FBI Law Enforcement Bulletin

March 1986

Fingerprint Automation

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The FBI's research and development in automating fingerprint processes revolutionized the science of fingerprint identification. See article p. 2.

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Law Enforcement Bulletin

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Washington, DC 20535

William H. Webster, Director

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Director's Message

Law enforcement today is a profession. Like other professions, such as medicine or law, it is particularly dependent upon the quality of its people. Law enforcement, because it is a public service, must attract the best people available.

And we must attract large numbers of people because of our size. The Uniform Crime Reporting Program shows that there are 611,488 law enforcement professionals in this country among local, county, and State governments. When you add Federal law enforcement personnel, plus an equal or greater number of private security people, the law enforcement community is very large indeed.

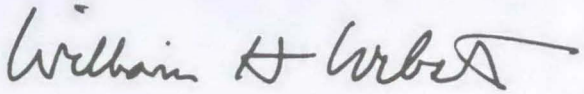
Any police chief, sheriff, or other law enforcement executive knows that all the time and money spent on departmental improvement is wasted if the personnel of the department are not the very best the community can attract. The overall performance of a given law enforcement organization rests to a great extent on the caliber of its personnel. The early history of police professionalism tells us this; Berkeley, CA, Police Chief August Vollmer, one of the giants of law enforcement in the early part of this century, emphasized quality personnel recruitment, including the hiring of college students and graduates for the first time in policing.

Each generation has the task of reinvigorating the law enforcement profession with new personnel. One way to foster the recruitment of the best young people available is through the Law Enforcement Exploring Program of the Boy Scouts of America. Exploring today coordinates the activities of some 2,000 Explorer posts with more than 42,000 members. Operated by law enforcement agencies in the local, county, State, Federal, military, and private security areas, this program offers young people age 14 through 20 an opportunity to learn about law enforcement as a career choice. This year, the National Law Enforcement Exploring Conference, to be held July 14–19, 1986, at the University of Washington in Seattle, will be attended by some 2,000 Explorers.

The benefits to law enforcement of participation in this Exploring program are in the areas of community service and personnel development, both in encouraging future employees interested in law enforcement and in involvement in youth work for present employees. Employee involvement in working with youth is, of course, a constructive antidote to the law enforcement stress that can affect every agency.

The International Association of Chiefs of Police and the National Sheriff's Association have supported Law Enforcement Exploring since its inception. This year's conference is chaired by the Bureau of Alcohol, Tobacco and Firearms, with participation by the Federal Bureau of Investigation, Drug Enforcement Administration, Secret Service, Customs Service, U.S. Marshal's Service, U.S. Army and Air Force investigative arms, and many local police agencies. The 1983 conference was chaired by the FBI.

Law Enforcement Exploring is a way for your organization's employees to share what they know best with youth—their careers. I urge every law enforcement executive to support this worthwhile program that can benefit both youth and your department in the years ahead.



William H. Webster
Director
March 1, 1986

Fingerprint Automation

Progress in the FBI's Identification Division

By
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Washington, DC

Time Magazine reported that 3 minutes after receiving its first assignment, Los Angeles' new automated fingerprint system identified a suspect in the "Night Stalker" killer case that had terrorized the city for months.[1] In a recent issue of the *FBI Law Enforcement Bulletin*, two police chiefs wrote:

> "... the automation of fingerprints for classification and matching ... [is] the most significant technological innovation in law enforcement in decades...." [2]

The pioneering work done by the FBI in automating fingerprint identification provided the groundwork for most of the automated fingerprint systems used today by the Nation's police departments. The FBI's Identification Division has been the Nation's repository for fingerprint records since 1924. As early as 1934, the Division had experimented with automation; only the punch card system was then available, and it was not able to cope with the daily workload in the Identification Division. By 1939, the FBI's fingerprint files had grown to 10 million.

Today, the criminal fingerprint file contains over 83 million cards representing over 22 million persons. An average workday brings some 27,000 fingerprint cards to the Identification Division. This tremendous workload has required the employment and training of over 3,600 employees.

In 1975, the Bulletin reported on the FBI's progress toward automation by computer.[3] This had begun in 1963 when assistance was requested of the National Bureau of Standards (NBS). The automation of the Identification Division's fingerprint work involved two kinds of information—criminal history records and fingerprints. Electronic data processing could be readily adapted to convert the criminal history file.

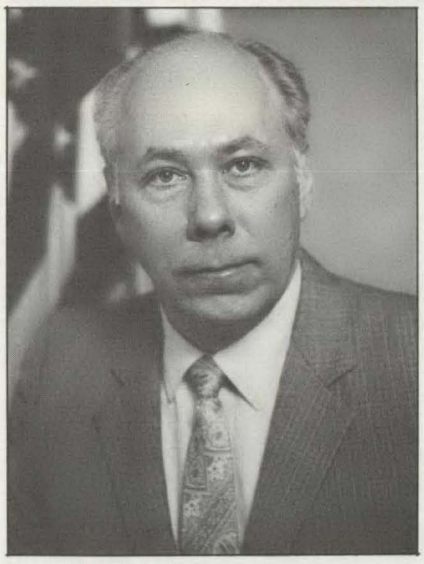
But computer hardware had to be designed to "read" fingerprints. The FBI and the NBS chose digital image processing as best suited to fingerprint automation. In effect, an entirely new method of matching fingerprints had to be developed.

A fingerprint reader had to be developed which would determine the position and orientation of the locations where ridges end or split (bifurcations). These are called the minutiae of the fingerprint.

The FBI contracted with Rockwell International and with Calspan Corporation to build engineering models of fingerprint readers. Concurrently, the NBS developed computer logic and algorithms (mathematical formulas) to search and match fingerprint data derived by these fingerprint readers.

While work on the computer fingerprint reader hardware and software was being done, the Identification Division began computerizing the criminal history records and automatically printing reports of identified file subjects, the first phase of the Automated Identification Division System. The entire project had to be accomplished in phases to take advantage of computer developments and to allow the daily work of the division to continue during implementation. By 1979, automated name searches in phase II of this system were being conducted to identify incoming fingerprint cards to records held in the Division.

In 1981, an ever-increasing backlog of over a half-million fingerprint cards and an average of 29 workdays to process new fingerprint cards caused the Identification Division to



Special Agent Neudorfer

suspend service to noncriminal justice users of the system for 1 year. This allowed reduction of the backlog and time to put into effect a user fee program for the processing of non-Federal employment and licensing fingerprint cards.

In 1983, the second phase of the automated system was connected with the National Crime Information Center's (NCIC) Interstate Identification Index.[4] States that can access the Interstate Identification Index can now make on-line requests for records from the FBI's Identification Division and receive them back on-line.

The third and final phase of the Automated Identification Division System, when fully implemented in 1988, will provide better service by reducing processing time for fingerprint records for both the criminal justice system and employment/licensing agencies. Rockwell International Corporation prepared a 3,000-page document detailing functional specifications of the final phase of the system in January 1982.

In the final phase, there will be more on-line processing of fingerprint cards, simplified processing, automated document transport, reduction of errors by use of small printer work stations and optical character recognition equipment, better management tools, improved output processing, a savings of space, improved security, and spare work station capacity.

The culmination of the three-phase system will reduce the fingerprint work processing from the current 2 to 3 weeks to less than 18 hours for 95 percent of the requests for fingerprint record checks.

Latent Fingerprint Automation

Automation of the Division's work was initially concentrated on the processing of 10-print fingerprint cards, since this was the bulk of the Division's workload most seriously in need of automated support. However, as fingerprint identification began early in this century as a process to identify the criminal for court handling, the use of new technology to solve crimes was also developed. So, too, with the automation process.

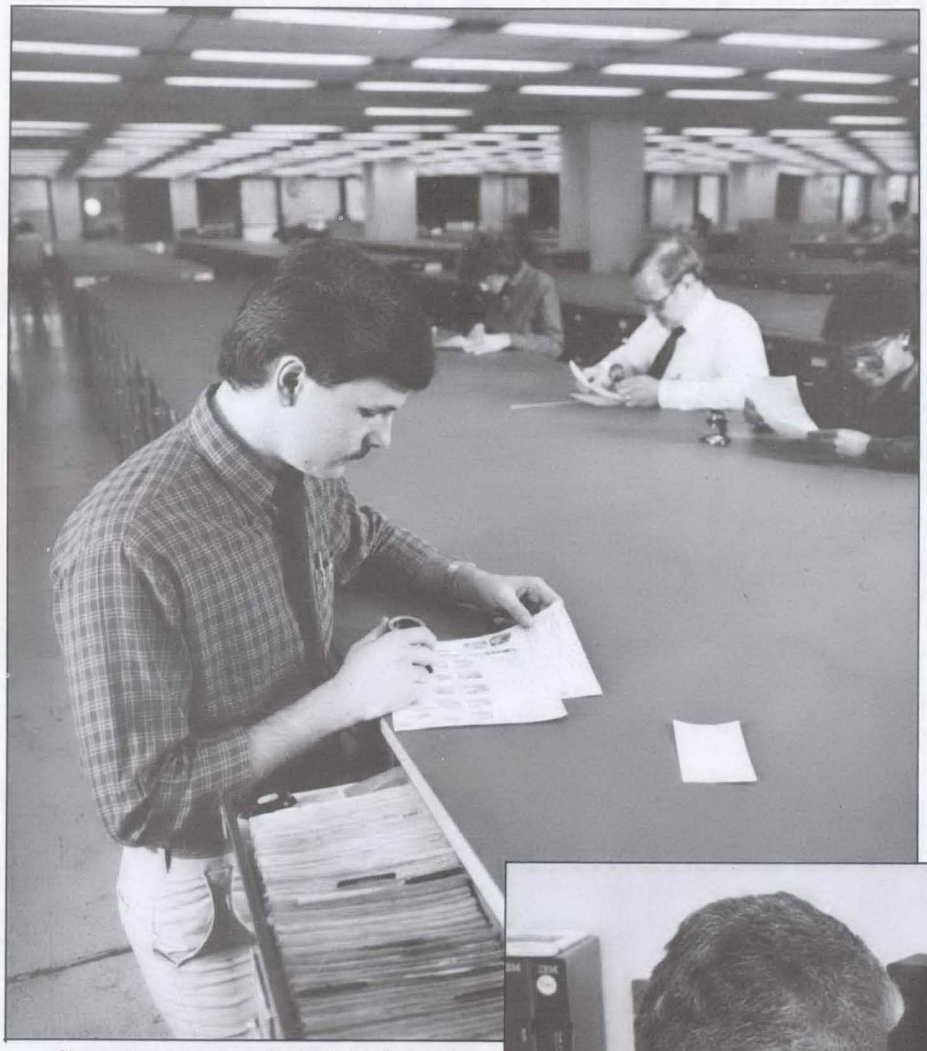
In recent years, work has been started to use computer technology as an aid in latent fingerprint work to solve criminal cases. With more and more of the Identification Division's data placed in computerized files, it is more feasible to let the computer perform tasks too labor intensive to be performed manually.

In the past, a latent fingerprint specialist would attempt every approach humanly possible to try to identify latent prints submitted as evidence in a case. But, after exhausting all possible suspects or leads without making an identification, the case would be returned to the contributing agency unsolved. Due to the millions of criminal fingerprints on file, attempts to develop additional suspects in a case were impractical.

But with the introduction of the computer and more than 16 million records now in the computerized files, it has become feasible to use new techniques to select logical suspects in cases involving crime-scene latent fingerprints. One program, the Latent Descriptor Index, is currently in operation.

Through the use of latent fingerprint pattern types, physical description information, and case information, a computer search of the Identification Division's automated files can be per-

"The ... three-phase system will reduce the fingerprint work processing from the current 2 to 3 weeks to less than 18 hours ... ."

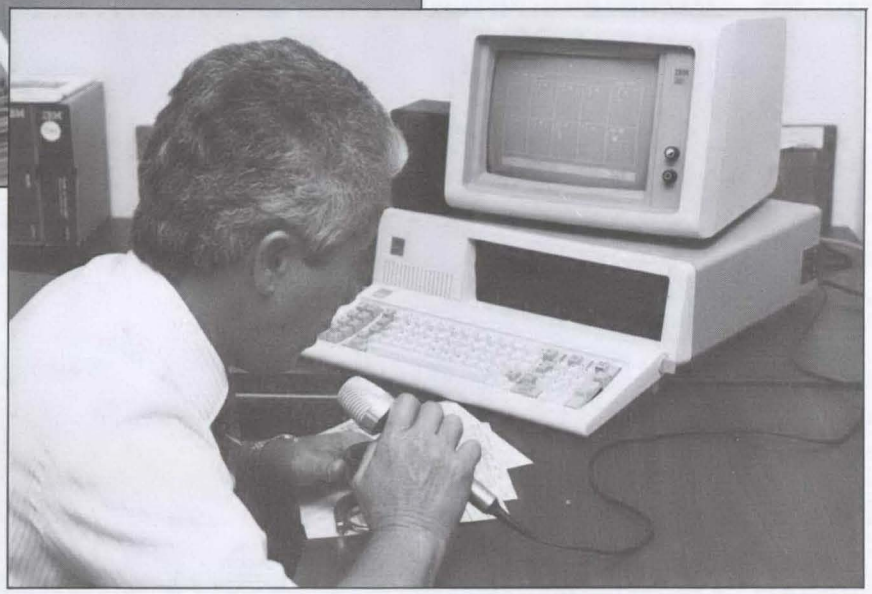


formed. In the 2½ years since being instituted, this program has solved cases that would not have been solved otherwise.

