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Contents

The Cover:
In the early morning hours, Detroit, Mich., police officers respond to the radio call, "Shooting in progress, officer involved. . . ." (Photo courtesy Officer Alan Halstead)

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William H. Webster, Director

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The Polygraph Technique
PAST AND PRESENT

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History of the Polygraph

In the middle of the 19th century, Dr. Hans Gross, an Austrian known as the "Father of Criminalistics," defined "search for truth" as the basis and goal of all criminal investigations. He asserted that "a large part of the criminalist's work is nothing more than a battle against lies. He has to discover the truth and must fight the opposite. He meets the opposite at every step." [1]

The search for truth and attempts at uncovering falsehood have been a universal and almost constant endeavor dating back to ancient time. In their attempt to discover deception, primitive societies developed complex procedures founded on magic and mysticism. To open the doors to truth, divine creatures sent messages through fire, boiling water, and torture. In some instances, faith in these powerful mysticisms miraculously allowed the innocent to go unscathed while the guilty bore the mark of guilt.

Some of these rituals were based on sound physiological principles. Oriental people, for example, distinguished truth from lying by having all of the accused chew dry rice and then spit it out. While this was a simple task for the honest, those who were deceiving had difficulty in accomplishing this task and were then judged to be guilty and punished accordingly. This practice recognized that fear slows the digestive process, including salivation. Thus, the deceptive were unable to spit out the dry rice, while the innocent, having faith in the power of their deity to clear them of the unjust accusation, felt little fear in contrast to the guilty who knew they would be discovered. [2]

Throughout the centuries, man continued to experiment with more scientific methods in determining truth and detecting deception. In 1895, Cesare Lombroso, an Italian scientist, employed the first scientific instrument to detect deception. This instrument, the hydrosphygmograph, measured changes in pulse and blood pressure when suspects were questioned about their involvement in or knowledge of a specific offense.

In 1914, Vittorio Benussi successfully detected deception with a pneumograph, an instrument that graphically measures an examinee's inhalation and exhalation. Benussi thus demonstrated that changes in breathing patterns accompany deception.

Further research by William Marston in 1917 dealt with the sphygmomanometer, which was used to obtain periodic discontinuous blood pressure readings during the course of an examination. He also experimented with and helped to develop the pneumograph, which records breathing patterns, and the galvanometer, which registers changes in skin resistance.

In 1921, John A. Larson developed the polygraph, an instrument capable of continuously recording blood pressure, pulse, and respiration. Leonarde Keeler continued research and development of the polygraph, and in 1949, the "Keeler Polygraph" included components that recorded changes in blood pressure, pulse, and respiration, as well as the newly developed galvanic skin reflex.

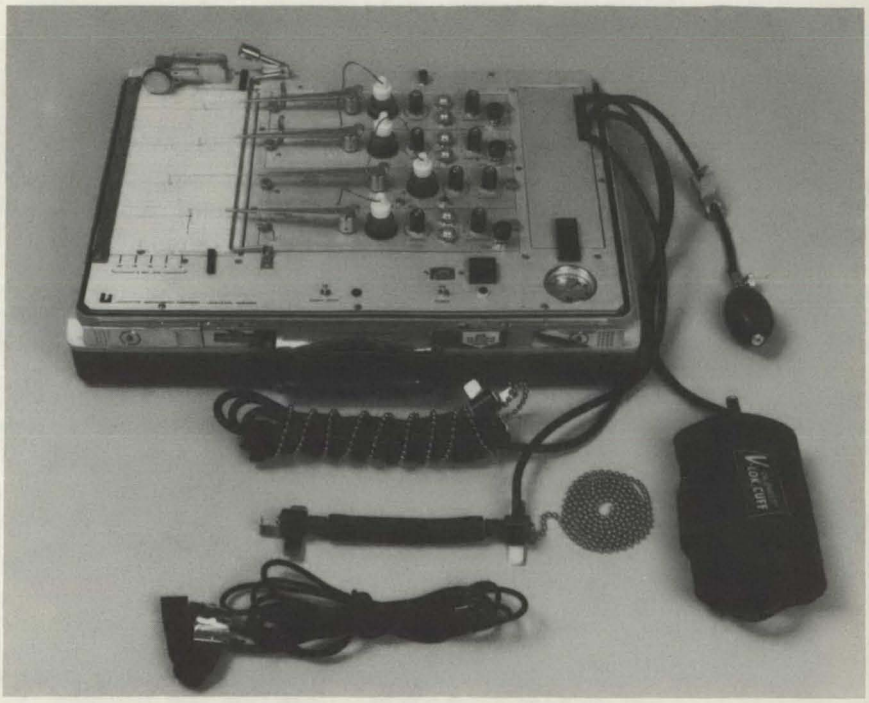
Research continued, culminating in what emerges today as a highly sophisticated, scientifically based technique.

Principles of the Polygraph

Everyone has at least a partial understanding of the psychology of lying and lie detection. Most of us are personally acquainted with the inner sensations that so often accompany telling a lie. In endeavoring to conceal the truth, one might feel a thudding increase of the heart beat, the rush of blood to the face, an uncontrollable impulse to swallow, or other symptoms resulting from fear over the possibility that the lie will be detected.[3]

These physiological changes—breathing, blood pressure, pulse rate and amplitude, and the galvanic skin reflex—are the phenomena with which the polygraph examiner concerns himself. The polygraph is a scientific, diagnostic instrument used to measure the physiological response of an examinee under controlled conditions.

The polygraph is based on the theory that when telling a lie, an examinee will respond physiologically because of fear of detection. Many investigators are under the misconception that a person responds on the polygraph out of a feeling of guilt for having committed the offense, or possibly for moral reasons because of upbringing or social background. This misunderstanding has led some to believe that hardened criminals, sociopaths, psychopathic liars, etc., can "beat" the polygraph because of their background or deviant personality. For whatever the reason, loss of job, reputation, or standing in the community, possible criminal conviction and jail time, personal humiliation, or simply a desire to keep the truth from the investigator who represents authority and the "system," it is fear of detection that causes the physiological changes the polygraph instrument records and the examiner interprets.



A typical modern four-channel polygraph instrument.

Practical Application

The actual polygraph examination consists of three phases: The pretest interview, the testing, and the post-test phase which, if warranted, consists of an interrogation.

However, prior to meeting the examinee, the examiner should confer with the investigator and obtain as many of the details of the offense as are available, as well as any other information pertaining to the examinee which might have a bearing on the case. For instance, is this person a suspect? If so, why? Does he have a prior record for this type of crime?

After thorough familiarization with the case, the examiner will be better able to converse with the examinee, as well as construct an appropriate series of questions for the actual examination. Having done this, the examiner is ready for the pretest interview.

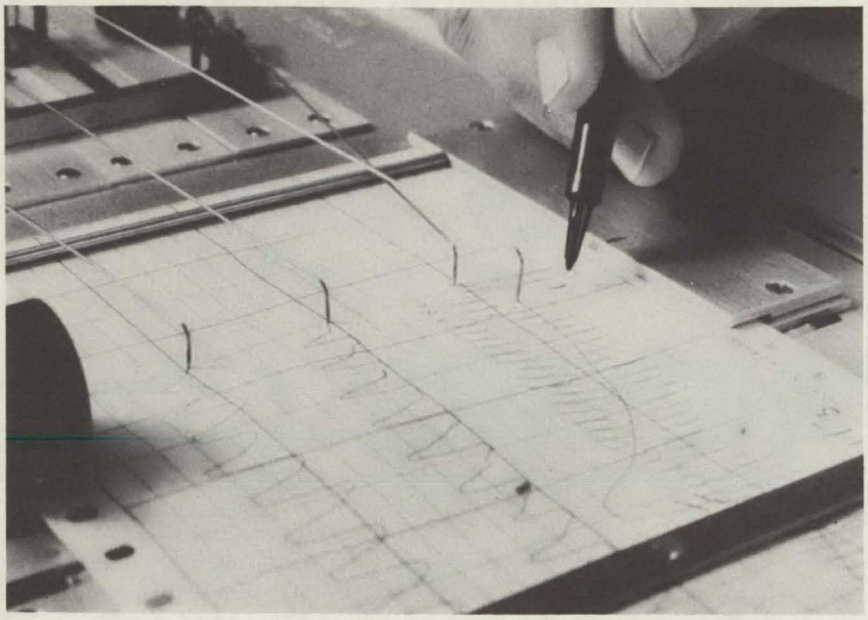
Pretest Interview Phase

This phase enables the examiner to introduce himself and explain the testing procedure and instrument, as well as establish a certain degree of rapport, obtain the examinee's version of the offense and/or alibi, and any other statement he desires to make. Whenever it is required, the examinee should be advised of his constitutional rights before any action is taken.

The questions to be used on this examination are also rehearsed with the examinee during this phase. When the pretest portion is completed, the actual testing begins.

The Testing Phase

Given a variety of threatening stimuli, a person will give greater psychological attention to that area which he perceives to hold the greatest threat to his well-being at that time. This is called psychological set; a properly constructed series of questions will offer this variety of stimuli.



Polygraph instrument tracings being recorded on chart paper during examination.

All questions are answered by only "yes" or "no." They have been rehearsed prior to the examination, and the examiner should be totally familiar with them. The series consists of relevant questions that cover knowledge, participation, and direct involvement in the offense under investigation, as well as irrelevant questions that are interspersed throughout the series. Questions such as whether he is wearing shoes, if his first name is John, or if he has been to the movies allow the examiner to establish a "normal" chart pattern in areas of known truth. Popular techniques used today include the use of control questions to which the examinee will probably lie. They deal with areas similar to the one under investigation; however, they are separated from the current matter by time and place. Reactions to these control questions are then compared to the reactions to the relevant questions. A well-trained polygraph examiner is then able to conclude whether deception is indicated.

If the results of the examination indicate that the examinee is telling the truth, he should be dismissed at that time with an expression of appreciation for his cooperation.

If the results indicate deception, the examiner should proceed to the final phase, unless there has been agreement to the contrary with the examinee's attorney.[4]

The Post-Test Interrogation

If the examiner has concluded that the examinee is lying, his objective is to explore and resolve the issue, seeking the truth. By definition, interrogation is a pointed, verbal solicitation of specific information. It must be done within the framework of our legal system. The examiner is legally bound to protect the rights of the individual, and by doing so, insure that the public interest is protected.

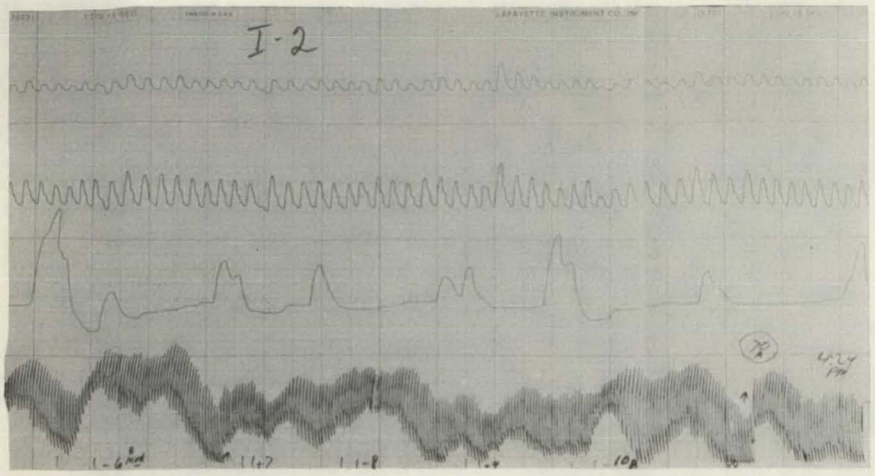
Effective use of interrogation tactics and techniques will usually overcome the examinee's inhibition that may be preventing a confession. The well-trained examiner/interrogator knows how to rationalize and minimize the seriousness of an offense, no matter how heinous. He is persuasive in his approach and makes a confession tolerable because of his understanding of human nature. His maturity and experience enable him to deal with all types of people from all levels of our society.

Validity and Reliability of the Polygraph

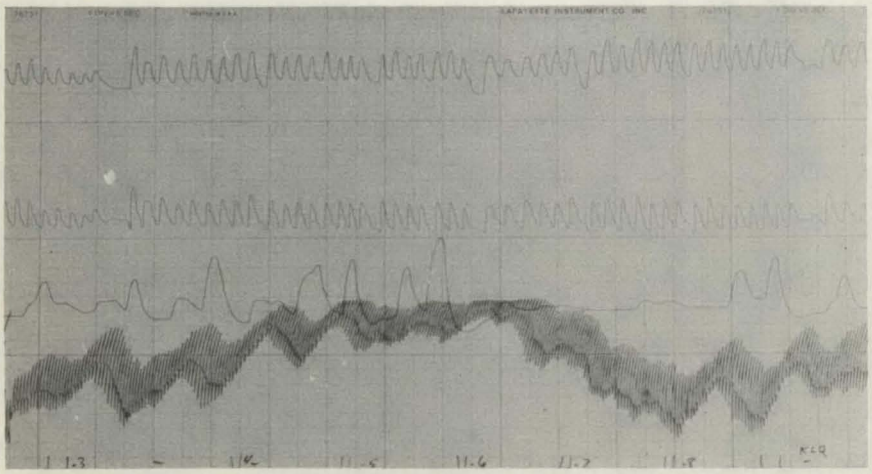
Use of the polygraph or any other scientific tool or technique in a forensic setting, wherein the rights of individuals are involved, should be based on the demonstrated validity and reliability of the technique. With respect to polygraph, the question is whether the polygraph examiner is consistently able to detect deception.

There are obvious problems in trying to conduct research to determine the validity and reliability of the polygraph. First, it is very difficult to simulate the psychophysiological reactions of a criminal suspect in a laboratory study or mock-crime situation. The same elements of fear and motivation that would be acting on suspects in an actual crime are just not present. Second, it is difficult to determine validity and reliability by studying polygraph results in actual criminal cases because the complete truth regarding the crime and its perpetrator(s) is generally unavailable and conclusions reached by polygraph examiners are normally not subject to full confirmation.

There have been a number of studies that give noteworthy recognition to the validity and reliability of the polygraph. One study published in 1978, which used polygraph examinations under laboratory conditions as well as on criminal suspects, concluded an accuracy rate in excess of 90 percent when the examinations were properly conducted and evaluated.[5]



Polygram showing greatest responses at the control questions in this particular test series, indicating that the subject of the examination is not deceptive to the relevant questions.



Polygram for peak of tension test. Test pattern shows increasing anxiety as test proceeds toward question where subject reacts very significantly, indicating deception (question 6), and then relief during subsequent questions.

