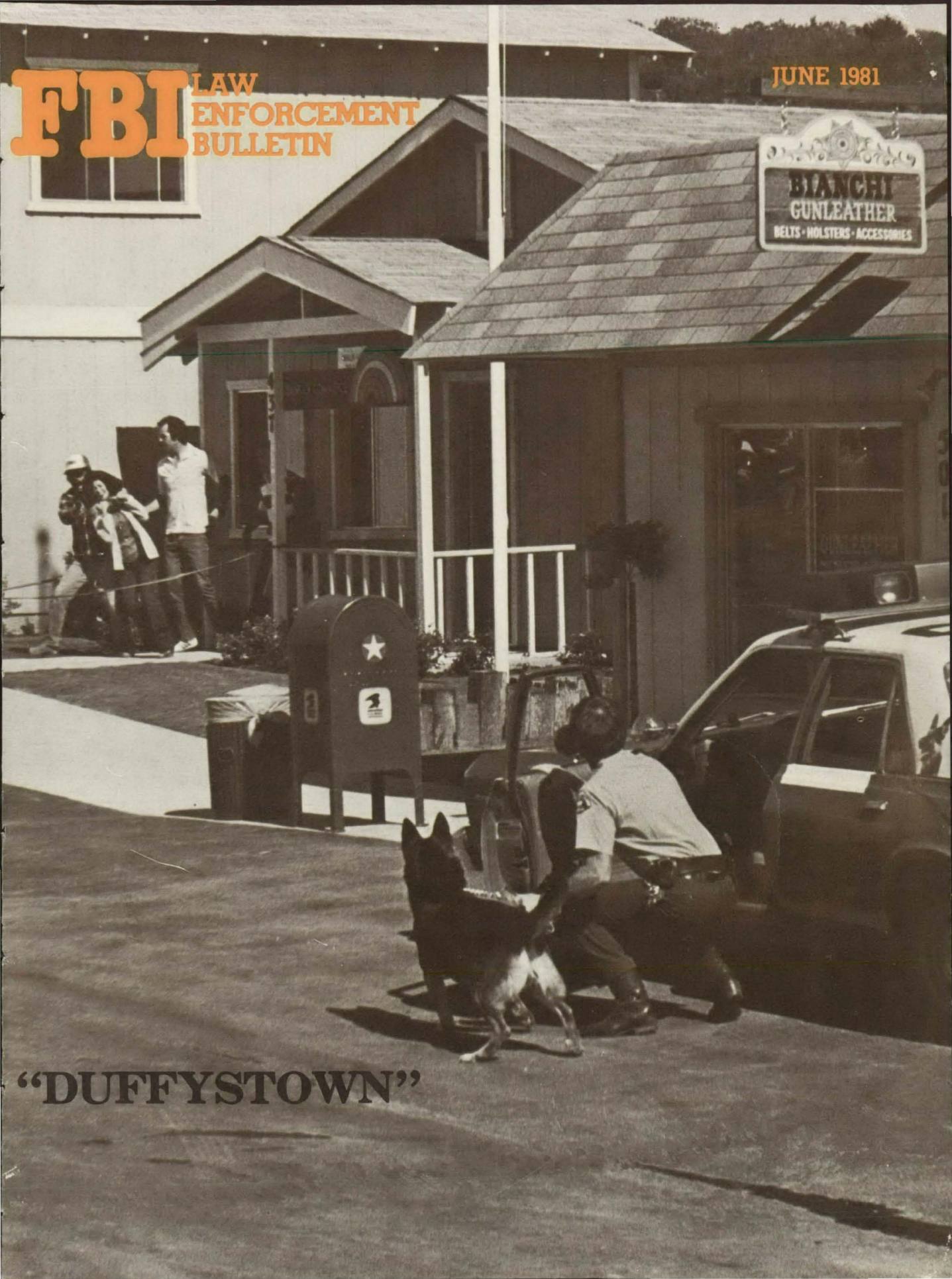


# FBI LAW ENFORCEMENT BULLETIN

JUNE 1981



“DUFFYSTOWN”



# Director's Message

President Reagan issued this statement on his pardon of two former officials of the Federal Bureau of Investigation:

"Pursuant to the grant of authority in Article II, Section 2 of the Constitution of the United States, I have granted full and unconditional pardons to W. Mark Felt and Edward S. Miller.

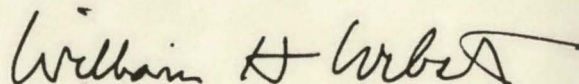
"During their long careers, Mark Felt and Edward Miller served the Federal Bureau of Investigation and our Nation with great distinction. To punish them further—after three years of criminal prosecution proceedings—would not serve the ends of justice.

"Their convictions in the U.S. District Court, on appeal at the time I signed the pardons, grew out of their good faith belief that their actions were necessary to preserve the security interests of our country. The record demonstrates that they acted not with criminal intent, but in the belief that they had grants of authority reaching to the highest levels of government.

"America was at war in 1972, and Messrs. Felt and Miller followed procedures they believed essential to keep the Director of the FBI, the Attorney General, and the President of the United States advised of the activities of hostile foreign powers and their collaborators in this country. They have never denied their actions, but, in fact, came forward to acknowledge them publicly in order to relieve their subordinate agents from criminal actions.

"Four years ago, thousands of draft evaders and others who violated the Selective Service laws were unconditionally pardoned by my predecessor. America was generous to those who refused to serve their country in the Vietnam War. We can be no less generous to two men who acted on high principle to bring an end to the terrorism that was threatening our Nation."

This announcement is welcome news to FBI employees throughout the country. This brings to a close a difficult chapter for the FBI and for the Felt and Miller families. We are grateful for the President's action.



William H. Webster  
*Director*  
June 1, 1981

# FBI LAW ENFORCEMENT BULLETIN

JUNE 1981, VOLUME 50, NUMBER 6

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

**William H. Webster, Director**


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

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# A Practical Overview of Hostage Negotiations (Part I)

By  
G. WAYNE FUSELIER, Ph.D.

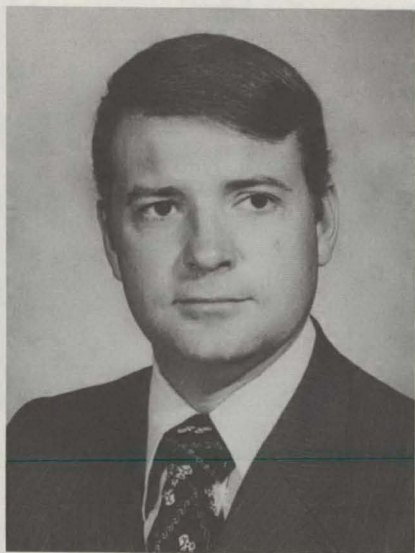
*Staff Clinical Psychologist  
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Whenever a barricaded subject or a hostage situation exists, the following responses are available to law enforcement personnel:

- 1) Contain and attempt to negotiate;
- 2) Contain and demand surrender;
- 3) Use of chemical agents to force surrender;
- 4) Use of snipers or sharpshooters to neutralize the subject; or
- 5) Use of a special weapons and tactics assault (SWAT).

If these alternatives are considered, you should always progress from one of the earlier responses to one of the later responses, but it is virtually impossible to return to negotiating, for example, after an assault has taken place. Therefore, the initial response may preclude the use of other responses later on.





Dr. Fuselier

Various aspects of hostage negotiation include:

- 1) What kind of person takes hostages;
- 2) What are common reasons for taking hostages;
- 3) What behavior can be expected from a hostage;
- 4) The process of negotiation;
- 5) Considerations in selecting a negotiator;
- 6) The interactions between the negotiation team, the onscene commander, and the SWAT team; and
- 7) How to use a clinical psychologist as a consultant for negotiation.

### **What Kind of Person Takes Hostages**

Articles on the kinds of people who take hostages<sup>1</sup> usually list four major types of hostage takers (HT's):

- 1) "Mentally disturbed" persons;
- 2) Criminals trapped during the commission of crime;
- 3) Prisoners who are revolting;
- 4) Political terrorists attempting to produce social change through the threat or use of violence.

### **Mentally Disturbed Hostage Takers**

Recent information from the special operations and research staff, FBI Academy, Quantico, Va., indicates approximately 52 percent of all hostage incidents involve persons classified as "mentally disturbed." These people typically fall into one of four diagnostic categories including:

- 1) Paranoid schizophrenic;
- 2) Manic-depressive illness; depressed type;
- 3) Antisocial personality; and
- 4) Inadequate personality.

### **Paranoid Schizophrenia—Characteristics and Negotiation Approach**

The paranoid schizophrenic's thinking is disturbed. In fact, he is so disturbed that he is out of touch with reality, suffering from a psychosis (mentally deranged or insane.)

Two primary symptoms are hallucinations—hearing things or seeing things that are not really there—and delusions—a false system of beliefs—that persist despite evidence to the contrary. The delusions are typically either delusions of grandeur—believing he has special qualities, abilities, or a special mission in life—or delusions of persecution—believing he is being persecuted because he has a special mission or is God's select person, etc.

This type of person often takes hostages in order to carry out what he believes is a "master plan" or to obey "orders" from some "special person." He may believe, for example, that it is his divine mission to end all suffering and violence. He may take hostages with demands that the United States unilaterally disarm and all law enforcement people lay down their weapons and join hands peacefully. The delusion may also involve punishing or retaliating against "sinful" people.

Paranoid schizophrenics are usually above-average in intelligence. Therefore, be very careful about attempting to trick or lie to them. The best approach is to accept their statements as being true for them. Do not try to argue or convince them that their beliefs are wrong. However, you should *not* go so far as to agree that you also hear voices or to say you share their beliefs. You can respond with a statement such as "I can't hear the voice that you do but I understand what you are saying."

### **Manic-Depressive Illness, Depressed Type—Characteristics and Negotiation Approach**

The person who is a manic-depressive is usually so depressed that he is out of touch with reality, suffering from a psychosis (mentally deranged or insane). He may consider himself unworthy to live, feels guilty for past



"sins" he has committed, and often has beliefs that are delusional. He may believe, for example, that he is responsible for all the suffering in the world and his current depression is his punishment for having lived a sinful life. The potential for suicide is extremely high, as is the potential for killing any hostages.

Hostages are often members of the HT's family or persons known to him. He may believe that he would be doing them a favor by killing them and removing them from this "terrible" life.

The HT's speech and movements may be extremely slow. He may take 15 to 30 seconds or longer to answer a question. His thoughts will usually be centered around his unworthiness, his sinfulness, or his delusional feelings of guilt.

When negotiating with a manic-depressive, understanding and support should be provided, along with continual reassurance that he has self-worth. Do not try to tell him that "things aren't that bad." This will make him believe that you do not understand his problem and are unable to help him. Gently interrupt his long statements about "sins" or death and convince him to talk about interests, hobbies, or anything positive, relating these to his self-worth. Watch for *spontaneous* improvement. If he suddenly says, "Everything is okay now—I know what to do," he *may* have decided to kill himself. Gradual improvement over hours of negotiation is a better sign. You may ask him if he has considered killing himself. Asking this question will *not* "put the thought in his mind." In fact, discussing it may help him believe you really understand how badly he feels.

Once rapport has been established, you can be more direct. For example you may say, "Joe, I think you know now that you can trust me. I'd like you to come out and meet me. I know I can help you work this out."

The next two categories of HT's, while in the "mentally disturbed" class, are not psychotic, and therefore, are in contact with reality. These two disorders, called personality disorders or character and behavior disorders, refer to longstanding, maladaptive patterns of behavior that usually develop during adolescence.

### **Inadequate Personality—Characteristics and Negotiation Approach**

Throughout most of his life, the person with an inadequate personality has shown ineffective and inept responses to social, emotional, and physical stress. He will often be a high school dropout and may have had a succession of jobs, having been fired from each because of poor performance. He sees himself as a loser—as someone who has always failed. Taking hostages may be his last attempt to prove to someone (wife, parents, or girlfriend) that he can succeed at something. The hostage incident, including the attention from authority figures and the media, may be the high point of his life.

This type of disorder can be recognized by statements such as "I'll show them that I really can do something" or "I'll show them that I am not the scapegoat anymore." The HT is in contact with reality, is thinking clearly (although immaturely), can understand the consequences of his actions, and can be negotiated with successfully.

When negotiating with the inadequate personality, understanding and uncritical acceptance should be provided. Help him find a way to end the incident without having "failed again." Do not bring parents, friends, etc., to the scene. This may invoke stronger feelings of failure or embarrassment and cause him to prove he can do something important.

