of stress. In law enforcement, incentive pay for dangerous assignments can impair the proper selection of personnel. Individuals may volunteer for potentially hazardous assignments, such as tactical units or bomb squads, enticed by the additional financial remuneration. As a consequence, the officer essentially becomes a mercenary. In such critical assignments, individuals should be selected for their abilities, not their willingness to expose themselves to danger for financial reward.

Compensating personnel for stress is further complicated because of the different stress levels of law enforcement functions. For example, undercover narcotics work is generally considered to be a highly stressful assignment. The combination of irregular shifts, constant exposure to danger, and the daily requirement to assume different identities, in addition to the normal organizational causes, can produce a higher degree of stress than the more traditional law enforcement role. Not only is there a variation in the extent of stress associated with different assignments, but subtle organizational variations can also induce varying degrees of stress. It is reasonable to conclude that stress will vary according to the nature of the patrol assignment. Factors such as motorized or foot patrol, one-man or two-man vehicle patrol, area of assignment, and shift assignment can all influence the degree of physical and psychological stress. Since patrol strategies must respond to community needs, these factors are constantly changing, and therefore, preclude the provision of a standard compensation schedule.



It has been established that administrative positions are as stressful as patrol positions. Again, it would be most difficult, if not impossible, to assign an appropriate scale of compensation based upon rank and responsibility. For example, a captain who commands a headquarters division may have a more or less stressful job than a captain who commands a patrol division. Undoubtedly, both individuals would have strong feelings about the relative pressures of their individual assignments. However, since stress cannot be measured, any differences between the two positions will remain a matter of conjecture.

While the degree of occupational stress may vary with rank and function, it must also be noted that individuals possess different tolerance levels for stress. Some individuals are more susceptible to the physical and emotional disorders that result from stress. Because individual tolerances may vary with time and experience, this further prohibits the development of a standard compensation schedule.

Recent arbitration has noted the distinction between work-related injuries and illnesses. An Illinois police officer, employed for 3 years in the narcotics division, claimed that he suffered from "anxiety and depressive neurosis" as a result of his assignment. While the city concurred that his work could have contributed to the debilitating illness, his claim was denied because there was no indication that it was the exclusive cause. A Connecticut police officer experienced psychological distress after he shot and killed the assailant who stabbed him and his partner. Yet, because the resultant symptoms of anxiety and fearfulness did not manifest themselves until several months after the incident, the city denied his claim for compensation. The first case exemplifies the cumulative effect of stress, while the latter illustrates the effect of a single significant episode. The fact that both claims were rejected clearly indicates the difficulty in prescribing monetary compensation for stress.

If law enforcement personnel are offered monetary compensation for their exposure to stress, the human dimension of the problem is ignored. By failing to recognize unique individual responses to stress, the employer fails to demonstrate concern for the individual employee. If all of the variables contributing to occupational stress were static, it would be convenient to assign them monetary values. However, the causes of stress are dynamic. Therefore, monetary compensation for occupational stress is neither realistic nor responsible.

**"It can . . . be documented that the effects of stress can have an adverse impact upon the manner in which police officers perform their duties."**

#### **Removal from the Work Force**

To remove an employee from the work environment through premature retirement is also a negative response to the problem. In fact, such action can hardly be considered a response, since it fails to address the needs of the individual worker. While a leave of absence or a transfer for medical or psychological reasons may be considered a form of treatment, they are equally unresponsive if not accompanied by adequate remedial services.

It has become increasingly expensive in terms of time and money to recruit, select, train, and equip law enforcement personnel. To release an employee who is suffering from the effects of occupational stress is costly and wasteful. Manpower, our most precious resource, should be sustained and guarded. The community that supports the police department expects the maintenance and development of its resources. As a public service agency, the law enforcement organization is obligated to protect the investment of the community and to insure the welfare of the employee.

#### **Provision of Services**

The most appropriate form of compensation is through the provision of services. Specifically, these services address the prevention and treatment of occupational stress. The strategy most effective in aiding the employee is also the most suitable method for the organization and the community. The police department has wide latitude in the development and implementation of a psychological services program. Generally, options can be grouped under two major headings—"professional" and "in-house" programming.

#### **Professional Programming**

A professional program format might include hiring a psychologist to design and implement a program, contracting for services, or using voluntary professionals. The larger metropolitan police departments have made the most progressive achievements toward preventing and treating occupational stress in law enforcement.<sup>2</sup> Several agencies, including those in Los Angeles, New York, Chicago, Seattle, Dallas, and San Jose, have established exemplary programs of psychological services. These departments vary in size from 800 employees to more than 23,000 officers. Yet despite numerous departmental variations, the consensus is that the most effective method of delivering psychological services is through the use of a full-time clinical psychologist. There is general agreement that when personnel are referred to professionals outside the agency, there is no continuity in the treatment of police-related issues. Although any competent psychologist could be of assistance in dealing with ordinary personal problems, police-related problems require the psychologist to recognize the operational character of the department and to be aware of the complexities of the police function.



