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Clarence M. Kelley, Director

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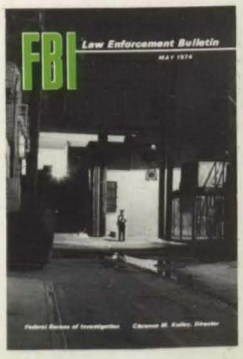
THE COVER

Police patrol, as indicated in this month's cover photograph, is often lonely work fraught with many unseen dangers. The challenges of a law enforcement career require professional skills and standards. See related Message by Mr. Kelley on opposite page. Photo courtesy of Con Keyes and the Arizona Republic newspaper, Phoenix, Ariz.



Message from the Director . . .

MAY IS A SIGNIFICANT MONTH for the law enforcement profession. It begins with Law Day—May 1—which this year has as its theme youth and the law. The 15th of the month is observed as Peace Officers Memorial Day, and that same week (the 12th through the 18th) has been designated National Police Week.

It is gratifying that days are set aside each year to honor our profession and its responsibilities. I am sure my fellow officers are encouraged, as I am, by genuine expressions of support—particularly for the increasingly difficult and dangerous role of the officer on the street and in the patrol car.

Even more important at this time of year, it seems to me, is the individual attention each officer devotes to his profession's goals. Resolutions, dedications, speeches, celebrations, and memorials by supporters are fine. Beneficial as they are, of themselves they have no lasting value. Only the firm commitment of law enforcement personnel to the ideals these commemorations extol gives them meaning and life.

In a word, this commitment is "professionalism." Fortunately, professionalism is not only a popular term but a growing achievement throughout today's law enforcement ranks. We should strive to keep it foremost in our vocabulary and in our deeds. From such emphasis stems rewarding recognition of police performance.

Ten years ago, it was not uncommon for police officers generally to be slighted by many as undereducated and poorly trained. Today, these criticisms are infrequent. Now, with higher educational standards, sophisticated equipment, and vastly improved training efforts, the police are more apt to be criticized for the efficiency of their techniques and programs.

Regrettably, some persons view certain modern police initiatives as threatening individual liberties to an unreasonable degree. Law enforcement, of course, has no intention of thwarting constitutionally protected rights. It must, however, continually seek new avenues to prevent and detect crime. Indeed, it would be sorely remiss in its obligations to the community and to its professional status were this not the case. Our legitimate needs must be carefully evaluated and vigorously defended in the face of constructive criticism. This is a sign of professional maturity which is a cherished objective for all law enforcement careerists.

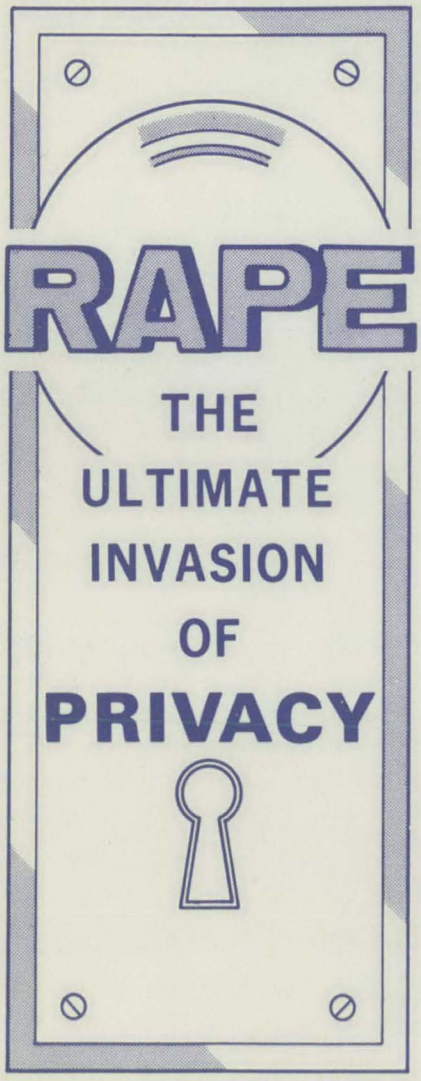
Criticism will always bear on law enforcement activities. Our responsibilities are too demanding to avoid it. This is all the more reason for law enforcement officers to insure that professionalism characterizes all areas of their performance each day of the year.

CLARENCE M. KELLEY
Director

MAY 1, 1974

"Forcible rape is the ultimate intrusion of a person's privacy; it is an intrusion of the inner space of a person and is extraordinarily destructive to the victim's being, both physically and mentally."

—Morton Bard, Ph. D.
Psychologist



By
LOUIS C. COTTELL
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In New York City, the crime of rape has increased from 2,120 reported cases in 1969 to 3,735 reported cases in 1973, a 57-percent increase. Despite this considerable rise, the Federal Bureau of Investigation's Uniform Crime Reports bulletin of 1972, the latest to include full-year figures, shows that New York ranks 7th out of the 10 largest cities and 14th out of the 25 largest cities in the incidence of this crime.

All photographs used in this article are posed and picture police personnel.

New Challenges

As evidenced by these statistics, it is clear that the crime of rape is a matter of great concern to all police agencies and that many special problems connected with it must be recognized and dealt with if we are to combat this crime effectively.

The national trend of low apprehension rates is also evident in New York City. This trend is puzzling to police administrators because rape is a crime in which the perpetrator is seen by the victim. Visual contact with the attacker, in some instances for as long as many hours, should result in a higher percentage of arrests, but does not. In addition, the conviction rates are also significantly lower for the crime of rape than for other crimes. In New York, the strict requirements which have prevailed in recent years for corroborative evidence in rape cases have been instrumental in causing numerous dismissals. It was practically impossible to get a conviction in New York State on the uncorroborated testimony of the victim because of the legal requirement of additional evidence.

