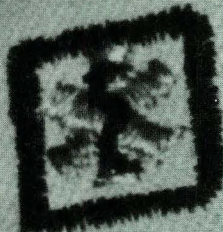


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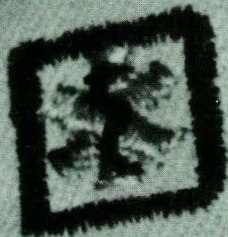
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"To protect and serve"

FBI LAW
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BULLETIN

JULY 1982



EMT



"To protect and serve"

FBI LAW ENFORCEMENT BULLETIN

JULY 1982, VOLUME 51, NUMBER 7

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The motto "to protect and serve" has taken on new meaning for the Blue Springs, Mo., Police Department. See article, page 1.

**Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535**

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through December 28, 1983.

Published by the Office of Congressional and Public Affairs,
Roger S. Young
Assistant Director

Editor—Thomas J. Deakin
Assistant Editor—Kathryn E. Sulewski
Art Director—Kevin J. Mulholland
Writer/Editor—Karen McCarron
Production Manager—Jeffrey L. Summers



Blue Springs Police EMT Program

By
LOUIS COX

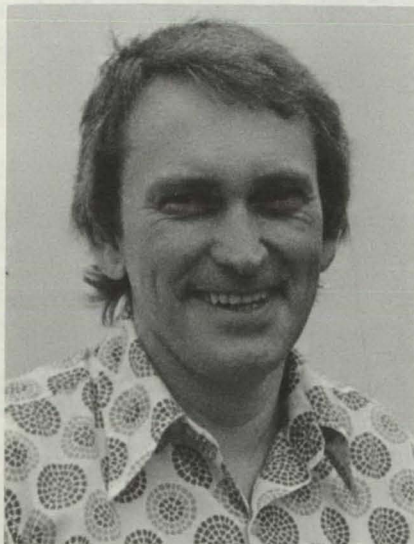
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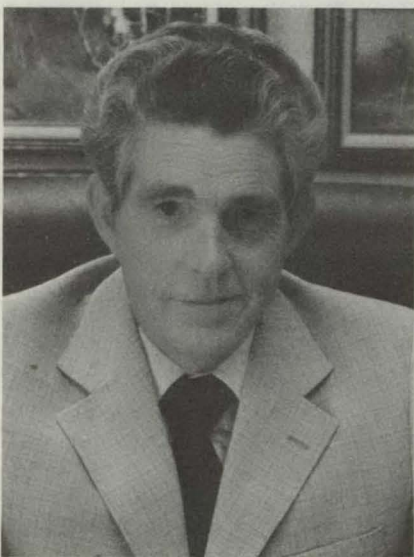
*Chief of Police
Police Department
Blue Springs, Mo.*

Scenario: The police officer who wrote you a speeding ticket 20 minutes ago is now busy controlling serious arterial bleeding from an open leg fracture your child suffered when she was hit by a car in front of your house. A second officer gently takes another blood pressure reading and radios the information to paramedics enroute to the accident scene to provide advanced medical care. Seem unusual? Residents of Blue Springs, Mo., have discovered this is no longer a rare occurrence.





Mr. Cox



Chief Brown

The Blue Springs Police Department, with the cooperation of Emergency Medical Service (EMS) Department paramedics, is completing the final phase of a program to certify 100 percent of its 24 road patrolmen as emergency medical technicians (EMT's). Beyond the CPR capability required of every city employee in Blue Springs, these officers are trained to recognize and provide emergency management of wide-ranging medical problems resulting from accident or illness.

The proposal to include police officers as an integral part of an advanced EMS system was conceived in 1978. It was theorized that police on patrol were usually first on the scene when a call for emergency assistance was received. Because proper management in the first few minutes of an emergency often means the difference between life and death, knowing what to do was essential for the officers. Moreover, this kind of training might well safeguard paramedic crews and other police officers responding to potential emergencies whose chances of being involved in an accident increase three-fold when using lights and sirens. On-the-scene EMT's can provide an educated evaluation of patient condition. If the condition is not life-threatening, other personnel could be advised to flow with normal traffic patterns when responding.

Police EMT's have already had a significant impact on the EMS system in this fast-growing city of 30,000. Computerized EMS Department data printouts reveal one particularly interesting statistic in regard to victims who have been discovered without pulse or respirations—a state of clinical death. In 80 percent of the cases where these patients have been successfully resuscitated (a return of heartbeat and breathing), basic life support in the form of CPR had been initiated by police EMT's before the arrival of EMS paramedics. Once advanced life support was available, the police EMT's remained to assist paramedics, usually providing one officer to drive the ambulance and one to assist with treatment in the patient compartment enroute to the hospital. Many people owe their lives to this dedication.

The use of police EMT's also allows Blue Springs to maintain a second emergency ambulance on "standby" should the primary unit be in use when a second call is received. A designated on-duty police EMT responds to EMS headquarters to drive the standby unit and to assist an EMS standby paramedic in treating patients. This reduces the risk of a 15-minute to 45-minute response time for an out-of-town emergency ambulance.

Blue Springs was fortunate that the basic components necessary to integrate this program effectively into its EMS system were already in place when the proposal was first seriously advocated. These included the State's first 911 emergency telephone network, an all-paramedic EMS Department with persons qualified and willing to teach EMT courses, central dispatching and communications for fire,

"Because proper management in the first few minutes of an emergency often means the difference between life and death, knowing what to do was essential for the officers."

police, and EMS, a dedicated body of police officers willing to undertake the extra training and responsibility, an excellent rapport between police and EMS personnel, and a city administration committed to providing budgetary support and extensive community support for the advanced EMS system as a whole.

City managers, mayors, and city councils will have at least three pertinent questions when considering cross-training police as EMT's, including:

- 1) How much does it cost?
- 2) How long does it take?
- 3) What benefits can our city derive from the investment?

The cost varies, depending upon the city's resources and the extent to which the officers are willing to involve themselves in the program. Blue Springs elected to pay its officers overtime if they attended classes when off-duty. The following is an average breakdown of training costs per individual officer:

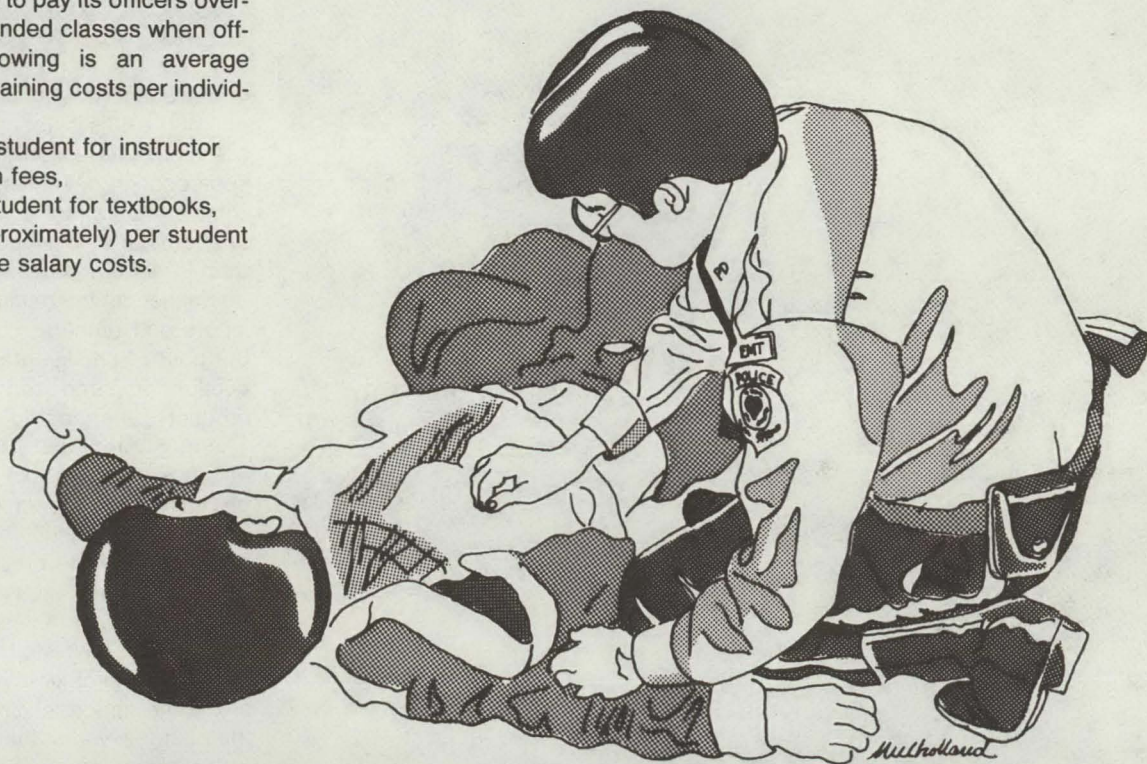
- 1) \$125 per student for instructor and tuition fees,
- 2) \$25 per student for textbooks,
- 3) \$300 (approximately) per student in overtime salary costs.

An average State-approved EMT course entails about 120 hours of classroom instruction and 10 or more hours in a hospital emergency room (30 4-hour sessions, 2 sessions per week, 16 weeks of training).

The use of police EMT's increases the quality of emergency care. In many regions, be they rural or urban, there is a significant time lag between the request for an ambulance and the availability or arrival of the needed unit. With a few basic supplies, the police EMT can be a crucial stopgap in the chain of patient care, rendering basic emergency support until the arrival of a qualified mobile medical unit. It may literally be a question of saving lives.

Officers involved in the Blue Springs' pilot program report expanded confidence in their own abilities; some of the other fringe benefits of the training are less easily defined. Perhaps the most important of these benefits—a relatively unexpected benefit—involves how the community perceives the role of the police officer. Patrol personnel have always been considered primarily as enforcers—a new dimension is now emerging. Suddenly, officers are also emergency health care specialists, working desperately at times to preserve life in a nontraditional manner and adding a new freshness to an old motto—"to protect and serve."

FBI

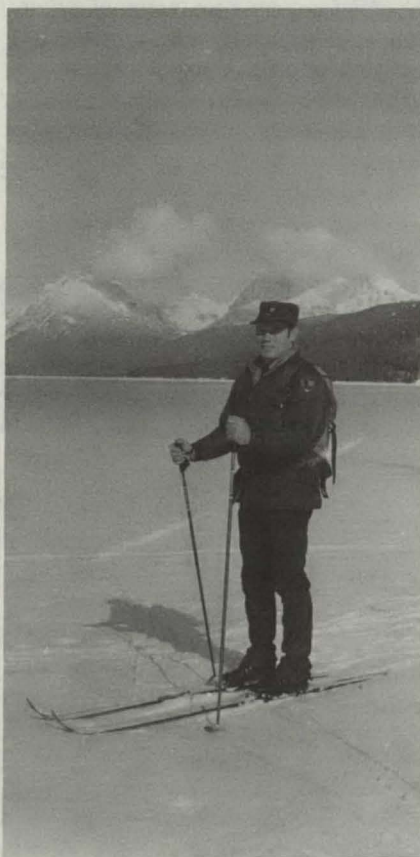


Productivity

A Challenge for the 80's

By
JAMES H. AUTEN

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Productivity—that's what the decade of the 80's is about. How does one get more production from existing resources. Not only must industry in the United States solve the productivity problem but so must police administrators. In general terms, productivity can be defined as the relationship between inputs and outputs. For industry, it is the cost of providing a product to the public compared to the profits the product generates for the company. The more profit that can be generated at the lowest possible cost, the more productive the operation. Number of dollars is the usual measure at the output end of the process while input costs are usually measured in terms of both human and material resources.

Police administrators face similar productivity problems; however, there are some important differences. Over the past few years, the police administrator has seen his resources at the

input stage diminish while the need for the product of these resources has increased. This phenomenon is quite likely to get worse before it gets better—if it ever does improve. Certainly, the police administrator who honestly expects to be permitted to hire additional personnel in the next few years is the exception rather than the rule. The prospects for a leveling off of this trend are bleak. As fewer public dollars—all the police administrator has to rely on since his organization does not produce profits—are available, and as other public service agencies in the community are able to provide fewer services to the community, it is highly likely that the demand for services from the law enforcement agency will increase. The demand will not disappear; it will simply shift from one public service agency to another—the police.

As a result, the police administrator is faced with the problem of obtaining more productivity from existing levels of resources, knowing full well that those resources will probably diminish in the future in the face of an increasing demand for the output of those resources. Fortunately, for the police administrator, even though his resources at the input level will not be increased in terms of actual numbers, the resource he has can be expanded. The primary resource of any police agency is the personnel it employs. Approximately 90 percent of the dollar resources of a typical police agency are expended to meet personnel costs. Since the departments' primary resource is people, and since people have the capability of growth through development of unrealized potential, the police administrator has the capability of expanding the output of his resources without having to actually realize an increase in those resources.

This potential for increasing the output of the resources without actually increasing the level of resources rests in the concept of improving the job performance of the officers. Productivity can be improved simply by improving job performance of the officers.

There are various alternatives for the police administrator who is seeking ways to improve the productivity of his officers through improved job performance. Methods of managing the demands for service, of more efficiently allocating and deploying patrol personnel, and of developing alternative patrol strategies all hold the promise of improving productivity. Even though the police administrator has some alternatives to employ in this endeavor, the potential for the success of all the alternatives lies in the same source—people and the manner in which they, as individuals, perform their jobs. Accordingly, if the police administrator is to see his organization realize the potential of these alternatives, there must be, within the organization, a system for effectively evaluating the job performance of these individuals. Before job performance can be improved, it is necessary to know both how and how well the job is being done. Only then can ways to expand the productivity of the people and the jobs they do be devised.

Performance Appraisal Systems

Even though most police departments have performance appraisal systems, most of them are woefully inadequate in terms of suitability for measuring the on-the-job performance of police officers. These systems are predominantly based upon misconceptions of what police officers do. The misconceptions continue to prevail in spite of substantial evidence to the contrary. A quick glance at the instruments used by most police departments in appraising the job performance of officers reveals categories such as appearance, cooperation, loyalty, interest, attitude, judgment, attendance, personal factors, knowledge of work, etc. Most of these evaluative judgments are usually based on numbers of arrests made, traffic citations issued, field interviews conducted, property inspections completed, and crimes investigated.

