

# Visual Investigative Analysis

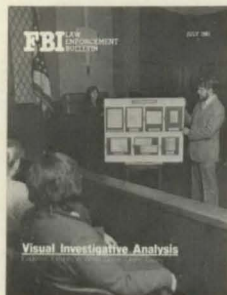
Evidence Exhibits in White-Collar Crime Cases

# FBI LAW ENFORCEMENT BULLETIN

JULY 1981, VOLUME 50, NUMBER 7

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Visual aids often synthesize vast amounts of information accumulated throughout an investigative process. See story p. 1.

**Federal Bureau of Investigation  
United States Department of Justice  
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**William H. Webster, Director**

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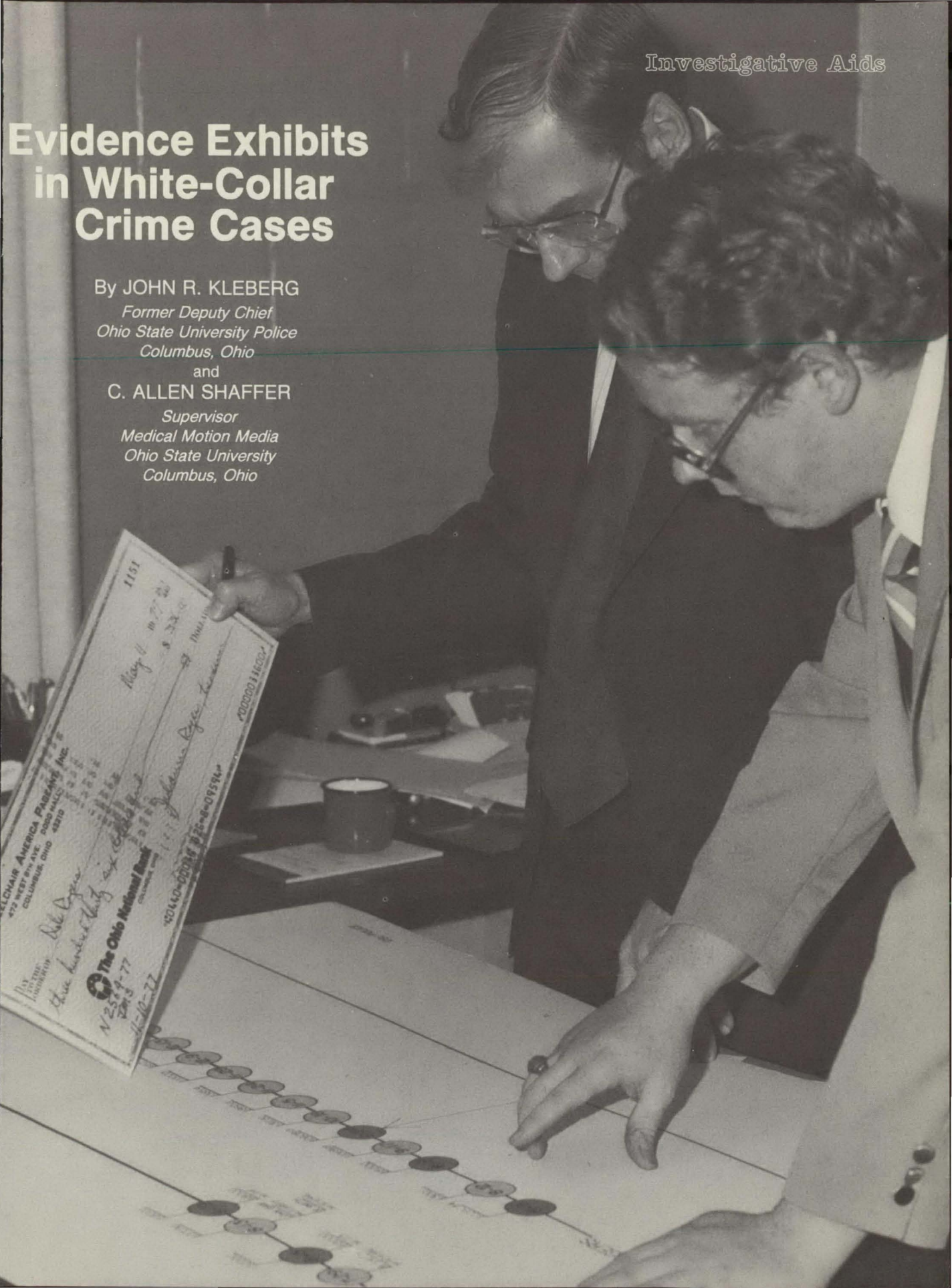
# Evidence Exhibits in White-Collar Crime Cases

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"A picture is worth a thousand words." There is no question that this trite phrase has particular significance in the investigation of white-collar crimes, and more importantly, in the presentation of meaningful and understandable evidence to a jury.

Successful investigation of many white-collar crimes or crimes which involve complex frauds often require an understanding of complex relationships between people, relationships and contacts between organizations, and the review of detailed documentary evidence. Not only is it difficult for investigators to review a substantial quantity of information and put it into some type of meaningful format, but it is equally difficult for judge, jury, and prosecutor to assimilate this detail without benefit of the lengthy exposure which has been available to the investigator. Therefore, the investigator must be able to put such information into a meaningful form for use by other functionaries in the criminal justice system.

It has been pointed out that when investigations are thorough, a greater amount of information is known by the defense attorney, making the possibility of a trial less likely. That is to say, if the information accumulated in the course of the investigation is properly

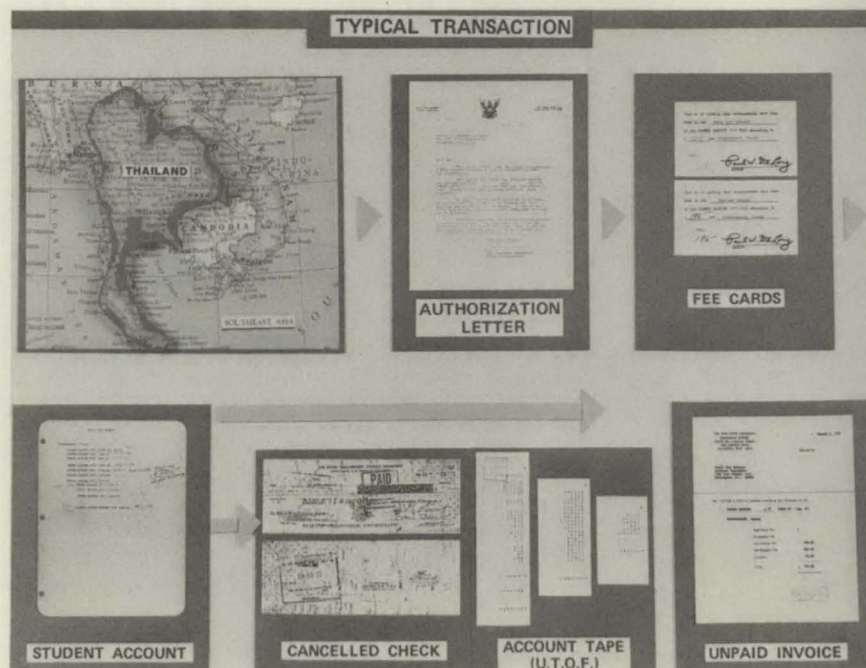
## **"It is not essential that the individual investigator have the skill or craftsmanship of an artist in order to prepare exhibits that will meet every test."**

assembled and accurately represents a detailed investigative process, it is less likely that defense counsel will be willing to undertake a trial. It may be more beneficial for his client to seek a negotiated plea.

Admittedly, most white-collar or fraud investigations are not as complex or extensive as some of those which acquire particular notoriety in the media. It is important, therefore, that smaller law enforcement agencies which do become involved in investigating less notorious white-collar offenses have a method available to visually provide prosecutor, judge, and jury with meaningful exhibits which synthesize the vast amounts of information accumulated throughout the investigative process.

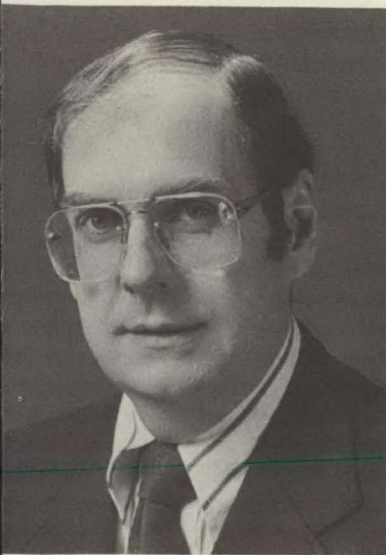
The objective, then, is clear—provide a visual aid which clearly demonstrates the points to be made in the presentation of the evidence. In most instances such an aid cannot, of course, visually portray all aspects of the case. It may, however, demonstrate or provide an overview of the method by which the crime was committed, a selected typical transaction which demonstrates a crime, or provide information in a visual manner which can be complemented and explained by testimony, providing detail for the jury regarding relationships between people, organizations, or items of evidence. Methods of such analysis for investigative reasons are available in current literature. (An excellent source is William Petersen's *VIA For Investigators and Prosecutors*.) Our objective here, however, simply regards the graphic arts.

It is important to understand that the preparation of visual aids is relatively simple with resources available to most law enforcement departments. It is not essential that the individual investigator have the skill or craftsmanship of an artist in order to prepare exhibits that will meet every test.



*This exhibit, using a full color, three-dimensional map with red matboard background, highlights a complicated accounting process and a deviation from the process, resulting in theft.*





Kleberg



Shaffer

There are three major steps in developing exhibits:

- 1) Conceptualize the exhibit;
- 2) Test the conceptualization as it will appear in final exhibit form; and
- 3) Prepare the exhibit in such a manner that it will accomplish the objective identified in the conceptualization process.

During the conceptualization process, keep in mind that the value of the exhibit is important not only at trial but also through discussion stages or plea negotiations between prosecutor and defense attorney. Preparation of the exhibit should convey a message of thoroughness in the investigative process, yet make relatively complex issues appear clear. In some instances, particularly in cases that are not of inordinate public interest, the preparation of the exhibit and its availability when the prosecutor first talks with the defense attorney may create in that attorney's mind an unquestionable awareness of the thoroughness with which the matter has been investigated. This is a desirable advantage for the prosecutor.

First to be considered should be those things which would be visually attractive to the individual examining the exhibit. In considering visual attractiveness, it is important to select materials that contain color or are photographic representations of original items of documentary evidence. In most cases, original items of evidence will not, of course, be part of the exhibit. Color for emphasis or dramatic effect is important; however, use of color must not be overdramatic or used in a manner that would tend to influence unduly or prejudice the jury. Red most certainly conveys a different message than green!

In deciding what items are to be used, it is critical that the investigator first determine precisely what point the exhibit will be used to make. That is to say, what issue, what relationship, or what piece of documentary evidence is to be brought to the attention of the court or jury via the exhibit.

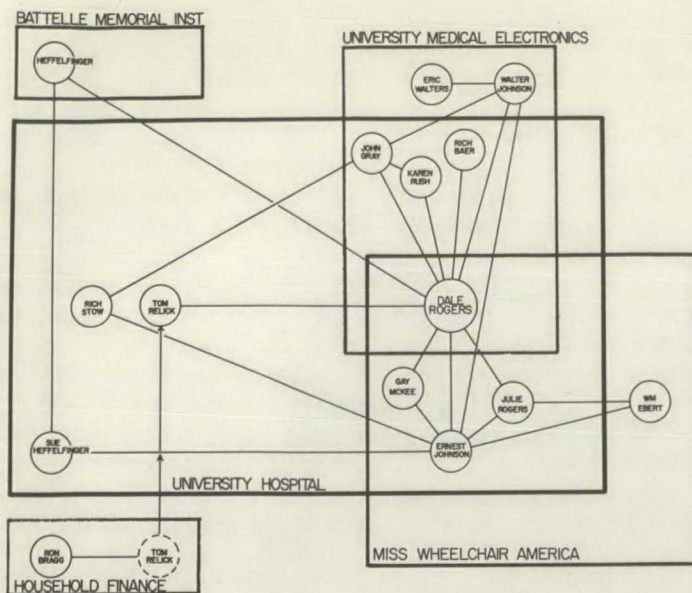
Exhibits that are too complex may distract from the particular point that is to be made, and jurors may find themselves encumbered by attempting to study various aspects of the exhibit unrelated to the point the investigator or prosecutor intends to make. Identification of the principal issue or objective to be made must be accomplished prior to the time the exhibit is actually developed.

In addition, it is desirable for the investigator to think in dramatic terms. Although it may be relatively simple to put a chart or exhibit together, the more dramatic it appears, the more lasting the impression made on judge and jury. In addition, the drama of the exhibit helps to demonstrate and visually convey the effort which was put into the investigation and the preparation of the particular item which is going to be used.

Be imaginative and think creatively—the exhibit should fit the crime which is being proved. For an investigator who may have some difficulty in preparing exhibits to accomplish these objectives, one should not overlook the opportunity to take advantage of faculty in the creative arts, particularly those in the high schools, colleges, and universities located in the jurisdiction of the law enforcement agency. One who knows color, symmetry, optical art, or optical illusion will be a valued consultant.

What is significant is that the item ultimately introduced in the courtroom cannot be abstract—it must be to the point and must center on the issue before the court. Ensure as part of the conceptualization process that the fact or association to be demonstrated is simple and clear. The jury should not have difficulty in understanding the purpose of the exhibit, with a modest amount of testimony for explanation.





A "link analysis" exhibit, using a white main display board with five color organizational designations, demonstrates the relationships between people and organizations.

The purpose of the visual aid is to act in place of a thousand words! It affords the jury the opportunity to examine relationships between people, documents, or organizations at the same time their auditory processes accept the testimony or explanation that is being provided. Some persons will not be able to examine successfully exhibit contents, while being fully attentive to the testimony that accompanies it. Endeavor to have the exhibit "speak for itself."