Before it was amended, effective June 22, 1972, the New York State Penal Law, Section 130.15, regarding certain sex crimes including rape, required corroboration of the victim's testimony on three points essential to the crime: (1) that she submitted to her attacker as a result of force and/or threat, (2) that sexual intercourse between her assailant and her did take

". . . corroboration . . . [is] supportive evidence that tends to prove that the crime was in fact committed."

place, and (3) in support of her identification of the suspect rapist. Following its amendment and until its repeal earlier this year, this section of the New York State Penal Law still required corroboration of duress in allegations of rape but modified the law so that corroboration need only support an *attempt* by an offender to have sexual intercourse with the victim, rather than accomplishment of the act itself. Corroboration of the victim's identification of her assailant was no longer required.

The new New York State Penal Law has again shuffled the elements of a rape offense which are subject to corroboration. While it restores the need for corroboration of the victim's testimony identifying her attacker, it eliminates the necessity to do so concerning her allegations that she experienced duress. Corroboration of an *attempt* to sexually assault the victim was retained as a requirement in the new Penal Law for New York State which was signed into law by the Governor on February 19, 1974.

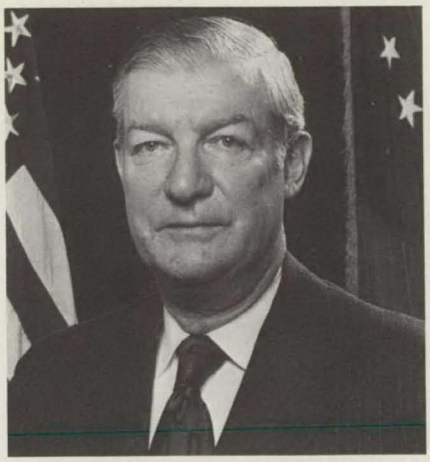
What is corroboration? Assistant District Attorney Leslie Snyder of the Manhattan District Attorney's Office defines corroboration as supportive evidence that tends to prove that the crime was in fact committed. It does not have to be beyond a reasonable doubt, but it must tend to support the crime, and may be circumstantial. Bits of circumstantial evidence, which the investigator finds at the scene or are developed in the hospital, can be adduced for such corroboration. Semen stains on the clothing of the victim is of evidentiary value in establishing that an attempt to rape her, for example, had been made.

These factors, coupled with the reluctance of women to report rape, place both the police administrator and the investigator at a disadvantage. The administrator is unable to deploy his personnel properly because he is unaware of many rape offenses, and the investigator does not get information which might be the link to the rapist.

Reasons for the Trends

There are many instances where the crime of forcible rape goes unreported. If the victim does report, she is frequently too humiliated and embarrassed to relate significant details. The investigator may sense her reluctance and avoid asking certain embarrassing questions that are necessary for a thorough investigation. The problem of embarrassment is not the only factor that can hamper an investigation. The victim's mental outlook, because of the emotional stress, will consciously and unconsciously affect her ability to effectively answer questions relating to the crime. This can be worsened by an improper attitude in a male investigator. Often his embarrassment is mistaken as unprofessional or his matter-of-fact approach for callousness. If these impressions are gained by the victim, her cooperation may be restrained to the extent that the possibility of a successful investigation will be considerably impaired.

It becomes obvious, then, that expanded training in the complex factors of rape investigations is essential and must be given to all officers. This instruction cannot be limited simply to enlisting the victim's confidence, but must also include a thorough understanding of the law and its requirements. The officer must have a complete knowledge of what evidence is necessary for a conviction and also be able to convey this information to the public whose assistance is often needed to establish the elements of the crime.



Commissioner Michael J. Codd, Police Department, New York, N.Y.

A New Approach

In general, sexual assaults are viewed too lightly. Sex is a social taboo to many and, as a result, rape victims often feel ashamed or, somehow, partly to blame for the crime having taken place.

In the past, there has been an obvious failure on the part of police departments throughout the country to use policewomen in this sensitive area. The unavailability of female officers has contributed to the trend of unreported sex crimes. Furthermore, much information that might have helped a reported case reach a successful conclusion has not been elicited in an interview because of the inability of the victim to discuss her experience freely with a male officer. Last year, in an attempt to combat the unique problems encountered in the investigation of the crime of rape, the New York City Police Department established the Sex Crimes Analysis Unit (SCAU) within the Detective Bureau. This

"Sex is a social taboo to many and, as a result, rape victims often feel ashamed or, somehow, partly to blame for the crime having taken place."

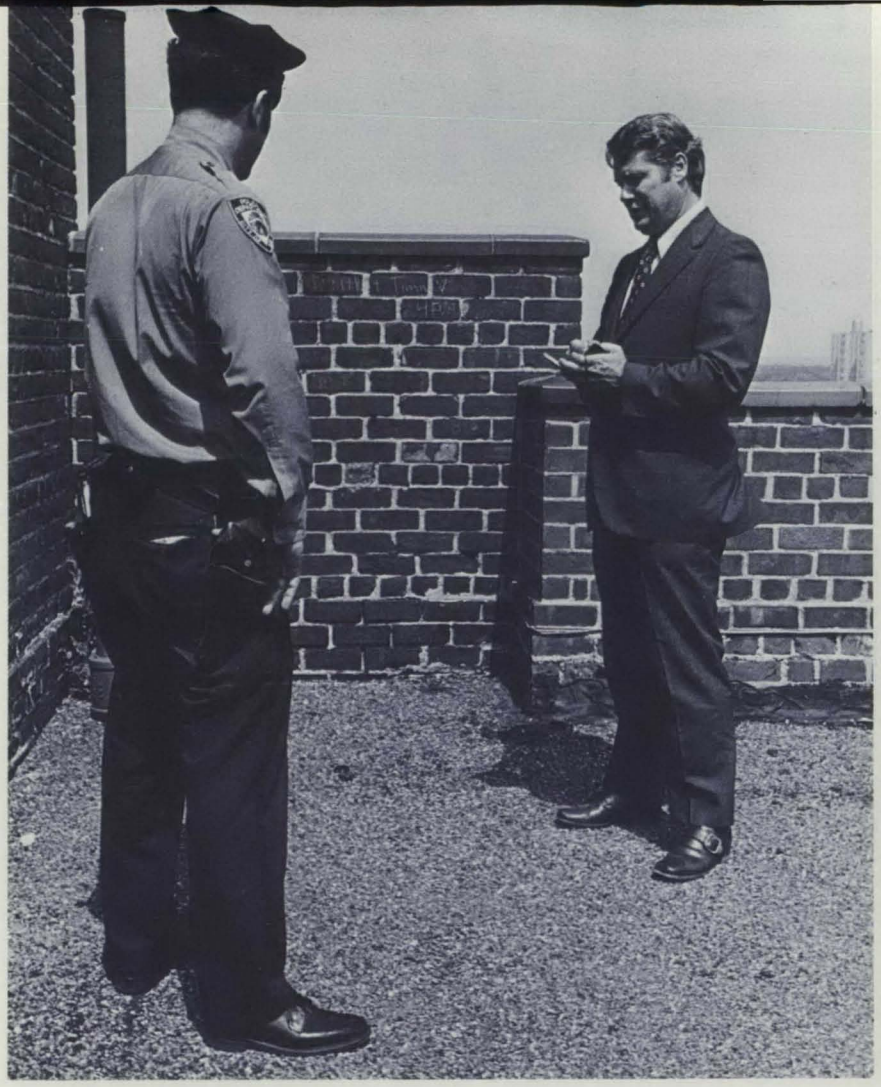
unit, which was created to insure better service, investigation, and prosecution of sex crimes is staffed by 26 female detectives and is headed by a woman, Lt. Mary L. Keefe.