All of these categories reflect important considerations and duties conducted by the patrol officer, but to a large extent they do not comprise the majority of his on-the-job performance. Numerous research studies have consistently revealed that the vast majority, estimated from 70 percent to 90 percent, of the patrol officer's working day is spent in activities that are not directly related to crime or the enforcement of law. Most of the officer's time is spent in subtle ways of maintaining order within the community or in providing miscellaneous public services to members of the community. If a per-

"All too frequently, goals are formulated by police administrators in an organizational vacuum with little or no input from other members of the organization."

formance appraisal system is going to assess the quality and quantity of an officer's job performance, it must examine what that officer is actually doing on the job and not what we might think, wish, or hope he is doing. This is the first step in improving job performance and making individuals more productive.

Essentially, the process of appraising the job performance of individual officers is nothing more than evaluating the quality and quantity of their work. When we do this, we are engaged in the process of determining or fixing the value of that work which entails making judgments. However, the process of making judgments that permit us to place some value on work performed is not quite as simple as it may sound. Judgments are usually made relative to certain personal expectations regarding what is being judged whether it be the behavior of our children, friends, boss, or people who work for us. What makes the process somewhat unfair is that we tend to keep these expectations to ourselves—we fail to communicate them to those being judged. As a result, many times persons are being judged by an expectation standard of which they are unaware. It is very difficult to measure up to the expectation of another when we do not know what those expectations are.

Organizations also fail to communicate their expectations to their employees. Most police administrators can probably state the goals of their department within the community, and most police officers probably have a vague notion of the department's goals. However, how many departments have taken the time to both formally consider and formulate these goals, and more importantly, how many departments have formally communicated these goals to every member of the organization? How many departments have further enhanced the probability of attaining these goals by developing specific objectives to be accomplished by each element and individual within the organization? The department may have a goal of crime prevention, but has it communicated its expectations of how each individual in the organization is to contribute to the attainment of that goal? In the final analysis, this is what performance appraisal is all about. It is the process of communicating the department's expectations about the quality and quantity of work performance and then judging the value of that job performance according to those expectations.

The overriding objective of any performance appraisal system should be to permit these value judgments to be made so that performance weaknesses/deficiencies can be identified and corrected in order to improve job performance. At the same time, the appraisal system should identify individuals whose performance exceeds the expectations. More specifically, the objectives of performance appraisal are:

- 1) To keep employees informed as to what is expected of them and how well they are doing in meeting these expectations;
- 2) To recognize and reward good work on the part of employees;
- 3) To recognize weaknesses in employees so they can be corrected;
- 4) To recognize strengths in employees so they can be built upon;
- 5) To identify employees who would profit from specific types of training and to identify general departmental training needs;
- 6) To provide a continuing record of an employee's performance;
- 7) To guide decisions in matters of promotion, transfer, suspension, termination, and other personnel matters;
- 8) To verify existing performance standards;
- 9) To check the accuracy of existing job descriptions or classifications; and
- 10) To verify the accuracy of recruitment and selection practices.

If these objectives can be attained, it is possible to know *what* employees are doing, *how* they are doing it, and *what* specific steps need to be taken to improve job performance, thereby improving individual and departmental productivity.

Developing an effective performance appraisal process requires the development of an evaluation system which will be comprised of several components. The first of these components, departmental/organizational goals, has already been examined;

however, its importance cannot be overemphasized. To be effective and efficient, organizations need goals. Goals are a general statement of purpose or intent of an organization. They should reflect what the organization is attempting to accomplish in the community, and as such, should mirror the expectations of the community. As communities vary, so will their expectations concerning the police department. A set of goals established by one department for its operations will not necessarily be appropriate for another department in a different community setting.

Another consideration in the goal setting process involves the manner in which the department formulates them internally. All too frequently, goals are formulated by police administrators in an organizational vacuum with little or no input from other members of the organization. The exact opposite should be the case. As mentioned previously, if goals are to have meaning, they must be communicated to and *understood* by all members of the organization. Additionally, members of the organization must perceive the goals as being desirable and attainable, or it will be unlikely that they will expend any effort toward their attainment. Formally seeking and thoughtfully considering the input of organizational members is a necessary step in satisfying these concerns. Only after members of the organization have an

understanding of what is to be accomplished can any consideration be given to how it will be accomplished.

Determining how the goals of the organization will be accomplished leads us to the second component in the performance appraisal system—the job description. The job description should contain an item-by-item listing of the principal duties/tasks, responsibilities, and accountability for each position within the organization. It should be a clear statement of the department's expectations of how each position in the organization should function/perform in fulfilling its role in attaining the organizational goals.

If the performance appraisal process is to be effective, there must be a job description for every position within the organization. If a position does not contribute to the attainment of an organization's goals, it should not exist. Each position should influence the overall productivity of the organization. Unless job descriptions exist, individuals have no way of knowing what duties are to be evaluated.

Since job descriptions are of such importance to the performance appraisal process, it is essential that they reflect the job as it is actually being done. The role of the police officer in our society has changed substantially in the past several years and will probably continue to change. As the job changes, so should the job descriptions. Attempting to make judgments about the performance of personnel based upon job descriptions that were written 10 to 15 years ago serves no meaningful purpose. Having valid job descriptions for each position within the organization permits the development of the third component in the performance appraisal system—performance standards.

Job descriptions delineate what individuals in various positions should be doing to further the attainment of organizational goals; performance standards delineate the department's expectations of *how* individuals are to perform in meeting the requirements of the job descriptions. Performance standards should be written for each task/duty listed in the job description. These performance standards become the "yardstick" by which judgments are made regarding the value of individual job performance.

From Organizational Goals to Performance Standards

An example of the developmental sequence from organizational goals to performance standards would be as follows:

- 1) *Organizational Goal*—To ensure the safe, efficient movement of vehicle and pedestrians in the community.
- 2) *Job Description*—To enforce existing traffic laws as appropriate. (For purposes of this example, only one task relating to the goal has been selected—obviously there would be others.)
- 3) *Performance Standard*—In looking at the single task/duty selected from the job description, there are at least three possible performance standards that need to be developed, including knowledge of existing traffic laws, the parameters of individual officer discretion so that the "as appropriate" expectation might be fulfilled, and the proper completion of traffic citations.

"It is in the creation of specific objectives that the potential for individual job improvement rests."

For the purposes of this example, let us use one of the standards cited—the proper completion of the traffic citation. The performance standard might look like this: When completing a traffic citation, officers of this department shall use only a black ballpoint pen. All necessary information will be printed in legible form. Officers should exercise care to ensure that all information is recorded accurately and that all appropriate blocks are completed. At the completion of each tour of duty, officers will turn in their completed citations to their immediate supervisor for review.

Returning to the criteria for a well-written performance standard, this standard can be evaluated as follows:

- 1) *What is to be done*—Completion of a traffic citation.
- 2) *How it is to be done*—Officers of this department shall use only a black ballpoint pen. All necessary information will be printed in legible form. Officers should exercise care to ensure that all information is recorded accurately and that all appropriate blocks are completed.
- 3) *How it is to be evaluated*—At the completion of each tour of duty, officers will give their completed citations to their immediate supervisor for review.

Clearly, the process of developing performance standards for each task/duty contained within a job description and for each job description within the organization is extremely time-consuming. However, it is the only way to develop the criteria necessary to make valid value judgments about the adequacy of individual job performance.

Performance standards must be developed to incorporate all aspects of individual job performance. Currently, most police departments have developed performance standards to measure the aspects of a patrol officer's job performance that directly relate to enforcement of the law and control of crime, such as arrests made, traffic citations issued, field interviews performed, complaints investigated, property inspections completed, etc. It is simply a process of recording and comparing numbers—numbers that can be manipulated. Appraising performance based upon these numbers is a legitimate part of the process, but its significance has been vastly over-emphasized. Since much of what a police officer does has nothing to do with crime or enforcement of the law, attempting to base the evaluation of an individual's contribution to the attainment of organizational goals by making judgments based upon the numbers generated from law enforcement-related activities is to base the judgment on only a small portion of the officer's total activity. If the performance appraisal system is to serve its intended purpose, performance standards must exist for those activities that are not directly related to the control of crime or the enforcement of the law. To do otherwise is to overlook most of what a police officer does.

Specific Objectives

A meaningful system for performance appraisal should include the creation of specific objectives. Up until this point in the developmental sequence, the focus has been on departmental expectations—departmental

goals, departmental job descriptions, and departmental performance job standards. While all of these components relate to the successful performance of the job, they do not directly relate to the individual capabilities of the person performing the job. Specific objectives exist to put the performance expectations of the organization into individual terms, i.e., what each individual needs to do to perform the job successfully. Because each of us has different abilities and capabilities, we cannot be expected to perform a given task/duty in exactly the same manner as another individual.

It is in the creation of specific objectives that the potential for individual job improvement rests. When these objectives are created by the supervisors in consultation with each of their subordinates, and an attempt is made to go beyond the maintenance of the status quo, and incentives are provided to motivate subordinates, there is a possibility for improved job performance and increased productivity. In writing specific objectives for individuals, it is important that they be:

- 1) *Stretching*—Objectives should take the employee beyond their current status performance and personal growth.
- 2) *Attainable*—Objectives should be realistic in the sense that the individual is capable of reaching the objective. Unless the individual sees the objective as attainable, it is unlikely that he will expend the effort necessary to reach it.

- 3) *Measurable*—Progress toward the attainment of the objective should be measurable or there is no meaningful way to evaluate progress/growth.

Essentially, when supervisors sit down with subordinates to formulate specific objectives, they are forming a "contract" that becomes the basis for future performance appraisals which, in turn, requires the formulation of new specific objectives for each officer each time the performance appraisal process is conducted. If an officer's performance already exceeds the performance standard, specific objectives should still be formulated if there is ever to be improved performance.

It is quite legitimate for performance standards to reflect the minimum acceptable level of performance expected by the department, acknowledging the individual differences in humans. However, it is important to remember that the ultimate purpose underlying the formulation of specific objectives is to take people beyond their current capabilities.

Although the final component in the performance appraisal system, an incident file, is not mandatory, its existence makes performance appraisal easier. If a performance appraisal system is to be effective, the judgments being made about the value of work performed should be made on the basis of personal observations. Unfortunately, time has a way of blurring the image of how others do their jobs. The "halo effect" commonly experienced by evaluators is a manifestation of the passage of time. Maintaining an incident file helps the evaluator avoid this phenomenon, making the process more objective. This type of file consists of notations on the significant aspects of an individual's performance

made either on a regular basis or as they occur. If someone performs some job-related task/duty in a manner that exceeds expectations, that fact should be noted. Conversely, it should be noted when an individual performs a job in a manner that falls below the expectation. Supervisors should log all counseling sessions they have with subordinates following a less-than-satisfactory performance of a task/duty. In this manner, overall, rather than isolated, performance can be evaluated. The incident file should be an open system, accessible to both the supervisor and the subordinate. Keeping a "black book" defeats the intended purpose of the file—open communications between the supervisor and subordinate.

When reviewing the components in the performance appraisal system, it becomes apparent that each component is linked to and builds on the other. The existence of organization/departmental goals requires the development of job descriptions; the existence of job descriptions requires the development of performance standards; the existence of performance standards requires an objective appraisal of progress made in improving job performance. When all of these components are linked in proper sequence, there exists a process that permits the meaningful appraisal of job performance, and more importantly, the process can become a vehicle for individual growth and development, resulting in increased individual and departmental productivity.

Today, most police administrators have already been confronted with the dilemma of "getting more from less." Available evidence indicates that many of them are making a concerted effort to resolve the dilemma, and not surprisingly, they are having some success. While resolving the dilemma in the face of diminishing resources and increasing demands for the product of these resources, the police administrator should find solace in the fact that his primary resource—people—is expandable. Productivity can be improved by improving officer job performance. The key to improving individual job performance is in objectively assessing the value and meaning of each individual's unique contribution to the organization. A valid performance appraisal process permits the assessment of this value. Through its use, it is possible to identify each individual's strengths and build upon them to improve job performance.

The potential of the human resource is the most wasted resource in this country. None of us really come close to realizing our full potential. When we begin to work toward that goal, we will begin to realize our capacity for improvement. Then, and only then, will we begin to solve the "get more from less" dilemma.

FBI

The Police Problem Employee

By
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Quantico, Va.*

Police supervisors at all levels are concerned with the marginal and unsatisfactory police employee. They analyze causes and symptoms in an effort to understand and to solve the complex problems of job disaffection, dissatisfaction, contraorganizational behavior, and reduced performance.

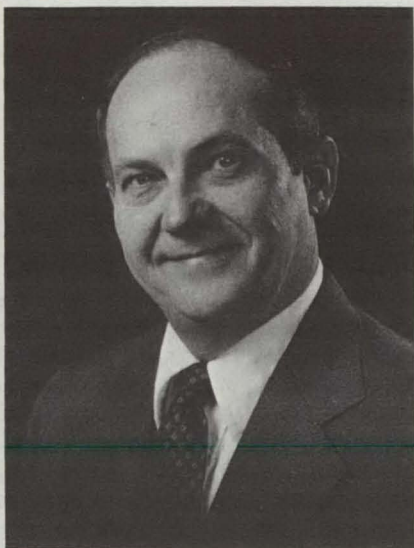
With steady increases of cost-push inflation¹ and the attendant effects on the costs of recruiting, selection, and training, police managers are looking more closely at ways to improve the performance of current employees. Those officers and police employees who are judged marginal or unsatisfactory are coming under closer scrutiny by police managers for several reasons. Efforts are being directed at finding the causes of marginal performance and in determining solutions to the problem.

This article explores the issue of the marginal performer in the police department and the changing environments in today's society that have created different employee expectations, and therefore, disaffection and marginal performance. As part of this examination, the article also considers the results of a 1981 survey of police managers' perceptions of employee performance and offers some suggestions for dealing with marginal performance.