A second step is to test the exhibit as it has been conceptualized. After the investigator determines the point that is to be made and the general method which will be used to demonstrate that point in the exhibit, it is desirable that he test the value of that exhibit by querying persons unfamiliar with the case as to the meaning of information provided in the exhibit. He should, in fact, determine whether the exhibit, as he understands it, makes sense to persons unfamiliar with the case. In some instances the investigator may be too close to the crucial issues under investigation, and it may not be possible for others who are viewing the exhibit to derive this same understanding by viewing the visual aid.

If it is necessary to modify the exhibit as a result of the testing procedure, it should be done at this point. It is undesirable to go through a complicated process of preparation and then find that the exhibit does not achieve the purpose for which it was intended.

In preparing and presenting such exhibits, it is desirable to construct a frame of reference in which the investigator functions as a teacher and the jury as students. Theoretically, the investigator (teacher) possesses the knowledge which, consistent with the rules of evidence and proper court decorum, must be conveyed to the jury (students).

All who teach realize the value of visual aids in conveying ideas and information to students. In the courtroom (classroom) we must be particularly aware of the learning characteristics associated with the adult learner (juror) and impart our information using the skills and techniques often associated with adult education.

Most assuredly, the techniques reviewed here have possible application in all cases presented in court. The need, however, for presenting evidence in cases associated with fraud or other sophisticated white-collar crimes is more acute.

The final stage, with regard to the use of such exhibits, is preparation. If the exhibit has been properly conceptualized and has met the test to determine that it does satisfy the objective for which it was intended, preparation can be relatively simple. In most instances, the use of photographic materials and processes will satisfy every requirement to make the exhibit understandable and visually attractive.

The first step in preparing an exhibit is to take the idea that has been generated and plan for it to fit a reasonable size, standard piece of display board. FOAMCORE board, which consists of two sheets of posterboard on each side of a ½-inch sheet of styrofoam, is the best compromise between strength and weight. A 40- by 60-inch sheet provides considerable visual impact and working space without being cumbersome to transport.

Next, since each photograph of an item of evidence will be mounted on a smaller panel attached to the main display board, the size of each of the individual panels should be calculated. A useful standard is to have 1-inch margins around the top and sides of each photograph, and a 3-inch margin at the bottom for the title. Crescent Bainbridge matboard, 4-ply, is the best material for individual panels. Crescent Chinese red is one of the best color choices for this type of work, as it commands attention without being garish.



Once sizes are determined, various possible layouts for the final product can be diagrammed and evaluated and decisions made about titles, rows, or other graphic requirements. Materials can generally be ordered at a local art supply store if they are not in stock.

Actual production is begun by making reproductions of the documents or other items of evidence. Although photographic prints provide better quality and are more dramatic, trimmed and mounted photo copies may be the best solution for departments with limited photographic facilities.

Photographic reproduction of document evidence is best done with standard copy lighting, using Kodak technical Pan film processed to moderate contrast (as indicated on the package insert). For documents of lower contrast, such as those written in pencil, Kodak Panatomic X film may yield better results. Black/white reproduction is usually sufficient to convey the information and reduces both the time and cost of preparation. Mounting board provides the color needed.

Prints are usually made life-size to assist the jury in later identifying actual documents entered into evidence. Glossy surface paper gives a more professional appearance to the display. Prints should be trimmed to exclude any extraneous background material on the negative.

Following the layout that has been developed, cut the individual matboards for each item. Prints are very easily mounted to these boards by using 3M Spray Mount or other spray adhesives. Follow label directions exactly—this is one case where more is not better! The spray adhesive recommended is extremely flammable, and users must avoid breathing overspray. Special care is necessary to keep the overspray from other prints or your hands.

A title on each board may materially assist the judge and jurors in following the flow of information, especially if they are too far away to actually read the documents. Press-on letters or hand lettering by an artist are some possible methods, but we prefer to type or letter the titles, photograph them on high contrast film, and make

trimmed prints to be mounted on the boards. This is a cheaper and faster method and gives a uniform look to the display.

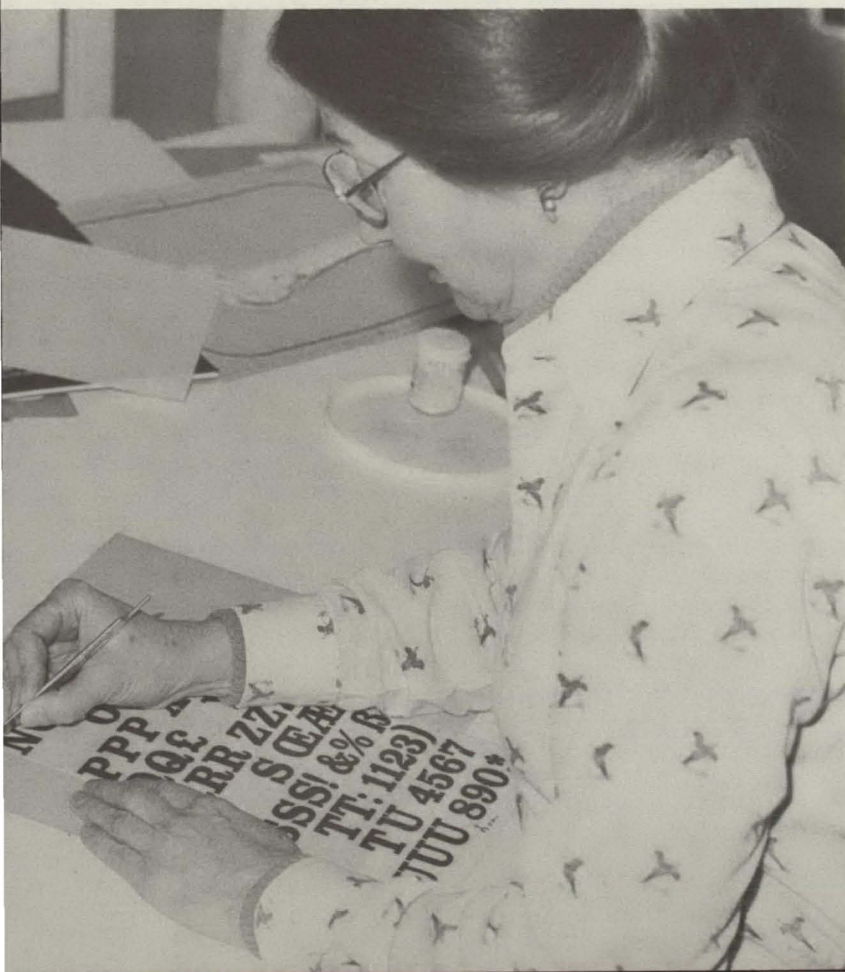
At this stage, the individual boards are laid out on the larger board with arrows or other indicators cut from a contrasting color 4-ply matboard, and the design is checked before final assembly.

Final mounting of individual boards and other graphics is accomplished with double-stick adhesive pads (sold at hardware, office, and art supply stores) on each corner of the boards. This makes the boards seem to float on the background, adding to the professional, finished appearance of the product. Finally, the display should be covered with opaque wrapping paper or plastic for security of the information and protection of the display until presented in court or used in prosecutor/defense conferences.

Total cost for a display of this sort is surprisingly low. Materials should cost less than \$40.00, and about 4 hours of labor is sufficient for a reasonably skilled person to complete the exhibit.

Although this is an excellent method of presenting evidence, there are as many other methods as there are creative people. The interesting nature of these cases, coupled with the opportunity to exercise creative talent, makes it surprisingly easy to recruit assistance in planning and preparation. Many photographers and artists will welcome the challenge and excitement of becoming involved in these cases. The investigating department may also have an officer with the required skills. As with other functions of the department, administrative commitment and the recruiting of quality personnel will make this program pay off—in the courtroom.

You see, "a picture is worth a thousand words!" **FBI**



*Press-on letters and numbers may be the most economical and practical way to neatly and uniformly label the exhibit.*



# Police Report Writing Manuals Need Dusting Off

By JANE DUNCAN

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*Report writing manuals are reference books for field officers and should contain useful information in readily available form. This particular binder, used by the Durango, Colo., Police Department, is imprinted front and back with words commonly used in law enforcement, but frequently misspelled, using space normally wasted.*

Do police officers use (or carry) report writing manuals? If not, why? While there are numerous answers to these questions—each dependent on the individual officer or agency—the nonuse of manuals can be attributed to two major causes—deficiencies in manual construction and faulty design. Officers go to great lengths to compensate for manual deficiencies and to avoid carrying these cumbersome manuals.

A well-designed report writing manual is most valuable. In essence, it is an extension of training, answering many questions that may have been inadequately discussed because of limited training time, or if covered, were forgotten with the passage of time. It fills training gaps, reinforces classroom instruction, and provides the unsupervised officer with the confidence that ready reference material can provide.

To provide essential information in a useful form, the needs of those using the manual must first be determined. Police officers often make difficult decisions and perform complex tasks while working without direct supervision. They sometimes work under adverse lighting and climatic conditions. Agency policy may dictate assuming a variety of tasks unique to the local agency, in addition to the routine law enforcement role. Also, officers are expected to respond intelligently to citizens' requests for information and directions. All these responsibilities and job conditions must be considered when designing a useful field officer manual.



## Organizing a Manual Revision Project

Once a decision is reached to remodel an agency's report writing manual into a more efficient tool for the field officer, a formalized project should be initiated. A well-organized project will ensure orderly development of a new manual and promote user acceptance. Project organization includes the following five steps: Planning, analysis of present manual, design of new manual, development/implementation, and monitoring/assessment.

### Planning

Planning brings order to a complicated process. It defines the project's beginning, end, and purpose and tells everyone concerned what they will be doing and when and how they will be doing it. Planning involves staff selection, staff direction, workplan development, budgeting, and documentation.

The careful selection of personnel is most important for success and should reflect the candidates' interest in the project as well as their operational knowledge. The key team member, the project manager, should be knowledgeable in all operational aspects of the agency and have sufficient stature within the organization to work well with others involved in the project. The team members' background should reflect a wide variety of operational experience.

At the outset, a conference should be convened to provide direction and spark the enthusiasm of team members. Topics for the conference could include: A project overview, including its scope and objectives; a discussion of the areas of responsibility, authority, and relationship of all project participants; the development of a workplan, time schedule, and budget; the assignment of duties for all team members, with due dates for completion; and the identification of all persons and agencies that should be kept informed of project plans and progress.

WORKPLAN Project: Design A Revised Report Writing Manual (IN WEEKS)																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
1. PLANNING SELECT PROJECT STAFF CONDUCT START UP CONFERENCE DEVELOP WORK PLAN DEVELOP PROJECT BUDGET MANAGEMENT REVIEW/DOCUMENT	---	---	---	---																
2. ANALYSIS OF PRESENT MANUAL GATHER/SORT MATERIAL IN USE IDENTIFY REQUIREMENTS DETERMINE ADDITIONAL NEEDS DETERMINE STOCK INFORMATION MANAGEMENT REVIEW/DOCUMENT		---	---	---	---															
3. DESIGN OF NEW MANUAL DESIGN MANUAL FORMAT WRITE MANUAL CONTENT IDENTIFY WRITTEN DIRECTIVES NEEDS ARRANGE FOR PRINTING/PRINT MANAGEMENT REVIEW/DOCUMENT						---	---	---												
4. DEVELOPMENT/IMPLEMENTATION SELECT IMPLEMENTATION DATE PLAN/CONDUCT TRAINING PROGRAM PLAN FOR DISTRIBUTION MANAGEMENT REVIEW/DOCUMENT																				
5. MONITORING/ASSESSMENT MONITOR MANUAL USE ASSESS MANUAL EFFECTIVENESS MANAGEMENT REVIEW/DOCUMENT																				

Figure 1—A workplan for a manual revision project.

The workplan will guide the project from beginning to end and show all tasks and subtasks to be accomplished during the specified time period. Figure 1 is a sample workplan for a manual revision project. Notice that a management review point is incorporated at the end of each of the major project steps. By reporting on a regular basis, the agency administrator is kept apprised of project development, thus assuring the continued management support and personnel allocation necessary for successful project completion.

A budget should be prepared that includes the cost of printing the manual and purchasing tab dividers and binders. Along with the budget, other documentation should be prepared for review by the police administrator whose approval to continue the project is required. Additional documentation should include minutes of project staff meetings, workplan, project roster, project team assignment schedules, and future meeting schedules.

### Analysis of Present Manual

The purpose of this task is to gather all materials used by the field officer and to sort according to essential material, marginally useful material, and unnecessary information.

The primary users of report writing manuals—the field officers—should be consulted to learn of the main problems in report writing and to decide what manual changes will correct these problems. Their advice should also be sought for needed additional or revised information. This information should then be evaluated for inclusion in the new manual.

At this time, the remaining stock of manuals, inserts, tab dividers, and binders should be collected in one location for quick disposal once the new manual is ready for distribution.

Documentation can now be presented for management review, reflecting the work accomplished in the analysis step. This includes minutes of project staff meetings, samples of all report writing materials presently in use, evaluation of all materials collected, a report on deficiencies, a listing of additional needs, and a report on personnel and units contacted for information and a listing of their suggestions and ideas.



## Design of New Manual

The improved manual must be designed as a concise reference book covering particular subjects that the field officer needs for ready reference. Such a design considers both format and content.

## Manual Format

Reference material should be readily available. The size, general makeup, and organization of the manual all contribute to its usefulness in the field. Design features can include:

- 1) A looseleaf format so that additions, deletions, and revisions can be easily made;
- 2) Numbered and dated pages to identify the most current information;
- 3) Use of color coding on index tabs to indicate appropriate sections;
- 4) Detailed table of contents for quick reference; and
- 5) A smooth, plastic cover that can be used as a writing surface.