### **Antisocial Personality—Characteristics and Negotiation Approach**

A person with an antisocial personality is also known as a sociopath or psychopath. He is the classic "manipulator" or "con artist." One of the most significant symptoms of this personality is the absence of any conscience or guilt feelings. The person has not incorporated into his life the morals and values of our society. This lack of conscience makes it unlikely that he will be concerned for the hostages as human beings. He is often a glib and convincing speaker and presents himself extremely well. He is a "con man," an expert at "snow jobs." Therefore, his hostages are likely to see him as "a nice young man" the authorities are harassing.<sup>2</sup> He is selfish and strives for physical pleasure. Most of his pursuits revolve around manipulating people to get material gains for himself. He is quite impulsive and will demand immediate satisfaction. He seems unable to profit from past experiences. He does not learn from arrests or involvement with authority figures how to avoid becoming involved with law enforcement personnel.

When negotiating with the antisocial personality, it is important to remember that he is self-centered and will attempt to make things easier for himself. Be careful about using tricks. He is sharp and expects you to try to trick him. He is probably "street-wise" and "police-wise." Don't promise him things he knows you cannot do. He needs frequent stimulation. This should come from the negotiator through frequent contacts. If frequent stimulation is not provided, he may turn to the hostages for excitement.

### **Criminals**

Criminals caught in the act of committing a crime often take hostages. An important first step is to determine



whether this is a mentally disturbed person. After ruling out mental disturbances, you can be fairly sure that you are dealing with a person who has had frequent contact with the law, knows what to expect from the police, and knows what he may need to do to get out of this situation alive. The negotiation process in this case should be a reality-oriented discussion, helping the HT to recognize the facts of the situation and convincing him to accept his physical safety in return for the release of hostages.

### Prisoners

Incarcerated persons sometimes riot and take hostages (usually guards). In cases such as these, there is less concern about mental disturbances, since those prisoners who are psychiatrically disturbed are usually removed to institutions for the criminally insane. Riots usually center around complaints concerning prison conditions and demands for improvement. Taking hostages gives the prisoners more bargaining power and a significant amount of media coverage. The fact that the hostages are law enforcement personnel increases the chance of hostages being killed. The preferred response to this type of incident is rapid police action before true leaders of the unruly group begin to emerge. If there is not rapid action, the negotiations should be carried out as if you were dealing with a mentally "normal" criminal.

### Terrorists

Terrorists take hostages with the intent of getting as much publicity as possible for their cause. These incidents have usually been planned for months, and the HT's have the physical and psychological support of their fellow members. Usually the demands of the terrorists will go beyond the authority of local police departments, requiring involvement of Federal officials. The likelihood of hostages being killed is very high, since the terrorists will have discussed this possibility and may be prepared to die as "martyrs."

The key to negotiating with terrorists is to convince the HT's that their point has been well-made, their demands have been heard, and killing the hostages would simply serve to discredit them in the eyes of the public.

### Why Are Hostages Taken?

Hostages are taken for many reasons, not all of which are initially apparent. In political terrorism, the reasons include showing the public that the government is not able to protect its own citizens. Also, taking hostages virtually guarantees immediate media coverage, and after repeated hostage incidents, it is the hope of the terrorists that the government may overreact and become excessively restrictive with its own citizens, thus causing civil discontent and a grassroots movement to overthrow the government.

Law enforcement personnel are most likely to encounter hostage incidents that involve either criminal acts or the mentally disturbed. If a hostage is taken in a criminal situation, it is usually because the criminal was unable to complete the crime and escape before the police responded, making the taking of hostages a spontaneous event. The criminal's primary reason for taking hostages is to insure his own safety. Therefore, the demands are invariably for safe passage and a means of escape in return for the hostages' lives. It is also very common for them to demand additional money.

A husband or wife may take a child hostage in a custody or domestic dispute. One person believes the other is an unfit parent and should not have the child, and this is the only way he believes he can regain custody of the child.

Finally, a mentally disturbed person may take hostages in order to right what he perceives to be a wrong. He may believe that he has to take hostages in order to carry out some sacred mission or to prove that he can do something important.

Whatever the initial reason for *taking* hostages, it is clear that the motive for *holding* the hostages may change. For example, a criminal interrupted in the act of robbing a bank may initially demand a great deal of money, but later reduce this demand to a guarantee of physical safety or clemency in court. Other HT's may initially demand an immediate change in a government policy or in a prison situation. These demands may eventually change to an agreement for talks with appropriate officials about the conditions. No matter what the initial reason for taking hostages, it is not uncommon for the HT, after some period of time, to be willing to accept a lesser goal.

### Hostages—The Stockholm Syndrome

The hostages themselves play an important part in the negotiation process. Although each individual's reaction to being taken hostage is unique, a common set of behaviors referred to as the Stockholm Syndrome is likely to occur. The syndrome consists of one or more of the following behaviors:<sup>3</sup>

- 1) The hostages will begin to have positive feelings toward their captors;
- 2) The hostages will begin to have negative feelings toward the authorities; or
- 3) The HT's will begin to develop positive feelings toward their hostages.

All three of the behaviors do not have to be present. Although it may not occur to the same extent with all hostages, it should be assumed that at least some portion of this syndrome



will be developed unless the hostage has been abused or isolated.<sup>4</sup>

From a negotiation standpoint, the syndrome has both positive and negative aspects. The positive aspect is that the stronger the development of the Stockholm Syndrome, the less likely it is the HT will kill the hostages. If the third stage of the syndrome has developed and the HT has developed positive feelings toward the hostages, it will be more difficult for him to kill one of them. The negative aspects include:

- 1) Any information coming from the hostages may be unreliable.
- 2) The hostages may deliberately or unconsciously misrepresent the weapons held by the HT. They may have difficulty describing the HT and may, in general, become an advocate of the HT.
- 3) The syndrome may cause interference with plans to rescue the hostages. Hostages may act counter to the commands of the police during an assault. This has caused the death of some hostages, who paradoxically stood up when ordered to lie down when police began firing. There are also documented incidents of released hostages who, after having been debriefed by the police, made their way back through the barricades and reentered the hostage situation.
- 4) Sometimes, due to mistreatment or isolation, hostages do not develop the Stockholm Syndrome. In this case, they may deliberately exaggerate the stated intentions, actions, and weapons carried by the HT. These hostages later stated that they wanted the police to believe the HT was as dangerous as possible, hoping the police would kill him.

- 5) The syndrome may affect the performance of the negotiator. If, after hours of attempting to build rapport and establish trust, it becomes evident that an assault is necessary, it may be emotionally difficult for the negotiator to distract the HT during the initiation of an assault.

In spite of these negative aspects, promotion of the Stockholm Syndrome will help us reach our primary goal—the safe release of the hostages.

There are a number of factors that affect the development of the Stockholm Syndrome.<sup>5</sup> The most important factor is simply the passage of time. The second factor is whether the hostages are isolated from the HT, and the third factor is whether there is positive contact between the HT and the hostages. If the hostages are kept in frequent contact with the HT and if the contact is characterized by lack of negative experience, the passage of time will help the development of the Stockholm Syndrome. Conversely, if the HT abuses the hostages or if the hostages are isolated, either by being in a separate room or by being hooded, the passage of time will not significantly aid in the development of the Stockholm Syndrome.

If it is known that the hostages are hooded or isolated, every attempt should be made to get the HT to interact with the hostages. He could be asked to gather such information as names of hostages or names of relatives and children or information concerning the medical condition of the hostages. Each of these interactions between the HT and the hostage will personalize the hostage, making him

more a human being rather than an anonymous person. The positive aspects of the Stockholm Syndrome significantly outweigh any negative aspects. Therefore, the development of the syndrome should be promoted in any way possible.

Having discussed the Stockholm Syndrome and the various personalities of hostage takers, the concluding segment of this article will present information on the process of negotiation.

**FBI**

*(Continued next month)*

#### Footnotes

<sup>1</sup> Conrad V. Hassel, "The Hostage Situation: Exploring the Motivation and Cause," *The Police Chief*, September 1975, and John G. Stratton, "The Terrorist Act of Hostage Taking: A View of Violence," *Journal of Police Science and Administration*, January 1978, p. 1.

<sup>2</sup> Frederick J. Lanceley, "The Antisocial Personality as a Hostage Taker," unpublished manuscript, FBI Academy, Quantico, Va.

<sup>3</sup> Frank M. Ochburg, "What is Happening to the Hostages in Tehran?" *Psychiatric Annals*, May 1980, p. 186.

<sup>4</sup> Thomas Strentz, "Law Enforcement Policy and Ego Defenses of the Hostage," *FBI Law Enforcement Bulletin*, April 1979, p. 1.

<sup>5</sup> Ibid.



# Preliminary 1980 Figures Show Rise in Crime

Preliminary figures for 1980 reveal a 10-percent increase in the volume of crime, when compared to those of 1979. These figures, compiled from reports submitted by over 12,000 law enforcement agencies across the Nation, represent the most significant recorded increase in Crime Index offenses since 1975.

Violent crimes, as a whole, rose 13 percent, while property crimes increased 9 percent in volume. Robbery was up 20 percent; forcible rape, 9 percent; aggravated assault, 8 percent; and murder, 7 percent. A 14-percent increase in burglary was recorded, while larceny-theft and motor vehicle theft were up 8 and 2 percent, respectively. Sufficient data were not available to establish reasonable trends regarding arson, the fourth property crime.

Cities of all sizes, as well as suburban and rural areas, reported increases in the total volume of Crime

Index offenses. The greatest increase (14 percent) was recorded in cities with populations of over 1 million. The volume of crime in rural areas rose 12 percent, and suburban areas registered an overall rise of 9 percent.

Regionally, the Southern States showed the greatest increase—11 percent. Crime in the Western States was up 10 percent; the North Central States, 9 percent; and the Northeastern States, 8 percent.

The final crime figures for 1980 will be published in the annual publication, "Crime in the United States," which is scheduled for release in the fall of this year.

# Award to be Given for Exceptional Service in Law Enforcement

The Association of Former Agents of the U.S. Secret Service, Inc., (AFAUSSS) will again present an annual cash award to a deserving law enforcement officer, alive or deceased, for exemplary performance in any aspect of law enforcement work.

Any sworn full-time officer below the rank of chief who is serving in a city, county, State police, or Federal law enforcement agency in the United States is eligible for nomination. Exceptional achievement in any law enforcement endeavor, including but not limited to extraordinary valor, crime prevention, drug control and prevention, investigative work, traffic safety, juvenile programs, community relations, training programs, and innovative approaches to law enforcement, qualifies an individual for nomination. The act or incident for which the nomination is made must have occurred during calendar year 1980.

Law enforcement personnel may be nominated by any source, but must have the endorsement of the chief of police or agency head. Each nomination must also be accompanied by a brief statement of specific circumstances involving the distinguished law enforcement performance, supplemented by supporting documentation, such as departmental citations, letters of commendation, newspaper clippings, or copies of reports.

The review and final selection of the winner will be made by the Board of Directors of the AFAUSSS and will be announced at the annual conference in October 1981.

Letters of nomination must be received no later than August 15, 1981, and should be mailed to:

Association of Former Agents of the  
U.S. Secret Service, Inc.  
Post Office Box 31073  
Washington, D.C. 20031

# Results Management (Part I)

By

**MAJ. JOHN N. DEMPSEY**

*Staff Administration  
and*

**PAMELA A. HAMM**

*Results Management Coordinator  
Colorado State Patrol  
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The Colorado State Patrol is a law enforcement agency with 552 uniformed officers directed by a chief. The State of Colorado is geographically divided into six field districts under the direction of a major. Each of the field districts is commanded by a captain, and the districts are further subdivided into 18 troops, each having a lieutenant as the officer in charge.

Similar to private enterprise, the Colorado State Patrol is interested in producing a profit—a profit in lives saved, accident and vehicle crash injuries reduced, and energy conserved through lower traffic speeds. Budget, manpower, recruitment, and constant change force continuous upgrading in the management of an organization.