The Clay-Yates Study

The results of a research study conducted by Special Agents Reginald R. Clay and Robert E. Yates of the FBI Academy indicated the scope of the problem of marginal police performers. The researchers set out to identify and profile the police marginal and unsatisfactory employee by using a questionnaire survey given to a nationwide sample of police supervisors and managers.²

The Clay-Yates study was completed in early 1981. One hundred and eighty-three randomly selected participants of the 117th Session of the FBI National Academy responded to an initial survey instrument. The instrument was modified for validation and then given to an additional 1,200 law enforcement supervisors. Five hundred and fifty-three of these were used to derive a significant sample of data for consideration.³



Special Agent Robinette

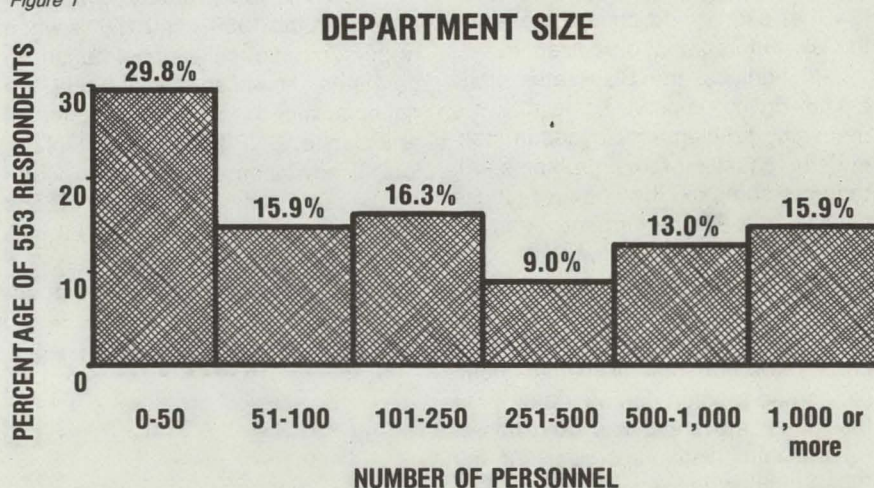
The study respondents were all supervisors of law enforcement personnel. Ninety-seven percent of the respondents had been police supervisors for over 2 years; 93 percent had been in police work for 7 or more years. The respondent group represented a variety of departments and agencies: 16 percent were from departments of 1,000 or more sworn personnel; 54 percent were from departments of intermediate size; and 30 percent were from small departments (50 or fewer sworn personnel). (See fig. 1.)

garded this employee as their most serious problem. The second most frequently occurring problem was absenteeism and tardiness (19.9 percent) followed by resistance to change (11.2 percent). (See figs. 2 & 3.)

Police Problem Employee Profile

An examination of the Clay-Yates data produces a profile of the police problem employee in the United States today. The problem employee is a male officer assigned to patrol or investigation who has some college education and is between 25 and 39 years

Figure 1



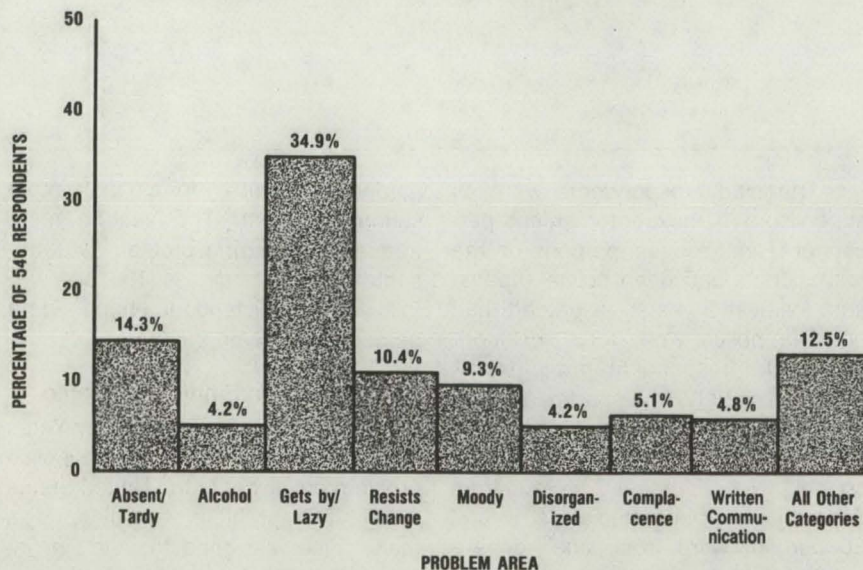
The researchers set out to identify employee problem areas by frequency of occurrence and severity of the problem. Those surveyed were given 16 choices of problem behavior and asked to select the most frequently occurring and the most serious. The responses indicated that the most frequent employee problem area is often viewed as the most serious; 38.5 percent cited the most frequently occurring problem was the police officer who did "just enough to get by." The data also indicated that the supervisors re-

of age. As stated before, the most frequent and most serious difficulty is that he does only enough work to get by. The study shows that the largest single group of these employees (28 percent) were 30 to 34 years of age and had 6 to 10 years' service with the department. (See figs. 4 & 5.)

Implied in the study is a definition of problem employees. The marginal performer is one who has demonstrated the ability and willingness to perform well, but who is actually doing only "enough to get by on the job." ⁴ The

Figure 2

MOST SERIOUS EMPLOYEE PROBLEM AREA



unsatisfactory employee is one whose level of performance is consistently below that established as acceptable by the law enforcement organization.

In addition, the Clay-Yates study asked police supervisors who were managing problem employees to identify the causes of the problems. Although complex by nature, these causes of poor performance can be broadly assigned as follows: (a) External influences, i.e., factors away from the job environment, (b) the personal and unique weaknesses of the individual, (c) departmental mismanagement, i.e., organizational forces other than the immediate supervisor, and finally, (d) the immediate supervisor. Of the Clay-Yates study respondents, 39.9 percent laid the blame of poor performance on the individual employee; 26.9 percent located the cause in outside influences; 26.6 percent accused departmental mismanagement; only 6.6 percent fixed responsibility on the immediate supervisor. (See fig. 6.) In 60 percent of the cases, the duration of marginal performance had extended over a year.⁵

A clear understanding of marginal performance necessitates a closer examination of some of these causes.

External Factors

Today's young police employee grew up in the 1950's and 1960's when a personalistic philosophy began to permeate American society and the national mood focused on material abundance, GNP growth, and technological advancement. American workers began to change the kind of jobs they performed. In the 1950's, 65 percent of the work force was engaged in industrial occupations and only about

17 percent was employed in information (personal service) occupations. In the following 30 years, the number of Americans in industry dropped to 27 percent while the ranks of the "white-collar" information worker rose to 58 percent in 1980.⁶

During the 1970's, a "self-fulfillment" movement started to spread throughout the United States. By the late 1970's, national surveys showed more than 7 out of 10 Americans (72 percent) spent a great deal of time thinking about themselves and their inner lives.⁷ Traditional values were completely reversed, and the self-denial ethic which once fueled the faltering engines of industry was lost in the search for self-fulfillment.

The rising expectations of an expanding middle class and the higher educational levels of those entering the work force combined to produce a perception of needed self-fulfillment. Police departments were not excepted. During this time, the U.S. President's

Figure 3

MOST FREQUENT PROBLEM AREA

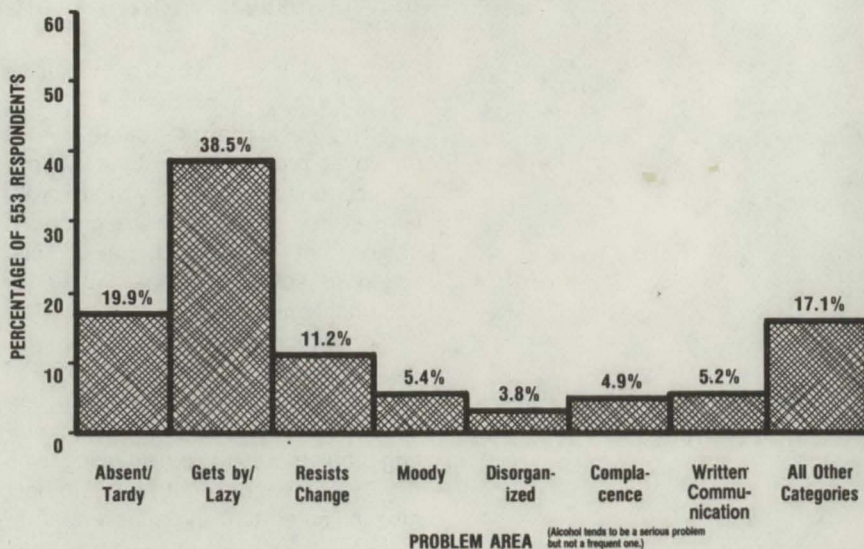
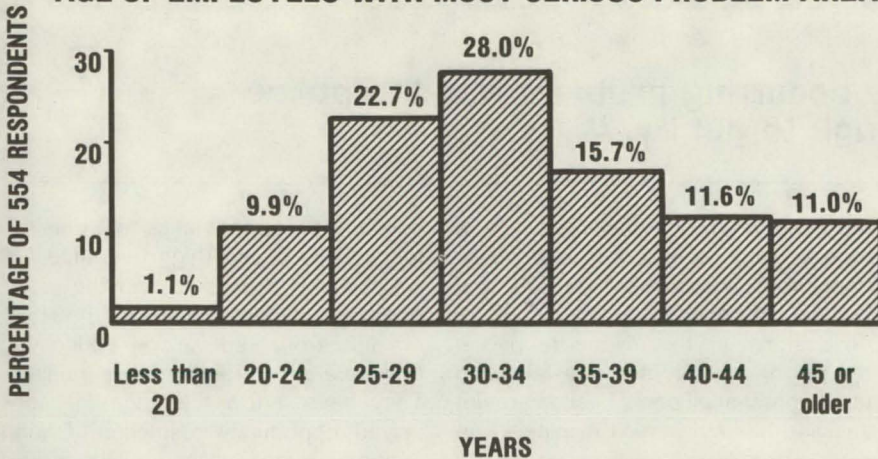


Figure 4

AGE OF EMPLOYEES WITH MOST SERIOUS PROBLEM AREA



Commission on Law Enforcement and Administration of Justice called for the professionalization of police. The U.S. Congress voted large Federal appropriations to increase police officer education and management training.⁸ With subsequent liberal LEAA educational funds, law enforcement and criminal justice programs proliferated in newly created junior colleges and technical schools, as well as on traditional campuses. Previously, such programs were not available to the police aspirant. Education raises personal expectations. Those entering the police profession during the 1960's and 1970's brought expectations of advancement and personal income growth which tra-

ditional police departments can scarcely meet. Such a reality is bound to cause individual frustration and other discontent manifested in "burn out" and other forms of counterproductive behavior.

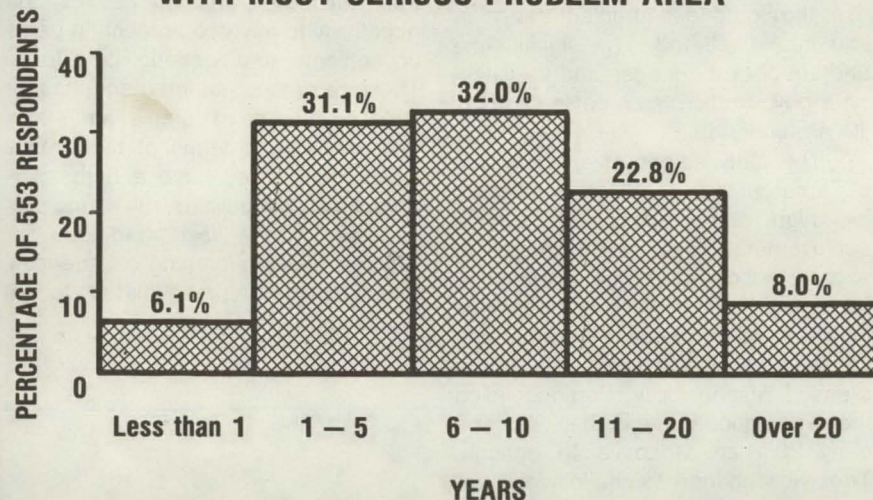
The police "problem employee" of the 1980's comes from that social, economic, and psychological turmoil. The pervading cultural psychology of affluence has reversed the self-denial ethic; the tradition of police service to the community is, in some instances, also reversed. Those who entered police service seeking affluence and self-fulfillment become bored with routines and cynical toward the public after the excitement of mastering police skills is

gone.

Traditional police organization structures leave very little room at the top for large numbers of educated recruits. In 1977, 42 percent of the officers of departments surveyed by the Police Executive Research Forum had associate or higher degrees.⁹

The officers came to police work with expectations of promotion, pay increases, and enlarging job responsibilities. Not all of the expectations can be met. Frustration occurs, enthusiasm for the job diminishes, and behavior changes, often for the worse. Moreover, many of the young recruits joining departments today bring with them a psychology of affluence which moves them to seek increasing salary levels. This attitude flies in the harsh face of economics. Cost-push inflation and antitax movements, such as Proposition 13 in California and Proposition 2.5 in Massachusetts, combine to strain public revenue. Cutback Federal and State budget management requires police to share smaller and smaller portions of public revenues. Budget cuts affect salary levels. Consequently, there is less to go around at a time when individual expectations of affluence are rising. Such countervailing forces are another source of frustration for the individual officer.

TENURE OF EMPLOYEES WITH MOST SERIOUS PROBLEM AREA



Time-Psych Zones and the Expectation Curve

Coupled with social change are the individual, physical, and mental developments of each person's life. These circumstances of personal change can be described as "time-psych zones." Daniel L. Levinson published the results of a study of basic importance in his book, *The Seasons of a Man's Life*.¹⁰ It is the first such study which explains adult development according to an age-linked time-

“... the most frequently occurring problem was the police officer who did ‘just enough to get by.’”