The employment of a full-time psychologist allows the counselor to become a specialist in the unique problems associated with law enforcement and the specific needs of the agency. His relationship with the department also increases both his credibility and his acceptance by the personnel he serves. Employing a full-time psychologist insures the availability of assistance during critical incidents, and finally, he can establish alliances with administrators to facilitate the treatment of personnel.

Clinical psychologists are generally preferred to psychiatrists as police counselors. Although psychiatrists are licensed physicians and are qualified to prescribe medication, police personnel do not normally require that type of treatment. Should the necessity for prescribed medication arise, a competent psychologist would recognize the exception and make the appropriate referral. Furthermore, since psychologists are usually more research oriented, the agency would benefit from the continuing evaluation of personnel and the development of ancillary programs. These additional programs frequently include the following:

- 1) Psychological screening of applicants;
- 2) Spouse orientation;
- 3) Recruit training;
- 4) Inservice training;
- 5) Suicide intervention;
- 6) Investigative hypnosis; and
- 7) Hostage negotiation.

Finally, since the most practical consideration for any department is monetary, it should be noted that psychologists are substantially less expensive to employ than psychiatrists.

If it is deemed infeasible or unnecessary to hire a full-time psychologist, the agency may obtain the same services on a part-time basis through a contractual agreement. While a part-time consultant would not offer all of the ancillary services available through a full-time counselor, the agency may find that the former is more cost effective. A major consideration in weighing the choice between a full-time psychologist and a part-time consultant is the size of the department or the number of potential clients.

If it is determined that services could be most appropriately provided through a consultant, the agency has the option of hiring one person, a clinical group, or several professionals. Once again, this decision must be based upon the specific need for service, the department's size, the geographic distribution of agency personnel, and financial considerations.

Another alternative available to an agency that chooses to use the services of a professional is to establish a method of soliciting the voluntary as-

### **"Since occupational stress is an intangible factor, monetary compensation is unrealistic."**

sistance of medical professionals. Many people within the community have distinguished themselves through their willingness to devote their time, energy, and expertise to public service. By using these resources, a department can not only expedite the development of a counseling program but can also cultivate a lasting union with an important segment of the private sector. However, when considering the use of volunteers, the agency must remember that the volunteer's primary commitment is to his occupation. If the availability of the volunteer does not conform to the organization's needs, consideration must then be given to supplementing his services or offering another type of program.

### **In-House Programing**

Strategies are available to police departments that wish to develop in-house capabilities to respond to the problem of occupational stress. Peer counseling is one such strategy. A number of police departments have designated employees as peer counselors and have provided them with the necessary training to offer assistance to personnel within the agency. Perhaps the best known program of this type is located within the Boston police department. The director and the counselors—all veteran patrolmen—include divorcees and recovered alcoholics. The program is based on the premise that a person who has experienced the problems associated with the job makes a more credible counselor. This type of program also satisfies the contention that policemen are inherently suspicious of "outsiders" and will not confide in a mental health professional.

A potential problem with using lay counselors is that they may not be qualified to handle every case. While a peer counselor is generally capable of an initial assessment, subsequent treatment might require professional intervention. Such a system only serves to create an additional barrier between the employee and the professional, without offering any measurable benefits.

Another problem encountered with a peer counselor program involves guaranteeing the client's anonymity and the confidentiality of his problem. The psychologist or psychiatrist is bound by law and professional ethics to maintain the confidentiality of his consultations. There is no such assurance of confidentiality when dealing with a lay intermediary. The reassignment or promotion of a peer counselor could produce serious questions regarding the confidentiality of the system. Furthermore, it is doubtful that a supervisory officer would confide in a subordinate. Therefore, since police administrators are not immune to the effects of occupational stress, the system would effectively eliminate a portion of the service's potential clientele.



Another in-house service may be provided through training. A graduated program of continuing education could be implemented through recruit, inservice, and supervisory training. A specific training curriculum pertaining to the causes and effects of occupational stress in law enforcement is most effective if implemented as a component of a counseling program. However, training by itself can be successful in inoculating the employee against the adverse effects of stress.

