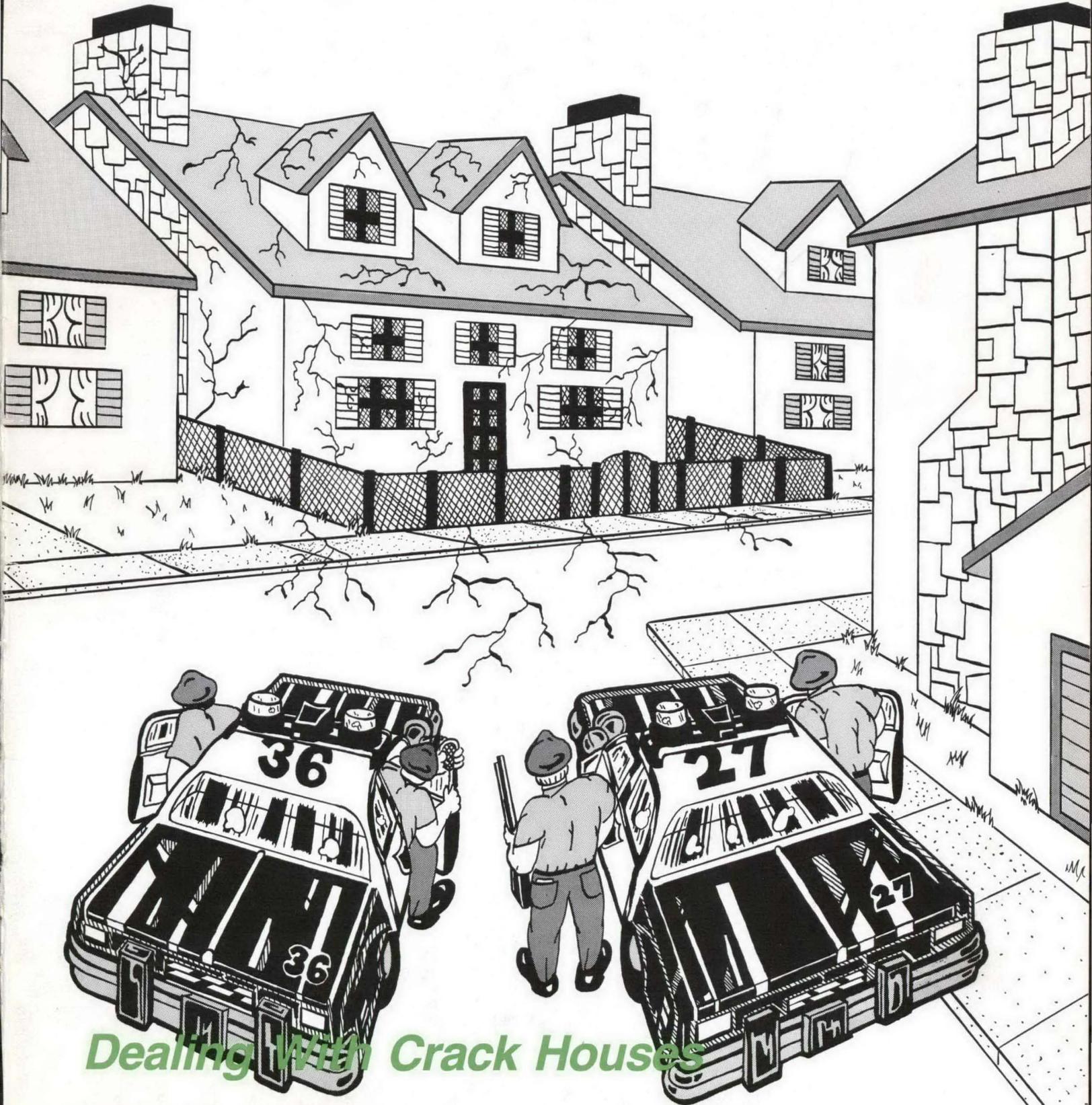




June 1988

# FBI

## Law Enforcement Bulletin



*Dealing With Crack Houses*

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June 1988, Volume 57, Number 6

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# FBI

## Law Enforcement Bulletin

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# ***Firearms Training/Civil Liability Is Your Training Documentation Sufficient?***

***"The development of the documentation program provides the officer with the opportunity to view firsthand his skills and knowledge . . . ."***

By  
LT. GEORGE E. SCHRADER  
*Training Bureau Commander  
Police Department  
Anaheim, CA*

Oftentimes, it is difficult to establish a valid and defensible goal of law enforcement training which withstands the scrutiny of the courts. This is especially true when it comes to the issue of firearms training. In an effort to reduce officer-involved shooting liability and increase training capabilities, the Anaheim, CA, Police Department has developed a documentation program that could be very beneficial to any law enforcement agency.

Training is a permanent part of every job and certainly a lifelong development process designed to meet and anticipate changing times. Firearms training for law enforcement officers is no exception.

## **Firearms Courses**

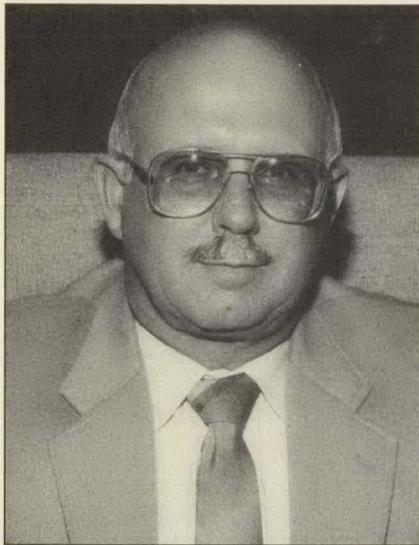
Realizing that a great deal of liability attaches to officer-involved shootings, the Anaheim Police Department began several years ago to evaluate its range training. For many years, the firearms training consisted of a "standard" course, that is, an officer shot a specific number of rounds at a target which had a set distance and height. This type of training taught mainly marksmanship and neglected such factors as decision-making, stress, attitude, knowledge, and skill.

Given the fact that the individual law enforcement agency is responsible for the firearms training of its officers, the decision was made at the Anaheim

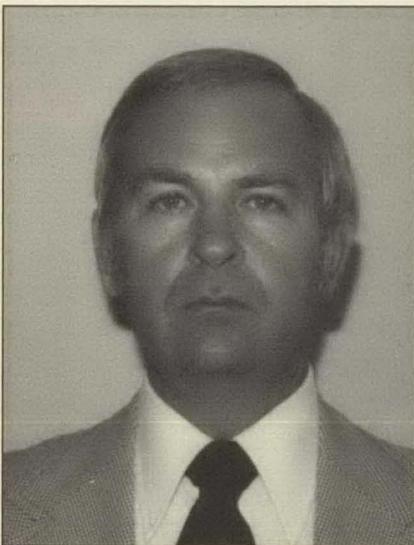
Police Department to create precise/realistic shooting courses. The range-master of the department was tasked with the responsibility to transform Anaheim's firearms program by using realistic scenarios. As a result, his innovative and creative approach to firearms training has become widely known throughout California.

Justification and logic were the prime concerns in the development of each course in the four-position, 25-yard range. The training involves not only the use of the officer's primary duty weapon but also the shotgun and any backup weapon the officer may carry.

Officers are required to move around, talk to suspects, shoot while



Lieutenant Schrader



Martin Mitchell  
Chief of Police

moving or at moving targets, and at the same time, use flashlights and police radios. They are also required to shoot six different courses each year. The only course that remains the same is the first course, which is a qualifying course—all others are different.

Courses are created based on officer-involved incidents that have occurred throughout the United States. They are developed to simulate actual situations that the officer may confront, whether assigned to patrol, detectives, traffic, or an undercover assignment. The courses require responses from the officer that are based on ongoing training, combined with experience and the ability to think logically under stress.

Realism, decisionmaking, stress, and the psychological aspects of shooting the wrong person, or even being shot, are underlying factors in the design of each course. Courses also encompass the use of props, such as sirens, flashing lights, no light, radio transmissions, or people yelling and screaming, all while the officer is determining the course of action to take in the given situation. The bottom line of this type of training is obviously to prepare all officers for a time when immediate action is required in the use of a firearm.

#### **Documentation**

To further demonstrate the police department's commitment to a comprehensive firearms training program, a documentation system has been adopted. The Training Bureau now maintains a computerized record of each officer's range score. The system allows the individual officer to obtain a

printout of his/her shooting record for all courses fired since January 1987.

The printout indicates not only the date the course was fired but also whether the officer passed/failed the course, the type of weapon fired, the serial number of the weapon(s), and whether a safety inspection of the weapon was conducted by the rangemaster. This information applies to all weapons fired by an officer while on the shooting range.

Added to the officer's individual range record is a course description, which lists the objective(s) of the specific course, as well as the scenario the officer was given during preshooting instructions. Also included are the amount of ammunition for the particular caliber firearm used by the officer and the number of times reloading was required.

The scenarios are developed to require the officer to perform such functions while getting out of a squad car or using a unit spot light, an exterior speaker on the police unit, a flashlight, hand-held radio, citation book, etc.—all functions or items with which the officer might be involved during a tour of duty.

#### **Video Documentation**

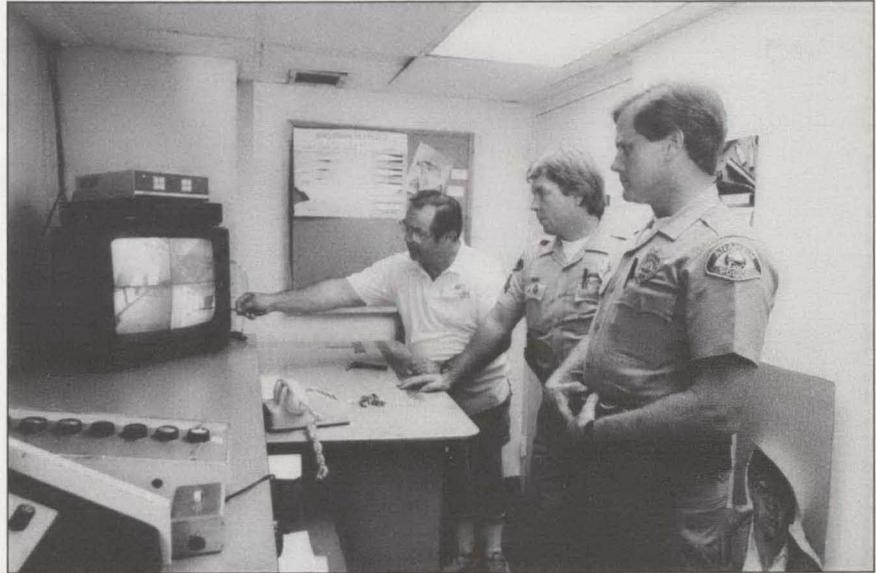
Realizing that it is difficult to create a mental picture for people, specifically for jury members during a trial, the Anaheim Police Department went one step further and started a video library of all the firearms training courses developed since January 1987.

Each firearms training course is videotaped by the department's Media

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***“Documenting firearms training not only reduces liability for the city and department but is an excellent training medium.”***

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*A four-camera video taping system is used to show the good and bad points of an officer's actions during the course.*

Services Detail and then kept in the master video library. A tape of each officer is made as he is trained on each new course; thus, actual conditions of training are recorded.

Videotaping allows the department not only to describe the conditions of lighting, sound, props, and instructions but to show the actual reactions of an officer as he/she is being trained.

Only one officer is videotaped for the library copy. However, each officer is taped on a four-camera system so that he/she can then be shown the good and bad points of his/her actual responses/actions during the course.

Three cameras have been installed on the range at fixed locations; a portable camera is used to tape individual officers from four different angles. This is an asset to the

rangemaster and officer when playing back the tape to determine whether additional training is needed.

Documenting firearms training not only reduces liability for the city and department but is an excellent training medium.

#### **Summary**

Officer-involved shootings are constantly scrutinized by individual agencies, the public, and the courts. These facts have dictated that the precise content of firearms training be documented.

Because of the innovative firearms training program adopted by the Anaheim Police Department, officers are better prepared to confront the life-or-death situations involving the use of their firearms. As such, they can deal

more effectively with the issue of deadly force.