Other studies have concluded the polygraph to be 99 percent accurate, with an almost matching reliability rate.

It is generally believed that laboratory testing used in polygraph research tends to affect adversely the otherwise higher validity and reliability rates. Under laboratory conditions, it is difficult to simulate the stress that occurs under actual conditions.

Legal Status of the Polygraph

Federal Jurisdiction

The U.S. Supreme Court has denied *certiorari* on all cases where admissibility of polygraph results has been at issue. It has commented on the nature of polygraph results and noted it as one of the factors in deciding whether a confession or admission was voluntary.

District courts have admitted polygraph results in 9 of the 11 Federal circuits. The appellate courts have upheld State stipulations, wherein both the prosecutor and defense attorney agreed to admit the results of the examination prior to conducting it.

The general rule seems to be that admissibility is at the trial court's discretion; however, confessions resulting from polygraph examinations are almost universally accepted.

State and Local Jurisdictions

Decisions in the State courts indicate polygraph results have been admitted in 36 States, not admitted in 13 States, and no case of record in 1 State. Of the 36 States that have admitted results, 22 limited the admissions to stipulated results.

In 15 States, a trial court admitted polygraph results over the objection of opposing counsel without subsequent reversal. The Supreme Court for the States of New Mexico and Massachusetts have ruled similarly in favor of admitting polygraph results as evidence over the objection of opposing counsel.

There is a strong trend in State courts to follow the Arizona case of *State* v. *Valdez* [6] concerning stipulated admission of polygraph results. For cases of admissibility over objection of opposing counsel, New Mexico's 1975 case of *State* v. *Dorsey* [7] is often cited. Both of these cases have specific rules to be followed by the parties seeking admissibility. [8]

In a recent case, *People* v. *Daniels,* [9] the New York Supreme Court, Westchester County, stated that polygraph evidence should be treated like any other "if the evidence has substantial probative value and is relevant to the issue and does not endanger defendant's rights, or prejudice the jury, nor mislead the proper administration of justice, then it should be admitted as any other evidence." [10] The court pointed out that fingerprints, ballistics, and other kinds of scientific evidence are admitted under the same standard.

In reaching its decision, the court noted the many advancements in polygraph in recent years and that recent research had established the reliability and accuracy of the device at about 90 percent.

THE FIRESETTER
A Psychological Profile
(Part 1)

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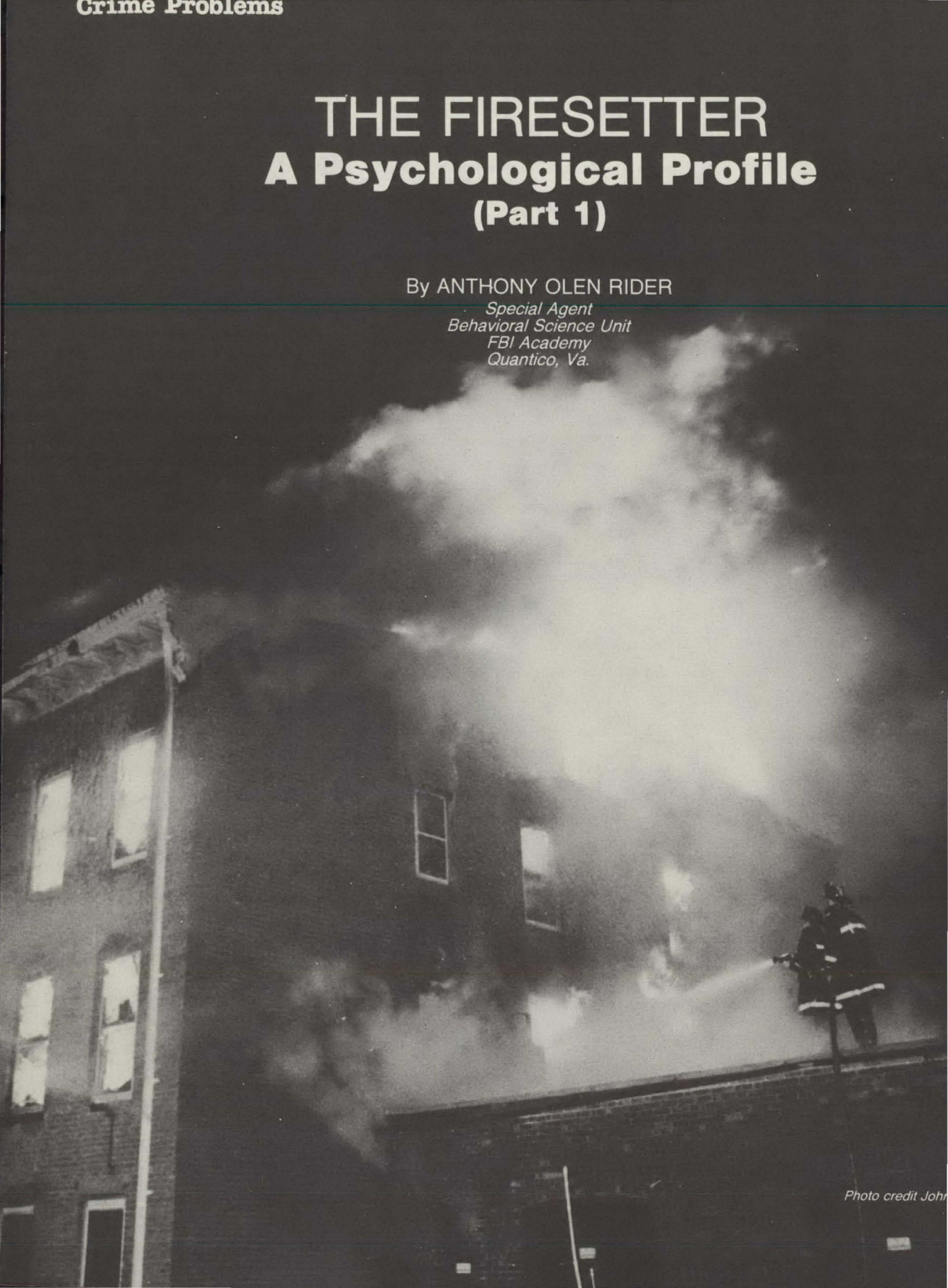

Photo credit John

In discounting a number of objections to admissibility, the court stated that "the chance of beating the polygraph is no greater than outwitting the jury." [11] Further, the court pointed out that the case against the defendant rested upon his identification by a single eyewitness, the victim, and then declared that eyewitness testimony is "proverbially untrustworthy" [12] and less reliable that the polygraph.

The court laid down several standards to be observed in admitting polygraph evidence. Among other things, each side may choose a polygraph examiner whose competence and experience will be subject to scrutiny by the court. Also, the testimony of the examiner is to be considered "opinion evidence" and is not conclusive of guilt or innocence. The court also stated a threshold requirement—the defendant's knowing and voluntary agreement to be tested.

Conclusion

The polygraph technique, when properly used by competent, well-trained examiners, possesses a high degree of accuracy, adding a new dimension to an agency's enforcement capabilities. If readily available to its investigators, the uses of the polygraph are flexible and varied. Besides identifying guilt, it can eliminate suspects, verify witnesses' statements, corroborate informant information, and determine the veracity of a complainant's statement.

The polygraph, when used judiciously, can be instrumental in reducing costs and saving man-hours. It can also dramatically increase the conviction rate due to the high occurrence of confessions made by suspects who had been less than candid prior to the polygraph examinations. **FBI**

Footnotes

[1] Eugene B. Block, *Lie Detectors: Their History and Use* (New York: David McKay Company, Inc., 1977), p. 11.
[2] Stanley Abrams, *A Polygraph Handbook for Attorneys* (Lexington, Mass.: Lexington Books, 1977), p. 11.
[3] John E. Reid and Fred E. Inbau, *Truth and Deception* (Baltimore: The Williams and Wilkins Company, 1977), p. 1.
[4] Reid and Inbau, p. 307.
[5] David C. Raskin, Ph.D., and Gordon H. Barland, Ph.D., John A. Podlesny, M.A., "Validity and Reliability of Detection of Deception," National Institute of Law Enforcement and Criminal Justice, LEAA, U.S. Department of Justice, 1978.
[6] *State* v. *Valdez,* 371 P. 2d 894 (Ariz. Sup. Ct. 1962).
[7] *State* v. *Dorsey*, 532 P. 2d 912 (N.M. Ct. App. 1975), remanded, 539 P. 2d 204 1975.
[8] Norman Ansley, *Polygraph Admissibility,* 3d ed., (Linthicum Heights, Md.: American Polygraph Assoc., 1979).
[9] The Criminal Law Reporter, Feb. 6, 1980, vol. 26, No. 18, Sec. 1, p. 1069.
[10] Id.
[11] Id. at 2386.
[12] Id.

Bombing Incidents Decline

In 1979, 1,196 bombing incidents occurred in the United States and Puerto Rico, the lowest volume of bombings recorded since 1972 when the Federal Bureau of Investigation started collecting such statistics. The 1979 bombings resulted in 22 deaths, 165 injuries, and over $6.6 million in property damage.

While the actual number of bombings declined, casualties from these incidents rose 22 percent over the number reported in 1978. Fatalities were up from 18 to 22, and injuries increased from 135 to 165. Eight of those killed in last year's attacks were the perpetrators themselves, seven were intended victims, six were innocent bystanders, and one was a law enforcement officer.

Innocent bystanders accounted for 61 or 37 percent of the nonfatal injuries. Fifty of those injured were intended victims, and 44 were the bombers themselves. Nine law enforcement officers and one fireman suffered nonfatal injuries.

Of all reported incidents in 1979, 825 involved explosive devices and 371 were incendiary in nature. Eighty-five percent of the 1,196 attacks were actual bombings, and 15 percent were attempts. As in previous years, residences were the most frequent targets, nearly 1 out of every 3 attacks was directed at residential property. Commercial establishments and office buildings, vehicles, and schools accounted for 62 percent of the remaining incidents.

Geographically, 417 bombings occurred in the Western States, 361 in the Southern States, 273 in the North Central States, 114 in the Northeastern States, and 31 in Puerto Rico. **FBI**

The psychiatric study of firesetting reveals that such behavior "represents the means of dealing with or giving expression to deeper emotional conflicts." [1] It has been identified by some clinical researchers as an early warning sign or predictor of possible future violent, criminal, or even homicidal behavior in children. Firesetting has also been associated with repressed hostility, aggressiveness and destructive tendencies, sadism, sexual immaturity, urethal eroticism, and pathological revenge.

Understanding the psychological aspects of firesetting is essential to the control and deterrence of arson. Thus, knowing the arsonist's psychodynamics can be an invaluable aid to the investigator. It assists him in focusing his investigation, identifying potential suspects, and developing appropriate techniques and strategies for interviewing the various types of firesetters.

Arson: A National Epidemic

Arson, the willful and malicious burning of property, is "one of the nation's most serious human-made disasters," [2] according to John W. Macy, Jr., Director of the Federal Emergency Management Agency. It has also become one of the most prodigious, devastating, and expensive forms of criminal behavior perpetrated against society.

Until recently, arson has drawn little attention as a national priority. Since it has been generally viewed in the past as essentially a local problem, Federal involvement in the investigation and prevention of arson has been minimal, if existent at all. Authorities now find, however, that the tentacles of arson have transcended jurisdictional boundaries and pose a disastrous threat to the future safety and financial stability of the country. As a result, the fire service, law enforcement, insurance industry, and various legislatures have mounted a combined offensive to deter its continuing devastation.

Traditionally, the law enforcement community has been on the periphery of arson. Since primary responsibility for such investigations has historically rested with the fire service, police have not generally assumed a major role in either the deterrence of arson or in the identification and apprehension of firesetters. But, arson has become one of the most prolific forms of criminality in this country.

Incendiarism (the willful destruction of property by fire) has destroyed or severely damaged practically every type of structure or mode of transportation in this country. It has also raped our forest and watershed lands and has been responsible for the death and injury of thousands of persons over the past years. An estimated 1,000 persons are killed and approximately 10,000 are injured by arson annually.[3]

The precise incidence and cost of incendiary crime, however, is unknown. According to a report submitted by the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, ". . . the magnitude of the arson problem is not widely appreciated, probably because of the lack of a well known source of reliable arson statistics." [4] However, the unavailability of reliable and informative statistics on arson not only is due to the lack of a centralized source of arson and fire statistics but "to the secrecy and detached nature of the offense and the oddities of intent and motivation." [5] Consequently, the actual frequency of arson is distorted and unapparent.

Incidence and Cost of Arson

Though the exact statistical incidence of arson is unknown, its estimates clearly demonstrate a formidable threat. Its known and suspected occurrence appears to be growing at a quantum rate. For instance, during the 10-year period from 1964 to 1974, the reported incidence of incendiary and suspicious-origin fires of buildings more than tripled, increasing from approximately 31,000 to 114,000 in number—an approximate 270-percent increase.[6] Monetary losses during that period increased approximately 726 percent.[7] In 1974 alone the estimated loss figured at $563 million.[8]

There were 187,400 incendiary and suspicious fires in 1974; the cumulative, estimated property loss for these fires totaled $616 million. When one-half of the "unknown-cause" fires for that year were included, the incidence of arson climbed to over 502,000, with a total estimated property loss of almost $1.3 billion.[9]

The "1978 National Fire Experience Survey," published by the National Fire Protection Association (NFPA), disclosed that the reported incidence of incendiary and suspicious-origin structure (508,512) and vehicle (48,444) fires totaled almost 557,000 for that 12-month period. Their aggregate property loss amounted to over $1 billion. In the survey, however, the NFPA made no adjustments for unreported fires or losses.[10] If half of the unknown-cause fires were to be included in the 1978 estimates, the incidence of arson for that year could easily exceed $1.5 billion and possibly approach $2 billion in direct losses.

While presiding as Chairman of the U.S. Senate Arson-for-hire Hearings before the Permanent Subcommittee on Investigations in 1978, Senator Sam Nunn (D-Georgia) charged that "arson is our costliest crime with losses estimated at $2 billion a year

and rising at a rate of 25 percent annually." [11] When the indirect costs (increased taxes, higher insurance premiums, medical costs, and cost of fire service, etc.) associated with these fires are included, the annual loss due to arson may be as high as $10 billion. [12]

Extent of Arson-For-Profit

According to Senator Nunn, arson-for-profit is "the fastest growing crime in this country." [13] But due to the nature of the offense, its actual incidence is as much speculation as fact.

