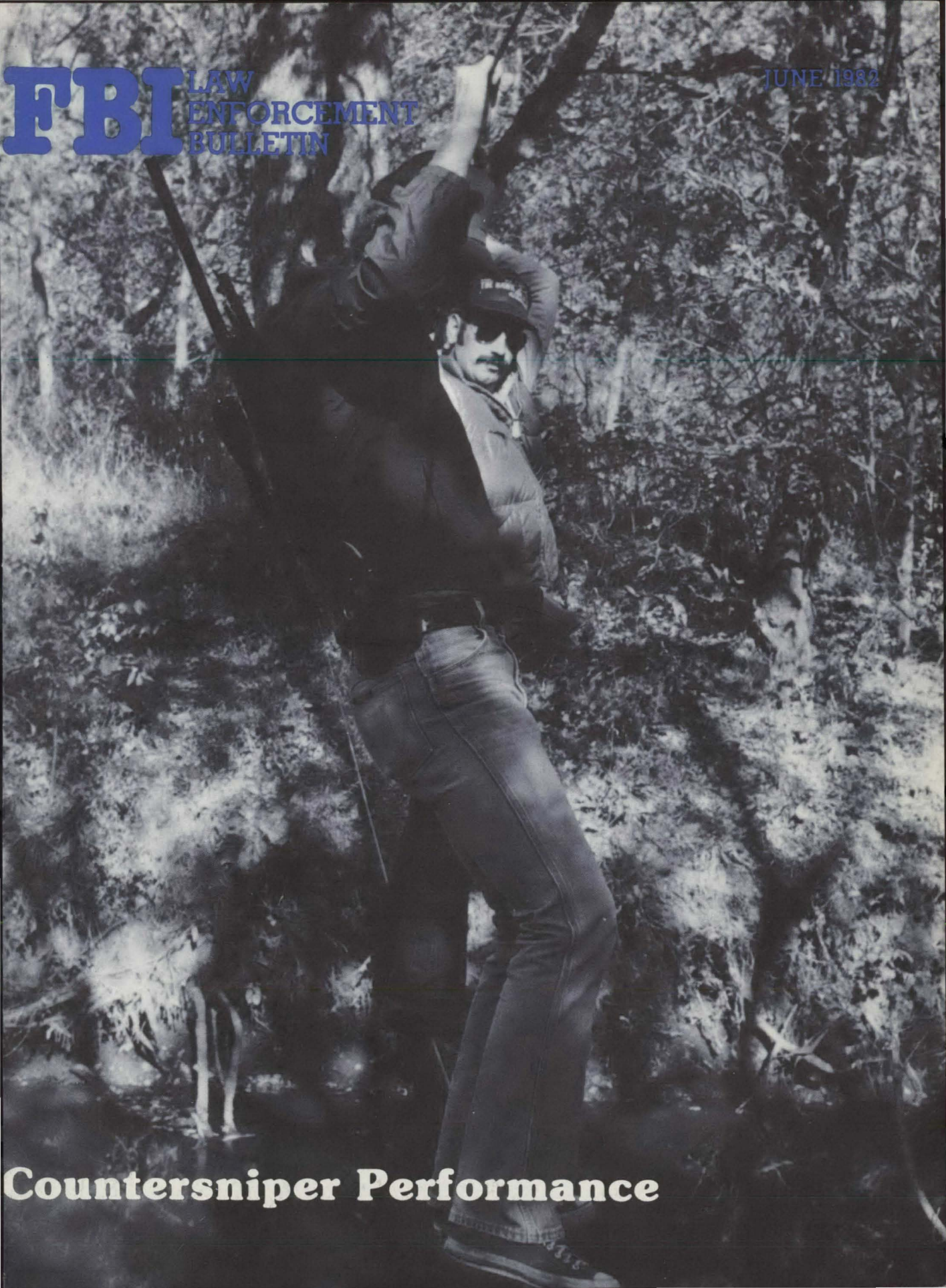
FBI LAW ENFORCEMENT BULLETIN

JUNE 1982



Countersniper Performance

FBI LAW ENFORCEMENT BULLETIN

JUNE 1982, VOLUME 51, NUMBER 6

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Officers training for countersniper teams must move through obstacle courses with full equipment. See article, p. 1.

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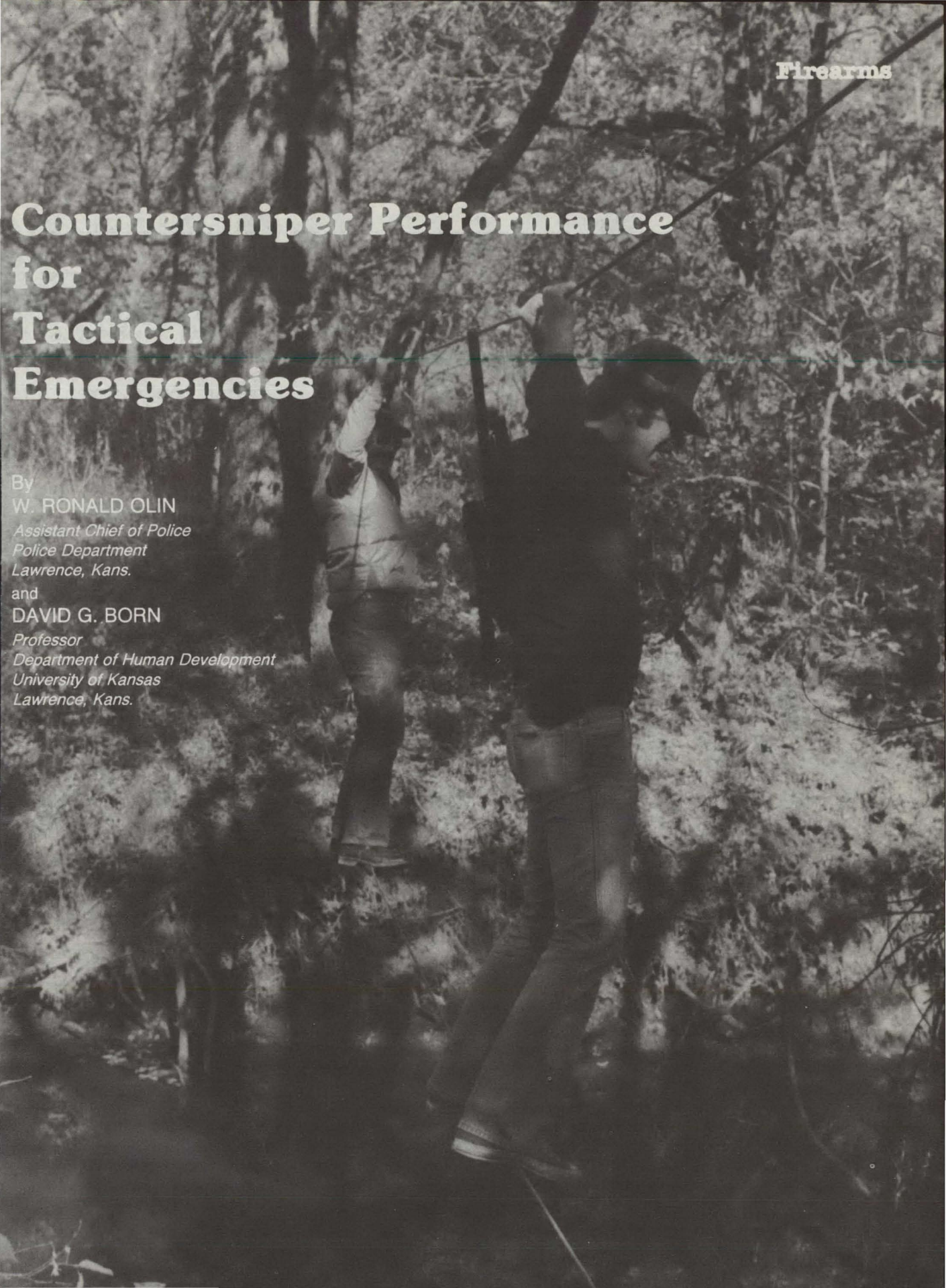
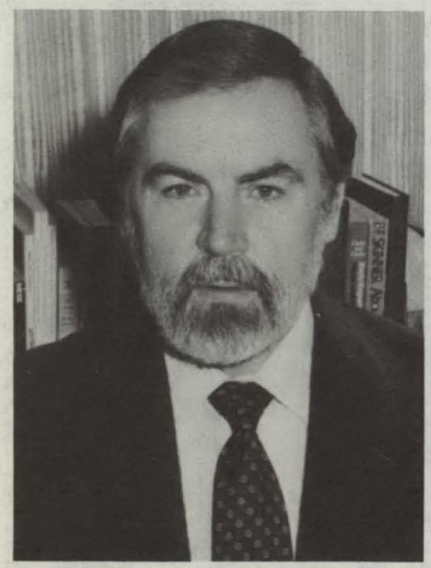
Countersniper Performance for Tactical Emergencies

By
W. RONALD OLIN
Assistant Chief of Police
Police Department
Lawrence, Kans.
and
DAVID G. BORN
Professor
Department of Human Development
University of Kansas
Lawrence, Kans.



W. Ronald Olin



David G. Born

Many law enforcement agencies have tactical units designed to handle specialized police situations. One of the most perplexing problems with these units is their proper training, further aggravated by the traditional expectation of cross-training personnel in all duties of the unit. The responsibilities of tactical units are complex, and in some cases, dissimilar. Specific tasks, such as police countersniping, are not amenable to the kind of unstructured training frequently used when all team members are generalists. Cross-training in these duties may result in mediocre performance and limited success when the unit is activated. An alternative organization for tactical units was suggested in a previous article published in the *FBI Law Enforcement Bulletin.*[1] This article extends this earlier work by outlining a strategy for selecting, training, and evaluating personnel for use on countersniper teams and suggests deployment procedures to optimize countersniper performance.

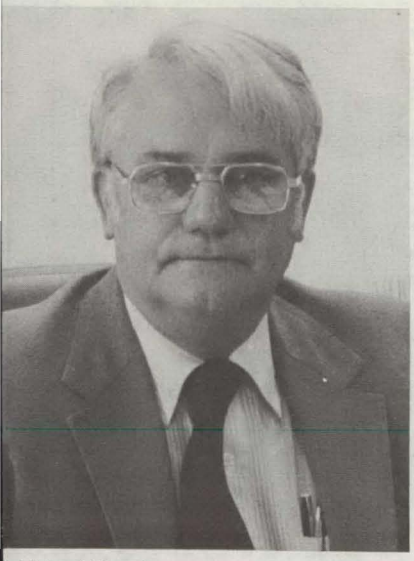
Background

The Lawrence, Kans., Police Department has had a tactical unit, sometimes called Special Weapons and Tactics (SWAT), since 1974. This tactical unit has participated in numerous training programs and has attempted to remain current with new developments in the field. Until recently, countersnipers were selected from the tactical unit based on marksmanship with a bolt-action rifle. These officers were additionally expected to train fully in all other facets of tactical unit activities. This configuration proved to be very inflexible and hampered training by leaving little time for countersniper to perfect the shooting technique sometimes needed for an actual assignment.

In July 1980, the tactical unit was reorganized and divided into two basic groups—an assault team which specialized in inner perimeter techniques and countersniper teams. The countersniper teams were modeled after West German countersnipers (Präzisionshutzen-Kommandos). The three-man team includes a team leader (responsible for unit security and radio communication), a primary shooter and a secondary shooter. A team with this depth is expected to stay on post for extended periods of time and handle multiple assignments. Training includes long-range photography, surveillance, and shooting skills. The countersniper team functions as the "eyes" of the command post by providing ongoing intelligence information. Additional surveillance assignments outside of a tactical configuration may also be handled by these teams.

Personnel Selection

The countersniper team was opened to any police officer on the Lawrence Police Department or Kansas University Police Department. (The Kansas University Police Department actively participates in all phases of the crisis response team, including command, intelligence, negotiations, assault, and countersniper teams.) The nine best rifle marksmen were divided into three teams. Under the rigors of the biweekly training which followed, three members withdrew during the first 3 months. Two countersniper teams were organized with the remaining personnel.



. Richard Stanwix
hief of Police

Personnel Training

A training schedule was developed for the teams. In an attempt to promote realism, specific scenarios which simulated actual conditions to which the teams might be exposed were developed. Some scenarios, for example, involved driving to a remote location, exiting a police vehicle with full equipment, and establishing a fire position from the rooftop of a nearby building. This procedure was timed and repeated until significant improvement was noted. Other scenarios included engaging multiple targets, moving targets, and other precision shooting at distances associated with urban police deployment. All scenarios included physical exercise, the uncertainty of deadlines, timed performance, stress, and the demand of excellence.

Scenario training proceeded for 8 months, and team members were exposed to situations under varying light and weather conditions. However, there was one recurring question: How long can a countersniper stay on post without relief and still perform within the required limits of speed and shooting accuracy? Because no literature

TABLE 1

Scenario Duration (Min.)	Order of Scenario	First Shot Last Shot	Shooter A Sec.	Shooter A In.	Shooter B Sec.	Shooter B In.	Shooter C Sec.	Shooter C In.	Average Sec.	Average In.
3	3	F	.78	.7	.87	0.0	.5	1.5	.72	.73
		L	.51	.7	1.43	0.4	.47	1.0	.80	.70
22	7	F	.46	.6	.62	0.0	.21	.6	.43	.40
		L	.53	.8	1.66	1.0	.87	.4	1.02	.73
30	8	F	1.78	1.1	.47	.6	.62	.3	.96	.67
		L	.49	1.0	.84	.8	1.65	.4	.99	.73
43	6	F	.62	.6	No Data		No Data			
		L	.63	.8						
60	9	F	1.50	1.1	.28	.3	.45	.5	.74	.63
		L	.98	.8	1.83	.5	.71	1.3	1.17	.87
62	2	F	.77	.5	.50	.6	.38	.7	.55	.60
		L	1.21	.8	.55	.8	.45	.5	.74	.80
78	5	F	.40	1.8	.32	.3	.19	.8	.30	.97
		L	.57	2.5	1.44	.2	2.26	.3	1.42	1.00
90	10	F	No Data		1.10	.3	.28	1.0	.69	.65
		L			1.35	.3	1.35	.1	1.35	.20
101	4	F	.49	.3	.65	.4	.53	.1	.55	.27
		L	.52	2.6	3.89	.4	.62	.4	1.67	1.13
119	1	F	1.31	.5	.25	1.2	1.0	1.1	.85	.93
		L	2.30	1.2	.50	2.4	.5	.3	1.10	1.30

dealing with this question was readily found, an experiment was conducted to evaluate countersniper performance over prolonged periods of time.