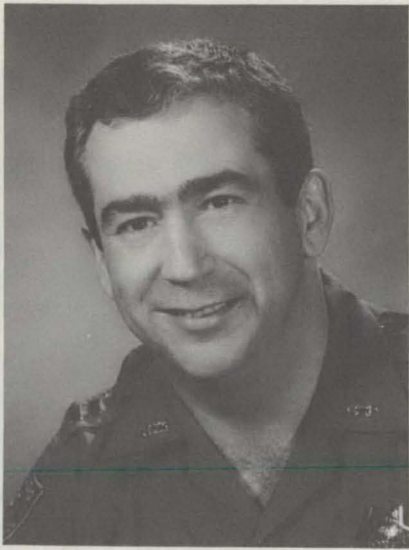
In order to address these changes, the Colorado State Patrol examined alternative management styles. In 1977, the decision was made to implement a program known as results management, which combines management by objectives and participatory management.

Any successful organization has to set individual goals. Objectives, costs, and quantity and quality of output are all part of the normal process. The essence of management by objectives is to take these overall goals and translate them into plans of action for every member of the organization, so that each has clear objectives for his particular area of responsibility.

When implementing management by objectives (MBO), top management establishes the overall goals or direction for the entire organization. Keeping within these overall goals, each manager then involves all employees working with him to set specific objectives to be obtained, while simultaneously forming precise levels of desired performance and the method of measuring this performance. At the end of the period, each manager reviews his operation to check actual vs. planned performance.

The simplicity of MBO is deceptive. Experience has shown that for most managers, the effective use of management by objectives takes training and practice; however, it is a tool by which anything may be managed.

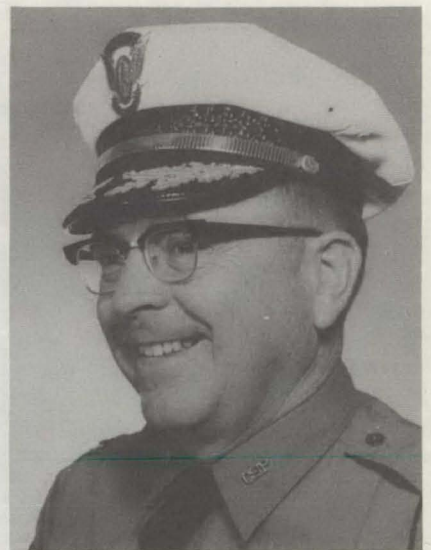




Major Dempsey



Ms. Hamm



Chief C. Wayne Keith

The Colorado State Patrol made the decision to address all goals to the actual result in terms of:

- 1) Accident reduction;
- 2) Fuel conservation;
- 3) Auto theft reduction; and
- 4) Motorist assistance.

Several positive effects result when objectives are directed toward meeting overall organizational goals.

- 1) Plans of action are developed within all levels of the organization;
- 2) Useless or conflicting activities are avoided through coordination;
- 3) Greater commitment toward achievement is obtained because goals and objectives are established by each manager with, *not for*, his subordinates;
- 4) Members of the organization are motivated by the identification of targets; and
- 5) Success can be measured by proven methods, which can act as an effective vehicle for future growth and movement of the organization.

### History

In the spring of 1975, the Colorado Patrol began a project funded by the Division of Highway Safety to develop a management information system that computerized and enhanced an existing activity reporting system. The system was fully implemented in June 1977, and for the first time, provided up-to-date information for selective enforcement on accidents and citations.

During the implementation of the patrol management information system, it became evident to the project team that there was a need to develop a new style of management that would more clearly address the results the patrol was attempting to achieve.

After considerable review, it was determined that management by objectives offered the greatest possibility for successful implementation. Such a system allowed the patrol to identify clearly quantifiable goals and objectives. It also provided feedback on the degree to which objectives were met and clearly identified the resources necessary to achieve various objectives.

In January 1977, a policy statement was issued outlining management's support of results management and directing the implementation of the program in two troops as a pilot program. This was the initial phase of statewide implementation.

The pilot program was successfully implemented in both a rural and an urban troop. In the first 6 months of operation, the accident rate in the pilot areas was reduced by 12 percent, resulting in an economic benefit of \$415,000. During the same period, the percentage of drivers exceeding 60 m.p.h. was reduced by 17.7 percent, with a commensurate reduction in petroleum consumption.

In January 1978, a full results management implementation plan was developed. During its development, the project team concluded that this was not an experiment in the laboratory sense of the word. Management by objective systems have been successfully administered in hundreds of organizations throughout the world. There is nothing experimental about its concepts—they have been proven even in police agencies. The plan was based



on the assumption that results management concepts can be successfully put into effect within the patrol and presented a rational, evolutionary methodology for successfully implementing the program.

The purpose of developing an MBO system of management in the patrol was to focus resources more effectively on the primary goals of the organization which, as stated in the fiscal 1977-78 patrol budget, were highway safety, efficient traffic movement, and energy conservation. If the patrol focused its management resources on achieving its primary goals, it would do a more effective job of meeting these goals than if it focused its resources on the generation of activities. Enforcement, accident investigation, and motorist assistance were identified as activities to achieve its goals rather than being goals themselves.

During fiscal year 1978-79, the patrol expanded its departmental goals to include equal employment opportunity and improvement of economic status by reducing losses of auto theft. In January 1979, the program expanded and all troops had written objectives supporting the department's goals.

Full implementation requires total involvement of all organizational levels in the objectives-setting process. It was projected that by January 1981, all uniformed members of the patrol would be working effectively in a coordinated effort toward departmental goals.

### **Purpose**

In the past, it was difficult to communicate the department's direction clearly to the legislature and the public because priorities were internally rather than externally oriented. Priorities addressed the department's activities rather than how they would improve transportation in Colorado. We assumed public support for our activities but had not solicited public opinion or review.

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## **"Results management increases the clarity of direction, commitment, and application of efforts toward . . . goals."**

---

The department's results management program was designed to help communicate priorities to the public, legislature, and other governmental agencies in terms they can understand and measurability to which they can relate. Middle and upper management asserted that the department had unclear organizational direction and its activities were not focused on common goals. It was difficult to relate field and staff efforts because of this absence of common goals.

Results management increases the clarity of direction, commitment, and application of efforts toward clearly identified and commonly agreed upon goals.

The patrol should perform those activities which achieve the maximum benefit toward its stated goals. This true selective enforcement effort may be similar to the current levels of activities or it might be different. By monitoring the achievement of its goals, the patrol can adjust activities to achieve greater goal optimization.

Figure 1 represents the traffic safety management process. Accidents, excess fuel consumption, and traffic flow problems are negative results caused by undesirable driver behavior, such as drunk driving,

speeding, lack of vehicle maintenance, and many others. Driver behavior, in turn, is affected by many factors, including those which involve troopers, such as enforcement, contacts, general visibility, safety presentations, oral warnings, and written warnings. The Colorado State Patrol approach involves developing measurable objectives for each of the three phases of the traffic safety management process rather than for just the activity portion. This is done jointly by troopers, sergeants, lieutenants, and captains in each of the districts. There will be a contract between each level in the chain of command as to what they will individually and collectively contribute in achieving the objectives. At the highest level, success is achieved if the rate of accidents is reduced, fuel is conserved, and the traffic flows smoothly.

### **Implementation**

To implement results management effectively, a timetable should be established. There are many factors to consider and each troop will use different milestones. The phases can run simultaneously and should not be seen as mutually exclusive. Each manager should set a timetable that reflects the individual needs of the program.

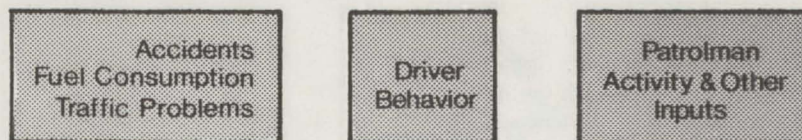
### **Phase I—Education Process**

The initial phase is the education process. This phase has traditionally taken from 2 to 4 months or longer, depending on several variables including:

- 1) Amount of exposure to results management;
- 2) Number of members involved in the program;
- 3) Geographic distribution of manpower; and
- 4) External factors which limit the amount of time and energy that can be spent in the implementation.



## Traffic Safety Management Process



This phase of the program should not be shortened and should remain flexible. Education is an ongoing function of results management throughout its implementation. In the transition, the manager must become thoroughly familiar with tools available to him, ranging from goals and objectives of the department, to publications and programs on results management or MBO, to departmental reports, manuals, and surveys.

In order to implement successfully results management, the manager must educate himself, recognize a change in attitudes, and become comfortable with the idea that this will assist him in managing his troop. Change is brought about by internalizing the organizational philosophy in such a way that results-oriented behavior is positively reinforced.

It is imperative that a results management program become not simply a facade but a philosophy by which to manage. Only through the change in philosophy can a successful program be implemented.

### Phase II—Selling

Once supervisors have become thoroughly familiar with the philosophy and potential of results management, it is time to begin the selling process to all other members of the department. Suggested formats include individual training, group training, and troop meetings.

The selling program should include:

- 1) Results management philosophy;
- 2) How it will affect the operations of the department, district, and troop;
- 3) What their role will be;
- 4) How other results management programs within the patrol operate; and
- 5) Administrative program support.

### Phase III—Program Design

Once confident that the selling program is well on its way, the next step becomes the design of the program that best meets the needs of the individual department. It must be remembered that results management is a *philosophy*. The specific application of this philosophy differs from troop to troop. When developing the program, the needs of the individual troop and how those needs can best be met through results management should be constantly kept in mind. The manager should design a program that is tailored to best meet the desired results.

Also important in results management is *flexibility*. Throughout the implementation process it is important to maintain flexibility in order to adapt to concerns that arise. Therefore, the program initially designed may not resemble the program that is put into effect.

The following are steps in the design of the program:

- 1) *Establish management prerogatives* that are necessary to operate properly and explain prior to implementing results management. It is necessary that the ground rules be clearly defined. Failure to do this from the outset will destroy credibility and will insure failure.
- 2) *Evaluate the organizational structure* of the area of responsibility. Operationally, there have been several structures used successfully within the patrol:
  - a. Team concept—a set number of troopers are assigned main responsibility in a given locale and objectives are written for the team.
  - b. Individual assignment—each trooper has a designated main target road and sets individual objectives.
  - c. Combination—within each troop, it may be necessary to use both of the above structures.

Each of these structures should be designed to meet individual needs. One may experiment with any of these three or find another method that meets with the results management philosophy to use in the individual area.



3) *Define the role of all troop members.* This becomes supplemental to the current job description of each member and is necessary to insure smooth operation of the program.

- a. Will there be team leaders? If yes, what responsibilities will they have?
- b. What are the responsibilities of the sergeant? On what level of objectives should they manage?
- c. What responsibilities will technicians have?
- d. Who will be responsible for coordination, feedback, and evaluation?
- e. How will troopers be used for special duty—auto theft, warrants, or range?

Ample time must be allocated to these initial concerns, and all assigned troopers should have a major voice in this process.

### Setting Goals

General departmental goals for the Colorado Highway Patrol are established by the Highway Commission and the executive director for the overall guidance of all divisions. Priorities are set with feedback from staff, middle management, other organizations, and the public. Throughout this process there is constant vertical communication.

The intent of the department goals is to state overall nonspecific intent—the goals are not “cast in concrete.” Goals must be established before objectives can be set. These goals then become umbrellas under which objectives can be formulated.

Part II of this article will discuss program planning, establishment of objectives, targeting, the renegotiation process, graphics, team meetings, individual performance review, and quarterly progress reviews. **FBI**

*(Continued next month)*

## Fewer Officers Killed in the Line of Duty

Preliminary 1980 figures of the FBI's Uniform Crime Reporting Program reveal a decrease in the number of law enforcement officers killed in the line of duty in the United States and its territories. In 1980, a total of 103 officers were slain feloniously, whereas 106 were killed in the line of duty the previous year.

Sixty-three of the slain officers were city policemen, 19 were employed by county law enforcement agencies, 12 were State-level officers, and 2 were Federal agents. The remaining 7 victims were officers in the Nation's territories.

Twenty-one of the officers slain were responding to robbery calls or pursuing robbery suspects, 8 died when answering burglary-in-progress calls or pursuing burglary suspects, and 18 were attempting arrests for other crimes. Seventeen officers lost their lives while investigating suspicious persons and circumstances, and another 17 were slain as a result of traffic pursuits or stops. The remainder were

killed responding to disturbance calls (13), in ambush situations (6), by mentally deranged persons (2), and transporting a prisoner (1). Ninety-one percent of the 103 murders have been cleared by law enforcement agencies.