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**"The type and quantity of information presented is largely dependent on local needs and policy."**

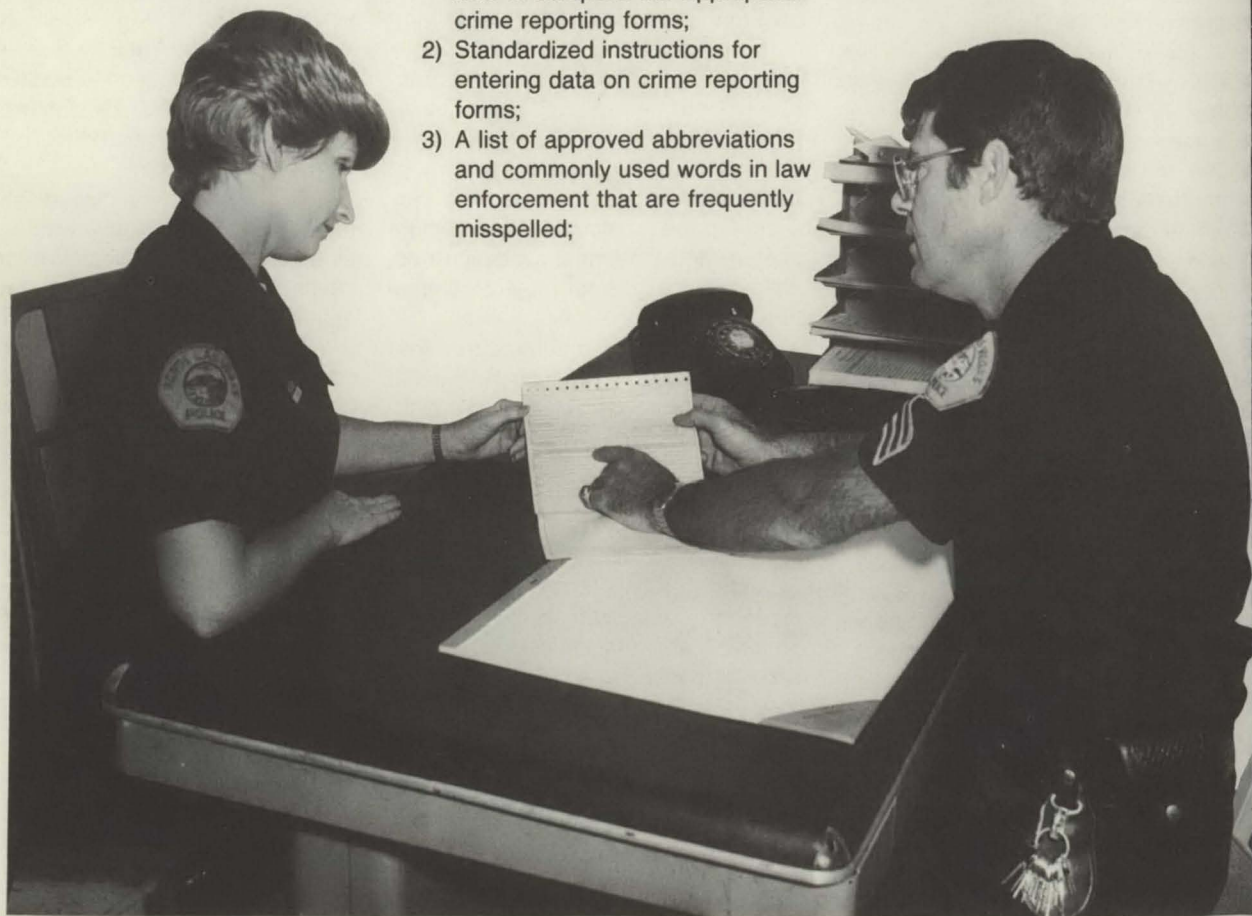
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## Manual Content

The type and quantity of information presented is largely dependent on local needs and policy. One certainty, however, is that neglecting to keep the information current causes a loss of confidence in the system. Other deficiencies that cause problems include the mixing of policy statements and procedures with report writing instructions, making the needed information difficult to find, and the lack of clear, concise language that prevents easy reading under field conditions. Important features for manual content include:

- 1) Basic instructions on when and how to complete the appropriate crime reporting forms;
- 2) Standardized instructions for entering data on crime reporting forms;
- 3) A list of approved abbreviations and commonly used words in law enforcement that are frequently misspelled;

- 4) Criteria for offense classifications;
- 5) Criteria for property valuation; and
- 6) A separate reference section containing additional information helpful to the field officer (e.g., beat maps; lists of buildings and landmarks and their locations; agency and city or county telephone numbers; lists of all neighboring criminal justice agencies, hospitals, and other agencies the officer may need to contact; matrices to show which report forms to complete, where extra copies should go, and appropriate notifications for unusual or infrequent situations; a guide to using the proper report form; VIN location guide; list of common local ordinances; vehicle code violations and State penal code violations; lists of common abbreviations and commonly misspelled words).





In addition to deciding the manual's format and content, a directive should be written to introduce and control the new manual. This directive should cover the function and description of the new manual, its control and distribution, use and maintenance, and procedures for revisions and inspections.

The completely assembled manual should now be reviewed for subject matter, accuracy, and form. The review should be formal, accomplished within a specified time period, and documented. Review tasks should be assigned to supervisory personnel of user groups and to a legal officer. Any problem areas uncovered by reviewers must be resolved and necessary revisions made. A final review should be made by an administrator with good language skills. This is a final check to ensure that ideas, parts, and/or sections are arranged in logical order and that all relevant material is stated clearly and concisely. When all revisions are completed, printing arrangements in accordance with agency procedures can be made.

Documentation for the design phase should include minutes from project staff meetings, a complete printer-ready copy of the manual, copies of all approved forms, a report on any recommendations made on approved forms and the decisions made on each, all arrangements for printing (including delivery dates), and a draft copy of the agency directive covering the manual. The final draft and accompanying documentation can now be presented for management review and authorization for printing.

### **Development/Implementation**

While the manual is being printed, an implementation date can be selected, and training and manual distribution planned. All of these activities must be conducted for a smooth conversion process.

The implementation date chosen must allow sufficient time for printing and use of the new manual for training purposes. The date should be announced in advance and directions given for personnel to return the manuals presently used.

Once printing is completed, the staff can now be trained using the revised manual as a text. In addition to field officers, other personnel should be trained whose tasks will be affected by procedural changes reflected in the report writing manual and related agency directives.

The issuance of the new manual and its accompanying directive should be supervised, and storage provided for extra copies and future revisions.

Management review for this step should include reports on the training conducted, recommendations for inservice training, and progress of the implementation. Documentation should include minutes of project staff meetings, lesson plans, training rosters, a copy of the printed manual, a copy of the agency directive covering manuals, plans for inservice training, a distribution plan, signature sheets of personnel receiving manuals, and a copy of the assessment instrument to be used in the next step.

### **Monitoring/Assessment**

There is a tendency at this point for project team members to breathe a sigh of relief and go back to their regular assignments. However, the project team should not be disbanded at this time. In fact, increased participation by all team members will improve user satisfaction. Following implementation, a detailed examination should be conducted to assess how well the manual satisfies user requirements and meets management needs. Monitoring should be conducted during all shifts and on all days.

Deficiencies and/or recommendations for improvement should be reported in writing to the project manager to be eventually resolved at future project staff meetings. Personnel who missed initial training must be identified and arrangements made for makeup classes or on-the-job training.

A formal assessment should be conducted after a reasonable period of manual use. The assessment should include provision for answers to the following types of questions:

Are manuals being carried?

Are they being used?

Do users believe the information is useful?

Do users have suggestions for improvement?

Are users satisfied with the manuals?

All responses should be evaluated and the results presented for project team consideration.

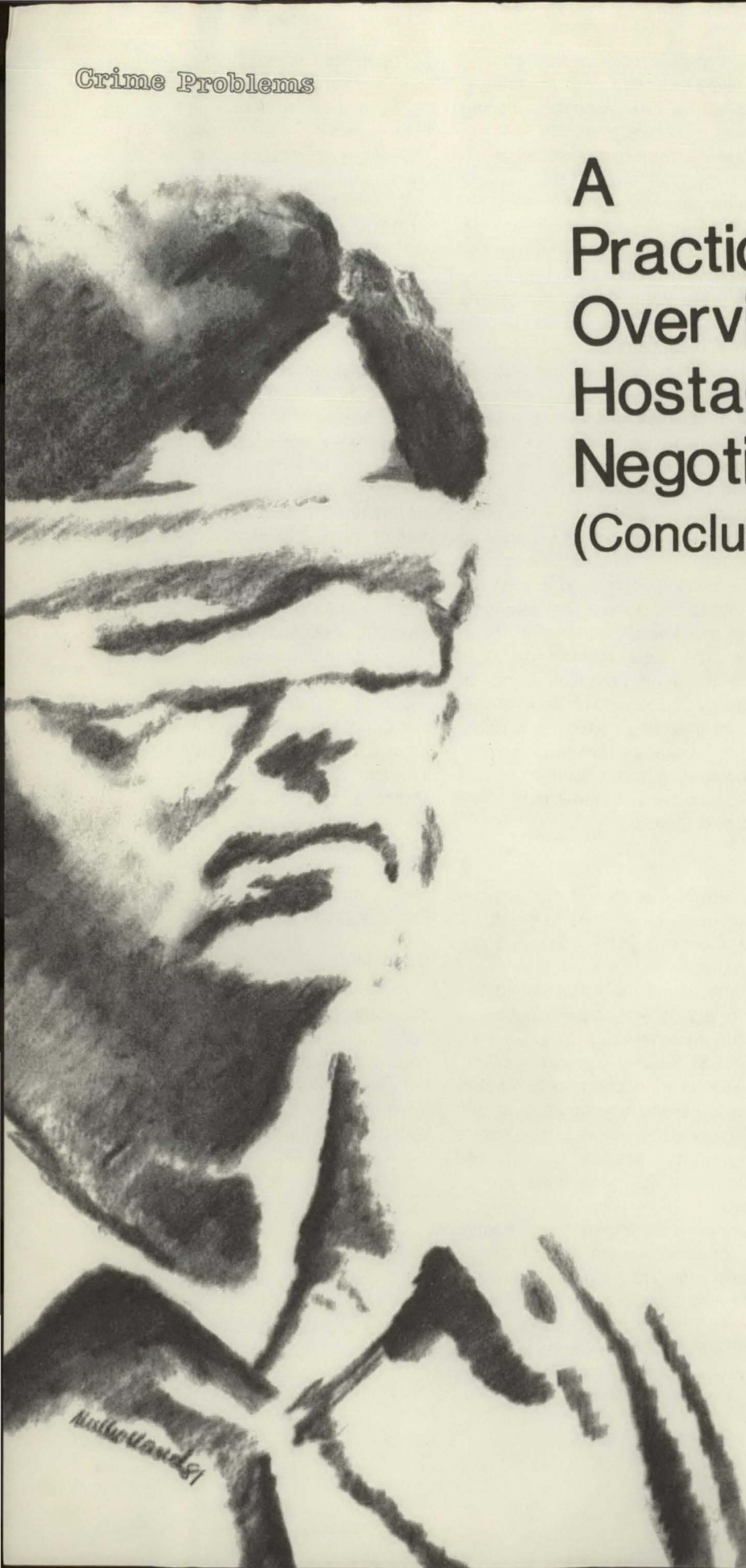
Management review at this point should be based on reports of the monitoring, assessment, and decisions on any needed additional work for the project team. A librarian should be selected to maintain and control the project documentation, and instructions given to the unit responsible for future revisions. Documentation for this step should include minutes of project team meetings, reports of monitoring staff, copies of completed assessment reports, a copy of the assessment analysis, a copy of the letter to the selected librarian outlining responsibilities for storing and updating the documentation file, and a copy of the letter to the unit responsible for stocking and revising the manual, outlining responsibilities for contributing to the documentation file.

### **Conclusion**

The use of an effective report writing manual will increase the field officer's productivity. It will improve recording of data, reduce reinterview time, and enable the officer to provide information and guidance to citizens with questions and problems. **FBI**

*A sergeant in the North Las Vegas, Nev., Police Department discusses report writing needs with a police officer. A well-designed report writing manual acts as an extension of training and supervision.*





# A Practical Overview of Hostage Negotiations (Conclusion)

By  
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U.S. Air Force Medical Center  
San Antonio, Tex.*

Last month, Part I of this article discussed the Stockholm Syndrome and the various personalities of hostage takers. The conclusion deals with the process of negotiation.

## **The Process of Negotiation**

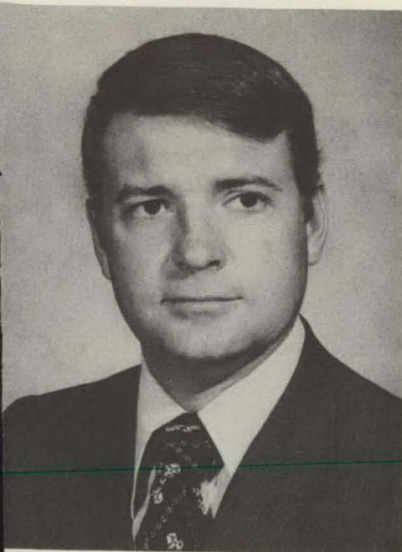
Priorities in a hostage incident include preservation of life, apprehension of the HT, and recovering or protecting property.

## **What Is Negotiable?**

Food is negotiable. Don't give more than what was requested. If sandwiches were asked for, send in only sandwiches. Don't automatically include soft drinks, condiments, etc. These can be used as bargaining points later on.

Soft drinks are also negotiable. In general, alcoholic beverages are not. However, if you have good intelligence that when this person imbibes, he becomes very mellow and happy-go-lucky, giving him alcohol may be a risk worth taking. If you have good informa-





Mr. Fuselier

tion that he becomes belligerent and agitated when drinking alcohol, under no circumstances should alcohol be permitted.

Transportation (going mobile) presents numerous problems in command, communication, and control. Although there may be circumstances when allowing the HT to go mobile would be the best decision, it usually causes more problems than it solves.