The unit has a dual mission: to receive and analyze all cases of forcible rape and forcible sodomy, as well as all attempts to commit these crimes, and to provide women with the opportunity of reporting a sexual assault directly to a female officer. Also, women officers are available to assist in an investigation when it becomes apparent that the victim's statement may be inhibited by the presence of a male officer. It was felt that a woman-to-woman relationship might encourage reporting and that a freer exchange between the victim and a female investigator would result in better details of the modus operandi and the physical description of the perpetrator, thereby increasing the likelihood of a successful investigation.

SCAU in Operation

A special telephone number, 212–233–3000, has been established and highly publicized to make sex crimes easier to report and police personnel, through the SCAU, more responsive to these offenses. Women can now report such crimes directly to this unit. From here, details are transmitted to specialized field sex crime squads, which have recently been formed exclusively for these investigations in each of the city's boroughs. Selected male and female detectives, who have been carefully screened for their maturity and experience, staff these squads. They handle all reported cases of rape first degree, sodomy first degree, and sexual abuse first degree.

The selection of appropriate personnel is a key factor in the effectiveness of the operation. With specialization, male officers become more sensitive to the special factors of rape and other sex crime investigations, as well as to signs that some victims would communicate facts of the crime better to a female officer. In such instances, requests for assistance of a female officer are coordinated with the SCAU. Also, investigating only sex crime cases, the officers become more skilled. They not only recognize better the need for assistance, but also place more emphasis on doing a thorough investigation because they more readily understand the problems inherent in bringing a case to a successful conclusion.



A sex crime squad detective, accompanied by a uniformed officer, takes notes at the crime scene.

In conducting interviews, the following matters are taken into consideration:

a. *Psychological problems*—Dr. Morton Bard,[1] an eminent psychologist affiliated with the City University of New York, has indicated that the victim of a rape may develop serious emotional problems, leading even to permanent psychosis. He states, "Forcible rape is the ultimate intrusion of a person's privacy; it is an intrusion of the inner space of a person and is extraordinarily destructive to the victim's being, both physically and mentally." According to Dr. Bard, the officer, as one of the first persons to deal with the victim at this critical time, is "in a strategically unusual position to deliver a preventive mental health service." The police officer's skillful handling can be a very important factor in ameliorating the harmful effects on the victim.

b. *Sensitivity*—The officer must be cognizant of the importance of his contact with the victim. He must recognize that the rape experience is a catastrophe in her life which must be treated with compassion, understanding, and interviewing skill. Sensitive and delicate handling will not only

increase the information-gathering possibilities for the investigating officer but, coincidently, also provide reassurance upon which a victim might build her recovery from the mental trauma of her experience. However, the officer must not lose his objectivity or become gullible. Rapid response to a report of rape can earn the police extra time to gain valuable information at the outset of an investigation that might otherwise have been lost by delay. As often happens, due to psychological shock a victim soon begins to block many of the unpleasant but necessary details from her consciousness.

c. *Utilization of computer*—The reports prepared by the field detectives are forwarded to the SCAU where they are analyzed in an effort to discern patterns helpful in directing investigations or assigning manpower. The information from these reports is keypunched onto cards which are retrievable through high-speed sorting equipment. In addition, the computer capabilities of the department have also been programed to determine patterns based on the modus operandi and/or physical description of the offender. A manual file of index cards is also prepared and filed according to the modus operandi and/or physical stature. Still, this sophisticated records system can be only as good as the information it gets. Therefore, it is essential that the interview from which the initial informaton is derived be exhaustive.

d. *Photo files*—Photographs of all persons arrested in rape cases are forwarded to and maintained in the SCAU. They are filed and cross-referenced by name, nickname, modus operandi, unusual characteristics, and occupation. Each is assigned a numerical identifier based on the race, height, age, and hair color of the suspect. Photographs of known rapists are recorded on microfilm. The microfilm, used in conjunction with portable viewers, makes it possible for victims to view photo files in the privacy of their homes at their convenience. This serves to enhance their cooperation.

The victim's clothing is obtained for analysis in the police laboratory.