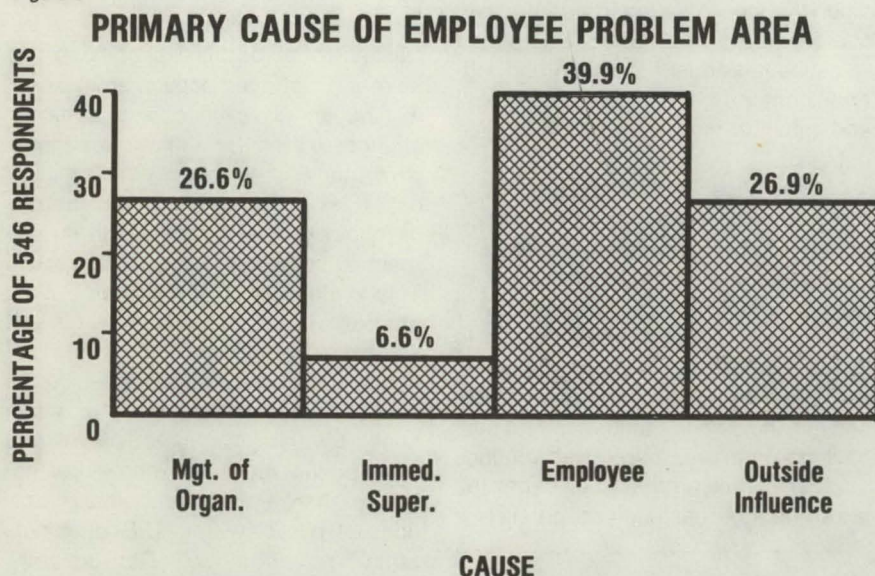
table. He relates each stage of development to a man's job as the primary base for his life in society. The findings indicate that as we grow older, motivation patterns change. Personal, physical, and environmental circumstances change. Needs change; therefore, behavior changes.

uct sales. The individual needs more money, more leisure, and more freedom from commitment to job and home. As Yankelovich claims, “. . . desires are infinite. Anyone trapped in the fallacy that the self is a failure to the extent that all one's desires are not satisfied has set herself or himself up

resenting new opportunities for achievement. They have a high tolerance for negative hygiene factors in the work environment and conditions.¹² They are future-oriented, seldom reflective, and have a high readiness for training. They have a low tolerance for perceived opportunity restriction. Often, they equate self-fulfillment with career advancement and will consider any real or imagined attempt to restrict their advancement with animosity and resistance.

As officers peak on the expectation curve (usually during or just after Levinson's midlife transition), they adjust their expectations. Motivation patterns and other job performance characteristics change. Those on this flat downside of the expectation curve are resistant to change. They often view a change in tactics, procedures, or policy as a threat to their new-found stability and will actively resist change, or worse, try to subvert it. The old saying about “not being able to teach an old dog new tricks” applies some folk wisdom to the reality. These officers also have a low tolerance for hygiene negatives and can take personal offense at minor adjustments in their work environments. They respond negatively to any deterioration in perks or seniority and working conditions. They are present-oriented and think of success in terms of completing today's task and not in terms of tomorrow's assignment. They have a high tolerance for stable policies, rules, and procedures and a low readiness for training, new job-learning experiences, and additional career-related formal education. (See fig. 7.)

Figure 6



Time-psych zones are the zones of personal expectations which change with age. In early adulthood, during one's first major job responsibility, achievement expectations run strong and high. These are modified by experience and reality during the midlife transition and become settled only through the turbulence of the transition. Often, this transition is marked by confusion of needs and desires. The desire to acquire additional possessions, to taste life in the fast lane, to travel to new places, and to meet new and important people engaged in exciting activities are all seen as needs. Personal goals are shaped by the marketing media which also raises these expectations in order to increase prod-

uct sales. The individual needs more money, more leisure, and more freedom from commitment to job and home. As Yankelovich claims, “. . . desires are infinite. Anyone trapped in the fallacy that the self is a failure to the extent that all one's desires are not satisfied has set herself or himself up

for frustration.”¹¹ Stability is regained during the middle-adult era and carries over through a less turbulent transition into late adulthood. The significance and effect of the stages and transition on a police officer's career and work-life are important. The early stages of a police officer's career are usually characterized by high expectations of service achievement. He often daydreams of exciting successes in his assignment. He views the successes as necessary coin with which to buy preferment and career-enhancing assignments of increased responsibility. Persons riding the expectation curve in their 20's and early 30's are adaptive to change. They view change as challenging, pre-

The results of the Clay-Yates study support this expectation curve phenomenon. The large majority of marginal police performers fall in this age group. As reflected in the data, the average marginal performer has between 8 and 16 years' police service.

Change Comes to the Police Department

Changes in the social environment, values, demographics, technology, and economy have all combined to create a managerial atmosphere of turbulence. Once the most stable of municipal organizations, police departments now struggle through strikes, reorganizations, new public policy, and vastly increased operating costs. Between 1967 and 1977, the per capita cost of policing in a large city had risen from \$27.31 to over \$91, an increase of over 257 percent.¹³

Police work is labor-intensive. The human resources are the most effective of the resources applied in policing and also the most costly. Any cost-reduction analysis or efficiency-improvement effort must focus on improving human resource management. The intuitive perception of this reality has generated concerned interest in the management and salvage of the marginal performer.

The marginal or unsatisfactory performer is costly to police organizations. The difficult work of solving the problem of the marginal employee is discomforting to police managers. Some say it is impossible to take effective action because of legal restraints or union policies. Others cite lack of training in managerial skills for shift supervisors and first-line commanders. All are uncomfortable when confronted with the problem employee. Uncom-

fortable or not, however, police managers must seek solutions.

The Management Challenge

If these data and the trends they suggest are accurately understood, they raise new challenges for police managers. The first is to analyze carefully the factors which contribute to marginal police performance; the second is to find ways to keep the job alive for those who once did it well and with enthusiasm but who have now lost their motivation. Finally, police managers must develop and use effective coaching and documentation skills.

The first challenge, which is analytical in nature, is the most difficult. The police manager is action-oriented. He thrives in an atmosphere of activity. He has little time, inclination, or training for thoughtful reflection. George Odiorne identifies this predisposition as an "activity trap." He writes:

"The activity trap is a self-feeding mechanism if you do not turn it around. Everybody becomes attached to some irrelevancy and does his or her job too well. Its ultimate stage is when the [chief] himself loses sight of why the [department] exists, and demands more and more activity rather than results. . . .

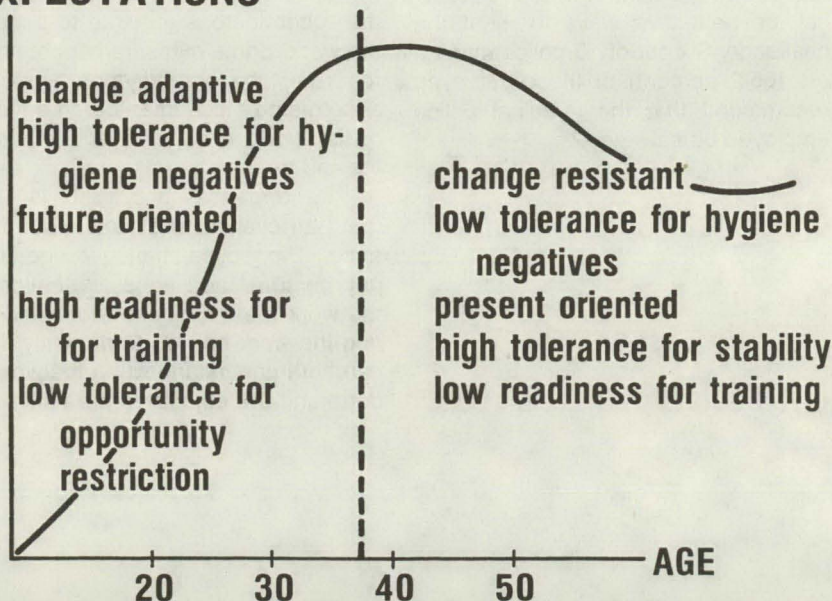
"Meanwhile, all this activity eats up resources, money, space, budgets, savings, and human energy like a mammoth tape worm.

"While it is apparent that the activity trap . . . fails to achieve missions, it has an equally dangerous side-effect on people; they *shrink* personally and professionally." ¹⁴

Figure 7

The Expectation Curve

EXPECTATIONS



"Success can be obtained by a recommitment to excellence by the police manager, by a sensitive and attentive concern for the officers under his leadership, and by the acquisition and development of managerial skills."

Without constant attention to the results and contributions that a police manager expects of his subordinates, the manager falls into the activity trap. Some of his subordinates will shrink into the rote process of a job and lose sight of its goals and objectives. With the sure knowledge that activity without goals is wasteful, it is no surprise that these officers become bored or dissatisfied.

As Odiorne points out, however, the trap is not inevitable. It can be resisted and circumvented by enlightened and analytical leadership. The challenge of supervisory analysis calls for the police manager to focus on results in directing his subordinates, then clarify and communicate the results to the people doing the work. Only then will the work itself produce the satisfaction and enthusiasm that keeps the police employee productive. This is not an easy task, but it is specifically managerial and executive in nature. Where the symptoms of marginal performance are unenthusiastic and dissatisfied officers, the manager would do well to find out whether looking busy has become safer than being productive.

The next challenge is finding ways to energize employees. With clear goals and objectives identified, how does the police manager secure employee commitment and enthusiasm for task accomplishment?

The answer here lies in the manager's own commitment and enthusiasm. He must avoid the danger of transparent management, which is the depersonalized processing of organizational directives. If he becomes an executive rubber stamp, he will be viewed as an empty suit, not an effective police manager.

The third challenge is that of developing one's own perception, understanding, and communication skills. To meet this challenge, the police manager must examine his own assumptions about the marginal performer. He must test those assumptions against his wider and probably more objective nonorganizational experiences. He must learn to be sensitive to the expectations of his subordinates. He must also keep in touch with his own time-psych zones. More attention is now directed at officers and employees who are not meeting standards.

Daniel J. Bell, writing in *The Police Chief*, verbalizes the interest when he says: "... there needs to be a concentration of effort to move the 'drone' type police officer into other careers outside the police profession."¹⁵ Who is the "drone-type police officer" Bell refers to? Can causes of poor performance be identified and how can they be remedied?

A decision for dismissal or a decision for salvage with the required coaching and counseling must be made. Salvage and renewal are practical, cost-effective ways to meet the challenge. Six out of 10 police managers (65.2 percent) of those surveyed recommend that the marginal police employee be salvaged.¹⁶

Dismissal is difficult and impossible without documentation. Changes in the legal environment, especially those brought on by affirmative action, equal employment opportunity, and the women's movement require job analyses and validated performance standards. Job analysis and validation were activities that were formerly not required of the police. Standards are determined and stated. Formal defense of standards and associated personnel actions are now required, if not in a court of law then in an appeals commission or grievance board.

Strangely, the procedures to support either a dismissal or salvage decision are similar. Effective coaching and a permanent, legal termination begin with documentation. The manager must begin with a clear concept of the unit's goals and objectives. These must be communicated to the employee clearly. The work the employee is expected to do must relate directly to the goals and objectives and be so explained to the employee. The manager is required to plan carefully the marginal subordinate's work, just as the subordinate is required to perform the work. Some measurement of progress must be agreed upon. Performance must be documented on a timely basis; appraisal must be regular, realistic, and frequent.

Performance appraisal is just that—an evaluation of actual performance. The police manager needs to pay personal and honest attention to the work the marginal performer does and the work he fails to do. Only then can both understand when the work is done and the objectives are achieved.

The manager has the opportunity to reinforce behavior in a nondestructive and objective way. The manager's feedback is the employee's guide to improving performance.

Significantly, almost half of the supervisors polled in the Clay-Yates study (44.5 percent) claimed success in dealing with their problem employees. The probability of success is good, but success is the result of difficult managerial work.

In these times of shrinking resources, police managers are looking for ways to do more with less—ways to meet the rising public demand to reduce violent crime, restore peace and tranquility, and spend fewer public dollars. There is no room for continued marginal performance in police work. Success can be obtained by a recommitment to excellence by the police manager, by a sensitive and attentive concern for the officers under his leadership, and by the acquisition and development of managerial skills. **FBI**

Footnotes

¹ The term "cost-push inflation" is used to describe the inflationary spiral in which increasing costs act to push up prices and wages in a cyclical effect.

² *Problem Employee Survey: An Analysis of Employee Problem Areas in Law Enforcement*, Reginald R. Clay and Robert E. Yates, FBI Academy, Quantico, Va., 1981, p. 3.

³ "Of the 1,200 law enforcement supervisors surveyed, questionnaire responses from 535 were selected. The screening factors for selecting questionnaires for gathering meaningful data were gleaned from the following questions: (1) Does the respondent currently supervise employees? and (2) Does he have a problem employee?" Clay-Yates, p. 23.

⁴ Clay-Yates, p. 6.

⁵ Clay-Yates, p. 67.

⁶ John Naisbett, "The Bottom-Up Society: America Between Eras," *Public Opinion*, April-May 1981, p. 19.

⁷ "In the nineteen-seventies, all national surveys showed an increase in preoccupation with self. By the late seventies, my firm's studies showed more than seven out of ten Americans [72%] spent a great deal of time thinking about themselves and their inner lives—this in a nation once notorious for its impatience with inwardness. The rage for self-fulfillment, our surveys indicated, had now spread to virtually the entire U.S. population." Daniel Yankelovich, *New Rules: Searching for Self-Fulfillment in a World Turned Upside Down* (New York: Random House, 1981), p. 5.

⁸ *The Challenge of Crime in a Free Society*, A Report by the U.S. President's Commission on Law Enforcement and Administration of Justice, U.S. Government Printing Office, Washington, D.C., p. 109. The Commission recommends: The ultimate aim of all police departments should be that all personnel with general enforcement powers have baccalaureate degrees."

⁹ Michael T. Farmer, ed., *Survey of Police Operational and Administrative Practices—1977* (Washington, D.C.: Police Executive Research Forum, 1978), p. 63.

¹⁰ Daniel J. Levinson, *The Seasons of a Man's Life* (New York: Alfred A. Knopf, 1978).

¹¹ Yankelovich, p. 238.

¹² Frederick Herzberg says there are two elements which create employee motivation—the job itself and the hygiene factors. He describes hygiene factors as those things and circumstances incidental to work itself, such as salary, fringe benefits, working conditions supervision, policies, procedures, rules, and regulations. These can be viewed either as positive or negative and can cause dissatisfaction or satisfaction but cannot be viewed as motivators because true motivation, according to Herzberg, comes from the job itself, its scope, its value, and the sense of accomplishment it provides.

¹³ U.S. President's Commission, 1967, p. 91; Farmer, p. 13.

¹⁴ George S. Odiorne, *The Change Resisters* (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1981), p. 16.

¹⁵ Daniel J. Bell, "The Police-Personnel Upgrading for Professionalism," *The Police Chief*, vol. XLV, No. 1, January 1978, p. 32.

¹⁶ Clay-Yates, p. 65.