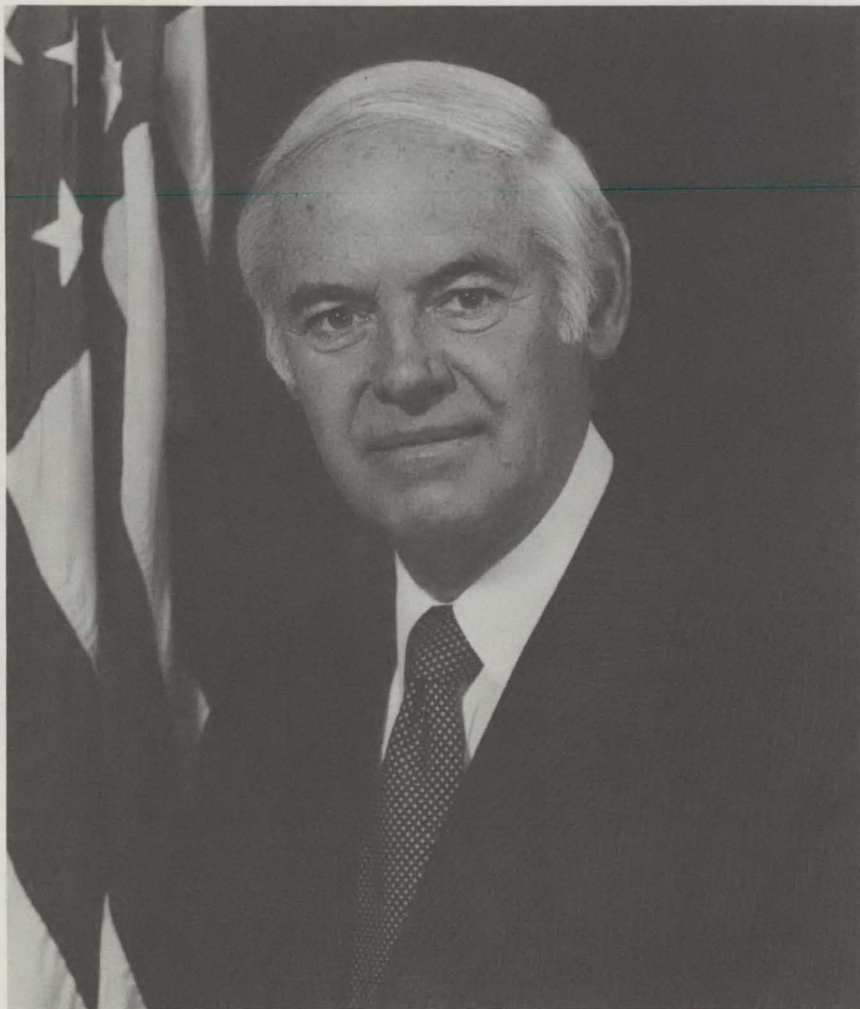
In 91 percent of the officers' murders, firearms were the weapons used; 68 were killed by handguns, 13 by rifles, and 13 by shotguns. Of the other nine victims, six were slain by vehicles and three were knived.

There were more officers (16) killed in December than in any other month, whereas March was the month in which only 1 officer was slain.

Regionally, 45 officers' lives were taken in the Southern States, 23 in the Northeastern States, and 14 each in the North Central and Western States. In Puerto Rico, there were six police killings, and one occurred in the U.S. Virgin Islands.



# The Honorable William French Smith



The Honorable William French Smith became the 74th Attorney General of the United States on January 23, 1981, succeeding the Honorable Benjamin R. Civiletti.

Mr. Smith was born in Wilton, N.H., and graduated summa cum laude from the University of California at Los Angeles, where he was elected to Phi Beta Kappa. He then attended Harvard University Law School, receiving an LL.B. degree in 1942. From 1942 to 1946, Mr. Smith served in the U.S.

Naval Reserve, reaching the rank of lieutenant, and in 1946, joined the Los Angeles law firm of Gibson, Dunn, and Crutcher, becoming a senior partner before his appointment as Attorney General.

Throughout his distinguished career, Mr. Smith has taken an active role in a wide range of civic, professional, and academic organizations. He served as a trustee of the California Chamber of Commerce and since 1970 has been a member of the Los Angeles World Affairs Council. A mem-

ber and former chairman of the Board of Regents of the University of California, he is also a member of the Advisory Council at the Harvard University School of Government. Mr. Smith has served on the Advisory Board of the Center for Strategic and International Studies of Georgetown University, as a member of the U.S. Advisory Commission on International Educational and Cultural Affairs, and from 1963 to 1972, as director of the Legal Aid Foundation in Los Angeles.

The Attorney General is a member of the American Bar Association, the State Bar of California, the Los Angeles County Bar Association, the American Law Institute, and the American Judicature Society. He received the University of California Outstanding University Service Award in 1971 and the Human Relations Award from the American Jewish Committee in 1979. He was named the University of California Alumnus of the Year for 1981.

In 1968, Mr. Smith was the chairman of the California delegation to the Republican National Convention and was vice chairman of the delegation in 1972, 1976, and 1980.

The Attorney General is married to the former Jean Webb Vaughn. They have four children—William French Smith, III, Stephanie Oakes Lorenzen, Scott Cameron Smith, and Gregory Hale Smith.

**FBI**



# The Basket Game

A carnival operation often investigated by authorities is the basket game. An earlier version consisted of a bucket with a fraudulently constructed interior. However, because investigators were generally aware of this sham, a newer game was developed using soft balls and a bushel basket fastened by either nails or screws onto a board.

This adaptation, however, does not guarantee that the game will be operated honestly. For while this later version does not possess the same fraudulent interior, there is another important factor which should be considered when conducting an investigation—the angle of the basket. Whether a thrown ball will remain in the basket is greatly dependent on this factor.

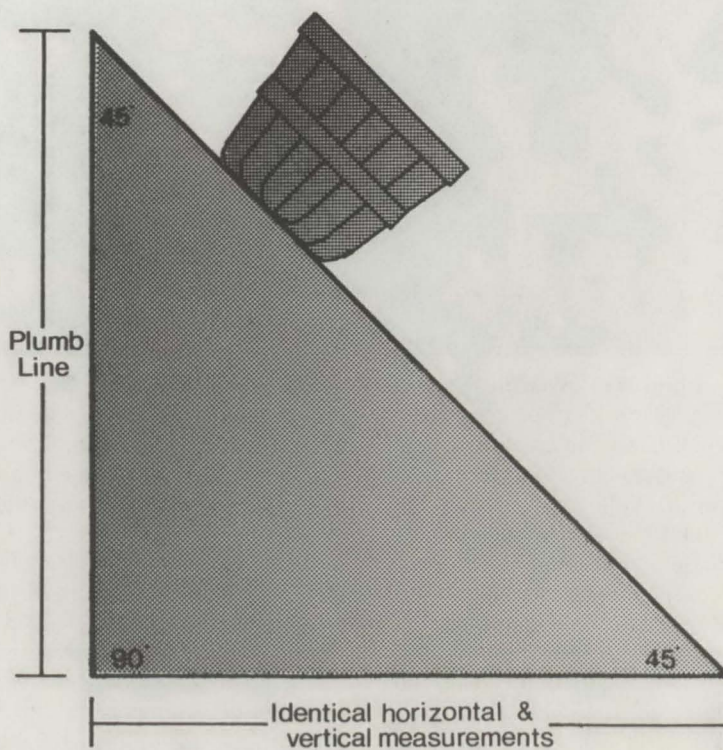
Initially, all items surrounding the basket should be removed so that accurate measurements can be made.

Then, by using a measuring tape and plumb line, a triangle is constructed, as shown in figures 1, 2, and 3. By comparing these three figures, it is evident that the variance in the angles will greatly affect a player's chances of winning. The greater the slant of the board the more difficult it will be for the thrown ball to stay in the basket.

When conducting an investigation, it is necessary to measure accurately the length of the board and the vertical and horizontal distances and then carefully calculate these measurements. Investigators should also be aware that carnival operators can easily alter the angles to their benefit.

There are other ways in which the operator can control the outcome of the game. For example, a ball hitting the bottom of a basket first will tend to fall out if the slats of the basket are loose. Or the carney may stand alongside the basket and hit the sides first so

Figure 1





that the ball circles the sides and stays inside. Sometimes the operator may leave one or more balls in the basket, causing a thrown ball to stay in the basket if it hits one of the other balls first. The condition of the balls used in the game is important and may vary greatly. Soft balls are light and springy, while solid ones are heavy and dead. A player's distance from the basket and the clearance between the basket and any hanging objects will limit the arc of the ball, and of course, the player's chance of winning.

A careful observation of the operation and accurate measurements will greatly assist in justifying seizure of materials and in developing a case against the operators in court. Assistance in all facets of the investigation can be furnished by gambling examiners of the FBI Laboratory. **FBI**

Figure 2

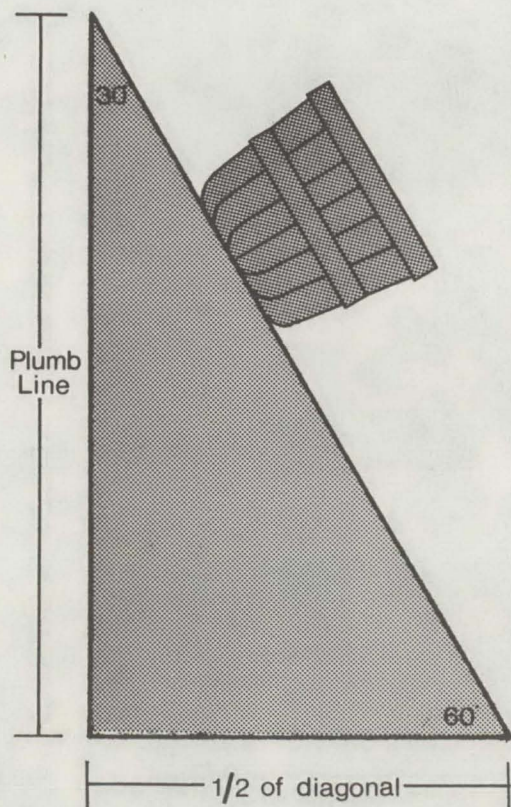
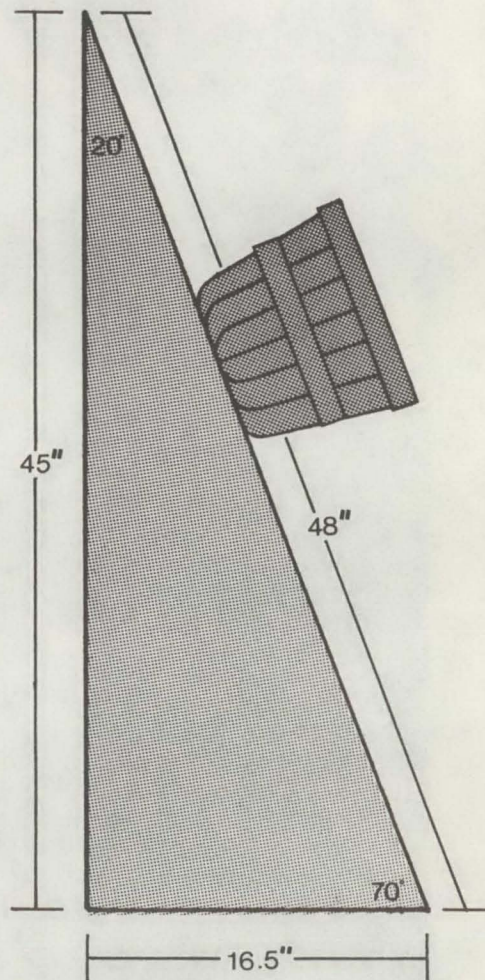