The studies conducted, however, have found that the fraud motive was represented in only 5 percent of the sample of arrestees, even though they were involved in 17 percent of the cases. [14] Some authorities, however, have estimated arson-for-profit to represent at least 20 to 30 percent of the arsons, though "only three or four percent of those arrested for arson are suspected of doing it for profit." [15]

> "There is currently a scarcity of reliable data on the relative incidence of arson-for-profit or on the types of structures or businesses which are at high risk. It is generally agreed, however, that the risk of fraud arson is especially high where changing economic conditions have created an over-insurance situation." [16]

Efforts are presently being taken by the fire service, the Nation's fire and casualty insurers, and law enforcement agencies to identify those high-risk structures and to take the profit out of arson. The deployment of Federal, State, and local arson task forces, organized crime strike forces, and fire-police arson investigative teams have been instrumental in surfacing and penetrating many arson-for-profit schemes and enterprises. Though prosecution of arson profiteers has excelled, the number of arsonists remaining at large is suspected to be plethoric.

Obviously, policymakers, as well as those directly responsible for fettering arson and arson-for-profit, need more comprehensive and accurate information if they are to attack effectively and curtail the growth of incendiarism in this country.

". . . arson has become one of the most prolific forms of criminality in this country."

Problematic Areas in the Study of Arson

Historically, the scientific study of arson and firesetting behavior has been scattered and incomplete. Though arson has always represented a formidable threat to society, "very little interest has been generated in even understanding the arsonist as a type of offender, much less in tracing the etiology of arson." [17] Though much has been written on firesetting behavior, the literature provides little practical information for the investigator beyond a multiplicity of diverse and arbitrary classification systems, a variety of motivational factors, and a number of narrowly defined clinical profiles or composites of arsonists.

Most clinical and empirical studies in the past have focused principally on the pathological firesetter, such as the pyromaniac, the psychotic arsonist, the revenge firesetter, and the emotionally disturbed, repetitive child firesetter. Little concrete knowledge really exists regarding the "typical" arsonist or the incendiaries who set fires for financial gain.

Although some significant exploration has been made into the psychodynamics of the arsonist, few well-controlled and systematic studies have been conducted which produced reliable data. Research conclusions have often been contradictory and predicated on narrowly drawn and biased sample populations, incomplete data, and conjecture. As a result, the determinants of arson still remain largely unknown. Futhermore, the solutions to the prevention and control of psychologically motivated incendiarism are far from being resolved.

The arson researcher, however, is not solely responsible for this paucity of information or lack of systematic research. Efforts to explore the pyschological aspects of firesetting have often been thwarted by variables beyond control, e.g., low apprehension and conviction rates of arsonists, the methods of legal disposition of arson cases, legal constraints in the disclosure of information, and the inherent difficulties associated with accessing samples of firesetters.

Five problematic areas have directly affected the systematic study of arson. These areas include apprehension of arsonists, legal disposition of arson cases, sources of arson statistics, legal constraints in information exchange, and focus, taxonomies, and conclusions of previous studies.

Apprehension of Arsonists

Arson is commonly committed under a veil of secrecy. Witnesses are scarce and evidence is often minimal, if existent at all. Consequently, relatively few arsonists are identified or eventually apprehended, and those caught may not be truly representative of the arsonist population. Some authorities have even declared that an

overwhelming majority of arsonists are never identified or arrested.[18]

Empirical studies in firesetting behavior intrinsically hinge on their accessibility to known arsonists. Research in this area is inherently biased and acutely dependent on the interests and talents of those responsible for sifting through the ashes of conflagrations, identifying and apprehending arsonists, and judiciously prosecuting them, since few arsonists are prone to turn themselves into the authorities or voluntarily confess.

Little may be truly known about the psychodynamics of the majority of firesetters or if the various psychological profiles extrapolated from the known arsonist population are typical and representative of those not identified. This problem is best illustrated by Dr. Bernard Levin of the Center for Fire Research. "Unfortunately, our knowledge about the psychopathology of firesetters is limited to those arsonists who are caught or give themselves up. In short, we know the most about the least successful arsonists." [19]

A 1977 report stated that arrest rates for arsonists were low in comparison to arrests of Uniform Crime Reports (UCR) Index offenders. In fact, for every 100 fires classified as incendiary or suspicious, only about 9 persons were arrested in comparison to 21 arrests for every 100 Index crimes.[20]

Not only is little known about arsonists, per se, but even less is known about the arsonist-for-profit. Again, there exist no exact statistics concerning the incidence of arson-for-profit nor for its apprehension rate.

Legal Disposition of Arson Cases

The systematic study of arson is further complicated by the legal disposition of arson cases. Not only are few arson offenders apprehended for their crimes, but even fewer are prosecuted or convicted.

The conviction rate for arson has been estimated between 1 and 2 percent nationally.[21] For each 100 reported incendiary or suspicious fires, there are approximately two individuals convicted. When the definition of arson is expanded to include one-half of the fires of "unknown causes," the conviction rate drops to 0.75.[22]

Reasons for the low conviction rate are multiple. In addition to the low apprehension rate of firesetters, many arson cases reportedly are not processed through the criminal justice system for one reason or another. For instance, prosecutors may elect not to prosecute due to insufficient evidence or may even refer certain defendants, who are found to be mentally ill or alcoholic, to the mental health community for treatment. Still other firesetters may be only partially processed through the system. Cases may be later dismissed or defendants acquitted of the charges brought against them.

The systematic study of arsonists has also been further complicated by the fact that some offenders are permitted to plea bargain to lesser offenses or to some crime unrelated to arson (burglary, breaking and entering, malicious mischief, criminal trespass, extortion, destruction of property, etc.). This, of course, statistically distorts the actual number of arsonists prosecuted and conceals their identities under other dispositions. Moreover, not all convicted arson offenders are incarcerated once they are convicted. In fact, it has been estimated that approximately one-half of the convicted adult arsonists and practically all of the juvenile arson offenders are not remanded to prison, jail, or juvenile correctional facilities. Probation appears to be a prevalent alternative to incarceration.

Since it is common practice for criminologists and clinicians in their study of criminal and abnormal behavior to select their sample populations from prisons, juvenile reformatories, psychiatric facilities, and parole and probationary groups, it is reasonable to anticipate that studies of arsonists would rely on similar environments and sample populations.

However, any attempt to develop a profile of the "typical" arsonist from these populations would be tenuous at best. Those arson offenders confined in prisons or psychiatric facilities or on probationary or parole status are not likely to represent a cross section of the arsonist population. In fact, they are most likely atypical, since such a small number are arrested or convicted for their crimes.

Sources of Arson Statistics

A third problematic area pertaining to the systematic study of arson relates to the compilation and analysis of national fire and arson statistics. They have been complicated principally by two factors—incomplete reporting and a lack of a centralized data collection and analysis system.

Traditionally, the law enforcement community has not assumed major responsibility for reporting, retrieving, or analyzing the incidence of fire or arson. This responsibility has been accepted chiefly by the fire service and insurance industry. As a result, only a small fraction of the actual occurrence of arson appears in national crime statistics.

In 1976, the National Leadership Seminars for Developing a Coordinated Attack on Arson specifically recommended that arson be declared a Part I crime in the FBI Uniform Crime Reports and that a better reporting, data collection, and data analysis program be developed and applied to arson.

Arson has been reported as a Part II offense in UCR since 1930. However, these figures reflect only arrest rates for arson and do not include estimated value of property damage. In October 1978, Federal legislation was passed mandating that arson be changed to a Part I offense in the UCR program, and legislation is currently pending before Congress which would mandate arson as a Part I offense on a permanent basis.

Henceforth, the volume of reported arsons, the number of persons arrested, clearances, types of property damaged, estimated value of property damage, and whether the structures were inhabited will be reported within the Part I offense classification. However, the total incendiary incidence will not be reflected in UCR, since suspicious and unknown-cause fires will not be represented.

The systematic study of the incidence and magnitude of arson has been severely hampered by the fragmentation and unsystematized approach employed in the collection and analysis of arson statistics. Improvements that have been made in this area should greatly enhance future research.

Legal Constraints in Information Exchange

The study of arson has been further complicated by certain legal constraints. For instance, there have existed certain legal prohibitions in the exchange of information between private industry and government. Laws governing privacy and confidentiality have played major roles in restricting the flow of information, especially between the private insurance industry and law enforcement. Insurers have been extremely guarded against possible liability and civil lawsuits stemming from violations of their clients' confidentiality and rights to privacy. There is currently a movement by the insurance industry to seek alternative solutions to this problem. One is the immunization of the insurance industry should it furnish relevant information to law enforcement relating to suspected arson. Only through this type of cooperative effort will law enforcement be in a position to respond appropriately and vigorously to the arson crisis at hand.

Furthermore, the researcher has also been restricted in his efforts to collect vital information on convicted arsonists. The exploratory efforts of behavioral scientists are contingent on the legal constraints authorizing them access to relevant information and to the personages they need to assess. The narrower the sample population they are permitted to investigate, the more significant the bias of their studies.

"Firesetting is often a symptom of a highly complex behavioral problem."

Focus, Conclusions, and Taxonomies of Previous Studies

A fifth problematic area in the systematic study of firesetting and arson behavior relates to the focus and conclusions of past research. Most of the literature on firesetting has been psychologically or psychoanalytically oriented. However, "intensive psychopathological studies of individual cases are rare. . . ." [23] Many of the published studies have been primarily comprehensive, descriptive, and statistical reviews of the psychopathology of convicted or hospitalized firesetters.

Consequently, with regard to the arsonist in general, "little concrete knowledge exists regarding his identity and motivation. A general review of the literature reveals different authors presenting different symptomatic characteristics and markedly different etiological hypotheses for the arsonist. In general, there is considerable overlap of concepts and terminology within these hypotheses, and sharp contradictions are evident in clinical diagnosis." [24]

The theories advanced concerning the behavior of arsonists, their purported motives, personality characteristics, etiological factors, and taxonomies or classification systems are many and varied. As a result, the researcher or investigator attempting to gain a clear understanding of firesetting behavior is often overwhelmed and frustrated by the seemingly myriad assembly of conflicting data.

Research projects have often centered on very selective populations, e.g., children, adolescents, adults, females, convicted offenders, and hospitalized patients, or have been divided into age groups, sex, and psychiatric disorders. As a result data gleaned from these studies have tended to confuse and contradict the finding of others. Levin also acknowledges that much of the literature tends "to deal with only one or two motives and/or a narrow age range." [25]

Firesetters have also been labeled, classified, and grouped at the researcher's discretion. Unfortunately, the multiplicity of systems which have evolved frequently confuse the investigator.

> "Classification systems both reflect and shape the distinctions which researchers make within their field of study . . . Consequently, categories of firesetters are often arbitrarily defined, and there is often a great deal of inconsistency in classification. Firesetters have probably most often been typed in terms of their motives for the firesetting act. . . ." [26]

A survey of the literature on incendiarism reflects only scanty reference to arson-for-profit. One of the most quoted studies was published by James A. Inciardi in 1970. However, his sample population of 138 convicted and paroled arsonists contained only 10 "insurance-claim firesetters." [27] Other noted researchers have studied the arson profiteer, but did not conduct in-depth analyses. Consequently, much of what is purportedly known about the characteristics of arsonists who set fires for fraud appears to be based on an insignificant number of known offenders.

The Psychology of Firesetting: A Review and Appraisal, issued in 1979 by the Center for Fire Research, National Bureau of Standards, presents an excellent overview of the psychological and psychoanalytic literature on firesetting, but also fails to explore arson-for-profit in any appreciable degree. The authors of the study, however, explain why arson-for-profit is generally excluded from the psychological and psychiatric discussion of firesetting. "There is little in the psychological or psychiatric literature about arson-for-profit, presumably because it is considered a rational act, and thus not of great interest from a psychological standpoint." [28]

Establishment of Cause and Intent

Since fire is a natural phenomenon and often accidental or the product of unintentional behavior, a lengthy and exhaustive investigation is frequently required before determining its exact cause. Often, such investigations are further complicated by the devastation of the fire itself or the inadvertent destruction of evidence by responding firefighters in their attempt to control and extinguish the fire.

Unless it can be proven that a fire was willfully and maliciously set, the crime of arson does not legally exist. Proof of arson, therefore, rests on the expertise of the investigator and his ability to ascertain the presence of malicious intent or premeditation.

The motif of the fire often provides clues as to the presence or absence of criminal intent. Factors often used to establish arson include the type of fire, its point of origin, the presence or absence of accelerants, the type of structure, the time of day the fire occurs, ownership of the building, others associated with the property, market value, existence of over-insurance, fire history of the structure, occupancy, and evidence of recent sale or title change.

Even after a thorough investigation, the arson investigator may not be able to establish arson positively. As a result, a significant portion of the fires experienced each year are labeled "unknown-cause" or "suspicious." Consequently, "the number of fires classified as incendiary significantly understates the actual amount of arson." [29]

Robert May, Executive Secretary of the International Association of Arson Investigators, was recently quoted as saying, "To detect and apprehend arsonists takes even more technical expertise than homicide." [30] This may very well be true in many cases, since an exhaustive investigation is often necessary to establish the fact that a crime has been committed. It is even more difficult to find an identifiable motive or to construct a personality from the ashes of a fire.

Motive v. Intent

Motive is some inner drive or impulse that causes a person to do something or act in a certain way. Basically, it is the cause, reason, or incentive that induces or prompts specific behavior. In a legal context, motive explains "why" the offender committed his unlawful act, e.g. murder, rape, or arson.

Though motive, unlike intent (willfulness), is not an essential element in criminal prosecution, it often lends support to it. Motive, for instance, frequently plays a crucial role in determining the cause of a fire, as well as the identity of the person or persons responsible for setting it.

Establishment of Motive

Establishing a motive generally assists the investigator in directing his investigation and focusing attention on likely suspects. However, searching the ruins of a conflagration for an identifiable motive may prove to be futile. Firesetting is often a symptom of a highly complex behavioral problem. Consequently, the actual motive for firesetting may not be readily apparent. In fact, it may be extremely difficult, if not impossible, to ascertain motives such as revenge, intimidation, or profit, especially if they are concealed or complicated by the lack of sufficient evidence or by the presence of distorted and conflicting clues. The arsonist may even purposefully disguise his firesetting to mislead the investigator as to his true motive. Sometimes, an identifiable motive may be lacking entirely. Thus, misinterpretation or premature and faulty interpretation of motive may prove to be fatal in resolving a case. Consequently, arbitrarily selecting one motive to the exclusion of all others may prove to be detrimental to that particular investigation.