By
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*Chief of Security
Massachusetts State Lottery
Braintree, Mass.*



Security of a Multimillion Dollar Lottery

The Massachusetts lottery came into existence in September 1971, when the legislature established a five-member commission and set in motion the mechanics of what would develop into a \$200 million-a-year business by 1981. In the 6 frenzied months following the passage of legislation, 120 employees were hired, 4,000 stores (called sales agents) were enlisted to sell tickets, 700 branch banks were organized to act as ticket distribution points and depositories, and 4 additional commission members were appointed to work with the State treasurer, who also served as chairman of the commission in accordance with the statute.¹

Security at the Massachusetts State Lottery Commission is as much a part of the business as the smiles on the faces of the million-dollar winners. Following the appointment of chief of security by the commission, the first priority was to establish background

investigation procedures for all potential lottery employees. Joining the staff at the outset were security officers with investigative experience in Federal, State, and local law enforcement agencies and a security guard force to provide the necessary physical security, thereby providing the basic elements for fraud prevention and protection of assets. All lottery security officers have statewide special police powers to make arrests for any criminal offense committed in connection with the operation of the lottery, under warrants issued by the Massachusetts Department of Public Safety.²

Security Measures

Lottery headquarters is located in Braintree, Mass., a suburb 11 miles south of Boston. All accesses to the building are covered by closed-circuit television, with monitors mounted at the security desk in the front lobby. Additional hall and room cameras in

high-security areas are monitored by members of the security guard force, which is on duty 24 hours a day, 7 days a week.

Employees and visitors must obtain identification badges at the security desk before proceeding to any part of the building. The rear and side doors are alarmed and wired to the main security desk. When in use, such as for delivery of tickets, the security desk is notified and the alarm shut down. After business hours, the alarms remain in force and only the front door provides access.

In higher risk areas, i.e., computer rooms, ticket distribution area, and rooms storing drawing equipment, security measures include closed-circuit television and electronic and sound alarms. Entrance to the computer and distribution rooms is provided by key card access boxes. Each employee assigned an access card is given an individual code designed to allow that



Mr. Weinstock

employee entrance only into areas in which he is authorized.

Although visitors obtain an identification tag at the security desk, they can proceed into the building only when accompanied by the employee with whom they have business. The visitor must also sign a register when entering and exiting the building.

Ticket Security

Security officials targeted the prevention of counterfeiting or alteration of the preprinted lottery tickets as one of the top priorities. Basic to the protection of the weekly game is the numerical sequencing of the tickets, which are printed inhouse on high-quality stock by high-speed printers. A control number system having 1 million possibilities assigns the numbers sequentially to each ticket, thereby preventing the possibility of repetitions. In order to sell more than a million tickets, the random numbering was repeated in multiple pools identified by letter. During the first sales period, 9 pools of 1 million tickets were offered to prospective winners. As a result of the first weekly drawing, seven persons won \$50,000; the other two possibles were returned to the lottery unsold.

Ticket stock is purchased under bid procedures and stored at lottery headquarters. The stock is numbered sequentially in order to account for every blank ticket prior to the computer runs, since it is the six-digit number the player will use to match for prizes. To prevent tampering, a control number unique to each ticket must match the winning number on the computer file in

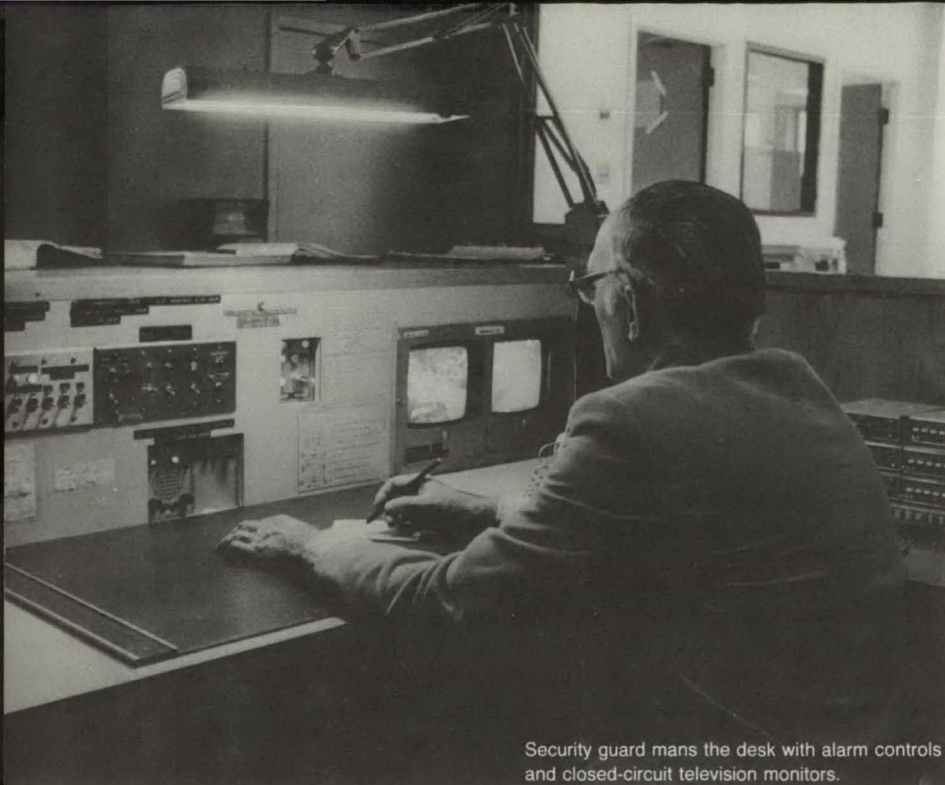
order for the prize to be paid. In addition, the name of the store to which the ticket is assigned is also printed on the face, as is the drawing date. Weekly game tickets are printed 5 weeks in advance, then are held in a high-security area until the time for distribution.

Sales agents at the store level are allowed to pay prizes up to \$25. Above that, the ticket must be returned to lottery headquarters for validation and processing. Each claimed prize is entered into the computer file by a key-punch operator and must match the weekly winning number for the drawing date and the control number. Prior to the weekly drawing, unsold tickets are returned to headquarters where the playing numbers and control numbers are entered into the computer file, voiding them for contention in that week's drawing.

The lottery was in operation only 2 months when there was an opportunity to test the security of the numerical codes. Following a weekly drawing, a young man brought a ticket with the winning number to the claim center to collect the \$50,000 prize. A photographer, who was in the center at the time, took a picture of the ostensible winner and delivered it to newspapers and wire services that published the story and picture throughout the State.

When the claim form and attached ticket reached lottery headquarters later that day for routine processing, it was immediately apparent that the ticket had been altered. The serial numbers originally assigned to the ticket were not those of a winning combination.

Security personnel contacted the claimant, who boldly told them he would pursue the prize money. The proper paperwork was assembled, and a warrant was sought for the young man's arrest on charges of uttering an



Security guard mans the desk with alarm controls and closed-circuit television monitors.

altered lottery ticket, a felony under the statute.³ He was arrested, tried on the charge, and found guilty following testimony by lottery security and computer personnel. Since then, there have been few prosecutions for ticket forgery.

Security surrounding the *drawing* of the weekly winning number is as rigid as that governing the printing process. Total integrity of the drawing process is necessary to demonstrate to the buying public that each ticket has the chance of being a winner.

"Untouched by human hands" was an advertising slogan used to promote a product now long forgotten, but it still applies to the device used by the Massachusetts lottery to draw the winning numbers. At the heart of the system are 13 numbered, balanced lucite wheels, each containing digits from 0 through 9 in a unique random sequence. Within each of the wheels is a small red rubber ball, similar to a child's toy. The perimeters of the wheels are louvered and inside, between each digit, are small lucite triangles to separate the numbers. Each wheel is enclosed in a clear plastic box. Six of these boxes are mounted on the Big Money Game board, in an order determined by a computer pro-

gram. At the appropriate time, the only element needed to activate the wheels for number selection is compressed air.

Every Wednesday evening at 7:30 p.m., the weekly winning number is drawn live on a half-hour television show broadcast from a major Boston studio. The weekly drawing is part of the Big Money Game Show on which contestants have the opportunity to compete for the biggest prizes that the lottery offers—\$100,000 (paid \$10,000 a year for 10 years) and the million-dollar prize.

When the program reaches the point at which the weekly number is to be drawn, the cohost of the show simply opens a valve attached to a compressed air tank holding the air at 130 pounds per square inch. The air, forced through six small nozzles beneath the wheels, blows against the louvered rims, which causes the wheels to spin in a blur. The air is released for approximately 5 to 6 seconds, and the wheels spin on their own axles for about 45 to 50 seconds. Inertia and the weight of the rubber ball slow each wheel until the ball finally comes to rest in 1 of the 10 possible digits in each wheel. Even if a lead ball were inserted, the wheel would still spin, and while

it would make fewer rotations, the spot at which it would stop could not be predicted.

Wheels are tested periodically for bias by spinning each 100 times and noting the position each time the ball stops. Once a month an independent testing laboratory checks each axle for balance. When the wheels are not in use, they are stored in a locked room under 24-hour audio and visual surveillance. They are removed 2 hours before the Wednesday evening show and transported to the television studio by a member of the security department. At the conclusion of the television show, they are returned to the locked facility at lottery headquarters.

A similar set of wheels and procedures are used to determine the nightly winning number in the lottery's Daily Numbers Game. Four digits are selected each night at 10:30 p.m. at lottery headquarters in a drawing open to the public and subject to the same security provisions as the weekly drawing.

Instant Game Lottery

Very different problems were encountered when the Massachusetts lottery decided to introduce the first Instant Game in the country.

In 1974, after months of study, the Massachusetts lottery, in conjunction with a private firm, developed a concept which would take all lotteries in a new direction. The idea was to sell a game in which all tickets would be a self-contained lottery, i.e., a player would know whether the ticket was a winner simply by matching numbers or symbols on the card. This presented obvious difficulties in preventing alterations of tickets.

The initial stumbling block was overcome by the development of a latex coating to cover the numbers a player would use to determine a win-

"Security at the Massachusetts State Lottery Commission is as much a part of the business as the smiles on the faces of the million-dollar winners."

ner. The coating devised could not be candled, and handlers and retailers would not be able to discern if a given ticket was a winner. If the coating was disrupted before sale, the ticket was ruled ineligible for purchase. A second vital security measure was taken by printing a unique code number on each ticket. This, too, was covered with the latex coating, but marked with the warning "Void If Removed." That number was the key in the computer file to the playing numbers on the face of the ticket. One copy of the master file was retained by the printer and a second copy was kept by the lottery's validation department.

Lottery personnel oversaw the printing of tickets at the plant, and the finished products, packaged in booklets of 300 tickets each, were shuffled in a random fashion for distribution. When the packets reached lottery headquarters, a further random sequence was assigned to the delivery system by a second block of lottery employees, who were not privy to the printing pattern. The distribution guaranteed that no employee of the printing company or the lottery would be in a position to pinpoint where any of the high-level winners might be purchased. The top-level instant prize was \$10,000. Remaining major prizes, up to

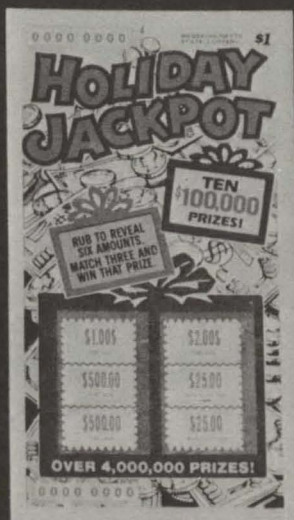
the first prize of \$1,000 a week for the rest of the winner's life, were distributed through a drawing at the conclusion of the game. As a matter of record, that prize was won by a 24-year-old South Boston woman in 1974, who told lottery officials that she planned on living a good long life.

As a step to check possible alterations, it was required that all tickets worth more than \$10 would be submitted to the lottery for validation. They were subjected to visual scrutiny and matched against the VIRN (Void If Removed Number) to establish that the ticket was indeed a winner on the master file.

The Instant Game printing, distribution, and monitoring system worked so smoothly that in the ensuing years, the final drawings were eliminated. In the past 2 years, all prizes are contained on the tickets, including 10 top prizes of \$100,000 each.

The Daily Numbers Game

Bringing the lottery into the most competitive aspect of legalized gambling, the Daily Numbers Game required as much preparation as the previous games. The lottery began with the premise that the illegal numbers purveyor in Massachusetts paid \$600 for a \$1 bet on a three-digit exact win and between \$3,000 to \$4,000 for a four-digit exact win. To make the program attractive to bettors, a winning payout system was devised that would keep the average payoff higher than the illegals. A parimutuel payoff was developed based on 60 percent of the income for a given night. Calculating that the most attractive wagers were three exact and any order, or boxed in the parlance of the streets, and four exact, it was determined that an average of \$5,000 would be paid to winners



Instant Game tickets (above) with latex covering intact on left and control numbers with covering removed from playing area on right. Weekly ticket with control number and weekly drawing number pictured below.



“... efforts made to guarantee the integrity of the products over the years has paid off in public confidence and an increasingly successful operation.”

of a four-digit exact bet and an average of \$700 for a three-digit exact winner. A player of the lottery's Numbers Game would end up with more money in his pocket, after paying the taxes, then he would playing with an illegal operator, where custom demands that the runner be paid a 10-percent bonus on wins.

Prevention of fraud was again a main objective in setting up the Numbers Game in 1976. The commission determined that a system which could be implemented statewide would have the most appeal at the outset, and a network of machinery and personnel was set up to take the daily bets. Betting slips were designed to come with three copies, one for the customer, one for the store, and one for the lottery. Validation machines were purchased to stamp the slip with the name of the store, the date, and a sequential code number identifying the machine and providing a chronology of the day's business.

The machines were relatively simple devices, yet contained several security elements which prevented tampering. Among these is a special ink used for the numbering stamp and a unique bar code within the 12-digit code itself.

To prevent past-posting, a lottery employee who picked-up the slips each day would open the validating machine and advance the date with a small pencil-line instrument. A slip would be run through the machine by the lottery courier, indicating that all the betting for the day was concluded, and any business taken after that point would apply to the next day's business. The employee arranged the slips in sequence. From the so-called "end slip" of the prior day to the current one, the only slips the lottery would honor for that night's drawing were represent-

ed by the lottery copies from that given store.