Work is continuing to enhance the capabilities of this system. With the introduction of the semiautomatic fingerprint readers—SAR terminals— fingerprint minutiae data can now be used in these searches to further limit potential suspects.

A new automated capability, called the Automated Latent System Model, is being developed. This system provides an on-line searching and matching capability against a data base of repeat offenders and criminals in specific crime-type categories. Currently, this data base contains 193,000 records, but expansion to several hundred thousand is planned.

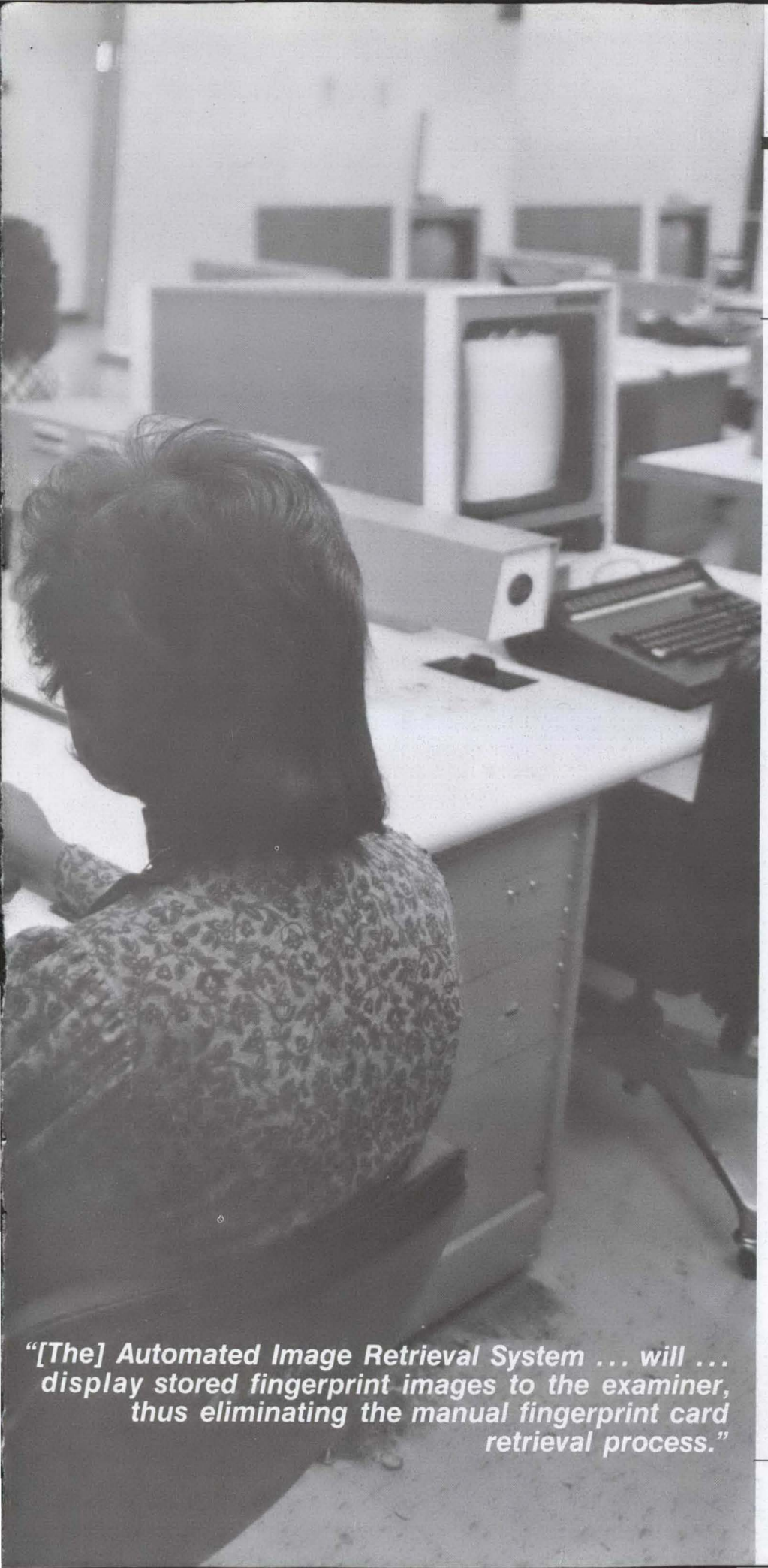
This system works by entering as much of the personal descriptive information, crime information, and fingerprint data as is available into a semiautomatic fingerprint reader terminal. The Automated Latent System Model se-



Above: Examiner manually classifying fingerprint card using card file.

Right: Automatic Voice Recognition—Examiner orally classifying fingerprint card using microphone.


DBA SYSTEMS INC.
dba



"[The] Automated Image Retrieval System ... will ... display stored fingerprint images to the examiner, thus eliminating the manual fingerprint card retrieval process."

lects candidates from the data base that match the personal and crime descriptive information submitted. Then all possible candidates are compared with the latent fingerprint via the matching algorithm.

Efforts to make this operational automated process more efficient are continuing. The data base is being expanded. Unsolved latent cases are being analyzed with this system in mind.

Future Automation

Today, the final step in the fingerprint identification process is the comparison of the incoming fingerprint card or latent print with a candidate fingerprint card selected by the automated search process. This is done by a qualified fingerprint examiner who decides whether the two prints are identical.

In order for these comparisons (a second examiner verifies the decision) to be made, the candidate fingerprint card must be retrieved from the manual fingerprint file, and after the comparisons are made, returned to the file.

Work began in 1983 on an Automated Image Retrieval System which will be able to display stored fingerprint images to the examiner, thus eliminating the manual fingerprint card retrieval process. This will also eliminate the problem of misfiled or out-of-file fingerprint cards which happen in a large manual filing system. But the important advantage of this system will be the response time savings. It will also permit the introduction of an on-line identification service through use of electronically transmitted fingerprint search requests from contributors.

Operator using Semiautomatic Fingerprint Reader to encode fingerprint manually.

"This approach is based on artificial intelligence concepts and will use rule-based systems to mimic the human decision process used in classifying a fingerprint."

This system is also a three-phase program. The first phase is the determination of the rigorous requirements for image quality, image capture, storage, and retrieval. The image-processing requirements for fingerprint images present an unusually complex problem in preserving the necessary detail of the fingerprint impression used by the fingerprint examiner. Again, the second phase will be the testing of a pilot Automated Image Retrieval System and finally the process of implementing production models into the overall automation system.

The requirements of the first generation automated fingerprint reader were to be able to read the minutiae characteristics (ridge endings and bifurcations) used by fingerprint examiners to identify an individual's fingerprints. After that reader was developed and tested, the potential for the reader to produce data which might be used to automatically classify a fingerprint was recognized. An attempt was made to add this capacity to the first readers, but it was learned that automatic classification was a much tougher job than minutiae reading.

Although there are some commercially available automated identification systems, which some local and State law enforcement agencies have, these systems have limited classification capabilities. The classifications produced by these systems are not compatible with the Henry-based NCIC classification system. More important to the Identification Division, these systems are incapable of handling the extremely large file of the FBI.

In 1983, the FBI initiated a new program to accomplish automatic classification by developing a second generation fingerprint reader. This new reader will be compatible with the FBI's existing minutiae data base, but will be significantly enhanced in its ability to read poor quality fingerprints. The classification to be produced will be compatible with the Henry-based NCIC classification used by all the State and national data bases for criminal fingerprints.

Advanced image-processing techniques have to be developed for this program to obtain a computerized representation of the fingerprint ridge structure. This will, of course, improve the entire system operation. The new reader will also have the ability to decide if the fingerprint is too illegible to be handled by the automated system and will then direct the fingerprint card to a live examiner. This is important to avoid errors in classification.

The next phase of this project is to develop specific fingerprint classification rules the computer will use. Since the major requirement is to be compatible with the live fingerprint examiner, the rules will have to be the same as those used by the examiner. This approach is based on artificial intelligence concepts and will use rule-based systems to mimic the human decision process used in classifying a fingerprint.

After testing of these developments, it is expected that these second generation fingerprint readers will become operational in the early 1990's.

It is anticipated that these more diversified services will be provided over existing criminal justice communications networks, such as the FBI's NCIC and the National Law Enforcement Telecommunications System (NLETS). Efforts of the Identification Division to provide faster services will be in the direction of nationwide, on-line, automated fingerprint identification searches.

However, with almost 20,000 active users of Identification Division services, needs and resources of the users vary considerably. Some users have neither a computer terminal nor fingerprint identification expertise. At the other extreme, a few have automated, minutiae-based fingerprint searching systems.

Thus, the Identification Division is adding its new capabilities rather than replacing existing services to provide a range of flexible services, consistent with the needs and resources of the various users. Any future capability for nationwide, on-line, automated fingerprint searches would be in addition to the existing range of capabilities.

Eventually, nationwide on-line fingerprint searches will be done in seconds with automated fingerprint classification, but if necessary, they can be done even before automated classification is operational. Electronic fingerprint image handling, such as that used in an Automated Image Retrieval System, would provide the speed and parallel processing capability that could make it feasible for complete classification and searching to be performed within a few minutes at most.

Future on-line fingerprint identification searches will be designed to be flexible enough to accommodate users without fingerprint identification expertise, as well as providing services that take advantage of the advanced capabilities of other users. In this way, the Identification Division will continue to meet the needs of all users.

FBI

Footnotes

[1] *Time*, October 14, 1985, p. 96.

[2] Col. Carroll D. Buracker and William K. Stover, "Automated Fingerprint Identification: Regional Application of Technology," *FBI Law Enforcement Bulletin*, August 1984, p. 1.

[3] Conrad S. Banner and Robert M. Stock, "The FBI's Approach to Automatic Fingerprint Identification," *FBI Law Enforcement Bulletin*, January 1975, p. 2.

[4] George Lyford and Udy Wood, "National Crime Information Center," *FBI Law Enforcement Bulletin*, March 1983, p. 10.

Federal Probation
An Overview

"The U.S. probation officer works closely with many law enforcement agencies in fulfilling his obligation to protect the community."

By
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Early criminal law in England involved the common usage of corporal punishment. During the reign of Henry VIII, more than 200 offenses, including relatively minor property offenses, were punishable by death.[1] Imprisonment, as an alternative, began to replace capital and corporal punishment during the end of the 18th and the first half of the 19th century.[2]

The first probation law, an alternative to imprisonment, was passed in Massachusetts in 1878; and in 1925, the Congress passed the law giving birth to Federal probation.[3] U.S. probation officers are both probation and parole officers. In 1930, the Probation Act was modified to remove the appointment of U.S. probation officers from civil service and put it under the jurisdiction of the judges. However, the U.S. Attorney General continued to supervise the probation service until 1940, when it came under the jurisdiction of the Administrative Office of the United States Courts.[4]

There are 94 Federal judicial districts of various sizes serving the United States, Guam, Puerto Rico, and the Virgin Islands. Whereas all of Wyoming is one judicial district which is served by four U.S. probation officers stationed in Cheyenne, the State of Texas is divided into four districts with several hundred U.S. probation officers assigned to dozens of offices.

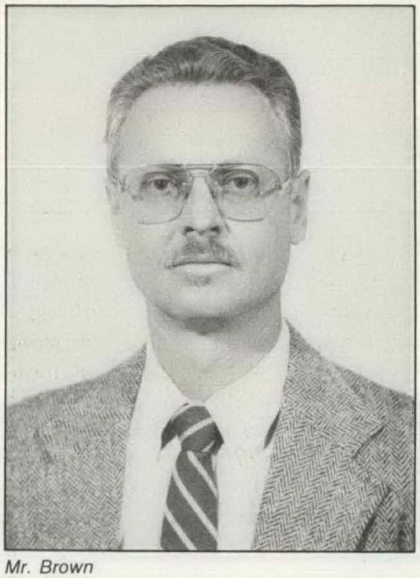
The chief judge of each district is responsible for the appointment of U.S. probation officers. At this time, there are approximately 1,902 U.S. probation officers and 200 pretrial services officers assigned to the 94 judicial districts.[5]

Probation and Parole

Many times in the newspapers and on the news the terms "probation" and "parole" are used interchangeably. Probation is granted as a judicial act without the offender being incarcerated, and parole is the release from part of a custody sentence that has been served in a correctional institution.[6] As with everything, there are exceptions. For example, probation could include a condition to serve a period of time incarcerated, such as weekends or evenings. However, probation is generally thought to be an alternative to imprisonment.