Conscious v. Unconscious Motivation

Psychodynamically, it is conceivable that the firesetter may be fully aware of why he is setting a fire, only somewhat cognizant of the reason, or even totally unaware of his true motivation. In fact, when questioned about his behavior, the arsonist may be unable to account for his crime. Psychiatrist W. A. White concluded over 3 decades ago that the failure to consider unconscious motivation was "probably the cause of more inadequacies in the understanding of human behavior than any other one thing." [31]

Although a tenant torches his apartment complex to get back at the owner for raising the rent, the motive may be more than revenge. It may actually represent an unconscious desire to express hostility and destructiveness. Even the hired arsonist may be motivated by more than money. He may use firesetting as an instrument of revenge against society or as a way of expressing his sadistic tendencies. "When a person sets a fire, whatever the particular motive, he is trying to achieve something which is necessary or desirable to him at that moment." [32] The problem is that he may lack conscious awareness of why he is doing it.

Motivational v. Motiveless Firesetting

Motivational firesetting, also known as psychologically motivated arson, has traditionally been differentiated from motiveless firesetting (pyromania). According to Vreeland and Waller in *The Psychology of Firesetting: A Review and Appraisal,* motivational firesetters "generally are aware of some specific motive, or reason, for setting the fire. . . ." [33] They willfully and maliciously set fires for such reasons as revenge, spite, and financial gain.

Pyromaniacs, on the other hand, are said to lack conscious motivation for their firesetting; however, they are aware of their act. Fitch and Porter noted that "the lack of motive is a trademark of the pyromaniac." [34] Lewis and Yarnell in their study of pathological firesetters define pyromaniacs as "offenders who said they set their fires for no practical reason and received no material profit from the act, their only motive being to obtain some sort of sensual satisfaction." [35]

The pyromaniac is also said to be compulsively driven by an "irresistible impulse" to set fires. Although the true extent of pyromania is unknown, authorities today do not believe that it represents the predominant type of firesetting being currently experienced in this country.

Classification of Motivational Firesetting

There are probably as many motives for firesetting as there are firesetters. Vreeland and Waller have noted that the range of motives for the motivated firesetter is a striking feature of that category.[36] In an attempt to study systematically the arsonist, the researcher has most often classified him according to his motive. These classifications have often enhanced the investigator in telescoping his investigation.

The USFA, in an attempt to facilitate the understanding and identification of motivational patterns, has developed 24 various classifications with their own respective characteristics and motivational aspects.

These types of arsons have been systematized into five major headings:

1) Organized crime (loan sharking, extortion, strippers, and other crime concealment);

2) Insurance/housing fraud (overinsurance, antipreservation, blockbusting, parcel clearance, gentrification, stop loss, and tax shelters);

3) Commercial (inventory depletion, modernization, and stop loss);

4) Residential (relocation, redecorating, public housing, and automobile); and

5) Psychological (children and juveniles, pyromania, political, and wildlands).[37]

In the report, *Arson and Arson Investigation: Survey and Assessment,* the authors aggregated 16 different motives into 6 groups: (1) Revenge, spite, and jealousy; (2) vandalism and malicious mischief; (3) crime concealment and diversionary tactics; (4) profit and insurance fraud; (5) intimidation, extortion, and sabotage; and (6) psychiatric afflictions, pyromania, alcoholism, and feeblemindedness.[38] These groups were designed to facilitate the construction and exploration of arsonist typologies.

Wolford has noted, however, that in actuality very little concrete knowledge exists regarding the motivation of arsonists.[39] The literature on firesetting, nevertheless, is replete with motivational classification systems. However, the isolation of a particular firesetting motive may require weeks, even months, of investigative work, if it can be accomplished at all.

Pathological v. Nonpathological Motivation

The psychological and psychiatric literature on firesetting also distinguishes between pathological and nonpathological incendiaries. Pathological firesetting is believed to be irrationally motivated, whereas the converse is believed for nonpathological firesetting. Since it is commonly held that anyone who maliciously sets a fire is engaging in an abnormal act, it would appear on the surface that all arsonists are pathological. In fact, Gold has stated that "all firesetting is pathological." [40] However, behavioral scientists and clinicians who study firesetting behavior believe that some incendiarism is the result of rational decisionmaking. Arson-for-profit (fraud), for instance, has been perceived as a rational act. In other words, it is believed that the "torch" consciously, rationally, and premeditatively designs and perpetrates his crime. Rationally motivated firesetting also includes the use of arson for extortion, homicide, intimidation, revenge, social and political protest, rioting, sabotage, crime concealment, and even diversionary tactics.[41]

The irrational and pathological firesetter, however, typically manifests some degree of mental, emotional or personality disturbance, maladjustment, or defect. He frequently sets fires as an act of aggression, hostility, or revenge; to gain attention and recognition; to embellish his deflated sense of worth; to experience excitement; to obtain sensual or sexual satisfaction; or as a result of delusions and/or hallucinations. Generally included within this category are compulsive firesetters (pyromaniacs), excitement and attention-seeking arsonists, suicidal firesetters, psychotic

firesetters, disturbed children and juveniles, revenge firesetters, and firesetters suffering from alcholism.[42]

Lewis and Yarnell have reportedly conducted the most comprehensive study on pathological firesetters to date. Their work, entitled *Pathological Firesetting (pyromania),* was published in 1951 and still serves as the authoritative source on the subject.

The following is their "Classification of Fire Setting Because of Mental Reasons":

1) Accidental or unintentional group—firesetters who set fires during a temporary, confused or delirious state or with a lack of judgment because of feeblemindedness (mental retardation).

2) Delusional group—psychotic firesetters who "set fires because so instructed by the hallucinated voicing God or other authority or . . . while under the delusionary influence of ideas of purification. . . ."

3) Erotic group—pyromaniacs and a large variety of firesetters having sexual perversions.

4) Revenge group.

5) Children's group—children who set fires "for excitement and mischief with the intention of extinguishing them before they get out of hand."[43]

They also noted that fires are deliberately set by psychotics, psychopaths, and "mental defectives" (below normal intelligence) for one or more of the following motives:

"a. As a reaction against a social order which they believe is operating against their interests

b. To wreak vengeance against an employer

c. As a revenge for injured vanity

d. As a jealous rage reaction

e. As an opportunity to perform heroic endeavors as a fire fighter

f. As a perverted sexual pleasure in the nature of a conversion of a sexual impulse into a special substitutive excitement."[44]

Pyromania represented the largest group (60 percent) within their study.[45]

Multimotives in Firesetting

It should be noted that "several motives may underlie an act of arson."[46] A review of the psychological and psychiatric literature on firesetting reflects that such behavior is often multidetermined. This factor may partly explain why so few arsonists are ever identified and why the solution rate in known arson cases is so low.

Revenge: The Underlying Motive

As previously noted, fire has been associated with love, aggression, hostility, destruction, sadism, revenge, and a host of other psychological factors. Though the exact psychic determinants of firesetting remain unanswered, a common denominator appears to be punitiveness or revenge. In fact, revenge seems to run like a thread throughout motivational arson. Lewis and Yarnell have also reported that "the element of revenge is never entirely absent,"[47] even in pyromania. Thus, it appears that firesetting conveniently serves as an instrument for venting aggressive and revengeful tendencies in many, if not all, firesettings.

The motives associated with fire setting are multiple, overlapping, and often disguised under a facade of distorted and pathological behavior. The investigator in striving to pinpoint responsibility for such destructiveness must, as a matter of investigative procedure, attempt to identify the true motivation underlying the act. Once the primary motive is isolated, the investigator is often better equipped to focus his investigation on likely suspects. However, motive alone does not necessarily or sufficiently differentiate one firesetter from another, since they often share common motives for setting fires. Some firesetters, however, are uniquely motivated and therefore are better candidates for profiling. Oftentimes their fires more readily reflect evidence of behavioral and psychological maladjustment.

The development of psychological profiles on such firesetters would then possibly enhance the investigator's ability to identify and apprehend them more swiftly. Profiling the firesetter will be discussed in the next issue of the *FBI Law Enforcement Bulletin.* **FBI**

Footnotes

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SWEDEN

State Police Not Police State

By JOHN R. KLEBERG
Deputy Chief
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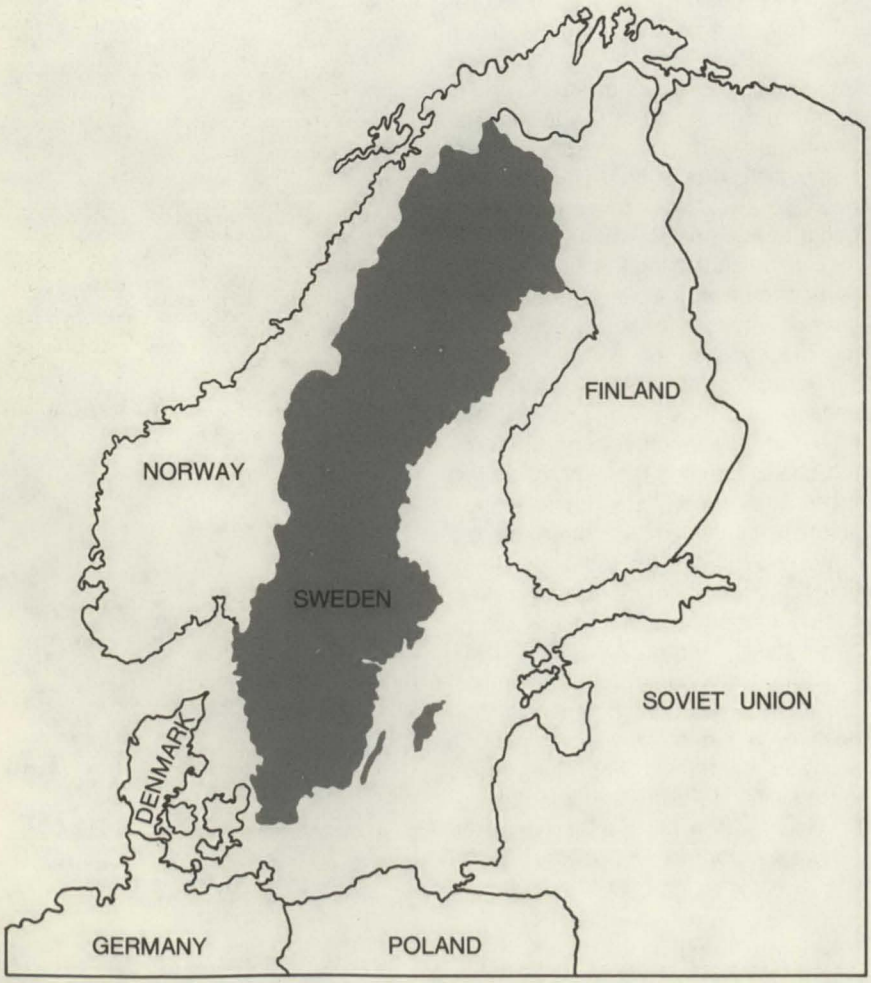


In 1965, Sweden nationalized its police force, yet in many ways has endeavored to retain the influence and benefits generally associated with local control of police. This nationalization consolidated 554 different local police departments into 119 police districts. Today there are 118 districts, which are operationally controlled by a police chief. Also, there are 24 county districts encompassing other smaller police districts, with a chief administrator.

An interesting feature of this organizational design is the apparent lack of direct operational control by the county police chiefs over the districts in their counties, except for the county police executive's significant role in traffic supervision and coordinated crime control operations. How such coordination actually occurs is difficult to conceptualize. One can not, for example, equate it to the city police chief/sheriff relationship in the United States.

Both of these administrative levels have advisory councils of community lay members to provide police executives with information concerning police functions in the district or county. During a recent study tour in Sweden, it was my observation that police administrators were sensitive to views expressed by the councils, although they might have previously considered the councils merely as formalities required by law. Many chief administrators seem to appreciate their value as community representatives and as a significant communication channel between police and citizens. Although the influence of such a council on policy is primarily advisory, it was observed that police administrators were very cognizant of the need to be responsive to council ideas.

The final organizational level is the National Police Board (Rikspolisstyrelsen). The national board and its staff afford the districts general administrative direction and centralized services for purchasing, records, crime laboratories, training, and legislative review and analysis. The national board is composed of six members of Parliament, a representative from the police union, a representative of the union of civilian police employees, and the national police commissioner and his deputy.

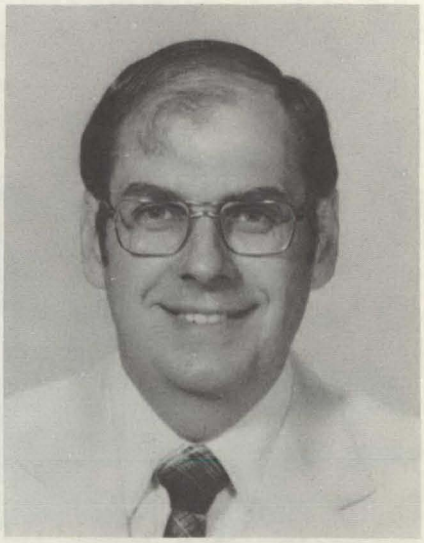
The national commissioner and his deputy are appointed by the central government, the King in Council, for a term of 6 years. Since Sweden is a limited constitutional monarchy with a popularly elected Parliament, the King does not have administrative or political control over government units. With the exception of those police functions that directly relate to national welfare or security, the national commissioner does not become operationally involved in local police matters. It is also particularly interesting to note that lacking the commission of a serious crime, public servants, including police officers, cannot be removed from their positions. This program is intended to insure that public employees perform their respective duties without fear of retribution for "doing their job."

Since the police are national, they have responsibility for traffic enforcement, criminal law enforcement and investigation, national security, and the personal protection of the King, Prime Minister, and visiting dignitaries. For those limited matters concerning national security, personal protection, and crime control problems that transcend several districts, the national commissioner may exercise operational control. Laboratory services and law enforcement equipment in Sweden are modern, efficient, and maintained in good order. One interesting feature is a centralized multifrequency radio which permits communication between officers throughout the country.

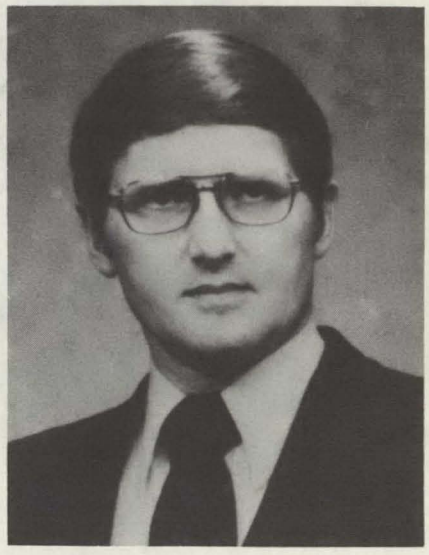
Most impressive are the computerized information systems that enable law enforcement personnel to search automated files on stolen property, vehicles, fingerprints, and persons. It is important to note that Sweden has nearly 8½ million (1978) inhabitants and approximately 17,000 police personnel.