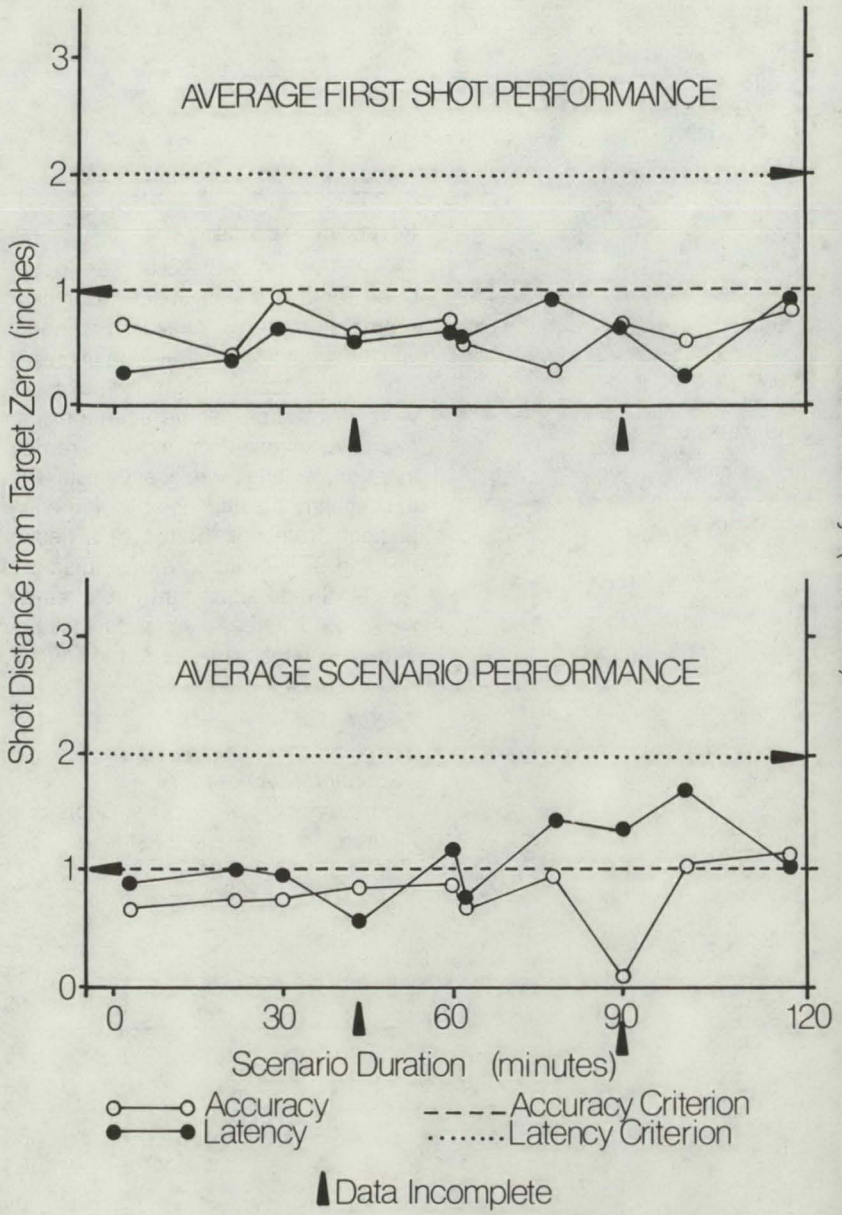
Method

Ten scenarios were prepared to evaluate two dimensions of countersniper performance over separate 2-hour test periods. These scenarios differed from each other only in the amount of time the shooters remained in the fully alert position before being given a command to fire. Over the 120-minute test period, 10 different delays were selected, and the order of presentation of these 10 scenarios was determined quasi-randomly so that the shooters would have no basis for anticipating when they would be called upon to fire. The duration of each delay and the order of the scenario may be determined from table 1.

The critical dimensions of countersniper performance were shooter *accuracy,* measured as the point of bullet impact from target zero, and shooter *latency,* measured as the time between command to fire and delivery of the shot. Instructions detailing each week's scenario were placed in sealed envelopes and given to team leaders just prior to each training session. No shooters were permitted to read the contents. Extensive briefings were conducted with countersniper teams to explain the importance of following orders and not attempting to subvert the study. Ongoing interviews with team leaders and shooters were conducted to prompt further compliance with the security needed for this study.

For each scenario, a shooter stood at a firing line located 75 yards from a stationary target and was told to prepare to fire. The team leader positioned himself some distance behind the marksman so his behavior would

Figure 1



Average shot accuracy and shot latency on eac of the test days arranged in order of scenario duration. Each shooter was ordered to prepare t shoot, and when ready, was given a command t fire. The accuracy and latency of this first shot was then recorded. (See upper panel.) Subsequently, shooters were ordered back to th ready position and a scenario began. The scenario terminated after an unpredictable amount of time with a second command to fire. These data are shown in the lower panel. Only one scenario per week was run. The reader migh note that two scenarios were run without all shooters present. (See table 1.)

ot provide cues for the marksman's ubsequent performance. The team eader, who was equipped with a digital topwatch, then gave a command to re. The timelapse between the command to fire and when the shot was elivered was measured and recorded. argets were then marked and the hooter was allowed to adjust rifle copes, using an additional shot if he esired. The scenario then began.

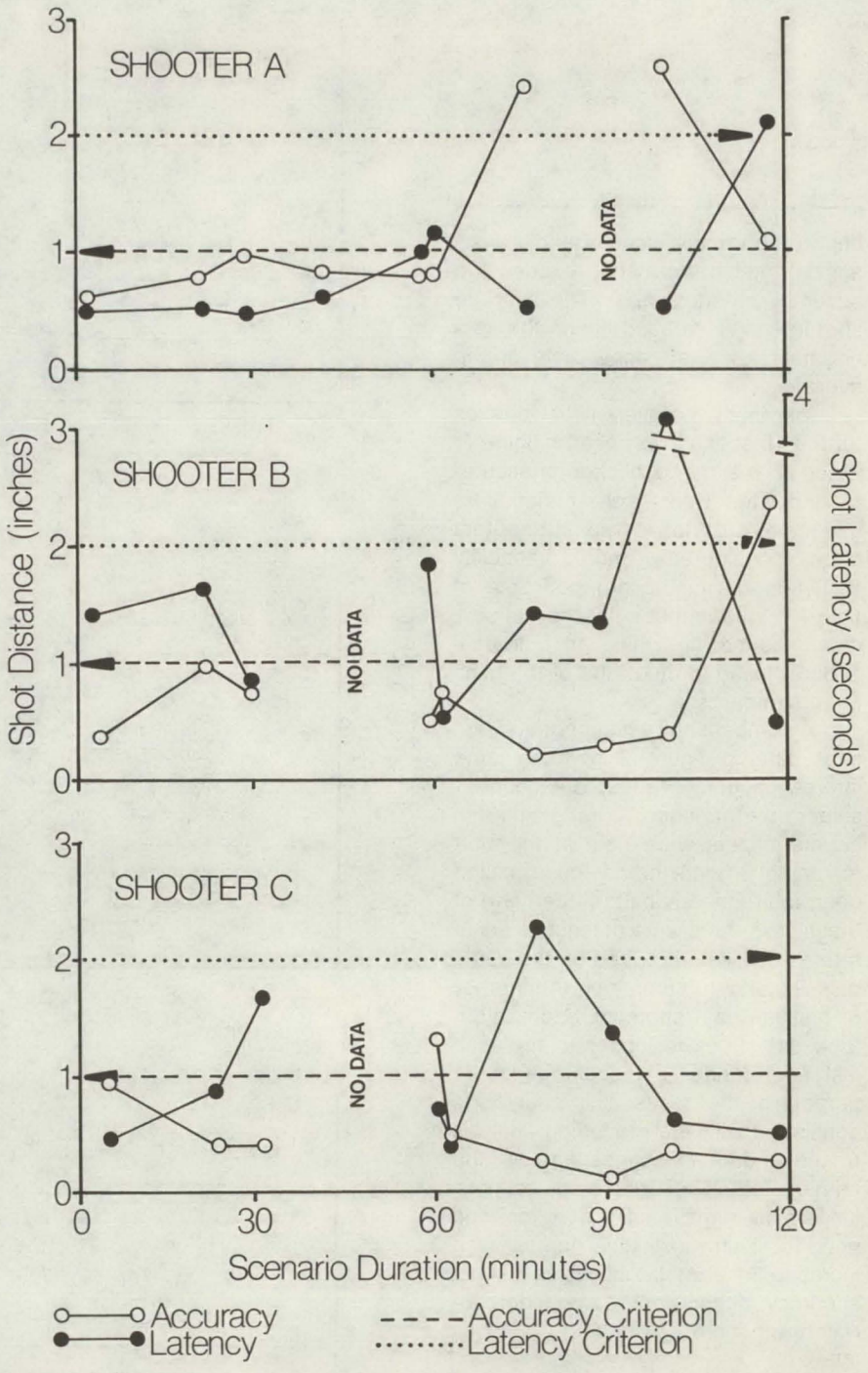
During the scenario, shooters naintained a "ready" posture until ordered to "fire." Once the order was iven, the time between this final order o fire and the final shot was also ecorded. This procedure provided ata on shooting with a "cold-clean," a cold-fouled," or a "hot-fouled" barrel. he targets were again marked and etained for study. At the end of each ession, targets were submitted, along vith a written report of the activity.

Results and Discussion

The overall results of this experiment are found in figure 1, which shows average shooter accuracy and average shot latency for each scenario. The upper panel in figure 1 shows average shooter performance during the scenario (i.e., on the final shot). Only three of the four shooters were studied because of equipment failure and replacement of one team member. Prior to the inspection of these data, minimum performance standards for a countersniper were set. These standards call for a shot to be delivered within 2 seconds of a command to fire and for that shot to be within 1 inch of target zero. These criteria are indicated as horizontal lines in both of the panels of figure 1.

The data in figure 1 indicate that countersnipers may be left at their post for approximately 2 hours without an appreciable loss of performance. Only

Figure 2



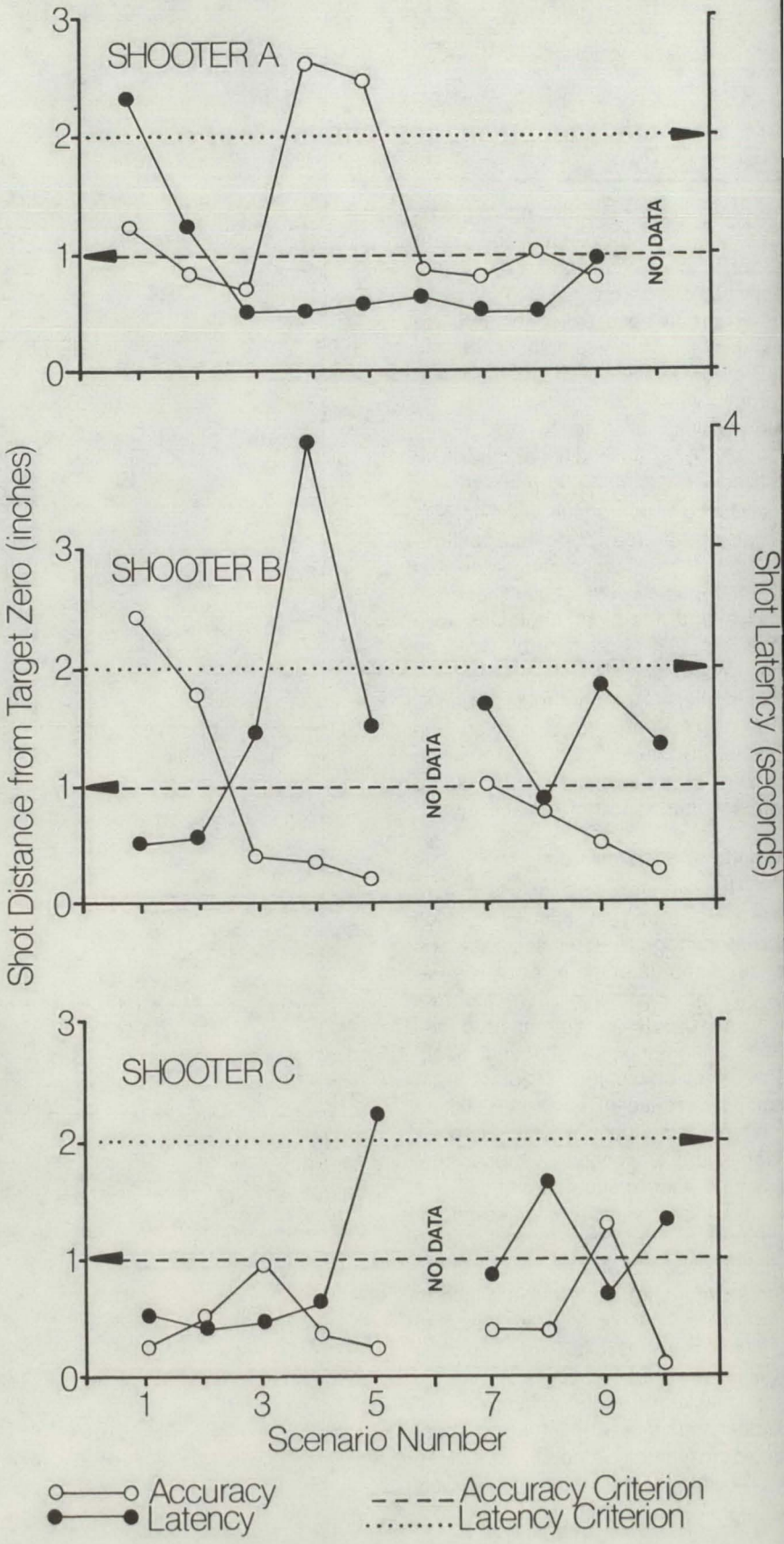
Individual shooter accuracy and latency under the scenario condition, with the scenario arranged in order of increasing duration.

during the longest scenarios did average shooter performance exceed the accuracy criterion, and while average shot latency increased during the second hour, it was still acceptable, on the average.