Probation

The *Federal Criminal Code* gives the Federal courts the authority to grant probation for any offense not punishable by death or life imprisonment and to place the defendant "on



Mr. Brown

probation for such a period [not to exceed 5 years] and upon such terms and conditions as the court deems best."[7]

The U.S. probation officer first enters into the judicial process upon arrest of the defendant by providing the court a bond investigation and by providing bond supervision if so ordered. This phase of the work is pretrial services and can be implemented by either the probation office acting in the capacity of a pretrial services officer, or in some districts, by an independent pretrial services agency.

Pretrial Diversion

During the early stages of processing, the U.S. attorney may decide the defendant is a good candidate for pretrial diversion. If so, the defendant is referred to the probation office so that the U.S. probation officer can provide the U.S. attorney with a background investigation and recommendation in regard to suitability. If placed on pretrial diversion supervision by the U.S. attorney, the probation officer supervises the defendant for 1 year. If adjustment has been positive, the U.S. attorney can move to have the pending charges dismissed. If not, the case can be returned to court for disposition as if the defendant had never been diverted.

Presentence Investigation

The next phase of involvement is usually the presentence investigation (PSI). Rule 32(c) of the *Rules of Criminal Procedure* requires that "the probation service of the court shall make a presentence investigation and report to the court before the imposition of sentence or the granting of probation," unless the defendant waives the report with the permission of the court or unless the court finds there is sufficient information available without the report.[8] In essence, the presentence investigation, which is standardized in most Federal courts, is a verified background investigation of the defendant. It also provides the court with an offense summary, evaluation, and recommendation. The U.S. Bureau of Prisons uses the presentence investigation for classification and other purposes if the defendant is incarcerated; the U.S. Parole Commission uses it for release decisions; and the U.S. probation office uses it for supervision purposes if the defendant is paroled or placed on probation.

Probation and Parole Supervision

If under probation supervision, the U.S. probation officer monitors the probationer's adjustment in the community, enforces any special conditions of probation such as drug treatment, payment of restitution or fine, and the completion of community service. If violations occur, they are reported to the court, and a decision is made in regard to returning the probationer to court for revocation proceedings or continuing him on probation. If the probation is revoked, the court can impose the suspended or unimposed sentence.

The *Code* also mandates that U.S. probation officers provide investigative and supervisory services for the U.S. Parole Commission.[9] One of the major differences between probation and parole *supervision* is the ultimate authority, i.e., the court or the Parole Commission. In other words, the supervision itself is very similar, but the jurisdiction over the probationer or parolee is different. Although there are not many, the U.S. probation officer is

also responsible for the supervision of parolees of the U.S. Air Force, Army, and Navy.[10]

As of June 1982, 71.6 percent of those under Federal probation supervision were on probation or pretrial diversion, and 28.4 percent were on various forms of parole, including military parole. In that same time period, there were a total of 58,373 persons under Federal supervision.[11]

U.S. probation officers have arrest powers only in regard to probationers.[12] However, the preference is to obtain a probation violators warrant from the court if there is an alleged probation violation, with the U.S. marshals executing the warrants. In 39 of the 94 judicial districts, U.S. probation officers are authorized to carry firearms.[13] Each district has its own policy in regard to firearms. In the Southern District of Texas, for example, the court permits U.S. probation officers to carry firearms on an optional basis for self-defense purposes only after initial and ongoing training by certified firearms instructors.[14]

Cooperation with Law Enforcement Agencies

The U.S. probation officer works closely with many law enforcement agencies in fulfilling his obligation to protect the community.[15] Contact is maintained with the Federal agent who investigated the case. The probationer or parolee is registered with the Federal Bureau of Investigation so that Federal probation will be notified of any serious arrests during the period of supervision. Another valuable resource for those officers working near the U.S./Mexican border is the U.S. Customs computer system, TECS, in which data on the individual can be entered so that unauthorized trips outside the United States may be detected.

One of the most valuable resources is the local law enforcement officer who frequently is very aware of the probationer's or parolee's adjustment in the community. By working closely with these officers, the U.S. probation officers can either intervene in the case before the situation becomes too serious or return the offender's case to the court or parole commission for revocation proceedings if appropriate. The assistance of local police officers in this regard is always of great assistance and most welcome. The U.S. probation officer also makes frequent use of local law enforcement agencies for record checks to see if there has been unreported contacts or arrests, as any contact with law enforcement agents should be reported by the probationer or parolee to the U.S. probation officer.

The Future

There are substantial changes in store for Federal probation due to the Comprehensive Crime Control Act of 1984.[16] The act changes a largely indeterminate sentencing structure into a determinate one. A U.S. Sentencing Commission will promulgate guidelines to assist the Federal courts in determining the sentences imposed. These guidelines will not begin to be implemented for at least 2 years after approval of the act.

The U.S. Parole Commission will eventually be abolished. After November 1, 1991, the Federal courts will assume jurisdiction of offenders sentenced under the present law who are on parole or released after that date.[17] Parole, as it is now known, will be a thing of the past in the Federal system.

The U.S. probation officer has a challenging profession in an ever-changing field. The probation officer must be a generalist with many areas of expertise. With the eventual abolition of the Parole Commission, the U.S. probation officer will truly become a *probation officer* serving primarily the Federal courts—and through the courts, the community.

FBI

Footnotes

[1]P.F. Cromwell, Jr., G.G. Killinger, H.B. Kerper, and C. Walker, *Probation and Parole in the Criminal Justice System* (St. Paul, MN: West Publishing Co., 1985), p. 3.

[2]Ibid., p. 5.

[3]R.L. Thomas, "Professionalism in Federal Probation: Illusion or Reality?" *Federal Probation Quarterly*, vol. 47, No. 1, March 1983, p. 3.

[4]V.H. Evjen, "The Federal Probation System: The Struggle to Achieve It and Its First 25 Years," *Federal Probation Quarterly*, vol. 39, No. 2, June 1975, pp. 8–9.

[5]Telephone interview with Regional Probation Administrator, Harold B. Wooten, December 30, 1985.

[6]Supra note 1, p. 151.

[7]18 USC 3651.

[8]Federal Rules of Criminal Procedure, 32(c).

[9]18 USC 3655 & 4205.

[10]U.S. *Probation Manual*, sec. 1005, pp. 1–3.

[11]E.J. Brown, T.J. Flanagan, and M. McLeod, eds., *Sourcebook of Criminal Justice Statistics—1983* (U.S. Dept. of Justice, Bureau of Justice Statistics, Washington, DC: U.S. Government Printing Office, 1984), pp. 552–3.

[12]18 USC 3653.

[13]*Federal Probation Officers Newsletter*, vol. 24, No. 4, Nov./Dec. 1985, p. 8.

[14]Memo outlining the "Firearms Policy, Southern District of Texas."

[15]U.S. *Probation Manual*, sec. 4001, p. 4.

[16]Memorandum of October 23, 1984, from Administrative Office Director W.E. Foley re: Comprehensive Crime Control Act of 1984.

[17]A. Partridge, *The Sentencing Options of Federal District Judges*, Federal Judicial Center, June 1985, revision, p. 27.

What Every Negotiator Would Like His Chief To Know

By
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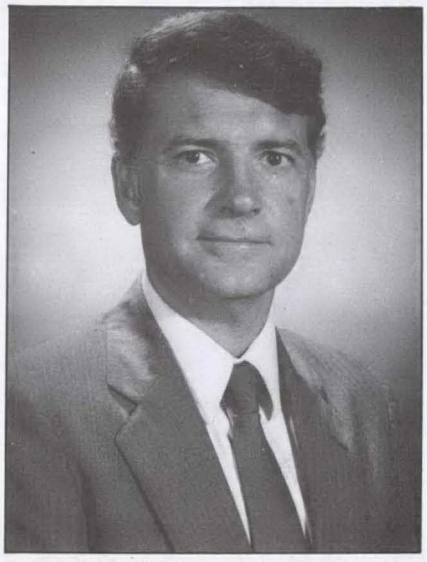
Duval County SO SWAT Team, Jacksonville, FL.

Instructors assigned to the Special Operations and Research Unit (SOARU) at the FBI Academy teach approximately 25 hostage negotiation schools a year. At these schools, one of the most frequent comments from attending police officers is, "I understand and accept what you're saying, but I wish my chief could hear this." The following fictional letter discusses those topics most frequently mentioned as "what I wish my chief would know."



Special Agent Fuselier

Dear Chief,

I've been the principal negotiator here for about 2 years now, and I've been involved in a number of incidents with our special response team. I realize that you're pretty busy and quite frankly so am I, but there are some things I'd like to make sure you know so that both of us can do a better job. I guess you could call these points "what every negotiator would like his chief to know."

This information comes primarily from the negotiation training I received from the SOARU, but I've seen the same problems occur in our department. Negotiators from other departments tell me they've seen them, too, so I think these ideas are pretty valid.

Options Available

First of all, when you have a hostage or barricade incident, you have about five response options available to you:

1) *You can contain, isolate, and negotiate.* Most departments use this as a first response, and the success rate is very high. But I want to stress the need to isolate the subject so that he can only communicate with the negotiator. If he gets on the phone to the media, to friends, or to relatives, things can go downhill pretty quickly.
2) *You can contain, isolate, and simply demand surrender.* This option is most feasible in a barricade situation where the subject has taken no hostages. Some departments will just wait the guy out.
3) If "verbal tactics" don't work, you can use more forceful tactics to resolve the situation. Most departments first consider *using chemical agents* to force the subject out.
4) Next, you could consider *using a sniper* to neutralize the hostage taker. Be aware, though, that hostage takers sometimes exchange clothes with victims, especially if they fear an assault by police.
5) Finally, you can *send in the special weapons and tactics team.* This, I'm sure you know, poses the highest risk not only for our guys but also for the hostages. If the hostages haven't been hurt and there are no immediate threats to them, negotiation is the safest option for all involved.

Time

Negotiation, however, takes time, and I know the last thing you want to hear if you've got 100 guys on overtime is "things are going great—nothing has happened in the last 6 hours!" I wish I could say that I've learned some surefire ways of talking a guy out in an hour, but no one can tell how long a particular incident will take. The Los Angeles County Sheriff's Office did a study of 29 incidents a few years ago and found that the average duration was 12 hours, but the actual time involved ranged from 1 hour to 40 hours.[1]

As time goes on, however, you can count on the subject getting hungry and thirsty, getting tired of constantly watching his hostages, and worrying about toilet facilities and sick hostages. When I spend that same time suggesting to him that coming out would be the most sensible thing to do,

"... the negotiator is one of the best sources of intelligence on the subject's personality type, current mental status, and significant behavioral patterns."

he begins to think I may be right. Time also lets us gather more intelligence about the guy and lets him develop some trust toward me. It also makes him realize that sooner or later, he is going to come out—and some ways of coming out are better than others.

Deadlines and Demands

How about when the subject sets deadlines for us to give him money or a car? The probability of talking the guy beyond his deadline is actually very high. In fact, the SOARU says that it knows of only one U.S. incident where a hostage was killed because a deadline wasn't met.[2] Although we can deal pretty well with the subject's usual demands and deadlines, sometimes we have more trouble from other quarters. Negotiators have told me that occasionally, their boss has told some of them, "You have until 5:00 p.m. to talk him out, then the SWAT team will go in." Frankly, Chief, one thing we don't need is deadlines from our side. I don't think I could talk my way past that kind of deadline.

The Chief as Negotiator

Another point the SOARU emphasizes in its training is that for a number of reasons, the chief should not be the negotiator. First, you know that we always have a primary and secondary negotiator on scene and that job of the backup is to notice if the primary negotiator is getting too involved, if his stress level is rising, or if he is losing his objectivity. If you are doing the negotiating and start to get too involved, who do you think wants to tell you that you're losing it? If your secondary delays at all, the situation might go from bad to worse. Second, if you are negotiating, then you aren't available to make the other command decisions that are always coming up. Third, you can't stall for time very well because the subject knows, for example, that you have the authority to send a car to the scene immediately. The negotiator should not have that kind of authority; rather, he needs a lack of authority to shift the blame, i.e., "I'm doing everything I can but these things take time."

Use of Nonpolice Negotiators

While I'm on the topic of who should or shouldn't negotiate, I'd like to warn you about nonpolice negotiators. The SOARU points out that using "civilian" negotiators like members of the subject's family, friends, clergy, a mental health professional, or an attorney is a high-risk proposition. Since these people have generally not been trained in negotiation, they will probably, under the stress of the situation, revert to their usual way of talking with the subject. All negotiators have heard war stories about family members who come to the scene and say, "Let me talk to him, he'll listen to me." When they get on the phone, some will call the subject a jerk or tell him he's just screwing up again; another will say, "Hang in there, Joey, we're all proud of you."

Clergymen, on the other hand, may get excessively moralistic or theological, while attorneys may have difficulty deciding which side they represent. Even mental health professionals with experience in crisis intervention may have little to offer if they have not had negotiation training.[3] They are accustomed to people coming to them and asking for help, not resisting it. And, generally, they don't have the mental "set" to expect demands and to deal with lying or threats if those demands aren't met. After getting negotiation training, however, they can work well as consultants to the negotiation team.