Another impressive automated information procedure involves the search of files containing only one latent fingerprint of arrested subjects. A 10-digit personal identification number, similar to our social security number, enables police officers to search a central file from the street or patrol car and receive detailed information on individuals he detains. Because they are needed for many socialized services, Swedish citizens permit such files and information exchange. However, they consider themselves and are, indeed, very free by our constitutional standards. Because of the volume of personal identifying information available to police officials upon request, fingerprints as personal identifiers do not have the same status in Sweden as they do in the United States.

It is important to make one additional general observation regarding the Swedish police organizational design. There are two distinct levels of police personnel—career officers and supervisors and career administrative personnel. Officers are generally recruited to enter the service as patrol or uniformed officers and may progress in rank to positions that include supervision, although this progression in rank is slower than in most departments in the United States. Opportunities for police administrative assignments and promotions for officers in this career path are increasing; however, most administrative personnel are recruited from outside the "rank and file."



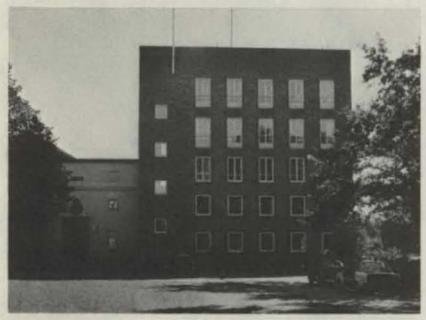
Deputy Chief Kleberg



Donald G. Hanna
Chief of Police

Officers enroute to a driving exercise at an airfield examine the safety equipment in a patrol vehicle trunk. The exercise includes stopping vehicles and approach to violators while enroute.

Traffic officers receive a final briefing before they begin instruction on driver training. Officers are required to successfully complete a driver training course before they may operate a police vehicle



Administration building at the Ulriksdal police school just outside of Stockholm.

A classroom building at the basic police training school at Ulriksdal outside of Stockholm. The school was originally a training center for the Royal Army and reminds one of a small college campus in the United States.

An alternate career path involves police administration. Candidates with law degrees are recruited from outside the service for a distinct program associated with police management. Legal education in Sweden differs from the United States in that it consists of 4½ years of university study. Study is devoted to law, but is equivalent to a baccalaureate program in terms of length of study. Individuals are recruited as police secretaries and eventually move through more-progressive administrative roles to police chief. Persons selected for this program receive specialized inservice training and also serve in a functional capacity with the public prosecutors and in the courts before being promoted to police chief.

Training

How does all this translate into police training? Are officers prepared for their roles? Is training complete and comprehensive? There are, or course, many other general observations about the police structure, legal system, and society in general that are relevant in this regard. A Roman legal tradition, socialized society, and vast historical background are very relevant to police and public expectations in law enforcement.

It is desirable to distinguish between education and training as they relate to the preparation of police officers for their duties. Education, one could say, is the process of preparing the officer to consider variables, evaluate possible courses of action, and make judgments based on his educational experience. Training, however, prepares the police officer to perform in a certain manner under a given set of circumstances.

and a special and more extensive course before they are permitted to operate the vehicle with emergency equipment functioning.

A special marine patrol section is responsible for the waterways in the general Stockholm area. With a national police force the primary duty to enforce boating laws, conduct emergency water rescues, and provide other enforcement efforts on the water is the responsibility of this section.

When one examines and attempts to compare the law enforcement service of one country or Nation with that of another, it is difficult to determine what standards should be used. Law enforcement functions are unquestionably the product of history, culture, tradition, and law. It is, therefore, necessary to consider these various elements in making a comparison. Similarly, there are some aspects of the various agencies that might, from a practical perspective, actually defy comparison. Police titles, for example, are very difficult to translate.

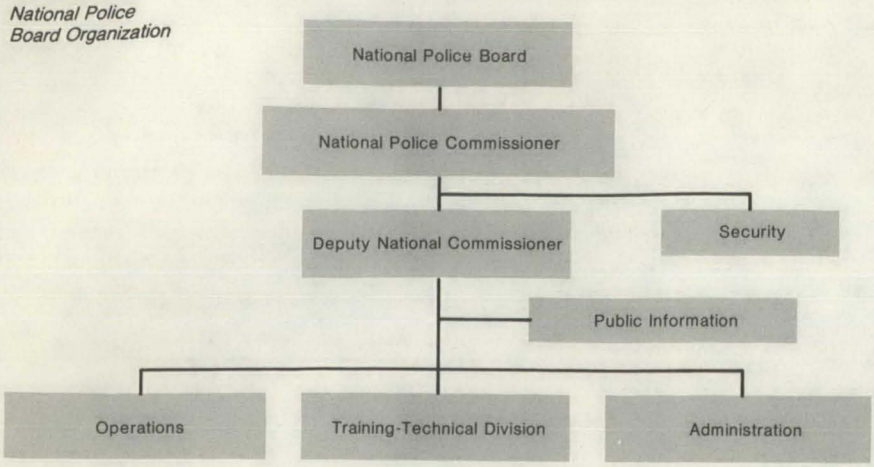
Under the direction of the National Police Board, two primary schools, located in Ulriksdal and Solna, prepare individuals for a law enforcement career. On September 1, 1979, the schools—both located in the Stockholm Metropolitan area—were elevated to a status which, in practice, permits some of the subjects taught to be considered equivalent to courses offered at a university. Such recognition by educational authorities permits discussion regarding the subjects between the police colleges and higher educational institutions. Although the importance of such an endeavor is realized by many of the police schools' instructional staff, most subject matter is unquestionably training.

For many years, the faculty of the police schools has been composed of experienced law enforcement personnel, civilian teachers, and university faculty members who instruct on a part-time basis. Basic training involves 43 weeks of instruction at Ulriksdal. Thereafter, the newly trained officer works for 1 year on uniformed duty and 1 year in plainclothes investigative assignment.

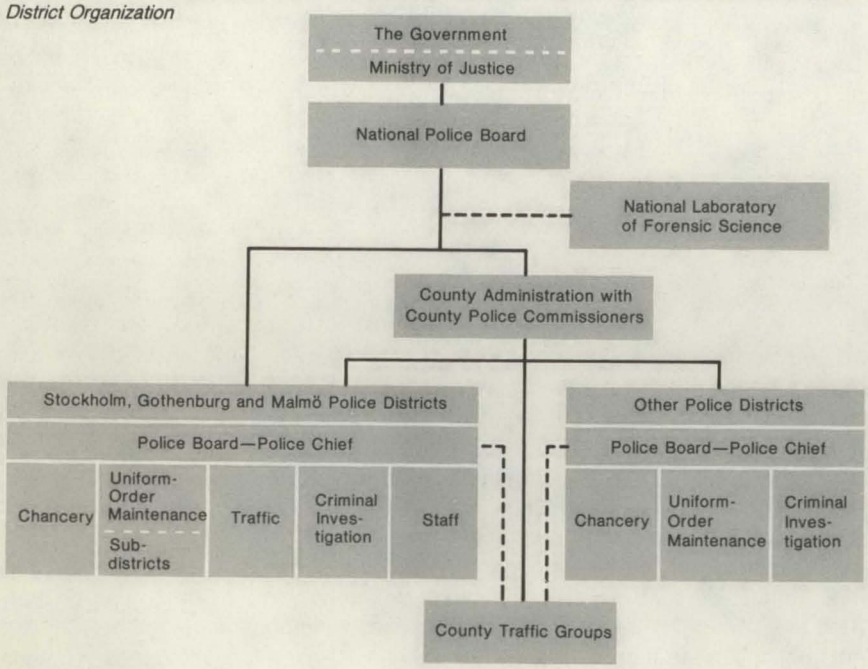
New personnel are eligible for appointment consideration between the ages of 18–35, and approximately 800 new recruits enter the school each year. These individuals are divided into three classes beginning at different times in the year. Attrition is reported to be about 15 percent during the basic training period.

The Ulriksdal school atmosphere is very similar to a small college campus in the United States. Students are casual in appearance and dress, class size is limited to 20 students, and class time is restricted to 40 minutes a session with 8 sessions a day. Emphasis is placed on a format of instruction, practice with an instructor's guidance, and rehearsal alone with a critique by an instructor. Practical exercises are used, with considerable emphasis placed on insuring that each officer responds and performs the same way under any given set of circumstances no matter where in the country they may be assigned—training by our definition.

National Police Board Organization



District Organization



Yet, there are also subject areas devoted to language—Swedish and English—law, government, basic psychology, sociology, and dealing with mental illness. Most of these "educational" courses are presented at a level comparable to first-year introductory courses in an undergraduate program. What is evident, however, is the time, care, and precision with which the instructional staff functions. Without exception, the teaching faculty are devoted to the task at hand—to insure that each officer understands the material being presented. This commitment seems, in fact, to pervade the entire culture and is found in high-quality work performance in many trades and occupations.

Without question, when observing the behavior of Sweden's police or by analyzing the training curriculum, it is evident that the Swedish police officer is devoted to maintaining order. Keeping the peace, insuring stability in social encounters, assisting citizens with any task, particularly as it relates to the government, is the accepted police role. Indeed, many officers and citizens alike see the police officer as the only trustworthy person immediately available who could be contacted at any time to resolve problems which otherwise might not be resolved. For these functions, the curriculum and instructional methods at the police schools meet every test. Calmness, patience, understanding, and other desirable human qualities were noted in every officer encountered.

In matters of crime control, however, the individual police officer is prepared to stabilize a situation and turn possible offenders over to officers specializing in investigative assignments. Since specialization is found throughout the police force, flexibility, discretion, independent decisionmaking as it relates to arrest decisions, investigation, and prosecution are not generally the prerogative of the individual officer.

Training often satisfies specialization, while eduction is crucial to generalization in police work. Possibly, the most notable divergence when comparing training and education of police officers in the United States and Sweden is the current emphasis in the United States on higher education prior to affiliation with a police agency. While most police departments in the United States appoint officers at age 21, appointment in Sweden can be at age 18; thus, the opportunity for formal education above the high school level might seem greater in the United States. It was reported, however, that a larger percentage of newly appointed officers in Sweden today have educational experience above high school.

The point, however, is that when the entire training and education of police officers takes place at one center over an extended period of time by the same faculty, the "officer product" will indeed be very similar. This is an objective of the training efforts when an individual first enters the Swedish police service.

Although nationalization of the police resulted in excellent training facilities with a well-qualified staff, there appears to be a desire and perceived need for training officers at the local level. In fact, a recent national commission has now made the recommendation that officers receive this training. Indeed, within some districts, excellent programs—some modest, some more extensive—are presently being conducted. Improvement of skills, refresher instruction on basic course subject areas, and interpersonal relations within the police structure occupy the course content within some larger municipal districts.

Summary

In Sweden, most officers are very well-prepared for order maintenance functions. The extreme variety in assignments in the country is, however, devastating. Officers may be assigned to perform in the congested cosmopolitan area of Stockholm at one time or in a small rural area of Sweden with a substantially smaller population at another time. The need to relate to the community has been realized and has resulted in the assignment of "block police" in some areas of the country—our concept of team policing.

One might easily conclude that many problems associated with the delivery of police service and the preparation of officers for that delivery in Sweden and the United States are very similar indeed. There are many officers in both countries who are very much the same—idealistic at first, cynical as time progresses, discouraged with the system in later years. In both countries many officers become suspicious of community members who, in turn, are suspicious of officers whom they perceive to be officious.

Public law enforcement is a difficult task in Sweden and the United States. Basic, advanced, and specialized training must prepare the officer for a complex, demanding, and challenging set of responsibilities that are very fluid. An appropriate mix of courses at the university level and instruction in necessary skills at a police school, constantly refreshed and augmented by local training endeavors in response to recognized need, would best serve the police and the community in both countries.

So it seems the police and the community in both countries continue to be served best by an appropriate mix of university level courses and solid instruction in police skills. **FBI**

105 Police Officers Slain

During 1979, 105 local, county, State, and Federal law enforcement officers were killed feloniously in the United States and its territories. This represents a 13-percent increase in the number of police officers killed when compared to 1978, during which 93 officers were slain. Of the 105 felonious killings, law enforcement agencies have successfully cleared 98 of the officers' murders.

Firearms were used in 95 percent of the slayings: 77 officers were killed by handguns; 17 by rifles; and 6 by shotguns. Four officers were slain by knives or other cutting instruments, and one was killed by a bomb.

Of all the officers killed in the line of duty last year, 19 were attempting to thwart robberies or in the pursuit of robbery suspects, 7 were attempting to apprehend burglary suspects, and 22 were attempting arrests for crimes other than robbery or burglary. Seven of those 22 were attempting narcotics-related arrests. The remainder were slain while handling disturbance calls, enforcing traffic laws, investigating suspicious persons, dealing with prisoners or mentally deranged persons, or in ambush-type situations.

Geographically, 48 officers were slain in the Southern States, 23 in the Western States, 16 in the North Central States, 13 in the Northeastern States, 3 in Puerto Rico, and 2 in Guam. **FBI**

Effects of Organizational Design on Communication Between Patrol and Investigative Functions (Conclusion)

By LT. COL. JOSEPH J. STAFT
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An investigator and uniformed officer feed information into a computer.

Part I of this article focused on the various organizational structures of police departments which can affect the level of cooperation between patrol and investigative personnel. As stated, each design has inherent advantages and disadvantages. The conclusion of this article will consider approaches which can be taken to induce and foster cooperative efforts between members of a department.

The Human Relations Approach

Human relations-oriented theoreticians minimize the importance of rational, formal organization and emphasize social relationships among workers as factors conducive to efficiency. Perhaps the founding fathers of the human relations approach to organization and management were Professors Fritz Roethlisberger and William Dickson of the Harvard School of Business. In their much-publicized Hawthorne study,[20] they found relationships between workers, ideals, personalities, beliefs, habits, and tradition to be

greater influences on productivity than physical working conditions.[21] They also found that the small work group exerts a great deal of pressure on the individual employee to conform to the group standards of production levels. This was found to be true, even if the individual's nonconforming behavior or increased productivity would result in financial benefits for the entire group. If these findings can reasonably be transferred to address the problem of patrol-investigative cooperation, it would seem that the willingness of a police officer to work toward organizational goals, including willingness to share information, would be more dependent on his values, attitudes, and relationships with other members of the department than on the nature of the formal organizational structure. It would appear reasonable to suspect that if group attitudes or norms within a patrol unit opposed cooperation with the investigative units, great pressure would be exerted on an individual patrol officer desiring to assist an investigator by volunteering helpful information. Conversely, if established relationships between the patrol and investigative groups were harmonious and cooperative, the individual officer would be supported and encouraged by his fellow workers to assist the detectives' investigative effort. Again, cooperation is a two-way street, and the same reasoning applies to investigators supplying information to their uniformed counterparts. The human relations school would argue that the influence of the group is stronger than organizational rewards encouraging exchange of information. Thus, in an effort to improve patrol-investigative communications, the administrator should consider ways to alter group norms and attitudes, depend on informal as well as formal leadership to encourage cooperation, and not rely exclusively on formal organizational channels to process information.