Freedom for hostages is always a bargaining point, but freedom for the HT is controversial. A department should have a clear policy on whether to promise or give freedom to an HT if he releases the hostages.

Money is one of the items most often requested. This seems to be a fairly common exchange, particularly if the money is delivered while the HT is still contained.

### **Exchange of Hostages**

The exchange of hostages is a poor tactic for a number of reasons. You may be trading a friend for a citizen/stranger, making you much more emotionally involved in the situation.

The level of tension goes up if a policeman is exchanged for a hostage, because the policeman is a greater threat to the HT. There is also more prestige in killing a policeman than a civilian. You may be dealing with an antisocial personality who hates authority figures, and you will be providing him with a symbol of the authority he hates.

Relatives should not be exchanged. Often the lack of support or continual criticism from relatives was one of the factors that drove the HT to take hostages in the first place. Also, he may want relatives or friends to be brought in to set up a "suicide audience."

Since logistics are very difficult, you may simply give the HT another hostage and get nothing in return. Additionally, if you exchange hostages, you will have lost the benefits of the Stockholm Syndrome with that particular hostage.

### **Media Coverage**

A good working relationship with the local media should be established. Often, granting the HT appropriate air time with radio or TV can diffuse the situation, resulting in a release of hostages.

### **Guidelines for Negotiation**

Take your time when negotiating. The passage of time increases the likelihood hostages will be released unharmed for the following reasons:

- 1) Basic human needs for food, water, sleep, and elimination increase;
- 2) Anxiety tends to be reduced;
- 3) Most persons begin to think more rationally and less emotionally;
- 4) The Stockholm Syndrome begins to form;
- 5) Hostages have increased opportunity for escape;
- 6) Intelligence gathered will permit better decisionmaking;
- 7) Increased rapport and trust can develop between the negotiator and HT;
- 8) The HT's expectations and demands may be reduced; and
- 9) The incident may simply fade.

Some HT's have simply allowed hostages to walk out with no expectation of something in return.

Although there is no question that the passage of time can enhance the negotiation process, there are also some negative effects.

Negotiators, SWAT team members, and command post personnel may get tired and bored, making mistakes possible. There may also be a loss of objectivity. Law enforcement personnel, in an effort to end the incident, may be more willing to take a precipitous action that may be unnecessary, e.g., inadvertently creeping



toward the subject or lessening caution in maintaining cover in perimeter control.

Pick the right time to establish contact. Give the HT time to calm down. Premature contact may result in him feeling extreme stress, causing him to make unreasonable and threatening demands. If he is given time to calm down and realistically assess the situation, the demands he makes may be more reasonable.

### Mode of Contact

A bull horn or public address system is impersonal and may interfere with the development of trust and rapport in the negotiation process. Face-to-face contact allows the mental status of the HT to be assessed more accurately. Allowing him to see the negotiator may also help develop rapport. The primary disadvantage of face-to-face discussions is increased risk to the negotiator. Face-to-face negotiation should be undertaken only after rapport has been established through some other mode of communication and should be carried out only in a barricaded position.

In face-to-face negotiations, the following guidelines are suggested:

- 1) Get a verbal agreement from the HT not to hurt you;
- 2) Don't talk to him if he is pointing a gun at you—insist that he put the gun down;
- 3) Only go face-to-face after time has passed and rapport and trust have been established;
- 4) Never go face-to-face with more than one HT;
- 5) Always maintain direct eye contact;
- 6) Always maintain an escape route;
- 7) Never turn your back on an HT;
- 8) Before approaching the HT, be sure to exchange physical descriptions; and
- 9) Be aware of body space. Estimate what his body space is and how much pressure you'll be putting on him by getting near him.

Negotiation over the telephone allows a personal, private conversation and provides the negotiator with a maximum amount of protection and safety. This type of communication is also easy to isolate and simplifies the negotiation process.

### Contact With the Hostage Taker

As soon as possible, determine the HT's age, sex, background, etc. Then, begin asking questions that require a narrative answer rather than a simple yes or no. Ask questions in a way that will encourage the HT to talk as much as possible.

Talk the HT's language. Attempt to match your vernacular and phraseology to his. If he's using "street" language with much profanity, it may be wise to use similar language. However, if he is quoting biblical passages, it would be better to avoid profanity.

Assess the HT's mental status. How is he thinking? Is he confused, irrational, or logical? Is he fairly calm, moderately anxious, or is he in a panic. How much stress is he feeling? Is there anything you can do to either reduce stress (which may help in the negotiation process) or perhaps increase stress (which may distract him or increase fatigue)? A clinical psychologist trained in negotiation is helpful at this stage.

Assess the HT's dedication to the cause. Does he have support from fellow members of a radical group, or does he believe that he has such support?

Strive for personal contact. Identify yourself by first name and address him in the manner he desires. Do not continue to identify yourself as "the negotiator"—that is too impersonal. Attempt to establish a relationship that is characterized by "you and I can work this out together."

Avoid giving the HT a flat, negative response. Make such statements as "I'll try to get my boss to go along with this, but I think it's going to be very difficult." Later on, say, "Jack, I'm sorry, I just wasn't able to convince my boss to go along with this."

Keep the HT making decisions. Let him make decisions about what to do, when to do it, and how to do it. If he asks for food, ask him what kind of food and soft drinks he would like and how much. Pushing him to the extreme, i.e., asking him what kind of cheese he wants on his hamburger, what kind of bun he wants, or whether he wants sesame seeds on his bun, may only serve to irritate him and interfere with the rapport previously developed.

Always bargain with the HT. No matter how small his demand, always ask for something in return. There are documented cases where a hostage was exchanged for one cigarette. However, there may be situations where you may want to make a "good faith" gesture.

Downplay past events by continuing to emphasize that whatever he has done in the preceding hours, it is not as serious as if someone were to get hurt. Do not tell him that officers have died or people injured in an exchange of fire have died. This may make him believe he is cornered, causing him to do something drastic in a last-ditch effort to escape.

Do not push him into desperate measures. As long as he believes that he has some hope of salvaging something in the negotiation process, he will be more likely to continue negotiating.



Attempt to set up win/win situations by negotiating in such a manner that both you and the HT believe that progress has been made and each of you has gained something.

The majority of negotiations have ended by honest, open agreements between the HT and the negotiator. Tricks, such as sending in drugs in coffee and food, have high risks associated with them. It is usually very easy to detect the presence of chemicals or drugs. Once he realizes that you have been dishonest, any trust or rapport that has developed is severely damaged. Remember, the purpose of negotiation is for the HT to believe you are actually trying to help him find a reasonable way out of a difficult situation—don't jeopardize his trust in you.

Do not ask the HT what his demands are. Instead, tell him you are there to help in any way you can. If he does make demands, reduce their impact by repeating the demands back to him, but softening them in some way. For example, if he says, "I want \$500,000 and a car in 30 minutes," you can repeat to him, "Okay, I understand you want some money and transportation here as soon as possible."

Avoid deadlines. Do not ask, "How long do we have to get this done?" Tell him you will start "working on it" immediately. You can mention prior demands to distract him. If he has demanded a car by 2:00 p.m., at 1:56, mention his prior demand for food, saying that you now have it and would like to know how he wants it delivered.

Be honest with the HT. Success is more easily attainable when agreements between the two parties have been honored.

Do not offer suggestions. If your superiors tell you they cannot provide \$500,000 in 30 minutes, do not offer an alternative to him. Tell him that you were unable to convince your superiors to provide the money even though *you did everything you could*. This keeps him in a decisionmaking status—he now has to decide on an alternative.

Do not use flag words. Using the words "surrender" or "hostages" increases anxiety and tension. Also, don't use the phrase "give up," which implies failure.

Give the hostages minimal attention. An initial appraisal of the situation can be obtained by asking the HT if everyone is OK? The "everyone" should specifically include the HT. Rather than speaking to the hostages themselves to check on their physical or mental status, attempt to have the HT obtain the information from them, thus helping the formation of the Stockholm Syndrome. Once you have established that everyone is both physically and mentally well, spend time developing a relationship with the HT. Continuing to focus attention on the hostages will only serve to increase his estimation of their importance.

Be cautious about letting friends or family talk to the HT. Often a husband, wife, relatives, or friends will appear saying, "If only you'll let me talk to Joe, I'm sure I can talk him out of this." Under these circumstances, *do not* let them talk to him. If the HT requests to talk to a particular person, ask why. He may be bringing someone to the scene to show that he can do something important because he wants them to see what they have caused him to do. He may also want to commit suicide or homicide in front of an estranged spouse or lover.

Bargain early for sick hostages. People who are ill or who have physical disabilities can often be bargained for early in the negotiation process. This allows you to get information on what's going on inside the building and also sets a precedent for future negotiations.

HT's tend to reduce their guard if they believe they have succeeded in arranging their escape. When planning an assault, continue negotiations and begin to concede on his major demands. For example, tell him that the car is on the way and that the airplane is waiting for him at the airport. Then, carry out the assault while he is celebrating his victory but before he begins to get anxious about the delivery of the car.

Never negotiate alone. Always have at least a secondary negotiator in the room with you and preferably a psychological consultant and a negotiation team leader. The advice and feedback of others is needed to get an unbiased and realistic estimate of how things are going.

Early in the negotiations, try saying, "Jack, all you tried to do was take some money. Now nobody has been hurt, so why don't you just come out and let those people go?"

Negotiations are going well if:

- 1) No one has been killed since the negotiations started;
- 2) The number of emotional incidents, e.g., verbal threats against hostages is decreasing; and
- 3) The length of each conversation with the HT increases, there is less talk of violence, and his rate of speech and pitch are lower.

If the HT injures or kills hostages during negotiations, there is every reason to believe he will do so again. At this point, assault should be considered.

### Selecting a Negotiator

The negotiator should be a volunteer, experienced law enforcement person in excellent mental and physical health. He must be able to think clearly under stress.

Desirable personality traits for a negotiator include:

- 1) He must possess emotional maturity. He should accept abuse, ridicule, and insulting statements without responding emotionally. When those around him are anxious, frightened, or confused, he should be able to maintain a clear head.



- 2) He should be a good listener and have excellent interviewing skills.
- 3) He should be a person who can easily establish credibility with others.
- 4) He should have the ability to use logical arguments to convince others that his viewpoint is rational and reasonable.
- 5) He should be able to communicate with persons from the lowest to the highest socioeconomic class.
- 6) He should have "practical intelligence," commonsense, and be "street wise."
- 7) He should have the ability to cope with uncertainty and be willing to accept responsibility with no authority.
- 8) He should have total commitment to the negotiation approach.
- 9) He should understand that if negotiations are not progressing and lives are in imminent danger, he will have to assist in planning an assault to rescue the hostages.

### Command Post—Negotiation Team—SWAT Interface

Since so many people are involved in a hostage incident, communication between the onscene commander (OSC), the negotiations

team, and the SWAT team leader is crucial. During the entire negotiation process, recommended lines of communication should be followed. (See fig. 1.)

The OSC should confer with a few select advisers. He cannot personally answer every question or attend to every detail. Many responsibilities should be delegated to his second-in-command. The OSC should station himself in a quiet area, with a situation board, and no more than three advisers. The recommended advisers are:

- 1) The OSC's designated second-in-command;
- 2) The negotiation team leader; and
- 3) The SWAT team leader.

The second-in-command should be delegated responsibility for dealing with the media (which he can further delegate), consulting with legal representatives, other public officials, etc., and filtering and organizing incoming information to be presented to the OSC.

The negotiation team leader should brief the OSC on information gathered through conversation with the HT, current mental status of HT and other pertinent information obtained from the psychological consultant, and progress being made through negotiations.

The SWAT leader should brief the OSC on positioning and readiness of the SWAT team and the feasibility and likelihood of success of various types of assault.

The OSC should *always* let the negotiation team leader know what action he plans to take. The negotiator must maintain the trust of the HT. If actions are taken without the negotiator's knowledge, he may have difficulty creating a cover story to satisfy the HT.

If negotiations are unsuccessful and an assault is planned, the negotiator can help confirm the location of the HT and/or keep him on the phone or otherwise distracted at the time of the assault.

### Negotiation Team Members

Each negotiation team should have four members: A primary negotiator, a secondary negotiator, a psychological consultant, and a negotiation team leader.

The responsibility of the primary negotiator is to conduct all verbal interactions with the HT. The secondary negotiator should:

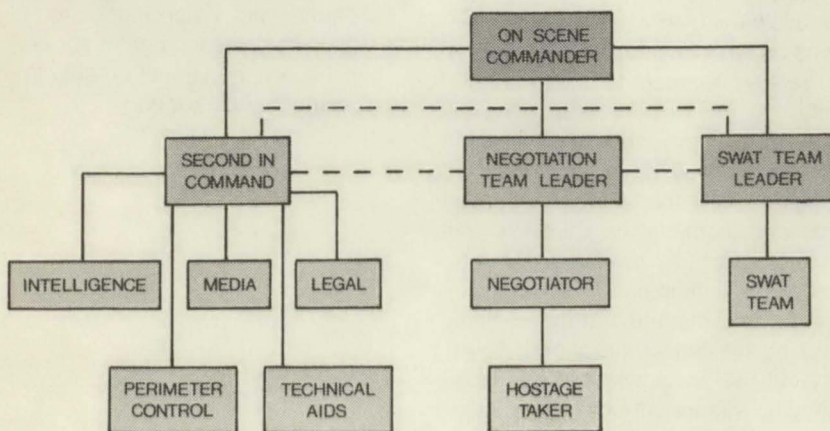
- 1) Keep a log of all incidents, threats, or arrangements made with or by the HT;
- 2) Record all verbal interactions with the HT and any strategy discussions or decisions made by the team;
- 3) Pass on new information to the primary negotiator; and
- 4) Be ready to relieve the primary negotiator if he is fatigued.

The psychological consultant should:

- 1) Constantly assess the mental status of the HT, as well as that of the negotiator;
- 2) Not become involved in the negotiations directly, thereby remaining as objective as possible; and
- 3) Recommend negotiation techniques or approaches that he thinks will help resolve the situation.