Recruit training is one of the most important elements of stress prevention. Reiser has noted that "officers can be taught to anticipate stressful situations, to become knowledgeable about the internal and environmental factors affecting decisionmaking under stress, and to cope more effectively with difficult situations in the field."<sup>3</sup> By identifying the sources and the results of job stress, a department can effectively defuse the "John Wayne syndrome" among its novice officers. If it is available, it is also critically important that recruits be informed of the psychological counseling service. If an officer is assured of the integrity of the counseling program upon his initiation into the agency, he will be less reluctant to use the service if the need arises.

Inservice and supervisory training should reinforce the coping mechanisms introduced during recruit training. More importantly, inservice training provides the means to introduce techniques available to reduce stress. Procedures such as regular physical exercise, proper nutrition, and relaxation techniques offer the employee a means to increase his tolerance to stress. Supervisors should be exposed to the techniques of psychological counseling, not trained as therapists, but sensitized to the signs of mental disorganization. Once trained to identify the symptoms of stress, they can then direct their subordinates to the available treatment programs.

Spouse orientation is another strategy that will heighten the employee's tolerance to stress. The primary function of this program, which should be conducted concurrently with recruit training, is to identify the causes and effects of occupational stress upon the employee and his family. The National Advisory Commission on Criminal Justice Standards and Goals has observed the importance of stabilizing police marriages through spouse orientation. "Policemen's wives have an enormous effect not only on their husband's efficiency on the job but also on their general well-being. Adequate orientation and ongoing group counseling programs help new policemen's wives adapt to the requirements of their husband's occupation."<sup>4</sup>

### Conclusion

Law enforcement administrators must recognize their responsibility to maintain a healthy, stable, and productive work force. Considerable time and effort have been expended to establish standards of physical fitness, intelligence, character, and emotional stability as necessary prerequisites for employment. Efforts to recruit the most desirable candidates is the primary concern of most law enforcement executives. Having established these standards, it follows that they should be maintained throughout an employee's career. By offering the employee compensation through the provision of psychological services, the law enforcement administrator will insure the maturation of the community's initial investment.

**FBI**

### Footnotes

- <sup>1</sup>For a full discussion of the causes and effects of occupational stress in law enforcement see: William H. Kroes, *Society's Victim: The Policeman*, (Springfield, Ill.: Charles W. Thomas, 1976.)
- William H. Kroes; Margolis, Bruce L.; and Hurrell, Joseph J., Jr. "Job Stress in Policemen." *Journal of Police Science and Administration*, No. 2, 1974, pp. 145-55.
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- Martin Reiser, "Some Organizational Stresses on Policemen." *Journal of Police Science and Administration*, No. 2, 1974, pp. 156-59.
- Martin Reiser, "Stress, Distress, and Adaptation in Police Work." *The Police Chief*, vol. 43, January 1976, pp. 24-27.
- John G. Stratton, "Police Stress: An Overview." *The Police Chief*, vol. 45, April 1978, pp. 58-62.
- <sup>2</sup>For a description of services available through these programs see: S.A. Somodevilla, "The Psychologist's Role in the Police Department." *The Police Chief*, vol. 45, April 1978, pp. 21-23.
- John G. Stratton, "The Department Psychologist: Is There Any Value?" *The Police Chief*, vol. 44, May 1977, pp. 70-74.
- Marcia Wagner, "Action and Reaction: The Establishment of a Counseling Service in the Chicago Police Department." *The Police Chief*, vol. 43, January 1976, pp. 20-23.
- <sup>3</sup>M. Reiser, "Mental Health in Police Work and Training." *The Police Chief*, vol. 41, August 1974, p. 52.
- <sup>4</sup>President's Commission on Law Enforcement and Administration of Justice, Task Force Report, *The Police* (Washington, D.C.: U.S. Government Printing Office, 1967), p. 276.



# Documentary Search Warrants A Problem of Particularity

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

The increase in white-collar crime in recent years has been dramatic. Experts estimate that its annual cost in this country alone exceeds \$40 billion.<sup>1</sup> Its victims are diverse and not only include large businesses but individual consumers.

The suggestion has been made that investigation into white-collar crime has been neglected and that prosecutive accomplishments have been something less than a total success.<sup>2</sup> Obviously, there are many reasons for this, but one significant factor must be the difficulty of obtaining evidence of guilt. Unlike traditional personal and property crimes where the criminal instrumentalities are apparent—the “smoking gun” or crowbar left at the scene—evidence necessary to convict in a complex business scheme is not so apparent. The Government’s proof often requires the reconstruction of activities conducted over several years and almost assuredly depends on the gathering of documentary evidence. This article will examine the legal problems of applying a traditional law enforcement tool, the search warrant, to the task of collecting evidence of modern, sophisticated white-collar crime.<sup>3</sup>