Finally, if a nonpolice negotiator is being used and you decide to go tactical, that person may be reluctant (or may refuse) to participate in a tactical response and may alert the subject by changing or disrupting the negotiations. So, unless there are specific reasons to the contrary, negotiators should be drawn from our trained officers, with professional consultants to back them up if necessary.

Exchange of Hostages

The SOARU recommends that you not exchange hostages during an incident. I know that in the past, exchanges have sometimes been considered the "right" thing to do—to offer yourself as a hostage instead of the 19-year-old bank teller—but now I know of no major department that would advocate exchanging hostages. The SOARU gives five reasons to support their recommendation:

1) If you exchange a hostage for a cop, the risk of injury goes up, because:
   - — killing a cop is more prestigious to a con than killing a 19-year-old bank teller;
   - — the subject will feel more of a threat from a cop as a hostage; and
   - — the cop may feel obligated to try to disarm the subject.
2) If the person exchanged is a friend or family member, the subject may want to kill that person or to set up an audience for his suicide (e.g., "See what you made me do? This is your fault").

3) If a cop goes in as a hostage, the tension level will go up "inside" and even more so "outside" because the hostage is now a personal friend rather than a stranger.
4) Exchanges may interfere with the "Stockholm Syndrome" that often occurs between a subject and hostages. This syndrome can work in our favor because if the subject begins to get to know the hostages personally, he is less likely to hurt them. If hostages are exchanged, however, you reduce the possibility of that kind of "psychological protection."
5) Lastly, the subject may be asking for a hostage exchange to serve his own purposes. To grant the exchange would be to give him the advantage.

In sum, you can see there are many good reasons *not* to exchange hostages and no valid reason to support it.

Tactical Use of the Negotiator

One last point I'd like to mention is how a negotiator can directly assist the SWAT team, that is, the tactical use of the negotiator. Throughout any hostage incident, the negotiator is one of the best sources of intelligence on the subject's personality type, current mental status, and significant behavioral patterns. At the same time, he works to tire the subject, increasing situational stress if the subject is too comfortable or decreasing stress if the subject is very anxious. When information he gathers, together with that provided by tactical observer/sniper teams, makes you decide that an assault is necessary, the negotiator's role becomes critical because he can directly assist the SWAT team in at least five ways. First, he can verbally distract the subject during the initiation of the assault. The negotiation "process" is now familiar to the subject and can be used to keep him occupied during those first few seconds. Second, the negotiator can make major "concessions," saying he has convinced his boss to provide a car or whatever; the subject suddenly finding he has "won" may psychologically let down his defenses just before the assault. Third, when negotiations are on a commercial telephone and the location of the phone is known, the negotiator can keep the subject on the phone so the SWAT team knows the subject's position. Fourth, when a field phone is used and the wire is marked, the negotiator can tell the SWAT team that the subject has, for example, 25 feet of wire beyond the front door. Finally, the negotiator may be able to set the subject up for a sniper shot by convincing him to move to a certain location.

Now, I know that some people believe that the negotiator should not be told if an assault is to take place. The concern is that he might inadvertently "tip off" the subject, because he has become "too emotionally involved" with him. First of all, the negotiating team is going to be first to realize that negotiations are not succeeding, so whether to "tell" it about a planned assault is a moot point. Second, negotiators work as a team specifically to watch for and correct any loss of objectivity on the part of one negotiator. Mirabella and Trudeau, the only study I found that mentions this topic, found that 8 out of 23 negotiators reported feeling "sorry" for the subject.[4] But, feeling "sorry" for a subject is a far cry from losing so much objectivity that a negotiator would jeopardize the lives of fellow officers.

I believe that the advantages gained by the tactical use of the negotiator would significantly reduce the risk to the SWAT team. Remember, just because I received training as a negotiator doesn't mean that I changed my oath or forgot who I'm sworn to protect.

If you have any questions, I would be more than happy to meet with you and discuss them. Thanks for the time.

FBI

Footnotes

[1]R.W. Mirabella and J. Trudeau, "Managing Hostage Negotiations," *Police Chief*, vol. 45, No. 5, 1982, pp. 45–47.

[2]In Rochester, NY, in 1981, a lone gunman entered a bank, took about eight hostages, and demanded that the police kill him by 2 o'clock. When they didn't, he shot and killed a teller, then went over and stood in front of a window where he knew snipers could see him. A sniper then shot and killed him. C.R. Van Zandt, personal communication, FBI Academy, Quantico, VA.

[3]G.D. Fuselier, "A Practical Overview of Hostage Negotiations," (Pt. 2) *FBI Law Enforcement Bulletin*, vol. 50, No. 7, July 1981, pp. 10–15.

[4]Supra note 1.


WARNING
POLICE SEAL

Automobile Insurance Fraud Pays ... and Pays Well

By
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New York, NY

A multimillion dollar automobile insurance fraud scheme came to light in mid-1982 through an investigation conducted by the Federal Bureau of Investigation (FBI) in Atlantic City, NJ. Believing that they were dealing with an isolated case of fraud, Agents arrested an individual during a meeting held in an Atlantic City casino. This individual became exceedingly belligerent and refused to identify himself to the Agents. Based upon the subject's reticence and other factors, the Agents were able to obtain a search warrant for his hotel room.

In that hotel room, in neat black looseleaf binders, the Agents discovered well-kept records of an automobile insurance fraud scheme that would prove to be the largest in New York State history. The scheme itself was so simple and so lucrative that it spread quickly, particularly in the New York metropolitan area. Like a good television program, spinoffs followed, so many, in fact, that it became difficult to keep track of the hundreds of individuals identified as being directly or indirectly involved in the scheme.

Because of the nature and extent of the case, the U.S. Attorney for the Eastern District of New York assembled a joint Federal-city task force consisting of personnel from the Federal Bureau of Investigation, U.S. Postal Service, and the Auto Crime Division of the New York City Police Department.

The Nature of the Scheme

The scheme's success was attributed to the fact that the participants controlled every aspect of the process, from obtaining the insurance through processing accident claims by carriers.

The first step in the process was to obtain the automobile insurance, usually from a broker who profited from this service since he was knowledgeable of the fraudulent purposes. In the scheme, the broker would obtain insurance for the same automobile in different names or insure an automobile for an individual using an alias or for an individual who was unaware of the existence of the insurance.

The next step was to have the automobile insurance policy placed with an insurance carrier who employed a member of the scheme. This could be accomplished in two ways. At first, employees of the New York State Assigned Risk Plan were paid to bypass the random computer placement and manually assign the insurance to the company designated by the other members of the scheme. Later, brokers realized they could steer a policy to a particular insurance carrier by merely stating on the application that a particular company was the insured's household carrier. In most cases, the designated insurance company would not even check to see if the individual was previously insured by them.

Once the insurance was in force, members of the scheme activated it. The initial claim against the policy was invariably a vandalism claim, with the sole purpose of recouping the expense of setting up an automobile, i.e., license, registration, insurance premium, and payoffs to the broker and assigned risk employees.

The vandalism itself was usually staged. Parts of the vehicle were carefully removed to be replaced later, or a similar automobile previously damaged was substituted. Claim adjusters, who were also part of the scheme, would then photograph the "vandalized" automobile and draw up an estimate of damage, which would be submitted to their companies as proof of the loss. In some instances, claim adjusters were simply handed photographs of the damaged vehicle, never actually seeing the damaged automobile.

Shortly thereafter, another claim would be reported to the insurance carrier. This claim would usually be a collision in which the insured's vehicle

Special Agent Beekman

would be clearly liable for the damage to itself and to the other automobiles involved. Usually, the other cars were parked and were high-priced models. Invariably, the driver of the insured vehicle would swerve to avoid a dog, a child, or another car and subsequently hit one or more parked cars, causing substantial damage. Not surprisingly, the parked cars were also controlled by members of the scheme.

After the alleged collision, the automobiles were supposedly towed to a specific auto body shop to which the insurance carrier's claim adjusters would go to view the damage. The claim adjuster would then forward all paperwork and photographs to the insurance carrier. As there appeared to be nothing improper regarding these claims, the company would quickly settle them. Within a very short time, members of the scheme would receive claim checks for the damaged automobiles, and in many cases, from more than one carrier. Automobile insurance policies were exploited by the scheme's participants to their maximum fradulent advantage.

The auto body shop became the focus of the scheme. The owner of an auto body shop, who had a number of high-priced wrecks on his lot, could make a small fortune in fraudulent claims. One owner bragged that he made over $8 million (tax free) in 2 years.

These high-priced wrecks would literally become picture cars. Some shop owners would maintain a picture library of these damaged vehicles and give them to claim adjusters at the appropriate time. Sometimes, before the photographs were taken, license plates from a similar, but undamaged car would be placed on the wrecked vehicle and more claims would be generated.

In some cases, fictitious vehicles were invented for the purpose of making claims. These damaged phantom vehicles existed only in the photographs that were submitted by the corrupt adjuster to their companies.

After a vehicle had seen too much action and outlived its usefulness, the last step was to make it "disappear." This was accomplished by having the car chopped. Since the scheme worked on a profit motive, the automobile would now be reported stolen. Again, the insurance company would pay off handsomely.

The Computer as an Investigative Aid

Recognizing the mechanics of the scheme proved to be the simple part. Organizing the data received from insurance companies, brokers, and body shop owners presented the major problem. This problem was eventually solved with the help of the vast computer resources supplied by the U.S. Postal Service.

From the documents that were seized in Atlantic City, 35 automobile insurance carriers were identified as being victims of the scheme. Later, each of these insurance carriers was contacted and supplied with guidelines to help them identify fraudulent claims within their companies. Within weeks, hundreds of automobile insurance claim files flooded the U.S. attorney's office.

Approximately 40 FBI Agents were recruited and trained to assist in computerizing the information contained in over 3,000 claim files that were amassed. Although this proved to be a tedious and unpopular process,

"The multiagency approach to the investigation of major fraud schemes proved to be very effective."

Figure 1

REPORT NUMBER 2
LIST OF VEHICLE NUMBERS AND RELATED PRINCIPLES SORTED BY VIN NUMBER
CASE NUMBER: 195 75552 F(2)

FILE	AGENCY	VIN	LICENSE	NAME	INCIDENT TYP	LOC	ESTIMATED AMOUNT	MILEAGE	CHECK AMOUNT	CLAIM DATE
1358	AIC	2W87K9N1856283	997UDS	Jones			1,664	026720	199	
							1,664		199	
1762	USF	2W87K9N194327	537VDD	Brown			3,982	001317	3,782	05 21 80
							3,982		3,782	
2395	GAC	2W87TAN124179	656JDQ	Smith				12384	8,252	
									8,252	
308	BOC	2W87TAN124453	2663ABJ	Updown Corp			4,386	015385	4,368	06 11 81
							4,386		4,368	
82	BOC	2W87TAN127752	121VMC	White	PC	BN	6,400	065375	6,400	05 27 81
	BOC	2W87TAN127752	143TZY	Johnson	PC	BN	4,756	002986	4,756	05 27 81
1264	GAC	2W87TAN127752	121VMC	White			4,975	002059	4,975	10 08 80
84	BOC	2W87TAN127752	121VMC	White	PC	BN	5,452	11858	5,422	
							21,583		21,553	
1081	HAR	2W87TAN14464	218VNT	Black			4,203	021632	4,003	08 23 82
							4,203		4,003	
1326	USF	2W87V7N203089	642FVM	Regal			1,996	043619	1,996	06 19 81
2371	USF	2W87V7N203089	642FVM	Regal			1,996	043619	1,996	06 19 81
							3,992		3,992	
402	TRA	2W87WAN10382	1383AEV	P. Fiero			4,640	010997	4,776	04 30 81
							4,640		4,776	
27	GAC	2W87WAN103822	1383AEV	P. Fiero	PC	BN	4,907	010977	4,907	04 30 82
280	BOC	2W87WAN103822	1383AEV	P. Fiero			4,694	010997	4,426	06 12 81
1676	USF	2W87WAN103822	1383AEV	P. Fiero			4,840	008146		06 03 81
339	HOR	2W87WAN103822	1383AEV	P. Fiero			4,761	10997		05 22 81
33	WAU	2W87WAN103822	1383AEV	P. Fiero	PC	SI	3,901	008362	3,909	05 20 81
1305	GAC	2W87WAN103822	1383AEV	P. Fiero			4,907	010997	4,907	04 28 81
44	MEM	2W87WAN103822	1383AEV	P. Fiero	PC	SI	4,707	010497	4,707	04 24-81
268	BOC	2W87WAN103822	9383ADD	J. Rambo			4,771	010997	4,771	04 21 81
45	ANF	2W87WAN103822	1383AEV	P. Fiero	PC	SI	4,711	010997	4,711	04 17 81
292	AML	2W87WAN103822	1383AEV	P. Fiero			4,776	10997	4,776	04 17 81
38		2W87WAN103822	1383AEV	P. Fiero	PC		5,202		4,407	
763	WAV	2W87WAN103822	1383AEV	P. Fiero			3,909	008362	3,909	
1343	USF	2W87WAN103822	1383AAEV	P. Fiero					45,907	

the computer printouts enabled investigators to keep track of the claim files, identify patterns, and begin investigations.