It is imperative that comprehensive files and photos be maintained as investigative aids to field detectives, particularly in view of the fact that rapists are often recidivists. If an individual has committed rape once, the likelihood he will commit it again is greater than for an individual who has never done so. These files of past offenders allow maximum utilization of existing information. Compiling detailed information on rapes that are believed to have been committed by the same person is very often rewarding. What one woman may have forgotten or not seen, another may recall. Bits of information may be the links that bring together many crimes and the apprehension of the person responsible.

e. *Coordination with field teams*—The SCAU also coordinates various activities of the borough field units. Whenever a pattern appears to exist, flyers giving the modus operandi, physical description, and composite sketches or photographs of the suspects are sent to the appropriate detective units. Flyers are also sent to the City-Wide Anti-Crime Section and the Special Operations Division so that members of these patrol units can also assist efforts to identify and locate the perpetrators.

Whenever an arrest is made, SCAU searches its records and compiles a list of unsolved cases in which the unknown suspect has, in physical appearance or modus operandi, similarities with the of-

The rape investigation includes a thorough interview of the victim by a specially trained detective.

"Training seminars are being conducted for all investigators handling the crime of rape, and the subject matter has been broadened in recruit and inservice training courses."

fender in custody. The SCAU then sends notices to the detective units which are responsible for these cases. The notices contain a photograph of the arrested suspect in a lineup with others, the lineup date, and a list of complainants in the unsolved cases. The field detectives then visit each complainant and show her a photo of the lineup which includes the newly arrested suspect. If she selects him as being her attacker, another lineup will be arranged in which she will have the opportunity to confirm her identification by personal examination of the suspect among others.

Training Program

In addition to the establishment of the SCAU, special training became essential for all officers. Training seminars are being conducted for all investigators handling the crime of rape, and the subject matter has been broadened in recruit and inservice training courses.

The training stresses the violent nature of rape, its traumatizing effects, and the importance of the police officer's role in interviewing and having the victim examined. The male officer must be alert to the reticence a woman may have to relating all the intimate details of her experience. In those instances where he cannot tactfully overcome it, he is advised to summon a female investigator.

A woman officer of the SCAU prepares a photo montage of the suspect from features selected by the victim.

To insure that evidence necessary for a conviction is properly gathered and processed, technical features of rape investigations are also included in the training program, and a checklist, such as the following, is distributed to all sex crime investigators:

1. Instruct victim not to wash or douche before examination by physician.
2. Accompany victim promptly to hospital or personal physician (gynecologist) for examination.
3. Have physician conduct internal and external examination of victim for evidence supporting elements of rape offense and record his findings in report.
4. Have hospital analyze any smear samples taken from victim or take the smear personally to the police laboratory for analysis.
5. Secure the outer or under garments of the victim, whichever is appropriate, for analysis by the police laboratory.
6. Account for promptly by voucher or other appropriate record in the clerk's office any property retained as evidence.
7. Thoroughly note victim's condition and appearance in the police report.
8. Obtain a complete description of the suspect. Did victim note anything unusual about his:
   a. Underwear,
   b. Genital or other not ordinarily visible body surfaces,
   c. Language used,
   d. Modus operandi?
9. Search scene of crime thoroughly and gather any material for laboratory analysis which could be evidence of the crime.
10. If arrest is made soon after the crime, submit the suspect's clothing and underwear for police laboratory examination. Note *his* general condition and appearance.
11. Record any admissions made by the suspect.

"Like other crimes, the best deterrent [of rape] lies in swift arrest and successful prosecution."

Proposed Model for Rape Investigation

Under a recent grant of funds by the Police Foundation, the New York City Police Department plans to devise a model of the ways to best handle rape investigations. Based on research and experience, the model will incorporate the methods that are most successful in (a) helping the victim, (b) apprehending the suspect, and (c) obtaining the evidence necessary to sustain a conviction. The grant also provides for training and for the acquisition of necessary equipment.

Conclusion

The New York City Police Department established the Sex Crimes Analysis Unit to deal more effectively with the special problems related to the crime of rape. Through the work of the SCAU, it is hoped that women will be encouraged to report rape more readily and that the prospect of police interviews will become less an ordeal for the victims and more productive for the investigators. Like other crimes, the best deterrent lies in swift arrest and successful prosecution. Innovative efforts are urgently needed to cope with rape and minimize the traumatic effects on its victims.

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[1] Dr. Morton Bard is Professor of Psychology, Graduate School, The City University of New York, New York, N.Y. He has conducted numerous seminars for sex crime specialists and has served as a consultant to a number of police departments. Dr. Bard assisted in establishing the Family Crisis Intervention Unit within the New York City Police Department.

THE REPEAT OFFENDER

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A Dallas, Tex., Study—

If people generally think the law is ineffective, the decent ones experience frustrations and bitterness, and the others feel that they can get by with anything.[1] This analysis of human behavior could have been made by some salty old police officer, but it wasn't. These remarks were made by Mr. Chief Justice Warren E. Burger before his appointment to the Supreme Court.

Most police officers know there are active criminals in their jurisdictions who feel they can get by with anything and who should be dealt with in an extraordinary manner by the criminal justice system. But this has, heretofore, been mainly police conjecture.

In 1972, the Dallas Police Department set out on a research project to identify the category of Dallas offender most responsible for crimes. Was it first offenders or repeating offenders?

At the outset, it was necessary to construct a circumstantial case against both the repeat offender and the first offender, since numerous crimes, in Dallas and elsewhere, are never solved and, therefore, the offender is never identified. Nevertheless, there had to be some evidence bearing on the question.

Since there was no intention to reinvent the wheel, it was decided to make a thorough study of the litera-

By

E. D. HEATH, Jr.
Director
Legal Liaison Division

and

A. J. BROWN
Director
Community Services Division

Police Department
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Chief Donald A. Byrd

ture available on the subject early in the project. Also, there was the known offender himself—the convicted criminal with the best information on the subject and a good insight into the subtle workings of the criminal mind. He must, of necessity, be asked about crime. Finally, there existed a wealth of information in police files about arrested persons who cleared crimes.

Definition of Repeat Offender

To standardize terms used in the study, it was decided the term "repeat offender" would mean any person who had been previously charged with a felony or major misdemeanor and subsequently had an additional case filed against him for a felony or major misdemeanor.