## Advantages of a Search Warrant

It is now apparent that investigators may seize any evidence which they have cause to believe will be incriminating.<sup>4</sup> This includes documentary evidence.<sup>5</sup> As stated by the U.S. Supreme Court nearly 60 years ago:

“There is no special sanctity in papers, as distinguished from other forms of property, to render them immune from search and seizure. . . .”<sup>6</sup>

Several methods are available to officers faced with the task of developing documentary evidence. First, a request for production can be made to the custodian of the documents. The response, however, may be a refusal, especially if the custodian is a suspect. Second, a subpoena duces tecum can be sought directing production of the documents. But subpoenas are subject to motions to quash or make definite and certain, both time-consuming processes. The weakness of either method is obvious—a delay may occur. And once a suspect is alerted to the Government’s efforts to obtain possible incriminating documents from him, he has a motive to alter or destroy the evidence. Because documents are easily destructible, the loss of evidence when either of these methods is used is quite probable. This would seem especially true when data are stored in computers.<sup>7</sup>

An effective solution to this problem of disappearing evidence is the search warrant. Because only Government personnel are present when warrants are issued, and because no advance notice is required prior to execution,<sup>8</sup> the element of surprise necessary to prevent destruction is present. Within the past 4 years, the Supreme Court has upheld the use of search warrants for seizures of documents both from the premises of defendants<sup>9</sup> and third parties not suspected of criminal complicity.<sup>10</sup>

Another advantageous feature of the search warrant should be identified. It is now clearly established that the fifth amendment prohibition against compulsory self-incrimination is not violated when officers seize documents under the authority of a search warrant. This is true even if the seized documents had been prepared by the defendant himself. As noted by the



## **"The degree of specificity required varies with the circumstances and nature of the property sought and the right which is protected."**

Supreme Court in a recent case involving the seizure, under a warrant, of documents from the law office of a fraud suspect:

"(T)he constitutional privilege against self-incrimination . . . is designed to prevent the use of legal process to force from the lips of the accused individual the evidence necessary to convict him or to force him to produce and authenticate any personal documents or effects that might incriminate him.'" <sup>11</sup>

When documents are seized under the authority of a warrant, the suspect *himself* is not compelled to do anything. He is not required to help locate the documents nor is he compelled to produce or authenticate them. The officers themselves locate and remove the evidence. And without some element of compulsion, the privilege against self-incrimination is not violated.

By contrast, fifth amendment values may be implicated when officers use a subpoena to obtain records. In the language of the Supreme Court, "the Fifth Amendment may protect an *individual* from complying with a *subpoena* for the production of his personal records in his possession because the very act of production may constitute a compulsory authentication of incriminating information. . . ." <sup>12</sup> (This limitation has application only to documents held by a sole proprietor or private individual. It has long been recognized that collective entities, such as corporations and some partnerships, cannot assert the fifth amendment, even if the subpoenaed documents would incriminate one of the organization's officers.) <sup>13</sup>

Search warrants for personal documents and business records are subject to the same legal requirements imposed on other search warrants. Discussed below is one of those requirements which takes on special significance when the object of the warrant is documentary evidence.

### **Particularity of Description**

The fourth amendment to the U.S. Constitution requires that search warrants particularly describe the "things to be seized." This is to make the search as precise as possible and avoid unnecessary rummaging. Specifically describing the objects of the search permits the judge issuing the warrant to make the determination of what items should be taken. If the warrant fails to describe narrowly the property, the decision to seize becomes an administrative one made by the searching officer, and the warrant will be condemned as a "general warrant."

The degree of specificity required varies with the circumstances and nature of the property sought <sup>14</sup> and the right which is protected. For example, a higher standard is imposed on warrants for items which involve first amendment considerations. <sup>15</sup> By contrast, when the property sought is contraband, general descriptions often suffice. This is because contraband is illegal to possess. And when the items named offend the law, there is no danger a suspect will be deprived of any lawful property. <sup>16</sup> Some stolen items can be adequately described by physical description and serial number, or perhaps model number, brand name, and quantity. But describing business documents presents unique problems. Serial numbers and brand names are unavailable. Yet, the fourth amendment's mandate of particularity must

be satisfied. The following discussion outlines some of the approaches to this problem which have met with approval in the courts.

Many times, investigators will be aware of specific documents being sought. This is often the case when the described items are stolen papers. For example, in a case entitled *In Re Search Warrant*, <sup>17</sup> Federal agents obtained a warrant to search for documents stolen from the U.S. Government. The warrant described many of the items as individual documents, designating them by type (memo, report, etc.), date, subject, author, and addressee. This language was quite sufficient to pass the constitutional test of specificity. Officers applying for documentary search warrants should consider using similar descriptive terms whenever possible.