When the slips from more than 1,800 stores arrived at lottery headquarters in the evening, they were placed on microfilm which was stored in a safe. No bet would be honored unless the lottery copy appeared on the microfilm. After the microfilm was stored, all slips would be read by high-speed optical scanners. All pertinent information was picked off the slips and stored on computer tape. Bet types, total dollar value, the number of days played, and the bettor's number were recorded.

Once all the slips had been read

and the information stored, the winning number would be drawn in the manner detailed previously. The winning number would be fed into the computer and a simple long division would determine that among the players holding winning tickets, 60 percent of the income would be divided.

The lottery system was challenged early in the Numbers Game by attempts to frustrate the security of the system. One method involved collusion between a customer and a store clerk. The clerk would run a blank slip through the validating machine and imprint on it the date and name of the store, as well as a sequence number

One of 500 online computers for the Daily Numbers Game tied to lottery headquarters.



which would appear to be well within the range of the day's business. The perpetrators would then hold the lottery copy out of the day's collection, and following the winning number selection, would fill in the three copies with the winning number and a large \$5 or \$10 bet. The bettor's copy would be presented to the lottery for payment, but under the validation process, the claim would not hold up. Neither the original nor the microfilm copy would appear. Some claimants pushed the matter to court, and in every case, the lottery system was upheld by the judiciary.

In some flagrant cases, lottery security officers noted repeated attempts to perpetrate this fraud, and several successful prosecutions resulted. However, there has been a continued, albeit decreasing, incidence of attempts to alter the number selection after the daily drawing.

Another phase of security responsibility is to control the possibility that a sales agent may decide to withhold "number" bets from the State lottery, pocket the money, and become the bookmaker. A review of the computer printout of a suspected sales agent may reveal skips in the sequential numbers of the lottery copies of the three-part numbers coupon which are validated on that agent's machine. Several investigative techniques may be employed to determine whether the skips are machine connected or attempts to become a partner, thereby defrauding the taxpayers of Massachusetts, the beneficiaries of the lottery profits. A weekly printout discloses the identity of every agent who had any missing slips on any day of the prior week. A standard service call will determine if the machine has malfunctioned. Replacement of the tape in the machine used to print the sequential

number of the missing slip was in fact struck, thereby warranting further investigation. Of course, when a customer arrives at lottery headquarters with a validated bettor's copy of a winning number coupon to file a claim and it is determined that the sales agent did not submit the official lottery copy, it becomes more apparent that a partner of the lottery may exist. Depending on the probability and weight of evidence, possible sanctions include suspension and revocation of the sales agent's license to sell lottery products⁴ or criminal prosecution by other law enforcement agencies for violation of antigambling State law.⁵

In 1981, the lottery purchased 500 online computer terminals for use in the major retail outlets in the State. These machines have absorbed nearly two-thirds of the Numbers Game business and eliminate the courier/slip system to a large extent.

The major benefit of the online system is that each terminal is integrated by a direct line with the central computers at lottery headquarters. Within this system, security is built into the programs which control the daily operations. Each machine is activated by a key start, and the store owner is alerted at the time the machine is installed to treat the terminal with the same precautions he would his cash register.

Once the machine is turned on, a unique agent's code must be entered on the keyboard to begin the day's activity. A bettor may then make a transaction by filling out a betting card or by verbally telling the clerk his bet—number, type of bet, length of play, and amount. The clerk then simply keys the information on the terminal.

The unique coding device prevents any unauthorized use of the terminal and does not allow any interaction with another terminal. The store owner may key in a special program at any time during the business day, and the terminal tape will provide up to the second information on the number of wagers made and the total dollar value. It is simple then for the owner to match that information against his receipts to prevent instore fraud.

Each terminal is monitored at lottery headquarters, and repairmen are dispatched immediately in the event of malfunction.

At present there are nearly 500 terminals in operation throughout the State, and plans call for 1,000 when the program is fully implemented. With the Daily Numbers Game almost completely automated and the weekly Big Money Game tickets sold from the terminals under a new program, some of the burden of external security will be shifted to internal security—established procedures which monitor the computer personnel and programs.

In all, we are confident that the efforts made to guarantee the integrity of the products over the years has paid off in public confidence and an increasingly successful operation. Security has been the hallmark of this business which has grown from \$56 million in 1972 to \$250 million in 1981. **FBI**

Footnotes

¹ Mass. Gen. Laws. ch. 10, § 23.

² Mass. Gen. Laws. ch. 147, § 10K.

³ Mass. Gen. Laws. ch. 10, § 30.

⁴ Mass. Lottery Commission Rules and Regulations 961 CMS § 2.13(7).

⁵ Mass. Gen. Law. ch. 27.

THE INVENTORY SEARCH (Conclusion)

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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.

Part I of this article discussed the development of the law pertaining to automobile inventory searches, with particular emphasis on the landmark decision of the U.S. Supreme Court in *South Dakota v. Opperman*⁵⁸ and the subsequent implementation of that decision by the lower courts. Part II discusses the scope of an inventory search and its application to other types of personal property.

THE SCOPE OF AN AUTOMOBILE INVENTORY

As noted in part I, the Supreme Court in the *Opperman* decision suggests three important factors which can affect the determination of whether an inventory is a reasonable intrusion under the fourth amendment to the U.S. Constitution:

- 1) The lawful custody of the vehicle by police;
- 2) The caretaking (noninvestigative) purposes of the inventory; and
- 3) The diminished expectation of privacy one has with respect to an automobile.

Not only have these three factors been relied upon heavily by the lower courts to determine the authority of law enforcement officers to conduct inventories, but the latter two have significantly affected a determination by the courts of the *lawful scope* of an inventory once initiated.

Caretaking Responsibility Vital vs. Expectation of Privacy

When law enforcement officers conduct a search under the authority of a valid search warrant, the scope of the search is spelled out in the warrant itself which, under the terms of the fourth amendment, must particularly describe the "place to be searched and the persons or things to be seized." Officers conducting a search without a warrant not only bear the burden of justifying the warrantless intrusion, but the intrusion itself—in order to be reasonable—must be limited in scope to the specific purposes for which it was conducted.⁵⁹

In *South Dakota v. Opperman*, the Supreme Court observed that standardized procedures followed by the police tended to "ensure that the intrusion would be *limited in scope* to the extent necessary to carry out the caretaking function."⁶⁰ (emphasis added)

Courts have interpreted this language to mean that an inventory may only intrude to the extent necessary to meet whatever obligation the police may have to safeguard property in their custody. Although the courts are virtually unanimous in concluding that police have some responsibility to safeguard property which is within their lawful possession, there is some variance as to the nature and extent of the responsibility. Some courts have taken a narrow view with respect to the police responsibility and have defined the scope of the inventory accordingly.

*Mozzetti v. Superior Court of Sacramento County*⁶¹ is representative of this category of cases. Police stored and inventoried the contents of an automobile following an accident in which the operator was hospitalized. The inventory uncovered marijuana in a small suitcase in the back seat of the car. In ruling that the inventory was unreasonable in scope, the California Supreme Court characterized the role of the police under State law as an "involuntary bailee" with only a "slight" duty of care. The court said: "In no case is an inventory of items not within plain sight essential to safeguard the contents or to fulfill a 'slight' duty of care."⁶²



Special Agent Hall

The court concluded that such a duty as exists under the circumstances is satisfied by rolling up the windows and locking the doors of the vehicle.⁶³

The majority of courts view the police responsibility more broadly and consequently allow greater latitude in conducting the inventory. In *United States v. Markland*,⁶⁴ the U.S. Court of Appeals for the Second Circuit rejected the defendant's argument that a police search of a container lying on the ground near an accident scene was illegal because the government had no real interest in the loss of defendant's personal property. The defendant suggested that the officer could either put the package in his automobile, completely ignorant of its contents, or he could drive away and leave it. The appellate court responded:

"This argument demonstrates a curious unawareness of a police officer's role in society. Police have a duty to protect both the lives and the property of citizens . . . A law abiding citizen . . . hospitalized following an accident and concerned about the security of his effects, may reasonably expect that the police will perform what the Supreme Court described as their 'community caretaking functions' . . . We need not decide whether the police could be held liable to the hospitalized citizen for a failure to perform these functions . . . They surely would be derelict in their duty to the public."⁶⁵ (emphasis added)

In *United States v. Martin*,⁶⁶ the U.S. Court of Appeals for the 10th Circuit was confronted with a defense

argument that an inventory of a car trunk was not justified because under Oklahoma State law a police officer is "gratuitous bailee" of defendant's property and therefore liable only if gross negligence is established. The court rejected the argument, upheld the inventory, and stated: ". . . we are confident that disposition of the present case does not turn on the law of bailment."⁶⁷

As a general rule, once a court has determined the parameters of the police caretaking responsibility, the measures necessary to meet that responsibility are balanced against the degree of privacy expectation one has in the property to be inventoried. The result of such a balancing test is greatly affected by the circumstances of a particular case. The ensuing cases will serve to illustrate how these determinations are made with respect to the lawful scope of an automobile inventory search.

Vehicle Interior and Glove Compartment

In *South Dakota v. Opperman*, the police officers who ordered Opperman's automobile towed were able to observe items of personal property in plain view through the window of the vehicle. They unlocked the doors of the car and inventoried the items thus observed, as well as a bag of marijuana found in the unlocked glove compartment.

In sustaining the inventory of the vehicle's interior, the Supreme Court noted, with approval, other lower court cases which "recognized that standard inventories often include an examination of the glove compartment, since it is a customary place for documents of ownership and registration . . . as well as a place for the temporary storage of valuables."⁶⁸

"... courts which allow a fairly broad inventory of an automobile interior to extend to the glove compartment may still limit the intrusion to those areas where valuables would customarily be stored."

The majority of the lower courts have followed the view of the Supreme Court in *Opperman* and concluded that given the justifications to conduct the inventory, the police may inventory the contents of the vehicle's interior, including the glove compartment.⁶⁹

Because in the *Opperman* case the glove compartment in which the marijuana was found was unlocked, the question has been raised as to whether the result would have been the same had that not been the case. In *United States v. Barnes*,⁷⁰ Federal Drug Enforcement agents seized an automobile which was subject to forfeiture and removed it to a garage where its contents were later inventoried. Inside the locked glove compartment were found two guns and various capsules containing contraband narcotics. The defendant sought to have the evidence suppressed as fruits of an unlawful search, contending that the locked glove compartment in his automobile was distinguishable from the unlocked glove compartment in *Opperman*.

Noting that in *Opperman* the automobile itself was locked, the U.S. Court of Appeals for the Second Circuit rejected the defendant's argument and stated:

"Where there is a duty to 'inventory,' there should be a concomitant privilege to use reasonable means to gain access for this purpose."⁷¹

State courts have generally followed as the same approach. In *People v. Godwin*,⁷² police officers inventorying the defendant's automobile unlocked the glove compartment and discovered a bag of heroin. Defendant's motion to suppress the evidence as the fruit of an illegal search was denied, and he was convicted of possession of heroin with intent to deliver. The Michigan Court of Appeals upheld the search and conviction. Citing *Opperman*, the court noted that "the scope of an inventory search does extend to the glove compartment of a vehicle since it is frequently a repository for important documents and other valuables deserving police protection."⁷³

It should be emphasized that courts which allow a fairly broad inventory of an automobile interior may still limit the intrusion to those areas where valuables would customarily be stored. In *People v. Thomas*,⁷⁴ police found a revolver in the air vent of an automobile whose operator had been arrested. The Michigan Court of Appeals held that it was reasonable to inventory the vehicle and that such an inventory could extend into the glove compartment of the car. However, looking into an air vent went beyond the permissible scope. The court stated:

"Air vents, unlike glove compartments, or trunks, are not customary places for the storage of valuables. Nor are they areas within plain view."⁷⁵

A minority of the courts take a more restrictive view of the proper scope of an inventory of a vehicle's interior. Ironically, the *Opperman* case provides a typical example. When the Supreme Court ruled that the inventory of the vehicle (including the unlocked glove compartment) was not unreasonable under the fourth amendment to the Constitution, the case was remanded to the South Dakota Supreme Court which had previously held otherwise. On reconsideration, the South Dakota court decided that the degree of intrusion permissible under the Federal Constitution (of which the U.S. Supreme Court is the final authority) is not permissible under the constitution of South Dakota (of which the State supreme court is the final authority). The State court accordingly held:

"... noninvestigative police inventory searches of automobiles without a warrant must be restricted to safeguarding those articles which are within plain view of the officer's vision."⁷⁶

That ruling would seem to clearly preclude the opening of even an unlocked glove compartment of the vehicle pursuant to an inventory and restrict the officers to securing items in plain view.

Other courts have chosen to limit the Supreme Court ruling in *Opperman* to its facts and thereby take a more restrictive approach to the inventory. Recently, in *State v. Goff*,⁷⁷ for example, the West Virginia Supreme Court held that an inventory search was unreasonable, in part, because there was no showing that the police saw any items of personal property in the interior of the vehicle to prompt the inventory. The court stated:

"Although there is some divergence of opinion in this area, we believe that the more reasoned view requires a sighting of some personal property within the motor vehicle before an inventory search can be initiated."⁷⁸

The court reasoned that given the purpose of the inventory to secure personal property from loss or theft, there is a diminished likelihood of such occurrences when there is no personal property visible.

The Trunk

The inventory in *Opperman* apparently did not extend to the trunk of the automobile. Nevertheless, the majority of lower courts have taken the position that the trunk area, like the interior and glove compartment, is a common repository for personal property and therefore within the scope of a lawful inventory.

In *United States v. Martin*,⁷⁹ police officers inventoried an automobile in which two individuals had been arrested and which was to be towed to the police garage. Upon opening the trunk of the vehicle, the officers discovered a shotgun possessed in violation of Federal law. Following conviction the defendant appealed, contending that the inventory of the locked car trunk was distinguishable from that of the unlocked glove compartment in *Opperman* and should be ruled unreasonable. The Federal appeals court disagreed, noting that though the glove compartment in *Opperman* was unlocked, the automobile itself, like the car trunk in *Martin*, was locked. The court added:

"... in both *Opperman* and the instant case a key had to be used before access could be made to the particular area where the search... was effected."⁸⁰

The court thus concluded that the inventory of a locked vehicle trunk was no different from the inventory of a locked automobile and was equally reasonable.