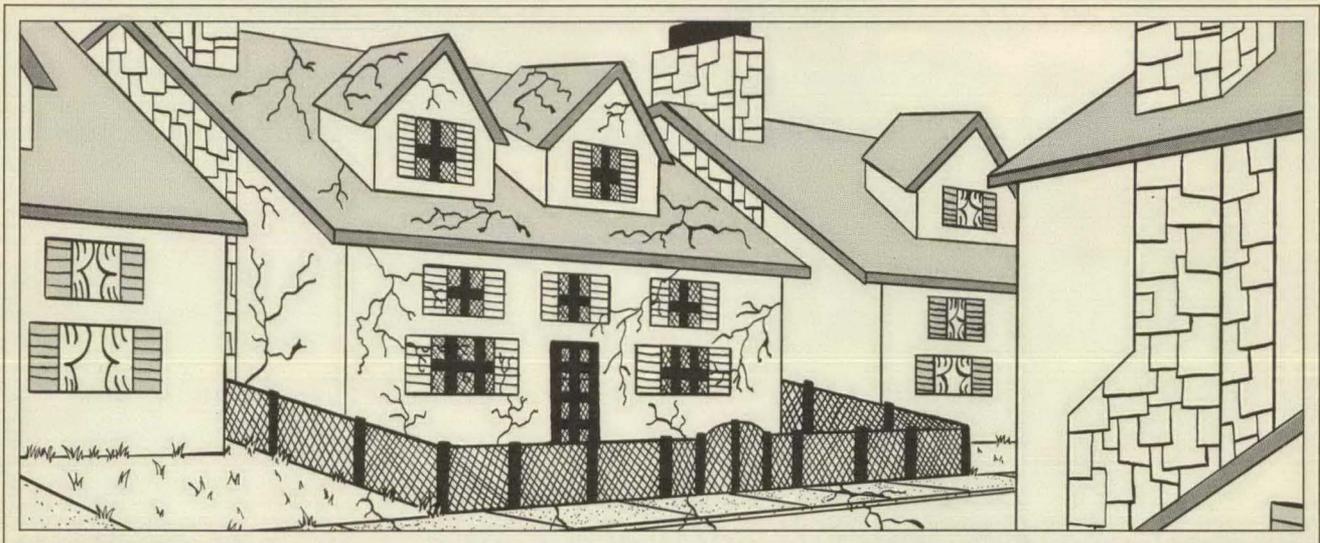
The development of the documentation program provides the officer with the opportunity to view firsthand his/her skills and knowledge, while allowing the department to evaluate the firearms training and adapt its procedures accordingly. This constant evaluation and modification of firearms training helps to greatly reduce Anaheim's liability involving the use of a firearm.

It has been said many times that "the world hates change—yet it is the only thing that has brought progress." Anaheim's firearms training and documentation program certainly has been a significant step forward in the development of the professional police officer.

**FBI**

# Strategies for Dealing With Crack Houses

By  
LEE P. BROWN  
*Chief of Police  
Houston, TX*



Perhaps the most significant of illicit drug-use trends in Houston is the increasingly widespread sale and use of a smokable form of cocaine powder known on the streets as "crack," or more technically, as freebase cocaine. Crack is extracted from cocaine powder through a simple chemical procedure that uses baking soda, heat, and water. The conversion of cocaine powder into

freebase yields a form of the drug that users can smoke rather than inhale or inject. The inhalation of freebase smoke is an extremely efficient way to get cocaine into the bloodstream and reap the "high" the drug produces.

Until recently, the process of extracting freebase cocaine from cocaine powder usually required the user to handle volatile substances, such as

ether. To minimize the danger and make the drug more profitable, drug dealers began converting large quantities of cocaine powder into freebase. Because the drug was now safer and more convenient to use, as well as less costly and more readily available, it emerged as one of the most marketable illicit drugs sold on the streets of Houston.



Chief Brown

That crack is so readily available stems largely from the many crack houses set up for the sole purpose of distributing the illicit drug. A crack house can be defined as any building where crack and other illegal narcotics are sold, which has been fortified to delay entry by police officers armed with search warrants. The extent of fortification varies. Some houses have steel doors, steel bars on windows, and 4-foot iron posts embedded around the perimeter of the property to prevent vehicles from ramming the building. Many others, however, have the appearance of private clubs, though in reality they are fronts for drug dealings and other illegal activities. Delayed entry is necessary to give the occupants of the house time to dispose of or conceal the illegal drugs (e.g., by flushing them down a toilet or by hiding them in the building's walls.)

Most crack houses, whether fortresslike or bearing the appearance of an exclusive club, keep on hand only small quantities of crack and other drugs. The supply of crack usually is limited to 50 rocks, or doses, that sell for \$25 to \$50 each. The inventory is replenished as needed. Operators of crack houses often "hire" as many as three persons to sell the drugs during 8- to 12-hour shifts and keep a log to account for the narcotics sold each day. The daily income of crack houses ranges from \$10,000 to \$20,000.

Over the years, the Houston Police Department has raided many of these houses, using various methods to crash the building's doors and windows and gain entry into the structure. The persons inside are arrested and charged with drug violations, but in most cases,

the houses reopen for business in a matter of days or weeks.

The extent of criminal organization involved in crack house operations also varies. Some operators work from a single location, while others—either alone or in groups—operate multiple crack houses. It is these more organized operations that present a challenge to law enforcement officials. In most cases, crack house operators rent the building from a landlord who is not involved in the drug dealings. Evidence indicates, however, that most of the landlords either know or should know that the building they manage is used for drug trafficking.

When a crack house is located in a neighborhood, the problem becomes not only one for the police but also one for the area's residents who must endure a deterioration in the quality of life. Because residents know that drugs are being sold from crack houses and that police actions have been ineffective, the front operations have become symbols of neighborhood lawlessness and crime. This perception is perhaps the most serious aspect of the crack house problem in Houston.

To address the complex problem of crack house operations and their effect on the quality of life in Houston neighborhoods, a Crack House Task Force was formed in early 1987. Members included representatives from the department's Narcotics, Criminal Intelligence, and Patrol Divisions. As a group, they were to develop a comprehensive plan for dealing with the crack house problem in Houston.

The Patrol Division's field officers were asked to identify known crack

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***“ . . . Title 21, U.S. Code, section 881 (A) (7) . . . provides for the forfeiture of real property that has been used to commit or to facilitate the commission of drug law violations.”***

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houses in their assigned beat. These lists were then combined with one provided by the Narcotics Division. The task force then developed a comprehensive list of crack houses in Houston.

Eighteen locations that fit the established definition of a crack house were identified throughout the city. The Criminal Intelligence Division then sought to determine the name of the property owner and the number of narcotics raids staged at each location.

Typical enforcement strategies most often used to deal with locations where illegal drugs are sold involve the use of informants and undercover police officers, as well as the execution of search warrants. In Houston, informants are likely to be used first to verify that drugs are being sold at a particular location. With that determination made, the informant may be used to introduce an undercover officer to drug dealers so that subsequent undercover buys can be made. If an undercover officer cannot be introduced to such persons, the informant may be used to make a controlled buy. Either an undercover buy or a controlled buy may be used as probable cause to obtain a search warrant. After a search warrant has been acquired, the appropriate method of forced entry must be determined. Battering rams, sledge hammers, and similar devices have been used to gain entry through doors and windows. Wreckers have been used to remove steel doors, and recently, a bulldozer was used to knock down an entire wall of one crack house. However, the law allows only such force be used as is necessary to make the required entry safely and effectively.

Simply closing the crack house and arresting the operator, however, is not enough. A more vexing problem is how to keep the drug dealers from reopening the facility—often within a matter of a few days. The solution lies in Title 21, U.S. Code, section 881 (A) (7), which provides for the forfeiture of real property that has been used to commit or to facilitate the commission of drug law violations. Because this is a Federal law, the U.S. attorney's office must initiate the seizure proceeding, and he must do so in the Federal courts. Depending on the individual case, it is advisable to notify the property owner after the police first learn that drugs are being sold from his property. This is done to establish in the forfeiture hearing that the owner did know what was taking place on his property.

The Houston Police Department has been successful in enlisting the cooperation of the Drug Enforcement Administration (DEA) and the U.S. attorney's office in seizing eight crack houses. After a crack house has been seized, it remains in the custody of the U.S. Marshals Service pending forfeiture. The building is secured, and signs prohibiting trespassing are posted. Ultimately, it is the courts that determine whether the property is forfeited to the Federal Government. If forfeiture does occur, Federal agencies are authorized to share the proceeds with local agencies in proportion to their participation in the case. Because of the Houston Police Department's extensive involvement in such cases, it stands to receive as much as 90 percent of the proceeds from a crack house forfeiture.

Traditional enforcement strategies, however, may not be suitable for a particular location or may not deter some crack house operators from reopening their drug-trafficking fronts. For example, there may not be sufficient probable cause to obtain a search warrant, or the U.S. attorney's office may be unable to seize the crack house, even though the property has been raided successfully more than once. The Crack House Task Force, therefore, proposed some nontraditional strategies that were designed to discourage drug users from buying at a given location and to discourage property owners from renting to drug dealers. These nontraditional strategies include the following:

- Maintain high visibility by placing a saturation of uniformed patrols in the immediate vicinity of the crack house.
- Park marked patrol cars in front of the crack house.
- Temporarily detain and briefly question persons in the vicinity of the crack house who are reasonably suspected to be engaged in criminal activity in an effort to develop probable cause to arrest.
- Notify the property owner that the building is being used for narcotics trafficking and that continued violations may result in appropriate action being taken against the property.

After meeting with members of the task force, officials from the Public Works and Health Departments and the Fire Marshal's Office pledged their full

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cooperation if the police department were to request the inspection of a crack house for city code violations. The Public Works Department enforces all building code violations, including abandoned, dangerous, or structurally unsound buildings and failure to acquire occupancy, construction, and remodeling permits. Property owners and renters cited for building code violations face fines ranging from \$250 to \$1,000. The Fire Marshal's Office enforces all fire code violations and may order a building closed if the violations are serious and can prohibit it from reopening until the hazards have been corrected. Fire inspectors also can conduct safety inspections at any time without prior notice. The Health Department enforces health code violations at any location that serves food and beverages. Inspectors are available 24 hours a day.

As effective as these nontraditional strategies may be against the operators of single crack houses, they are likely to be far less effective against the operators of multiple crack houses. Such persons suffer only minimal financial loss from the seizure of drugs at houses raided by the police. Because they avoid direct involvement with drug buyers, highly sensitive investigations that use specialized techniques, such as covert intelligence-gathering and surveillance techniques, must be initiated instead. As information becomes available, investigative efforts continue until the crack house operators who have insulated themselves somewhat with hired accomplices are prosecuted successfully.

The police department's ability to ultimately wipe out the crack house

problem in Houston depends on the coordinated efforts of the Investigative Operations Command and the Field (Patrol) Operations Command, particularly the tactical units and the Narcotics Division. Members of tactical units are plainclothes officers who handle street crimes, such as prostitution and narcotics offenses. Because the existence of a crack house is a neighborhood problem and the activity within it is considered consumer-level drug trafficking, the Field Operations Command is responsible for initiating *traditional* drug enforcement strategies against crack house operations. At the same time, the command's geographical division (i.e., patrol districts and patrol beats) make them best suited to carry out *nontraditional* enforcement strategies as well. The specific tactics used to combat a particular situation are based on the prevailing circumstances and the departmental resources available. Each patrol division's captain is allowed to use his discretion in deciding which strategies to implement. After several raids have been completed at a given location, the area's patrol division contacts the Narcotics Division to coordinate their efforts with the DEA and the U.S. attorney's office and to explore the possibility of seizing the property.

If the crack house is part of an organized operation under investigation by the Narcotics Division, then that division also may use *traditional* enforcement strategies. All raids, however, are coordinated with the patrol division in which the crack house is located. Coordination of any activity with the DEA or the U.S. attorney's office and inves-

tigations of a crack house's upper echelon also are the responsibility of the Narcotics Division. When needed, the Criminal Intelligence Division is used to determine the owner of the crack house and to provide other technical support.

As a final step in their deliberations, the Crack House Task Force made recommendations about what actions should be taken against *each* crack house identified by patrol officers and the Narcotics Division. These recommendations were given to the appropriate patrol division commander for implementation.