It was necessary to arrive at this definition because of limited availability of records and differences in terminology between jurisdictions.

Literature

A study of the literature must logically begin with the "Careers in Crime" study conducted by the FBI. While the FBI study differs from the Dallas study in its definition of offenders, the trends documented by the FBI parallel information developed in the Dallas study. ("Careers in Crime" uses subsequent rearrest to define the recidivist.) The FBI study, released in 1973, revealed that of 228,032 offenders arrested on Federal charges during the period 1970–72 there were 148,809 or 65 percent who had been arrested previously on a criminal charge.

Meanwhile, Messrs. Marvin E. Wolfgang, R. M. Figlio, and Thorsten Sellin released a timely publication in 1972. Their book, "Delinquency in a Birth Cohort," told of an indepth, longitudinal study into the behavior of a group of persons born in Philadelphia, Pa., in 1945.

These persons were tracked through their youthful years by the use of school records, police records, and selective service lists to measure their criminal experiences. Police records were used rather than court records, for the same reasons they were used in the Dallas study. That is, the authors felt police arrest figures gave a more accurate picture of the actual delinquency rate of the individuals.

This research work was revealing. The Philadelphia researchers found that of a total of 9,945 boys in the test group, only 345 were ever known to commit a crime. Of those who did commit crimes, only 45.5 percent committed one crime and then presumably redirected themselves and sinned no more, so to speak. However, 35.4 percent committed subsequent offenses and were rearrested for as many as four more offenses. Finally, it was learned that only 6.3 percent of the 9,945 committed as many as five criminal offenses. Yet, that 6.3 percent (627 boys) were responsible for 51.9 percent of all crimes known to police as having been committed by the entire test population. We have no reason to believe that there is any significant difference in the behavior of adults.

Research of Dallas Police Files

Meanwhile, the Dallas Police Department researchers reviewed all the cases that were filed by Dallas police in January, April, and July of 1971. Researchers conducted searches into the files of the Dallas police, the Dallas County Sheriff's Department, and the Dallas County District Attorney's Office to learn the facts and histories of those cases. Credit is due Sheriff Clarence Jones and District Attorney Henry Wade of Dallas, who not only supported the study when it was conducted, but have been active in the implementation of its findings since its release. Without their support the study probably would have had little success.

Our local inquiries revealed that 40.8 percent of the cases were filed against first offenders and 59.2 percent against repeat offenders. It was also learned that 69 percent of the burglaries and 64 percent of the robbery cases filed by the Dallas Police Department during that period were filed against repeat offenders. Significantly, as with the Philadelphia cohort study, the adult repeat offenders in Dallas who had been charged five or more times represented only 9.6 percent of the total cases considered. Unfortu-

> ***". . . it was decided the term 'repeat offender' would mean any person who had been previously charged with a felony or major misdemeanor and subsequently had an additional case filed against him for a felony or major misdemeanor."***

nately, the assertion could not be made that they were responsible for the 51.9 percent of the crimes as shown in the cohort study.

Research at the State Prison

In March of 1972, a team of researchers was sent to the Diagnostic Center of the Texas Department of Corrections (TDC). There, at the intake point for the prison system, were 99 prisoners from Dallas County undergoing initial processing. Each was interviewed extensively on a voluntary basis, and their opinions and attitudes about crime were solicited. Additionally, records on 2,933 inmates serving convictions from Dallas County were extracted from the TDC computer files to permit additional analysis. Here is what was learned:

The Dallas convicts were serving sentences for robbery or burglary in most instances. It was also learned that 73 percent of the total convict population had previously received jail sentences, and 37 percent had previously served time in the Texas Department of Corrections.

Of the 99 convicts interviewed, 74 were repeat offenders and admitted committing a total of 4,047 index offenses. In contrast, the remaining 25 convicts admitted only 27 index offenses.

Similarly, 48 of the repeat offenders who were reentering the prison system admitted to 3,201 burglaries for an average of nearly 67 burglaries each.

Research of the Dallas Criminal Justice System

The criminal justice system, police, prosecution, courts, and corrections are functions of several levels of government. Each component develops its own priorities, plans, and information systems. This sets the stage for some of our problems. A researcher soon finds his greatest hurdle is that of data management. Since each component is autonomous, it is no wonder that each has separate filing systems which defy attempts to track cases efficiently.

Research soon highlighted another problem created by the police system. It was soon learned the police have a manpower inability to follow up adequately each crime report with an extended investigation. The emphasis to show a high rate of case clearances was counterproductive to good investigative performance. Rather, it contributed to an old practice often called "cleaning up the books." A study of multiple case clearances showed that 95 percent of the offenses were reportedly committed by persons who were repeat offenders. This practice of linking uncleared crimes denied prosecuting attorneys sufficient information to inspire them to seek and obtain appropriate penalties or to seek quicker prosecution for more active persons out on bond.

Another contribution to the problem was the court practice of assigning sentences to be served concurrently which inspired a person on bond to take advantage of this *penalty free* climate while he awaited trial.

At the time of the study there were seven felony and three misdemeanor courts hearing cases in Dallas County. It was learned during the study that the average person charged with an index crime waited 9 months for his trial, with no routine priority being given the more serious offenders by the courts or those who had been sought by the police.

Additionally, it was learned that 995 persons charged with 2,446 serious crimes were awaiting trial at the time of the study. Further, over 28 percent of those defendants had three or more cases pending against them.

The Recommendations of the Study

Upon completion of the research, five recommendations were made for improving the system for dealing with what was now recognized as a disproportionately active repeat offender. These recommendations were:

- The criminal justice system in Dallas should become a complete system, complete with comprehensive planning and a sufficient information system to permit adequate feedback for evaluation.
- There should be a consistent policy within the police department, regarding repeat offenders, which is understood by each component of the criminal justice system, the public, and most importantly, by the criminal.
- In order to reduce crimes the criminal courts should administer justice as rapidly as possible.
- The State legislature should pass laws that would increase the difficulty of a repeat offender obtaining bond when arrested for offenses committed while free on bond. Further, laws should be passed to add additional penalty to offenses committed while on bond.
- The State legislature should enact legislation which would

". . . the average person charged with an index crime waited 9 months for his trial, with no routine priority being given the more serious offenders by the courts or those who had been sought by the police."