Modern Approach

The modern or revisionist school of organization attempts to synthesize the classical and human relations schools. Revisionists recognize that various types of social groups interact and may or may not cooperate or share the same values. They examine interrelationships of the organization and its environment, the structure of informal groups, and question the value of material rewards in improving employee morale and performance.[22] In general, they recognize that organizational theory must take into account such factors as purpose, goal, status, power differentials, and hierarchy.[23]

"Mutual exchange of criminal information benefits both investigative and patrol units. . . ."

Within the parameters described, modern theorists differ somewhat in their approach to organizational design. The works of Professors Paul R. Lawrence and Jay W. Lorsch [24] of the Harvard University Graduate School of Business Administration and Dr. Jay W. Galbraith [25] of the European Institute for Advanced Studies in Management have provided the basis for the purpose of relating modern organizational techniques to the central concern of improving communications between police patrol and investigative personnel.

The Lawrence and Lorsch theory of organizational design is known as the Differentiation-Integration (D&I) model.[26] They acknowledge the need for division of labor among a variety of bases, but associate trade-off costs and benefits with each form of specialization. Each subunit develops characteristics which are consistent with its mission.

The concept of differentiation can perhaps be clarified by comparing operational characteristics of a patrol unit with those of an undercover intelligence unit. In the patrol unit there must be a heavy emphasis on military discipline to permit rapid and effective response to emergency situations. Dispositions of recurring situations are standardized by formal rules and procedures, and freedom of movement is restricted because the patrol officer is usually responsible for enforcement activities within strictly defined beat boundaries. The emergency nature of patrol service requires a relatively short-time orientation toward its problems. In contrast, the intelligence unit must adopt relatively informal methods of operation, avoid the standardized appearance and behavior styles which would compromise their undercover missions, be free to travel or react spontaneously to follow the course of investigations, and assemble information and build cases over a long period of time. The mission of the patrol force dictates high visibility; the opposite is true of the intelligence unit. The differences, of course, are more numerous than those just described, but the comparison serves as an example of differentation required by the nature of the tasks each group performs.

The problem of achieving integration between differentiated units becomes crucial. Each group evolves its own task-related characteristics and different points of view which complicate the coordination process. This often generates serious intergroup problems symptomized by destructive competition, secretiveness, and hostility. The integration process must cope with these issues to achieve unity of effort.[27]

There is a strong inverse relationship between differentiation and integration. When units (because of their particular tasks) are highly differentiated, it is more difficult to achieve integration than when the individuals have similar ways of thinking and behaving.[28] This accounts for the relative ease with which adjacent patrol districts may coordinate activities, as opposed to the difficulty encountered in trying to achieve close cooperation between uniformed patrol and plainclothes investigative units.

Lieutenant Colonel Staff

Col. Myron J. Leistler
Chief of Police

The D&I model then focuses on the degree of differentiation required among units responsible for varying tasks and the degree of integration needed. In considering the integration issue, the police manager must determine which units need to work together and how tight the requirement for interdependence is. If, as in the case of patrol and investigative functions, there is a requirement for close cooperation, emphasis must be placed on the problem of achieving high integration.

The normal means of integrating activities of subunits within a police organization is through the hierarchial structure. As subunits become more differentiated, however, the formal hierarchy is no longer sufficient to provide necessary coordination, process the required amount of information, or achieve unity of effort. Additional integrative devices must then be built into the system.

Galbraith describes a wide range of integrative devices which are used by various organizations. Included are formal rules, programs and procedures, hierarchy, creation of lateral relations through direct contact or by creating liaison roles, task forces, and teams.[29] A final method of aiding the integration process is through use of lateral transfers. While Galbraith does not relate these integrative devices to police operations, their applicability is clearly apparent.

The simplest way of coordinating interdependent subtasks is to specify the necessary behaviors in advance of their execution in the form of rules or programs.[30] Police departments coordinate information and activities required for successful investigations by creating formal rules stated in a procedure manual. A typical procedure would indicate which unit is responsible for the preliminary and follow-up investigations, what information must be included on the offense report, how many copies of the report are to be made, how they are routed, etc. These rules are adequate to direct much of the information flow required for routine investigations. However, to rely solely on the use of rules and procedures as a method of providing the required information exchange between patrol and investigative officers presumes that it will be known in advance what information is needed by each. In all but the simplest investigations, this is not the case.

The next method for processing information between units is through a formal hierarchy. The manager of each unit is the point through which all information flows into or out of the unit. He decides which information should be transmitted up or down the chain of command. Besides being able to control the information exchanged, he knows who is feeding information into the system and can bestow appropriate rewards. Hierarchial communications must travel up the organization to a common manager, then back down to the intended receiver. Hierarchy is used in addition to, not instead of, rules and procedures. Repetitive situations are covered by rules, exceptions by hierarchy.[31]

The weakness of this system is that the information channels quickly become overloaded. Delays result, and information is received too late to be useful. The originating officer may receive no feedback on the value of his input and consequently fails to volunteer information in the future.

To prevent overloading of hierarchial channels, lateral information channels must be developed. The simplest form of lateral relations is direct contact between two people who share a problem,[32] that is, simply permitting direct contact and dialog between officers assigned to patrol and those assigned to investigations. Yet, simply saying that direct communication is permitted does not assure that it will happen. Organizational impediments discussed earlier inhibit meaningful exchange, e.g., officers assigned

to different time periods and physical locations, long-standing hostilities between organizational units, etc. These barriers must be removed, or at least reduced, if useful exchange of information is to increase. Additionally, an officer possessing relevant information simply may not realize that it could aid in another's investigation, or the officer needing certain information may not know which, if any, fellow officers might be able to provide it. All too often, when investigative and patrol units are separated, investigators fail to solicit information actively and patrol officers fail to volunteer it. Thus, no communication takes place. Mutual exchange of criminal information benefits both investigative and patrol units in completing their missions, but if the organization does not allow for direct exchange between members of individual units, little communication is likely to occur.

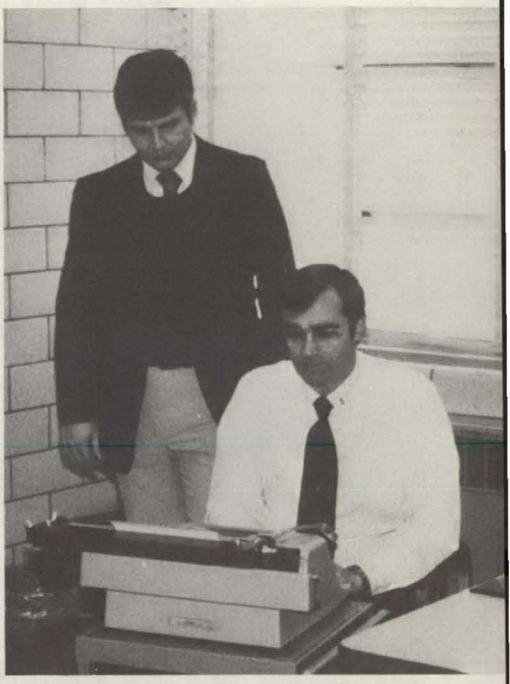
Liaison roles may be created to handle important interunit contacts.[33] Each patrol unit might have one representative who meets daily or weekly with members of the investigative unit, or an officer assigned to the detective bureau might appear at patrol officers' briefings once a week to discuss mutual problems or transmit and receive information of common interest. Psychologist Rensis Likert suggests creation of a "linking pin" role to facilitate integration among interrelated units.[34] The incumbent of such a role would be a member of both the investigative and patrol units and would promote common purposes and attitudes and provide a point for exchange of information.

British police forces have created a kind of liaison role in the form of a "collator." The position of collator was introduced in England with the advent of unit beat policing in 1967. The function of the collator is to collect, assess, store, and disseminate local criminal intelligence. He is to gather information previously possessed only by individual officers and make this knowledge available to all members of the department. The primary focus is on assembly of intraunit criminal information, but he also provides a valuable service in making this information available to investigative and other patrol units. The British collator is a sworn officer, but at least one American police department has assigned civilian personnel to the role.[35] The collator serves to exchange information with centralized investigative personnel, outside law enforcement agencies, and among locally assigned patrol officers.

To gain even greater capability for exchanging information between patrolmen and investigators, they can be assigned to the same organizational unit. This can be done on a temporary basis by creating task forces, or more permanent teams can be formed. The task force or team under the direction of a single superior can be responsible for both the patrol and investigative function.

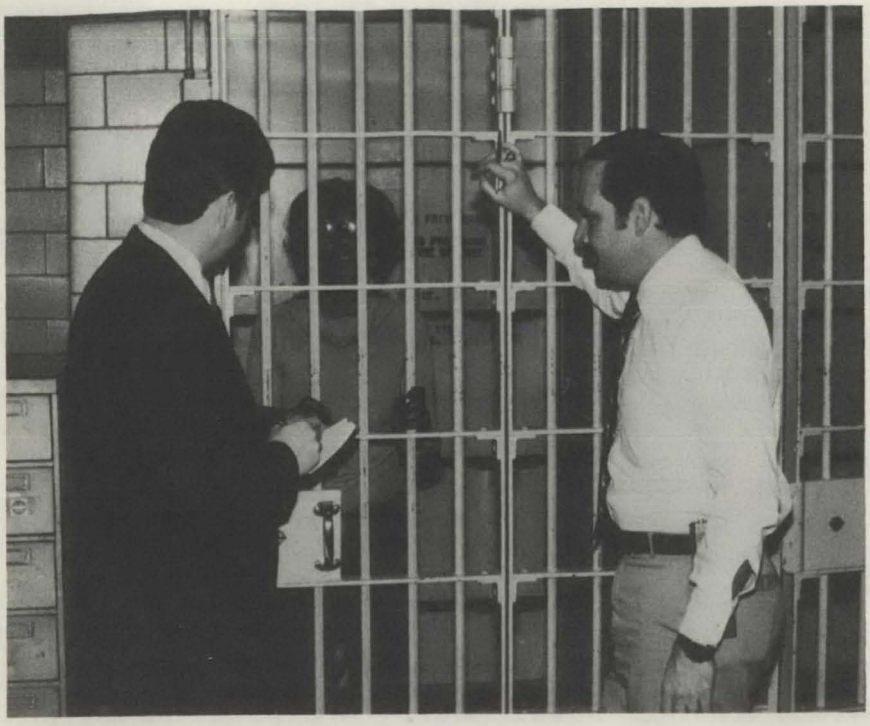
"The normal means of integrating activities of subunits . . . is through the hierarchial structure."

Task forces are usually created to attack specific problems. They may have full-time or part-time members and are temporary groups, existing only as long as the problem remains. When a solution to the problem is reached, or the problem no longer exists, each participant returns to his normal assignment.[36] Task forces, comprised of both patrol and investigative personnel, may be created to address such problems as a sudden increase in residential burglaries in a particular area, a regional gang problem, or an annual increase of armed robberies during the Christmas holiday season. The important point is that the task force functions as one unit with a specific, common purpose. Briefings should include both the uniformed and plainclothes officers, and all members should meet at a central location to provide the opportunity to exchange information. Relationships developed between individual patrol and investigative officers can remain useful long after the task force is terminated.



A detective and patrol officer exchange information regarding a case.

A more permanent means of establishing strong personal and operational relationships between patrol and investigative personnel is the adoption of a team policing model. The term "team policing" has come to have many meanings. For this purpose, it means combining the patrol and investigative functions within one geographically based organizational



Cooperation between patrol and investigative forces is an integral part of departmental operations.

unit. An essential element of the team policing programs in effect in seven cities studied by the Police Foundation [37] was maximum interaction among team members, including close internal communication among all officers assigned to area-based teams. The Police Foundation reported that interaction was evident among team members in all of the cities studied, but considerable varying degrees existed. Critical factors which influenced the exchange of information were regularly scheduled team conferences, the nature of the physical building facilities shared by team members, and the behavior of team leaders. When the team leader encouraged sharing of information and was able to instill a sense of teamsmanship, the members communicated more frequently and informally. [38] The most comprehensive study of the effectiveness of team police techniques attempted to date was initiated by the Cincinnati, Ohio, Police Division in March 1973. Initial observations of team operations were encouraging, particularly as related to interaction among team members cooperating in criminal investigations. After 6 years' experience and evaluation of this investigative structure, it has become apparent that additional mechanisms are required to facilitate exchange of criminal information between investigators assigned to different teams.

As with all forms of organization, there are certain costs attached to self-contained teams. [39] Due to the wide scope of functional responsibilities assigned to the team, a reduction in levels of specialized skills may result. Functional specialists assigned to generalist teams have less opportunity to interact with other specialists of the discipline, thus less opportunity to exchange current information related to their function. Expensive equipment, practical for a functionally centralized unit, is not available to a generalist team. Opportunity for a career path within one functional area is reduced.

A certain amount of duplication of effort is likely to occur when responsibilities are divided among teams. If a department opts for area-based, self-contained teams, it would seem prudent to maintain a small, centralized core of personnel to collate information pertinent to interteam crime patterns, trends, and activities.

The final form of organizational structure designed to force integration to be discussed here is matrix organization. This form of organization requires that dual reporting relationships be established. For instance, an investigative unit might be assigned to an area-based precinct station. Under a matrix system, the supervisor of that unit would report to, receive direction from, and be evaluated by both the precinct commander *and* the investigative bureau commander. The supervisor is therefore required to coordinate his activities and information with both the investigative bureau and the patrol precinct. Variations of the matrix might establish this dual reporting role higher, e.g., at the precinct commander level, or lower, e.g., at the individual investigator level.

Seen through the eyes of a police administrator who has been seasoned by the classical principles of organization formulated by Gulick, Urwick, Mooney, et al., the dual reporting structure appears to be a blatant violation of the "sacred" principle of unity of command. Upon reflection, however, the matrix is not too different from the staff or functional supervisory relationships used by many police agencies. Secondary reporting relationships are merely strengthened and formalized. This form of organization has been proven effective in many private sector organizations, especially in the aerospace industry, where there is a need for tight integration among interdependent subunits to accomplish tasks.