After 90 days, the division commanders are required to submit a report indicating the status of each crack house in their respective areas and the actions they have taken. The chief of police reviews these reports and discusses them with his command staff to determine the effectiveness of the actions and what further enforcement efforts are needed.

The Houston Police Department's approach to narcotics enforcement and intervention has always been the mitigation of drug trafficking by aggressively enforcing laws that prohibit the sale and use of illicit drugs and maintaining a close working relationship with other local, State, and Federal authorities. In the months and years ahead, the Houston Police Department plans to continue both strategies in the all-important fight against illicit drugs. Only through concentrated, strategic, and intelligent enforcement activities can the problem of crack houses in Houston be eradicated.

FBI

# Computer-Based Training for the Law Enforcement Community

***“With a well-developed CBT program in place, managers may anticipate that their training needs will be served expeditiously and economically.”***

By  
JOHN C. LeDOUX, Ed.D.  
and  
HENRY H. McCASLIN, JR., Ed.D.  
*Special Agents*  
*Economic and Financial Crimes Training Unit*  
*FBI Academy*  
*Quantico, VA*

Law enforcement agencies face two persistent problems with their training: 1) Job demands make it difficult to send personnel away for training, and 2) there is no single convenient time to schedule training for the various shifts. Computer-based training (CBT), a result of technology, is a partial solution to these problems. This article will define CBT, examine its benefits and limitations, and explore some considerations managers may use to determine if their agency should implement CBT.

## **Definition**

The most whimsical definition of CBT is a situation in which a person and a computer interact and one of

them learns something. More precisely, CBT is the use of a computer to teach or help teach a learner. CBT occurs when a learner sitting at a computer observes information, receives a task/question, individually makes a decision, and receives feedback as to the correctness of the decision.

Since CBT is an emerging field, conformity is lacking in the terminology. As table 1 shows, various terms are generally synonymous. Related Terms, such as computer-managed training (CMT), further confuse the issue. CMT, for example, does not require the application of CBT. CMT is the use of a computer to keep track of student performance. For simplicity, if the computer is a primary medium for

presenting information, consider it CBT.

CBT is different from other types of media in terms of three elements—information display, interactions, and branching. Due to these elements, CBT trainers must give careful attention to the way the information is presented to the learners. For example, the amount of text that can be displayed at one time is limited. Similarly, trainers must plan for all the questions and learner responses (interactions). And finally, one must devise a strategy concerning how the learners will progress through a lesson (branching). Good instructional design results in good instruction. CBT *requires* good instructional design. An instructor may “fake” a lecture, but you can’t fake CBT.<sup>1</sup>



Special Agent LeDoux



Special Agent McCaslin

**TABLE 1**  
ALTERNATIVE TERMS TO DESCRIBE  
USING THE COMPUTER TO LEARN

Computer-Based Training	— CBT	Computer-Assisted Instruction	— CAI
Computer-Based Instruction	— CBI	Computer-Assisted Education	— CAE
Computer-Based Education	— CBE	Computer-Assisted Learning	— CAL
Computer-Based Learning	— CBL	Instructional Application of	
Computer-Assisted Training	— CAT	Computers	— IAC

### Advantages

CBT has advantages for management and students. Due to the careful instructional design procedures required, management may be confident that the learners receive information that is both accurate and consistent. Management may determine exactly what is taught rather than assuming that instructors are following lesson plans.

Another management advantage is that unlike an instructor, CBT is available whenever and wherever needed. An instructor, unlike CBT, cannot be scheduled in several places at once. Further, research findings suggest management may anticipate a 40-percent timesavings when using CBT.<sup>2</sup> And, CBT guarantees mastery of a topic. When a lecture is over, it's over; however, a CBT lesson may be taken as many times as necessary to learn the material.

CBT should also reduce the rate of instructor burnout, since the role of the instructor changes. Instead of being a performer standing in front of the class, the instructor becomes a facilitator who may spend his/her time coaching individual learners. Research has verified

this learner preference for individual attention.<sup>3</sup> Another advantage is that training needs may be met more expeditiously. With CBT lessons available, it will not be necessary to wait until the training academy offers a particular class—the needed training may be taken anytime. Finally, CBT is economical in the long term. While the original development of CBT is cost-intensive, once developed, its continued use adds little additional cost.

Students also will find advantages in using CBT. Some of the advantages, such as the availability of instruction, accrue to both management and learners. Anyone who has ever worked an 11:00 p.m. to 7:00 a.m. shift and then attended training will quickly realize the impact of the availability of CBT. Training may be received during "normal" working hours.

During a traditional lecture, learners passively receive information for a set block of time, such as an hour. When the time ends, the assumption is that the students have "learned." With CBT, each student is actively involved in the learning process and progresses at an appropriate personal pace. CBT is not based on an assumption that all

**“. . .the power of CBT to meet the needs of adult learners is one of the major strengths of the medium.”**

persons learn a given topic at the same rate.

Learners receive individual feedback for each question asked of them. If a question is asked in a traditional class, one or two students may attempt to answer the question. Each student's answer, however, is not evaluated—time is too limited. In our opinion, a student often learns more from errors, if the error is noted and explained, than from correct responses.

Unlike traditional role plays, each learner has the opportunity to play the key role when using CBT simulations. CBT allows each learner to be the investigator, not just one or two students from the class. The importance of *doing*

as an essential ingredient in learning has long been realized.<sup>4</sup> In summary, the power of CBT to meet the needs of adults learners is one of the major strengths of the medium.<sup>5</sup>

**Limitations**

While CBT has many benefits, limitations exist. The first limitation, of course, is the need for computers. Second, as noted earlier, technology restricts the amount of information presented on a computer screen. Also, most CBT simulations may lack “visual realism.”<sup>6</sup>

In addition, similar to other technology-based media, such as video tapes, the initial investment of re-

sources is high. Time is required to produce quality CBT because of the careful quality control/curriculum process necessary.<sup>7</sup> Time is also required to develop personnel capable of producing CBT. Spending time means spending money.

The production of CBT requires a team of trainers well versed in adult education, educational psychology, testing procedures, microcomputers, and authoring procedures. These persons must be able to interview the subject matter expert (SME) familiar with the topic, help the SME focus the educational purpose of the lesson, and be able to write clearly and concisely. For one person to be an expert in all of the above areas is difficult. Thus, a major consideration is the need to assemble a team of experts.

Further, most members of law enforcement training academies are skilled lecturers. They may not have, however, the skills necessary to create quality CBT. A general industry standard is that assuming the prerequisite background, it requires 2 years to develop an independent CBT developer.<sup>8</sup> Our experience suggests that the most suitable type of personnel are those capable of logical/analytical thinking who are well grounded in adult education, curriculum development, or instructional design. Familiarity with, or at least no fear of, a computer is also necessary. The addition of a nonsworn professional staff with special qualifications may be necessary.

The selected personnel will not immediately blossom into CBT experts. They will have to spend time reading, attending conferences, and attending training specifically relating to CBT development. Table 2 lists examples of or-

**TABLE 2  
EXAMPLES OF POTENTIAL  
SOURCES OF INFORMATION**

<b>Organizations</b>	<b>Periodicals</b>
American Society for Training & Development (ASTD) Suite 306 600 Maryland Avenue, S.W. Washington, DC 20024	<i>Data Training</i> Weingarten Publications, Inc. 38 Chauncy Street Boston, MA 02111
Association for the Development of Computer-Based Instructional Systems (ADCIS) Miller Hall 409 Western Washington University Bellingham, WA 98225	<i>Educational Technology</i> Educational Technology Publications, Inc. 720 Palisade Avenue Englewood Cliffs, NJ 07632
National Society for Performance and Instruction (NSPI) Suite 315 1126 Sixteenth Street, N.W. Washington, DC 20036	<i>Instructional Delivery Systems</i> Communicative Technology Corporation 50 Culpepper Street Warrenton, VA 22186
Society for Applied Learning Technology (SALT) 50 Culpepper Street Warrenton, VA 22186	<i>Journal of Computer-Based Instruction</i> ADCIS <i>Performance and Instruction</i> NSPI <i>Training &amp; Development</i> ASTD

ganizations whose members are interested in CBT.

### When to Use

Whenever a trainer designs a curriculum, decisions must be made as to which are the appropriate media to employ. The use of CBT is not always the most appropriate. Take, for example, the design of a curriculum dealing with management training. The instructional delivery choices are traditional classroom instruction, text-based instruction, video, and CBT.

Table 3 summarizes some of the areas where each instructional delivery technique could best be employed. Sometimes, any of several techniques could be used. Individuals might disagree whether the topics are best served by one medium or another. In general, however, CBT is most appropriate for analytical areas and least appropriate for interpersonal skills areas.

An important consideration concerning the use of CBT is determining when it is cost-effective.<sup>9</sup> First, you must determine the cost of developing traditional classroom instruction. This cost includes preparing instructional objectives, lecture notes, test questions, visual aids, student handouts, and integration of a given topic into the curriculum. Estimates of the time required to produce 1 hour of instruction vary between 10 and 100 hours. A commonly used ratio is 15 hours of development time for 1 hour of instruction, 15:1. In addition, the costs include the instructor's salary for each time the class is taught. And, the costs must include student-related expenses—travel to and from the school, lodging, subsistence, and salary during travel to the class and for each hour of class instruc-

**TABLE 3\***  
PREFERRED METHOD OF INSTRUCTIONAL DELIVERY—MANAGEMENT

Topic	Classroom	Text	Video	CBT
Leadership	X		X	
Planning		X		X
Delegation	X			X
Problem Solving		X		X
Interviewing	X		X	
Performance Appraisals			X	X
Communication	X		X	
Motivation	X		X	
Interpersonal Skills	X		X	
Time Management	X			X
Budgeting		X		X

\*Adapted from John J. Hirschbuhl, "The Computer as Management Trainer," *Data Training*, October 1983, pp. 24-27.

tion. Another student cost, most difficult to assess, is the cost of the total unavailability of the learner for customary work during the time spent training.

You must figure CBT costs differently than the traditional classroom instruction. Estimates of the ratio for CBT development vary from 25:1 to 300:1. We find the ratio of 100:1 to be a logical estimate. A variety of factors, such as the experience of the CBT developer or the complexity of the lesson, determines the amount of time required. To this cost must be added the concomitant student costs. With CBT, travel, lodging, and subsistence costs often do not occur. Similarly, training will consume less salary due to the anticipated 40-percent timesavings.

Next, compare the two costs. The cost of classroom instruction accumulates each time you offer the class,

while most CBT costs will remain constant. This difference is shown in the hypothetical example presented in table 4. The break-even point for CBT occurs with the third inservice held. At this point, the total cost of training is more for traditional training (\$440) than for CBT (\$387).

How often a course is offered and the projected number of students are important considerations when doing the cost-benefit analysis. The greater both figures, the more likely CBT is cost-effective. Similarly, the "shelf life" of the CBT lesson is important. If the information presented in the lesson changes considerably several times a year, CBT may be inappropriate. Minor or infrequent changes provide no obstacle to using CBT. Thus, a course with a stable content that an organization offers to only a few employees a

**“...CBT is most appropriate for analytical areas and least appropriate for interpersonal skill areas.”**

**TABLE 4\***  
COST BENEFIT ANALYSIS OF CBT AND TRADITIONAL INSTRUCTION

Number of Students	Method of Delivery	Cost	Cost Per Student
50	Traditional	\$22,000	\$ 440
50	CBT	58,000	1160
150	Traditional	66,000	440
150	CBT	58,000	387

\*Hypothetical Example

year might be a viable candidate for CBT. Whereas, a course with a constantly changing curriculum that an organization offers regularly to numerous learners would probably best be taught through traditional classroom instruction.

**Implementation**

Aside from the above issues, several other considerations are important when implementing CBT. First, you must determine whether to buy generic off-the-shelf CBT, pay a vendor to produce it, or produce it inhouse. Each choice has advantages and limitations.

Off-the-shelf CBT is relatively inexpensive and requires little or no effort on the part of the training staff, but it is written for mass audiences. Such CBT tends to be quite general in its approach. Good lessons on the basics of management techniques or using software, such as Lotus 1-2-3, abound, but it is difficult to find advanced lessons with detailed specifics. In addition, no single reference lists all commercial

software; each vendor publishes his own list. Thus, off-the-shelf CBT is desirable for some basic training needs but will not meet organization-specific training needs.