Figure 1

#### RECOMMENDED LINES OF COMMUNICATION





The negotiation team leader should:

- 1) Organize the team, assign roles, and supervise the activities of the negotiating team; and
- 2) Serve as liaison between the team and the OSC. He should provide the OSC with pertinent information on the progress of negotiations and keep the negotiation team informed of significant OSC decisions.

**Using a Clinical Psychologist as a Consultant**

Use of a trained clinical psychologist as a consultant in hostage negotiation is encouraged. A typical, well-trained clinical psychologist with no specific training in hostage negotiation will only be of slight assistance. However, if he is exposed to the information available about hostages, hostage-taking, and negotiation procedures, he may be a very valuable addition to the hostage negotiation team.

**Choosing a Clinical Psychologist**

Knowing the past training and abilities of a psychologist will be important in determining whether he can help you. Only a doctorate-level clinical psychologist will be of benefit as a consultant in hostage negotiation.

There are two major ways a psychologist can help deal with an HT. First, he can determine whether the HT is mentally disturbed and whether the disorder is a psychosis, paranoid schizophrenia, or manic depressive psychosis or a personality disorder—antisocial personality or inadequate personality. Second, he can help you decide on an approach to negotiation with a particular HT and offer recommendations during the negotiation process. His value will be greater if he expands upon his previous training and experience by seeking additional training in hostage negotiation concepts.

Choose a clinical psychologist with whom you feel comfortable. A behaviorally oriented clinical psychologist will describe behavior in terms that are

more useful in making the immediate and crucial decisions involved in hostage negotiations. If the psychologist describes himself as a "behavioral" psychologist or a "cognitive/behavioral" psychologist, expect him to describe a person's behavior more in terms of antecedents (stimuli) or consequences (responses), rather than referring to unconscious motives and conflicts.

Establish a relationship with the psychologist and clarify his position as a consultant. It should be clearly established that he is a consultant to law enforcement personnel, and as such, his opinions will be asked, but he will not have the power or authority to enforce any decisions. He should be willing to accept the idea that after hours of attempted negotiation, it may be necessary to attempt to capture or even kill the HT. Both the agency head and negotiator should believe that the psychologist accepts that possibility and would be willing to assist in whatever response is necessary to end the hostage incident. For example, once an assault has been decided upon, it is best to continue negotiating with the HT to make it appear that his demands have been met, and he has won. It may be necessary to keep him on the phone so that SWAT team members will know where he is, or get him to come to a front door or window, where a sharpshooter can neutralize him. The psychologist should be willing to accept that his role as consultant may involve taking part in these types of responses.

**Training the Psychologist**

The first step in training the psychologist is to acquaint him with information now available on hostage negotiation and negotiation principles and concepts, such as the Stockholm

Syndrome. He should also be briefed on local headquarter policies for assault, going mobile, etc. Once a clinical psychologist has been chosen, both he and the hostage negotiator should attend a hostage negotiations seminar. This always allows them to learn to function more effectively as a team.

Once the clinical psychologist has been indoctrinated and trained in the concept of hostage negotiations, the entire team should begin routine exercises. These exercises should be as realistic as possible, including the use of roleplaying. Law enforcement personnel should be identified as the HT's and should take mock hostages. There should be a realistic interchange between the negotiators and HT, the command post, and the SWAT team, for at least a 2-3 hour period. Although roleplaying is sometimes anxiety producing or awkward, law enforcement personnel being trained at the FBI Academy's hostage negotiation seminar indicated that the roleplaying experience was one of the most valuable parts of the training. It enabled law enforcement personnel to feel the anxiety and pressure that can be involved in a hostage situation. Hostage scenarios with realistic roleplaying should be a part of ongoing hostage negotiation training programs.

Ensure that the psychologist is used as a consultant, not a negotiator. Negotiators should be carefully selected law enforcement personnel. It is important for the psychologist to remain as emotionally uninvolved as possible. He must be able to assess the current status of the HT, and in fact, the current mental status of the negotiator. Often, the emotionally involved negotiator will not notice his voice beginning to get tense, his volume beginning to increase, his speech beginning to get more rapid, or his comments beginning to get more tense and curt. The astute clinical psychologist will notice this and help the negotiator remain calm and relaxed.

The process of hostage negotiation is involved; however, with properly trained personnel, the outcome of most incidents can be positive. **FBI**



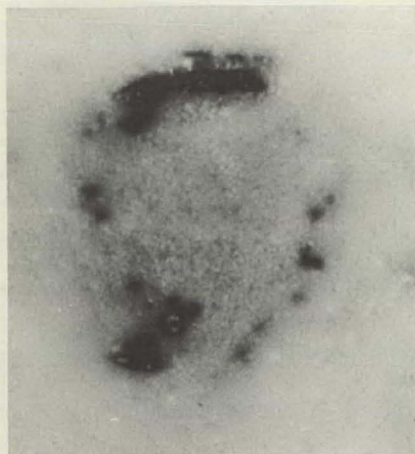


Figure 1



Figure 3

## Bite Mark Evidence in Crimes Against Persons

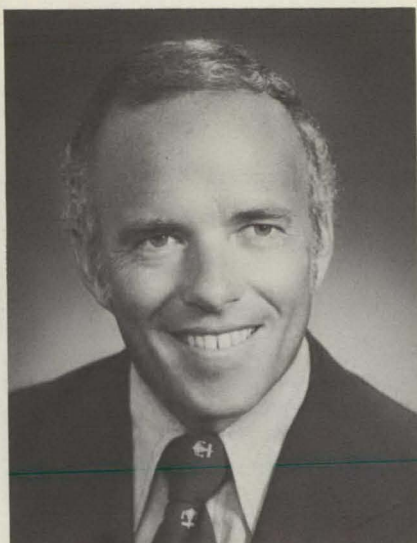
By NORMAN D. SPERBER, D.D.S.

*Forensic Odontologist  
San Diego County Coroner's Office  
San Diego, Calif.*



Figure 2





Dr. Sperber

Bite mark evidence in felony cases (homicide, sex crimes, and child abuse) has been admitted in the superior courts of several States and in one U.S. military trial. If properly preserved and protected, bite marks can provide an important link between victim and assailant. It should be noted, however, that although assailants' bites on victims are the most common, equally incriminating would be those of the victim on the assailant.

Although not always possible, it is ideal to have a forensic odontologist present at the outset of a case. However, since law enforcement officers are usually the first to interview a live victim or view the body of a dead one, it is important that they protect the bite site so that the forensic odontologist (specially trained dentist) may analyze the evidence and possibly testify at a later date.

### Recognition, Investigation, and Examination

Investigators should be suspicious of any marks or bruises that appear to be bite marks on deceased or unconscious victims. The suspected bite site on a victim or assailant should not be washed until certain necessary steps have been taken. In addition, the suspected area should be examined without being touched.

A bite mark may reveal individual tooth marks as shown in figure 1, or as evident in figure 2, may appear as a double horseshoe. It may also resemble a doughnut or a solid marking. (See fig. 3.) Another possibility is the appearance of both upper and lower teeth marks, while on other victims, only the teeth of the jaw may be visible. In addition, the number of teeth marks may vary from several to only one.

### Preliminary Photographs

Photographs may be the most valuable type of evidence and should be taken immediately after the crime. Ideally, black and white and color film with appropriate lighting should be used. The camera (preferably a 35mm or other nondistorting model) is placed at right angles to the various curves of the bite. (See fig. 4.) Orienting photographs are taken before cleaning or wiping the area. A scale or ruler should be placed near the bite mark in some of the photographs.

### Swabbing Bite Mark Areas

After taking the initial photographs, crime laboratory personnel, using a noncontaminating technique, should swab the site with distilled water or physiological saline solution. Using sterile gloves to avoid contamination, they should work from the periphery toward the center of the bite mark, allowing the swabs to dry for a few moments and then placing them in a sterile, sealed, marked test tube. The swabs should be promptly sent to a qualified laboratory for analysis. Swabbing of unbitten areas, for control purposes, is recommended. As an example, in the case of a left wrist bite, the right and left wrists should be swabbed and these swabs placed in separate, properly labeled test tubes. This technique is used to determine the major blood group (A,B,O,AB) of the assailant or victim "secretor." Eighty percent of the population are secretors who reveal their blood group in all body fluids (saliva, seminal fluid, tears, or perspiration). Therefore, if a suspect secretes a rare AB type of saliva and the victim has blood type O, the discrepancy can be incriminating, especially when the bite mark comparison reveals similar features. If there is question as to whether an injury is a bite mark, a qualified forensic laboratory technician can perform an evaluation for the presence of salivary amylase, prior to washing the area. Laboratory personnel should secure blood and salivary specimens from the victim. When a suspect is in custody, the same specimens should be obtained.<sup>1</sup>

Figure 4

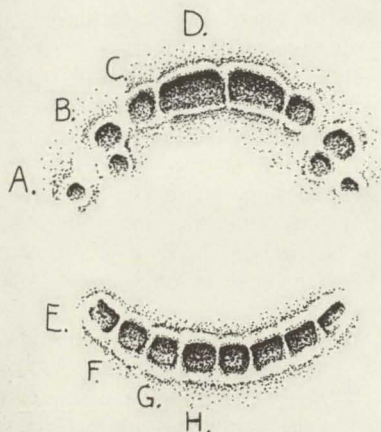
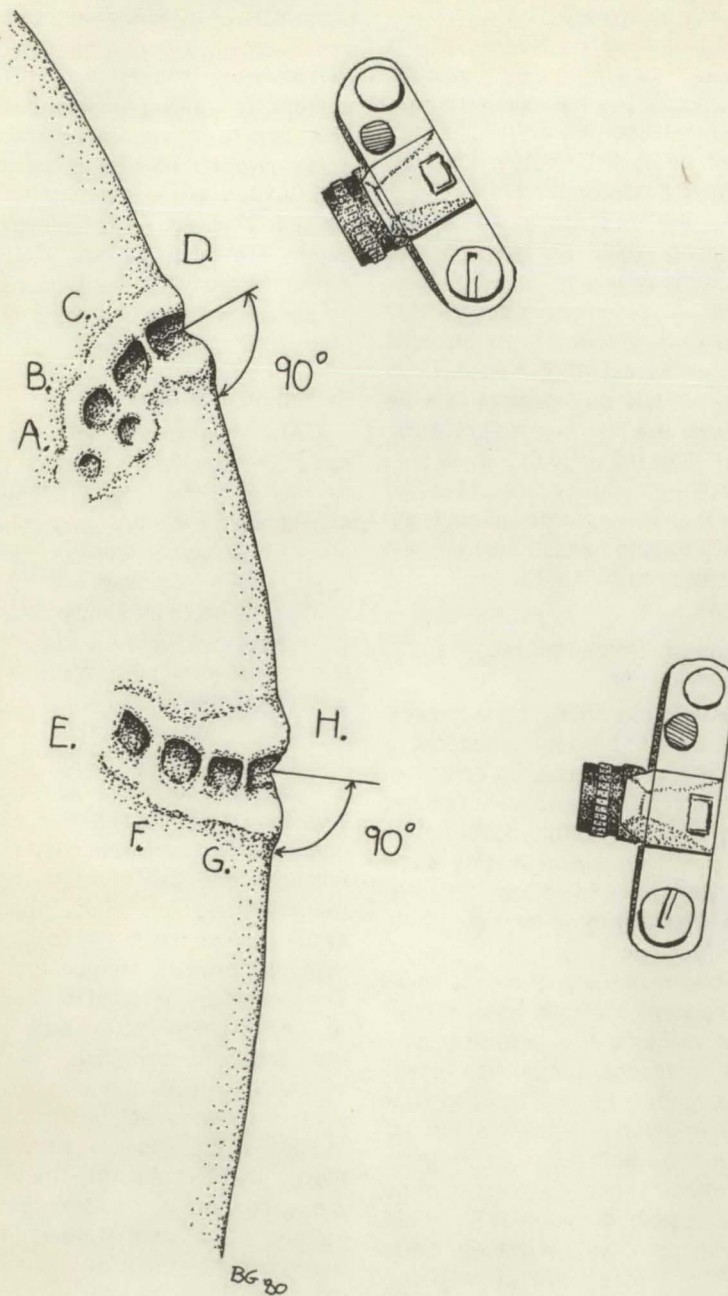




Figure 5



## Final Photographs

After swabbing for saliva residue, the area is debrided, cleansed, and an orienting photograph taken. (An orienting photograph illustrates the relation of the bite mark to the body.) A ruler is placed as close to the bite mark as possible without obscuring it. (A flexible rule, e.g., tape measure, is unsatisfactory because distortion may be introduced on curved surfaces.) Then, a number of close photographs should be taken, also with the ruler in close proximity to the marks, with the camera lens placed perpendicular to the marks. (See fig. 5.) This procedure is especially important if bite marks are on rounded areas, e.g., shoulders, arms, legs, or breasts. Two or more rulers may be placed in a photograph to demonstrate that there is little or no distortion. Photographs should be repeated for 5 days at 24-hour intervals on live and dead victims, since bite marks may become more evident and distinct in the course of time. Victims should be refrigerated and should not be embalmed. (Embalming tends to "wash out" bite marks.) An autopsy should not be performed before photographing. Incisions or suturing in the proximity of bite marks are also to be avoided prior to taking photographs or bite mark impressions.

## Bite Mark Impressions

Bite mark impressions should be taken by a forensic odontologist, dentist, or experienced crime lab technician, using standard, accurate impression materials. If it is not possible to have experienced personnel take the impression, the following procedures are recommended:

- 1) Orient the bitten area horizontally, so that the impression material does not flow away from the bite. (See fig. 6.)
- 2) Place the impression material gently over the area and allow to set. Setting time is prolonged if the body is refrigerated. (See fig. 7.)
- 3) Allow orthopedic tape warmed in hot water to settle over the set impression material, providing rigidity without distortion. (See fig. 8.)