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prevent the assigning of concurrent sentences to repeat offenders.

New Laws on Repeat Offenders in Texas

In 1973, the 63d Texas Legislature passed a new Penal Code for the State. The new code became effective January 1, 1974.[2]

The new Penal Code is basically structured similar to the Model Penal Code of the American Law Institute. The code establishes four degrees of felonies: capital felonies, felonies of the first degree, felonies of the second degree, and felonies of the third degree. Misdemeanors are graded into three classes: A, B, and C.

Section 12.42 of the new Penal Code provides an enhancement possibility in the sentencing of repeat offenders who have been previously convicted of *any* felony. Persons convicted of a third degree felony, who have been previously convicted of any felony, shall be punished for a second degree felony. Similarly, persons convicted of second degree felonies, who have been previously convicted of any felony, shall be punished for a first degree felony, and those who are convicted of a first degree felony, who have been previously convicted of any felony, shall be punished by confinement in the Texas Department of Corrections for life, or for any term not more than 99 years or less than 15 years. Any felony repeat offender who has been previously convicted of two prior felony offenses shall be punished by confinement in the Texas Department of Corrections for life.

These enhancement provisions provide a significant change in existing Texas law. With the exception of the latter enhancement provision, which provides for a possible life sentence on the conviction of a third felony offense, repeat offender statutes in Texas generally require convictions for felony offenses of *like character*. However, as previously stated, effective January 1, 1974, the law provides final conviction of any previous felony offense makes the enhancement provisions applicable.

Section 12.43 of the new Penal Code provides for enhanced penalties for repeat and habitual misdemeanor offenders.

Hopefully, with the new laws in Texas, substantial progress can be made in dealing with the repeat offender in Texas.

FOOTNOTES

[1] Burger, Warren E., "Rights and Wrongs of U.S. Justice," *Reader's Digest*, Pleasantville, N.Y., August 1969.

[2] *Penal Code*, State of Texas, West Publishing Co., St. Paul, 1973.

Inc let of 11-21-73 from Kenneth M. Betz, Director, Miami Valley Regional Crime Laboratory, 335 West 3rd Street, Dayton Ohio, ? return letter - 12-4-73

ONE IN A MILLION!

Too often individuals who use handguns in their daily work become a bit negligent or careless in the care and handling of the weapons. This is when accidents occur. One such accident—in which the condition of the gun and its holster were instrumental—recently came to our attention.

After firing a test shot into a chronograph, a police laboratory firearms examiner holstered his weapon which accidently discharged as he did so. The bullet traveled through the end of the shoulder-type holster and split in two. The bullet parts passed through the examiner's shirt and sport coat and lodged in the ceiling. The examiner, fortunately, received only minor powder burns and a small laceration on his upper arm.

Upon examining the revolver closely, it was determined that the sides of the trigger shoe protruded slightly beyond the trigger guard. The holster, on the other hand, was worn and several stitches were broken where a seam had separated. This slight opening of the seam permitted a corner of the leather to catch against the trigger shoe which double-action fired the weapon as it was holstered. An unlikely occurrence? Perhaps, but, that's what accidents are!

Damage to police officer's attire (top photo) was caused by revolver which accidentally discharged when its trigger shoe caught against worn shoulder holster (bottom photo).

Emergency Auxiliary Units

". . . the law enforcement agency must rely on citizen participation in exceptional circumstances."

From Clark County, Nev.—

By
RALPH LAMB
Sheriff
Las Vegas Metropolitan Police Department
Las Vegas, Nev.

On July 1, 1973, the Las Vegas Police Department and the Clark County Sheriff's Department were consolidated into one agency, the Las Vegas, Nev., Metropolitan Police Department.

The new organization brings with it a tradition which dates back to the early days of England—that of the posse. Though the history of the posse dates back several hundred years, it is probably most closely associated with the settling of the Western United States. It still serves the same purpose today as it did then. The law enforcement agencies of yesteryear, as today, could never afford to support, on a full-time basis, the resources necessary to counter all emergency situations which might arise in the community. Therefore, the law enforcement agency must rely on citizen participation in exceptional circumstances.

However, times have changed since the days of the old west when the basic skills search and rescue groups needed were the ability to ride a horse and fire a gun. Today's search and rescue personnel demonstrate a wide variety of skills, including mountain climbing, tracking, first aid, and evidence handling. They still, however, retain the age-old tradition of voluntary service to the community.

Clark County contains 8,000 square miles of some of the most beautiful, yet treacherous, terrain found anywhere in the world. It varies in elevation from 680 feet at Cottonwood Cove on the Colorado River to 11,918 feet on Mt. Charleston peak. Temperatures range from 125 degrees in the desert during the summer to 15 degrees below zero in the high mountains during the winter.

Lake Mead, with 550 miles of rocky shoreline and a depth variation of inches to 850 feet, beckons to the visitor with a promise of relief from the intense desert heat. Its inviting comforts reveal no evidence of the havoc it can create with 6-foot waves generated by a sudden desert storm.

There are strange and wonderful rock formations, as well as exotic plant life, to entice the unsuspecting visitor from the main roads. The sandy and often treacherous trails which twist among these attractions can end in disaster for the tourist. With these potential dangers lurking about to threaten the estimated 14 million visitors per year to Clark County, a situation is created where

a highly organized voluntary reserve unit is a necessity.