Software produced by a vendor will be far more expensive, but it can deal with your organization's specific training needs. The vendor will need the guidance of the training staff to ensure meeting the correct training need. The less involved the staff, the less likely the product will be suitable. If only the vendor performs the task, the product cannot be easily altered, nor will the training staff develop the capability to produce CBT.

With proper personnel, inhouse production should be less expensive, attuned to specific training needs, and alterable as needed. If, however, CBT is a new enterprise and the training staff possesses platform skills rather than skills such as screen design, graphics design, or developmental skills that translate the lesson into highly interactive CBT, inhouse production is in-

appropriate. The strategy of choice in this case is to contract with a vendor to help produce the first few lessons.<sup>10</sup> While more expensive, this strategy enhances the quality of the initial CBT and prepares you to develop inhouse CBT.

When ready to begin developing inhouse CBT, the training manager must decide how to code the information into the computer. Programming languages, such as BASIC and PASCAL, produced early CBT. These languages allow the use of the full power of the computer; however, they require the services of an experienced programmer. Also, the use of traditional computer language introduces all the attendant problems, such as debugging, associated with programming.

The above problems, in conjunction with the continued emergence of CBT, have resulted in the development of two relatively new options. The first is the authoring language. This is quite similar to the traditional programming languages, but the code is specifically designed to manage the types of programming activities, such as drawing a circle on the screen, used with CBT. While authoring languages do not require knowledge of one of the traditional computer languages, problems of debugging still exist.

The second option is an authoring system. The system, through a series of menus, assists the author who may not know any programming languages in producing programming instructions. The system would prompt, for example, "What type of screen?" and the author would choose the option "multiple choice question." The author's choices are often limited.

Thus, at one extreme, traditional programming language allows use of

the full power of the computer, but requires extensive computer knowledge. While the authoring system guides a trainer through the needed choices, some systems may severely limit flexibility. Each choice has its proponents. Unless an experienced programmer who understands CBT is readily available, we recommend the authoring system or authoring language options.

The sale of sophisticated authoring languages/systems has blurred the distinction among the three choices. Some, for example, allow one to escape the authoring system, display information through a programming language, and return to the system without the learner being aware of this special procedure. Such systems allow the author the option of using menus or programming. In this way, the traditional limitations of the authoring system are negated. At the present time, at least 93 different authoring systems or languages exist.<sup>11</sup>

If you have decided to embark on a CBT project, a few words of advice are in order. For the initial project, select a fairly uncomplicated, stable topic with a well-organized, up-to-date lesson plan and an SME who is both knowledgeable and willing to support CBT. Carefully plan the developmental procedures and then allow twice as much time as seems necessary. Well-designed CBT requires far greater performance standards than traditional instruction. Therefore, from the very beginning, encourage open discussion/criticism of the product by team members.

As a final item of advice, try to locate someone in your area who has experience in CBT. CBT has been embraced by private industry due to the

economical nature of CBT. In fact, among the first large companies to employ CBT widely were the "Big 8" accounting firms such as Arthur Young and Ernst & Whinney. We have had contact with trainers from numerous other corporations, such as Union 76, Dow Corning, and IBM, who use CBT as an integral part of their training.

Law enforcement agencies are also using CBT. For several years, officers have logged on to the University of Illinois PLATO CBT system to take courses offered through the Police Training Institute in Champaign, IL.<sup>12</sup> The authors are involved in the CBT efforts of the FBI. CBT, for example, has been used to help train the FBI National Academy, New Agents, and various Federal, State, and local inservice personnel. In addition, off-site CBT training is occurring in several FBI offices in various parts of the country. Other locations, such as the Central Florida Criminal Justice Training Center in Orlando and the Detroit Police Department Training Academy, are actively exploring CBT.

### Summary

The conflicting demands for the limited personnel resources of law enforcement agencies require managers to develop new means of ensuring that their personnel are well-trained. One such method is computer-based training. CBT is used in private industry because it is efficient and cost-effective, and CBT is growing in popularity in the law enforcement community. With a well-developed CBT program in place, managers may anticipate that their training needs will be served expeditiously and economically.

FBI

### Footnotes

<sup>1</sup>Personal conversation with Bob Yeager, President of Intercom.

<sup>2</sup>J.C. LeDoux and C.J. Stanley, "A Comparative Study of Computer-Based Instruction vs. Lecture," Proceedings of the 26th International Conference of the Association for the Development of Computer-Based Instructional Systems, 1985, pp. 10-14.

<sup>3</sup>C.J. Stanley and J.C. LeDoux, "Learning Styles, Computer Attitudes, and Preferences for Instructional Delivery Methods," Proceedings of the 29th International Conference of the Association for the Development of Computer-Based Instructional Systems, 1987, p. 304.

<sup>4</sup>George J. Dudycha, *Psychology for Law Enforcement Officers* (Springfield, IL: Charles C. Thomas, 1960, p. 29).

<sup>5</sup>J.C. LeDoux and C.J. Stanley, "Making Feedback in Computer-Based Training Meaningful," Proceedings of the 27th International Conference of the Association for the Development of Computer-Based Instructional Systems, 1986, pp. 5-8.

<sup>6</sup>Hal D. Christensen, "Scaling Down Training," *Data Training*, January 1987, pp. 42-43.

<sup>7</sup>J.C. LeDoux and C.J. Stanley, "Making Feedback in Computer-Based Training Meaningful," Presentation to the 28th International Conference of the Association for the Development of Computer-Based Instructional Systems, Washington, DC, 1986.

<sup>8</sup>Gloria J. Gerry, "Implementing CBT: Issues for Training Managers," Presentation at the 1983 Data Training Conference, San Francisco, CA.

<sup>9</sup>David Weitz, "Breaking Even with CBT," *Data Training*, April 1983, pp. 14-17.

<sup>10</sup>Patrick M. Dillon, "Write It or Buy It?" *Data Training*, March 1986, pp. 44-45.

<sup>11</sup>J. Stein, (ed.) "Data Training's 1987 Survey of CBT Authoring Systems," *Data Training*, April 1987, pp. 28-62.

<sup>12</sup>Roy O. Walker and Christopher J. Flammang, "Instructional Application of Computer-Based Education in Police Training," *Journal of Police Science and Administration*, 1981, pp. 224-229.

# Forensic Science Information Resource System

***“The [Forensic Science Information Resource System] was established...to provide information services to...the FBI Laboratory Division and...the nearly 300 State and local crime laboratories throughout the United States.”***

By  
COLLEEN WADE  
*Librarian  
Laboratory Division  
Federal Bureau of Investigation  
Washington, DC*

The chairman of the anthropology department of a major university mailed chocolates laced with deadly poisons to a former colleague and to the Federal judge who, several years earlier, had sentenced him to prison upon his conviction for operating a drug factory in his college laboratory. The colleague's wife and daughter ate the chocolates and became seriously ill, as did the judge's wife. Samples of the chocolates were sent to the FBI's Chemistry/Toxicology Unit for analysis. Analysis determined that toxic quantities of pilocarpine and atropine had been added to the chocolates. Smaller quantities of sparteine were also identified. In an attempt to determine the possible source of sparteine, the case toxicologist requested a literature search from the Forensic Science Information Resource System (FSIRS). The search revealed several plant sources for sparteine and also identified sparteine-related alkaloids.

A suspect in a murder case was taking the antibiotic tetracycline. The investigating agency asked the Chemistry/Toxicology Unit to determine if

tetracycline could be identified in blood stains. A search of the literature determined that high performance liquid chromatography is the preferred application technique in clinical assays of blood. Because of the forensic limitations of this technique, coupled with the nature of the specimen, the investigating agency was advised not to send the samples to the FBI Laboratory for analysis, thus saving considerable time and resources.

These situations illustrate the reference services provided by FSIRS, a forensic science library housed at the FBI Laboratory in Washington, DC, and at the Forensic Science Research and Training Center in Quantico, VA.

The FSIRS was established in October 1985, to provide information services to personnel in the FBI Laboratory Division and to personnel in the nearly 300 State and local crime laboratories throughout the United States. Such information facilitates evidentiary examinations, as well as the research and development of forensic science knowledge, techniques, and instrumentation.



Ms. Wade

### Information Dissemination

The FSIRS is the center for the dissemination of forensic science information in the United States. The library is authorized to disseminate copies of the British Crown's Home Office *Central Research Establishment Reports* and the British *Metropolitan Police Forensic Science Laboratory Reports* to crime laboratories.

Additionally, to help forensic scientists keep abreast of new technologies and to facilitate training new examiners, subject bibliographies are prepared to augment the feature articles in the FBI's quarterly *Crime Laboratory Digest*. Permission is obtained from the publishers of the documents cited to disseminate copies of the documents to recipients of the *Digest*.

The FSIRS also provides literature searching services and document delivery services to crime laboratories upon written request.

### Reference Collection

The FSIRS consists of approximately 10,000 scientific and technical reference books, the vast majority of which are housed in the unit laboratories and offices of the Laboratory Division. At present, the collection is being cataloged, classified, and entered on a computerized catalog, Bibsrch. The catalog can be searched by author, title, or subject, as well as the International Standard Book Number (ISBN) or call numbers. In the not-too-distant future, Laboratory Division personnel will be able to search the catalog via microcomputers in their individual offices.

The FSIRS subscribes to over 350 journals. However, since information needs are so far-reaching, the FSIRS also accesses the resources of aca-

demie, Federal, private, and public libraries in metropolitan Washington, DC, as well as throughout North America.

### Literature Searches

Searching available literature is an essential aspect of information services. An efficient way to do this is by searching online data bases. The FSIRS uses the Dialog Information Retrieval Service, which currently has more than 300 online bibliographic, statistical, and full-text data bases with multidisciplinary coverage.

The field of forensic science is well-covered by numerous data bases. One such data base is the Criminal Justice Periodical Index, a reference guide to leading journals in the areas of forensic science, criminology, criminal law, family law, security systems, corrections, and police science. Over 100 journals, newsletters, and law reports are included in this index which covers American, British, and Canadian publications.

Embase has long been recognized as an important, comprehensive index of the world's literature on human medicine and related disciplines. The forensic science abstract section goes beyond the bounds of forensic medicine to include a multiplicity of subject areas of interest to forensic scientists. Embase provides access to journal articles, books, dissertations, and conference proceedings. The data base indexes articles from more than 3,500 primary journals from over 100 countries.

Legal Resources Index (LRI) is the most comprehensive index available to the legal English-speaking world. It provides subject, author, case name, and

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***“The FSIRS consists of approximately 10,000 scientific and technical reference books....”***

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statute name access to over 700 journals from major nations having common law tradition. The LRI specifically indexes forensic science information.

The National Criminal Justice Reference Service (NCJRS) data base represents the document collection of NCJRS. Established by the U.S. Congress, NCJRS is the national and international clearinghouse of practical and theoretical information about criminal justice and law enforcement. Entered into this data base are published and unpublished research reports, program descriptions and evaluations, books, dissertations, studies, journal articles, and audiovisual materials.

Scisearch is an interdisciplinary index to the literature of science and technology prepared by the Institute for Scientific Information. It contains all the records published in Science Citation Index and additional records from the Current Contents series of publications. Over 4,100 major scientific and technical journals are indexed.

Forensic science information may also be retrieved from other data base categories, such as biography, biology, business, chemistry, computers, defense, education, energy, engineering, geology, humanities, languages and linguistics, law, marine science, medicine, metals, nutrition and foods, patents, pharmacology, physics, product information, public affairs, toxicology, and government research and documents.

The Dialog Information Retrieval Service provides selective dissemination of information on certain data bases. This capability allows the Dialog user to have a search automatically updated. The most recent literature on a

topic is cited on a printout and is mailed to the user.

#### **Document Delivery**

Providing the documents cited in online literature search bibliographies, as well as the documents cited in other bibliographies, is an important aspect of reference work. The online ordering service of the Dialog Information Retrieval Service allows direct ordering of documents by transferring requests to suppliers electronically. Other document delivery services offer electronic ordering and are used extensively to meet the document needs of the Laboratory Division personnel.