But often the task is not that simple. "Where the search is for business records generally, as opposed to a specific record, a general description is often all that is possible due to the general nature of the documentary evidence sought." <sup>18</sup> In that event, the searching officer can only "be expected to describe the generic class of items he is seeking." <sup>19</sup>

In some instances, generic descriptions (descriptions by class or group) alone may be sufficient. <sup>20</sup> But usually a general description of documents must be qualified by a standard to enable the executing officers to separate the papers to be seized from the general class of documents described. This standard is called a limiting phrase.



There are many possibilities for drafting limiting phrases. One is to limit the generic descriptions by referring to a smaller identifiable category within the class. For example, in a recent Oregon case,<sup>21</sup> a defendant was convicted of disseminating obscene material. During their investigation, officers had obtained a search warrant for the movie house where the allegedly obscene films were shown. Their purpose was to establish documentary proof of the defendant's ownership and possession of the theater. The warrant contained the generic description "business records," followed by the limiting phrase "pertaining to the ownership of the Star Theatre located at . . . ." The court noted that the generic term "business records" was impermissibly general standing alone. But the use of the limiting phrase gave "judicial direction to the officer as to what among the general class of 'business records' (was) to be seized and what (was) to be left."<sup>22</sup> The warrant was upheld.

Another possibility is to limit by reference to a specific crime or event. An example appears in *United States v. Scharfman*.<sup>23</sup> Officers obtained a warrant to search a store for stolen furs. To enable them to search for documentary evidence of the defendant's involvement in the sale of the stolen furs, the descriptive phrase "books and records" was added to the warrant. Standing alone, this phrase clearly would be condemned as being too broad. It would have authorized seizure of every document in the store, whether or not related to the stolen furs. However, following "books and records," the warrant contained the limiting phrase "as are being used as means and instrumentalities of the (theft of fur articles)." The court con-

cluded that this limiting phrase restricted the search to documents related only to the stolen furs. The warrant was thus adequately particularized.

Several courts have been critical of limiting phrases which limit the search merely by reference to a broad criminal statute. For example, *United States v. Roche*<sup>24</sup> was a case involving an investigation into an extensive automobile insurance fraud scheme. A warrant was issued which authorized seizure of a wide range of documents described in generic terms (books, records, account journals, invoices, etc.). A limiting phrase was also included which restricted the generic description to "evidence . . . of the violation of Title 18, United States Code, Section 1341."

The court of appeals held that this description made the search impermissibly broad. It reasoned that section 1341 (the Mail Fraud statute) makes illegal *all* frauds that use the mails, and the warrant would have authorized a general search for evidence of any type of mail fraud. Because the affidavit only established probable cause to believe records of a motor vehicle insurance fraud were on the premises, searches conducted pursuant to the warrant were invalid. The court strongly suggested that the warrant would have been valid had it limited seizure to records relating to automobile insurance. The description would have been even more insulated from attack had it further narrowed the documents to be seized by reference to category (liability, collision policies, etc.), specific time periods, and known victims of the fraud.

Using the benefit of hindsight, it is possible to reconstruct a description of the documents sought in *Roche* as follows:

"Books, records, account journals, invoices, etc. . . (listing all known classes of documents), covering the period 1/1/78-1/1/79, pertaining to motor vehicle liability and collision insurance, which documents constitute evidence of a violation of T. 18, U.S. Code, Section 1341 (Mail Fraud)."

Note that this description begins with a reference to the broad generic class of items sought (books, records, etc.) and then through the use of limiting phrases, narrows the general class by time period (1/1/78-1/1/79), category (liability and collision insurance), and type of offense (mail fraud.) The result is language specific enough to enable an officer executing the warrant to distinguish between innocent documents and those which constitute evidence.

In most instances, the limiting phrase will appear in the warrant itself. This is because it is the *warrant* that is the object of the fourth amendment's specificity requirement. But under some circumstances limiting language may appear in the *affidavit*, which is the supporting document containing the statement of probable cause. It is frequently advantageous to the prosecution to be allowed to refer to the affidavit for descriptive language, because the affidavit usually contains a very comprehensive account of the criminal activity and the items sought.



## **"Search warrants for personal documents and business records are subject to the same legal requirements imposed on other search warrants."**

In order to limit a warrant's broad description by referring to the specific language in the affidavit, the affidavit must accompany the warrant, and the warrant must contain words of reference incorporating the affidavit.<sup>25</sup> It is also advisable to physically attach the affidavit to the warrant. Then by leaving a copy of both at the search location, the purposes of the fourth amendment's specificity requirement are satisfied (limit the discretion of the executing officers and give notice to the party searched).