The Sheriff's Disaster, Search and Rescue Section, originally formed in 1947, not only provides the coordination for the activities of the volunteers but also provides such facilities as a command center, base radio equipment, utility trucks, ambulance, kitchen truck, generator, portable floodlights, and many miscellaneous items utilized in the search and rescue functions. It coordinates all search and rescue operations within the county and all activities between the department and the auxiliary organizations.

The Sheriff's Mounted Posse has a long history of community service. The first organized posse was originated in April 1947 and consisted of local horsemen who participated in many search and rescue efforts. The horse posse soon gave way to progress, and in October of 1950, the Clark County Sheriff's Jeep Posse was organized. Though the jeep is more mobile, the horse is still used in some of the more inaccessible areas within the 8,000 square miles of mountains and desert which make up Clark County.

The jeep posse consists of 35 members who own and maintain their four-wheel-drive vehicles. The members are highly skilled individuals, trained in mountain climbing, rescue procedures, and first aid and have an intimate knowledge of the many characteristics of the desert and mountains. They spend an average of 600 to 900 hours per man per year on searches and rescues. The incidents have ranged from locating a lost child who had strayed from a family picnic in the mountains to a criminal seeking to conceal himself in the vastness of the desert. The rescues often involve acts of daring, such as injured persons being plucked from a precarious perch on the face of a mountain. The jeep posse members are the ground forces in the area of search and rescue. However, their job in recent years has been made easier by another unit, the Sheriff's Aero Squadron which is, in a sense, the eyes of the auxiliary ground forces.

The aero squadron was initiated in 1953 and consists of 48 members who own and maintain 20 individual aircraft. It is augmented by two Las Vegas Metropolitan Police Department helicopters and often participates in rescue efforts with the department helicopters. Where the terrain and conditions are favorable, the helicopter can complement the rescue efforts of the ground force and expedite the transfer of a victim to safety and medical aid, particularly in mountainous areas. When favorable conditions do not prevail, the rescue effort is necessarily accomplished by tortuous, time-consuming, and often dangerous, mountain climbing and rescue techniques.

The aero squadron serves an additional purpose—aiding law enforcement in locating stolen vehicles which are often driven to an isolated area of the desert and stripped or burned. Such vehicles are located by systematic flights made by the members of the squadron.

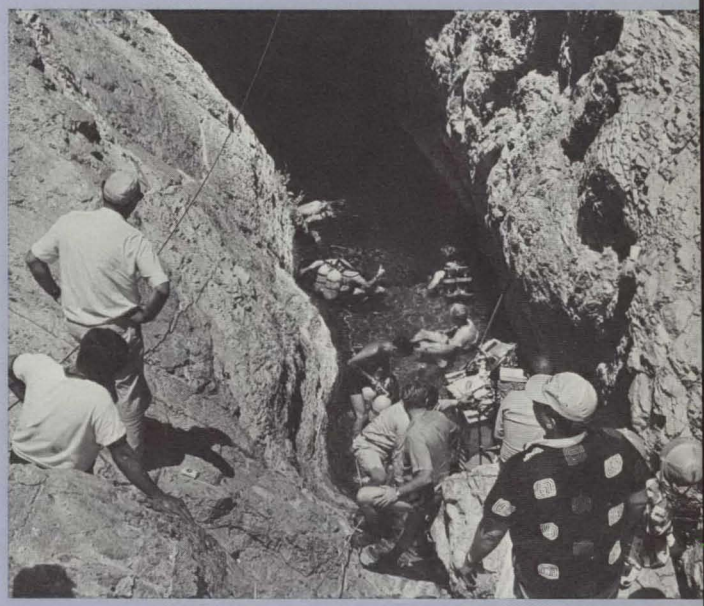
The police department has another unit which would probably be considered somewhat unique in a desert area. The unit is called S.U.R.F. (Sheriff's Underwater Recovery Force). This unit confines itself to working in the 229 square miles of Lake Mead, the largest manmade lake in the world. The members of the S.U.R.F. unit each own and maintain their diving equipment and are usually involved in locating drowning victims, or perhaps crime related evidence searches. This unit consists of 23 members who, since its inception in 1969, have devoted many manhours to aiding local law enforcement agencies.

As long as men with this kind of dedication to the community exist, law enforcement can provide more effective service to the public in sudden and emergency conditions.

Within minutes after an avalanche, a volunteer rescue team joined the search for victims.

Equipped with its own power supply and the ability to communicate on all law enforcement and local government frequencies within the county, the department's mobile command post (top and bottom photos) is utilized in any major emergency.

S.U.R.F. unit rescuers assemble (top photo) in an unsuccessful attempt (bottom photo) to recover two divers who disappeared while exploring a hidden underground river below the desert floor.



An aerial view of the academy and grounds in Pittsford.

Need and Economy:

Sanitarium Comes to Life— With Law Enforcement Training

By
HAROLD S. POTTER
Executive Director
Vermont Law Enforcement Training Council
Montpelier, Vt.

The problem of inadequate police training facilities ". . . was successfully resolved in Vermont by converting idle State property into a site for law enforcement training."

The adequate training of law enforcement personnel is a recognized need in our society. A well-trained police officer is an effective police officer.

All too frequently in planning a police training program many difficulties are encountered. These are usually related to gaining finances, selecting a qualified staff, and obtaining a training facility. This latter problem was successfully resolved in Vermont by converting idle State property into a site for law enforcement training.

Prior to 1970, Vermont was not different from many States when it came to a permanent training site—a police academy. It had none. However, a dream for such a facility came true that year when the State became the owner of the Pittsford Sanitarium, a large three-story building situated on 140 acres of land. The training division of the Department of Public

Safety, under Capt. Lloyd B. Potter, saw in this an opportunity to acquire a location for police training. Once State of Vermont authorities became aware of our interest in this site, the entire facilities were made available to the Department of Public Safety for a training academy. By July 1970, the previously vacant sanitarium was alive with activity.

That the new training location had dormitory facilities was of particular interest to academy personnel, for it was felt that officers who reside and study on campus for a specific time can be molded into more effective officers than those who work days and attend school at night. The part-time student tends to be more difficult to instruct; he has too many outside diversions. The campus-bound student can better devote his total efforts to his education.