The computer printouts were an invaluable source of information and an excellent cross reference, since the reports could be generated in any manner that the investigators deemed useful. (See fig. 1.) In this investigation, 10 reports were used extensively.

1) A log of all the claim files in the system;
2) A list in numerical order of the vehicle identification numbers (VIN) of all the automobiles used in the claim files. This report clearly showed the number of times the same vehicle was used in the scheme. In fact, the indictments obtained were based largely on the use of the same vehicle in numerous claims;
3) A list of names of the insured and claimants in alphabetical order;
4) A numerical listing by addresses;
5) Telephone number listings in numerical order;
6) A numerical listing of all license plate numbers;
7) A list of all policies written by the same insurance broker;
8) A list of all claim files obtained from the same insurance company;
9) A list of all claims appraised by the same insurance adjuster; and
10) A list of all auto body shops in alphabetical order. (From this list it was discovered that some of the auto body shops, in fact, did not exist).

"... this investigation represented a major milestone in an effort to establish meaningful deterrents to automobile insurance fraud...."

The History of a 1980 Lincoln

After the computer assisted in identifying an automobile that was used several times in the scheme, a chart would be created to actually trace the fraud. This chart makes it very easy to see how the scheme worked. (See fig. 2.) The concept of creating charts on an automobile used several times in the scheme was a technique used successfully by the Auto Crime Division of the New York City Police Department.

Once such chart was created on a 1980 Lincoln, originally registered to Mr. Continental* in New Jersey. On August 8, 1981, Mr. Continental wrapped his Lincoln around a pair of telephone poles, sending him and his wife to the hospital. Fortunately, Mr. and Mrs. Continental sustained only minor injuries, but their 1980 Lincoln was declared a total loss and sold for salvage.

Knowing that the State of New Jersey does not indicate on their automobile titles that the vehicle was a total loss, participants in the scheme purchased the wrecked Lincoln, with its clean title. The Lincoln, with its title, was brought to Brooklyn, NY, and the fraud process was set in motion.

On October 10, 1981, Valerie Transam*, driving her 1979 Pontiac hit the parked 1980 Lincoln now registered to Alfred Mark.* Not surprisingly, the pictures of Mr. Mark's damaged Lincoln that were submitted to the insurance company by the claims adjuster showed identical damage to that incurred by Mr. Continental, the original owner.

Four other claims were identified using the same Lincoln. In each of these accidents, the Lincoln was parked and hit by another car. In each claim the driver of one vehicle was clearly liable for the accident, and his insurance company would pay off almost automatically, in most cases without any investigation.

An additional claim on the 1980 Lincoln was identified, in which Mr. Mark made a claim to his insurance carrier because he alleged that his Lincoln was hit while it was parked and the identity of the other car was unknown.

The scheme was so successful and the participants so confident that they reported two accidents involving the Lincoln on the same day. On November 20, 1981, a 1980 Audi driven by Diane Fox* hit the parked 1980 Lincoln, now registered to Tony Towncar.* On the same day, a 1980 Cadillac driven by Frank Fleetwood*

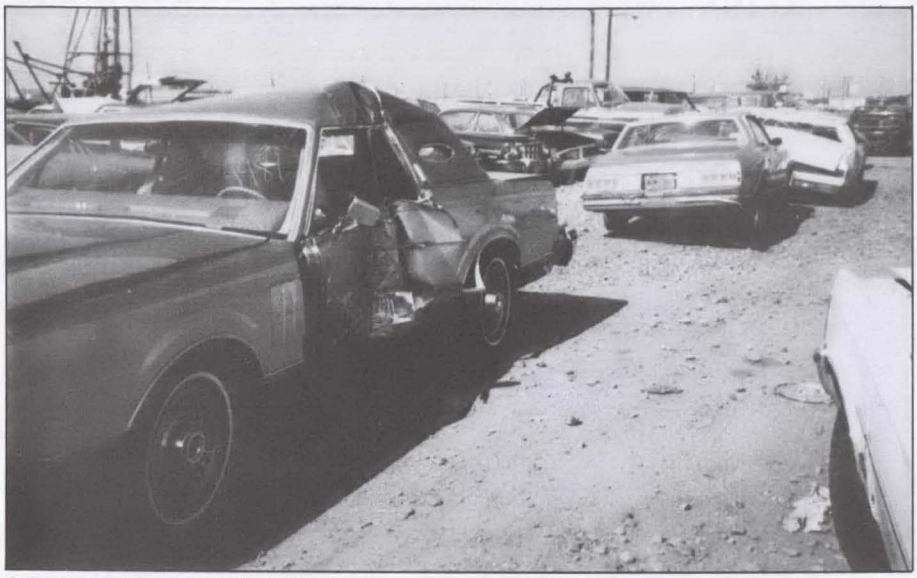
fictitious

Figure 2

1980 LINCOLN

DATE OF LOSS	INSURED NAME & ADDRESS	INSURED VEHICLE VIN & TAG	TYPE OF CLAIM	CLAIMANT NAME & ADDRESS	CLAIMANT VEHICLE VIN & TAG	AUTO BODY SHOP	MILEAGE*	PAYMENTS	REMARKS	FILE NO.
8/8/81	JOHN CONTINENTAL 6 MAIN ST. HOMETOWN, N.J.	1980 LINCOLN OY89G636553 151-FKM (NJ)	Hit 2 PHONE POLES	—	—	—	23,204	$14,600	LEGITIMATE ACCIDENT BODILY INJURY TOTAL LOSS	1
10/10/81	VALERIE TRANSAM 1300 73 ST. BROOKLYN, NY	1979 PONTIAC 2W87 K9N123655 9798-APE	HIT A PARKED CAR	ALFRED MARK 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553 151-VOW	WORLD WIDE	23,204	$ 7,176	NO BODILY IN- JURY	2
10/29/81	VALERIE TRANSAM 1300 73 ST. BROOKLYN, NY	1980 MERCEDES 1231201205043 9469-HEY	HIT A PARKED CAR	ALFRED MARK 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553 3488-AGE	36 ST. COLLISION	23,204	—	MERCEDES USED IN OTHER CLAIMS	3
11/20/81	DIANE FOX 1300 73 ST. BROOKLYN, NY	1980 AUDI 43A0660759 245-VXQ	HIT A PARKED CAR	TONY TOWNCAR 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553	RELIABLE COLLISION	23,204	$ 6,500	RELIABLE—SAME AS 36 ST. COLLI- SION	4
11/20/81	FRANK FLEETWOOD 1492 COLUMBUS ST. BROOKLYN, NY	1980 CADILLAC 6D696A910790 2225-ADD	HIT A PARKED CAR	ALFRED TOWNCAR 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553 727-RIP	RELIABLE COLLISION	23,204	$ 7,275	TAG 727-RIP USED IN FILE 6	5
12/20/81	ANTHONY REGAL 10 BROADWAY TOWN FALLS, NY	1980 BUICK — 727DRIP	HIT A PARKED CAR	ALFRED MARK 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553 6580-ADD	—	—	NOT PAID	TAG ON 80 BUICK USED IN FILE 4 & 5	6
1/6/82	ALFRED MARK 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553 7717-ADD	HIT WHILE PARKED	—	—	RELIABLE COLLISION	13,204	$ 7,552	CHECK SENT TO BROKER—WIFE OF AUTO BODY SHOP OWNER	7

* MILEAGE—AS REPORTED IN CLAIM FILE
— NO INFORMATION AVAILABLE



Original accident photo of the 1980 Lincoln.

also hit the parked Lincoln, now registered to Alfred Towncar.* In both accidents, the appraisal photographs of the Lincoln that were submitted to the insurance companies were identical to the damage incurred by the original owner.

Over a period of 6 months, the insurance industry paid over $35,000 in claims to the owner of the 1980 Lincoln.

Identifying the Participants

Using charts, the fraud can easily be seen. However, what was not as evident was who profited from the scheme, as many of the people being used were fictitious and some were deceased. (In one claim, a 1979 Datsun driven by David Maxima*, hit a parked 1978 Cadillac registered to Marvin Taub and a parked 1981 Corvette registered to Robert Zielinski. It was discovered that Traub and Zielinski lie next to each other in a cemetery adjacent to the auto body shop where their automobiles were supposed to have been repaired.)

The focus of the investigation now centered on sifting through the numerous claims and identifying the principal subjects. This was accomplished by a two-pronged investigation. First, there was a repetition of addresses used by the insured and claimants. Upon investigating these addresses, it was learned that four were controlled by one individual and another four were controlled by a second individual. Therefore, these two individuals were targeted as major participants in the scheme.

The second part of the investigation focused on the claim checks which were provided by the insurance companies. By handwriting and fingerprint comparison of a number of suspects, additional major participants were targeted.

Variations of the Scheme

One ingenious member of the scheme would lease 5 to 10 identical luxury-type automobiles. Each of these would be insured with multiple companies under different names. Then, one of these identical automobiles would be deliberately wrecked in order that this wreck could be used to make multiple claims against all the other insurance carriers. According to one participant, the intentional wrecking of an automobile was accomplished by actually driving it into a stationary object at high speed. This wreck now became the picture car for all the other identical cars.

Another variation occurred on Halloween day at the same location in Staten Island, NY. An individual driving an older model vehicle swerved when his car was hit by an egg and hit the same two parked cars seven times in a 2-hour period! This claim was reported to seven different insurance companies.

Halloween and July 4th proved to be ideal for reporting vandalism claims, while rainy and snowy days were perfect for reporting collisions.

Summary

Over a 3-year period, 50 individuals have been indicted and convicted as a result of the investigation conducted by the joint Federal-city task force. The multiagency approach to the investigation of major fraud schemes proved to be very effective.

Although this investigation represented a major milestone in an effort to establish meaningful deterrents to automobile insurance fraud by putting three major rings out of business, this deterrent proved to be short-lived. The opportunity to make big money makes it almost impossible to eliminate the problem of automobile insurance fraud. As one person put it, "Robbing an insurance company is a lot easier and a lot less dangerous than robbing a bank." To this can be added that it is a lot more profitable to rob an insurance company than a bank.

The FBI's New York City Office is currently making efforts to establish a permanent multiagency task force to work with the automobile insurance industry to address the problem of automobile insurance fraud on a larger scale.

FBI

Conducting Effective Meetings

By
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and
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Easton, MD

Do you agree or disagree with the following statements?

1) The meetings I attend are necessary.
2) The meetings I attend begin on time.
3) The leader effectively controls the meeting and all participants contribute.
4) Clear, concise minutes are kept of the meeting.
5) When I leave the meeting, I have a clear understanding of my responsibilities.

If you rarely agree with the above statements, you are more than likely wasting valuable time. Unfortunately, many in the criminal justice system spend enormous amounts of time in meetings. To compound matters even more, upper-level managers and administrators spend an even greater proportion of their time in meetings than lower-line staff. Many administrators spend 50 percent of their time in meetings which, if wasted, diminishes their abilities to manage their organization.[1]

The importance of meetings, however, is well-established, and good meetings can produce a more-effective organization. Meetings assist organizations in solving problems, making decisions, planning, evaluating, sharing information, training, and improving morale. Why then do most of us generally want to avoid meetings or find ourselves wasting time in them? The reasons are many, but there are things that managers and leaders can do to improve their meetings.

Objectives

The leader must set the objectives for the meeting in advance. If there are no objectives or purposes, then there should be no meeting. *Too many organizations meet to meet.*

Participants

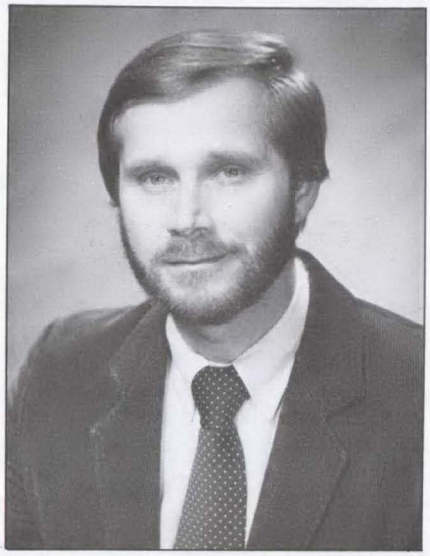
The value and success of any meeting is threatened if too many people are present. As Robert Townsend in *Up the Organization* says, "Generally speaking, the fewer [the participants] the better."[2] Between 4 and 7 people is ideal; 10 is tolerable and 12 is the outside limit. Keeping in mind the extent to which you have control over the members who can attend your meeting, use the following rules when selecting participants.