Figure 3



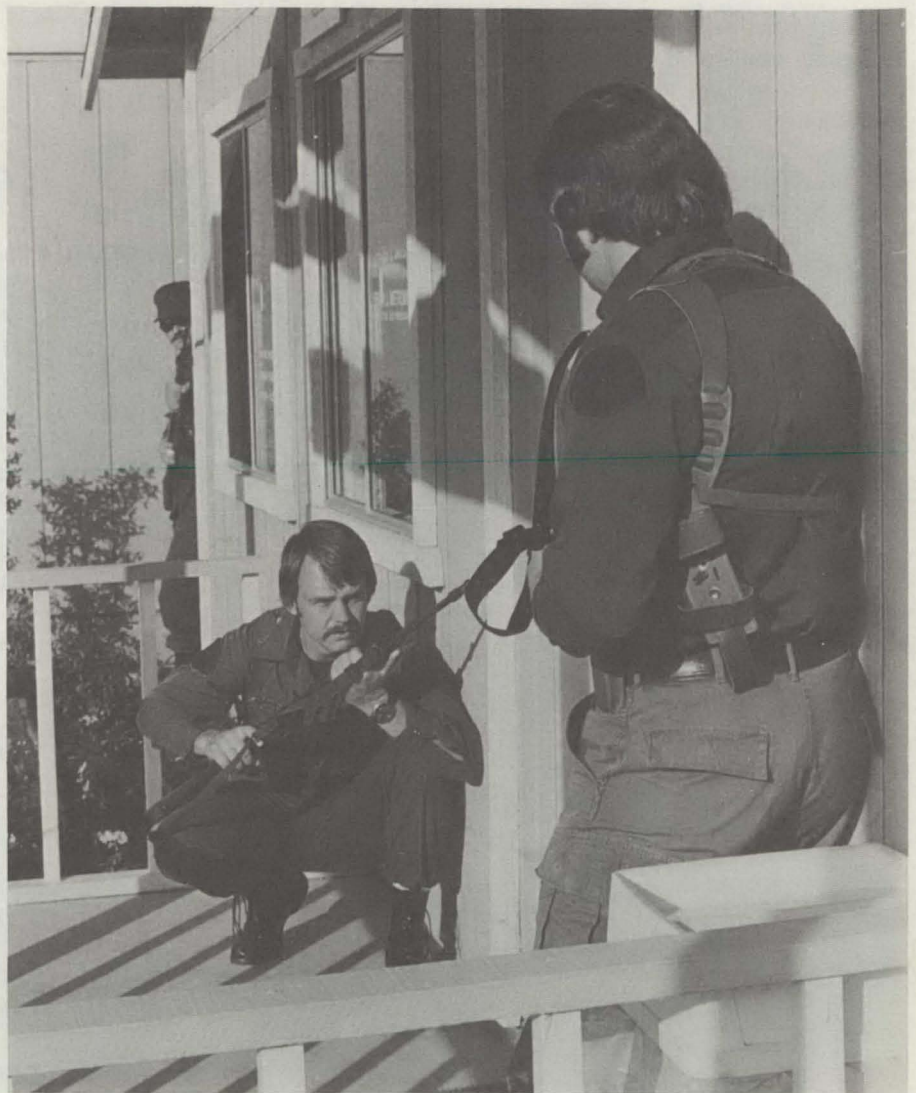




“DU







# FFYSTOWN''

## A One-of-a-Kind Tactical Training Facility

By LT. JACK DROWN

*Public Affairs Division  
San Diego County Sheriff's Department  
San Diego, Calif.*



It happens more often than we like to admit. A hostage situation turns sour, a sniper wounds four school-children, or a robbery suspect holes up in a hotel room threatening suicide.

Responding to one of these calls can be a harrowing experience, never routine. For this reason, officers involved in such crisis situations need realistic training exercises in order to be able to make quick, fair decisions and take appropriate actions. But how many rookies, or for that matter, veteran cops get such training? How do they develop the ability to answer a crime-in-progress call with confidence?

There are many reasons why police training efforts often fall short in achieving their desired end results. The resources so necessary to provide efficient, effective training programs—manpower, time, money, and physical facilities—are scarce in large agencies and frequently nonexistent in small ones. Everyone in law enforcement administration wants a comprehensive

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**“... trainers are using the facility to present the unexpected and control the unpredictable in a realistic environment that allows for practical application of learned techniques.”**

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training program, yet few departments have the ability to train recruits adequately. Most training becomes limited to classroom lecture, training bulletins, and briefings conducted by supervisors.

The inability to train adequately is most often evident in tactical situations. Realistic training for crowd control problems, hostage and barricaded suspect situations, crimes in progress, and the like is nearly impossible to conduct because seldom do agencies have facilities designed to accommo-

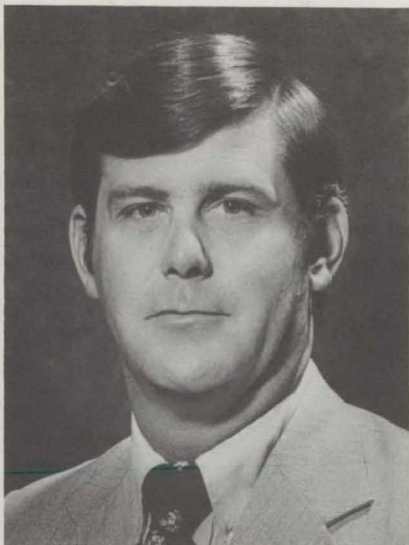
date simulated exercises in a realistic situation.

The San Diego County Sheriff's Department recognized the lack of a realistic tactical training facility as a deficiency in training both recruits at the sheriff's academy (recently merged with the San Diego Police Academy to form a regional academy) and veteran deputies during inservice programs. Personnel assigned to the sheriff's training division believed tactical training could be improved considerably with the construction of a multipurpose training complex designed to include numerous buildings of varying sizes and configurations—at least one two-story structure, paved roadways, open space, and accommodations for a shoot/don't shoot decision course. Unfortunately, the cost of such a facility to a public agency was prohibitive.

But the cost was not prohibitive to a private service organization with the sole purpose to support effective law enforcement for citizens of San Diego County. In 1974, the Honorary Deputy Sheriff's Association of San Diego County voted to finance and construct







Lieutenant Drown



Sheriff John F. Duffy

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**"... [the] facility ... serves to demonstrate the very important role citizens' groups can play in supporting the needs of law enforcement. ..."**

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a tactical training facility that would be available for use to all law enforcement agencies in the San Diego area.

The Honorary Deputy Sheriff's Association is comprised of some 400 private citizens and is organized under California law as an unincorporated, nonprofit association. One of the primary purposes of the group, as stated in the association's by-laws, is to "initiate, sponsor, promote and carry out plans, policies and activities which will tend to further the goals, objectives, activities and development of the San Diego County Sheriff's Department specifically, and law enforcement generally."

By 1977, a committee comprised of members of the association and department representatives had been formed, preliminary site preparation completed, and an architect hired to put the final touches on the design plans. A full city block including stores, a bank, a hotel, and various other store fronts would be constructed by the spring of 1980. The final price of the facility exceeded \$300,000.

The honorary deputy sheriffs paid for the complex through dues and private donations. Several members and private organizations "purchased" buildings at the training site, buildings that now bear the names "Pepsi Cola," "Bank of Commerce," "Atlas Hotel." Then in March 1980, the entire tactical facility was given to the County of San Diego by the Honorary Deputy Sheriff's Association.

Today "Duffystown," named for the current sheriff of San Diego County, is complete to the smallest detail. The businesses within the city block are fronted by a paved street. Street lights, a traffic signal, mailbox, and phone booth add to the realism of the setting, and a duel-a-tron shooting course can be placed in any of the businesses offering various scenarios.

The facility provides practical application training in building searches, crime scene investigations, hostage incidents, patrol tactics, armed robbery incidents, Special Weapons and Tactics (SWAT), vehicle stops, crowd control, sniper incidents, reaction shooting techniques, bomb and arson detection, and explosives and narcotics detection. Another feature of the facility is the ballistics test shed. With this, the different ammunition characteristics—velocity, penetration, expansion, and accuracy of all calibers—can be tested. Canine units are also trained at the facility, since they are an invaluable law enforcement tool because of their usefulness, cost effectiveness, and psychological deterrent.

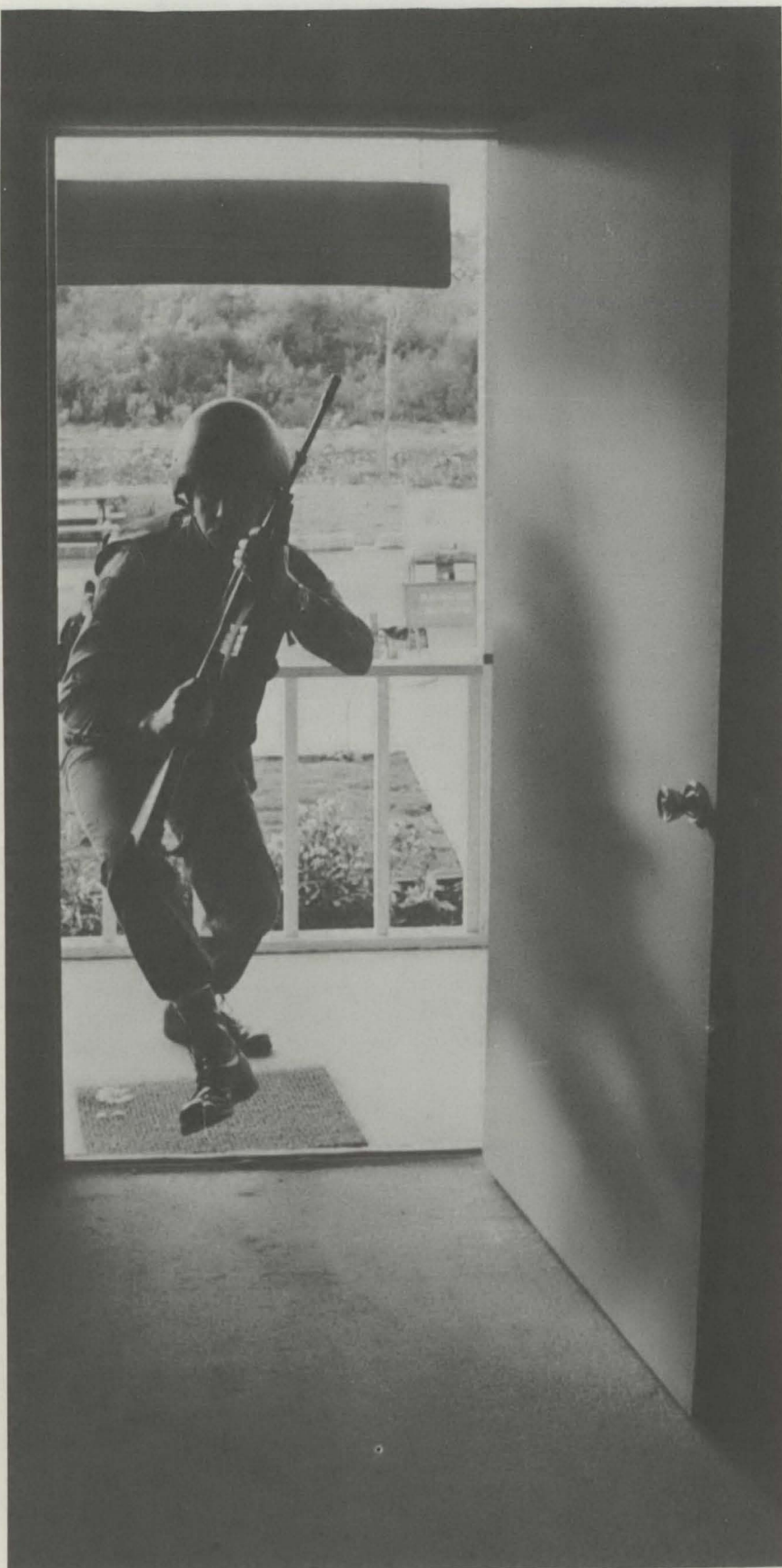
Regular users of the facility include the San Diego County Regional Law Enforcement Academy, as well as the Sheriff's Special Weapons and Tactics Team and tactical units from many other regional agencies. Successful trainers are using the facility to present the unexpected and control the unpredictable in a realistic environment that allows for practical application of learned techniques.



Since the opening of the facility, more than 750 officers have participated in various training programs conducted at the facility, and the number is expected to increase steadily in the coming years. Although donated to the County of San Diego and operated by the sheriff's department training division, Duffystown is available for use to any city, county, State, or Federal law enforcement agency having a need for such a facility.

Almost as vital as the training being received is another important aspect of the facility. The construction of the sheriff's tactical training facility in San Diego serves to demonstrate the very important role citizens' groups can play in supporting the needs of law enforcement at a time when usual resources are unavailable. And, as a result of this community effort, a "one-of-a-kind" training center has brought controlled realism into the difficult task of preparing law enforcement officers for those not so usual unusual occurrences.

**FBI**





# Stampeding Elephants

"No one is going to stand in the path of a stampeding elephant but many think nothing of impeding the progress of an automobile, and the consequences are about the same," said Col. Eldrige Beach, Director, Florida Highway Patrol. "When joggers, pedestrians, or bicyclists challenge a moving motor vehicle for the right of way, there is usually no doubt who will win, and it is not the 175-pound unprotected individual. Joggers should not run after dark, should always wear bright clothing, and should always run against traffic when on the roadway."