Use of Lateral Transfers

Galbraith reports on the use of lateral transfers as an integration device.[40] His comments present significant implications for police managers seeking ways to improve patrol-investigative communications. Lateral transfer, or job rotation, has been used for some time by both private and public sector agencies as part of management development programs. Findings of studies conducted at M.I.T. have shown the effect of lateral transfers on interdepartmental (relationships between sub-

"There is a strong inverse relationship between differentiation and integration."

units within the same organization) communications. While the studies focused on managers of organizations, they suggest that similar techniques might be equally effective for improving communications among first-line operational personnel. The findings of one study clearly indicate that managers having interdepartmental experience communicate laterally to a larger number of colleague managers than managers not having interdepartmental experience.[41] Similar findings were reported for a Japanese R&D organization.[42] In the second study, it was discovered that the effects of the transfer diminish with time. People transferred 10 years ago behave the same way as individuals who have had no experience.

A second finding is that individuals with interdepartmental experience use more informal means to communicate when engaging in lateral contact. They will use a telephone call, face-to-face contact, or an informal meeting. Those not having the experience are more likely to use a memo. Therefore, the transfer increases probability of problem-solving dialog rather than less effective one-way communication. Finally, the studies indicated that relationships established by managers with interdepartmental experience tend to be reciprocal, that is, they receive as many contacts as they initiate. Reciprocal relationships are the most satisfying and are likely to be the most productive for the organization.

Lateral transfers improve communications by reducing impersonality. It is much easier for an individual to call someone he knows to solicit or volunteer information than to address a memo to an impersonal organizational unit. That is why the effect of transfer diminishes over time. Promotions, transfers, and turnovers cause loss of personal contact.

Galbraith concludes that lateral transfers result in more lateral contacts and more effective contacts. In addition, the organization gets something for nothing if it already uses lateral transfers. The only thing needed is to transfer personnel often enough to offset the diminishing time effect. If lateral transfers are not used currently, they should be evaluated against the costs of lost specialization and lost productivity due to learning time.

Frequent rotation between patrol and investigative units has not been the general custom in most police departments. Uniformed officers often welcome a transfer to the detective bureau, but the reverse is seldom true. In many departments, civil service regulations protect the detective's tenure in the investigative unit. Even if not prescribed by formal rules, long-standing practices and custom usually militate against transferring personnel out of the detective unit, except those transfers caused by promotion or imposed as a disciplinary measure.

One-way transfers or "creaming" of the most experienced and able officers out of the patrol unit consequently leave a greater proportion of inexperienced or less competent officers in the patrol branch, reinforcing the perceived image of the patrol force as the "dumping ground" for the incompetent or a place to work only until one can arrange a transfer out. This phenomenon hardly gives credibility to the oft-repeated phrase that the patrol force is the "backbone of the police department."

As long as the detective enjoys higher prestige and pay than his uniformed counterpart, this situation is not likely to change. Although certain task characteristics require that the detective be given greater flexibility in his work, nothing appears inherent in his job that would justify higher pay for an investigator than for a patrol officer. In fact, according to Wilson, the detective works in a less hostile, more certain environment than his uniformed coworker.[43] When assigned to an investigative unit, the officer has a better idea of what is expected of him and enjoys greater public support than when he is assigned to the uncertain patrol task of "keeping the peace." This would seem to indicate that financial incentives are not necessary to induce officers to accept investigative assignments and in fact serve to widen the "prestige gap" between the two roles.

The pay differential issue is raised here to illustrate the effect it has in discouraging routine lateral transfers. *Municipal Police Administration* endorses rotation of vice-control personnel to maintain undercover effectiveness and transfers out of the detective bureau to prevent it from becoming a "sinecure for the incompetent." The text suggests that intradepartmental transfers should not necessarily be a reflection of a police officer's inability to do investigative work.[44] In the same volume, however, it is recommended that when the officer is returned to uniform assignment, he lose the "incentive" pay he enjoyed while assigned to investigations.[45] The loss of pay hardly seems congruent with the idea that the officer was performing his work effectively and is not being penalized by the transfer.

If use of lateral transfers is to be an effective means of improving cooperation and communications between the patrol and investigative forces of a police department, status and pay differentials must be reduced or eliminated, and officers must not be stigmatized by a transfer from an investigative to a patrol assignment.

Summary

The problem of inducing cooperation between the patrol and investigative forces is long standing and is present in varying degrees in all police agencies. Interrelated factors contributing to the situation are organizational problems of structure, competition, and assignment of responsibility; social problems of role and status differentiation and subcultural values; and maintenance of adequate information systems.

Organizational structure affects the level of cooperation among members of an organization. The organizational approach most commonly observed in police departments is the classical design. Tasks are divided among subunits in the organization and coordination is achieved through a formal hierarchy. Each base of specialization (purpose, process, clientele, area, and time) has inherent advantages and disadvantages to be considered when designing a structure which will permit adequate communication to occur between interdependent subunits. Human relations theorists minimize the importance of formal structure and concentrate on individual and group norms as means for inducing cooperation. Modern practitioners of organization design attempt to synthesize the classical and human relations approaches.

The patrol and investigative functions develop differential characteristics due to the nature of their tasks. As organizational subunits become more differentiated, integration becomes more difficult to achieve. High integration is necessary if high interdependency exists between units.

Integrative devices include use of rules, procedures, and programs; hierarchy; lateral relations, including direct contact; liaison rules; task forces; teams and matrix structure; and lateral transfers.

There is no one best way for a police department to organize which will insure effective communication between patrol and investigative elements. All forms of organization are not equally effective, however, and each police executive must consider the trade-off costs and benefits attached to the described organizational techniques when searching for the optimal design for his own agency. **FBI**

Footnotes

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[25] Jay Galbraith, *Designing Complex Organizations* (Reading, Mass.: Addison-Wesley Publishing Co., 1973), p.2

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[36] Galbraith, p. 51.

[37] Lawrence W. Sherman, Catherine H. Milton, and Thomas V. Kelly, *Team Policing* (Washington, D.C.: Police Foundation, 1973).

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[39] Galbraith, pp. 27–28.

[40] Ibid., pp. 49–50.

[41] William M. Newport, "The Interdepartmental Transfer: An Integrative Strategy," (Cambridge, Mass.: M.I.T., 1969), unpublished M.S. thesis, in Galbraith, p. 49.

[42] M. Kanno, "Effects on Communication Between Labs and Plants of the Transfer of R & D Personnel" (Cambridge, Mass., M.I.T., 1968), in Galbraith, pp. 49–50.

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[45] Ibid., pp. 142–143.

Search of Motor Vehicles Incident to Arrest

(Conclusion)

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

Part I of this article examined the general principles regarding the justification and scope of a search incident to arrest. It was noted that two U.S. Supreme Court decisions, *United States* v. *Robinson*[22] and *Chimel* v. *California,*[23] respectively, established that a search incident to arrest is justified by the *custodial* nature of the arrest itself, and that once initiated, the scope of the search includes the *person* arrested and the *area within the arrestee's immediate control.*

The purpose of the second part of this article is to examine the manner in which those two concepts have been applied to motor vehicle searches by the courts.

The automobile began its life of crime in the United States at an early age. Not long after its invention, the horseless carriage began to emerge as an instrumentality which increased the opportunity and range of the criminal, as well as the speed of his flight. By the 1920's, the automobile was figuring prominently in the law enforcement problems of the day; so much so, that in 1925 the U.S. Supreme Court recognized the "automobile exception" [24] to the warrant requirement of the fourth amendment, which allows the warrantless search of mobile vehicles if there exists probable cause to believe that evidence or contraband is located inside.

This "Carroll Rule" search—for it quickly assumed the name of the case which spawned it—was not, and is not, synonymous with the search incident to arrest. In fact, it is fair to say that the new doctrine had little impact on local law enforcement for several years for at least two reasons. First, it was, after all, the product of a Federal case in the days when the fourth amendment to the U.S. Constitution, with its attendant exclusionary rule, was not applicable to

". . . a custodial arrest justifies a search of both the person and the area within the arrestee's immediate control, regardless of the offense."

the States; [25] and second, given probable cause to believe that evidence or contraband was located in a mobile vehicle—the essential elements of a "Carroll Rule" search—local authorities would more than likely effect an arrest of the automobile's occupant(s) and search the vehicle *incident to the arrest.*

After all, the scope of such a search was quite broad, generally considered to cover not only the arrestee, but the "place" where the arrest occurred or the area within his "possession" or under his "control." [26]

Perhaps the most significant limitation was that which determined when such a search could occur. Inasmuch as the most frequently stated rationale for allowing a search incident to arrest was the obvious need to seize weapons and prevent the destruction of evidence, many courts apparently reasoned that where there was little likelihood that weapons or evidence were present, no search was permissible. For example, in arrests for traffic offenses a search would ordinarily not be permitted. Although some courts would allow a search for weapons,[27] based on the recognition of the potential danger to the officer in any arrest situation, few would allow a further search for *evidence.*[28]

Stated simply, the authority to search was usually determined by the probability that evidence was connected with the offense for which the arrest occurred. Once the authority to search was established, the ensuing search was relatively unlimited. Such was the general state of the law from at least the 1920's to the latter part of the 1960's.

Ironically, within the 4-year period from 1969 to 1973, the situation was precisely reversed. *United States* v. *Robinson* [29] *increased* the frequency with which searches incident to arrest might occur, while *Chimel* v. *California* [30] *decreased* the scope of the search once commenced. The impact of these changes on motor vehicle searches has been notable.

To Search Or Not To Search

In *United States* v. *Robinson*, the Court stated:

"The authority to search the person incident to a lawful custodial arrest, while based upon the need to disarm and to discover evidence, does not depend on what a court may later decide was the probability in a particular arrest situation that weapons or evidence would in fact be found upon the person of the suspect. A *custodial* arrest of a suspect based on probable cause is a reasonable intrusion under the Fourth Amendment; that intrusion being lawful, a search incident to the arrest requires no additional justification." [31] (emphasis added)

While *Robinson* and a companion case decided the same day, *Gustafson* v. *Florida,* [32] establish that a lawful *custodial* arrest automatically justifies a search of the *person* incident to the arrest, and regardless of the offense, neither specifically addresses the question of whether this *per se* authority to search extends to areas beyond the person.

Some courts have taken this to mean that the authority to search which is triggered automatically by the custodial nature of the arrest is limited to a search of the person. Those courts would apparently apply a separate rule to a search of the area within the arrestee's immediate control and hold that the area search is justified only when there is a probability that evidence is connected with the arrest offense.

For example, in *United States* v. *Lewis,*[33] the defendant and a companion were stopped in his pickup truck by police who were investigating a "drunk complaint." In addition, the officers noted the vehicle had a defective taillight and a loud muffler. As the officers approached the pickup to issue a citation, they observed in an attached camper several boxes labeled "danger electrical blasting caps." The occupants were ordered out of the truck and asked about the boxes. After denying knowledge as to the cartons, they were arrested, searched, and placed in the police car. The camper was then searched and the boxes—later determined to be stolen—were seized.

The U.S. Court of Appeals for the Sixth Circuit stated:

"In neither *U.S. v. Robinson* nor *Gustafson v. Florida* was any issue raised as to a warrantless search of the vehicle (as opposed to the person) subsequent to arrest for a traffic offense. . . . we would . . . decline to uphold the warrantless search of the camper as one properly conducted incident to an arrest for a traffic offense." [34]

The Court did, however, uphold the search as incident to the arrest for possession of burglary tools.[35]

"The permissible scope of the search has been construed broadly enough to include portions of the interior of a motor vehicle. . . ."

The opposite position was taken by the U.S. Court of Appeals for the Fifth Circuit in *United States* v. *Marshall.*[36] Defendant was arrested for driving with a defective muffler and was observed by the officer "doing something under the front seat." A search under the front seat disclosed a gun. The court said:

"Appellant concedes that on the basis of the recent decisions in *United States v. Robinson* . . . and *Gustafson v. Florida* . . . , search of his person and of the area within his immediate control was permissible, incident to the lawful custodial arrest, to preserve evidence or prevent flight, or for the personal protection of the arresting officers." [37] (citations omitted)

The court upheld the search.

The position which most courts appear to be following today is that a custodial arrest justifies a search of both the person and the area within the arrestee's immediate control, regardless of the offense.

It must be noted that the U.S. Supreme Court in *Robinson* and *Gustafson* did not in any way attempt to describe those offenses which may or may not justify a custodial arrest. Those determinations are left to the individual States. Furthermore, State courts may choose to apply a stricter rule within their respective States by relying upon provisions in their States' constitutions.[38]

Scope of the Search

In a 1967 article published in the FBI Law Enforcement Bulletin and dealing with motor vehicle searches, the author stated, ". . . the search incident to arrest is perhaps the dominant method of securing physical evidence of crime." [39]

An assessment of the situation 13 years later produces a different result, with the search incident to arrest playing a lesser role in automobile searches. Perhaps one reason for that development is the recent treatment by the U.S. Supreme Court of alternative search doctrines.[40] But another, and perhaps more significant factor, is the narrowing of the permissible scope of a search incident to arrest by the Supreme Court in *Chimel* v. *California.*[41]

By defining the permissible scope of the search as "the arrestee's person and the area 'within his immediate control' . . ." [42] *Chimel* clearly overruled prior case law which allowed a full search of the "place where the arrest occurred" or the area considered to be in the "possession" or under "control" of the person arrested. However, the case itself provides little guidance as to how, if at all, its principles are to be applied to motor vehicle searches. A look into court cases following *Chimel* is necessary to measure its impact on car searches.

A few courts have taken the position that *Chimel* does not apply to motor vehicles. In *Preyer* v. *State,*[43] for example, the court upheld the search of an automobile incident to the arrest of suspects a short distance away for burglary, saying:

"In our judgment, *Chimel* v. *California* . . . can be distinguished for the fundamental reason that, in the present case, we are concerned with the search of an automobile, whereas in Chimel the arrest and search occurred in a residence." [44] (citations omitted)

At the opposite end of the spectrum, none of the courts has apparently taken the position that *Chimel* applies to vehicles strictly and precludes a search of any portion of the vehicle incident to arrest.

A middle position seems to be the prevailing rule today, applying *Chimel* to motor vehicles but in varying degrees of strictness with respect to the scope of the search.

Factors which the courts have considered in determining the proper scope of the search are the location of the arrestee at the time of search and the accessibility of the vehicle to him, as well as the area of the vehicle searched.