1) Include anyone who the meeting may affect positively or negatively. This will help defuse later morale problems when the staff believes that policies were forced upon them with no explanation or opportunity for input.
2) Include those who must be included because of their title or for "political reasons." Be sure to give these people the chance to decline coming to the meeting, since many times they would rather not attend anyway.
3) Select the best expert when inviting guest speakers or when covering new procedures. If your organization is changing or revising forms, for example, choose someone from the forms committee or someone who worked on the revisions to be present at the meeting.
4) Always try to include those "decisionmakers" who have the potential to resolve directly a problem or goal that will be discussed in the meeting.

Preparation

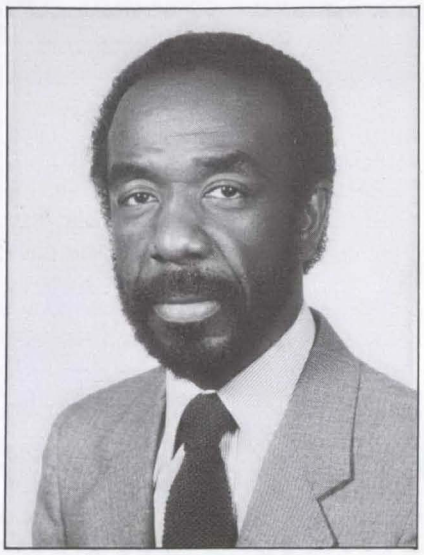
Preparation is in many ways the key to an effective meeting. When planning a meeting, consider four elements—time, agenda, location, and cost.

The *time* spent in a meeting should be limited. Very little is achieved in a business meeting after 2 hours.[3] Usually 1½ hours is sufficient time to consider all that is on the agenda.



Mr. Plutschak

Ms. Brown



William J. DeVance
Director

The *agenda* is the most important piece of paper that will be used in the meeting. Properly managed, it has the potential to speed up and clarify a meeting. The main problem with agendas is that they are unnecessarily vague and brief. An agenda item, such as office communications, could mean anything from computers, to new telephone installations, to the routing of inner-office memos. The agenda should be as specific as possible. It is better to give too much rather than too little information on the agenda.[4] Also, circulate the agenda and necessary background information 2 or 3 days before the meeting, but not too far in advance or the less organized members will forget to bring it or lose it.

When writing the agenda, keep in mind that the beginning of the meeting is more lively and creative than the end. If an agenda item needs a great deal of mental energy, place it earlier on the agenda. Agenda items should also be placed in proper sequence, combining those items that are related.

The *location* of a meeting can have a positive or negative effect on the participants. The room should be comfortable and free from interruptions. Larger organizations could use a central meeting site or perhaps rotate the meeting sites so that a few participants will not always travel great distances. Be sure that all equipment needed for the meeting is available.

Meetings *cost* money. Seven to 15 percent of any organization's budget is spent directly or indirectly on meetings.[5] Hidden costs of meetings include "down time" for staff, salaries for those present, mileage costs, as well as the costs of damaged morale if the meeting goes badly. While the losses are not itemized on the agency's budget statement, they are there nevertheless.

There are times when memos/letters, telephone calls, personal visits, or delegation of duties can effectively take the place of a meeting. Finally, if the need to have a meeting disappears, cancel the meeting!

Atmosphere

All meetings have an atmosphere; unfortunately, the atmosphere of many is bad. One way to improve the atmosphere is to *begin all meetings on time.* Latecomers will soon learn to be on time, and punctual staff members will not be penalized by having to wait for the meeting to start.

Another method in improving the atmosphere is to announce good news at the beginning of the meeting. Also keep in mind that the group leader has a major impact on and a responsibility for setting the atmosphere,[6] which will be addressed later in the article under "leadership."

The atmosphere in a meeting can also be improved by adhering to the agenda items as closely as possible. This will avoid leaving the more important agenda items until the end of the meeting when there is no time left to discuss them. *Finally, end the meeting on time.*

Followup

Minutes should be recorded while the meeting is in progress and later distributed to all who attended the meeting. Good minutes include the following:

1) Time, date, and location of the meeting;
2) The name of all present and absent;
3) All agenda items discussed and all decisions reached. If you agree on some action, record and underline the name of the person responsible for the assignment;
4) The time at which the meeting ended; and
5) The date, time, and place of the next meeting.

Leadership

So far, this article has concentrated on what the leader of a meeting needs to do before and after a meeting. Another major responsibility is to actually run the meeting. As stated earlier, it is important to follow the agenda. The agenda will keep the meeting running smoothly and help control each topic area. As the leader, remember not to dwell on trivial items. If the less important things are addressed quickly, more time will be available to spend on the pressing problems or goal areas.

Time wasted during a meeting is costly and usually occurs because of the interaction among group members and the leader. There are certain individual personalities that emerge in meetings which waste time and limit productivity. The leader needs to control the group's interaction while focusing on the purpose of the meeting. The following personalities may be disruptive, and the leader is responsible for recognizing and controlling them:

—*Rambler*—This person talks about everything except the subject and uses far-fetched analogies. When the person stops for breath, thank him/her, refocus attention by restating the relevant points, and move on. As a last resort, look at your watch, and in a friendly manner, indicate that the group needs to get back on the subject.

—*Personality Clash*—When two or more members clash, they can divide your group into factions. It's important to emphasize points of agreement and minimize points of disagreement. Draw attention to objectives or bring a more neutral member into the discussion. If this fails, frankly ask that personalities be omitted.

—*Obstinate*—This person just won't budge, hasn't seen your point, and is stopping the progress of the meeting. Throw the member's view to the group and have them straighten him/her out. Say that time is short and you'll be glad to discuss his/her view later and ask that the group's viewpoint be accepted for the moment.

—*Won't Talk*—This member may be bored, indifferent, timid and insecure, or feel superior. Your action will depend on what is motivating the person. You can usually arouse his/her interest by asking for an opinion in a supportive manner.

—*Overly Talkative*—He/She may also be exceptionally well-informed and anxious to show it or just naturally wordy. Don't be embarrassing or sarcastic. Ask some difficult questions or interrupt with, "That's an interesting point and let's see what the group thinks of it." In general, let the group take care of him/her as much as possible.

—*Side Conversation*—The conversation may be personal, may be related to the topic, or totally unrelated to the topic. Side conversations are distracting, but don't embarrass those members talking. You may, though, call one by name and ask an easy question or for an opinion on the last remark made.

—*Inarticulate*—This member has ideas but lacks the ability to put thoughts into proper words. He/She may need help to clarify his/her ideas. Don't say, "What you mean is this." Rather, say, "Let me repeat that," and then put the thought into better language. Twist his/her ideas as little as possible but have them make sense.

—*Definitely Wrong*— Sometimes a member comes up with a comment that is obviously incorrect. Say, "I can see how you feel," or "That's one way of looking at it," or "I see your point and. . . ." This must be handled delicately.

Conclusion

This article has attempted to provide ideas on setting objectives and preparing for a meeting. Your style of leadership and communication will also affect the group's interaction and productivity. The Xerox Corporation has summarized the rules of conducting effective meetings through the following *Ten Commandments for Meetings:*

1) Thou shalt not meet if the matter can be resolved by other means.
2) Thou shalt make the purpose of each meeting known to the participants.
3) Thou shalt invite to the meeting only those participants whose presence is needed.
4) Thou shalt start at the time announced.
5) Thou shalt stop when it is right to do so.
6) Thou shall not run beyond the scheduled time for ending the meeting.
7) Thou shouldst organize the agenda items in proper sequence—combining those that are related.
8) Thou shalt keep minutes of all meetings.
9) Thou shouldst prepare in advance for the meeting so as not to waste everyone's time.
10) Fear not to cancel if need disappears.[7]

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Footnotes

[1]Michael Doyle and David Strauss, *How to Make Meetings Work* (Washington, DC: Wydin Books, 1976), p. 4.

[2]Robert Townsend, *Upon the Organization* (New York: Alfred A. Knopf, Inc., 1970), p. 107.

[3]B.Y. Auger, *How to Run More Effective Business Meetings* (New York: Grosset and Dunlap, 1964), p. 32.

[4]*Meetings Bloody Meetings* (Xicom, Inc., 1974), an excellent training film in which an inefficient chairman dreams he is taken to court for conducting ineffective meetings. From the evidence presented, the viewer learns to prepare for meetings, inform others of meetings, plan the sequence of meetings, control the discussion during meetings, and record decisions made at meetings.

[5]Doyle and Strauss, supra note 1, p. 4.

[6]Auger, supra note 3, p. 60.

[7]Reprinted with permission of Xerox Corporation.

Interrogation

Post Miranda *Refinements*

(Conclusion)

"...interrogation can just as easily be done by conduct as words, and caution should be the guiding principle employed to insure the confession obtained will be admissible in court."

By
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Special Agent
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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 advisor. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

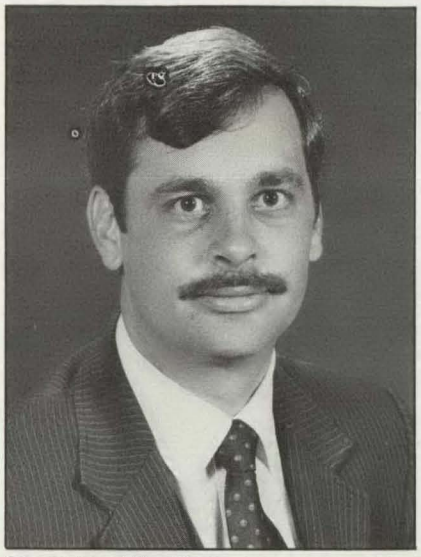
Part I of this article outlined the legal importance of "interrogation" by reviewing the rules governing custodial interrogation. It also began an analysis of categories of cases concerning what is and is not "interrogation" following the Supreme Court's definition of that term in *Rhode Island* v. *Innis* as either express questioning or its functional equivalent.[60] Part I concluded that general on-the-scene questioning was not deemed to be interrogation, nor was questioning normally attendant to arrest and custody.

This part of the article will complete the discussion of the meaning of interrogation and then discuss the Supreme Court's recent decision involving a public safety exception to the *Miranda* rule which governs custodial interrogations.

Inculpatory Statements in Response to Police Comments

Many defendants have provided incriminating statements which appear to have been made in response to something a police officer has said. In those cases, the police statements were not in the form of direct questions, but rather, can be subdivided into the following categories: 1) Furnishing the accused *Miranda* warnings, 2) comments reflecting an opinion of the officer concerning the defendant or the defendant's guilt, 3) a reference to some investigative step which the police have employed or will employ, or 4) a general, nonspecific conversation with the defendant. In response to each, the defendant has provided an incriminating statement or admission and later argued that the police officer's comments were the equivalent of interrogation, rendering the admission or statement inadmissible. Each of these categories will be discussed in turn.

Occasionally, a defendant will make an incriminating statement during or immediately following the advice of *Miranda* rights. Then, in an attempt to prevent that statement from being used against him, the defendant claims that *Miranda* warnings alone constitute interrogation. Such arguments have been unsuccessful. For example, in *United States* v. *Johnson,*[61] the defendant was arrested following his sale of a substance thought to be cocaine to an undercover officer. In fact, the substance was not cocaine but a substituted



Special Agent Higginbotham

white powder. After his arrest, the defendant was taken to the police station and advised of his *Miranda* rights. Immediately thereafter, he asked why he was being arrested, since the substance he had sold to the undercover officer was not a controlled substance. That statement was subsequently offered into evidence in the resulting criminal fraud trial over the defendant's objection that *Miranda* warnings themselves constitute interrogation. The court overruled the objection, holding that the *Miranda* warnings are not a form of interrogation.

Just as *Miranda* warnings alone do not constitute interrogation, neither does an officer's inquiry as to whether a defendant understands and is willing to waive those rights. Thus, a defendant's response that he understood his *Miranda* rights may be admissible to show that he was thinking clearly immediately after the commission of the crime, and therefore, was not insane. "It borders on absurd to characterize an inquiry into whether a defendant understands his *Miranda* rights as an 'interrogation' justifying exclusion," since there is no way the officer could reasonably have known the defendant's response would undermine an insanity defense.[62]

A more difficult question is raised when a police officer provides his own opinion of the defendant or the defendant's guilt. Are such comments interrogation? Should the officer reasonably anticipate such personal comments will elicit an incriminating response? The cases deciding this issue do not provide a uniform answer.

Two cases illustrate the contrary results reached where officers offered a personal opinion of the defendant. In *United States* v. *King*,[63] a defendant was arrested and lawfully interrogated concerning his involvement with counterfeit credit cards. Later, he was interrogated again by detectives regarding a murder. During that second interrogation, one detective referred to the defendant as "stupid." Following the interrogation, while the defendant was being transported to the jail, the same detective again occasionally referred to the defendant as "stupid." Objecting to being called "stupid," the defendant turned to the other detective and said, "Tell him that I am not a bad guy, I am not into violence. I am not a violent person. You know me, I am into plastic and credit cards, but I am not into any violence. I never hurt anyone in my life."[64] The court permitted that statement to be used in evidence against the defendant, since "[t]his name-calling is not 'interrogation' within the meaning of *Innis.*"[65]

In contrast, a court found similar name-calling to be the equivalent of interrogation in *United States* v. *Brown*.[66] There, the defendant contested the admission into evidence of the statements he had made to a police officer concerning his activities involving the sale of narcotics. The defendant was successful in doing so when he convinced the court that the police officer had taunted him with being a "pimp and doper" who "sells dope to little black children."[67] The court concluded that the police officer's name-calling "conduct was designed and reasonably likely to evoke response in kind, damaging ... and quickly recorded ... for later use."[68] It was interrogation.