A good example of the use of this technique is the case of *In Re Search Warrant*,<sup>26</sup> discussed earlier. The search warrant contained a lengthy description of specific documents, followed by the following general language:

"Any and all fruits, instrumentalities, and evidence (at this time unknown) of the crimes of conspiracy, obstruction of justice and theft of government property (sic) . . . which facts recited in the accompanying affidavit make out." <sup>27</sup>

The defense contended this language granted the investigators authority to search for and seize any evidence of conspiracies to steal Government property and obstruct justice and amounted to a general warrant. The court of appeals rejected this contention and ruled that the italicized phrase in the description incorporated into the warrant the attached 33-page affidavit. Because the affidavit went into great particularity regarding the offenses that the documents sought were designed to prove, precise limits were placed on the searching agents. They were only authorized to seize evidence of the conspiracies described in the "accompanying affidavit."

It is noteworthy that in several other recent document search cases, reviewing courts have suggested that the generality of the warrants could have been saved by the specificity of the affidavits, if the affidavits had been served with and incorporated into the warrants.<sup>28</sup> Investigators contemplating the preparation and service of documentary search warrants for the detailed examination of voluminous records should consider the use of this procedure.

### **Catch-All Phrases**

Nowhere is the tension between the fourth amendment's particularity requirement and an officer's desire to seize business records more noticeable than in those cases in which a warrant's description includes a broad "catch-all" phrase (general reference to unknown documents). Such phraseology was the subject of recent Supreme Court scrutiny in *Andresen v. Maryland*.<sup>29</sup>

*Andresen* involved an investigation of fraudulent real estate activities in Maryland. In the course of the investigation, officers obtained a search warrant for the defendant's law offices. The warrant's description named approximately 20 specific generic classes of documents which were limited by the phrase "pertaining to sale, purchase, settlement and conveyance of lot 13, block T. . . ." It also included the following "catch-all" phrase: "[t]ogether with other fruits, instrumentalities and evidence of crime at this time unknown." <sup>30</sup>

The defendant conceded that the generic descriptions and the limiting phrase were models of particularity, but contended that the quoted catch-all language rendered the warrant fatally general because it authorized the search for evidence of other "unknown" crimes for which no probable cause had been established. The Court disagreed and held that the challenged phrase was not a separate sentence, but rather appeared at the end of a lengthy sentence which included the generic descriptions and limiting phrase noted above. Thus the word "crime" in the catch-all language did not refer to other unrelated offenses, but only to the crime described in the sentence in which it appeared (fraud related to lot 13T). As such, it did not authorize a general search for evidence of other crimes.

In reaching its decision the Court appeared to acknowledge that in some cases officers will not know the precise nature of all the documents needed to prove their case.<sup>31</sup> Probable cause may exist to believe that relevant documentary evidence is present, but a particular description is impossible. A catch-all description may "be the very best they can provide." <sup>32</sup> This would seem especially true in complex cases, such as antitrust investigations or real estate schemes, "whose existence (can) be proved only by piecing together many bits of evidence." <sup>33</sup>



A word of caution should be stated here. Prudent officers would be wise not to include broad catch-all phrases as standard "boiler plate" language in all warrants for documentary evidence. The few cases which have approved the use of such phrases involved warrants in which the challenged language followed "a lengthy list of specified and particular items,"<sup>34</sup> limited by reference to a specific crime. Because "the law is still largely unformed in this difficult area,"<sup>35</sup> it would be wise to restrict the use of catch-all phrases to cases in which similar conditions exist.

## Conclusion

The task of obtaining documentary evidence in white-collar crime investigations poses special problems. Because documents are easily destructible, the use of search warrants is often advantageous. To be lawful, search warrants must satisfy the particularity requirement of the fourth amendment which requires a specific description of the documents to be seized. But many times the precise nature of the records sought is not known in advance. To resolve this dilemma, several courts have indicated that generic descriptions of the documents (descriptions by class or category) are permissible if followed by limiting language enabling the executing officers to separate the papers to be seized from the general class of documents described. Limiting phrases may narrow the general class of documents by reference to time periods, category, type of offense involved, or specific events or individuals.

In some instances, broad catch-all language may be used if included in a description which contains a lengthy list of specified documents, limited by reference to specific crimes.

To be sure, there is no "litmus paper" test for determining whether a warrant's descriptive language meets the standard mandated by the fourth amendment. Many subtle factors are considered by reviewing courts when examining a warrant for constitutional sufficiency. Nevertheless, it may be helpful to officers engaged in the difficult task of drafting documentary search warrants to ask themselves this simple question. "What documents would this warrant authorize me to seize"? If the answer is, "only those which I have established probable cause to believe are evidence of the crime under investigation," the warrant most likely will be upheld. However, if the answer is, "read literally, this warrant would permit the seizure of documents other than those for which probable cause has been established," the warrant may be overly broad and should be redrafted.