(1) Location of arrestee—The courts generally accept the proposition that when police officers make a custodial arrest of a vehicle occupant, the arrestee is removed from the vehicle. Typical, perhaps, is this statement of the Alaska Supreme Court in *Daygee* v. *State:* [45]

"The search of the vehicle should not depend on whether or not the person or persons arrested are in the car or have been recently removed from the car for purposes of effectuating an arrest. We reach this conclusion because it would be an unusual situation for a police officer not to remove a suspect from a car while going through the arrest process, both for reasons of safety and because of the physical limitations of effecting an arrest in such a confined area." [46]

". . . removal of the arrestee from the scene will likely remove any portion of the vehicle from the permissible scope of the search."

Once the arrestee is removed from the vehicle his location in relation to the vehicle at the time of the search could be significant. In *United States* v. *Frick*,[47] the U.S. Court of Appeals for the Fifth Circuit approved the seizure and immediate search of an attache case lying on the rear seat of the vehicle at the time of Frick's arrest. The record indicated that Frick was no more than 2 feet from the automobile and the court concluded:

"The automobile and the attache case (lying on the back seat) were within the area of Frick's immediate control. The attache case was not isolated or hidden in some distant room of the house or securely locked in the trunk of the car. It was in plain view and readily accessible to Frick." [48]

On the other hand, several cases have held that if the arrestee is placed in a police car or otherwise removed from the immediate vicinity of the subject vehicle, a search is not permissible. In *United States* v. *Edwards*,[49] the Court held:

"At the time the officers searched the car, Edwards was securely locked in the rear of the patrol car. He was obviously incapable of retrieving weapons or evidence from anywhere in the searched vehicle. . . ." [50]

Thus, removal of the arrestee from the scene will likely remove any portion of the vehicle from the permissible scope of the search.

(2) Area of Vehicle Searched—The courts have considered and approved a variety of searches incident to arrest, including a search of the area under the front seat;[51] behind the front seat; [52] the front floorboard; [53] the back seat; [54] and the glove compartment.[55]

In addition, various containers located within the permissible area of the search may likewise be searched, for example, an attache case in the back seat [56] or a paper bag on the floorboard.[57] However, such containers located beyond the permissible scope of the search—in the trunk of the vehicle, for example—may not be searched incident to arrest.[58]

It should be noted at this point that in the recent decision of *Arkansas* v. *Sanders*,[59] the U.S. Supreme Court found the warrantless search of personal luggage located in an automobile to be unconstitutional, even though the search of the vehicle was permissible and under circumstances where there was apparently probable cause to believe that contraband was located in the suitcase. The search in *Sanders* was not incident to arrest, and the Court specifically declined to rule on the question of whether personal luggage could be searched under that theory if located within the "immediate control" of the arrestee. Until such questions are resolved, the far better course to follow would be to seize such containers as personal luggage, assuming probable cause that there is evidence or contraband inside, and apply for a warrant to search. In the absence of probable cause to believe that the luggage contains evidence or contraband, if a valid arrest has occurred and the luggage is within the "immediate control" of the arrestee, a search incident to arrest may well be the next best alternative. Logic suggests that if the luggage is locked and its contents inaccessible to the arrestee, then the underlying rationale for the search would not exist.

A few courts have upheld a complete search of the vehicle following the arrest of the occupant.[60] However, it appears that additional factors were generally present in those cases to support the search, apart from the fact of a custodial arrest. In view of the cases discussed above, it seems clear that the full search of a vehicle will not ordinarily be justified as an incident to the arrest of its occupants.

Contemporaneous Search

A final reminder should be made with respect to one additional requirement of a search incident to arrest, i.e., that the search be conducted contemporaneous with the arrest itself.

In *Preston* v. *United States*,[61] the U.S. Supreme Court held invalid the search of a vehicle at a garage to which it had been towed following the arrest of its occupants. The Court stated that because the search was "remote in time or place" from the arrest the justifications for the search—the need to seize weapons and prevent the destruction of evidence—were absent, and therefore the search was "simply not incident to the arrest." [62]

Summary

The U.S. Supreme Court has held that warrantless searches are *per se* unreasonable under the fourth amendment to the U.S. Constitution, unless justified by one of the few, and narrowly defined, exceptions to the warrant requirement.

The search incident to arrest is perhaps the oldest and most widely recognized exception to the rule. Traditionally, based on the need to secure weapons and prevent destruction of evidence, the search may be undertaken whenever a *custodial* arrest has occurred and may include the *person* arrested as well as the *area within his immediate control.*

The permissible scope of the search has been construed broadly enough to include portions of the interior of a motor vehicle which are reasonably accessible to the arrestee and from which he might conceivably obtain weapons or destroy evidence. Factors which the courts may consider in measuring the permissible scope of the search are:

1) Proximity of the arrestee to the vehicle at the time of the search;

2) Accessibility of the area searched to the arrestee; and

3) The timing of the search, i.e., contemporaneous with the arrest.

Since the search incident to arrest has limited objectives—to protect the lives of the arresting officers and prevent destruction of evidence—its scope is likewise limited. But considering the importance of those objectives, and despite the limitations, it remains a valuable tool in the hands of law enforcement officers today. **FBI**

Footnotes

[22] 414 U.S. 218 (1973).

[23] 395 U.S. 752 (1969).

[24] *Carroll* v. *United States,* 267 U.S. 132 (1925).

[25] The fourth amendment to the U.S. Constitution was first held applicable to the States through the 14th amendment "due process" clause in *Wolf* v. *Colorado,* 338 U.S. 25 (1949). The exclusionary rule, first adopted by the U.S. Supreme Court to enforce the fourth amendment in *Weeks* v. *United States,* 232 U.S. 383 (1914) was applied to the States in *Mapp* v. *Ohio,* 367 U.S. 643 (1961).

[26] See, *Agnello* v. *United States,* 269 U.S. 20 (1925); *United States* v. *Rabinowitz,* 339 U.S. 56 (1950); *Preston* v. *United States,* 376 U.S. 364 (1964).

[27] Contra, see, *State* v. *Scanlon,* 202 A.2d 448 (N.J. 1964); *People* v. *Reed,* 227 N.E.2d 69 (Ill. 1967).

[28] See, *Thompson* v. *State,* 398 S.W. 2d 942 (Tex. Crim. 1966); *Church* v. *State,* 333 S.W.2d 799, (Tenn. 1960); *State* v. *Taft,* 110 S.E.2d 727 (W.Va. 1959); *State* v. *Michaels,* 374 P.2d 989 (Wash. 1960); *Barnes* v. *State,* 130 N.W.2d 264 (Wis. 1964).

[29] *Supra* note 22.

[30] *Supra* note 23.

[31] *Supra* note 22, at 235.

[32] 414 U.S. 260 (1973).

[33] 504 F.2d 92 (6th Cir. 1974).

[34] *Id.* at 103.

[35] See also, *Wilson* v. *State,* 511 S.W.2d 531 (Tex. Cr. App. 1974).

[36] 499 F.2d 76 (5th Cir. 1974); see also, *People* v. *Cannon,* 310 N.E. 2d 673 (Ill. App. 1974); *State* v. *Huss,* 541 P.2d 498 (Oreg. App. 1975).

[37] *United States* v. *Marshall,* 499 F.2d 76, 77 (5th Cir. 1974).

[38] See e.g., *State* v. *Kaluna,* 520 P.2d 51 (Hawaii 1974).

[39] See, *Search of Motor Vehicles,* FBI Law Enforcement Bulletin, August 1967, p. 8.

[40] See, *Chambers* v. *Maroney,* 399 U.S. 42 (1970) (warrantless search of automobile based on probable cause); *South Dakota* v. *Opperman,* 428 U.S. 364 (1977) (inventory search of automobile).

[41] *Supra* note 23.

[42] *Id.* at 762–763.

[43] 369 So.2d 901(Ala. Cr. App. 1979).

[44] *Id.* at 909. See also, *United States* v. *Fox,* 407 F. Supp. 857 (W.D. Okla. 1975).

[45] 514 P.2d 1159 (Alaska 1973).

[46] *Id.* at 1166.

[47] 490 F.2d 666 (5th Cir. 1973).

[48] *Id.* at 669. See also, *United States* v. *Wilmoth,* 325 F. Supp. 1397 (D. Mass. 1971); *Madeley* v. *State,* 488 S.W.2d 416 (Tex. Cr. App. 1973); *Alberti* v. *State,* 501 S.W.2d 654 (Tex. Cr. App. 1973). Contra, see, *State* v. *Skrobacki,* 331 So.2d 376 (Fla. App. 1976) (search of vehicle invalid where subject in custody of two armed officers 15 feet from vehicle).

[49] See, 554 F.2d 1331 (5th Cir. 1977), *cert. denied,* 439 U.S. 968 (1978).

[50] *Id.* at 1336–1337. See also, *United States* v. *Day,* 331 F.Supp. 245 (E.D. Pa. 1971); *Paxton* v. *State,* 263 N.E.2d 636 (Ind. 1970). Contra, see, *United States* v. *Lewis, supra* note 33.

[51] See, *United States* v. *Marshall, supra* note 37; *State* v. *Huss, supra* note 36; *Guffey* v. *State,* 488 S.W.2d 28 (Ark. 1972); *United States* v. *Wilmoth, supra* note 48.

[52] *Madeley* v. *State, supra* note 48.

[53] *State* v. *Browning,* 233 So.2d 866 (Fla. App. 1970).

[54] *United States* v. *Frick, supra note* 47.

[55] *United States* v. *Klugman,* 506 F.2d 1378 (8th Cir. 1974); *United States* v. *Maddox,* 413 F.Supp. 60 (W.D. Okla. 1976); *Strader* v. *Estelle,* 491 F.2d 969 (5th Cir. 1974). Contra, see, *United States* v. *Santangelo,* 411 F.Supp. 1248 (S.D.N.Y. 1975).

[56] *United States* v. *Frick, supra* note 47.

[57] *United States* v. *Dixon,* 558 F.2d 919 (9th Cir. 1977), *cert. denied,* 434 U.S. 1063 (1978); *United States* v. *Butler,* 533 F. 2d 221 (9th Cir. 1976), *cert. denied,* 434 U.S. 865 (1977).

[58] See, *Haugland* v. *State,* 374 So.2d 1026 (Fla. App. 1979) (search of suitcase located in trunk of vehicle held invalid); *Soles* v. *State,* 299 A.2d 502 (Md. App. 1973), *cert. denied,* 415 U.S. 950 (1974) (search of locked briefcase located in trunk held invalid).

[59] 61 L.Ed. 2d 235 (1979).

[60] *United States* v. *Gonzalez-Rodriguez,* 513 F.2d 928 (9th Cir. 1975); *United States* v. *Roe,* 495 F.2d 600 (10th Cir. 1974); *United States* v. *Lewis, supra* note 33.

[61] *Supra* note 26.

[62] *Id.* at 367.

WANTED BY THE FBI

Photographs taken 1975. *Date photographs taken unknown.*

John Timothy Braun

John Timothy Braun, also known as John T. Braun, John Timmy Braun, John William Braun, Timmy Braun, Timothy John Braun, William D. Braun, William Daniel Braun, William John Braun, and Tim Pemper.

Wanted For:

Interstate Flight—Manslaughter.

The Crime

John Timothy Braun and his wife, Kathleen Ann Braun, both narcotics users, were participants in a drug-related murder, where subsequent to the murder, the subject sawed off the victim's arms with an electric saw so as to render the corpse unidentifiable. On December 28, 1977, Kathleen Ann Braun escaped from prison where she was serving a life sentence after being convicted of Murder—Party to the Crime. She escaped through a hole cut in the fence which was believed to have been made by her husband.

A Federal warrant was issued on December 6, 1978, at Milwaukee, Wis., for John Timothy Braun, and one issued on January 16, 1979, at Milwaukee, Wis., for Kathleen Ann Braun.

Criminal Record

John Timothy Braun has been convicted of manslaughter and narcotics violations.

Description

Age	34, born July 17, 1945, Milwaukee, Wis.
Height	5'7".
Weight	185 pounds.
Build	Stocky.
Hair	Brown.
Eyes	Hazel.
Complexion	Medium.
Race	White.
Nationality	American.
Occupations	Laborer, salesman.
Scars and Marks	Scar on left inner arm; tattoo "JIM" on right inner arm.
Remarks	John Timothy Braun, who is reported to be extremely strong physically, may be accompanied by his wife, Kathleen Ann Braun, white female, born May 13, 1946, Milwaukee, Wis., 5'9", 200 pounds, brown hair, green eyes, FBI Number 232 479 F, whose apprehension is also being sought by the FBI.
Social Security Numbers Used	397-44-6364 397-41-6872 397-41-6367.
FBI No.	257 453 E.

Caution

John Timothy Braun reportedly possesses exceptional strength and both he and his wife should be considered armed, dangerous, and escape risks.

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.

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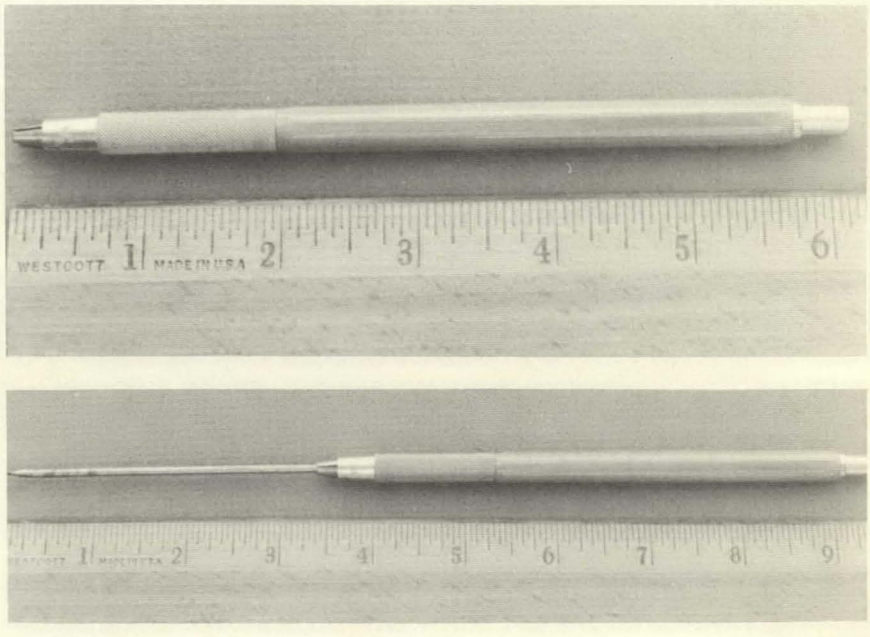

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Interesting Pattern

The interesting and unusual pattern presented here is classified as an accidental whorl. It consists of a combination of two different patterns, a whorl and a loop, and it also possesses three deltas. The outer tracing is obtained by tracing from the left delta to a point opposite the extreme right delta.