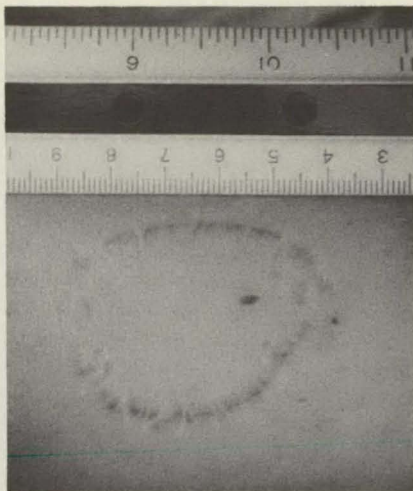


Figure 6



Figure 7

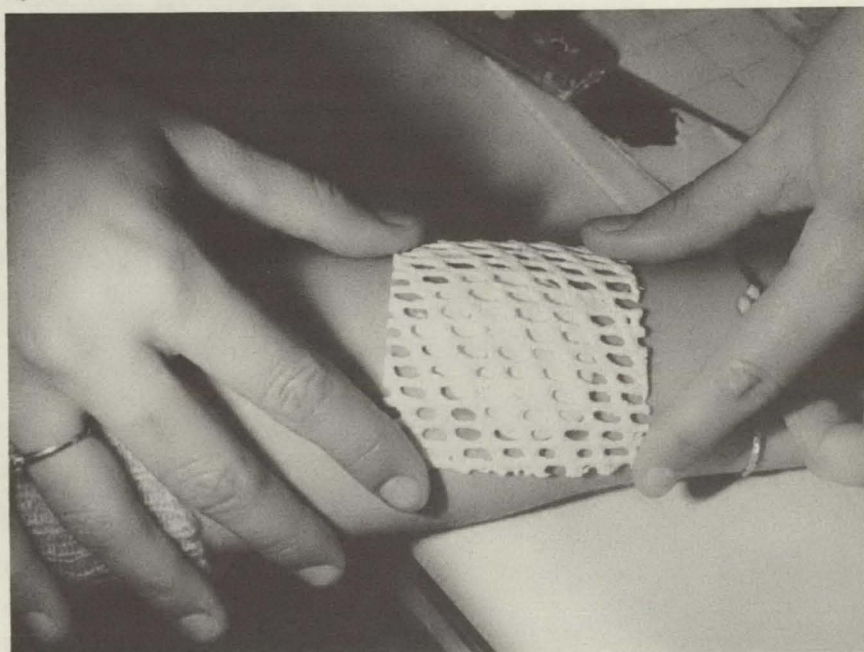


Figure 8

- 4) Place another mix of impression material over the tape to "lock" it securely into place. (See fig. 9.) This results in the "lifted" impression. (See fig. 10.) A model of the bite mark can then be fabricated.

### Impressions and Photographs of Suspect

If a suspect is in custody, impressions, photographs, and wax bites are taken by the forensic odontologist after informed consent is obtained or following a court order. After models are constructed, they are analyzed by the forensic odontologist, who renders an expert opinion.

### Summary

Bite marks on a conscious, unconscious, or deceased victim may furnish crucial evidence in criminal investigations. They must be preserved with accurate, properly exposed photo-

graphs, salivary swabbing using a non-contaminating technique, and through the construction of accurate models based on impressions of the bitten area. These, as well as swabbings, photographs, impressions, and models of suspects, should be obtained as soon as possible following the assault. In all cases of suspected bite mark crimes, the services of a forensic odontologist should be obtained immediately, and ideally, he should perform the procedures described above. **FBI**

*If the involved law enforcement agency does not already have the name of an experienced forensic odontologist, they may contact the American Academy of Forensic Sciences, 225 South Academy Blvd., Suite 201, Colorado Springs, Colo. 80910; (303) 596-6006, for names of forensic odontologist(s) in the area.*

### Footnote

<sup>1</sup> For other detailed information, see "Obtaining Saliva Samples From Bitemark Evidence," Roger Mittleman, M.D., et al., *FBI Law Enforcement Bulletin*, November 1980, p. 16.



Figure 9



Figure 10



# Photographing Light Powder Latent Prints

By

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*EDITOR'S NOTE: Material published in the FBI Law Enforcement Bulletin is solely for the information and assistance of law enforcement personnel. While brand names and companies may be mentioned from time to time, this is done in a strictly objective manner to help present articles in their entirety from authoritative sources. In such instances, publication of the article in the BULLETIN should not, under any circumstances, be construed as an endorsement or an approval of any particular product, service, or equipment by the FBI.*

Photographing light powder latent prints has always required the added process of reversing the negative. This reversal process requires the lab technician to double the amount of time and materials spent in the darkroom. The end result of this procedure is the photograph of a latent print with dark ridge characteristics on a light background.





Kodak produces a  $4 \times 5$  film, Kodak Professional Direct Duplicating Film, that eliminates the need to reverse the negative. Laboratory experimentation shows the film to have a very low exposure index. The determined index for tests in the Onondaga County Sheriff's Department was .6 exposure index. If tungsten lights are used to illuminate the object, the time of exposure may go as long as 40 seconds or more, depending on the candlepower of the lights. The exposure time can be reduced 1/60 second by using an electronic flash unit as the source of illumination. The unit used in the tests was the Singer-Graflex Strob 250. Holding the unit at a 45-degree angle and approximately 6 inches from the object, a sufficient image was obtained with the lens open to its maximum. Experimentation will give you the best results for your individual camera. It should also be noted that the more light going through the lens, the better the image will be.

The film is developed by using Dektol developer, mixed in a ratio of 1 to 1. The development time is 2 minutes 15 seconds, with continual agitation. After the developer, the film is then placed in the stop bath and fix as recommended.

The only drawback of this film is that it lacks a high degree of contrast. The contrast is similar to that of Tri-X film.

The Syracuse Police Crime Laboratory and Evidence Technicians have been using this film regularly for approximately 2 years, with favorable results. However, this film should be considered and tested by every latent fingerprint examiner before an opinion is formed.

**FBI**





# Results Management

## (Conclusion)

By  
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Part I of this article featured an overview of the results management program of the Colorado State Patrol. The conclusion will discuss the various programs and processes of the project.

### Program Planning

Program planning is emerging as a management discipline. Traditionally, the program manager is the person with the most complete knowledge of needs, benefits, ultimate objectives, and functions. Historically, he has been ill-equipped to articulate the program in a generally understandable way and has had the added difficulty of not being able to spare large amounts of time from technical responsibilities to develop "systematized" plans. Managers have needed planning tools to assist them.

The major portion of work needs to be done prior to actually quantifying objectives. This segment, called the workplan, should involve all members of the team so that there is a clear plan on how to reach the objectives. Once the general objectives are set, they must be quantified so that success can be measured.

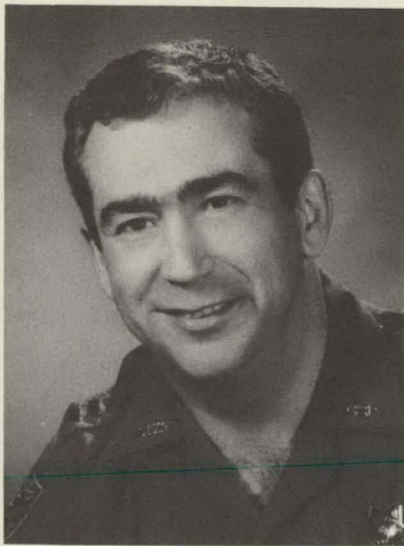
Results-oriented objectives specify in quantifiable terms what is to be accomplished in a specified time period. Setting objectives is not a "cure-all" for management's problems, nor is it a paperwork "gimmick" to compound management's problems. It is part of a systematized process to aid all levels of an organization in accomplishing management's goals. It is not intended to be used to keep subordinates in line.

### Establishment of Objectives

Once the goals are understood by all members of the organization, the supporting objective cycle begins. This is a chance for all levels of the organization to contribute to and feel a part of the decisionmaking process of the organization. Individual motivation is increased when one is allowed to establish his own objectives and discuss and negotiate them with supervisors. Objectives are a communication tool—they can be understood by all levels of management.

Accomplishing objectives involves the cooperation of all levels of management as well as other organizations. Commitments to individual objectives start from lower management and work toward upper management, as each supervisor sets objectives in his area of responsibility. The key to the project is obtaining concurrence on the objectives from all levels of the organization. This requires that each level in the organization be evaluated on its contribution to the objectives rather than on the activity generated.





Major Dempsey

Each field unit in the patrol has established six objectives that address statewide goals. Beyond this, troops may establish objectives which address a local issue of concern or further support the goals of the division.

### Objective Negotiation

One of the key elements in the management by objectives system is formal communication throughout the management hierarchy. The face-to-face meeting and sign off by the supervisor of the objective manager is imperative. The approval of the objective by the supervisor is, in effect, a "contract" between the supervisor and objective manager.

Approval means that the supervisor concurs that achieving objectives will contribute to his goal, the milestones listed will lead to its accomplishment within an acceptable time frame and cost, and the supervisor also agrees that the evaluation design measures accomplishment of the objectives.

The supervisor must be careful not to "meddle" in the workplan and force his will upon the objective manager in terms of the processes the manager will use in accomplishing the objective. This will be one of the tests of the workability of the management by objectives system. The supervisor must not destroy the ownership and commitment of the objective manager. Before designing the workplan and writing objectives, the objective manager must understand the critical resources and budget limitations.

### Targeting

Because of limited resources, the organization needs to identify areas in which an impact can be made. If the resources are spread out, little impact is readily apparent. The Colorado State Patrol, therefore, determined that targeting objectives toward areas where maximum outcome can be measured would increase overall departmental effectiveness.

Steps in targeting include identifying and quantifying the problem and determining where improvement is most needed and achievable. For example, in the area of accident reduction, key stretches or areas of road could be identified, based on road designation, accident experience, traffic volume, length of segment, and roadway geometry, to name just a few.

The target selection should be based on potential impact, *not* enforcement behavior. Otherwise, the emphasis might be on the "fishing hole" where many citations will be issued, but no serious problems can be identified.

Impact is measured by factors such as energy conservation or accident reduction rather than activity such as the number of citations. Speed is not an output but rather a driver behavior (performance). It only *indirectly* measures energy conservation and accidents.

### Evaluation

The evaluation process should be set during the objective setting phase. Evaluation, in the broadest sense, determines whether programs (products) or procedures (processes) should be undertaken, whether they are being properly conducted, and whether they have accomplished their objectives. It is a continuing process that takes place before, during, and after obtaining the desired result.

The evaluation process must not be complex. During the initial management by objective phase, the key elements of the evaluation process to be stressed are agreement between the





Ms. Hamm

supervisor and the objective manager on the evaluation approach and availability of information to measure accomplishment. Departmentally, the patrol management information system was designed to provide the necessary information for evaluation of the objectives. Specific objective measures have been established for all statewide key objectives.

Evaluation answers increasingly frequent public demands for evidence of government effectiveness. It is important that citizens, legislators, program managers, and administrators know which efforts provide the greatest benefits and what the costs of those benefits are. Information essential for the prudent use of funds, manpower, facilities, and equipment is obtained through evaluation.

### Renegotiation Process

Through continued evaluation of the desired results, success or failure can be identified at any point in the objective cycle. If it appears that results are not following the planned accomplishments, renegotiation of objectives should be considered.

The renegotiation process is an integral part of the results management program. If problems arise, several aspects of the program should be considered prior to renegotiation:

- 1) Is this a seasonal high or low that will correct itself?
- 2) Was the calculation of the objective high or low and does it need to be corrected?
- 3) Have new factors come into play which were not initially apparent?
- 4) Is the workplan not producing the desired results?
- 5) Was the impact that could be made underestimated?

The objectives should be negotiated with a workplan backing it. At some point, it may become necessary to review either the objective or the workplan. This should not involve simply changing an objective but carefully examining why and how the change could be made.

### Feedback

Feedback is the heart of the results management program. With activity management, the raw data provides immediate feedback to the troopers. In results management, the feedback takes more work to develop but becomes more useful in the management of results. Feedback should be kept simple. Too much data not only diminishes credibility but also reduces the total program impact.

Levels of feedback should be modified to fit individual needs. The most detailed information should go to those performing the tasks, with more concise summaries going to those interested in the overall results.

The information must come from a reliable source in order to prove itself to those who have negotiated to meet the objectives. Feedback should be the ongoing responsibility of an individual or group of individuals. In addition, timeliness and constant updating of this information is an absolute necessity in order to be effective and keep abreast of changing conditions.

### Management Information System I and II

Extensive use of the management information system is the key to providing up-to-date information. This can be used for troopers, the Governor, or the press.

In 1975, the Colorado State Patrol began the development of a systematic program to modernize and upgrade the management of the organization. The initial phase of this program was to develop a management information system (MIS), which would





Chief C. Wayne Keith

serve as a foundation for modernizing the management of the patrol. A grant was obtained from the Highway Safety Division of the Colorado Department of Highways to design and implement a multipurpose management information system. An internal steering committee was appointed to guide the project and a project manager was hired.

In June 1977, MIS I provided the necessary operational information to the organization. In January 1978, the department developed the results management implementation plan, which identified the need to redesign the system to support the new style of management. MIS II, now being developed, provides an information system that meets these changing needs. It has now been realized that our informational needs are expanding to meet goal-oriented objectives and MIS II is now in its conceptual design.

### Graphics

At the trooper level, information is provided on the immediate results of day-to-day assignments. Graphics play an important part in visually showing those involved where they stand at any point in time. The importance of this cannot be over-emphasized.

Local supervision is responsible for devising graphics, i.e., pinmaps, line graphs, pie charts, or specialized graphics such as tactical grid maps, to meet their needs and keep the information updated on a timely basis. It is stressed that this feedback in the form of graphics should be simple, easy to read, easily updated, visually attractive, and accessible to all members.