Different results have also been reached in cases where the officer's opinion is directed at the defendant's guilt. For example, in *U.S. ex rel. Abubake* v. *Redman*,[69] a police officer, who had not yet obtained a valid

"... police officers should be careful if they engage in a conversation with a defendant who has not yet waived his* Miranda *rights or who has invoked one of his* Miranda *protections."

waiver of the defendant's *Miranda* rights, outlined the case which he had built against the defendant to let him know that he would not "be telling [the officer] anything new."[70] Thereafter, the defendant made a series of incriminating statements which he subsequently sought to exclude at trial. The court granted his motion to suppress, holding that persuading a defendant to confess by positing his guilt amounts to interrogation, impermissible here since no waiver had been obtained.

When confronted with a similar situation, another court, however, concluded no interrogation had taken place. In *United States* v. *Guido,*[71] a defendant was arrested, advised of his *Miranda* rights, and invoked his right to consult with an attorney. On the way to the courthouse, the defendant asked the agents why he had been arrested. The defendant was told that the arrest was based on an investigation which proved he was dealing in illegal narcotics and that he should consider cooperating instead of contesting the charges. Later, he was further told that the investigation had shown the defendant to have sold narcotics at a particular location—a candy store. The defendant replied, "Oh, ... Okay. I knew that one was trouble."[72] In declining to find that the agent's comments concerning the investigation and cooperation constituted interrogation, the court stated:

> "We do not accept the proposition that a discussion of cooperation is inherently a form of questioning for purposes of *Miranda*.... There is no indication that the agent's conduct was 'designed to elicit an incriminating response' ... or that [the defendant] was 'peculiarly susceptible' to an appeal to cooperate...."[73]

Because of the dissimilar results reached by courts trying to determine if personal opinions of officers or opinions as to guilt constitute interrogation, an officer would be well-advised to avoid making such comments, unless he is certain that interrogation is lawfully permitted.

In contrast to cases where personal opinions of an officer have been held to be interrogation, merely describing to the defendant potential investigative steps which will follow has been held not to be interrogation. In *United States* v. *Thierman*,[74] a defendant was arrested at his residence, given *Miranda* warnings, and invoked his right to consult a lawyer. Arresting officers commented to him that they would have to talk with the defendant's girlfriend, family, and other friends as part of their continuing investigation to recover stolen postal checks. When he heard that, the defendant made several damaging admissions which he later moved to suppress. In denying his motion to suppress, the trial court concluded that the officer's comments " 'merely reiterated the obvious' and did not amount to any interrogation, and were even less evocative than those in *Innis.*"[75]

Illustrative of the last group of cases involving general, nonspecific conversations between an officer and a defendant is *United States* v. *Voice.*[76] Voice appealed his conviction for murder, challenging three admissions he had made to various law enforcement officers while in custody. The first such admission occurred when an officer who was transporting Voice to jail observed that he was nervous and attempted to calm Voice by telling him everything would be okay. In response, Voice said, "Leave me alone or I'll kill you too."[77] On another occasion in a police car, Voice heard a radio news report concerning a food stamp fraud and offered, "... they ask me why I did what I did. Abernathy has been ripping them off for years."[78] Lastly, an officer asked Voice a question concerning his epilepsy medicine, and Voice replied that his medicine caused his accidents, such as when "I killed Scottie."[79]

The court ruled that none of the comments to Voice was interrogation. All of the comments to Voice were in the context of general conversation. Voice's incriminating statements were spontaneous remarks. As such they were not obtained in violation of the *Miranda* rule. In fact, *Miranda* itself recognized that "[v]olunteered statements of any kind are not barred by the Fifth Amendment and their admissibility is not affected by our holding today."[80]

In summary, police officers should be careful if they engage in a conversation with a defendant who has not yet waived his *Miranda* rights or has invoked one of his *Miranda* protections. While some courts have concluded that such conversations do not constitute interrogation, there is not a sufficiently clear common thread among those cases which would provide reliable guidance to officers upon which they could govern their conduct. Accordingly, the best advice is to refrain from all but general, nonspecific conversations unrelated to the offense for which the person in custody was arrested.[81]

Nonverbal Interrogation

The final category of cases addressing interrogation focuses on the last portion of the Supreme Court's definition of that term in *Rhode Island*

"As long as an officer acts in accordance with normal arrest and booking procedures, that conduct will not be deemed the equivalent of interrogation."

v. *Innis*.[82] That definition included as interrogation "... actions on the part of police ... that the police should know are reasonably likely to elicit an incriminating response."[83] In these cases, the issue is not a question asked by the police or even a spoken word. Rather, some type of police conduct which causes a defendant to utter an incriminating response is at issue. This category can be subdivided into two areas—conduct which is routine police practice and conduct which is contrived by police outside of normal police procedures.

Illustrative of cases in which defendants have incriminated themselves in response to routine police practices is *United States* v. *Sullivan*.[84] There, the defendant had been arrested for his involvement in a drug trafficking operation using commercial courier services. After the defendant invoked his right to silence, he was taken to jail for processing. In his presence, a search and inventory of his personal belongings located a receipt from the commercial courier. As it was being noted on the inventory, the defendant said, "You found what you're looking for. That's all you need."[85] In denying the defendant's motion to suppress that incriminating statement, the court ruled that the inventory practice did not constitute interrogation and that the defendant's remarks were volunteered and spontaneous.

A similar result was reached in *United States* v. *Carroll*.[86] *Carroll* also shows the extreme arguments which a defendant will raise to prevent the admission into evidence of a confession. Here, the defendant was arrested for attempting to enter a federally insured bank with the intent to commit a felony therein. After his arrest, he was taken to be fingerprinted. The officer who took the prints smiled broadly at the defendant after examining the rolled fingerprints. This apparently unnerved the defendant who asked why the officer was smiling. Although the officer first resisted any further conversation, when the defendant persisted, the officer told him that certain fingerprints had been found at the bank. At that point, the defendant made a damaging admission concerning his presence at the bank.

In *Carroll,* the defendant argued that the officer's act of smiling during the fingerprinting process constituted interrogation. The court disagreed and stated:

> "That [the officer] smiled when he looked at Carroll's prints does not make [his] 'words or actions' the 'functional equivalent of interrogation' under *Miranda* v. *Arizona*."[87]

A contrary result was reached in a recent State case, however. In *State* v. *Quinn,*[88] the court ruled that showing a robbery suspect a copy of the Application for Statement of Charges which declared that several co-defendants had implicated the defendant as the instigator of the robbery was impermissible. Since the defendant had already invoked his right to counsel, the issue was whether that conduct, done without spoken words, constituted interrogation. In finding that interrogation had occurred, the court reasoned that though the Application for Statement of Charges was a routine, standard procedure, handing it to the defendant to read was an impermissible attempt to elicit an incriminating response. Accordingly, the statement given by the defendant after reading the document was properly suppressed.

The *Quinn* case is distinguishable from *Sullivan* and *Carroll*, since the officer in *Quinn* went beyond normal police practices, while the actions complained of in *Sullivan* and *Carroll* were entirely consistent with normal operating procedures. As long as an officer acts in accordance with normal arrest and booking procedures, that conduct will not be deemed the equivalent of interrogation.[89]

As to the second subcategory of cases, two Federal cases reflect the hazard of contriving some action in the hope that an incriminating response will follow. In *United States* v. *McCain,*[90] the defendant was stopped upon her entry into the United States on suspicion of being an internal drug smuggler. Prior to any *Miranda* warnings, she was given a booklet of newspaper clippings describing a number of tragedies suffered by those who chose to swallow containers of drugs in an attempt to smuggle the drugs into the country. The defendant's response to reviewing the newspaper clippings was to blurt out, "Yes, I do have narcotics in my body"[91] The court spent little time in deciding that the booklet was the equivalent of interrogation, saying:

> "The psychological intent of this collection of news stories, although consistent with the duties of customs officers, is obvious. Interrogation can take many forms. This is one of the most effective."[92]

In the second case, *U.S. ex rel. Church* v. *DeRobertis,*[93] the defendant, Mike Church, was arrested along with his brother Casey Church. Their oldest brother Kelly, an escapee from prison, was soon recaptured and lodged at the same jail. The Church parents became worried about Casey, the youngest and the only one who had never before been in jail. The parents encouraged Kelly to aid his younger brother. Kelly spoke to Casey,

then asked the jailers to place Kelly in the same cell with Mike. While sharing the cell with Mike, who twice earlier had invoked his rights to silence and counsel in interviews with police, Kelly convinced Mike to make a full confession and exculpate brother Casey. Mike agreed and requested the police to return and ultimately provided them with a written confession. Mike later challenged the admissibility of the confession, claiming that the simple act of placing Kelly in the same cell with Mike was contrived by the police for the purpose of obtaining a confession and was, in fact, a form of interrogation.

The seventh circuit court of appeals rejected that argument. The court recognized that police conduct, as well as words, can be interrogation but "not everything leading a suspect to change his mind amounts to interrogation."[94] The court concluded that the controlling fact was that the police merely accommodated Kelly's request to share the cell with Mike and the confession given by Mike was, therefore, "a spontaneous, altruistic confession. It was the work of the Church family, not of 'custodial interrogation' within the meaning of *Miranda.*"[95] The court made clear that had the police contrived the idea to put Kelly into Mike's cell to influence Mike to confess, the result may have been different. But here, the absence of any "potential trickery or overbearing by the police"[96] meant that no interrogation had taken place.

The potential for action or conduct equating to nonverbal interrogation is bounded only by the imagination of law enforcement. No easy rule can be adopted to guide what action is permitted and what action is not, since the facts of each case may cause different decisions in seemingly similar cases. It is important only to remember that interrogation can just as easily be done by conduct as words, and caution should be the guiding principle employed to insure the confession obtained will be admissible in court.

An Exception to the Interrogation Rule

The holding of *Miranda* v. *Arizona* was very clear that no custodial interrogation could take place unless preceded by specific warnings and a waiver. That rule, announced in 1966 was, in fact, stated in absolute terms: "As with the warnings of the right to remain silent and that anything stated can be used as evidence against him, this warning [of the right to consult with a lawyer and to have the lawyer present during questioning] is an absolute prerequisite to interrogation."[97] That barrier to interrogation stood unmoved until 1984 when the Supreme Court announced the first exception to the *Miranda* rule.

In *New York* v. *Quarles,*[98] the Supreme Court departed from its rigid rule and allowed into evidence a statement and evidence derived from that statement which was secured by interrogation prior to any *Miranda* warnings or a waiver. In *Quarles,* a women reported to police that she had just been raped by a man carrying a gun. She provided a physical description of her assailant and told the police that she had seen the man enter a nearby supermarket. Police drove to the store and observed the man inside at about the same time the man saw the officers. The man ran toward the rear of the store, pursued by an officer who had drawn his gun. When the officer found the defendant, he immediately ordered him to stop and put his hands over his head. The officer then frisked the defendant and discovered that the defendant was wearing a shoulder holster which was empty. After handcuffing the defendant, the officer asked where the gun was. The defendant nodded in the direction of some empty cartons and responded, "The gun is over there." Only after the gun, a loaded .38-caliber revolver, was recovered was the defendant advised of his *Miranda* rights.

The defendant was subsequently charged with criminal possession of a weapon, but the trial court refused to admit the statement concerning the location of the gun into evidence. The trial court ruled that defendant Quarles had been subjected to custodial interrogation without first being warned of his *Miranda* protections and refused to recognize an emergency exception to the *Miranda* requirements. On appeal, the Supreme Court reversed that decision and carved an exception to *Miranda* for questions reasonably prompted by a concern for public safety.[99]

This newly created public safety exception to *Miranda* arose from a balancing of interests test. The Supreme Court in *Quarles* first analyzed the reasoning of the *Miranda* Court. That Court had recognized that while fewer people would respond to police questions after being warned of their right to silence, the cost to society of not convicting some guilty suspects must be borne to uphold the fifth amendment privilege against self-incrimination. However, the *Quarles* Court found that in emergency situations in which protection of the public from immediate threats to safety is at stake, the balancing of interests weighs differently. "So long as the gun

"... 'doctrinal underpinnings of* Miranda *[do not] require that it be applied in all its rigor to a situation in which police officers ask questions reasonably prompted by a concern for public safety.' "

was concealed somewhere in the supermarket, with its actual whereabouts unknown, it posed more than one danger to the public safety...."[100] Because of this immediate threat to public safety, as opposed to a potential threat that a guilty man may be acquitted, the need for the prophylactic rule of *Miranda* must give way to the greater need to protect public safety. Thus, the "doctrinal underpinnings of *Miranda* [do not] require that it be applied in all its rigor to a situation in which police officers ask questions reasonably prompted by a concern for public safety."[101] Accordingly, even assuming the question concerning the location of the gun constituted interrogation, *Miranda* is inapplicable.