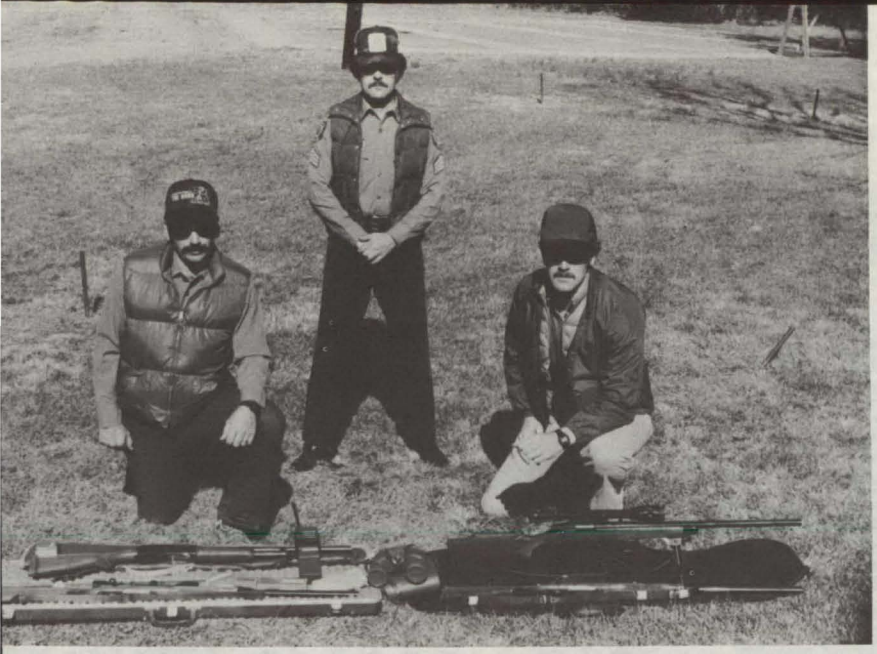
Individual countersniper profiles for the 10 scenarios appear in figure 2, which shows individual shooter accuracy and latency for each scenario. As expected, data for individual shooters show considerably more variability than appears in the grouped data of figure 1. In fact, these data reveal several instances in which an individual shooter failed to meet one of the minimum standards.

A comparison of first shot and last shot data in figure 2 reveals some interesting details about our countersniper performance. First, although countersnipers were held at full alert for up to 2 hours before being called upon to fire, nearly half (44 percent) of these final shots were at least as accurate as the first shot fired on the same day. Second, in comparing the latency of first and last shots on each day, it took the shooters longer to fire their last shot (under the scenario) in 81 percent of the cases. This analysis is consistent with the preceding analysis of these data in suggesting that the primary effect of requiring countersnipers to remain fully alert for long periods of time (up to 2 hours) is an increase in shot latency rather than accuracy, although both show deterioration with increases in time.

Figure 3



Individual shooter accuracy and latency under the scenario condition, with the scenarios arranged according to the order in which they were run.



Countersniper team with equipment.

Figure 2 also reveals some important characteristics of individual shooters that need to be considered to optimize countersniper deployment. Through at least the first hour on post, *all* shooters performed to countersniper standards. Any substandard performance occurred during the second hour on post. Further, it is interesting to note the differences that emerged in the pattern of substandard performances across shooters. Shooter A, for example, failed to meet the accuracy criterion on 75 percent of his shots during the second hour, but only one of these shots exceeded the latency criterion. Over the same period, Shooter C was within ½-inch of target zero on each of his five shots, but his latency did exceed the 2-second criterion on occasion. Finally, Shooter B appears to be somewhere between these two extremes, with one very errant shot (nearly 2½-inches from target) and a different shot which was almost twice the allowable latency.

The arrangement of performance criteria by the order of the scenario seems to indicate that some changes in shooting technique occurred early in the experiment. (See figure 3.) The performance of both Shooter A and Shooter B was highly variable early in the experiment but less variable in later scenarios. While we are not able to identify the cause of these variations, the data are suggestive of improved performance, and perhaps, an indicator of the value of realism in tactical training.

Several other major changes occurred among shooters who participated in scenario training. Stress and many physical ailments, such as eye focus problems, muscle cramps, headaches, and other difficulties, were regularly reported at the onset of training. Many of these same problems are found in actual tactical deployments. They are rarely reported during target qualifications. In the present experiment, the complaints subsided by the fourth week as the officers improved their physical conditioning and attitudes to the extended waiting associated with countersniping.

Personnel Evaluation

The individual shooter profiles suggest a deployment strategy which is somewhat more conservative than that suggested by the averaged data available in figure 1. While average shooter performance indicates that shooters are generally capable of performing up to minimum standards for nearly all of the 2-hour period, individual profiles reveal that the likelihood of a substandard performance increases during the second hour. Thus, a more conservative and optimal plan for deployment would relieve each shooter after 1 hour on post. However, in case of an emergency in which it was necessary to keep a shooter out for longer than 1 hour, the available data suggest that shooter C would be the best choice for such an assignment.

Conclusion

The use of scenarios has proven to be an invaluable training aid that also provides a detailed record of each officer's shooting skill. Shooters are tested in a variety of situations, many of which are more difficult than actual

Countersniper team on post.

Countersniper team in training. Some scenarios involved obstacle courses, carrying full equipment, before shooting.

deployment. The chronological analysis of data suggests that shooters improve their performance through the scenario experience. Weapons and equipment failures are exposed in the realistic training situations, and officers find that they will or will not have the ability to remain on post as needed. Individual data may also be compiled from these experiments for feedback to the shooter.

This kind of research may provide the beginning of empirical studies to assist law enforcement decisionmaking. The use of scenario training permits deployment decisions to be made by command personnel with a more complete knowledge of each officer's ability. Scenario-trained teams shoot better under a wide variety of conditions, and in the event of an actual shooting, the records present an accurate audit of the training and proficiency of each shooter for court review of the use of deadly force. It is our bel that these reasons make the use scenarios a preferred method of tra ing countersniper teams. F

Footnote

W. R. Olin, "Tactical Crisis Management: The Challenge the 80's," *FBI Law Enforcement Bulletin*, vol. 49, No. pp. 20–25.

Serious Crimes in the Nation Showed Virtually No Change During 1981

The number of serious crimes in the Nation recorded by the FBI's Crime Index showed virtually no change during 1981 as compared to 1980.

Violent crime rose 1 percent last year, while property crime remained relatively stable, according to preliminary FBI Uniform Crime Reporting statistics. However, the volume of reported crime reached an alltime high in 1980.

Among the violent crimes reported to law enforcement, only robbery showed an increase—5 percent. Murder dropped 3 percent, aggravated assault fell 2 percent, and forcible rape declined 1 percent in volume.

Of the property crimes reported, motor vehicle thefts dropped 4 percent, burglaries decreased 1 percent, and larceny-thefts showed no change.

Cities with populations over 50,000 recorded a 1-percent increase in Crime Index offenses reported to police during 1981, while the suburban and rural areas each registered declines of 1 percent. Collectively, cities outside metropolitan areas maintained nearly the same volume as the year before.

Regionally, the Southern States registered a 1-percent increase in Index crimes; the Northeastern and Western States each showed no change; and the North Central States recorded a 1-percent decrease.

For the first time, trends for arson, the fourth property crime, were available. Arson offenses reported to law enforcement in 1981 dropped 8 percent from 1980. Like the historical Crime Index total, the Modified Crime Index total, which includes arson, remained at virtually the same level as the previous year.

Training Firstline Police Supervisors

A New Approach

By
JACK B. MOLDEN
Professor
Police Training Institute
University of Illinois
Champaign, Ill.

It was 7:58 a.m., Monday morning. As the students found their name cards, they seated themselves around the U-shaped table. The talk was laconic, glances guarded and cool. At the podium, framed by the green chalkboard, the instructor readied his notes, oblivious for the moment to the wanderings, shuffling, and quizzical glances of the incoming, casually attired students. A few of the younger arrivals moved with an air of familiarity and casualness in the classroom environment, the older men moved with some obvious trepidation—slow, cautious, unsure. At exactly 8:00 a.m., the vested, somewhat formidable looking instructor called the class into session with the greeting, "Good morning, men. Welcome to the first offering of the all new firstline supervisor course."

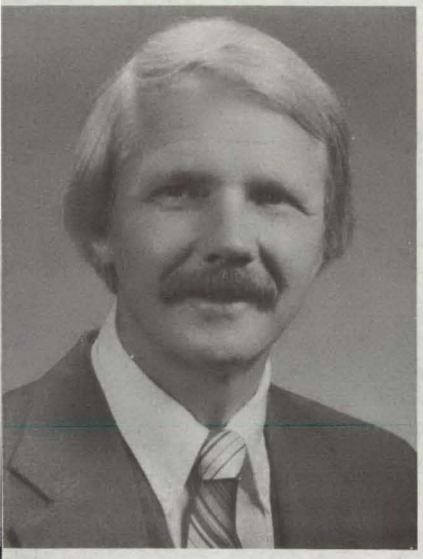
Since September 4, 1979, there have been eight offerings of the "new and improved" firstline supervision course by the Police Training Institute. The course has been revised and approved by the Illinois State Training Board, and about 180 officers have been trained and returned to their departments.

What preceded this first course—the commitment, the procedures, the problems, and some solutions—should be of interest and assistance to other trainers, supervisors, and law enforcement managers.

The Police Training Institute

The Police Training Institute is a unit of the University of Illinois at Urbana/Champaign, legally mandated and fully committed to training Illinois law enforcement officers.

For over 25 years, the institute has trained officers from departments of varying sizes in skills ranging from basic law enforcement to executive management. The faculty and staff consist



Mr. Molden

of 40 full-time personnel, teaching a range of over 20 different courses.

New Curriculum Needed

Police supervision has, for many years, been taught at the Police Training Institute. Because of the critical role played by the firstline law enforcement supervisor and the impact of that role on the operation of an agency, supervisory training occupied a high priority at the institute. The course had been offered in the traditional lecture mode, was well attended, and was generally accepted by the students, although it had been recognized for some time that major changes and updating were needed.

The preliminary search for an acceptable curriculum model for supervisory training began in 1977, but a final decision for change was not acted upon until early 1979, when the director and several interested staff members met and decided on overall program goals. The decision to design a completely new course was made at that time. Two staff members accepted responsibility for the design and preparation of the curriculum.

Having failed to identify an acceptable model for the new course, it was decided that one would have to be written. Current literature and courses of instruction were reviewed, and guidance from both staff and police practitioners was sought in developing a curriculum philosophy.

Philosophical Concepts

In an attempt to devise guidelines for curriculum development, the following philosophical concepts were adopted:

1) The traditional lecture, instructor-centered mode of instruction would be minimized and emphasis would be placed on the performance-oriented instructional method. This teaching mode would give the students an opportunity to practice what they learned while still in the instructional environment.
2) The course of instruction would be directed toward the novice firstline supervisor, who would attend the class either shortly before or shortly after promotion to a supervisory rank.
3) The course content would exclude all extraneous "nice to know" information and focus, instead, on basic supervisory skills.
4) An instructional "team" approach would provide for maximum coordination and instructional continuity.

Curriculum Development

The most difficult problem initially encountered was determining what material could and should be taught in a 2-week course that would be pertinent to supervisors from all sizes of departments operating under different leadership and management styles.

Figure 1

COURSE OUTLINE

Administrative Units (11 hours)	**Hours**
Introduction and Orientation	2
Comprehensive Practical Examination	4
Examination	2
Critique/Evaluation/Graduation	3
Instructional Units (42 hours)	
Authority and Control	2
Characteristics and Qualities of Leadership	2
Contemporary Issues in Supervision	4
Decisionmaking	2
Measuring Work Performance and Employee Efficiency	2
Morale and Discipline	2
Patrol Supervision	2
Preparing Goals and Objectives	2
Principles of Communication	4
Psychological Aspects of Supervision	4
Short Range Planning and Work Assignment	3
Supervisor's Role in Handling Complaints and Grievances	2
The Supervisor's Role in Management	3
The Supervisor's Training Function	6
The Supervisory Process	2
Practicals (26 hours)	
Complaints and Grievances Practical	2
Comprehensive Practical Exercise	2
Discipline Practical	2
Evaluation Practical	3
Patrol Practical	2
Planning and Decisionmaking Practical	3
Practical Teaching—Coach-Pupil	4
Practical Teaching—Roll Call	4
Principles of Communication Practical	4
TOTAL HOURS	79

The primary question seemed to be what factors, if any, were common to all firstline police supervisors. Once those factors were determined, it was necessary to design an effective method of teaching that common information.

The answer to this question appeared to be based on a common definition of a supervisor—"one who accomplishes work and meets goals and objectives through the efforts of other people." If that definition is correct, one common factor all supervisors deal with is people. Therefore, all extraneous material not dealing directly with the officer as a supervisor was extracted, and the content of the course was centered around improving the officer's ability to supervise—it is a people-related course. Each block of instruction is designed to help the supervisor understand his relationship to people, sometimes in relation to a particular police function.

The course ultimately totaled 79 hours of instruction presented in 2 weeks. (See fig. 1.)

Course Organization

Recognizing that each instructional unit is an integral part of the whole course, proper sequencing of the instructional blocks to provide a natural flow of information became a critical concern. It was necessary for the sequence to form a building block effect toward the understanding of supervision. Since blocks of instruction had to be shared among several instructors, continuity also became a concern. How could one instructor build on the previous instruction and lead into the following subject when he was familiar with and interested in only his own subject matter? In most instructional courses where multiple instructors are used, this natural defect is considered a necessary evil. However, we believed that it was imperative that we improve on the traditional delivery mode and resolve this conflict. The instructional "team" approach seemed to be an ideal solution to our problem.

The Team Approach

Staffing the course began with finding four faculty members with expertise in supervision and management, who were willing to become generalists regarding the entire 79-hour course. They committed themselves to coordinating their material with other instructors, adopting common words, terms, definitions and theories, and becoming familiar with the total course content. They also committed themselves to unusually demanding workloads because of the small group teaching style.

Four qualified staff members were found, and the course began with their commitment to monitor the entire course. Because of this commitment by the staff, the course became a true team effort, albeit a time-consuming and tedious one.