### Team Meetings

Area meetings are held to provide feedback to all members involved in obtaining objectives. These meetings provide an opportunity to review information and statistics from the MIS concerning all aspects of the objective picture. A review is made of existing problems and alternatives to solving them and a coordinated total effort is made toward obtaining the stated objectives.

The meeting should be conducted by the officers themselves. This allows them to become totally involved and committed to the program and provides the opportunity for group evaluation. The troop lieutenant and sergeant should be involved in these meetings to provide information, support, and guidance. It is not necessary, however, that they always be there.

### Individual Performance Review

In order to evaluate individual performance based on project objectives rather than activities, the need for a performance review worksheet was recognized to complement the standard evaluation instrument used by the State. The organizational development team took this assignment and produced review worksheets for all Colorado State Patrol members.

It is recognized that an appraisal system which acknowledges outstanding performance and corrects poor performance can contribute significantly to improved morale and productivity. It is also recognized that the system is only as good as those who use it.

### Quarterly Progress Reviews

Quarterly progress reviews of stated objectives are conducted at the trooper level. These progress reviews are then compiled, condensed, and reported to the field major who, in turn, reports directly to the chief.

The quarterly reports document whether objectives are being met and whether procedures are correct. The reports also answer increasingly frequent public demand for evidence of effectiveness and provide information for political support of continuing programs.



## Employee Feedback Survey

To obtain informational feedback from employees to upgrade the selection of troopers, to improve supervisory training and assignment of management and midmanagement officers, and to improve the training program at the Colorado State Patrol Academy, an "employee feedback survey" was conducted. This survey consisted of approximately 74 questions concerning many aspects of job duties, including uniforms, vehicles, training, and general feelings and attitudes.

Responses from the survey were provided to each employee to aid in making comparisons of particular questions. One section of the survey allows each supervisor to be rated by his subordinates. This information is then reviewed with the individual for potential growth. This method of feedback has proven to be a reliable, valuable instrument, well-received by the members of the organization, and supportive of changes necessary in the division. The survey will be administered every 2 years.

## Public Surveys

Since there is a need for feedback from the general public, the organization development team decided to conduct a survey to measure the attitudes of the motoring public. At the same time, the opportunity arose for the Colorado State Patrol to survey public opinion in conjunction with an established questionnaire from the Colorado Department of Highways being administered at several driver's license examination points throughout the State. This type of questionnaire will be an ongoing instrument to measure public support and attitude.

## Speed Surveys

Since the adoption of the 55 m.p.h. national maximum speed limit in 1974, which was designed as an energy conservation measure, a correlation between speed and traffic fatalities and highway-related injuries has been proven.

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# "One of the key elements in the management by objectives system is formal communication throughout the management hierarchy."

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Colorado's experience is similar to that of the Nation. We found a 55 m.p.h. speed limit works best when there is strict enforcement and public understanding of its benefits; however, the desired impact was only realized in 1974 and 1975. Since 1976, Colorado has seen a steady increase in the average speed on State highways, percentage of vehicles exceeding 55 m.p.h., percentage of injury accidents, and traffic fatalities despite the concerted enforcement efforts of the Colorado State Patrol.

In order to conserve fuel within the State, a speed monitoring program was implemented. Engineering aides were obtained and uniformly trained to conduct surveys within each of the 18 troops. A rigid schedule was established to insure that the sampling is valid and covers all normal driving patterns. The surveys are conducted at random times of the day using electronic and mechanical measuring devices, and the information is disseminated to local troopers to measure their efforts. The information is also entered into the results management information system.

## Future

The implementation of results management in the Colorado State Patrol has been very successful. It has united the patrol into an organization with a common purpose and direction. Full acceptance is a long process. The move to implement fully results management will continue and is a constant growth process. Annually, the goals will be reviewed and adapted to any changes that have affected the patrol. The organization will then respond with objectives to support the overall goals.

As new ideas are introduced, they will be reviewed in terms of consistency with organizational philosophy and compatibility with operations. Innovations are a natural byproduct of implementation.

This style of management is one which demands flexibility. In the future, the Colorado State Patrol will change and grow within the confines of short and long range goals. **FBI**

*For further information on the patrol's results management program or information system, contact the authors at:*

*Colorado State Patrol  
4201 E. Arkansas  
Denver, Colo. 80222  
(303) 757-9436*



# In the *Katz* Eye

## Use of Binoculars and Telescopes (Conclusion)

By ROBERT L. MCGUINNESS

*Special Agent  
Legal Counsel Division  
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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 first part of this article dealt with the fourth amendment principles pertaining to the use of visual enhancement devices and with the cases which have upheld their use. The conclusion deals with the cases which have found their use in the circumstances presented to constitute a search for fourth amendment purposes.

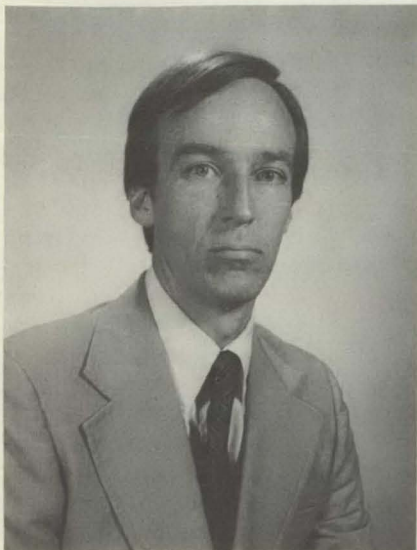
The first case to hold that enhanced viewings require a search warrant was *United States v. Kim*,<sup>43</sup> decided in 1976 by the U.S. District Court for the District of Hawaii. In connection with an investigation into suspected gambling activities, FBI Agents, positioned in a building approximately one-quarter mile away from defendant's apartment, employed an 800mm telescope with a 60mm lens opening to observe the activities within the apartment and on its balcony. There were no other buildings located significantly closer to defendant's building in his line of sight.

The Government argued that the court should adopt the reasoning of the leading cases at the time, *Fullbright* and *Hernley*, and find that because the defendant did not draw the curtains, he had no reasonable expectation of privacy from being viewed. The facts also indicated that Kim had drawn his curtains on some occasions but not on others, a fact considered significant in the later *Hicks* decision which found no reasonable expectation of privacy in similar circumstances. The court expressly rejected the reasoning of these previous cases and considered irrelevant the fact that Kim's curtains were open on some occasions but not on others. The court analyzed each of the viewings separately.

A second group of FBI Agents was located in a different building on the opposite side of, and approximately 160 feet from, defendant's apartment. From this vantage point, the second group of Agents, employing 7 x 35<sup>44</sup> binoculars, was able to keep under surveillance an outdoor terrace which connected the building elevator to defendant's apartment.



**“... the primary determinative factor is the presence or absence of a reasonable expectation of privacy of the person whose conduct, property, or documents is observed . . .”**



Special Agent McGuiness

By reason of the telescopic observations, the Agents were able to observe defendant in his apartment reading a sports journal, allegedly used in connection with gambling activities, while placing telephone calls. Other evidence was acquired from telescopic observations of the balcony and binocular observations of the terrace. The facts also disclosed that the defendant himself employed binoculars from time to time, apparently to check on whether he was under surveillance. The Government's observations were part of the probable cause supporting a wiretap order.

1) As to the telescopic observations *into the apartment*, the court held they constituted a search for which a warrant was required. In so holding, however, the court indicated that its holding was very fact-specific. First, the court asserted that not all surveillances with visual enhancement devices constitute invasions of privacy, citing with approval cases upholding surveillances in "non-private places," such as on public streets, and the *Grimes* and *Minton* cases, previously discussed. The court stressed that in *Kim* it was dealing with a surveillance "within an individual's home."<sup>45</sup> Second, the court declared that likewise it was not concerned with unaided-sense viewings. Third, the court considered as highly relevant the fact that the telescope used in this case was in the nature of "special equipment not generally in use."<sup>46</sup> And last, the court explained, "This case does not present a situation where private parties have a plain (unaided) view of the defendant's premises but government agents are forced to use visual aids because they were not able to get as close to the defendant's premises as the private parties."<sup>47</sup>

2) Regarding the telescopic observations of the balcony, the court found that these observations, if standing alone, "might very well not have invaded Kim's privacy and therefore not have constituted a search."<sup>48</sup> However, because of the difficulty in determining which evidence was derived solely from the surveillance of the balcony, the court considered all of the telescopic observations to have been the result of an illegal search in violation of the fourth amendment.

3) With respect to binocular observations of the terrace, it was held that evidence obtained from such observations was not illegally seized because, it being a shared walkway, Kim could have no reasonable expectation of privacy with respect to his comings and goings thereon.

#### Illinois Case

The decision in *Kim* was foreshadowed to some extent by a 1974 Illinois case, *People v. Ciochon*.<sup>49</sup> While the Illinois court did not decide the issue concerning the use of binoculars in that case, it made the following observation:

"We can find no distinction in law between overhearing conversations by means of electronic devices and observing a person's conduct by the use of binoculars. Permissibility of their use depends upon the surrounding circumstances."<sup>50</sup>



## Hawaii Decisions

Following on the heels of *Kim* are two recent State court cases from Hawaii. In *State v. Kender*,<sup>51</sup> an officer obtained permission to enter the backyard of defendant's neighbor in an attempt to verify a "tip" that marihuana plants were growing in defendant's backyard. The officer could not see the area in which the plants were alleged to be growing because of the presence of a growth of tall California grass in the yard. To solve this dilemma, the officer climbed three-fourths of the way up a wire fence on the neighbor's property, and using a 60-power telescope, was able to see the offending marihuana plants, approximately 150 feet away. In resolving the case, the court did not feel compelled to decide whether the area observed was within the curtilage, since the court reasoned, in view of *Katz*, a mechanical application of the curtilage doctrine was no longer sufficient to resolve fourth amendment questions. The court held that defendant had a reasonable expectation of privacy in this area of his yard by reason of the natural barrier created by the tall grass and considered that such privacy was invaded by the position that the officer assumed in making the observation. There was no mention of the telescope's contribution to the intrusion.

In *State v. Ward*,<sup>52</sup> however, the specific issue of enhanced viewing was addressed. An officer, acting on a tip that gambling was taking place in a seventh-floor apartment, took up a position in a hotel approximately one-eighth of a mile away. From this vantage point and with the aid of 10 × 30

binoculars, the officer observed the occupants within the apartment through an uncurtained window from approximately 1:00 a.m. to 2:00 a.m. He concluded that gambling activity was taking place inside. The apartment was located at a distance from other buildings so that the activities within were not observable with the naked eye. The court, not impressed with the fact that the window was uncurtained, held that the use of the binoculars violated defendant's reasonable expectation of privacy because defendant's conduct within the apartment was not exposed to public view by the naked eye. "[I]f the purpose of the telescopic aid is to view that which could not be seen without it, it is a constitutional invasion."<sup>53</sup>

## California Analysis

The test formulated in *Ward* seems to have been adopted from the first California case to squarely address the viewing enhancement device question, *People v. Arno*.<sup>54</sup> Suspecting the operation of a pornographic film enterprise, an officer conducted a 10-day surveillance of an eighth-floor office in the Playboy Building. The officer positioned himself on a hilltop 200 to 300 yards from the building at a height approaching the sixth or seventh floor of the building and aided his vision by means of 10-power binoculars. The court found that the conduct involved in this case was not visible to anyone using the naked eye in view of the position of the office in the building. As such, the court held that the observations violated defendants' reasonable expectation of privacy and approved the following principles and test:

"(1) the use of optical aids in the nature of binoculars, telescopes and the like is not itself determinative of

the admissibility in evidence of the product of the observation;  
(2) the primary determinative factor is the presence or absence of a reasonable expectation of privacy of the person whose conduct, property, or documents is observed;  
(3) reasonable expectation of privacy in the context here involved is tested by the extent to which the person has exposed his conduct, property, or documents to public view by the naked eye;  
(4) if the purpose of the optically aided view is to permit clandestine police surveillance of that which could be seen from a more obvious vantage point without the optical aid, there is no unconstitutional intrusion; and  
(5) if the purpose of the optical aid is to view that which could not be seen without it, there is."<sup>55</sup>

Interestingly, the court also stated that its decision is not inconsistent with *Fullbright* and *Hernley*, because in those cases, the activities could have been seen without optical aids.

## Second Circuit Per Se Approach

The latest case on the subject, *United States v. Taborda*,<sup>56</sup> goes further than *Kim*, *Ward*, and *Arno*, establishing a per se rule that any telescopic observations into residential premises constitute a search, even though the activities may have been viewable by the naked eye. Officers assigned to a Drug Enforcement Administration (DEA) Task Force employed their unaided vision, and at times, a 36-power



**"Even in jurisdictions which have ruled favorably on the use of viewing devices, it would be wise to seek a warrant where probable cause exists."**

telescope in order to observe objects and activities within a first-floor apartment located less than a full story above street level in Flushing, N.Y. The law enforcement officers were located on the third floor of an apartment building directly across the street, approximately 190 feet away. From this vantage point, the officers, without a search warrant or other prior judicial authorization, were able to observe the occupants prepare cocaine for "street" sale.

Based upon these observations, a search warrant was issued to search the apartment for the narcotics and related paraphernalia, and pursuant thereto, items were seized. At a suppression hearing, defendant challenged the warrant on the ground that the affidavit in support of it was based upon illegally seized evidence, namely, the telescopic observations made without the authority of a warrant.

The court held that any *unenanced* viewing into premises made from a location where the agents had a right to be did not constitute a search for fourth amendment purposes. "However, any enhanced viewing of the interior of a home does impair a legitimate expectation of privacy and encounters the Fourth Amendment's warrant requirement, unless circumstances create a traditional exception to that requirement."<sup>57</sup>

Thus, to the extent that the observations in *Taborda* were made with the naked eye, they were lawful; to the extent that they were made with the telescope, they "were improper without a search warrant and could not form the basis for issuance of a warrant."<sup>58</sup> Accordingly, the appellate court remanded the case to the District

Court in order to determine what objects and activities were observed by the naked eye and whether such observations constituted probable cause for issuance of the search warrant.