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## Traditional Police Response Practices—Is There a Better Way?

The Police Executive Research Forum and the Birmingham Police Department jointly conducted a study on traditional police response practices. As a result of this study, which was funded by the U.S. Department of Justice's National Institute of Justice, a published report entitled *Differential Police Response Strategies* sets forth alternative, comprehensive plans which police departments can use in lieu of the established police response tactics. The report stresses the use of these alternatives in view of budgetary cutbacks, dwindling resources, and the need to redirect manpower to more productive areas, such as responding to critical calls rapidly and fighting crime.

For the whole range of demands by citizens for police service, the study proposes a method for properly matching an agency's resources with the specific requirements presented by the different types of citizen calls.

The study notes that insufficient attention has been given to differentiating between calls—those which require rapid police response with those that do not. The system proposed in the study would enable police operators to collect vital information from callers, and then in turn, categorize the call appropriately according to time of occurrence and extent of harm or loss. This system permits the dispatcher to make a predetermined choice as to the most suitable police response.

*Differential Police Response Strategies* emphasizes the need to develop new call classification systems that do more than simply sort calls according to legal categories. A system which differentiates calls on the basis of real or potential danger to citizens and levels of loss or damage to property is needed. However, the Forum's executive director stresses that for this system to work, police operators and dispatchers must be properly trained and supervised and police managers must be willing to question present procedures for handling calls and recognize that communications plays a critical role in the type and quality of police service provided to the community.

Copies of the report can be purchased through the Police Executive Research Forum, 1909 K Street, Northwest, Suite 400, Washington, D.C. 20006 or by calling (202) 466-7820. Cost of each copy is \$7.



# Examination of a Typewritten Document

By David W. Attenberger

*And*

W. Gary Kanaskie

*Special Agents*

*Document Section*

*Laboratory Division*

*Federal Bureau of Investigation*

*Washington, D.C.*

Generally, typewriters and the printing sources in a word processing system currently can be equipped with conventional typebars, a single element ball, or a printwheel. A typewriter is a machine which has very limited or no memory capabilities. However, a final typewritten document cannot be determined to have been the result of a typewriter or a word processing system.

Developments and changes in the typewriting industry require that the investigating officer be fully updated regarding these advancements. For a typewriter examination by the FBI Laboratory to be of value to the investigation and prosecution of cases, investigators will have to be more knowledgeable regarding typewriters.

## Basic Terms

- 1) Conventional typewriter using typebars—This popular typewriter has approximately 44 typebars connected to the keyboard. (See fig. 1.)
- 2) Typewriter using a single element or ball—This is a typewriter equipped with one element containing all the characters represented by the typewriter keyboard. (See fig. 2.)
- 3) Typewriter using a printwheel (electronic typewriter)—This is a typewriter equipped with a disc-type device called a printwheel. The printwheel contains all of the characters represented on the typewriter keyboard. (See fig. 3.)
- 4) Horizontal spacing—This is a measurement of the space a typewritten character occupies horizontally. The two most common spacings in the United States are 10 characters per inch (pica style of type) and 12 characters per inch (elite style of type). (See fig. 4.)



5) Proportional spacing—This type of horizontal spacing is not constant. Each typewritten character can occupy a different amount of horizontal space. The capital "M" occupies five units while the lower case "i" occupies two units of horizontal space. Each unit is equivalent to 1/32, 1/36, or 1/45 of an inch on the conventional typewriter. (See fig. 4.)

6) Dual-spaced machine—This is a typewriter that is capable of typing horizontally 10 characters or 12 characters per inch. The change of horizontal spacing is done easily by the flip of a switch. This is commonly found on single element (ball) typewriters.

7) Electronic typewriter—This machine usually has the capability of typing 10, 12, and 15 letters to an inch, as well as proportional spacing.

### History and Development of Typewriters

Starting with the first commercially successful typewriter in 1873 (Remington), the machines used to prepare typewritten documents have progressed and changed dramatically. Beginning with a typewriter using the hammer (typebars) which used only capital (uppercase) letters, intense competition between various companies brought about continual improvements. In 1888, the "touch typing" system was introduced. In 1920, the first portable typewriter was marketed; in 1940, IBM introduced a proportional

Figure 2



spaced typewriter; in 1961 and 1962, single element (ball) typewriters were available; and in 1970 and 1971, dual-pitched (spacing) machines were introduced. The mid-1970's produced electronic typewriters and the use of "printwheels," "daisywheels," and disk-type wheels containing the type styles. The printed text on a document can now be the result of a typewriter, a word processing system, or a high-speed printer.

The two most frequently made typewriting examinations are determining the make and model typewriter used to prepare the questioned document and determining whether a specific known typewriter prepared the questioned document.

### Classification of Make and Model

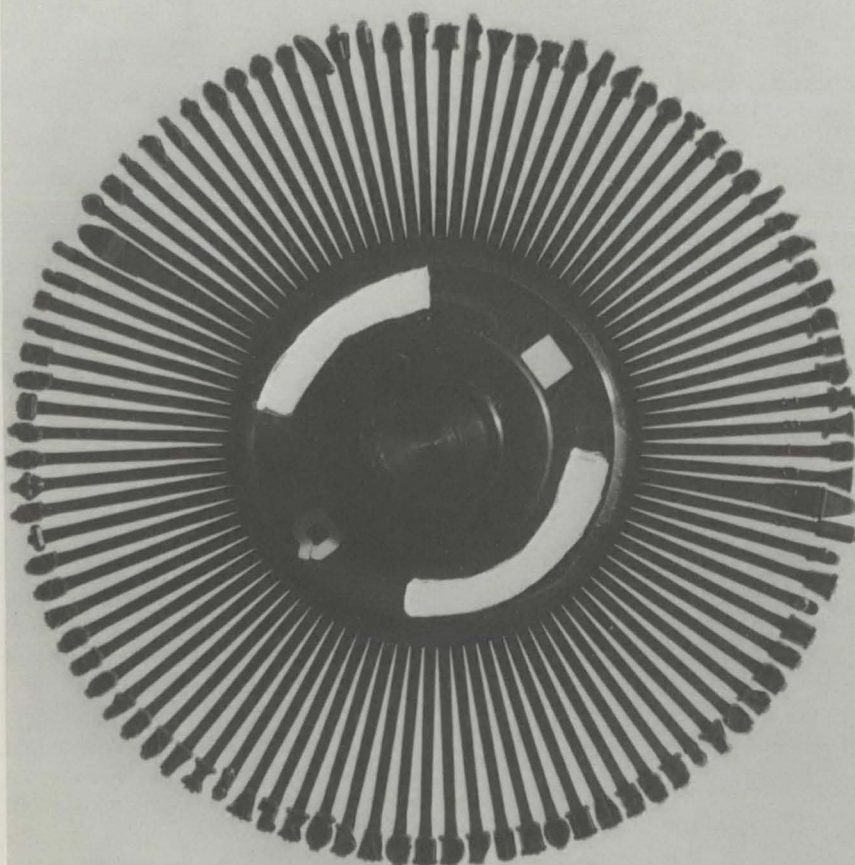
Original typewriting is preferred for examination. In examining the typewriting, the document examiner first determines the horizontal spacing of the questioned typewriting. The typewritten text is then examined for any characteristics unique to a particular typewriter, typewriter manufacturer, or type manufacturer. If no unique character(s) are found, the questioned typewriting is searched through the typewriter standards file. This file consists of American and foreign type styles collected by the FBI Laboratory over the past 50 years.

Figure 1





Figure 3



Once a known standard similar to the questioned typewriting is located, the questioned typewriting is compared with the known standard to insure that each character corresponds with the respective character on the known standard. The known standard is also used to verify that all suspected defects in the questioned typewriting are, in fact, defects.

Currently, numerous typewriter manufacturers obtain type fonts from the same type font manufacturer(s). Thus, many different brand name typewriters are equipped with a similar, if not identical, style of type. Without having a complete keyboard of the questioned text, it is often difficult to determine on which specific brand typewriter(s) the questioned typewriting was produced.

#### **Comparison of the Questioned Typewritten Text With Known Typewritten Exemplars**

When questioned typewriting is compared with known typewritten exemplars, three general areas of examinations are made:

- 1) Size and spacing (vertical and horizontal);
- 2) Type style; and
- 3) Unique identifying characteristics—character and alignment defects.

Using these three general areas, the FBI document examiner ultimately tries to determine if a particular typewriter prepared the questioned document to the exclusion of all other typewriters.

Referring to the machines previously described as having dual spacing, single elements, or printwheels, the investigating officer must not be

misled by horizontal spacing and/or different alignment characteristics. Remember, the same typewriter can type 10 letters and 12 letters per inch. Also, single elements and printwheels can be interchanged from one typewriter to another. This means that if a ball-type element or printwheel was used to prepare the questioned document, it is necessary not only to identify the single element or printwheel but also the specific typewriter. These compound considerations make the typewriter identification more complex.

Unique identifying characteristics commonly found on typebar machines, such as broken or bent serifs on a particular character, are not found as frequently on single elements or printwheels. This further complicates determining whether the questioned document can be positively associated with a particular typewriter or typewriting source.

In general, due to typewriter companies obtaining their type styles from the same manufacturer and due to the lack of unique identifying characteristics in the typewriting produced by single element and printwheel typewriters, the investigating officer should not expect too many positive identifications involving typewriters equipped with single elements and printwheels. However, many associations and identifications can be made when the conventional typebar machines are involved in the preparation of a typewritten text. Finally, although the particular typewriter may not be positively identified, it may be possible to determine that a particular typewriter or typewriting source did not prepare the questioned document.



This is Pica Spacing...Ten letters per horizontal inch

This is Elite Spacing...Twelve letters per horizontal inch

This is proportional spacing ... M M i i M l M s 5 u N i

### Obtaining Known Typewritten Exemplars

The following guidelines are suggested for obtaining known exemplars from a suspect typewriter:

- 1) If the typewriter ribbon is obviously new, remove it from the typewriter and send it to the laboratory with the typewriting exemplars prepared from another ribbon. (The text of the material in question may still be discernible on the ribbon.)
- 2) Unless the questioned document is excessively long, obtain its complete text, including typographical errors.
- 3) After placing the typewriter in a stencil position or removing the cloth ribbon, obtain samples of each character on the keyboard by typing through carbon paper which has been inserted carbon side down over a piece of white bond paper.
- 4) Make certain that each specimen contains the make, model, and serial number of the typewriter from which it was procured, as well as the date and the initials of the officer.
- 5) Typewriter specimens should be taken from suspect typewriter(s). It is usually not necessary to forward the typewriter to the FBI Laboratory if complete known exemplars are obtained. This will insure against loss or damage to the typewriter during shipment.

Also, examination of the typewritten exemplar may produce the requested result, thus eliminating cost and time involved in shipping the typewriter to the Laboratory. However, when certain alignment or nonprinting areas are present in a questioned and known typewriting, the document examiner may require that the known typewriter be submitted to the Laboratory for a more definite opinion to be reached.

- 6) If possible, after a typewritten exemplar is obtained from a suspect typewriter, the investigator should insure that the typewriter is kept in its current condition. For example, dirty type face could be identified with a questioned text typed on that typewriter. However, if maintenance and cleaning of the type has been conducted on that typewriter, the absence of the dirt particles on the type would change the appearance of the typewriting.

### Typewriter Ribbons and Inks

Many typewriter ribbons, such as cloth, carbon with wax base ink, polyethylene and solvent coatings, mylar based, etc., are commercially available. When both the questioned document and the typewriter ribbon are submitted, it is possible to determine whether the questioned typewritten text was prepared by the ribbon submitted or by another ribbon of the same general style.

The FBI Laboratory does examine ribbons for suspected typewriting. Before submitting the ribbon for determining the text appearing on a particular ribbon, the investigating officer should determine whether the text is readable, since not all ribbons removed from typewriters can be read.

It is hoped that this article will better prepare the investigating officer to conduct a preliminary field examination of the evidence and better understand the opinions of the document examiner. The Document Section of the FBI Laboratory is always available to answer any questions regarding questioned documents.