An interesting side result of the presence of all four instructors in the classroom during the initial pilot offering was a warm rapport and camaraderie between staff and students that has not been duplicated. The students responded in a very positive manner to the opportunity to relate to instructors informally and to see them participating on a regular basis in the classroom routine.

"The team teaching approach has unquestionably been the greatest contributor to the success of the course."

The team teaching approach has unquestionably been the greatest contributor to the success of the course. Because of other teaching commitments and personal requirements, however, it has been impractical to maintain the original team of four; two additional team members have been added.

Instructional Mode

Performance orientation requires the student to become involved in the instruction in a very significant way. He is allowed to apply his newly acquired skills and knowledge to simulated situations.

For example, a 2-hour block of instruction on morale and discipline is followed by a 2-hour practical exercise where students roleplay in a disciplinary scenario and have an opportunity to both put the principles to use and to see the results. A 2-hour block of instruction in patrol supervision is followed by a 2-hour problem in which the students are broken into four groups of six and given a manpower allocation and distribution problem that is applied to a major case study problem. Another block of instruction, supervisors training function, is followed by student preparation of instructional objectives and lesson plans and the actual teaching of two blocks of instruction—one using the coach/pupil method and the other, roleplay training which is videotaped. During all stages of instruction, student performance is critiqued by a faculty member.

Performance-oriented instruction is far superior to the traditional lecture method, but application of the method requires several components:

1) To allow for adequate student participation, class size must be reduced. Our classes are restricted to 24 students, although a limit of 20 students would probably be better.
2) Performance-oriented instruction requires much more time than the lecture method. However, the additional time used for roleplaying, case studies, and problem solving makes the instruction more meaningful—learning takes place and behavior is changed.
3) Students should be seated in the classroom so they can see and communicate with one another. Although a horseshoe configuration is sometimes used, a semicircle would be preferable when space allows.
4) "Break-out" rooms for practical small group work are another necessity. These are small rooms in which a group of six students solve problems without undue disturbance from others.
5) A much higher ratio of staff-to-student is needed. We typically use four instructors in all small group sessions—about one instructor to six students. It is also important that all instructors understand the material and evaluate student performance on a standardized basis.
6) While working closely with students in small groups in a problem-solving mode is a rewarding experience for the instructor, it is also the most difficult style of teaching and requires a depth of knowledge and skill not needed in an instructor-centered, lecture method of teaching.

Testing

Although testing has been retained for the purpose of feedback and student performance evaluation, traditional paper and pencil tests have been minimized and evaluation of observable behavior through roleplaying, simulation, and case study has been maximized.

There is a total of 100 evaluation points available to the student over the 2-week class period. A possible 55 points are awarded for the performance of practical problems, while there are only a possible 45 points for written tests.

The planned learning sequence is to teach the skill or principle, have the student perform the skill or apply the principles, then critique and evaluate the student's performance. Feedback to the student in the form of a critique and a number grade is immediate.

Students record their grades, and as the course progresses, are able to determine their score or grade at any time.

Central City Case Study

During orientation, students are given a copy of the Central City Case Study. This is a profile of a medium-sized police department, with accompanying statistics and facts. The class, divided into four equal study groups, is requested to apply daily instructional principles and concepts to the solution of the case study problem. A considerable amount of time is spent by these groups in applying information, making decisions, and solving problems posed by the study. On the final day of the

"Performance-oriented instruction is far superior to the traditional lecture method. . . ."

course, each group reports their solution to the problem to the entire class. Each group's performance is evaluated by a panel of instructors and a group grade is awarded, based on the group's ability to apply theories and concepts learned in class.

The case study exercise not only forces the students to apply their newly acquired knowledge and skills but also requires the student supervisors to learn to work together creatively to solve common problems. The exercise provides a common thread throughout the course, and student solutions and presentations have been of surprisingly good quality, demonstrating considerable mastery of course material.

Course Textbook

The decision whether to use a course textbook was difficult. One difficulty associated with using a textbook in the presentation of a short course is the obligation to adopt the general organization, definitions, and concepts of the text. This obligation often creates conflicts, particularly when different instructors teach the course. Each instructor, an authority in his own right, has usually developed unique methods of teaching a subject and finds it unduly confining to tailor his material to correspond with a textbook. Conversely, and equally important, it is virtually impossible to find a text that closely corresponds with the material one wishes to offer.

A textbook used in conjunction with a short course, if properly selected and used, provides organization as well as a background reading source, a coordinating effect between the instructors, and common definitions, examples, and concepts.

Research soon disclosed a wide variety of textbooks on police supervision, none of which completely met our needs. We ultimately selected our text because of its general, traditional approach to the subject. A copy of the text was provided to each student, and they were expected to read the entire book during the 2-week course. Because our course curriculum was still under development when the text was selected, we were able to coordinate the curriculum with the textbook, thereby minimizing conflicts.

An ideal solution to the textbook dilemma would be a monograph produced through the coordinated efforts of the teaching staff. Using a monograph would overcome the deficiencies of a textbook and at the same time would retain the benefits of using a text.

The Students—A Profile

Some basic statistical data were collected and analyzed for five classes. A total of 111 students were in these classes, with an average class size of 22.

The method used for data collection makes the data particularly susceptible to error, and the data are not intended to represent an accurate statistical treatment. The figures do, however, shed light on the contemporary police supervisor and perhaps indicate some trends.

The average years of police experience reported by the students in the sample (N–111) was 10.4, ranging from 3 to 30 years. The typical student was an experienced police officer, but a relatively new supervisor. There were several cases of older, well-experienced firstline supervisors with 20 to 30 years on the street receiving their first exposure to formal supervisory training. The older, and generally less educated, officers experienced a greater degree of difficulty in the academic areas (reading, speaking, test taking, etc.) but performed quite admirably in practical application, leadership in a group, and decisiveness. The younger, less experienced officers also derived considerable benefit from sharing the experience of the older officers as they worked in problem-solving groups.

The course, while being designed for firstline supervisors, drew officers from a variety of police ranks. The typical class contained 1 officer above the rank of lieutenant (deputy chief, inspector, etc.), 2 lieutenants, 13 sergeants, 2 corporals, and 4 patrol officers. The patrol officers were usually upward bound and had been selected for promotion or were functioning as acting sergeants. Students come from all sizes and types of departments from all over the State, representing county, city, and university police departments.

With the influx of women into law enforcement, one would expect an increase in female students in supervisory courses. This, however, has not been our experience. Thus far, only one female officer, a patrol officer from a university department, has been enrolled in the new course.

One of our most significant findings was the level of formal education found in our sample. Seventy-three percent of the students sampled had some post high school education, 57 percent reported 2 or more years of college, 10 percent had a bachelor's degree or better, 3 percent had a master's degree or better, and one student had a law degree. These figures reflect a movement toward a better educated permanent cadre of police officers—the captains and chiefs of tomorrow.

An overwhelming majority of the supervisory students were alert, cooperative, and highly motivated. They report an increased level of confidence in their ability to perform supervisory functions following training. Students with previous supervisory experience frequently report that although they had generally been doing the "right" thing on the street, they did not understand why. Training confirmed their "gut-level" instincts and increased their confidence and ability to progress professionally.

In spite of an average tenure of 10 years, most of the officers had not become so cynical or demoralized that they were unwilling to try new ideas and innovative approaches. A common student response to modern management and supervisory theory, however, is, "I agree with the concept and I think it will work, but not in our department." Although it is by no means universal, many of the students believe their departments are stagnating and their superior officers are uninspired and unwilling to consider or try new and different management approaches. A large majority of the supervisors in our classes reflect the belief that in their departments, they are neither treated nor do they feel like they are a part of management. They believe that policy is made at higher levels and filtered down to them for implementation. A question frequently voiced by supervisory students is, "Why don't you get the captains, chiefs, and sheriffs down here to teach them this material?"

Perhaps, as more trained supervisors move to higher management positions within the less progressive departments, these types of perceptions will be modified.

Conclusion

Students in our firstline supervision courses are not being presented new or different information. The information is basic, and for the most part, is traditional supervisory theory and concept. What is different is the method of delivery. Rather than the traditional lecture method of instruction, the information is being presented in a performance mode. The improvement of student response and learning in the performance-oriented course, as compared to the old method, is radical.

Although improvements in the course and its delivery will continue, the primary goal of supervisory training is, we hope, being realized. That goal is better and more efficient supervisory practices at the street level, resulting in better law enforcement. **FBI**

Cults: A Conflict Between Religious Liberty and Involuntary Servitude? (Conclusion)

By
ORLIN D. LUCKSTED
and
D. F. MARTELL*
Special Agents
Legal Instructors
Federal Bureau of Investigation
Detroit, Mich.

**Now assigned to FBI Headquarters*

Repeat and repeat till they say what you are saying.
Repeat and repeat till they are helpless before your repetitions.
Say it over and over till their brains can hold only what you are saying
Speak it soft, yell it and yell it, change
To a whisper, always in repeats. Come back to it
day on day, hour after hour, till they say what
you tell them to say. To wash A B C out of a brain and replace it with X Y Z. . . . This is it.

"Brainwashing" by Carl Sandburg from his *Harvest Poems, 1910–1960* (New York: Harcourt Brace, 1960).

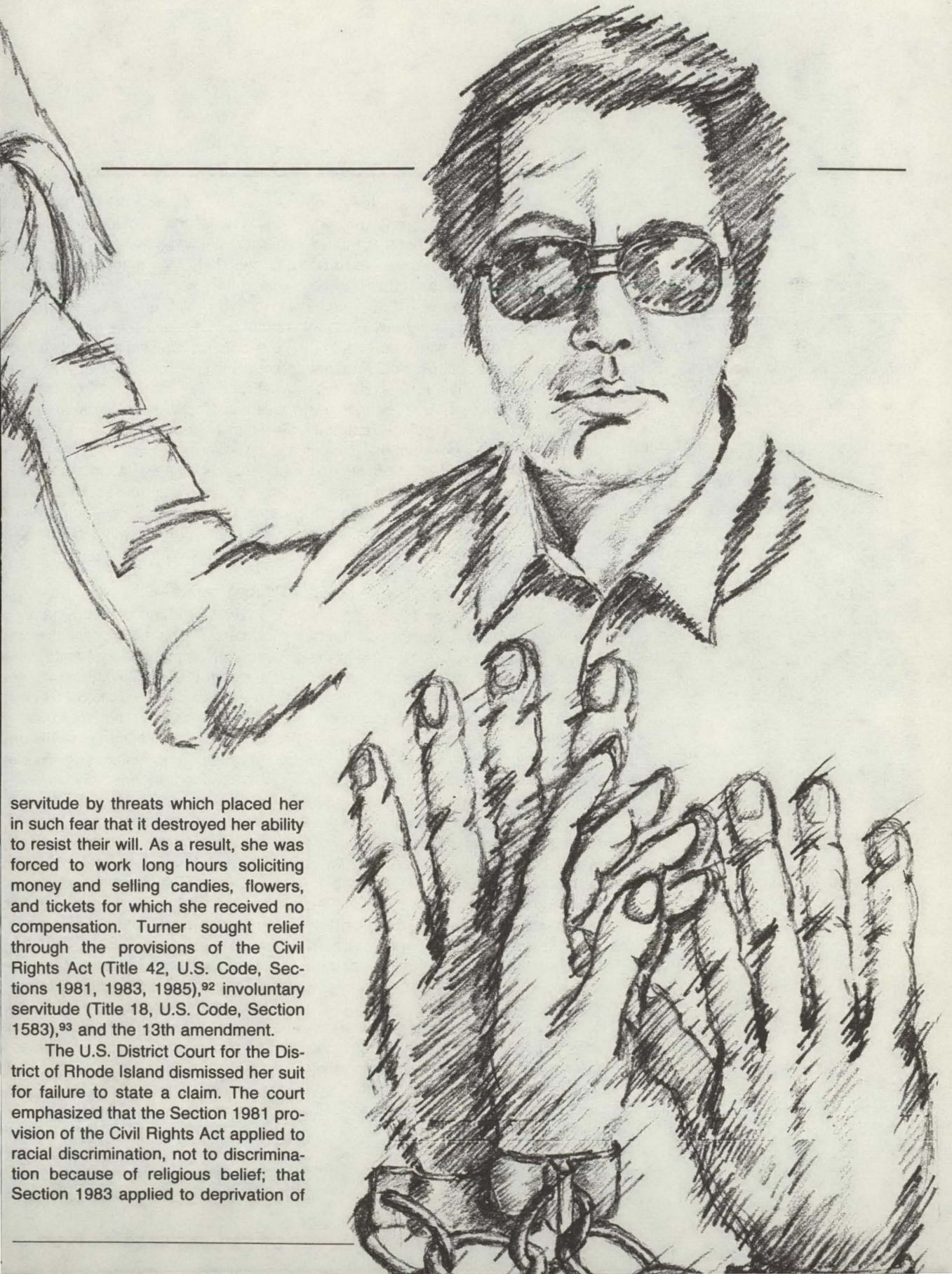
In parts I and II, we explored some of the legal problems confronting law enforcement when dealing with cults. We discussed the first amendment, certain cult activities, and the quandary in which law enforcement has been placed when investigating and attempting to prosecute cult members. In the conclusion, we will focus on the parents of cult members and the legal and illegal options available to them. In addition, we will discuss problems the investigator or prosecutor can encounter in attempts to prosecute the professional deprogramer or a parent who abducts his child for purposes of removing him or her from the cult environment.

Civil/Criminal Remedies

As long as cult indoctrination is voluntary, the motivation of an individual for joining a religious cult, however extreme, is not subject to judicial review, because the first amendment protects the freedom to choose any religion. [89] Furthermore, the indoctrination and initiation procedures and conditions of membership of one who joins a religious group are usually not subject to judicial review.[90] However, as discussed previously, those activities that are not solely ideological may be regulated in cases of fraud and/or coercion. While criminal statutes and legal precedents exist, as we shall see in the following discussion, prosecution of cult leaders for serious violations of criminal statutes, such as false imprisonment and kidnaping, are rare. Those criminal statutes most successfully used against extremist cult leaders are those involving violations of immigration laws, panhandling, income tax violations, and health and safety codes.