The court's reason for its rule is the idea that the use of visual enhancement devices "risks observation not only of what the householder should realize might be seen by unenhanced viewing, but also of intimate details of a person's private life, which he legitimately expects will not be observed either by naked eye or enhanced vision."<sup>59</sup>

#### **Warrant Requirements**

If the officer, prior to making enhanced visual observations, seeks a warrant, are there obstacles to overcome in obtaining a proper warrant and in executing it? Analogous decisions of the U.S. Supreme Court indicate that constitutional standards are not a bar to obtaining a warrant or executing it.

As far as describing the property to be seized, it would appear to meet constitutional requirements if simply the type of visual images sought are described, since the exact images cannot be known until they occur.<sup>60</sup>

As to compliance with other standard statutory requirements, such as serving a copy of the warrant on the person whose premises are searched, time constraints, receipt and inventory requirements, there is authority for the warrant-issuing authority fashioning a particular order fitting the circumstances of the case. The U.S. Supreme Court has indicated approval for such procedures.

In *Osborn v. United States*,<sup>61</sup> the Court found nothing constitutionally defective with a special order issued by two U.S. District Court judges directing the installation of a recording device on the person of a prospective witness

for the purpose of recording conversations between him and an attorney for the defendant then on trial. The Court emphasized that the order was based upon an affidavit setting out, in detail, the probable cause for the search and that the order itself fully complied with the particularity requirements of the fourth amendment. The Court further noted that "[t]he requirements of the fourth amendment are not inflexible, or obtusely unyielding to the legitimate needs of law enforcement."<sup>62</sup>

In *Berger v. New York*,<sup>63</sup> the Court described in greater detail the specifics of the order issued in *Osborn*:

"[T]he order authorizing the use of the electronic device afforded similar protection to those that are present in the use of conventional warrants authorizing the seizure of tangible evidence. Among other safeguards, the order described the type of conversation sought with particularity, thus indicating the specific objective of the Government in entering the constitutionally protected area and the limitations placed upon the officer executing the warrant. Under it the officer could not search unauthorized areas; likewise, once the property sought, and for which the order was issued, was found the officer could not use the order as a passkey to further search. In addition, the order authorized one limited intrusion rather than a series or a continuous surveillance. And, we note that a new order was issued when the officer sought to resume the search and probable cause was shown for the succeeding one. Moreover, the order was executed by the officer with dispatch, not over a prolonged and extended period. In



this manner no greater invasion of privacy was permitted than was necessary under the circumstances. Finally the officer was required to and did make a return on the order showing how it was executed and what was seized. Through these strict precautions the danger of an unlawful search and seizure was minimized."<sup>64</sup>

With respect to the general requirement found in statutes that a copy of the search warrant be served, the Court in *Katz* indicated that advance notice is not constitutionally required where it would frustrate the objectives of the search and noted that the provision of the Federal Rules of Criminal Procedure (Fed. R. Crim. P.) dealing with the issuance and execution of Federal search warrants (Rule 41) does not require service of a copy of the warrant upon commencement of the search.<sup>65</sup>

In *United States v. New York Telephone Company*,<sup>66</sup> the Court held that a court order authorizing the installation and use of pen registers was valid. The order provided for surveillance over a 20-day period. Although no specific Federal statutory provision could be cited as authority to issue this type of order, the Court found that Rule 41 of the Fed. R. Crim. P. was broad enough to include the issuance of special orders within its scope. The Court found this conclusion also supported by Rule 57(b) Fed. R. Crim. P. which provides that "[i]f no procedure is specifically prescribed by rule, the court may proceed in any lawful manner not inconsistent with these rules."<sup>67</sup>

## Conclusion

There are only a dozen or so cases which have ruled on whether the use of binoculars and telescopes to view into premises constitutes a

search. The courts that have concluded that such use does not violate one's reasonable expectation of privacy have done so mainly on the basis that the individual should have simply "pulled the shade" if he expected privacy. Other factors that have been considered include: (1) The level of sophistication of the device employed,<sup>68</sup> (2) the nature of the area being viewed,<sup>69</sup> (3) the type of precautions taken by the suspect to insure his privacy,<sup>70</sup> (4) whether the suspect employed curtains on some occasions but not on others,<sup>71</sup> (5) whether the device is employed merely to confirm earlier observations made with the unaided eye,<sup>72</sup> (6) the unusualness of the position required to be taken by the officer in order to make the observations,<sup>73</sup> (7) the distance of the officer from the activity observed,<sup>74</sup> (8) the time of day that the observations were made,<sup>75</sup> and (9) whether the activities could have been viewed with the naked eye by the public (*i.e.*, where officers require the visual aid so as not to reveal the surveillance or because they are not able to get as close to the area as private parties).<sup>76</sup>

This last factor is the primary consideration of the Hawaii and California State courts in assessing whether one's reasonable expectation of privacy has been infringed. On the other hand, the U.S. Court of Appeals for the Second Circuit has adopted what seems to be a flat ban on the warrantless use of visual enhancement devices, at least to view into residential premises.

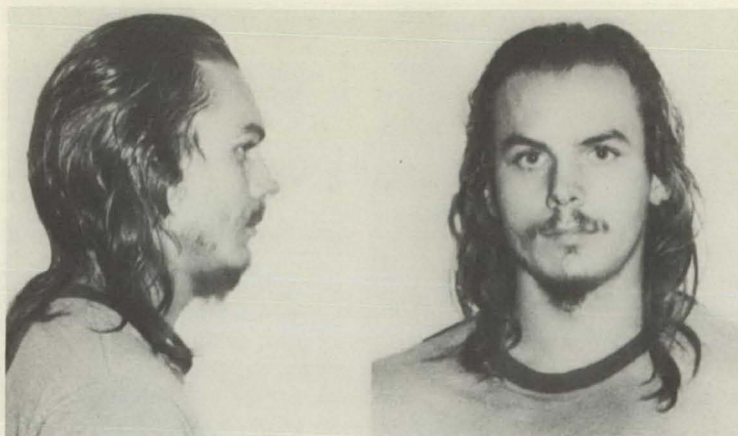
Even in jurisdictions which have ruled favorably on the use of viewing devices, it would be wise to seek a warrant where probable cause exists. A court, though having ruled favorably once, might decide the issue differently based on a different set of facts. The significant problem, though, for law enforcement is where probable cause does not exist. Law enforcement will lose a valuable tool for developing probable cause if courts, following the precedents now established, continue to rule that the use of visual enhancement devices requires a warrant. **FBI**

## Footnotes

- <sup>43</sup> 415 F.Supp. 1252 (D. Hawaii 1976).
- <sup>44</sup> Binoculars are measured by an "A x B" expression. "A" represents the magnification power; "B" measures the diameter in millimeters of each front lens. The larger the front lens, the more light the binoculars are able to pick up.
- <sup>45</sup> *Supra* note 43, at 1255.
- <sup>46</sup> *Id.* at 1256.
- <sup>47</sup> *Id.* at 1256 n.4.
- <sup>48</sup> *Id.* at 1257.
- <sup>49</sup> 23 Ill. App.3d 363, 319 N.E.2d 332 (1974).
- <sup>50</sup> *Id.* at 335.
- <sup>51</sup> 60 H. 301, 588 P.2d 447 (1978).
- <sup>52</sup> 617 P.2d 568 (1980).
- <sup>53</sup> *Id.* at 573.
- <sup>54</sup> 153 Cal.Rptr. 624 (2d Dist. Ct. App. 1979).
- <sup>55</sup> *Id.* at 625-26.
- <sup>56</sup> 636 F.2d 131 (2d Cir. 1980).
- <sup>57</sup> *Id.* at 139.
- <sup>58</sup> *Id.*
- <sup>59</sup> *Id.*
- <sup>60</sup> See *Berger v. New York*, 388 U.S. 41, 57 (1967).
- <sup>61</sup> 385 U.S. 323 (1966).
- <sup>62</sup> *Id.* at 400 n.9, quoting *Ohio ex rel. Eaton v. Price*, 364 U.S. 263, 272 (1960) (separate opinion).
- <sup>63</sup> *Supra* note 60.
- <sup>64</sup> *Id.* at 1051.
- <sup>65</sup> *Supra* note 1, at 355 n.16.
- <sup>66</sup> 434 U.S. 159 (1977).
- <sup>67</sup> *Id.* at 170.
- <sup>68</sup> Compare *United States v. Kim*, *supra* n.43, at 1256, with *People v. Arno*, *supra* n.54, at 627.
- <sup>69</sup> See *United States v. Kim*, *supra* n.43, at 1257-58.
- <sup>70</sup> Compare *Commonwealth v. Hernley*, *supra* n.28, at 906, with *United States v. Kim*, *supra* n.43, at 1257.
- <sup>71</sup> Compare *People v. Hicks*, *supra* n.32, at 444, with *United States v. Kim*, *supra* n.43, at 1257.
- <sup>72</sup> See *State v. Manly*, *supra* n.42, at 309.
- <sup>73</sup> See *State v. Kender*, *supra* n.51.
- <sup>74</sup> Compare *United States v. Williams*, *supra* n.38 (40-50 feet), with *United States v. Kim*, *supra* n.43 (one-quarter of a mile).
- <sup>75</sup> See *United States v. Minton*, *supra* n.40.
- <sup>76</sup> See *People v. Arno*, *supra* n.54.



# WANTED BY THE FBI



Photographs taken 1977.

## Joseph Lawrence Barney

Joseph Lawrence Barney, also known as Joe Barney, Joseph L. Barney, and Cecil Dodson.

### Wanted for:

Interstate Flight—Rape, Armed Robbery

### The Crime

Barney is being sought in connection with a series of armed robberies and violent sexual assaults.

A Federal warrant for his arrest was issued on June 27, 1978, at Sacramento, Calif.

## Description

Age .....23, born January 28, 1958, Idaho Falls, Idaho.  
 Height .....5'8".  
 Weight .....160 pounds.  
 Build .....Medium.  
 Hair .....Brown.  
 Eyes .....Blue.  
 Complexion .....Fair.  
 Race .....White.  
 Nationality .....American.  
 Scars  
     and Marks .....Tattoos: Large eagle on chest and Harley Davidson logo with "My life to live" on right arm.  
 Occupations .....Carpenter's helper, auto body repair, and mechanic.  
 Social Security  
     No. Used .....549-04-4558.  
 FBI No. ....400 560 V10.

## Caution

Barney, a drug user who may have suicidal tendencies, has been known to be armed with handguns and knives and should be considered armed and dangerous.

## Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, 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:  
 121012PO10171117CI13  
 Fingerprint Classification:  
 12 S 9 U OOO 10  
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Right index 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 \_\_\_\_\_

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State \_\_\_\_\_

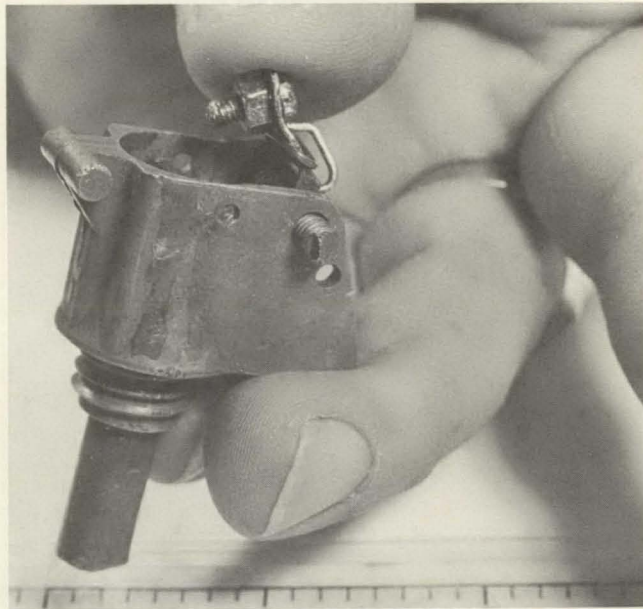
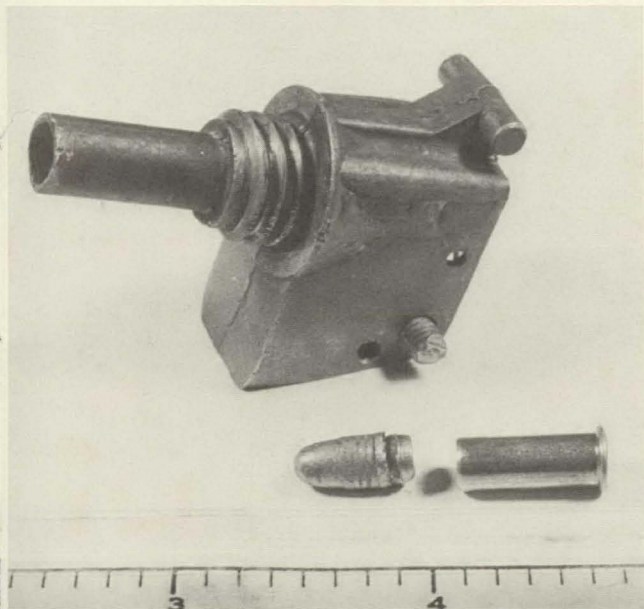
Zip \_\_\_\_\_

## .22-Caliber Weapon Made From Detonator Top

This homemade weapon was found by an 8-year-old boy in a residential area of Oceanside, Calif.

The weapon was made by taking the detonator top of a hand grenade, drilling out the primer, and inserting a .22-caliber bullet. The spring-loaded firing pin was drilled, and a small Phillips screw was bolted into the center of the firing pin.

*(Submitted by the City of Oceanside, Calif., Police Department)*





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## **Interesting Pattern**

This interesting and unusual pattern is an accidental whorl with three deltas. The tracing, obtained by tracing from the extreme left delta toward the delta on the extreme right, is outer.