Most State courts have taken the same view. In *State v. Ruffino*,⁸¹ following the defendant's arrest on a minor charge, his automobile was impounded by the police and inventoried pursuant to police regulations. The inventory extended to the locked trunk of the car where a weapon and other evidence of a homicide were found. At the time of the arrest and inventory, the police had no reason to suspect that Ruffino had been involved in a homicide.

After concluding that the police were justified in conducting an inventory because the vehicle was lawfully impounded and the inventory was done pursuant to established regulations, the New Mexico Supreme Court held that it was reasonable to inventory the contents of the vehicle trunk. The court wrote:

"To forbid entry into trunks as part of an inventory search would frustrate the very purpose of the inventory, since the trunk is a likely place for valuables to be stored."⁸²

While a substantial majority of the courts, both State and Federal, have approved the inventory of an automobile trunk, at least one Federal ap-

pellate court and a few State courts have not. In *United States v. Wilson*,⁸³ the operator of an automobile was arrested by police for various traffic infractions. Because the operator was a nonresident, the officer decided to require him to post an appearance bond, and because of his erratic driving, the officer determined to have the vehicle towed from the street. A routine inventory conducted prior to the towing located a sawed-off shotgun subsequently used to obtain the defendant's conviction. On appeal, the U.S. Court of Appeals for the Eighth Circuit concluded that the impounding of the vehicle was reasonable, but that the intrusion into the trunk of the vehicle was excessive "in light of the individual's greater expectation of privacy in the locked trunk of his automobile and in view of the particular facts of this case."⁸⁴ The court held:

"Absent a special justification for a more extensive intrusion, the routine search of a locked automobile trunk is unreasonable under the Fourth Amendment. . . . The police could have inventoried the locked trunk as a single unit."⁸⁵

Essentially, the same approach was followed by the Supreme Court of Washington in *State v. Houser*,⁸⁶ where the court held that "an officer may not examine the locked trunk of an impounded vehicle in the course of an inventory search absent a manifest necessity for conducting such a search."⁸⁷

Neither of the foregoing cases proscribes the inventory of an automobile trunk in every circumstance. Rather, they would limit the routine inventory to the vehicle's interior, and because of a greater privacy expectation, allow a trunk inventory only when special facts exist to suggest its necessity.

“ . . . in balancing the caretaking responsibilities of police against the privacy expectations in automobiles, most courts resolve the question in favor of allowing routine inventories of lawfully seized vehicles.”

Despite the more restrictive view taken by a few courts regarding the lawful scope of an automobile inventory, it is undoubtedly true that the majority of both Federal and State courts approve the broader scope and will generally uphold an inventory of a vehicle's interior, including a glove compartment or console (locked or unlocked), as well as the trunk area.

The general rule is perhaps best described by the following statement of the U.S. Court of Appeals for the Fifth Circuit in *United States v. Edwards*:

“Only so long as the scope of the search is reasonable, taking into consideration the three interests to be protected by the inventory, will it be held to be a constitutionally permissible intrusion . . . the three interests set forth in *Opperman* can be adequately protected if the inventory search is limited in scope to those places within the interior or trunk of an automobile where, under the particular circumstances of the case, property of the owner or occupant can reasonably be expected to be found.”⁸⁸

SEPARATE CONTAINERS

As the foregoing discussion illustrates, in balancing the caretaking responsibilities of police against the privacy expectations in automobiles, most courts resolve the question in favor of allowing routine inventories of lawfully seized vehicles. However, separate containers present special problems.

Just as vehicles frequently become the responsibility of law enforcement officers as a part of their community caretaking function, so also do other kinds of containers. Sometimes these containers are themselves located inside an automobile. Frequently, they are seized under circumstances which in no way implicate an automobile inventory.

In either case, whether with vehicles or separate containers, the police are confronted with essentially the same three distinct needs to which the Supreme Court alluded in *South Dakota v. Opperman*:⁸⁹

- 1) The need to protect the owner's property while it remains in the custody of the police;
- 2) The need to protect the police from disputes over lost or damaged property; and
- 3) The need to protect the police from danger.

In other words, the community caretaking responsibilities are the same whether the property is a vehicle or a separate container.

However, as noted earlier, the courts tend to balance the caretaking responsibility of the police against the degree of privacy expectation one has in the area searched. In *Opperman*, the Supreme Court struck the balance in favor of allowing the inventory. In doing so, the Court recognized the historic distinction between automobiles and other kinds of property, a difference which is based in part on the notion that “the expectation of privacy with respect to one's automobile is significantly less than that relating to one's home or office.”⁹⁰ Because of that distinction, warrantless searches of vehicles have been upheld under circumstances which do not justify comparable searches of other kinds of property.⁹¹

The distinction has been further emphasized by subsequent cases, beginning with *United States v. Chadwick*.⁹² Decided the year after *Opperman*, *Chadwick* involved the warrantless search of a double-locked footlocker by drug enforcement officers. Despite the Government's contention that the officers had probable cause to believe evidence was in the footlocker and that the Court had allowed warrantless searches of vehicles under similar circumstances, the Court declined to expand the so-called “vehicle exception” to include such containers as the footlocker. The Court pointed out that while containers may share certain characteristics with vehicles, such as the capacity to be removed from the jurisdiction, there is nevertheless an important difference:

“The factors which diminish the privacy aspects of an automobile do not apply to (defendant's) luggage.

. . . Unlike an automobile, whose primary function is transportation, luggage is intended as a repository of personal effects. In sum, a person's expectations of privacy in personal luggage are substantially greater than in an automobile.”⁹³

Whereas in *Chadwick* the Supreme Court declined to expand the “vehicle exception” to movable containers such as luggage, in two more recent cases, *Arkansas v. Sanders*⁹⁴ and *Robbins v. California*,⁹⁵ the Court disapproved the warrantless search of separate containers found inside automobiles which were themselves lawfully searched under the “vehicle exception.” In each case, the Court distinguished between the privacy expectations associated with vehicles

and the separate containers found inside. Furthermore, in *Robbins*, the Court declined to draw a distinction between containers such as luggage, which are ordinarily used as repositories for personal effects, and others such as opaque plastic bags which are not. The Court held instead that unless the container is such that its contents may be said to be in plain view those contents are fully protected by the fourth amendment.

It should be emphasized that these decisions essentially interpret the application and scope of a "vehicle exception" search and do not directly involve the inventory. Furthermore, on June 1, 1982, the Supreme Court in *United States v. Ross*⁹⁶ reversed its holding in *Robbins* and ruled that a lawful search of an automobile pursuant to the vehicle exception can extend into separate containers located within the vehicle. Nevertheless, *Chadwick* and its progeny have undoubtedly contributed to a divergence of view among the lower courts regarding the authority of police to inventory the contents of containers.

Generally, the lower court decisions fall into two categories: Those which would allow the *routine* inventory of the contents of containers in the same manner as vehicles, and those which would treat separate containers differently from vehicles and would require some particular justification for the inventory of their contents. Unfortunately, the courts appear to be almost equally divided on the issue, and a general rule is indiscernible. The cases discussed below, and those cited in the footnotes, may be useful to illustrate the differing viewpoint and to assist in determining the current rule in a particular jurisdiction.

Routine Inventory of Containers Approved

Those courts which have approved the *routine* inventory of the contents of containers have tended to place emphasis on the caretaking responsibilities of the law enforcement officers and accordingly have restricted the application of the *Chadwick-Sanders* line of cases to the vehicle exception.

In *United States v. Smith*,⁹⁷ police officers inventoried the contents of a plastic bag, a flight bag, and a suitcase located in the trunk of a lawfully impounded car following the arrests of its occupants. Evidence of a bank robbery was found. Although the Federal appellate court disposed of the case without having to rule on the lawfulness of the inventory, the court nonetheless offered the following comment in response to defendants' contention that the *Chadwick* and *Sanders* decisions prohibited the search of the containers:

"True (those cases) held that absent exigent circumstances a warrantless search of luggage believed to contain contraband cannot be justified under the 'automobile exception.' But that rule applies to criminal investigative searches where probable cause is of the essence. The search . . . in the instant case was of a noninvestigative, routine caretaking nature in which probable cause as to the car's contents was irrelevant."⁹⁸

Other Federal courts have approved the routine inventory of containers. In *United States v. Rega*,⁹⁹ Federal Drug Enforcement Administration agents inventoried the contents of the codefendant's purse following her arrest. In declining to suppress contraband found inside the purse, the Federal district court stated:

"It was during this inventory and not through any investigatory search that the items in question were discovered and seized. Once the defendant was lawfully in custody, the officer had full authority to catalogue her clothing and personal effects and to seize items of evidence revealed in the process."¹⁰⁰

Several State courts have likewise upheld the routine inventory of containers, relying upon the caretaking rationale of *Opperman*. Typical is *State v. Crabtree*.¹⁰¹ The defendant was stopped on a traffic violation by a Utah highway patrolman and was arrested after it was learned that a fugitive warrant was outstanding. The defendant's car was locked after its contents (including a suitcase) were removed and taken to the police station. At the station the officer opened the suitcase and inventoried its contents which included a weapon, a large sum of money, and a controlled substance. In approving the inventory, the Utah Supreme Court likened the facts of the case to those in *South Dakota v. Opperman*. The court further observed in a footnote that while the *Opperman* decision involved the inventory search of an automobile, "both the language of the decision and the rationale underlying the holding do not limit the matter to automobiles specifically."¹⁰²

One additional State court case, *Hamby v. Commonwealth*,¹⁰³ is of interest because of the court's response to a defendant's contention that police should not have opened a closed briefcase but should have inventoried it as a unit. The Virginia Supreme Court rejected the argument and stated:

"The inventory search is intended to be a benign, noninvestigatory procedure designed to protect the interests of the property owner, the police, and society. It is not a substitute for a search warrant."

"We are not convinced . . . that law enforcement officers can protect an owner's property and themselves from claims over lost or stolen property by simply sealing and removing personal luggage as a whole. Without a record of the contents of such luggage, police are bereft of any means to verify what property was actually present at the time of its taking . . . [I]f the basis behind the inventory search is to protect any valuables which might be present, it is illogical to prohibit law enforcement officials from searching those areas wherein valuables are more likely to be kept." ¹⁰⁴

Routine Container Inventories Not Approved

Federal and State courts which have declined to approve the *routine* inventory of containers tend to place particular emphasis on the greater privacy expectation one generally has in containers such as personal luggage in contrast to vehicles. Because of their greater focus on the privacy expectation, those courts also tend to define the police caretaking responsibility in somewhat narrower terms.

United States v. Schleis ¹⁰⁵ is illustrative. The defendant's locked briefcase was opened and searched at the police station following his arrest. Inside the officers found 2 pounds of cocaine which were offered in evidence in the successful prosecution of the defendant. A Federal appellate court upheld the search. An appeal was taken to the Supreme Court,

where the case was remanded to the appellate court for reconsideration in light of *Chadwick*. The appellate court then held the search unlawful, rejecting several theories proposed by the Government, including the inventory argument. The court concluded that the search was investigatory in nature, and further, that the defendant's briefcase was distinguishable from the automobile in *Opperman*. The court stated:

"Luggage can be more readily reduced to possession and secured than an automobile. There is a greater expectation of privacy in the contents of luggage than in an automobile. Moreover, the valid governmental interests served by an inventory search could have been satisfied here by inventorying the locked briefcase as a unit. There was no necessity to open the briefcase and inventory its contents." ¹⁰⁶

More recently, another Federal appellate court took the same position. In *United States v. Monclaro-Cruz*, ¹⁰⁷ the defendant was arrested as an illegal immigrant and taken to the Immigration Office where her purse was searched. The Government sought to justify the warrantless search as a routine inventory. The Federal appellate court rejected the argument and held:

"(Defendant's) purse could have been well-protected from theft or destruction without searching it; the possibility of a claim against the police over lost or stolen property would be reduced if the purse had been immediately secured without emptying its contents; and the police had no reason to believe that the purse contained weapons or explosives." ¹⁰⁸

Several State courts have also disapproved *routine* inventories of containers, either by applying the *Chadwick* rationale as noted in the foregoing Federal cases, ¹⁰⁹ or relying upon their State constitutions to support rules which are stricter than those allowed under the Federal Constitution. ¹¹⁰

Those courts which have disapproved *routine* inventories of separate containers do not proscribe inventories of such containers altogether. Rather, they require some justification beyond that which may support the *routine* inventory of an automobile. For example, in *United States v. Bloomfield*, ¹¹¹ the U.S. Court of Appeals for the Eighth Circuit held that the routine inventory of a "sealed knapsack" removed from a lawfully impounded vehicle was unreasonable because the knapsack could have been left unopened and inventoried as a unit. The court indicated, however, that other circumstances could justify a different result:

"If a container which is to be inventoried is not securely closed so that the articles within could possibly fall out, it may be wiser for police to itemize the articles. . . . And if police have some reason to believe a container which is to be inventoried contains instrumentalities which could be dangerous even when sitting idly in the police locker, the police may, and should, inventory the contents of the container." ¹¹²

Thus, the unsecured nature or condition of a container or the reasonable likelihood that it contains items which constitute a danger to police during storage (e.g., explosives or incendiary substances) could readily justify an inventory of the contents. The

point is that those courts which take a more restrictive view of the applicability of the inventory search to separate containers require some such justification.

SUMMARY

The U.S. Supreme Court has approved, as a community caretaking function, the routine inventory of the contents of a lawfully seized automobile conducted pursuant to standard police policy. A substantial majority of State and lower Federal courts have interpreted the permissible scope of the inventory to include areas within the vehicle where personal property is ordinarily stored. These areas include the glove compartment and the trunk.

With respect to separate containers, whether located in an automobile or otherwise seized by police, the courts are closely divided as to whether an inventory of their contents may be conducted *routinely* or whether special circumstances are necessary to justify the procedure. Until such time as a uniform rule emerges, it is incumbent upon law enforcement officers to ascertain and apply the law of their respective jurisdictions relating to separate containers.

One final reminder: Despite the divergency of views among the courts regarding certain aspects of the inventory search, there is a common denominator. The inventory search is intended to be a benign, noninvestigatory procedure designed to protect the interests of the property owner, the police, and society. It is not a substitute for a search warrant.