Efforts by excult members and their families to obtain redress against cults by civil or criminal action in Federal courts have, for the most part, been unsuccessful. A leading case which illustrates the lack of a Federal remedy is *Turner* v. *Unification Church.*[91]

In *Turner*, the plaintiff brought suit alleging that the Unification Church conspired to hold her in involuntary



servitude by threats which placed her in such fear that it destroyed her ability to resist their will. As a result, she was forced to work long hours soliciting money and selling candies, flowers, and tickets for which she received no compensation. Turner sought relief through the provisions of the Civil Rights Act (Title 42, U.S. Code, Sections 1981, 1983, 1985),[92] involuntary servitude (Title 18, U.S. Code, Section 1583),[93] and the 13th amendment.

The U.S. District Court for the District of Rhode Island dismissed her suit for failure to state a claim. The court emphasized that the Section 1981 provision of the Civil Rights Act applied to racial discrimination, not to discrimination because of religious belief; that Section 1983 applied to deprivation of

Special Agent Lucksted

Special Agent Martell

rights under color of State law, not under a church authority; and that under Section 1985, the church's motive in depriving her of her rights had to be based upon beliefs held by plaintiff prior to her dealings with the church. Finally, the court rejected any remedy under involuntary servitude, stating that elements of both physical restraint and complete psychological domination must be present. As a result, in the absence of clear physical restraint, plaintiff could not show that the church and its followers represented such a threatening and overpowering psychological and/or physical force that plaintiff had no choice but to continue in her service to the church.

The problem that the prosecution has in bringing serious criminal charges, such as unlawful imprisonment or extortion, against cult members in local courts can be seen in the case of *People* v. *Murphy*.[94] In this case, the parents of two young members of a Hare Krishna Temple cult abducted the two and attempted deprograming, which failed when the members escaped and rejoined the cult. The two, at the urging of the cult, then brought charges against their parents and the deprogramers involved. When the case was presented to a grand jury, the grand jury refused to indict the parents; instead, they charged the cult leaders for maintaining the two members in a state of "unlawful imprisonment by psychological means." In addition, grand jury charges against the cult included extortion, as the cult leader allegedly attempted to obtain $20,000 from one member of the family, threatening they would never see their son again.

After inspecting the minutes of the grand jury, the presiding judge dismissed the indictment. The court observed that even if the psychological indoctrination by the cult caused an inability to think or "destroyed healthy brain cells," these acts did not constitute crimes. The maintenance of religious beliefs through highly ritualistic methods like "mind control or brain washing" in religious indoctrination is not criminal per se.

These cases illustrate that in the absence of overwhelming evidence of fraud or coercion, the search for civil or criminal remedies against cults under State or Federal law will continue to be a difficult undertaking.

Deprograming

"Yes, I hired the deprogrammer; what else could I do. I watched my son for years as he was enticed into this cult through 'love bombing' in high school. Did you know when they first approached him they didn't even identify themselves as a religious group? First, there was a free concert, then a picnic. Everyone was encouraged to talk about the problems they were having at home, in school, and with the authorities. Then came the free weekend away from home where they played music, talked, and had a great time. Gradually, my son became overwhelmed; associating home, school and authority figures with trouble, while in the cult everyone loved him and he didn't have to make decisions or be responsible.

"Oh, a lot of it is my fault, I didn't recognize the group for what it was until it was too late. When he started college and started living in their group house, I became concerned. When the cult started

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dictating when he could go to school and which courses he could take, I became worried. I tried to talk him out, but the more I talked, the wider the gap between us grew. Then, they wouldn't let him come home for the summer, sending him out recruiting and selling for them instead. This took all his time. Finally, he could no longer think for himself. I didn't know what to do or who to turn to. I couldn't find him, the cult keep transporting him to various places around the country.

"I joined small groups of parents who were in similar situations. I talked with attorneys and psychologists. I spent a great deal of time and money trying to find a way to locate him and rescue him from the cult, while trying to stay within the law. Eventually, after years of trying and finding that I was blocked at every turn I took another route—the deprogrammer.

"It costs thousands of dollars and made me feel like a common criminal, but what else could I do? There was an intelligent mind going to waste. I even went with the deprogrammer to help him rescue my son from this cult and I stayed with them for weeks. Have you ever seen a cult member trance out when you talk to him about the cult? I saw my son go into a state which you couldn't believe; it's a defense mechanism against deprogramming the cult had conditioned him to. His eyes were wide open, yet he did not know anyone else was around. We flashed a flashbulb directly into his face but he didn't even blink, his pupils didn't contract. His surface body temperature dropped to where his skin was cold to the touch. Loud noises didn't startle him. During one of these sessions I couldn't take it anymore. I slapped my son to bring him out of the trance. You know, he finally slapped me back. I revelled, not in my slapping him but in him slapping me back. It showed that he still had some human feelings, some emotion left."

The above quotations were extracted from interviews of parents of a cult member who hired deprogramers. The quotes reveal some of the parental feelings regarding cults, their frustration with the law, and why they frequently turn to the deprogramer as a last resort.

As a result of this natural distress with which parents find themselves and the general absence of successful legal remedies against the cult, parents have often taken it upon themselves to free their offspring by resorting to deprograming. This process involves the hiring of a "professional" deprogramer who abducts the offspring from a public area, detains him in a secluded place, and subjects him or her to a variety of techniques. These techniques attempt to reverse the effect of cult conditioning and restore the confidence and decisionmaking ability of the cult member.

The type of technique varies with the deprogramer. Generally, the deprogramer attempts to show the cult member the error of his ways and destroy the built-up trust he has for cult leaders. He may furnish detailed information on cult behavior, that cult leaders live in luxury while the cult member lives in squalor; that the member's hate or mistrust of his parents is misplaced; that Biblical quotes made by the cult have been taken out of context.[95] The critical point of the deprograming process appears to be the confrontation by the cult member with his parents. If the member accepts the fact that his parents love him, an angry dialog usually follows, at which point the deprograming proceeds rapidly.[96]

Some of these deprograming techniques frequently are similar to the cult indoctrination process itself—isolation of the individual, restriction of the cult member's freedom, restricted diet and sleep. One reviewer has claimed that deprograming is far more like brainwashing than the conversion process by which members join cults.[97] While on the other side, experts assert that deprograming remains the only remedy currently available for the many victims of mind control.[98] There appears to be one undisputed difference between the two views—after deprograming the excult member is not controlled by either the parent or the deprogramer, while if he remains in the cult, his freedom is still restricted.

Often, the forced removal of the cult member from the cult and this counterindoctrination without their consent result in criminal complaints being filed against the parents and deprogramers by the cult member. Once the investigation is initiated, law enforcement often finds the credibility of deprogramers somewhat lessened by the type of deprogramers used by parents. The deprogramers are often people who lack adequate credentials. Some have criminal records or are former cult members who harbor real personal or mental problems; some are in it for the

"Often, the forced removal of the cult member from the cult and this counterindoctrination without their consent result in criminal complaints being filed against the parents and deprogramers by the cult member."

adventure. This lack of credibility, plus the fact that the cult member has been forcibly removed from the cult and counterindoctrination initiated without his or her consent, subjects the parents and deprogramer to civil or criminal charges of false imprisonment or kidnaping, though deprogramers, not the parents, are usually the ones named in the complaint.

Deprogramers then resort to a variety of defenses. They often allege that since the cult member is suffering from mental disability induced by the psychological coercion of the cult, consent would have been given if the cult member had possession of his faculties. This defense recently has been recognized by the Minnesota Supreme Court in *Peterson* v. *Sorlien*[99] where the court held:

> "When parents, or their agents, acting under the conviction that the judgmental capacity of their adult child is impaired, seek to extricate that child from what they reasonably believe to be a religious or pseudo-religious cult, and the child at some juncture assents to the actions in questions, *limitation upon the child's mobility do not constitute meaningful deprivation of personal liberty sufficient to support a judgment for false imprisonment.*" [100] (emphasis added)

The court made clear that it was not approving of deprogramming saying, "Owing to the threat deprogramming poses to public order, we do not endorse self-help as a preferred alternative." [101]

Other decisions reveal an apparent attempt by some courts to grant much leeway to the actions of parents and their agents. In *Weiss* v. *Patrick,*[102] the Federal district court in Rhode Island was confronted with a similar fact situation. The plaintiff, a member of the Unification Church, brought an action for false imprisonment against individuals hired by her parents who restrained her against her will in the home of one of the defendants until she escaped. Despite her traumatic experience, the district court found that she failed to demonstrate a meaningful deprivation of personal liberty. The court then emphasized a parental right to advocate freely a point of view. The court stated that to assure freedom, "the right of every person to be left alone must be placed in the scales with the right of others to communicate." [103]

Another defense which is finding a mixed acceptance in the courts is the defense of necessity—that the abduction of the cult member is a rescue from a situation which was dangerous to his or her physical health. Also called the "choice of evils" defense, necessity has some common law roots and is based on a 1962 definition by the American Bar Association which stated that illegal behavior could be justified when "the harm or evil sought to be avoided is greater than that sought to be prevented." [104] There are few cases in the common law involving this defense, apparently because in clear cases of necessity law enforcement officials would not prosecute.[105] The burden of proof in necessity cases is placed on the defendant and as many as three factors have to be established:[106]

1) The actor perceived the action necessary to prevent imminent harm to himself or another;
2) The harm avoided outweighed the harm that the law was designed to prevent; and
3) There existed no reasonable alternates to violating the law.

These requirements pose a great hurdle to a deprogramer's defense. If the cult can show that the member voluntarily chose to accept the cult rigorous life, there must be evidenc indicating imminent harm to the cu member. Furthermore, since depro gramers are open to charges of kid naping, assault and battery, fals imprisonment, and conspiracy, th degree of harm must be significant t outweigh breaking these laws. Finall if there are legal alternatives, such a conservatorship laws, available as civ remedies, this defense will be put to great disadvantage.

Temporary Guardianship/ Conservator Laws

By statute, many States hav adopted temporary guardianship pr cedures by statute through which pa ents are able legally to retrieve the children from cults under certain c cumstances. The wording of the sta ute is critical.[107] Generally, under thes statutes, if a child is judged "incapac tated," "incompetent," or of "unsour mind" by reason of mental illnes mental deficiency, advanced ag chronic use of drugs, or another caus to the extent that he lacks sufficie understanding to manage his proper or care for himself, temporary gua dianship can be afforded the parent regardless of the child's age. Th offers a means through which paren can take control of their children whe they are convinced their children a prevented from exercising free w because of what they consider d structive personality changes resultin from cult indoctrination.

However, such an approach wou not go unchallenged. Cults would us ally oppose the parents' claims on th basis of violating freedom of religio speech, or other constitutional guara tees.

Conclusion

With the increase in cult membership over the last 10 years, law enforcement investigations involving cult members is increasing. Whether these investigations will be routine, such as proselytizing activities on the street, or criminal, such as shoplifting or drug use, the cult member should be treated the same as any other person. A more serious problem arises when an officer encounters a "kidnaping" for deprograming or receives a complaint involving cult coercion by a parent of a cult member.

Clearly, the officer cannot proceed to release the deprogramer after observing him with a hostage or let him detain a person kidnaped against his or her will. Nor can they invade the property of a cult to release a victim, unless there is evidence of imminent harm to the cult member.

Practical considerations would come into play at every stage, which would require close coordination with the prosecution. Who should be charged with a crime? What type of charges could be filed? What if the "kidnapers" include a close relative? What jury is going to convict a 50-year-old father for kidnaping his 20-year-old son! And if the State cannot prosecute the father, is it just to charge the deprogramer who was hired by the father to perform the actual kidnaping? What defenses does the law allow in the jurisdiction, and what charges should be given to the jury? Law enforcement officers may wish to consult with their local prosecutors to determine whether any guidelines are in place or being contemplated in their jurisdictions to answer these questions.

Such practical considerations should not be left to law enforcement alone. Parents of cult members should be advised in seminars of the practical disadvantages of deprograming, i.e., the expense, subjecting themselves to criminal charges of kidnaping, assault and battery, etc. Even if one child was deprogramed every day, the population of cults would hardly be affected, considering the number of recruits entering cults.

The most effective remedy probably is new legislation. The most suggested type of legislation has been new conservatorship laws, but efforts by concerned parents to cause the enactment of such laws have met considerable opposition by civil libertarians.

A more realistic law would aim at and criminalize the less controversial areas of cult behavior—misrepresentation in recruitment and in proselytizing activities, preventing a member from contacting individuals outside the organization, or preventing members from leaving the cult. Currently, attempts are being made in Congress to control cults by drafting a new Federal law, the "Deceptive and Coercive Organizational Practices Act." This act imposes a fine and/or prison sentence on any organization that falsifies facts in recruitment of new members and/or coercively prevents an individual from having contact with individuals outside the organization or terminating their affiliation with the organization.

Whether such an act can be drafted in such a way as to avoid interfering with a person's right to enter a cult if he voluntarily chooses to do so remains to be seen. Whatever the result, it would seem that new legislation is needed to resolve the problem facing parents and law enforcement. The coercive acts of some cults in recruitment and proselytizing activities should not go unchallenged. Nor should some cults be allowed to hide behind the first amendment, while at the same time denying constitutional rights to some of their followers. As U.S. Supreme Court Justice Arthur J. Goldberg said, ". . . while the constitution protects against invasions of individual rights, it is not a suicide pact." [108] **FBI**

Footnotes

[89] *United States* v. *Seeger,* 380 U.S. 163, 85 S. Ct. 850, 13 L.Ed. 2d 733 (1965).

[90] *United States* v. *Ballard,* 322 U.S. 78, 64 S. Ct. 882, 88 L.Ed. 1148 (1944).

[91] 473 F. Supp. 367 (D.R.I. 1978), *aff'd.,* 602 F.2d 458 (1st Cir. 1979).

[92] 42 U.S.C. 1981 is the equality of rights statute; 42 U.S.C. 1983 sets forth a civil action for deprivation of rights; 42 U.S.C. 1985 governs any conspiracy to interfere with the civil rights of others.

[93] Criminal statutes often create civil causes of action, even though the only express sanctions are criminal. *See Cort* v. *Ash,* 422 U.S. 66, 95 S. Ct. 2080, 45 L.Ed. 2d 26 (1975) in which the U.S. Supreme Court listed four factors which must be considered before a private cause of action for damages can be implied from a criminal statute.

[94] 98 Misc. 2d 235, 413 N.Y.S. 2d 540 (Sup. Ct. 1977).