**FBI**



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# In the *Katz* Eye

## Use of Binoculars and Telescopes

(Part I)

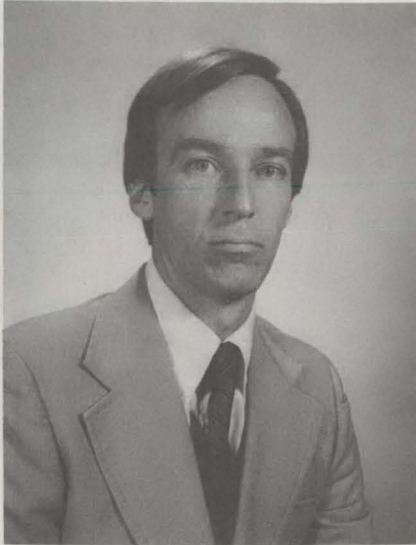
By ROBERT L. MCGUINNESS

*Special Agent  
Legal Counsel Division  
Federal Bureau of Investigation  
Washington, D.C.*

*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.*

Until the landmark decision in *Katz v. United States*,<sup>1</sup> the traditional view of what constituted a "search" for purposes of the fourth amendment required a determination of whether there was a physical intrusion into an area protected by the fourth amendment.<sup>2</sup> The fourth amendment indicated what those areas were, namely, "persons, houses, papers, and effects." Over the years, the Supreme Court had broadly construed the term "houses" to include generally any enclosed structure in which a person had a possessory interest.<sup>3</sup> The term was also construed to include the "curtilage," an area immediately surrounding the house that was used for





Special Agent McGuinness

domestic pursuits (the yard).<sup>4</sup> The area beyond the curtilage, characterized as "open fields," was not considered to be within the meaning of the term "houses," even though legally owned by an individual, and thus was not accorded fourth amendment protection.<sup>5</sup>

Based upon these principles, it was understood that if law enforcement officers were in a place that they had a right to be, including the open fields of an individual, and acquired evidence from that individual's premises without any physical intrusion into those premises, such activity on the part of the law enforcement officers did not constitute a search, and hence no compliance with the fourth amendment was required.<sup>6</sup> Thus, in *Goldman v. United States*,<sup>7</sup> where Federal Bureau of Investigation (FBI) Agents, lawfully present in an office adjoining defendant's, placed a sensitive listening device against the wall in order to detect what was being said in defendant's office, the Court ruled that since there was no trespass into defendant's premises, there was no search for fourth amendment purposes, and therefore no warrant was required for this activity.

### The Katz Decision

This traditional view was changed radically by the *Katz* case. In *Katz*, the Government, acting without a warrant or other judicial authorization, intercepted defendant's end of telephone conversations by means of two microphones attached by tape to the top of two adjoining public telephone booths from which Katz regularly made calls.<sup>8</sup> Katz was subsequently prosecuted for the interstate transmission of wagering information by telephone in violation of a Federal statute, and tape recordings of the intercepted telephone calls were introduced in evidence over his objection. The Government argued that since no physical intrusion was made into the booth and since it was not a "constitutionally protected area" (the defendant having no possessory interest as such in the booth), a search for fourth amendment purposes did not occur. In holding that there was a search, the Court stated that it was erroneous to resolve questions of fourth amendment law on the basis of whether a constitutionally protected area is involved, "[f]or the Fourth Amendment protects people, not places."<sup>9</sup> This being the case, the reach of the "Amendment [also] cannot turn upon the presence or absence of a physical intrusion into any given enclosure."<sup>10</sup> The Court thus concluded that the Government's activities "violated the privacy upon which [the defendant] justifiably relied while using the telephone"<sup>11</sup> (emphasis added), and hence a search within the meaning of the fourth amendment had taken place.



**“... the view emanating from the courts is that visual enhancement devices can just as effectively violate one's reasonable expectation of privacy as aural enhancement devices.”**

Since no prior judicial authorization for the intrusion had been obtained and no traditional exception to the warrant requirement was present, the fourth amendment was violated.

In cases following the *Katz* decision, the Court appears to have used the phrases “reasonable expectation of privacy,”<sup>12</sup> “legitimate expectation of privacy,”<sup>13</sup> and “justifiable expectation of privacy”<sup>14</sup> interchangeably in characterizing when a fourth amendment search is present, and for purposes of this article, the words “reasonable expectation of privacy” are employed.

Underlying the *Katz* decision seems to be the notion that one's privacy can be just as effectively violated through sense-enhancing devices as through an actual trespass.<sup>15</sup> That being the case, can it now be said that use of devices to enhance one's vision (as opposed to hearing as was done in *Katz*) constitutes a search for which a warrant is required? This article explores the treatment accorded this question in the relevant cases arising since *Katz*.

First, it might be asked if there is some significant difference, in terms of interests to be protected, between seizing aural evidence (words) and seizing visual evidence. Can it be said that observing a person's actions never infringes his reasonable expectation of privacy? An argument can be made as follows: First, binoculars and telescopes, as opposed to surreptitious bugging devices, are in rather common

use today, and second, society does not expect to be free from the non-trespassing, uninvited eye, as opposed to the uninvited ear. This is reflected in the fact that while extensive legislation exists regulating wiretapping and bugging,<sup>16</sup> no such similar legislation exists with respect to visual enhancement devices. This approach, however, has not been explicitly adopted by any court to date, perhaps because of the notion that one should not have to live the life of a mole in order to claim fourth amendment protection.<sup>17</sup> There is also the realization that visual observations can, in many instances, be more intrusive on privacy than eavesdropping on conversations. While there is no assurance that what is said in a conversation will not be repeated, a person's actions may be taken in seclusion, with the expectation that they are purely private.<sup>18</sup>

Thus, the view emanating from the courts is that visual enhancement devices can just as effectively violate one's reasonable expectation of privacy as aural enhancement devices.<sup>19</sup> This raises the more difficult question of when and under what circumstances a reasonable expectation of privacy arises. Does it make a difference if the visual enhancement device is used to view something in an open, public area,<sup>20</sup> as opposed to private premises?<sup>21</sup>

#### **Use of a Visual Enhancement Device To View Into an Open Public Area**

Although by no means a settled question in view of language from *Katz* that what a person “seeks to preserve as private, even in an area accessible to the public may be constitutionally protected,”<sup>22</sup> there has been no case decided to date which has required a warrant for a visually enhanced viewing into an unenclosed public area, such as a public street.<sup>23</sup>

#### **Viewings Into Premises**

When visual enhancement devices are used to view into premises though, the courts have not been in agreement in their analysis of the reasonable expectation of privacy question. This article reviews the cases in this area to date.

In these cases, the officers invariably did not have probable cause for obtaining a search warrant prior to the viewings; the observations supplied the probable cause for the issuance of warrants. Evidence was then seized pursuant to the warrants, with the defendants subsequently claiming they were invalid because based upon illegally seized evidence, namely, the warrantless viewings made with the sight enhancement devices. Since this fact situation is present in all of the cases analyzed below, it is not repeated in each case discussion.



The first post-*Katz* case to deal with visual enhancement devices was *Fullbright v. United States*,<sup>24</sup> a case decided by the U.S. Court of Appeals for the 10th Circuit. Law enforcement officers entered at night upon the open fields surrounding a farm. With the aid of binoculars, the officers were able to observe defendants operating a still located inside a shed, a place the court assumed to be within the curtilage of the house. The officers made these observations from a position 75 to 100 yards away from the shed. In holding that the warrantless observations did not violate the fourth amendment, the court stated as follows:

"[O]bservations from outside the curtilage of activities within are not generally interdicted by the Constitution. . . . By this we do not mean to say that surveillance from outside a curtilage under no circumstances could constitute an illegal search in view of the teachings of *Katz v. United States*. It is our opinion, however, that on the record before us . . . the observations in question may not be deemed an unreasonable search. . . ." <sup>25</sup>

*Fullbright* was subsequently cited as authority for upholding binocular observations in another case decided 2 years later by the Fifth Circuit Court of Appeals, *United States v. Grimes*.<sup>26</sup> In this case, the officer, situated in a field belonging to another, was able to observe, with the aid of binoculars, the defendant on his property. The defendant was engaged in placing cartons of untaxed whiskey into an automobile.

The facts indicated that the officer was approximately 50 yards from defendant's house at the time of making the observations. The case does not indicate whether the defendant was within the curtilage of the house at the time of the observations. The court, without discussion, merely stated that the Government's activity "did not constitute an illegal search," <sup>27</sup> citing *Hester*, the famous open fields doctrine case, and *Fullbright*, without any reference to, or discussion of, the *Katz* decision.

Pennsylvania was next to scrutinize the use to which binoculars were put in *Commonwealth v. Hernley*,<sup>28</sup> a more complex case in terms of privacy expectations than either *Fullbright* or *Grimes*. In *Hernley*, an FBI Agent, acting on a tip, initiated a nocturnal surveillance of a printshop to determine if football gambling forms were being printed therein. The Agent could hear the presses in operation, but could not see inside the shop due to the height of the windows from the street. To remedy this, the Agent mounted a 4-foot ladder from a position off defendants' property, 30 to 35 feet away. From this vantage point and with the aid of binoculars, the Agent was able to view into the premises, detecting football parlay sheets being printed inside.

Defendants challenged the Agent's binocular observations, contending they constituted a search for which a warrant was required. In finding that the viewings did not constitute a search, the court reasoned:

"Our case presents the situation in which it was incumbent on the suspect to preserve his privacy from visual observation. To do that the appellees had only to curtain the windows. Absent such obvious action we cannot find that their expectation of privacy was justifiable or reasonable. The law will not shield criminal activity from visual observation when the actor shows such little regard for his privacy." <sup>29</sup>

In the Nebraska case of *State v. Thompson*,<sup>30</sup> the defendant did, in fact, curtain his window, but to no avail insofar as the court was concerned. Officers, validly present in an alley behind the defendant's premises, were able to view into defendant's living room with binoculars and observe a marijuana party in progress. Unlike the situation in *Hernley*, there was a sheer curtain across the window, but it was not a barrier to the binocular observations. Defendant also employed drapes on the window, but at the time of viewing, they had been drawn back. Without mention of the *Katz* case, the court held that the officers had a right to be where they were when they made the observations and that "there was nothing unlawful in their use of binoculars." <sup>31</sup>



While the court in *Thompson* did not discuss the significance of the fact that the drapes were not drawn on the occasion of the viewings, an Illinois court in the case of *People v. Hicks*<sup>32</sup> did. There, officers were investigating possible gambling activity in the first-floor suites of a hotel in Chicago. On one occasion, an investigating officer made a warrantless 1:00 a.m. viewing into one of the suspected rooms using night binoculars and observed apparent gambling activity taking place. The court does not mention the position of the officer in making the viewings, but it was apparently a place that the officer had a right to be. The facts indicated that on some occasions the curtains in the suite were drawn; on others, they were not. The binocular observations were made when the curtains were not drawn. The court found that there was no intrusion into defendants' reasonable expectation of privacy, and in so deciding, considered it significant that the curtains were drawn on some occasions, but not on others. The court concluded: "Certainly, then, since the defendants were aware of a need to pull the curtains on two occasions, they cannot claim that they expected privacy on the other occasions."<sup>33</sup> In its decision, the court also noted that "we have been unable to find a single case which has extended [the *Katz*] doctrine to find a use of binoculars improper."<sup>34</sup>

The same reasoning was applied in *People v. Ferguson*,<sup>35</sup> another Illinois case decided the same year. A daytime surveillance was begun of a second-floor apartment after an officer observed suspicious activity outside the building. From a vacant lot approximately 60 feet from the building, the officer employed binoculars to view into the apartment 45 feet above the ground. The officer's surveillance was interrupted at one point by the curtains of the apartment being drawn. By means of the binocular observations, the officer was able to detect illegal gambling activity within the apartment. The court held that such observations did not amount to a search. "[D]efendant made no effort to block an outsider's view through the apartment window."<sup>36</sup> The court stated that under the *Katz* rule, "a person may not even be protected in his own home when he manifests activities to the 'plain view' of outsiders 'because no intention to keep them to himself had been exhibited.'"<sup>37</sup>

The Pennsylvania case of *Commonwealth v. Williams*<sup>38</sup> offered a slight factual variation from *Ferguson*. The defendant claimed that the third-floor location of his apartment gave him a reasonable expectation of privacy from government intrusion by visual enhancement devices. The officers were located on the third floor of a residence directly across from the apartment in question, 40 to 50 feet away. In order to pierce the darkness, the officers used binoculars and a "startron"<sup>39</sup> to view into the living room and

kitchen windows. Neither window had curtains on them. In addressing defendant's fourth amendment claim, the court noted that while a third-floor apartment might have a higher increment of privacy attached to it than a street-level apartment observable from the street, the susceptibility of the apartment to observation from the apartment directly across was evident. As such, the court pointed out this was an even stronger case than the previous Pennsylvania case on point, *Commonwealth v. Hernley*, in which a ladder had to be mounted in order to make the viewings. Following the reasoning of *Hernley*, the court concluded that the occupants could have precluded all observations, including those made by the startron, by the simple expedient of curtaining the windows. Thus, the defendant had no reasonable expectation of privacy from observations made into the apartment.