The UMI Article Clearinghouse developed by University Microfilm International provides 48-hour document delivery for photocopies or reprints of articles from over 9,000 journals, as well as photocopies of proceedings, newspapers, and government documents. The Genuine Article provides access to the Institute for Scientific Information's collection of over 8,000 journals published during the current year and the past 4 calendar years. The Genuine Article provides tear sheets or photocopies of documents.

IFI/Plenum Data Company provides copies of U.S. and non-U.S. patents, and the Congressional Information Service (CIS) is an index to the publications of the U.S. House, Senate, and joint committees and subcommittees. CIS provides full text copies of any title indexed in the data base. In addition to ordering documents online, it is often necessary to retrieve documents by searching the collections of academic, Federal, private, and public libraries in metropolitan Washington, DC.

Interlibrary loans are another means of procuring documents. The FSIRS electronically requests and tracks interlibrary loans via the Online Computer Library Center (OCLC) system. By telephonically accessing a mainframe computer in Ohio, many of the collections of the major libraries in North America are searched to determine if a book or journal can be borrowed. This is an efficient means of providing rare reference items for library users.

#### **Reference Requests**

The FBI Laboratory Division is divided into four sections. A brief description of each section and examples of reference requests will further illustrate how the FSIRS meets forensic science information needs.

#### **Document Section**

The Document Section conducts scientific examinations of physical evidence for the Federal Bureau of Investigation and other Federal agencies in criminal and civil matters. Document examinations are also conducted for all duly constituted State and local law enforcement agencies. Questioned document examinations include handwriting, typewriting, printing, paper and ink, as well as shoe print and tire tread comparisons. The Document Section also assists law enforcement agencies in matters involving stolen art objects, evidence in gambling cases, extortionate credit matters, cryptanalytic examinations of communications, mathematical analyses, foreign language translations, and polygraph testing.

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Examples of information requests from personnel in the Document Section include a request for selected dissemination of information (automatic literature search updates) on the morphology and biomechanics of feet. A Special Agent, in cooperation with a researcher from the Forensic Science Research and Training Center, is working on a project concerning the individuality of impressions made by the human foot. The Questioned Document Unit #2 frequently receives crime scene impressions of footprints made by naked or stocking-clad feet. In addition, examiners compare insole impressions in shoes for possible correlation with a suspect. These impressions rarely leave the skin ridge detail necessary for a fingerprint-type identification. The impressions do, however, contain size, shape, and contouring characteristics left by the plantar surface of the foot. The literature obtained from the FSIRS is being applied to the research project and has assisted the examiner in casework.

In another case involving recovery of a stolen painting, Special Agents from the Buffalo Office found small pieces of torn paper in a suspect's van which resembled the damaged protective paper backing of the painting. The fragments were sent to the Laboratory Division for analysis. Due to the delicate nature of the fragmented paper, the document examiner requested a literature search from the FSIRS to determine a safe means of handling, mounting, and transporting paper. The search produced a polyester film encapsulation technique originally used by the Library of Congress to preserve documents.

### **Forensic Science Research and Training Center**

The Forensic Science Research and Training Center (FSRTC) conducts research to develop new forensic science knowledge, techniques, and instrumentation and provides forensic science instruction to Federal, State, and local crime laboratory and law enforcement personnel. The FSRTC is also responsible for disseminating scientific information to the Nation's crime laboratories through the *Crime Laboratory Digest* and for assisting crime laboratories in professional growth through annual symposia.

The scientists at the FSRTC use the information services of the FSIRS extensively. For example, a polygraph research specialist requested scientific, technical, legal, and popular media information on polygraph examinations of personnel. The literature searches and document delivery services provided by the FSIRS are being used in preparing a major report on polygraph applications.

The opiates codeine, morphine, and heroin are derived from the resin of the opium poppy. All three opiates are transformed in the liver and excreted in the urine. A research chemist at the FSRTC requested literature searches and cited documents to determine if after the ingestion of poppy seed bagels, a urine drug screen of the opiates would be positive. After a review of the literature and laboratory experiments, it was determined that the opiates could be detected by testing the urine of individuals who ingested poppy seed bagels.

### **Scientific Analysis Section**

The Scientific Analysis Section applies the knowledge, techniques, and

instruments of chemistry, biochemistry, serology, physics, microscopy, petrography, metallurgy, and other disciplines to the examination of evidentiary materials submitted by Federal, State, and local law enforcement agencies. The types of evidence examined include body fluids, poisons, hair, fibers, paints, dyes, stains, tools, ammunition, firearms, explosives, sabotage devices, soils, safe insulations, building materials, metals, and others.

A forensic science information request from the Scientific Analysis Section entailed researching the history of forensic hair testimony. To prepare for a speech at a meeting of the Mid-Atlantic Association of Forensic Scientists and to provide background for an article to be published in a trade journal, a hairs and fibers examiner requested research to determine how forensic hair examinations and testimony have changed over the past 100 years. Of particular interest was how hair comparisons fit into general criminal investigations and their significance to the investigations.

To cite another case, a Bureau field office forwarded a sample of commercial skunk oil to the Chemistry/Toxicology Unit to identify the material in the bottle and possibly to identify the manufacturer of the product. The sample was placed in a theater which would be host to a performance of a foreign dance troupe. Standards of the components and an analysis of skunk oil were not on file in the Chemistry/Toxicology Unit. Upon request, the FSIRS searched the literature and retrieved references on the gas chromatography-mass spectrometry analysis of skunk oil which greatly facilitated the examination.

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### Special Projects Section

The Special Projects Section is divided into two basic services. The exhibits and graphics service provide trial charts and exhibits, artist's conceptions, and highly specialized investigative aids to investigators and prosecutors. The photographic service provides assistance in investigations involving unusual surveillance situations, conducts forensic photographic examinations, and processes film for motion pictures and stills in direct support of the FBI's investigative efforts.

One of the responsibilities of the Graphic Design Unit is the design and layout of journals, booklets, brochures, forms, and investigative flyers. The work is done on an automated print publishing system using laser print technology. The onsite publication system provides increased efficiency, as well as establishes good design standards for publications. Literature searches and document delivery services on typographic standards requested from the FSIRS enhance the quality of the publications.

### Summary

The Forensic Science Information Resource System (FSIRS) is dedicated to meeting the information needs of Special Agents and support personnel in the FBI Laboratory Division. The FSIRS is also committed to providing forensic science information support to duly authorized crime laboratories in the United States and abroad.

To obtain additional information, contact:

Coleen Wade  
Librarian  
Federal Bureau of Investigation  
Room 3589  
Tenth and Pennsylvania Avenue,  
N.W.  
Washington, DC 20535

FBI

## Crime Rises Again In 1987

The number of serious crimes known to law enforcement agencies nationwide rose 2 percent from 1986 to 1987, according to preliminary annual statistics compiled by the FBI's Uniform Crime Reporting Program. The trend marked the third consecutive annual increase, following rises of 5 percent in 1985 and 6 percent in 1986. The Uniform Crime Reporting statistics, based on an Index of selected offenses, showed the property crime level, like the Index, rose 2 percent last year, while the violent crime total dropped 1 percent.

Among the violent crimes reported, aggravated assault was up 2 percent from 1986, while murder decreased 4 percent, forcible rape was down 1 percent, and robbery dropped 5 percent. The individual property crimes of larceny-theft and motor vehicle theft registered Index upswings of 3 and 5 percent, respectively. The burglary volume dropped 1 percent, and arson recorded a 5-percent decrease.

Following the trend for the Nation as a whole, the Index volume in cities with populations over 50,000 and in suburban and rural areas nationwide was also up 2 percent. Geographically, the Crime Index level was up 1 percent in the Midwest, 3 percent in the Northeast, and 4 percent in the South. The West experienced the only decline, a 1-percent drop.

# The NYPD HELP System

By  
CHIEF ROBERT J. JOHNSTON, JR.  
and  
LT. JAMES E. RYAN  
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Headlines like these are more than informational. They mirror the public's fear for its safety and conjure up scenes of public alarm and social chaos. Blackouts thrust citizens into a darkened world. Building elevators halt, traffic signals fail, and trains become inoperable. Suddenly, people are forced to function in a nonfunctioning environment. Human relations become strained; civility often gives way to short

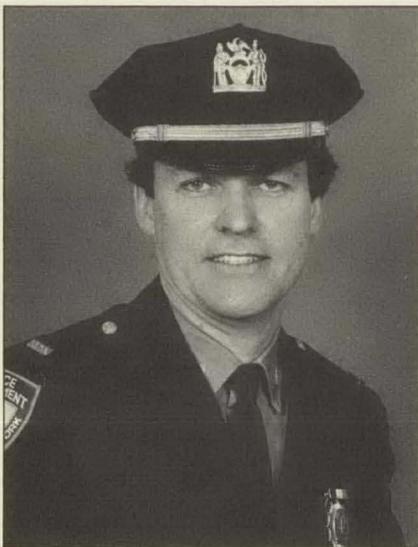
tempers and even hostility as people adjust to their plight. Apprehension and anxiety mount.

Two major blackouts in New York City, one in 1965, another in 1977, were occasioned by countless stories of citizens helping one another. However, the most observable characteristic of the times was not fraternity but fear of injury and crime and concern for the safety of loved ones.

Fortunately for New Yorkers, city-wide power failures have been limited to the two mentioned, and hopefully, such events will never be experienced again. More common occurrences today, however, are localized blackouts caused by storms, accidents, and power overloads that affect a neighborhood, a section of town, or a few square miles of residential or business areas. These blackouts are usually brief and



Chief Johnston



Lieutenant Ryan

cause minimal disruption to the daily routine. But, the longer they last, the more they threaten the safety and well-being of the general public.

The average population density in New York City is 24,000 people per square mile. More significant, though, are the visitors and commuters who converge on the city. Midtown Manhattan, for example, attracts 2 to 3 million people daily. As darkness descends, these people take to the streets and subways for the trip home. Power failure at such times is unthinkable and would have an unlimited potential for dire consequences. However, thinking the unthinkable is essential for the urban police chief who wants to avert such catastrophes. It was for this purpose that the New York City Police Department undertook last summer a project designed to implement a new emergency lighting system.

A review of the department's response capabilities to blackouts indicated that there was a need for improvement. While the current emergency lighting system performed satisfactorily, it needed to be updated with a more rapidly deployable system that could be operated by routine patrol officers. Augmenting the lighting system already in use would be the right step in giving the public the reassurance and safety it needed.

Assembling a team of experts to assess the problem and determine what needed to be done was the first order of business. Those chosen as the work group were superior officers who had vast experience in coordinating police services at power failures. They were proficient in directing police personnel, implementing crowd control techniques, expediting traffic flow, and establishing and maintaining police communications.

New York City is a 301 square-mile area unified by 6,000 miles of public streets and highways. Logistically, it is impossible for the police department to light every portion of the city. However, large geographical sections could be illuminated during power failures by using portable lighting devices temporarily affixed to patrol vehicles. Patrol cars would be the key to getting the job done because they are mobile and are always available for service. Small but powerful lighting devices affixed to them would enable the department to deliver daylight wherever it was needed.

A distribution plan for the lighting devices was another requisite if the endeavor was going to be a long-term antidote for power failures. The team set out to adopt a plan that would be flexible and adaptable to a broad range of conditions that might prevail during any blackout. After much discussion, a threefold solution emerged. Lighting devices would be kept on reserve in a centralized location for dispatch to any area within the city. Upon delivery, the lights would be attached to locally assigned patrol vehicles by means of magnetized pods. Power cords plugged into cigarette lighter receptacles would energize the lights. Within minutes, these high-intensity lights could be activated as needed.

Deploying some of the lighting devices in this manner would obviate the need to purchase a light for every vehicle on patrol, an expensive proposition considering the 1,400 vehicles in the fleet. Moreover, maintenance and security for these lights would be ensured by having them controlled by only a few officers.

For balance, the work group decided that some of the lights would be



Benjamin Ward  
Police Commissioner  
City of New York

usefully deployed if permanently attached to Highway Patrol Unit (HPU) vehicles. Tactically speaking, HPU is highly mobile and its vehicles are well-maintained. It is a resource that can respond instantly to power outages in any part of the city.