[95] Gunther, "Brainwashing: Persuasion by Propaganda," *Today's Health,* February 1976; T. Patrick and T. Dulack, *Let Our Children Go!* (New York: Ballentine Books), pp. 25–26.

[96] Patrick, *supra* note 95, at 25–26.

[97] John E. Lemoult, "Deprogramming Members of Religious Sects," *Fordham Law Review,* March 1978, p. 606.

[98] Conway and Siegelman, "Have Cults Created a New Mental Illness?" *Science Digest,* January 1982, p. 92.

[99] 299 N.W. 2d 123 (1980), *cert. denied,* 450 U.S. 1031 (1981).

[100] *Id.* at 129.

[101] *Id.*

[102] 453 F. Supp. 717 (D.R.I.), *aff'd,* 588 F.2d. 818 (1st Cir. 1978), *cert. denied,* 442 U.S. 929, 99 S. Ct. 2858 61 L.Ed. 2d 296 (1979).

[103] *Id.* at 722.

[104] Model Penal Code Sec. 3.02 (Proposed Official Draft, 1962).

[105] The classic cases in which the necessity defense were raised involved cannibalism *The Queen* v. *Dudley and Stevens,* 14 Q.B.D. 273 (1884) and mutinies *United States* v. *Borden,* 24 Fed. Cas. 1202 (D.C. Mass. 1857); Modern use of this defense frequently occurs in cases involving prison escapes. *People* v. *Unger,* 66 Ill. 2d 333, 362 N.E. 2d 319 (1977) (where conviction was reversed because necessity defense was not submitted to jury).

[106] "Cults, Deprogrammers, and the Necessity Defense," *Michigan Law Review,* vol. 80, No. 2, December 1981, p. 271.

[107] See, e.g., Colo. Rev. Stat. Sec. 15–14–101(1) (1973); Conn. Gen. Stat. Anno. Sec. 45–72 (West) (1980); Ga. Code Anno., Sec. 49–604 (1978); Ia. Code Anno., Sec. 633.558 (West) (1972); Ky. Rev. Stat. Anno., Sec. 387.740 (Baldwin) (1982; Mass. Stat. Anno., 201 Sec. 14 (1977); R.I. Gen. Laws, Sec. 33–15–8 (1956); S.C. Code, sec. 21–19–50 (1976) Tex. Prob. Code Anno., Sec. 131 (1977).

[108] *Kennedy, Attorney General* v. *Mendoza-Martinez,* 372 U.S. 144, 83 S. Ct. 503, 9 L.Ed. 2d 644, 160 (1963).

The Whole Tooth and Nothing But the Tooth

By
NORMAN D. SPERBER, D.D.S
Forensic Odontologist
Coroner's Office
San Diego, Calif.

Having run out of gas, a motorist made a startling discovery as he walked past bushes off California's Interstate 8 highway, near San Diego State University—a decomposed body wrapped in a bedspread. This discovery was the final piece of a jigsaw puzzle that would allow El Cajon investigators to charge a young couple with the beating-murder of a 22-year-old male victim.

This homicide case is believed to be the first in which a single tooth found in one city (El Cajon, Calif.) proved to be from a body discovered in an adjacent city (San Diego, Calif.), resulting in the identification of a decomposed victim.

Two weeks prior to the discovery of the body, the El Cajon Police Department investigated a car swindle complaint on the same day that a local motel owner reported blood stains, a tooth fragment (fig. A), and signs of a struggle in a room. A damaged bloody towel bar was found in one of the motel's trash cans. (See fig. B.) Routine checks with hospitals and the San Diego Coroner's Office failed to reveal any beating victims with corresponding injuries.

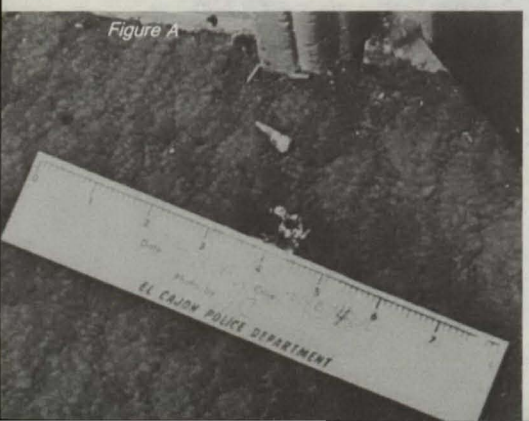


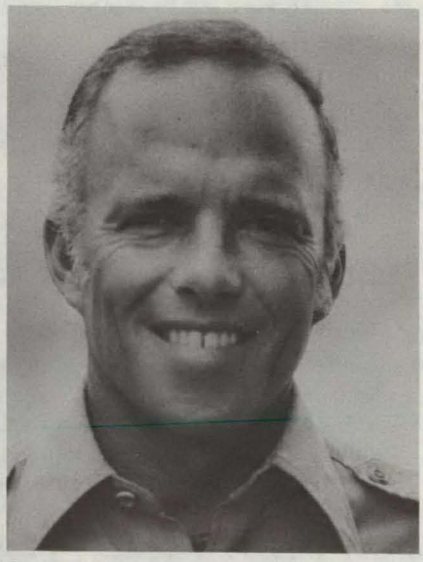
Figure A


Figure B

The physical descriptions of the departed motel room occupants appeared to match those of the couple involved in the car swindle. Apparently, they had fled with a victim's $1,500 after offering to sell him a stolen car.

When detectives from El Cajon investigating the swindle contacted the detectives from San Diego investigat ing the case of the decomposed body it appeared that there might be a con nection between the two cases, sinc the upper jaw of the murder victim wa fractured, and some teeth appeared t be missing.

Two days later, a postmortem ex amination of the victim was performed The upper jaw (maxilla), fractured i three pieces, was reconstructed b mounting the fragments in modelin clay. Numerous dental X-rays of bot jaws were taken. When loose teet found on the body were replaced i their respective sockets, it was discov ered that the two front teeth (centra incisors) were missing. A fracture tooth from the motel room, supplied b El Cajon investigators, fit perfectly i the bone socket of the left centra incisor. (See figs. C and D.) Since th



Dr. Sperber

murder most likely occurred in El Cajon, the jurisdiction for the homicide investigation was established. The distance between the murder site and where the body was found was approximately 8½ miles.

Amazingly, on the day of the post mortem examination, a man was arrested by a San Diego Police patrolman on suspicion of grand theft after a victim complained of a car scam swindle. Further investigation revealed that the arrested individual was involved in the two previous incidents. The suspect's wife was also arrested, and the couple was booked on suspicion of murder.

Following extensive investigation and the published description of the homicide victim's clothing, an individual contacted investigators with the name of an acquaintance who had been missing for several weeks. He supplied investigators with the names of two San Diego dentists who had treated the missing male acquaintance. Six days following the post mortem examination, having been supplied with dental X-rays and records of the two dentists, it was determined that the missing acquaintance was the murder victim.

Figure E

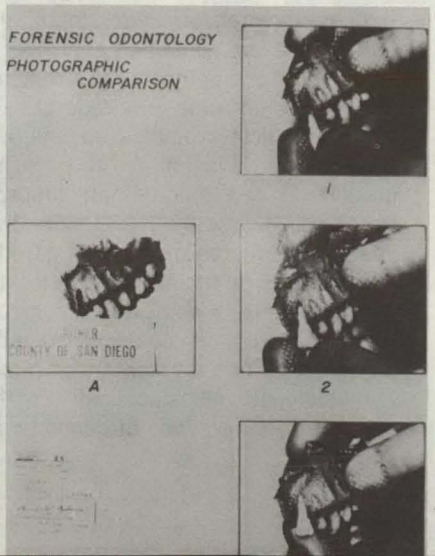
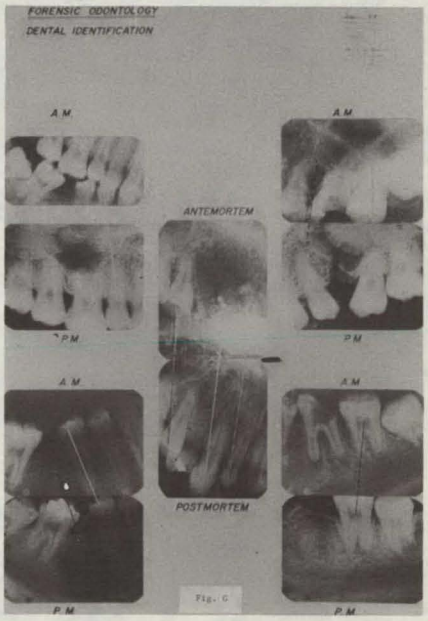


Figure F



The suspects were subsequently tried. Aside from essential dental evidence in both trials, bloody footprints at the motel matched the tennis shoes of the male suspect. It was determined during the trial that the homicide was a drug-related incident.

Trial aids constructed by the San Diego County District Attorney's Bureau of Identification demonstrated the fit of the tooth found in El Cajon in the jaw of the victim (fig. E) and also demonstrated the comparison of the ante mortem with the postmortem dental X-rays. (See fig. F.)

The female suspect in the case was convicted of first degree murder, robbery, grand theft, and conspiracy. She was sentenced to 27 years to life in State prison. Her husband pleaded guilty to second degree murder and robbery and was sentenced to a maximum sentence of 22⅓ years in State prison.

Interchange of information between law enforcement agencies and coroner/medical examiner facilities is essential. This case is illustrative of the cooperation and teamwork between two city police departments, a county coroner's office, and a county district attorney's office in solving a brutal homicide case, convicting two suspects. **FBI**

THE INVENTORY SEARCH (Part I)

By
JOHN C. HALL
Special Agent
FBI Academy
Legal Counsel Division
Federal Bureau of Investigation
Quantico, Va.

Law enforcement officers of other than Federal jurisdiction who are interested in the 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.

During the daily performance of their varied duties, law enforcement officers acquire control over personal property belonging to others. In some cases, the property comes under police control because its owner is arrested; in others, as in the case of motor vehicles, property may be taken into police custody because it is illegally parked, constitutes a traffic hazard, contains evidence or contraband, or because the police have probable cause to believe that it was used in the commission of a crime. In still other cases, property may come under police control quite innocently as the result of traffic accidents or other events which leave the property exposed to the public under circumstances where the owner is unavailable or otherwise unable to make arrangements for its removal or safekeeping.

Law enforcement agencies have traditionally responded to these kinds of situations by conducting an inventory of property thus acquired and then taking appropriate steps for its safekeeping. This procedure has not only been universally practiced by law enforcement agencies throughout the country but has also been approved in some form or another by the majority of courts, both State and Federal.

This article examines the law pertaining to the inventory of personal property by law enforcement officers. Part I will review the development of this important area of law, with particular emphasis on the justification for the inventory and its application to motor vehicles. Part II will consider the appropriate scope of the inventory of a motor vehicle, as well as application of the principle to other types of containers.

THE INVENTORY AS A SEARCH

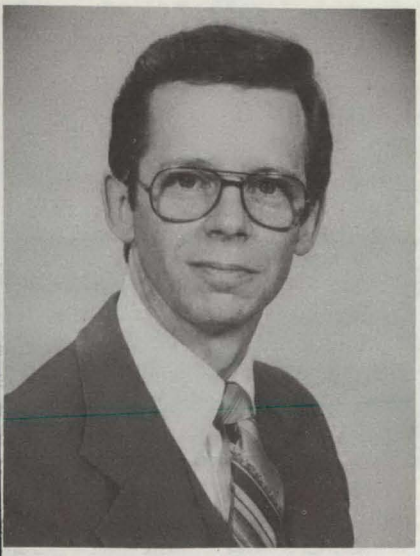
To avoid confusion in the late discussion, it will be helpful to dispos of one question immediately: Is an i ventory a search within the context the fourth amendment to the U. Constitution?[1]

Because the inventory develope primarily to safeguard property and protect the police from disputes ar claims over lost or stolen valuable most courts have characterized th procedure as an administrative, car taking function. After all, it is not th purpose of the inventory to seek o evidence of crime, but to protect th interests of the property owner and provide a *shield* for the police again civil liability.

Despite the benign, noninvestig tory purpose of the inventory, howeve the reality is that its use frequent leads to the discovery of contraban stolen property, or other evidence criminal activity, and when that occur the *shield* is quickly transformed into *sword* in the hands of governme prosecutors. In fact, almost without e ception, the cases in which the polic inventory has been litigated are case in which police conducting the inve tory discovered evidence of crim which the prosecutor then sought use in a criminal trial.

In earlier cases upholding the a missibility of evidence discovered this manner, some courts took the vie that the inventory was not a searc under the fourth amendment,[2] whi most concluded that even if it was search, it was a reasonable one.[3]

This question seems to have bee effectively put to rest in the 1976 lan mark decision, *South Dakota* v. *Oppe man*,[4] in which the U.S. Supreme Cou proceeded on the assumption that inventory is a search[5] and made



Special Agent Hall

clear that the appropriate standard by which its legality is to be measured is the fourth amendment standard of "reasonableness." [6]

Automobile Inventories—*South Dakota* v. *Opperman*

Prior to 1976, the Supreme Court had not directly relied on the constitutionality of an automobile inventory, even though the inventory figured prominently in some earlier cases. In 1967, in *Cooper* v. *California,*[7] the Court considered the inventory of a car which had been impounded under the authority of a State forfeiture statute. The owner of the car had been arrested on narcotics charges and the vehicle seized. An inventory of the vehicle, including the glove compartment, was conducted a week following the impoundment and contraband was found. Although the car was subject to forfeiture under State law, forfeiture proceedings had not begun at the time of the inventory, and in fact, did not occur until 4 months later. Nevertheless, the Supreme Court found the inventory reasonable and stated:

> "It would be unreasonable to hold that the police, having to retain the car in their custody for such a length of time, had no right, even for their own protection, to search it." [8]

The following year, in *Harris* v. *United States,*[9] the Court upheld the use of evidence seized by police from an automobile which had been impounded following the arrest of the owner for robbery. When the vehicle was towed to the impoundment lot, the windows were down and it had begun to rain. The vehicle was thoroughly examined pursuant to a departmental inventory policy. As the officer opened the front passenger side door for the purpose of rolling up the window, he observed a registration card belonging to the robbery victim lying on the metal stripping over which the door closed.