While the defendant in *Williams* did not contend that the time of day was a factor to be considered in assessing a reasonable expectation of privacy, the U.S. Court of Appeals for the Fourth Circuit considered this as relevant in *United States v. Minton*.<sup>40</sup> In *Minton*, U.S. Treasury agents stationed themselves beyond the curtilage of defendant's house on a 12- to 14-foot high embankment overlooking a structure belonging to defendant 80 to 90 feet away. From this position, shortly after 6:00 p.m. on a November evening, the agents noted a truck's arrival on the property. By the use of binoculars, the agents were able to observe cartons containing illicit whiskey being unloaded from the truck. The court found that no reasonable expectation of privacy of defendant's was infringed by the visually enhanced observations



"considering the time of day and all the surrounding circumstances."<sup>41</sup> The court did not describe in any greater detail what was meant by this reference to the time of day. This language suggests, however, that if the cover of darkness had been present, the court would have found a more difficult privacy question presented.

Should the area observed within the premises, and the limited use to which the binoculars are employed, have a bearing on the reasonable expectation of privacy issue? The Supreme Court of Washington answered this in the affirmative in *State v. Manly*.<sup>42</sup> The court found no intrusion into defendant's reasonable expectation of privacy when an officer made binocular observations of defendant's second-floor apartment window from a parking lot across the street from the apartment and from a public sidewalk 40 to 50 feet from the window. The officer testified that he observed vegetation resembling marijuana plants in the window with his naked eye and employed the binoculars merely to confirm this. In rejecting defendant's claim, the court held that the fact that the window was uncurtained negated any reasonable expectation of privacy claim, but also considered two additional factors as significant: (1) The observations were merely of the window and did not intrude further into the room hidden from public view, and (2) the binoculars merely confirmed earlier observations made with the naked eye.

Against this backdrop of cases finding visually enhanced viewings as not constituting searches for fourth amendment purposes are several significant cases which have held otherwise. This will be developed in the conclusion of this article.

**FBI**

(Continued next month)

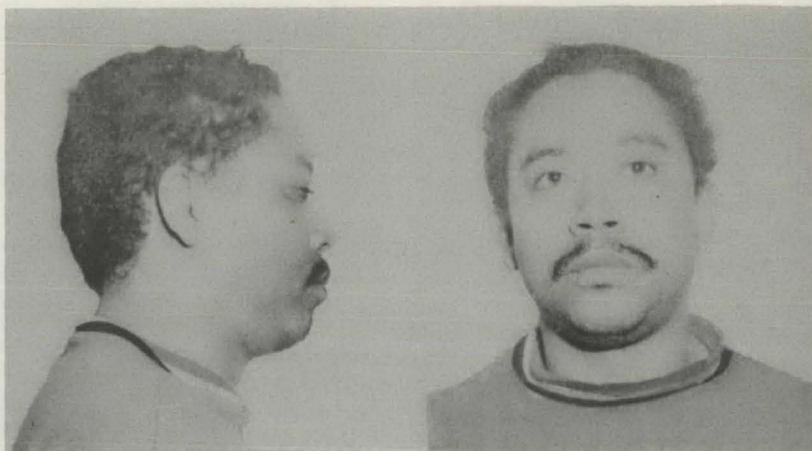
#### Footnotes

- <sup>1</sup> 389 U.S. 347 (1967).
- <sup>2</sup> *Silverman v. United States*, 365 U.S. 505 (1961).
- <sup>3</sup> See McLaughlin, "Search by Consent," *FBI Law Enforcement Bulletin*, December 1977.
- <sup>4</sup> See, e.g., *Rosencranz v. United States*, 356 F.2d 310 (1st Cir. 1966).
- <sup>5</sup> *Hester v. United States*, 265 U.S. 57 (1924).
- <sup>6</sup> *Id.*
- <sup>7</sup> 316 U.S. 129 (1942).
- <sup>8</sup> See the Court of Appeals decision of *Katz* for these additional facts surrounding the recording of the conversations. *Katz v. United States*, 369 F.2d 130 (9th Cir. 1966).
- <sup>9</sup> *Supra* note 1, at 351.
- <sup>10</sup> *Supra* note 1, at 353.
- <sup>11</sup> *Id.*
- <sup>12</sup> *Terry v. Ohio*, 392 U.S. 1 (1968); *United States v. Miller*, 425 U.S. 435 (1976).
- <sup>13</sup> *Rakas v. Illinois*, 439 U.S. 128 (1978).
- <sup>14</sup> *United States v. White*, 407 U.S. 745 (1971).
- <sup>15</sup> Note, *Telescopic Surveillance as a Violation of the Fourth Amendment*, 63 Iowa L. Rev. 708, 712 (1978). However, two pre-*Katz* cases from the Supreme Court indicated, in dictum, that the use of visual enhancement devices is not constitutionally impermissible. In *United States v. Lee*, 274 U.S. 559 (1927), the Court, in holding that it was not a search for a Coast Guard patrol boat to shine a searchlight on a motorboat, stated that such use was "comparable to the use of a marine glass or a field glass." Similarly, in *On Lee v. United States*, 343 U.S. 747 (1952), the Court observed that "the use of bifocals, field glasses or the telescope to magnify the object of a witness' vision is not a forbidden search or seizure, even if they focus without his knowledge or consent upon what one supposes to be private indiscretions."
- <sup>16</sup> See, e.g., the Omnibus Crime Control and Safe Streets Act of 1968, Title III, 18 U.S.C. 2510-2520 (1970).
- <sup>17</sup> See Note, *Katz and the Fourth Amendment*, 23 Cleveland State L. Rev. 63, 70-72 (1974).
- <sup>18</sup> See *supra* n.15, at 711-12 for development of this idea.
- <sup>19</sup> Two cases seem to imply, however, that the sophistication of the device bears on the reasonable expectation of privacy question. See *United States v. Kim*, 415 F.Supp. 1252 (D. Hawaii 1976); *State v. Stachler*, 570 P.2d 1323 (Hawaii 1977). It would appear to be extremely difficult in many cases, however, to assess when binoculars and telescopes transform themselves from ordinary, common items to the level of "high-powered," "sophisticated," or "special equipment not generally in use." On the same note, the use of a simple flashlight has generally been held not to change an otherwise permissible search into an impermissible one. See 1 W. LaFave, *Search and Seizure*, sec. 2.2(b) (1978).
- <sup>20</sup> This term "open, public area" is used to distinguish such places from public areas which have privacy aspects to them and in which some courts have found a reasonable expectation of privacy. See, e.g., *People v. Triggs*, 8 Cal.3d 884, 506 P.2d 232 (1973) (public park restroom); *People v. Diaz*, 376 N.Y.S.2d 849 (1975) (department store fitting room).

- <sup>21</sup> "Premises" is used in the context of the house and the curtilage surrounding the house.
- <sup>22</sup> *Supra* note 1, at 351.
- <sup>23</sup> See, e.g., *Commonwealth v. Ortiz*, 380 N.E.2d 669 (Mass. Sup. Jud. Ct. 1978).
- <sup>24</sup> 392 F.2d 432 (10th Cir.), *cert. denied*, 393 U.S. 830 (1968).
- <sup>25</sup> *Id.* at 434-35.
- <sup>26</sup> 426 F.2d 706 (5th Cir. 1970).
- <sup>27</sup> *Id.* at 708.
- <sup>28</sup> 216 Pa. Super. 177, 263 A.2d 904 (1970), *cert. denied*, 401 U.S. 914 (1971).
- <sup>29</sup> *Id.* at 907.
- <sup>30</sup> 196 Neb. 55, 241 N.W.2d 511 (1976).
- <sup>31</sup> *Id.* at 513.
- <sup>32</sup> 49 Ill.App.3d 421, 364 N.E.2d 440 (1977).
- <sup>33</sup> *Id.* at 444.
- <sup>34</sup> *Id.*
- <sup>35</sup> 47 Ill.App.3d 654, 365 N.E.2d 77 (1977).
- <sup>36</sup> *Id.* at 80.
- <sup>37</sup> *Id.* at 79.
- <sup>38</sup> 396 A.2d 1286 (Super.Ct. 1978).
- <sup>39</sup> "The startron is a device which enables the observer to see into areas which would appear dark to the naked eye or through conventional binoculars." *Id.* at 1290.
- <sup>40</sup> 488 F.2d 37 (4th Cir. 1973), *cert. denied*, 416 U.S. 936 (1974).
- <sup>41</sup> *Id.* at 38.
- <sup>42</sup> 85 Wash.2d 120, 530 P.2d 306 (en banc), *cert. denied*, 423 U.S. 855 (1975).



# WANTED BY THE FBI



Photographs taken 1975.

## Julio Acuna

Also known as Julio D. Acuna, Nelson Andujar, Julio Zamora, "Chino," "Japonais," "Nadin," and "Narrin."

## Wanted for:

Interstate Flight—Murder, Attempted Murder

## The Crime

Acuna is being sought in connection with the alleged "contract" killing of an individual and attempted murder of the victim's female associate.

A Federal warrant was issued for him on July 21, 1976, at Miami, Fla.

## Description

Age .....41, born April 14, 1940, Cuba.  
Height .....5'6" to 5'9".  
Weight .....160 pounds.  
Build.....Medium.  
Hair .....Brown.  
Eyes.....Brown.  
Complexion .....Dark.  
Race .....Negro.  
Nationality .....Cuban.  
Occupations .....Driver/bodyguard.  
Remarks .....May be wearing thin mustache and Afro hairstyle.

## Social Security No.

Used .....058-50-8643.  
FBI No. ....13,497 P5.

## Caution

Acuna is believed to possess a .38-caliber automatic pistol equipped with a silencer and should be considered armed and dangerous.

## Notify the FBI

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

## Classification Data:

NCIC Classification:

PO16PIPO222016PIC118

Fingerprint Classification:

16	0	11	U	010	22
	L	26	U	011	



Right thumb print.



# Change of Address

Not an order form

# FBI LAW ENFORCEMENT BULLETIN

**Complete this form and return to:**

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

Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

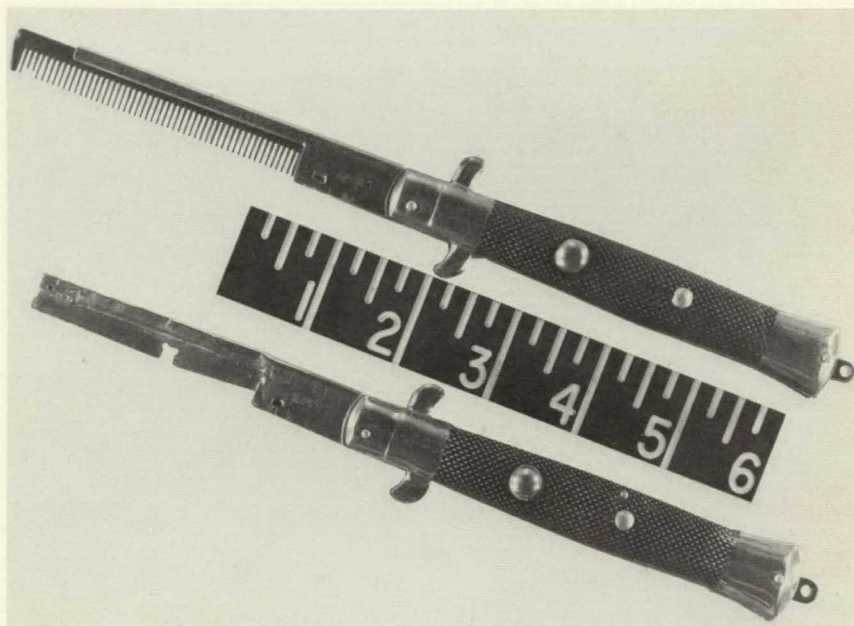
City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

## Double-Edged Razor Comb

Recently the Albany, N.Y., Police Department recovered this weapon in the possession of a juvenile. The weapon was constructed by removing the teeth of the comb and replacing them with both halves of a double-edged razor blade.







*Washington, D.C. 20535*

## **Interesting Pattern**

The fingerprint pattern presented this month is interesting due to the odd formation of the ridges. This pattern is classified as a loop with 23 counts.