To round out the distribution, the work group decided that some lights would be assigned directly to the seven patrol borough commands comprising the Patrol Services Bureau. Others would be issued to the Detective Bureau and the Special Operations Division, parent command to the Emergency Service, Harbor, and Aviation Units. This three-way formula would strike a balance between keeping the lights in one location, placing them permanently on all vehicles, or issuing them to patrol borough commands.

After a study of the available lighting devices was conducted, those that showed potential to be used in an emergency lighting system were given rigorous field tests. The one finally se-

lected is an aircraft landing light adapted for police use. Weighing about 2 pounds, the landing light is essentially a sealed beam encased in a sturdy protective housing. It is about the same size as a typical automobile headlight, but considerably more powerful.

Its beam travels beyond 400 feet in a rectangular pattern (11 degrees horizontal, 6 degrees vertical), illuminating everything in its path. Adjacent building surfaces and glass windows add to the effect by reflecting much of the light back onto nearby sidewalks and streets.

Each light runs on 13 volts of electricity and requires 100 watts of power, an easy load for police vehicles to handle. They are rated at 200,000 candlepower and are warranted to perform for 25 hours. Fitted with power cords that plug into cigarette lighter receptacles, they are also equipped with magnetized pods for adhesion to patrol vehicles. When tested, the lights were powerful, easy to use, and portable, and at \$60 each, represented a good value. Thus



***“The New York City Police Department decided not to play victim to power failures, but to take decisive action to confront this threat.”***



was born the High Intensity Emergency Scene Lighting Plan—HELP as it is called.

Field tests also revealed the best method of deploying the HELP lights. Overlapping their beams in a linear manner ensures against leaving shadows adjacent to and behind the vehicles on which they are mounted. Spacing the lights about 300 feet apart and pointing them in the same direction eliminates those shadows and boosts the amount of light in the already-lighted areas. The overlapping method became standard operating procedure.

With the selection of the lights completed, the work group set about to finalize specific details for using the lights more effectively. Besides the three-pronged distribution plan already mentioned, the team recommended grouping the lights in sets of four for extra brilliance. Steel mounting units were fabricated into light banks and were equipped with magnetic “feet” to

secure them to vehicle rooftops. These light racks would be useful in lighting open areas such as broad avenues, plazas, and parks or for illuminating rivers and bays during rescue-recovery work at scenes of drowning, boating accidents, and aircraft disasters. Eight hundred thousand candlewatts of power can be projected by each rack.

Once the whole plan was devised and the lights were in place, the results were startling. In summary:

- One hundred lights are on standby. They are kept in a ready reserve vehicle in a centrally located facility adjacent to major city highways.
- Eighty lights were used in the fabrication of 20 light racks, each containing 4 lights. They are powered by leads directly attached to storage batteries and controlled by on-off switches that pass through auto windows. Most of these units are kept with the single light devices in the ready reserve vehicle.

—A pair of lighting devices were permanently attached to the rooftop lighting array on 103 Highway Patrol Unit vehicles.

—Two Emergency Service Unit patrol vehicles are equipped with 10 lights apiece. Each vehicle's lighting capability is in excess of 2 million candlepower; 165 amp alternators and electronic speed control devices are installed on those vehicles to run the lights.

—Approximately 200 lights were distributed among the department's seven major patrol commands, the Detective Bureau, and Special Operations Division.

—A fueling system was developed to bring fuel to autos that must be kept in place during a blackout.

Implementation of HELP quadrupled the number of city blocks that the department is capable of illuminating—from just over 100 city blocks to almost 450. This is equivalent to a stretch of area in Midtown Manhattan that extends between 2nd and 9th Avenues and from 20th to 59th Street.

What this means in practical terms is that any local police commander faced with a blackout can now get HELP. With HELP at hand, police units can respond better to pedestrian and traffic problems, potential looting incidents, roving gangs of unruly youths, and rescue efforts.

The New York City Police Department decided not to play victim to power failures, but to take decisive action to confront this threat. Public safety obligations require all municipal police executives to be proactive in evaluating their emergency lighting capabilities. The New York City Police Department will confront power failures more confidently knowing HELP is on the way.

FBI

# ***Police Use of Deadly Force to Arrest***

## ***A Constitutional Standard***

### ***(Part I)***

By

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

Consider the following statement:

"If effective law enforcement is to be maintained, the race must not be to the swift. The fleeing criminal, regardless of his offense, must be considered the author of his own misfortune."<sup>1</sup>

On the other hand:

"Without in any way disparaging the importance of these goals [i.e., effective law enforcement], we are

not convinced that the use of deadly force is a sufficiently productive means of accomplishing them to justify the killing of nonviolent suspects. . . . [The parties] have not persuaded us that shooting nondangerous fleeing suspects is so vital as to outweigh the suspect's interest in his own life."<sup>2</sup>

But:

"Without questioning the importance of a person's interest in his life, I do not think this interest encompasses a right to flee unimpeded from the scene of a burglary. . . . [T]o avoid the use of deadly force and the consequent risk to his life, the suspect need merely obey the valid order to halt."<sup>3</sup>

These seemingly irreconcilable statements describe a conflict that has

raged within our society and the courts for many years. They reflect the concerns of intelligent and well-meaning people who struggle to strike a proper balance between the sometimes competing interests of the individual (in his own life) and society (in effective enforcement of its laws). State legislative bodies, police policymakers, and more recently, the courts have confronted this dilemma and sought to resolve it. The result is that today, the law enforcement officer's decision to use deadly force implicates a number of different — and sometimes differing — guidelines by which the correctness of his decision may be assessed.

Historically, State law has been the primary means of defining police authority to use deadly force. However, in recent years, police administrators —



Special Agent Hall

for a variety of reasons — have tended to develop departmental policies, sometimes more restrictive in scope, to supplement the State law. Today, there is a Federal constitutional standard by which both the law and departmental policy must be measured.

The purpose of this article is to briefly trace the developments that led to the establishment of the Federal constitutional standard governing the use of deadly force by police, to analyze that standard, and to describe the manner in which it is being applied by the courts.

## HISTORICAL DEVELOPMENTS

### The Common Law

The influence of the English common law on American laws and institutions was both natural and profound. As settlers came to the New World, they brought as part of their baggage the values, customs, and laws of their mother country; because most of the early colonists came from the British Isles, that meant English customs and laws.

In describing the common law rule allowing the police to use deadly force, the famous 18th-century English jurist William Blackstone articulated the following scenarios where the use of deadly force was justified:

“Where an officer in the execution of his office, either in a civil or criminal case, kills a person that assaults or resists him.

“If an officer, or any private person, attempts to take a man charged with felony, and is resisted; and in the endeavor to take him, kills him.

“. . . in all these cases, there must be an apparent necessity on the officer's side, viz, that the party could not be arrested . . . unless such homicide were committed: otherwise, without such absolute necessity, it is not justifiable.”<sup>4</sup>

The first paragraph of this statement may be characterized as a self-defense provision; the second, as the authority to prevent the escape of a fleeing felony suspect; and the third, as an overall requirement of necessity before the use of deadly force was permissible.

Another statement of the same principle, relied upon by American jurists and legislators, was that of the renowned 18th-century English judge and scholar Sir Matthew Hale, who framed the rule as follows:

“[I]f persons that are pursued by these officers for felony or the just suspicion thereof . . . shall not yield themselves to these officers, but shall either resist or fly before they are apprehended . . . so that they cannot be otherwise apprehended, and are upon necessity slain therein, because they cannot be otherwise taken, it is no felony.”<sup>5</sup>

In both statements, the rule is described as a privilege against criminal prosecution, rather than an affirmative grant of authority. Likewise, in both statements of the rule, an officer could use deadly force when necessary to overcome resistance to arrest or to prevent the escape of any felony suspect. Due to the lack of distinction in the second part of the rule as to the nature of the felony which would justify the use of deadly force to prevent escape, it has

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**“ . . . today, the law enforcement officer's decision to use deadly force in a given set of circumstances implicates a number of different—and sometimes differing—guidelines . . . . ”**

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been generally characterized as the “fleeing felon” rule.

#### **Statutory and Policy Changes**

Following the establishment of American independence, most States adopted the “fleeing felon” rule by statute or court decision. After all, felonies were by definition serious offenses, frequently punishable by death. Furthermore, in the days when communications were only as fast as the legs of man or horse and organized police forces were nonexistent, the likelihood of an escaping — and perhaps unidentified — suspect's later capture was remote, to say the least.

The passage of time brought dramatic technological and organizational changes to American law enforcement, and with those changes, came pressures to modify the “fleeing felon” rule. Partly as a response to these changes and pressures, some States adopted modifications of, or alternatives to, the “fleeing felon” rule, which generally tended to limit the use of deadly force by police to those circumstances where it was necessary to prevent the escape of a “dangerous” felony suspect. Typically, that meant that either the suspected felony must be one defined by law as “dangerous” or “forcible,” or there must exist some other reason to believe that immediate apprehension was necessary to avoid risk to the officer or others.

Apart from these statutory developments, many law enforcement agencies adopted policies which were stricter than the “fleeing felon” rule of their respective States. The reasons for such policies are varied, but undoubtedly reflect sensitivity to the pressures generated by the media, citizen groups,

and lawsuits (or perceived risks thereof) whenever police action culminates in the use of deadly force. To paraphrase a famous college football coach who decried the evils of the forward pass, when it does occur, “three things can happen and two of them ain't good.” Whether such a cautious attitude is in the best interests of society is a matter for debate, but given the pressures on the modern-day American police administrator, it may be at least understandable that the escape of a felon — even a dangerous one — is sometimes viewed as the lesser of several evils.

#### **THE CONSTITUTIONAL CHALLENGE**

For most of our 200-year history, the States exercised their police powers unfettered by the Federal courts and Constitution. The Bill of Rights restrained only the powers of the Federal Government and had no application to the States. The first significant change came with the adoption of the 14th amendment in 1868, which specifically requires adherence to “due process of law” before a State can deprive any person of “life, liberty or property,” and which paved the way for Federal legislation — e.g., Title 42, U.S. Code, Section 1983 — designed to enforce the provisions of that amendment in Federal courts.

Notwithstanding the apparent importance of the change, both the amendment and the enabling legislation were largely symbolic, with little practical impact on State police powers until well into the 20th century. It was in the 1930's that the Supreme Court began to accept review of State criminal cases in light of the “due process” re-

quirement of the 14th amendment. Viewing due process as requiring adherence by the State to the concept of “fundamental fairness,” the Court began the process of selectively applying to the States portions of the Federal Bill of Rights considered by the Court to be “fundamental to the concept of ordered liberty. The result was a phenomenon frequently described as a “criminal procedure revolution,” wherein virtually all law enforcement activities have been “constitutionalized.”

Coupled with this process of “selective incorporation” were two Supreme Court decisions — *Mapp v. Ohio*<sup>6</sup> and *Monroe v. Pape*<sup>7</sup> — without which the criminal procedure “revolution” could not have occurred. Decided in 1961, both cases fashioned remedies for alleged violations of Federal constitutional rights by State and local police: The first by requiring the suppression of unconstitutionally seized evidence at State criminal trials; the second by facilitating lawsuits in Federal court against State and local officials for violations of Federal constitutional rights.

Although these developments allowed constitutional challenges to most police practices, they did not have an immediate impact on the “fleeing felon” rule, which was still the prevailing law in most States. The reason lies in the fact that applications of deadly force by police were generally grounded upon either State statute or departmental policy, or both. The 11th amendment to the U.S. Constitution precludes suits against the States without their consent, and in *Monroe v. Pape*, the Supreme Court interpreted § 1983 to allow suits only against natural persons, not

**“... the focus of [constitutional] challenges [to the police use of deadly force] was, of necessity, on the officer's actions, rather than the policy or law that may have prompted them.”**

government entities. Furthermore, in *Pierson v. Ray*,<sup>9</sup> the Court held that a police officer sued under §1983 enjoyed a defense of qualified immunity from such suits if the officer was acting in “good faith,” with a reasonable belief in the lawfulness of his actions.

In combination, these three factors meant that neither the State which enacted a statute nor the municipality which adopted a policy could be sued under §1983, and an officer acting under the authority of either was generally held to be entitled to a good faith belief in their lawfulness. That is not to say that there were no constitutional challenges to the police use of deadly force. It simply means that the focus of such challenges was, of necessity, on the officer's actions, rather than the policy or law that may have prompted them. Consequently, efforts to reach beyond the officer to challenge the statute or policy were consistently thwarted by these limitations.