In holding the registration card admissible, the Supreme Court did not decide the validity of the inventory procedure. Rather, the Court concluded that the discovery of the evidence was not the result of a search of the car, but of a legitimate measure taken to protect the car while it was in police custody. Once the officer lawfully opened the door to carry out this caretaking function, the registration card was plainly visible. The Court stated:

> "It has long been settled that objects falling in the plain view of an officer who has a right to be in the position to have that view are subject to seizure and may be introduced in evidence." [10]

Then in 1973, in *Cady* v. *Dombrowski,*[11] the Court upheld the warrantless search of an automobile which had been towed to a private garage by West Bend, Wis., police following an accident. Because the incapacitated driver was a police officer from Chicago, and the local police believed he was required to carry his service revolver at all times, they opened the car, including the locked trunk, looking for a weapon. Instead, they found evidence of a homicide. There was no probable cause to support the search.

". . . it is not the purpose of the inventory to seek out evidence of crime, but to protect the interests of the property owner and to provide a *shield* for the police . . . ."

The Supreme Court, nevertheless, found the intrusion justified as a caretaking function to protect the community safety:

> "Where, as here, the trunk of an automobile, which the officer reasonably believed to contain a gun, was vulnerable to intrusion by vandals, we hold that the search was not 'unreasonable' within the meaning of the Fourth and Fourteenth Amendments." [12]

Despite the fact that each of the foregoing cases included vehicle inventories, none required the Supreme Court to directly decide the constitutionality of the inventory procedure. In 1976, *South Dakota* v. *Opperman* [13] came before the Court on appeal from a ruling by the South Dakota Supreme Court, which held that an inventory of a lawfully towed automobile was a search under the fourth amendment, and unless limited to the safeguarding of items in plain view, an unreasonable one. The State court reasoned that police had only a duty to exercise "slight care" for protection of the property and that removing objects within plain view and closing windows and locking doors would satisfy this standard of care.[14]

Police officers in Vermillion, S. Dak., had towed an illegally parked automobile to the city impoundment lot. From outside the car, the officers observed items of personal property inside the passenger compartment. Pursuant to a standard police procedure, they unlocked the car and inventoried its contents, including a plastic bag of marihuana in the unlocked glove compartment. All items of personal property were removed to the police department for safekeeping, including the marihuana.

Opperman, the owner of the car, was subsequently convicted of possession of marihuana. Following the reversal of his conviction by the South Dakota Supreme Court, the State appealed to the Supreme Court, conceding that the inventory as conducted in this case was a search, but contending that it was reasonable.

The Supreme Court agreed and reversed the State court ruling. In sustaining the inventory in this case as reasonable under the fourth amendment, the Court pointed to several factors:

1) The lawful custody of the vehicle by the police; [15]
2) The caretaking (noninvestigatory) purposes of inventories; [16] and
3) The diminished expectation of privacy with regard to automobiles.[17]

Because each of these factors has been relied upon to some extent by State and lower Federal courts in interpreting police authority to conduct inventories, it will be useful to discuss each in turn.

Lawful Custody

In the context of a criminal investigation, police may obviously acquire warrants to seize and search vehicles. Equally clear is the authority to *seize* vehicles without warrants in a variety of circumstances. As noted above, police may lawfully seize an automobile which is subject to statutory forfeiture.[18] Furthermore, vehicles may be seized by police when there is probable cause to believe the vehicle itself constitutes [19] or contains [20] incriminating evidence.

Apart from this "investigatory" authority, however, there exist what the Supreme Court in *Opperman* described as "community caretaking functions," [21] which require police to take vehicles into custody in the interest of public safety and the efficient movement of vehicular traffic. Noting that traffic accidents and parking violations present two such instances, the Court stated:

> "The authority of police to seize and remove from the streets vehicles impeding traffic or threatening public safety and convenience is beyond challenge." [22]

Because the seizure of vehicles under such circumstances does not have an investigative purpose, *Opperman* suggests that the caretaking function of seizing the vehicle is hinged to the absence of other reasonable alternatives. For instance, the Court emphasized that Opperman "was not present to make other arrangements for the safekeeping of his belongings." [23] Presumably, if Opperman had been present and could have removed or made other arrangements for removal of his automobile, the police caretaking function would not have been triggered and neither the seizure nor the inventory justified. Subsequent intepretation by State and lower Federal courts has added emphasis to this view.

mpoundment Not Justified—Other Alternatives

In *United States* v. *Wilson,*[24] the defendant was arrested by local police or a variety of traffic infractions, including driving erratically and in excess of the speed limit. Because the defendant was a nonresident, the officers decided to take him to the police station to post bond. In view of his recently observed erratic driving, the officers concluded that the defendant was incapable of driving his own vehicle to the station, so they called for a tow truck. Before the car was towed, a routine inventory of the vehicle uncovered several weapons, including a sawed-off shotgun, later sought to be used by the Government in a Federal criminal prosecution.

The trial court denied defendant's motion to suppress the evidence, holding that the inventory was reasonable under the fourth amendment. The U.S. Court of Appeals for the Eighth Circuit disagreed, in part, because "The police . . . could have asked for Wilson's consent to search the car, or, in the alternative, requested that Wilson arrange to remove the car himself or to relieve the police from liability for claims."[25] Because the court considered that other alternatives were available, the seizure and inventory of the vehicle were unreasonable.

In *United States* v. *Nelson,*[26] the defendant was arrested in his van which was parked in front of his wife's parents' house. After the arrest, one of the officers inventoried the contents of the van, discovering a partially filled box of .45-caliber pistol ammunition. Because a number of people were gathering, the officers had the van towed to a nearby garage where the inventory was resumed and a .45-caliber pistol found. The defendant was subsequently charged with being a felon in receipt of a handgun in violation of Federal law. He moved to have the weapon suppressed as the fruit of an unlawful search.

The trial court recognized that a warrantless inventory of an automobile made pursuant to standard procedures and for the purpose of securing or protecting the car and its contents is a reasonable intrusion under the fourth amendment. However, the court held that "before the need for a legitimate inventory search can arise, the police must have the right to take custody of the vehicle."[27] The court observed that the defendant had not been arrested in a moving vehicle where there were no other occupants or relatives to retain possession, nor was the defendant alone in a strange town with no one to take custody of the vehicle. It noted:

> "Taking the van into custody was not necessary to protect the vehicle or its contents from loss or damage. . . ."[28]

That conclusion was based on the fact that the vehicle was lawfully parked at the time of the defendant's arrest and there were relatives readily available to assume responsibility for its safekeeping. The court suggested the result might be different if the van had been left in a shopping mall parking lot or a motel parking lot where there might be a greater risk of vandalism or theft.

State courts likewise have scrutinized carefully the justifications for seizing the vehicle before judging the reasonableness of a subsequent inventory. *State* v. *Houser*[29] is illustrative.

A Washington state trooper arrested the defendant for making an improper turn in an automobile, obstructing an officer, and driving while his license was suspended. The vehicle, at the time of arrest, was parked off the roadway next to a parking lot. Before taking the defendant to jail to post bond, the officer asked what he wanted done with the vehicle. In response, the defendant provided several names of individuals to call. The officer contacted one of the individuals who agreed to come to get the car. Before his arrival, however, the officer decided to impound the car instead and called for a tow truck. A routine inventory of the vehicle was then conducted. Contraband was discovered and seized.

The Washington Supreme Court reversed the defendant's conviction, holding, in part, that there was no justification for the impoundment of the car. The court noted that the vehicle had not been abandoned; it was not impeding traffic; there was no showing by the State that the vehicle threatened public safety or convenience in any way; and the police could have taken the reasonable alternative of

". . . as a general rule, lawful custody or impoundment of a vehicle is a requisite to a lawful inventory."

locking the car and leaving it parked on the public street, inasmuch as it was midday and there was no indication that the defendant would be detained for long at the police station. The court concluded:

> "It is unreasonable to impound a citizen's vehicle following his or her arrest when there is no probable cause to seize the car and where a reasonable alternative to impoundment exists." [30]

This view was endorsed in a similar State case, where the court observed:

> "In determining whether an inventory search is proper and reasonable, the threshold question is whether the prior impoundment was proper since the need and justification for the inventory arises from the impoundment." [31]

Impoundment Justified

Just as the foregoing cases illustrate circumstances which do not justify police impoundment of a vehicle, the following decisions demonstrate situations which justify impoundment because reasonable alternatives may not exist.

In *United States* v. *Hall,*[32] police officers arrested the two occupants of an automobile for public intoxication. The vehicle was parked at a closed service station and it was shortly after midnight. The vehicle was inventoried pursuant to impoundment, and a sawed-off shotgun was found. In sustaining the defendant's conviction, the U.S. Court of Appeals for the Fifth Circuit ruled that seizure of the shotgun could be justified as a lawful inventory conducted pursuant to a legitimate impoundment of the car. The court noted that the officers were justified in arresting the vehicle's occupants for public intoxication and further explained:

> "Given their state of intoxication, neither Hall nor the other occupant was capable of safely driving the automobile to the police station. If it had been left at the service station, the automobile would have been subject to vandalism and might have interfered with the service station owner's use of his property." [33]

More recently, the same court upheld the impoundment of an automobile which was legally parked at the time. In *United States* v. *Staller,*[34] two individuals were arrested inside a shopping center for "uttering a forged note in violation of Florida law." The defendant's automobile was parked outside in the mall parking lot. Pursuant to police department policy, the vehicle was inventoried prior to being towed by a private wrecker service. The inventory uncovered counterfeit money later used to obtain defendants' conviction in Federal court. On appeal, the defendants contended that the police were neither required nor entitled to take custody of a vehicle legally parked in a mall parking lot. The court disagreed:

> "The fact that a vehicle is legally parked . . . does not necessarily negate the need to take the vehicle into protective custody. . . ." [35]

Observing that the vehicle occu pants had been arrested and taken t jail, the out-of-state defendants had n friends or relatives available to tak care of the car, and there was ever reason to believe the arrestees woul be separated from the car for an ex tended period of time, the court rea soned:

> "Although [defendant's] vehicle wa lawfully parked and presented no ap parent hazard to public safety, the officers were aware that a car parked overnight in a mall parking lo runs an appreciable risk of vandalism or theft. . . . Under these circumstances taking custody of defendant's car was a legitimate ex ercise of the arresting officer's com munity caretaking function." [36]

Other cases have upheld the im poundment of vehicles where the driv er was arrested and either there wa no other occupant to whom the vehicl could be entrusted[37] or other occu pants were not legally licensed drivers.[3] In still other cases, impounded veh cles were inoperable due to accidents.[3]

It is clear that as a general rule lawful custody or impoundment of vehicle is a requisite to a lawful inven tory. However, a recent decision sug gests that an inventory may be justifie under exceptional circumstances, eve though the vehicle is not impounded. I *United States* v. *Scott,*[40] a motorcycl officer in Los Angeles stopped an auto mobile showing expired registratio tags. Shortly thereafter, the officer de termined that both the driver and th only other occupant were wanted o

outstanding warrants. The officer inquired whether the operator wanted the vehicle impounded or left legally parked at the scene of arrest. The defendant opted to leave the car where it was, stating that he would arrange to have someone pick it up. The officer advised the defendant that he would make the car secure by closing the windows and locking the doors. After the defendant and his companion were taken to jail by another officer, the arresting officer attempted to secure the vehicle, only to discover that not all the doors would lock and the windows would not close. Pursuant to departmental policy, the officer then proceeded to inventory valuables located in plain view within the car, including a treasury check which he had earlier observed lying on the front floorboards. These items were removed from the vehicle and taken to the police station for safekeeping. It was subsequently determined that the check was stolen property of the U.S. Government.

The U.S. Court of Appeals for the Ninth Circuit upheld the inventory, even though there was no preceding impoundment:

> "Even though the car was not in police custody and even though the police may have had no duty to secure [defendant's] belongings, the police procedures to protect the arrestee's belongings were appropriate caretaking functions. . . . Furthermore, the procedures protected the police against charges of dishonesty or negligence that might have arisen had the arrestee's property disappeared. The intrusions necessary to secure [defendant's] property were therefore reasonable."[41]

Caretaking (noninvestigatory) Purpose

In *South Dakota* v. *Opperman,*[42] the Supreme Court was careful to note that the vehicle inventory which occurred in that case was a standard police procedure aimed at securing or protecting the car and its contents and was not "a pretext concealing an investigatory police motive."[43]

One of the more frequently recurring principles in recent years which characterizes the Supreme Court's view of the fourth amendment is that which holds warrantless searches and seizures to be presumptively unreasonable, subject to a few exceptions.[44] When law enforcement officers have probable cause to believe that evidence of criminal activity is located within personal property, the presumption favors seeking the judgment of a neutral and detached magistrate rather than relying upon the judgment of the officer "engaged in the often competitive enterprise of ferreting out crime."[45]

As the Court noted in *Opperman,* however, frequently the contact between the police and vehicles is "distinctly noncriminal in nature."[46] Because in such cases there is no probable cause to believe that evidence is inside a vehicle, strict enforcement of the warrant requirement becomes impracticable and the appropriate test is whether the intrusion is "reasonable"—a conclusion reached by the Court only after balancing the privacy interests of the individual whose person or property is being subjected to governmental intrusion against the needs of the government or society in conducting the intrusion.

In *Opperman,* the Court recognized three distinct needs to which an automobile inventory is intended to respond:

1) ". . . the protection of the owner's property while it remains in police custody. . . .
2) ". . . the protection of the police against claims or disputes over lost or stolen property. . . . and
3) ". . . the protection of the police from potential danger. . . ."[47]

An automobile inventory, to be reasonable, must be conducted within the context of one or more of these needs.

The Court provided no further elucidation as to the validity of these "needs" which trigger the inventory response, nor the extent to which they create a duty or obligation on the part of police to act. The Court clearly accepted the underlying premises, however, and noted that the overwhelming majority of State and Federal courts have done the same.

Given the community caretaking rationale of the automobile inventory, the courts are confronted with the difficulty of determining in a given case whether the inventory was in fact a benign, caretaking function or an investigative technique aimed at finding evidence without a warrant.

" 'The decisions . . . point unmistakably to the conclusion reached by both federal and state courts that inventories *pursuant to standard police procedures* are reasonable.' "

Two questions are relevant in deciding that issue. Was the inventory conducted pursuant to a standardized departmental policy? And, notwithstanding the existence of a standardized policy, was there any indication that the inventory was a pretext to search for evidence?