**FBI**

## Footnotes

<sup>1</sup> Chamber of Commerce of the United States, *White Collar Crime* (Washington, D.C.: Chamber of Commerce of the United States, 1974), p. 6.

<sup>2</sup> A. Bequai, *White-Collar Crime: A 20th Century Crisis*, at 5 (1978).

<sup>3</sup> It should be emphasized that this article only discusses the seizure of business records and stolen documents. It does not address the special first amendment problems raised in obscenity cases when warrants authorize seizure of magazines or "books, and the basis for their seizure is the ideas which they contain." *Stanford v. Texas*, 379 U.S. 476, 485 (1965).

<sup>4</sup> *Warden v. Hayden*, 387 U.S. 294 (1967) (abolishing "mere evidence" rule).

<sup>5</sup> See *Abel v. United States*, 362 U.S. 217 (1960) (personal papers seized during search of accused's hotel room); *Marron v. United States*, 275 U.S. 192 (1927) (business records seized in search of accused's business).

<sup>6</sup> *Gouled v. United States*, 255 U.S. 298, 309 (1921).

<sup>7</sup> For a discussion of a case involving wholesale alteration and erasure of computer tapes, see T. Whiteside, *Computer Capers*, at 17 (1978) (discussion of the Equity Funding fraud).

<sup>8</sup> Of course, officers contemplating forcible entries to premises must comply with their respective announcement statutes. See *Sabbath v. United States*, 391 U.S. 585 (1968).

<sup>9</sup> *Andresen v. Maryland*, 427 U.S. 463 (1976).

<sup>10</sup> *Zurcher v. Stanford Daily*, 436 U.S. 547 (1978). Officers should be aware that a number of legislatures have restricted, or are considering restricting, the use of search warrants directed at the premises of innocent third parties. For example, bills now pending in Congress would require the use of subpoenas, rather than search warrants, unless the Federal agents could show reason to believe the use of subpoenas would result in the destruction of evidence. See S. 1790, 96th Cong., 1st sess. (1979); H.R. 3486, 96th Cong., 1st sess. (1979). The legislatures of California and Montana have already enacted similar statutes. And recently, the Minnesota Supreme Court held that a search warrant for documents in possession of a third-party attorney violated State law unless the attorney was also involved in the wrongdoing. The court indicated a preference for a less intrusive method, such as a subpoena duces tecum directed to the lawyer. See *O'Connor v. Johnson*, 287 N.W. 2d 400 (Minn. 1979).

<sup>11</sup> *Andresen*, *supra* note 9, at 475 (1976), quoting *United States v. White*, 322 U.S. 694, 698 (1944).

<sup>12</sup> *Andresen*, *supra* note 9, at 473, 474 (emphasis added).

<sup>13</sup> See *Wilson v. United States*, 221 U.S. 361 (1911) (corporation); *Bellis v. United States*, 417 U.S. 85 (1974) (dissolved law partnership).

<sup>14</sup> See La Fave, *Search and Seizure; Course of the True Law*, 1966 U. Ill. L. Rev. 255, 268.

<sup>15</sup> See *Stanford v. Texas*, *supra* note 3.

<sup>16</sup> A good example is the Prohibition Era case of *Steele v. United States*, 267 U.S. 498 (1925), in which the Supreme Court upheld the descriptive phrase "cases of whiskey."

<sup>17</sup> 572 F. 2d 321 (D.C. Cir. 1977), *cert. denied*, 435 U.S. 925 (1978).

<sup>18</sup> *State v. Tidyman*, 568 P. 2d 666, 671 (Or. App. 1977).

<sup>19</sup> *James v. United States*, 416 F. 2d 467, 473 (5th Cir. 1969), *cert. denied*, 397 U.S. 907 (1970).

<sup>20</sup> Some courts have approved broad generic descriptions when the evidence sought is very similar to other innocuous items and "for all practical purposes the collection (can) not be precisely described for the purpose of limiting the scope of the seizure." *United States v. Corllesso*, 601 F. 2d 28, 32 (1st Cir. 1979). In those cases the supporting affidavit must show that a large collection of similar items are present and explain how the officers will distinguish the suspected items from the innocent ones. And when the property sought is contraband, generic descriptions are usually sufficient. See note 16, *supra*. (Of course, documents are hardly ever characterized as contraband.)

<sup>21</sup> *State v. Tidyman*, 568 P. 2d 666 (Or. App. 1977).