A case in point is *Mattis v. Schnarr*,<sup>9</sup> in which a Missouri police officer shot and killed a fleeing burglary suspect pursuant to a State statute which codified the common law “fleeing felon” rule. In the resulting §1983 lawsuit filed against the officer, it was determined by the trial court that the officer enjoyed the defenses of good faith and probable cause. Although the Federal appellate court agreed on the issue of the officer's good faith defense, it nevertheless concluded that the State statute under which the officer acted violated the “fundamental right to life” as guaranteed by the 14th amendment

Due Process Clause. On review, the Supreme Court set aside the appellate court's decision on the procedural ground that since the only viable defendant, the officer, was shielded by the good faith defense, there remained “no case or controversy” to justify Federal court jurisdiction.<sup>10</sup> Two additional Supreme Court decisions would be necessary to alter this picture, and they were not long in coming.

In 1978, the Court decided *Monell v. Department of Social Services*,<sup>11</sup> which held that local government entities could be sued under §1983 in appropriate circumstances. While emphasizing that local government liability does not rest on the doctrine of respondeat superior — i.e., merely because the entity employs a wrongdoer — the Court explained:

“... it is when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under §1983.”<sup>12</sup>

Then, in 1980, in *Owen v. City of Independence*,<sup>13</sup> the Court held that local government entities properly sued under §1983 may not assert the defense of qualified immunity, or “good faith.” Thus, when an individual officer is dismissed from a lawsuit, the action may still, under appropriate circumstances, be maintained against his department or municipality.

These two decisions paved the way for a direct constitutional challenge to the “fleeing felon” rule.

## **A CONSTITUTIONAL STANDARD — TENNESSEE V. GARNER<sup>14</sup>**

### **The Facts**

Two Memphis, TN, police officers responded to a late night call that a burglary was in progress at a private residence. Upon arriving at the scene, they learned from the woman who had made the call that she had heard glass breaking at the residence next to hers and that someone was breaking in. As one officer radioed to report their location, the second officer walked to the back of the house, where he heard a door slam and saw someone running across the backyard. The officer saw the fleeing suspect stop momentarily at a 6-foot high chain link fence at the edge of the yard. With the aid of a flashlight, the officer was able to see the suspect's face and hands and concluded that though not certain, he was reasonably sure the suspect was not armed. The officer then called out to the suspect, “Police, halt,” and took a couple of steps in his direction. At that moment, the suspect began to climb the fence, and the officer fired one shot which struck him in the back of the head, inflicting a fatal wound.

The suspect was identified as Eugene Garner, a 15-year-old eighth grader, described as 5'4" tall and weighing 100-110 pounds. Ten dollars and a purse taken from the house were found on the body.

In using deadly force to prevent Garner's escape, the officer was relying on the authority of a Tennessee statute which, like the common law rule, permitted the use of “all necessary means”

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to prevent the escape of a felony suspect if, "after notice of the intention to arrest . . . he either flee or forcibly resist. . . ."

Garner's father filed a suit in Federal court seeking damages pursuant to 42 U.S.C. §1983 and alleging violations of the 4th, 5th, 6th, 8th, and 14th amendments to the U.S. Constitution. The named defendants in the suit were the officer who fired the shot, the Memphis Police Department, its director, and the mayor of the City of Memphis.

Following a 3-day bench trial, the district court entered a judgment in favor of the defendants on the grounds that the officer's actions were authorized by State law, and there was no evidence to sustain the action against the other defendants.

The Court of Appeals for the Sixth Circuit affirmed the judgment as it related to the officer, finding that he had acted in good faith reliance on the statute, but remanded the case to the district court to reconsider the issue of the city's liability in light of the *Monell* decision.<sup>15</sup> On review, the district court held that the State statute and the officer's actions were constitutional, thereby avoiding the question of the city's liability.

On the second appeal, the court of appeals held that killing a fleeing suspect is a fourth amendment "seizure," subject to the requirement that it be "reasonable." The court further held that the statute was unconstitutional because it permitted the use of excessive force by police officers to effect the arrests of nondangerous felony suspects fleeing from nonviolent crimes. The court concluded:

"A state statute or rule that makes no distinction based on the type of offense or the risk of danger to the community is inherently suspect because its permits an unnecessarily severe and excessive police response that is out of proportion to the danger to the community."<sup>16</sup>

Having determined that the State statute was unconstitutional, the court of appeals held that the Supreme Court's decision in *Owen* precluded the application of the good faith defense to the City of Memphis. The decision was then appealed to the Supreme Court.

#### The Decision

The Supreme Court viewed the question before it as requiring a determination of "the constitutionality of the use of deadly force to prevent the escape of an apparently unarmed suspected felon." By a 6 to 3 margin, the Court held that such action violates the fourth amendment protections against "unreasonable" seizures.

Defining a "seizure" as "[w]henver an officer restrains the freedom of a person to walk away," the Court went on to note that "there can be no question that apprehension by the use of deadly force is a seizure subject to the reasonableness requirement of the Fourth Amendment."<sup>17</sup>

Because the reasonableness standard requires a balancing of the "nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion . . . reasonableness depends on not only when a seizure is made, but also how it is carried out."<sup>18</sup>

In other words, notwithstanding the principle that an officer may arrest a person if he has probable cause to believe the person committed a crime, "he may not always do so by killing him."<sup>19</sup>

The use of deadly force not only impinges the individual's interests in his own life but it also "frustrates the interest of the individual, and of society, in judicial determination of guilt and punishment."<sup>20</sup> Balancing these interests against the community's interest in apprehending criminal suspects, the Court concluded that it is not necessarily better that all felony suspects be shot than that they escape. On the contrary, if the suspect "poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so."<sup>21</sup>

Accordingly, the Court held that deadly force may not be used "unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others."<sup>22</sup> Thus, to the extent that the Tennessee statute permitted the use of deadly force to prevent the escape of nondangerous suspects, it was held to be unconstitutional.

The application of this principle to the facts of the case led the Court to conclude that the mere fact Garner was a suspected burglar could not, without more, justify the use of deadly force to prevent his escape. The Court noted that the officer had no reason to believe that Garner was armed or otherwise posed a threat to him, and furthermore,

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**“ . . . ‘there can be no question that apprehension by the use of deadly force is a seizure subject to the reasonableness requirement of the Fourth Amendment.’ ”**

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that burglary is commonly characterized by law enforcement agencies as a property crime. The Court observed:

“Although the armed burglar would present a different situation, the fact that an unarmed suspect has broken into a dwelling at night does not automatically mean he is physically dangerous. This case demonstrates as much.”<sup>23</sup>

Upon reaching its conclusion, the Court remanded the case to the lower courts to determine the liability of the police department and the City of Memphis. The Court noted that all individual defendants (the police officer, the director, and the mayor) had been dismissed from the complaint, that the State of Tennessee was not subject to liability in this lawsuit, and that any liability of the department and city would depend upon a determination of whether the unconstitutional action upon which this suit is based resulted from the deadly force policy of the department.

#### **Analysis**

Clearly, the *Garner* decision is one of great importance. It represents a dramatic departure from the traditional deference historically given to the States on such issues as when a police officer may be justified in using deadly force to effect an arrest. Furthermore, the impact of the decision is not limited to the State of Tennessee or the City of Memphis. At the time *Garner* was decided, almost one-half of the States retained the “fleeing felon” rule — either by statute or court decision. Several others followed modifications of the rule which were somewhat more restrictive, but which would in all likelihood have permitted the use of deadly force under the

circumstances proscribed in the *Garner* case. The Court was not unmindful of the long history of the common law rule and its continued prevalence among the laws of the States; however, it viewed those factors as insufficient to outweigh what the Court described as “. . . the long-term movement . . . away from the rule that deadly force may be used against any fleeing felon . . . .”<sup>24</sup>

The Court then considered the historical underpinnings of the “fleeing felon” rule and observed that modern-day developments in law and law enforcement have largely undermined them. First, the Court observed that the distinction between felonies and misdemeanors today is often minor, artificial, and arbitrary. Crimes characterized as misdemeanors in one State may be felonies in another, or vice versa, and such distinctions often change with time. Furthermore, offenses which did not even exist at common law may today be classified as felonies. Second, it is no longer true — as it was at the time of the rule’s inception — that most felonies are punishable by death. One of the historical justifications for the “fleeing felon” rule was that the killing of an escaping felon — whose life was already presumably forfeit under the law — served to expedite the process. The Court emphasized that changes in the law have “undermined the concept, which was questionable to begin with, that use of deadly force against a fleeing felon is merely a speedier execution of someone who has already forfeited his life.”<sup>25</sup> Third, the Court noted that the emergence of firearms as standard tools of law en-

forcement during the past century, with the resulting ability to use deadly force from a distance, makes it difficult to view the common law rule in the same light as in the days when deadly force could be inflicted “almost solely in a hand-to-hand struggle during which, necessarily, the safety of the arresting officer was at risk.”<sup>26</sup>

One additional factor to which the Court obviously attached great significance was the existence of departmental policies governing the use of deadly force. The Court observed that overwhelmingly, “these are more restrictive than the common law rule” and therefore serve to rebut the assertions that the more restrictive rules unnecessarily hamper law enforcement and are more difficult for officers to apply.

Specifically focusing on the potential which a change in the rule might have for hampering effective law enforcement, the Court stated:

“We would hesitate to declare a police practice of long standing ‘unreasonable’ if doing so would severely hamper effective law enforcement. But the indications are to the contrary. There has been no suggestion crime has worsened in any way in jurisdictions that have adopted, by legislation or departmental policy, rules similar to that announced today.”<sup>27</sup>

#### **A Dissenting View**

A strong dissent, written by Justice O’Connor and joined by then Chief Justice Burger and present Chief Justice Rehnquist, condemned the majority’s holding as effectively creating “a Fourth Amendment right

allowing a burglary suspect to flee unimpeded from a police officer who has probable cause to arrest, who has ordered the suspect to halt, and who has no means short of firing his weapon to prevent escape."<sup>28</sup> The dissent is significant, not simply because it expresses a different point of view concerning a complex and sensitive issue, but because it also reflects the breadth and intensity of the debate within the Court which preceded the decision.

Without challenging the majority's holding that killing a fleeing suspect constitutes a fourth amendment "seizure," and is therefore subject to the "reasonableness" requirement of that amendment, the dissent nevertheless vehemently disagreed with the point at which the majority chose to strike the balance between the interests of society and those of the individual as they relate to the apprehension of suspected burglars. As to society's interest, O'Connor stated:

"The public interest involved in the use of deadly force as a last resort to apprehend a fleeing burglary suspect relates primarily to the serious nature of the crime. Household burglaries represent not only the illegal entry into a person's home, but also 'pose real risk of serious harm to others.' . . . Moreover, even if a particular burglary, when viewed in retrospect, does not involve physical harm to others, the 'harsh potentialities for violence' inherent in the forced entry into a home preclude characterization of the crime as

'innocuous, inconsequential, minor, or nonviolent.' . . . Because burglary is a serious and dangerous felony, the public interest in the prevention and detection of the crime is of compelling importance."<sup>29</sup>

With respect to the individual's interest:

"Against the strong public interests justifying the conduct at issue here must be weighed the individual interests implicated in the use of deadly force by police officers . . . Without questioning the importance of a person's interest in his life, I do not think this interest encompasses a right to flee unimpeded from the scene of a burglary."<sup>30</sup>

Considering the facts of the *Garner* case, where the officer was investigating a nighttime burglary, had probable cause to arrest the suspect for that offense, and ordered him to halt, Justice O'Connor attributed the risk to the suspect's life to his own refusal to heed the officer's command. Thus, "to avoid the use of deadly force and the consequent risk to his life, the suspect need merely obey the valid order to halt."