Conclusion

It is important for law enforcement officials to understand both the legal implications of "interrogation" and the meaning given this term by *Innis* and its progeny. Since 1966, law enforcement officials have been working under a rule which prohibits interrogation in custodial situations until a package of warnings designed to safeguard the privilege against self-incrimination has been administered and a valid waiver of those warnings obtained. Even after those warnings have been given and a waiver obtained, interrogation may still not be permitted if at some point the suspect elects to remain silent or to consult with an attorney.

Interrogation is a vital law enforcement technique. It may take the form of direct questioning to uncover a suspect's guilt, or it may be words or actions by police that are the functional equivalent of direct questioning, also aimed at detecting a suspect's guilt. Understanding this principle will enable the law enforcement officer to avoid impermissible interrogation and ensure the admissibility of confessions in a court of law.

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Footnotes

[60]446 U.S. 291, 300-01 (1980).
[61]516 F.Supp. 696 (E.D. Penn. 1981), *aff'd* 688 F.2d 826 (3d Cir. 1982).
[62]*United States* v. *Emery*, 682 F.2d 493 (5th Cir.), *cert. denied*, 459 U.S. 1044 (1982).
[63]564 F.Supp. 25 (S.D.N.Y. 1982), *aff'd* 742 F.2d 1445 (2d Cir. 1984).
[64]*Id.* at 27.
[65]*Id*
[66]720 F.2d 1059 (9th Cir. 1983).
[67]*Id.* at 1068.
[68]*Id.*
[69]521 F.Supp. 963 (D. Delaware 1981), vacated on other grounds, 696 F.2d 980 (3d Cir. 1982); *aff'd* on remand in *United States ex rel.* Ahmad v. *Redman*, 599 F.Supp. 802 (D. Delaware 1984). *See also, Toliver* v. *Gathright*, 501 F.Supp. 148 (E.D. Va. 1980).
[70]521 F. Supp. at 973. *See also, Henry* v. *Dees*, 658 F.2d 406 (5th Cir. 1981) (statement that the defendant had failed a polygraph test and a challenge to the defendant to "tell the truth" constitutes interrogation).
[71]704 F.2d 675 (2d Cir. 1983).
[72]*Id.* at 676.
[73]704 F.2d at 677. *See also, United States* v. *Gazzara*, 587 F.Supp. 311, 325 (S.D.N.Y. 1984).
[74]678 F.2d 1331 (9th Cir. 1982).
[75]*Id.* at 1334.
[76]627 F.2d 138 (8th Cir. 1980).
[77]*Id.* at 144.
[78]*Id.*
[79]*Id.*
[80]384 U.S. 436, 478 (1966).
[81]It should be noted, however, that the Supreme Court in *Oregon* v. *Elstad*, 105 S.Ct. 1285 (1985), held that interrogation which takes place prior to effective *Miranda* warnings and a waiver is not an absolute bar to the admission of a subsequent voluntary confession obtained following a proper warning and waiver. However, that rule should not be used by police interrogators as a general practice.
[82]*Supra* note 21.
[83]Supra note 27.
[84]544 F.Supp. 701 (D. Maine 1982), *aff'd* on other grounds 711 F.2d 1 (1st Cir. 1983).
[85]*Id.* at 706.
[86]710 F.2d 164 (4th Cir.), *cert. denied*, 104 S.Ct. 526 (1983).
[87]*Id.*at 168.
[88]498 A.2d 676 (Md. Ct. Spec. App. 1985). *See also, Kreijanovsky* v. *State*, 706 P.2d 541 (Okla. Ct. Crim. App. 1985).
[89]*See, United States* v. *Glen-Archila*, 677 F.2d 809 (11th Cir.), *cert. denied*, 459 U.S. 874 (1982).
[90]556 F.2d 253 (5th Cir. 1977).
[91]*Id.* at 254.
[92]556 F.2d at 254, n. 2.
[93]771 F.2d 1015 (7th Cir. 1985).
[94]*Id.* at 1019.
[95]771 F.2d at 1020.
[96]*Supra* note 94.
[97]384 U.S. 436, 471 (1966).
[98]104 S.Ct. 2626 (1984).
[99]*Id.* at 2632.
[100]*Id.*
[101]*Id. See also, United States* v. *Udey*, 748 F.2d 1231, 1240, n. 4 (8th Cir. 1984), *cert. denied*, 105 S.Ct. 3477 (1985); *United States* v. *Webb*, 755 F.2d 382, 392, n. 14 (5th Cir. 1985); *People* v. *Cole*, 211 Cal. Rptr. 242 (Cal. App. 1st Dist. 1985).

WANTED BY THE FBI

Photographs taken 1975 and 1977

Right ring fingerprint

Charles Lee Herron,

also known as Larry Brown, James Larry Butler, Lee Jones, D. A. Kimathi, Milo Ramsey, Bennie Leroy Smith, "Blood," "George," "Kimathi," "Larry," "Shorty." N; born 4-21-37 (not supported by birth records). Covington, KY; 5′7″-5′8″; 140-150 lbs; sldr bld; blk hair, brn eyes; dk comp; occ-clerk, home repairs; scars and marks: scar corner of left eye, scar on left wrist, gap between upper front teeth; remarks: usually wears short to medium Afro hairstyle, sideburns to earlobes and heavy eyebrows, may have head shaven, be clean shaven or may have straggly goatee, wears wire-rimmed glasses, always wears sunglasses when outside, left-handed, generally wears a hat, khakis or blue jean-type clothing, has exaggerated walk described as a strut, may even affect a limp, has high degree of interest in pickup basketball and reportedly frequently plays at school yards and public courts, enjoys sports cars, avid chess player, and has a record of ignored speeding violations. Wanted by FBI for INTERSTATE FLIGHT—MURDER; ASSAULT TO COMMIT MURDER.

NCIC Classification
DOPO13PO10DI1214PI14

Fingerprint Classification:
13 O 29 W OOO 10
I 18 U OOI

I.O. 4163

Social Security Numbers Used: 402-44-7920; 253-70-8270

FBI No. 313 926 G

Caution

Herron is being sought for the shooting murders of two police officers wherein high-powered rifles were used. He may be accompanied by William Garrin Allen II, FBI Identification Order 4640, Stephen Correlus Parker, FBI Identification Order 4650, and Ralph Canady, FBI Identification Order 4644. Consider armed and extremely dangerous.
FBI TOP TEN FUGITIVE

Photographs taken 1971 and 1968.

Right thumbprint

Ronald Stanley Bridgeforth,

also known as Benjamin Matthew Bryant.
N; born 8-23-44, Berkeley, CA; 6′; 185–205 lbs; hvy bld; blk hair; brn eyes; med comp; occ-teacher; scars and marks: 3″ scar left wrist and forearm, scar right heel. Wanted by FBI for INTERSTATE FLIGHT—ASSAULT ON A POLICE OFFICER.

Fingerprint Classification:
8 M 25 W MIO REF: 29
S 22 U IOI 11 22

I.O. 4515

Social Security Numbers Used: 568–92–3698; 547–64–2939

FBI No. 568 064 G

Caution

Bridgeforth allegedly engaged police officers in gun battle. Consider armed and dangerous.

Photographs taken 1969

Right index fingerprint

Silas Trim Bissell,

also known as "Trim."
W; born 4-27-42, Grand Rapids, MI; 5′10″–5′11″; 130–135 lbs; sldr bld; brn hair; grn eyes; med comp; occ-teacher; scars and marks: appendectomy scar; remarks: may wear sideburns and beard. Wanted by FBI for CONSPIRACY; DESTRUCTION OF GOVERNMENT PROPERTY; NATIONAL FIREARMS ACT.

NCIC Classification:
24TT1218162056091609

Fingerprint Classification:
24 L 1 T OO 16 Ref: R
L 1 R IIO R

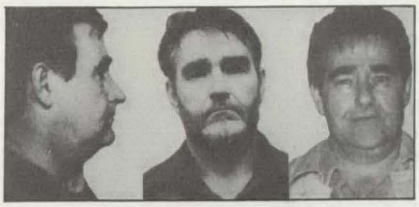
I.O. 4401

FBI No. 820 593 G

Caution

Bissell reportedly has been associated with persons who advocate use of explosives and may have acquired firearms. Consider dangerous.

WANTED BY THE FBI



Photographs taken 1984 and 1983

Right middle fingerprint

Joseph William Dougherty,

also known as Donald Milford Baker, J.C. Blackwell, Richard J. Carson, James C. Dunn, John Jordan, Noel Roger Noe, Richard Rundel, Robert Troy, Paul Lee Vandervort, and others. W; born 8-25-39 (true date of birth) 10-12-39, 12-3-40, 10-10-42, 10-10-45, Philadelphia, PA; 6′ 2″; 230 lbs.; heavy bld; blk (greying) hair; blue eyes; ruddy comp; occ-bartender, laborer, welder; scars and marks: scar on back of right hand; bullet wound scar on left knee; tattoo of "Joe" on upper left arm; remarks: may be clean shaven or wears a full beard. May be accompained by Terry Lee Conner, FBI Identification Order 4997, WHO IS ALSO WANTED BY LAW ENFORCEMENT AUTHORITIES. Wanted by FBI for BANK ROBBERY; CONSPIRACY; ASSAULT ON A FEDERAL OFFICER; THEFT OF GOVERNMENT PROPERTY; ESCAPED FEDERAL PRISONER.

NCIC Classification:
16DO19PM15191617PI14

Fingerprint Classification:

$$\frac{16\ S\ 25\ W\ OOM\ 15}{L\ 2\ U\ OOI} \quad \text{Ref: } \frac{25}{10}$$

I.O. 4996

Social Security
Numbers Used: 171-30-0180; 309-42-4567

FBI No. 746 736 D

Caution

Dougherty, an escapee from custody, is being sought for a series of bank robberies in which hostages were taken. He is reportedly armed with both handguns and automatic weapons and has vowed not to be taken alive. An alleged narcotics user, he should be considered armed and dangerous.
FBI TOP TEN FUGITIVE

Photographs taken 1968 and 1969

Left index fingerprint

George Ernesto Lopez,

also known as Lyon Bonny, Juan Gomez, John Martin Solano.
W; born 12-5-49, New Orleans, LA; 5′9″-5′10″; 145–155 lbs; med bld; blk hair, brn eyes; med comp; occ-laborer. Wanted by FBI for INTERSTATE FLIGHT—MURDER, ASSAULT WITH INTENT TO COMMIT MURDER, BURGLARY.

Fingerprint Classification:

$$\frac{18\ O\ 26\ W\ OOO}{M\ 22\ U\ IOO} \quad \text{Ref: } \frac{18}{22}$$

I.O. 4352

FBI No. 527 954 G

Caution

Lopez should be considered armed and dangerous.

Photographs taken 1974, 1970 and unknown

Right index fingerprint

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′; 145–150 lbs; stocky bld; light brn or dark bld, (may be dyed blk) hair; hzl eyes; med comp; occ-cook, receptionist, waitress; scars and marks: pockmark on left cheek, appendectomy scar, large scar on abdomen; remarks: may have short manish-cut hairstyle; wears glasses or contact lenses. 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.

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Questionable Pattern

Two separate loop formations appear in the central area of this impression; however, the delta for the loop on the left is located on the recurve. The small dot appearing over the top of this recurve cannot be considered as a delta since it is not as thick as the average surrounding ridge. The pattern is classified as a loop. A ridge count of 13 is obtained by applying ridge counting rules pertaining to interlocking loops. A reference to a double loop whorl is required since subsequent inking could result in greater thickness of the dot appearing over the left looping ridge. The tracing would be outer.

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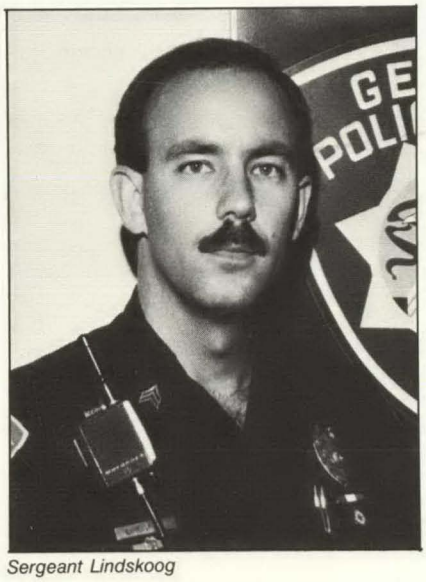
The Bulletin Notes

Sgt. Jeffery C. Lindskoog, of the Geneva, IL, Police Department, while off duty traveling near Lisle, IL, came upon a serious automobile accident in August 1984. Sergeant Lindskoog rushed to aid the victim, who had stopped breathing. Responding medical team personnel credited Sergeant Lindskoog with saving the victim's life. The Bulletin is pleased to join Sergeant Lindskoog's chief in recognizing this service to a fellow citizen.



Sergeant Lindskoog