If the three distinct needs noted by the Supreme Court in *Opperman* are legitimate, then presumably they would arise every time police have acquired lawful custody of an automobile. Failure to have an established policy or practice to conduct inventories in such cases would clearly raise questions with regard to the motivation behind random or selective inventories. The courts have been consistent in requiring that the inventory be a standardized procedure. As the Supreme Court noted in *Opperman*:

> "The decisions of this Court point unmistakably to the conclusion reached by both federal and state courts that inventories *pursuant to standard police procedures* are reasonable." [48] (emphasis added.)

Notwithstanding the existence of a standardized procedure, courts may still find that the inventory was "a pretext concealing an investigatory police motive." [49]

In *Commonwealth* v. *Woodman*,[50] the defendant was arrested while driving his van. At the time of arrest, the police had probable cause to believe that the defendant had committed rape and assault and battery with a dangerous weapon (a knife) and that the van had been the scene of the crime. A search of the defendant incident to the arrest failed to locate the knife, and the van was not searched at the scene. Rather, the vehicle was transported to the police station where it was locked and parked for approximately 48 hours, at which time it was searched and the knife located in a jacket pocket. Following discovery of the knife, other items in the vehicle were not searched.

During a pretrial suppression hearing, the searching officer testified that he entered the van with the intention of conducting an inventory, as well as to search for the missing knife. The Massachusetts Court of Appeals sustained the trial court's ruling that the search did not constitute a valid inventory inasmuch as it was "made in the context of a criminal investigation and not pursuant to a non-criminal inquiry." [51]

Some factors which courts may consider in judging whether an inventory is a pretext for a warrantless investigatory search are illustrated in *State* v. *Killcrease*.[52] The defendant was arrested for driving while intoxicated and his pickup truck inventoried pursuant to a standard procedure. A sawed-off shotgun was found in the vehicle. While recognizing that a valid inventory is an exception to the warrant requirement of the fourth amendment, the Louisiana Supreme Court expressed concern that "law enforcement officials on occasion have attempted to use this procedure as a subterfuge for a warrantless search without probable cause, for the primary purpose of seizing evidence for criminal proceedings." [53]

The court proceeded to list some of the significant factors which could be indicative of subterfuge:

1) "formal impoundment procedures were not followed;
2) "the search was conducted 'in the field';
3) "a tow truck was not called before commencing the search;
4) "the car owner was not asked for his consent to the search, if his car contained valuables, if he would waive an inventory search or if he could make other arrangements . . . to have someone pick up the vehicle." [54]

In the application of these factors to this case, the court found the inventory was unreasonable. Apart from a question as to whether the search preceded the call for a tow truck (factor no. 3), the court concluded that the officers made no attempt to determine if the inventory could have been avoided and other arrangements made for the safekeeping of the vehicle and its contents (factor no. 4). [55]

Killcrease, admittedly not an easy case, sets a strict standard for police to follow and is not necessarily *typical* of the attitudes of other courts with regard to the inventory search. It is, however, the reaction of one court to its concern that an inventory procedure can be in reality a pretext to conduct a warrantless search for evidence of crime. As such, it is an instructive decision.

Diminished Expectation of Privacy

Finally, as a factor to be considered in testing the reasonableness of an automobile inventory, the Supreme Court in *Opperman* noted the historical distinction recognized by that Court between automobiles and other kinds of property, due in part to the fact that "the expectation of privacy with respect to one's automobile is signifcantly less than that relating to one's home or office." [56] This is so, reasoned the Court, because:

"Automobiles, unlike homes, are subjected to pervasive and continuing governmental regulation and controls, including periodic inspection and licensing requirements. As an everyday occurrence, police stop and examine vehicles when license plates or inspection stickers have expired, or if other violations, such as exhaust fumes or excessive noise, are noted, or if headlights or other safety equipment are not in proper working order. The expectation of privacy as to automobiles is further diminished by the obviously public nature of automobile travel." [57]

Thus, for practical purposes, an automobile inventory is perhaps no less intrusive than other kinds of fourth amendment searches where the warrant requirement is rigorously applied. Insofar as the privacy interests implicated by that intrusion are less substantial, they may easily be outweighed by the governmental interests in performing such "community caretaking functions."

It is not certain whether the diminished expectation of privacy rationale was essential to the Court's conclusion in *Opperman* that the automobile inventory, conducted pursuant to standard procedure, was reasonable under the fourth amendment. It is quite clear, however, that the privacy rationale has been relied upon extensively by the lower courts in describing the proper scope of the inventory search.

Part II of this article will discuss the post-*Opperman* developments which seek to define the lawful scope of an automobile inventory and further consider the application of the inventory theory to other kinds of personal property. **FBI**

Footnotes

[1] The fourth amendment states: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

[2] *See, e.g., People* v. *Sullivan,* 272 N.E.2d 464 (N.Y. App. 1971); *People* v. *Willis,* 208 N.W.2d 204 (Mich. App. 1973); *State* v. *Hall,* 193 S.E.2d 770 (N.C. App. 1973).

[3] *See, e.g., South Dakota* v. *Opperman,* 428 U.S. 364, 371 (1976).

[4] *Id.*

[5] The Court noted the differing views of the lower courts on this question and observed that the State, on appeal, had abandoned "the contention that the inventory in this case is exempt from the Fourth Amendment standard of reasonableness." *Id.* at 371.

[6] In other recent cases, the Court has applied fourth amendment standards to noncriminal cases. *See, e.g., Michigan* v. *Tyler,* 436 U.S. 499 (1978) (fourth amendment warrant requirement applied to search of burned building in absence of exigency or consent); *Marshall* v. *Barlow's Inc.,* 436 U.S. 307 (1978) (OSHA searches of business premises must satisfy fourth amendment standards of reasonableness); *Delaware* v. *Prouse,* 440 U.S. 648 (1979) (*random* license and registration checks of automobiles held to be "unreasonable" intrusion under the fourth amendment).

[7] 386 U.S. 58 (1967).

[8] *Id.* at 61–62.

[9] 390 U.S. 234 (1968).

[10] *Id.* at 236.

[11] 413 U.S. 433 (1973).

[12] *Id.* at 448.

[13] 428 U.S. 364 (1976).

[14] *State* v. *Opperman,* 228 N.W.2d 152, 159 (1975), *rev'd* 428 U.S. 364 (1976).

[15] *South Dakota* v. *Opperman,* 428 U.S. 364, 369 (1976).

[16] *Id.* at 376.

[17] *Id.* at 367–368.

[18] *Cooper* v. *California,* 386 U.S. 58 (1967).

[19] *Cardwell* v. *Lewis,* 417 U.S. 583 (1974).

[20] *Chambers* v. *Maroney,* 399 U.S. 42 (1970).

[21] *South Dakota* v. *Opperman,* 428 U.S. 364, 368 (1976); *see also, Cady* v. *Dombrowski,* 413 U.S. 433, 441 (1973).

[22] *Id. South Dakota* v. *Opperman,* at 369.

[23] *Id.* at 375.

[24] 636 F.2d 1161 (8th Cir. 1980).

[25] *Id.* at 1165.

[26] 511 F.Supp. 77 (W.D. Tex. 1980).

[27] *Id.* at 81.

[28] *Id.*

[29] 622 P.2d 1218 (Wash. 1981).

[30] *Id.* at 1225.

[31] *People* v. *Schultz,* 418 N.E.2d 6, 9 (Ill. App. 1981); *see also, State* v. *Davis,* 630 P.2d 938 (Wash. App. 1981); *Lee* v. *State,* 628 P.2d 1172 (Okla. Crim. App. 1981); *Shum* v. *State,* 621 P.2d 1114 (Nev. 1981); *State* v. *Thomason,* 265 S.E.2d 312 (Ga. 1980); *State* v. *Hardy,* 384 So.2d 432 (La. 1980); *State* v. *Slockbower,* 397 A.2d 1050 (N.J. 1979).

[32] 565 F.2d 917 (5th Cir. 1978).

[33] *Id.* at 921.

[34] 616 F.2d 1284 (5th Cir. 1980).

[35] *Id.* at 1289.

[36] *Id.* at 1290.

[37] *See, e.g., People* v. *Kramer,* 303 N.W.2d 880 (Mich. App. 1981); *McConnell* v. *State,* 275 S.E.2d 697 (Ga. App. 1981).

[38] *People* v. *Thomas,* 308 N.W.2d 120 (Mich. App. 1981).

[39] *See, e.g., United States* v. *Leonard,* 630 F.2d 789 (10th Cir. 1980); *Martasin* v. *State,* 271 S.E.2d 2 (Ga. App. 1980); *State* v. *Mangold,* 414 A.2d 1312 (N.J. 1980).

[40] 665 F.2d 874 (9th Cir. 1981).

[41] *Id.* at 877.

[42] 428 U.S. 364 (1976).

[43] *Id.* at 376.

[44] *Katz* v. *United States,* 389 U.S. 347 (1967).

[45] *Johnson* v. *United States,* 333 U.S. 10, 14 (1948).

[46] *South Dakota* v. *Opperman,* 428 U.S. 364, 368 (1976).

[47] *Id.* at 369.

[48] *Id.* at 372. Courts differ as to the police burden of establishing the existence of a standardized procedure. Compare *United States* v. *Prescott,* 599 F.2d 103 (5th Cir. 1979) (direct evidence not necessary), with *United States* v. *Hellman,* 566 F.2d 442 (9th Cir. 1977) (police must prove existence of routine inventory practice).

[49] *Id.* at 376.

[50] 417 N.E.2d 469 (Mass. App. 1981).

[51] *Id.* at 471. *See also, States* v. *Chivers,* 400 So.2d 1247 (Fla. App. 1981); *State* v. *Young,* 432 A.2d 874 (N.J. 1981); *Smith.* v. *State,* 427 A.2d 1064 (Md. Ct. Sp. App. 1981); *State* v. *Hall,* 279 S.E.2d 111 (N.C. 1981); *Nealy* v. *State,* 400 So.2d 95 (Fla. App. 1981); *Comm.* v. *Benoit,* 415 NE.2d 818 (Mass. 1981); *State* v. *Bramlett,* 609 P.2d 345 (N.M. 1980); *State* v. *Blais,* 416 A.2d 1253 (Me. 1980).

[52] 379 So.2d 737 (La. 1980).

[53] *Id.* at 739.

[54] *Id.*

[55] *Id.*

[56] *South Dakota* v. *Opperman,* 428 U.S. 364, 367 (1976).

[57] *Id.* at 368. *See also, Cardwell* v. *Lewis,* 417 U.S. 583, 590 (1974).

WANTED BY THE FBI

Photographs taken 1977

Bill Clara Killingsworth

Bill Clara Killingsworth, also known as Bill Killingsworth, Bill Clare Killingsworth, Billy Clair Killingsworth.

Wanted for:

Interstate Flight—Kidnaping, Sexual Assault, Escape

The Crime

Killingsworth is being sought as an escapee from the New Mexico State Penitentiary where he was serving a life sentence following his conviction on four counts for the crimes of kidnaping and sexual assault.

A Federal warrant was issued for Killingsworth's arrest on June 9, 1980, in Santa Fe, N. Mex.

Description

Age	47, born October 18, 1934, at San Perlita, Tex.
Height	5'9".
Weight	155 pounds.
Build	Medium.
Hair	Brown.
Eyes	Blue.
Complexion	Fair.
Race	White.
Nationality	American.
Occupations	Buyer, clerk, material investigator, production controller, storekeeper, superintendent of retirement home.
Scars and Marks	Scar on chin.
Social Security Nos. Used	490-32-8849; 490-32-8949.
FBI No.	819 043 P5.

Caution

Killingsworth, a reported narcotic user, should be considered armed, dangerous, and an escape risk.

Notify the FBI

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

Classification Data:

NCIC Classification:
PO0914PO17161216DI16

Fingerprint Classification:
9 O 9 U IOO 17 Ref: 9 25 2
M 18 U OOI 17 17 1

I. O. 4890.

Right thumbprint

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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

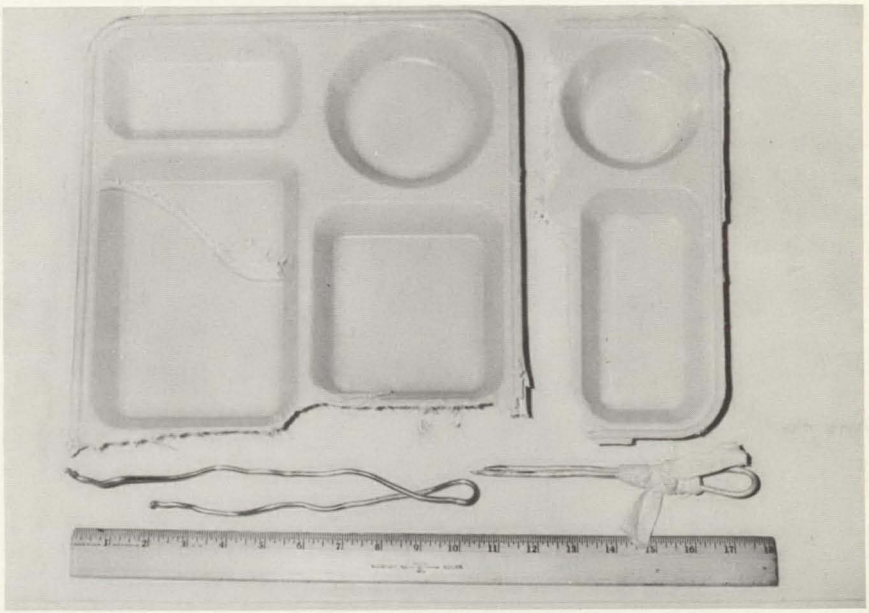
Address

City State Zip

Shiv Fabricated from Tray

This shiv, fabricated from a wire support frame of a food tray used in penitentiaries, was found in the possession of a prisoner. The tray had been tested and was believed to be unbreakable. It was discovered, however, that the tray is breakable after approximately 1 year of use.

(Submitted by the Department of Correction, Westchester County, N.Y.)



U.S. Department of Justice
Federal Bureau of Investigation

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Penalty for Private Use $300
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JUS-432

Second Class

Washington, D.C. 20535

Questionable Pattern

This impression appears to be a whorl-type pattern. However, the inner delta is located on the only recurving ridge, thereby spoiling it. This pattern is correctly classified as a loop with two ridge counts. A reference search would be conducted as a central pocket loop-type whorl with a meet tracing.