The dissent concludes then:

"A proper balancing of the interests involved suggests that the use of deadly force as a last resort to apprehend a criminal suspect fleeing from the scene of a nighttime burglary is not unreasonable within the meaning of the Fourth Amendment."<sup>31</sup>

As noted previously, the dissent agreed with the majority's holding that

killing a person to prevent his escape from arrest is a "seizure" within the meaning of the fourth amendment. Although not entirely clear, it appears that the dissent also accepted the general proposition of the majority that the "use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable." (Justice O'Connor describes such statements in the majority opinion as "unexceptional" and "rhetorically stirring.")<sup>32</sup> Notwithstanding this apparent unanimity on the general principles, however, the lack of consensus on the Court as to how those principles should be applied reflect the continuing dilemma faced by law enforcement officers who must decide — usually in a moment's time and under less than optimum conditions — whether a suspect is "dangerous."

In that respect, it becomes exceedingly important to understand the scope of the Supreme Court's decision in *Garner* and the factors that are likely to govern future litigation of this issue. The majority in *Garner* identified two general criteria which are relevant in deciding whether a suspect is dangerous: (1) Where the suspect threatens the officer with a weapon; or (2) where the officer has probable cause to believe that the suspect committed an offense in which he inflicted or threatened infliction of serious physical injury.<sup>33</sup> However, as the dissent points out, the majority opinion provides no clear guidance to the police for judging "which objects, among an array of potentially lethal weapons ranging from guns to knives to baseball bats to rope, will justify the use of deadly force." Likewise, the dissent notes that assuming an officer has

“ . . . deadly force may not be used ‘unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.’ ”

probable cause to arrest and a suspect refuses to obey an order to halt, the majority “declines to outline the additional factors necessary to provide ‘probable cause’ for believing that a suspect ‘poses a significant threat of death or serious physical injury.’ ”<sup>34</sup>

Obviously, the unanswered questions invite — indeed demand — additional litigation, and the dissent’s prediction that there would now, of necessity, be an “escalating volume” of cases has been largely borne out. Part II of this article will examine that burgeoning area of fourth amendment doctrine in an effort to find some of the answers and provide some guidance to those who must give practical effect to the law.

FBI

#### Footnotes

- <sup>1</sup>14 McGill L.J. at page 311.
- <sup>2</sup>*Tennessee v. Garner*, 471 U.S. 1, at 9 (1985).
- <sup>3</sup>*Id.*, O’Connor, J. dissenting at 21.
- <sup>4</sup>W. Blackstone, Commentaries 203-204 (Beacon Press, 1962).
- <sup>5</sup>Cited in *Garner*, *supra* note 2, at 10.
- <sup>6</sup>367 U.S. 643 (1961).
- <sup>7</sup>365 U.S. 167 (1961).
- <sup>8</sup>386 U.S. 547 (1967).
- <sup>9</sup>547 F.2d 1007 (8th Cir. 1976).
- <sup>10</sup>*Ashcroft v. Mattis*, 431 U.S. 171 (1977).
- <sup>11</sup>436 U.S. 658 (1978).
- <sup>12</sup>*Id.* at 694.
- <sup>13</sup>445 U.S. 622 (1980).
- <sup>14</sup>*Supra* note 2.
- <sup>15</sup>*Garner v. Memphis Police Department*, 600 F.2d 53 (6th Cir. 1979).
- <sup>16</sup>*Garner v. Memphis Police Department*, 710 F.2d 240 (6th Cir. 1983).
- <sup>17</sup>*Tennessee v. Garner*, 471 U.S. 1, at 7 (1985).
- <sup>18</sup>*Id.* at 7-8.
- <sup>19</sup>*Id.* at 8.
- <sup>20</sup>*Id.*
- <sup>21</sup>*Id.* at 9-10.
- <sup>22</sup>*Id.* at 4.
- <sup>23</sup>*Id.* at 16.
- <sup>24</sup>*Id.* at 14.
- <sup>25</sup>*Id.* at 11.
- <sup>26</sup>*Id.* at 12.
- <sup>27</sup>*Id.* at 14-15.
- <sup>28</sup>*Id.*, O’Connor, J. dissenting, at 17.
- <sup>29</sup>*Id.* at 19-20.
- <sup>30</sup>*Id.* at 21.
- <sup>31</sup>*Id.*
- <sup>32</sup>*Id.* at 18.
- <sup>33</sup>*Id.* at 10.
- <sup>34</sup>*Id.* at 23.

## National Law Enforcement Officers’ Memorial Fund

Director Sessions, in the April 1988, issue of the *FBI Law Enforcement Bulletin*, endorsed the law enforcement community’s efforts to build a memorial to the thousands of peace officers who have given their lives to protect their fellow citizens. The *FBI Law Enforcement Bulletin* also has run articles (November 1987) on this worthwhile effort.

Fundraising efforts to build a memorial in Washington, DC, on Judiciary Square, are now underway. To contribute, or for further information, contact Mr. Craig Floyd, Executive Director, National Law Enforcement Officers’ Memorial Fund, 1360 Beverly Road, McLean, VA, 22101, telephone 703-827-0518.

# WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 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.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on the fugitives' status.



Photographs taken 1974, 1970, and date unknown

**Katherine Ann Power,**

also known as Priscilla Coe, Claire Johnson, Maureen Sheila Kelly, May Kelly, May S. Kelly, Jane Pascarella, Kathy Power, Katherine Ann Powers, Kathy Powers.

W; born 1-25-49; Denver, CO; 5'; 145 to 150 lbs; stocky bld; light brown or dark blonde, may be dyed black, hair; hazel eyes; med comp; occ-cook, receptionist, waitress; remarks: May have short manish-cut hair style; wear glasses or contact lenses; scars and marks: Pockmark on left cheek, appendectomy scar, large scar on abdomen.

Wanted by FBI for INTERSTATE-FLIGHT MURDER; THEFT OF GOVERNMENT PROPERTY; BANK ROBBERY  
I.O. 4402

Social Security Numbers Used: 522-74-2089; 003-46-5275

FBI No. 545 574 H

**Caution**

Power is being sought in connection with a bank robbery in which a police officer was shot to death. Power should be considered armed and extremely dangerous.



Right index fingerprint



Photographs taken 1967

**Joseph Michael Maloney,**

also known as Joe Molony, "Red" Maloney.

W; born 9-4-35; Rochester, NY; 6'2" to 6'3"; 165 to 170 lbs; slender bld; red hair; blue eyes; light comp; occ-contractor, explosives engineer, tree surgeon; scars and marks: Scar right eyebrow, operation scar right side of abdomen, distinct wrinkle on forehead.

Wanted by FBI for INTERSTATE FLIGHT-MURDER

NCIC Classification:

62PIPIPIPOTT10PMPI16

Fingerprint Classification:

12 27 r W III  
14 t U OMI 16

I.O. 4168

FBI. No. 23 008 C

**Caution**

Maloney has been convicted of illegal possession of a firearm. He may be armed and should be considered dangerous.



Left index fingerprint



Photographs taken 1983

**David Puium Choi,**

also known as David P. Choi, David Pium Choi, Tsoi Pui Lam. O; born 2-13-52 (not supported by birth records); Hong Kong, B.C.; 5'8"; 135 lbs; med bld; blk hair; brn eyes; med comp; occ-waiter; remarks: Choi is reportedly a flashy dresser and usually wears designer clothing; wears prescription glasses.

Wanted by FBI for INTERSTATE FLIGHT-MURDER

NCIC Classification:

POPIPOPIPI16PMPMPM

Fingerprint Classification:

16 O 32 W I O I  
I 30 U OMM

I.O. 5045

Social Security Number Used: 559-06-1875

FBI No. 247 398 EA6

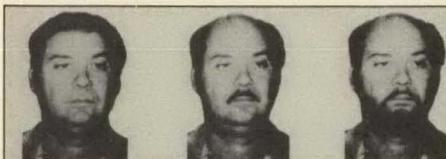
**Caution**

Choi is being sought in connection with a slaying in which the victim was stabbed to death. Choi should be considered armed and dangerous.



Left ring fingerprint

# WANTED BY THE FBI



Photograph taken 1984 Retouched photographs

**Roy Creighton Blakeney,**

also known as Ray Creighton Blakeney, Ray Creighton Blakeney, Roy Blakeney, Roy C. Blakeney, Roy C. Blackeney, Vincent Grassi, Ed Harvey, "Butch." W; born 10-18-40 (true date of birth); 10-18-35; Miami, FL; 5'6"; 180 lbs; large bld; brn (balding) hair; brn eyes; med comp; occ-self-employed jeweler, furniture dealer, car salesman; scars and marks: Scar on left leg from hip to knee. Wanted by FBI for MANUFACTURE, DISTRIBUTE, DISPENSE AND POSSESSION OF METHAMPHETAMINE WITH INTENT TO DISTRIBUTE AND DISPENSE

NCIC Classification:

23041216061712161711

Fingerprint Classification:

23 L 1 U IOO 6  
L 1 U OOO

I.O. 5049

Social Security Number Used: 263-56-1309  
FBI No. 824 350 C

**Caution**

Blakeney has been convicted of attempted burglary and possession of burglary tools. He is an organized crime figure with known narcotics activity involving the Hells Angels motorcycle gang. He should be considered armed and dangerous.



Right index fingerprint



Photographs taken 1982

**Melvin Edward Mays,**

also known as Melvin Mays, Melvin E. Mays, "Maumee," "Maumie." B; born 9-7-57; Chicago, IL; 5'9"; 165 lbs; med bld; blk hair; brn eyes; dark comp; remarks: He may have a beard and mustache. He is missing several upper left front teeth and stutters when he speaks.

Wanted by FBI for INTERSTATE TRANSPORTATION OF EXPLOSIVES; CONSPIRACY; RECEIPT AND TRANSPORTATION OF EXPLOSIVES; INTERSTATE TRAVEL TO PROMOTE CRIMINAL ACTIVITY; POSSESSION OF UNREGISTERED FIREARMS

NCIC Classification:

1817091914DOAA08PMPI

Fingerprint Classification:

18 L 6 U OIO 14 Ref: 22  
O 2 A IM 2

I.O. 5047

Social Security Number Used: 354-56-8017  
FBI No. 5 830 AA4

**Caution**

Mays has been convicted of obstructing a police officer. He is being sought in connection with the purchase of an explosive device and is a known member of a violent street gang. Mays, who is known to possess automatic weapons, should be considered armed and dangerous and a narcotics user.



Right index fingerprint



Photographs taken 1985 and date taken unknown

**Mickey Lee Davis, Sr.,**

also known as Mickey Lee David, Mickey Leon David, Mickey L. Davis, Mickey Lee Davis, Bruno Smith, Roger Smith, "50-50." W; born 11-19-49 (true date of birth); 11-19-44; 11-9-49; Chattanooga, TN; 5'7"; 200 to 210 lbs; hvy bld; brn hair; brn eyes; med comp; occ-automobile transmission and body repairman, mortar and brick mason, laborer on an offshore oil well; remarks: Reportedly has a "beer belly" stomach and has worn a full beard in past; scars and marks: Tattoos: Dog's head on upper left arm; heart and ribbon on left forearm; snake on left wrist; dagger and rose on upper right arm; confederate flag with the word "Rebel" on right forearm. Wanted by FBI for INTERSTATE FLIGHT-MURDER

NCIC Classification:

PO1415CM0322C1110907

Fingerprint Classification:

14 0 9 U OOM 3  
L 19 W IOI

I.O. 5041

Social Security Numbers Used: 412-94-4215; 315-78-5539; 412-25-0132  
FBI No. 231 918 G

**Caution**

Davis has been convicted of larceny, theft, burglary, possession of burglary tools, possession of a controlled substance with intent to sell, and possession of a firearm. An escapee from custody, he is being sought in connection with a murder wherein the victim was killed with a shotgun blast to the face. Davis should be considered armed, dangerous, and an escape risk.



Left index fingerprint

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# Unusual Pattern

This month's presentation possesses a sufficient recurve, a delta, and a ridge count across a looping ridge. It is classified as a loop with nine ridge counts. The general contour of this impression is very unusual.



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## Change of Address

Not an order form

# FBI

## Law Enforcement Bulletin

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## ***The Bulletin Notes***

On November 15, 1987, Dep. Roy Chapman of the Butler County, OH, Sheriff's Office responded to a traffic accident. Arriving at the scene, Deputy Chapman discovered four unconscious victims trapped inside a burning vehicle. With no regard for his personal safety, Deputy Chapman pulled the victims from the car, saving all four lives. The Bulletin is pleased to join Deputy Chapman's superiors in recognizing his heroic actions.



*Deputy Chapman*

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