<sup>22</sup> *Id.* at 672.

<sup>23</sup> 448 F. 2d 1352 (2d Cir. 1971), *cert. denied*, 405 U.S. 919 (1972).

<sup>24</sup> 614 F. 2d 6 (1st Cir. 1980).

<sup>25</sup> See *United States v. Johnson*, 541 F. 2d 1311, 1315 (8th Cir. 1976); *Moore v. United States*, 461 F. 2d 1236 (D.C. Cir. 1972); *Frey v. State*, 3 Md. App. 38, 237 A. 2d 774 (1968).

<sup>26</sup> 572 F. 2d 321 (D.C. Cir. 1977), *cert. denied*, 435 U.S. 925 (1978).

<sup>27</sup> *Id.* at 323 (emphasis added).

<sup>28</sup> See *United States v. Roche*, 614 F. 2d 6 (1st Cir. 1980); *Application of LaFayette Academy, Inc.*, 610 F. 2d 1 (1st Cir. 1979).

<sup>29</sup> 427 U.S. 463 (1976).

<sup>30</sup> *Id.* at 479.

<sup>31</sup> *Id.* at 482 n. 11.

<sup>32</sup> *United States v. Abrams*, 615 F.2d 541, 548 (1st Cir. 1980) (Campbell, J., concurring).

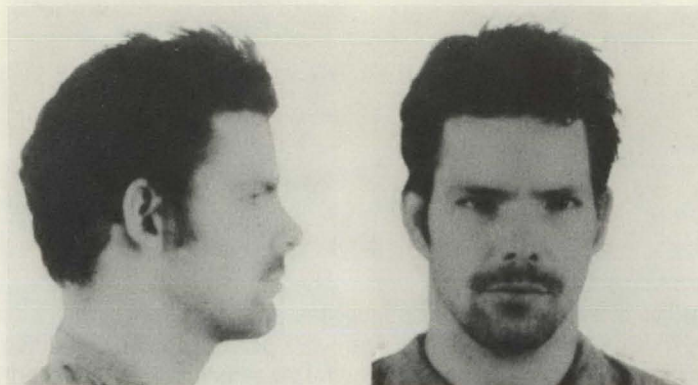
<sup>33</sup> *Andresen*, *supra* note 9, at 480 n. 10.

<sup>34</sup> *Id.* at 480; See also *In Re Search Warrant*, *supra* note 26, at 326-327.

<sup>35</sup> *United States v. Abrams*, *supra* note 32, at 549.



# WANTED BY THE FBI



Photographs taken 1976.

## Ronald Dwane Brook

Ronald Dwane Brook, also known as Chino Brook and Ronald D. Brook.

### Wanted For:

Interstate Flight—Escape.

### The Crime

Brook, who is being sought as a prison escapee, was serving at the time of his escape a life sentence for sexually assaulting a young woman and then brutally murdering her by shooting her in the back with a .44-magnum revolver.

A Federal warrant was issued for his arrest on May 25, 1978, at Monterey, Calif.

### Criminal Record

Brook has been convicted of murder and burglary.

## Description

Age ..... 27, born December 26, 1952, San Francisco, Calif.  
 Height..... 6'1" to 6'3".  
 Weight ..... 175 pounds.  
 Build ..... Medium.  
 Hair ..... Dark brown.  
 Eyes ..... Blue.  
 Complexion ..... Medium.  
 Race..... White.  
 Nationality..... American.  
 Occupations ..... Television and radio repairman, ranch hand.  
 Scars and Marks ..... Scars on both palms and right elbow.  
 Social Security No. used ..... 551-82-4377.  
 FBI No. .... 866 745 H.

## Caution

Brook should be considered armed, dangerous, and an escape risk.

## Notify the FBI

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

## Classification Data:

NCIC Classification:

POPI14PO19PI1213PI16

Fingerprint Classification:

14 O 29 W IOO 19

I 18 U OOI



Right little fingerprint.



# Change of Address

Not an order form

# FBI LAW ENFORCEMENT BULLETIN

**Complete this form and return to:**

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

Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

## Oyster Shucking Knife

Officers should be aware of the potential misuse of this "oyster shucking knife." The blade is retractable, but when locked in an open position, this device could be used as both a knife and brass knuckles, as the Starkville, Miss., Police Department discovered.

*The unusual weapon featured on the inside back cover of the May 1980 issue was submitted by the Newark, New Jersey, Police Department.*







*Washington, D.C. 20535*

## Interesting Pattern

This pattern is classified as a central pocket whorl with an inner tracing. However, a reference search would be conducted as a radial loop if from the right hand and an ulnar loop if from the left hand, with 14 ridge counts.