FBI

Footnotes

- ⁵⁸ 428 U.S. 364 (1976).
- ⁵⁹ See *Preston v. United States*, 376 U.S. 364 (1964); *Terry v. Ohio*, 392 U.S. 1 (1968); *Chimel v. California*, 395 U.S. 752 (1969); *Cupp v. Murphy*, 412 U.S. 291 (1973).
- ⁶⁰ *Supra* note 58, at 375; see also, *Cady v. Dombrowski*, 413 U.S. 433 (1973).
- ⁶¹ 484 P.2d 84 (Cal. 1971).
- ⁶² *Id.* at 90.
- ⁶³ See *State v. Opperman*, 247 N.W.2d 673 (S.D. 1976).
- ⁶⁴ 635 F.2d 174 (2d Cir. 1980), *cert. denied*, 101 S.Ct. 2332 (1980).
- ⁶⁵ *Id.* at 176. See also, *United States v. Scott*, 665 F.2d 874 (9th Cir. 1981).
- ⁶⁶ 566 F.2d 1143 (10th Cir. 1977).
- ⁶⁷ *Id.* at 1145.
- ⁶⁸ *South Dakota v. Opperman*, 428 U.S. 364, 376 (1976).
- ⁶⁹ See, e.g., *United States v. Scott*, 665 F.2d 874 (9th Cir. 1981) (vehicle interior); *United States v. Leonard*, 630 F.2d 789 (10th Cir. 1980) (glove compartment); *United States v. Edwards*, 577 F.2d 883 (5th Cir. 1978) *en banc*, *cert. denied*, 439 U.S. 968 (1978) (floorboard); *State v. Gibson*, 614 S.W.2d 14 (Mo. App. 1981) (under front seat); *Martasin v. State*, 271 S.E.2d 2 (Ga. App. 1980) (console); *People v. Kramer*, 303 N.W.2d 880 (Mich. App. 1981) (interior of van); *Lively v. State*, 427 A.2d 882 (Del. Super. 1981) (beneath driver's floor mat).
- ⁷⁰ 604 F.2d 121 (2d Cir. 1979).
- ⁷¹ *Id.* at 166.
- ⁷² 288 N.W.2d 354 (Mich. App. 1979).
- ⁷³ *Id.* at 355. See also, *State v. Callaway*, 308 N.W.2d 897 (Wis. App. 1981).
- ⁷⁴ 308 N.W.2d 170 (Mich. App. 1980).
- ⁷⁵ *Id.* at 172.
- ⁷⁶ *State v. Opperman*, 274 N.W.2d 673 (S.D. 1976).
- ⁷⁷ 272 S.E.2d 457 (W. Va. 1980).
- ⁷⁸ *Id.* at 461. See also, *State v. Miller*, 420 A.2d 181 (Del. Super. 1980).
- ⁷⁹ 566 F.2d 1143 (10th Cir. 1977).
- ⁸⁰ *Id.* at 1145. See also, *United States v. Staller*, 616 F.2d 1284 (5th Cir. 1980), *cert. denied*, 449 U.S. 869 (1980); *United States v. Pappas*, 613 F.2d 324 (1st Cir. 1979); *United States v. Newbourn*, 600 F.2d 452 (4th Cir. 1979); *United States v. Barnes*, 604 F.2d 121 (2d Cir. 1979); *United States v. Edwards*, 577 F.2d 883 (5th Cir. 1978), *cert. denied*, 439 U.S. 968 (1978).
- ⁸¹ 612 P.2d 1311 (N.M. 1980).
- ⁸² *Id.* at 1313. See also, *People v. Meeks*, 570 P.2d 835 (Colo. 1977); *Griffin v. State*, 372 N.E.2d 497 (Ind. App. 1978); *State v. Roberson*, 384 A.2d 195 (N.J. Super. 1978); *States v. Lemacks*, 268 S.E.2d 285 (S.C. 1980); *States v. Roth*, 305 N.W.2d 501 (Iowa 1981); *States v. Prober*, 297 N.W.2d 1 (Wis. 1980); *People v. Godwin*, 288 N.W.2d 354 (Mich. App. 1979).
- ⁸³ 636 F.2d 1161 (8th Cir. 1980).
- ⁸⁴ *Id.* at 1163.
- ⁸⁵ *Id.* at 1165.
- ⁸⁶ 622 P.2d 1218 (Wash. 1980).
- ⁸⁷ *Id.* at 1226, 1227. See also, *State v. Goff*, 272 S.E.2d 457 (W. Va. 1980); *State v. Hatfield*, 364 So.2d 578 (La. 1978).
- ⁸⁸ 577 F.2d 883, 893 (5th Cir. 1978).
- ⁸⁹ *South Dakota v. Opperman*, 428 U.S. 364, 369 (1976).
- ⁹⁰ *Id.* at 367-368.
- ⁹¹ See, e.g., *Carroll v. United States*, 267 U.S. 132 (1925); *Chambers v. Maroney*, 399 U.S. 42 (1970).
- ⁹² 433 U.S. 1 (1977).
- ⁹³ *Id.* at 765.
- ⁹⁴ 442 U.S. 753 (1979).
- ⁹⁵ 69 L.Ed.2d 744 (1981).
- ⁹⁶ S. Ct. (1982).
- ⁹⁷ 621 F.2d 483 (2d Cir. 1980), *cert. denied*, 449 U.S. 1086 (1980).
- ⁹⁸ *Id.* at 488.
- ⁹⁹ 496 F.Supp. 101 (S.D.N.Y. 1980).
- ¹⁰⁰ *Id.* at 105. See also, *United States v. Morales*, 635 F.2d 174 (2d Cir. 1980), *cert. denied*, 101 S.Ct. 2332 (1980); *United States v. Staller*, 616 F.2d 1284 (5th Cir. 1980), *cert. denied*, 449 U.S. 869 (1980); *United States v. Matthews*, 615 F.2d 1279 (10th Cir. 1980); *United States v. Manzanilla-de Jesus*, 507 F.Supp. 462 (S.D.N.Y. 1981).
- ¹⁰¹ 618 P.2d 484 (Utah 1980).
- ¹⁰² *Id.* at 485, note 4. See also, *Parris v. State*, 604 S.W.2d 582 (Ark. 1980); *Garner v. State*, 269 S.E.2d 912 (Ga. App. 1980); *Dearing v. State*, 393 N.E.2d 167 (Ind. 1979); *State v. Duplantis*, 388 So.2d 751 (La. 1980), *cert. denied*, 449 U.S. 1014 (1980); *State v. Maxfield*, 427 A.2d 12 (N.H. 1981); *State v. Beauchage*, 424 A.2d 642 (R.I. 1981); *Girardi v. Commonwealth*, 279 S.E.2d 163 (Va. 1980), *cert. denied*, 451 U.S. 913 (1980).
- ¹⁰³ 279 S.E.2d 163 (Va. 1981).
- ¹⁰⁴ *Id.* at 166. The court in *Hamby* was careful to distinguish one of its earlier decisions, *Abell v. Commonwealth*, 272 S.E.2d 204 (1980), in which a warrantless search of a locked briefcase was held unreasonable. The court emphasized that the issue in *Abell* was whether the search was proper as an incident to arrest and did not address the question of an inventory.
- ¹⁰⁵ 582 F.2d 1166 (8th Cir. 1978).
- ¹⁰⁶ *Id.* at 1173.
- ¹⁰⁷ 662 F.2d 1285 (9th Cir. 1981).
- ¹⁰⁸ *Id.* at 1289. See also, *United States v. Bloomfield*, 594 F.2d 1200 (8th Cir. 1979); *United States v. Chadwick*, 532 F.2d 773 at 783 (1st Cir. 1976), wherein the appellate court ruled that two locked suitcases which had been opened and inventoried "could have been sealed with tape . . . or placed in a locked storeroom with the keys kept in an envelope along with other property of defendants." The court specifically expressed no opinion as to unlocked containers, and neither question was before the Supreme Court in its *Chadwick* decision.
- ¹⁰⁹ *Nealy v. State*, 400 So.2d 95 (Fla. App. 1981); *People v. Vellet*, 419 N.E.2d 89 (Ill. App. 1981); *Smith v. State*, 427 A.2d 1064 (Md. Ct. Spec. App. 1981); *Commonwealth v. Benoit*, 415 N.E.2d 818 (Mass. 1981); *State v. Hall*, 279 S.E.2d 111 (N.C. 1981); *State v. Bramlett*, 609 P.2d 345 (N.M. 1980); *People v. Roman*, 422 N.E.2d 554 (N.Y. App. 1981); *State v. Charnley*, 631 P.2d 795 (Or. App. 1981); *State v. Houser*, 622 P.2d 1218 (Wash. 1981); *State v. Goff*, 272 S.E.2d 457 (W. Va. 1980); *State v. Prober*, 297 N.W.2d 1 (Wis. 1980).
- ¹¹⁰ *State v. Daniel*, 589 P.2d 408 (Alaska 1979); *State v. Opperman*, 247 N.W.2d 673 (S.D. 1976).
- ¹¹¹ 594 F.2d 1200 (8th Cir. 1979).
- ¹¹² *Id.* at 1203; 101 S.Ct. 2332 (1980).

WANTED BY THE FBI



Photographs taken 1981

Photograph taken 1978

WANTED

Luis Rosado

Luis Rosado, also known as Luis Rosado-Ayala, Luis Ayala Rosado, Luis Ayala-Rosado, Felipe Guzman

Wanted for:

Interstate Flight—Armed Robbery

The Crime

Rosado, a reported member of a terrorist group that has claimed credit for numerous bombings, is being sought for unlawful interstate flight to avoid prosecution for armed robbery. After being arrested for the armed robbery of a Highland Park, Ill., car dealership, he failed to appear for trial scheduled for March 5, 1981.

A Federal warrant was issued for Rosado's arrest on March 6, 1981, in Chicago, Ill.

Description

Age31, born August 24, 1950, New York, N.Y.
 Height5'8" to 6'.
 Weight160 to 185 pounds.
 BuildHeavy.
 HairBrown, slightly reddish.
 EyesBrown/green.
 ComplexionMedium (pock-marked).
 RaceWhite (Puerto Rican descent).
 NationalityAmerican.
 OccupationsCabdriver, car salesman, consultant Spanish affairs, laboratory assistant, porter, social worker.
 Scars and MarksScar on scalp, right side of head.
 RemarksProminent nose.
 Social Security No. Used113-42-4152.
 FBI No.630 331 W2.

Caution

Rosado should be considered armed and extremely dangerous.

Notify the FBI

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

Classification Data

NCIC Classification:

PMICOCOC11PIPOPMCI09

Fingerprint Classification:

M 31 W IOO 11

I 28 W OMI

I.O. 4896



Right middle fingerprint

Change of Address

Not an order form

FBI LAW ENFORCEMENT BULLETIN

Complete this form and return to:

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

Name _____

Title _____

Address _____

City _____

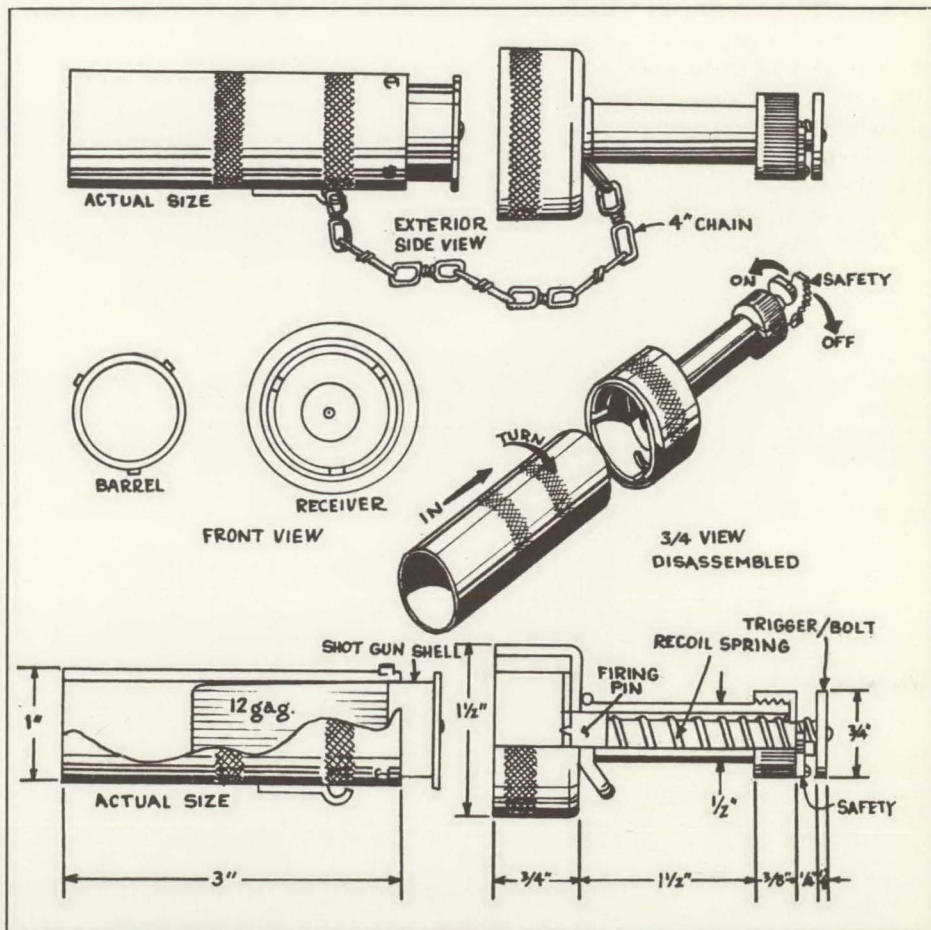
State _____

Zip _____

6-Inch 12-Gage Shotgun

An officer recently discovered a 12-gage shotgun less than 6 inches long inside a "biker's" glove. The weapon is not detectable and can be easily fired from within the innocent-looking apparel.

(Submitted by the El Cajon, Calif., Police Department.)





Washington, D.C. 20535

Interesting Pattern

The separate delta formations located at the left side of this impression make it quite unusual. The delta formation located at the top left side would not be printed if the fingerprint were rolled in the normal manner. This pattern is classified as a loop with 13 ridge counts. A reference search should be conducted as an accidental-type whorl. The tracing is meeting.