Many adaptations were made at the sanitarium.

After some remodeling, the dormitories were readily transformed into motel-type accommodations. The kitchen equipment of the former sanitarium proved sufficient for the needs of the new academy, especially with the addition of three local women who prepare plentiful and nutritious meals. Now completed, with the assistance of Federal funds, are a fully equipped photographic laboratory and a firearms range. The 140 acres of meadows and woodland have provided an ideal location for training of police animals, particularly bloodhounds. As soon as funds are available, instruction in the handling of police vehicles on wet and oily surfaces will be provided. One of the meadows is scheduled to be used for a skidpan for this police training.

State police, municipal officers, and sheriffs keep the academy busy with police training classes throughout the year. A 12-week course is regularly conducted by the State police, while local police hold several 6-week periods of instruction. To provide maximum use of this facility, other State agencies are encouraged to hold training sessions at the academy, with certain expenses being reimbursed by the respective agency.

While the academy still needs a larger classroom, a gymnasium, a training tank, additional shower facilities, and certain other necessities for a better training program, it is a great improvement over our former training sessions which frequently required officers to spend the night on armory cots, to get their meals from canteens, or to share classroom facilities with students outside the profession. No one can fully appreciate the Vermont Police Academy in Pittsford unless he attended classes under the previous conditions. The contrast of our new and modern firearms range serves to remind many of us how we once waded through 4 feet of snow in below zero weather to qualify with our sidearms at outmoded facilities.

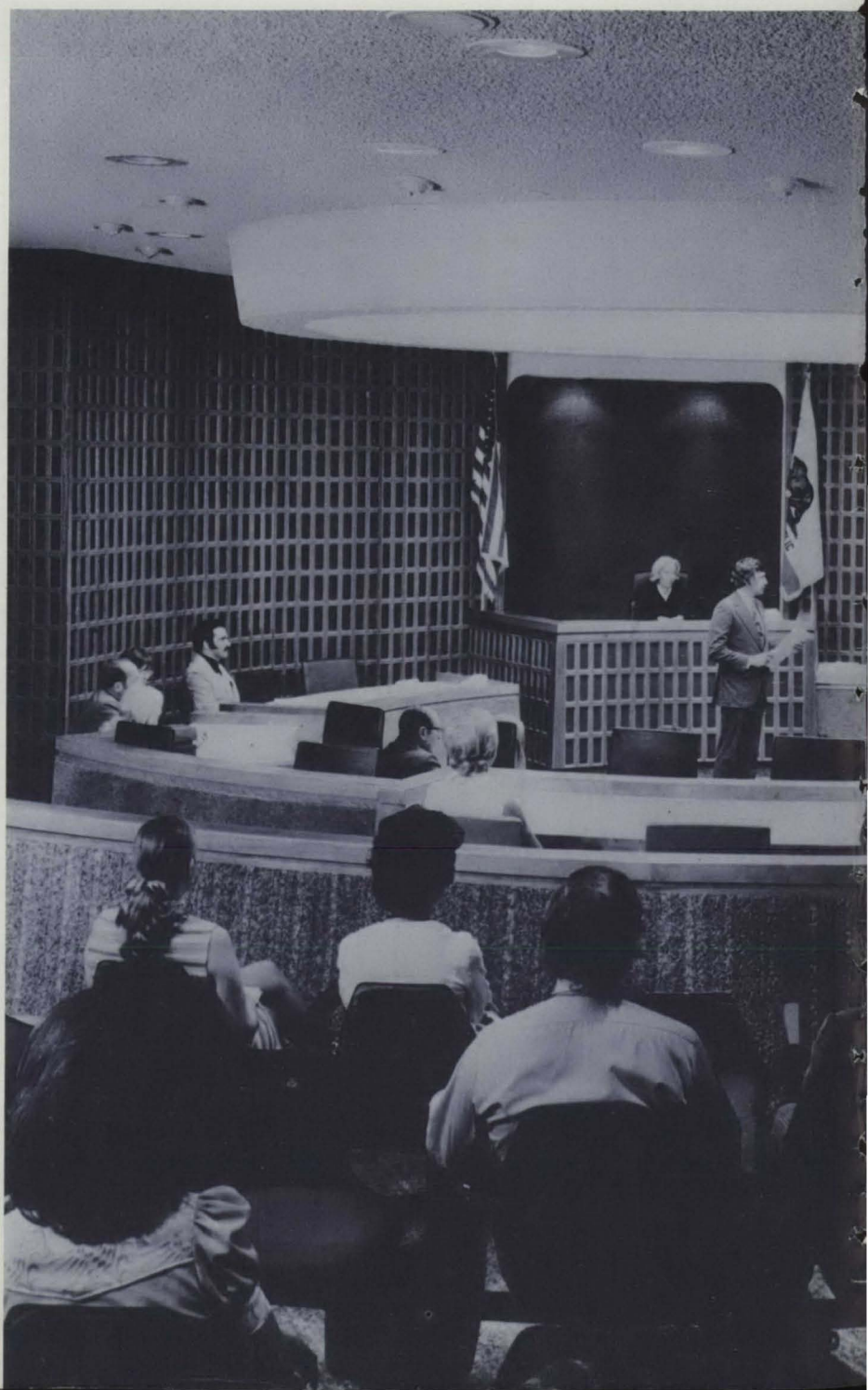
Today, when the realities of crime require well-trained law enforcement officers along with public demands for economy in government, the attempt to meet both challenges could benefit from the Vermont experience.

Harold S. Potter (front row, extreme right), Executive Director, and John D. Taft (front row, extreme left), Assistant Director, Vermont Law Enforcement Training Council, are shown with one of the training classes assembled in front of the main building.

Courtroom of the Future

Balancing Security and Justice

By
DEAN GORDON D. SCHABER*
McGeorge School of Law
University of the Pacific
Sacramento, Calif.



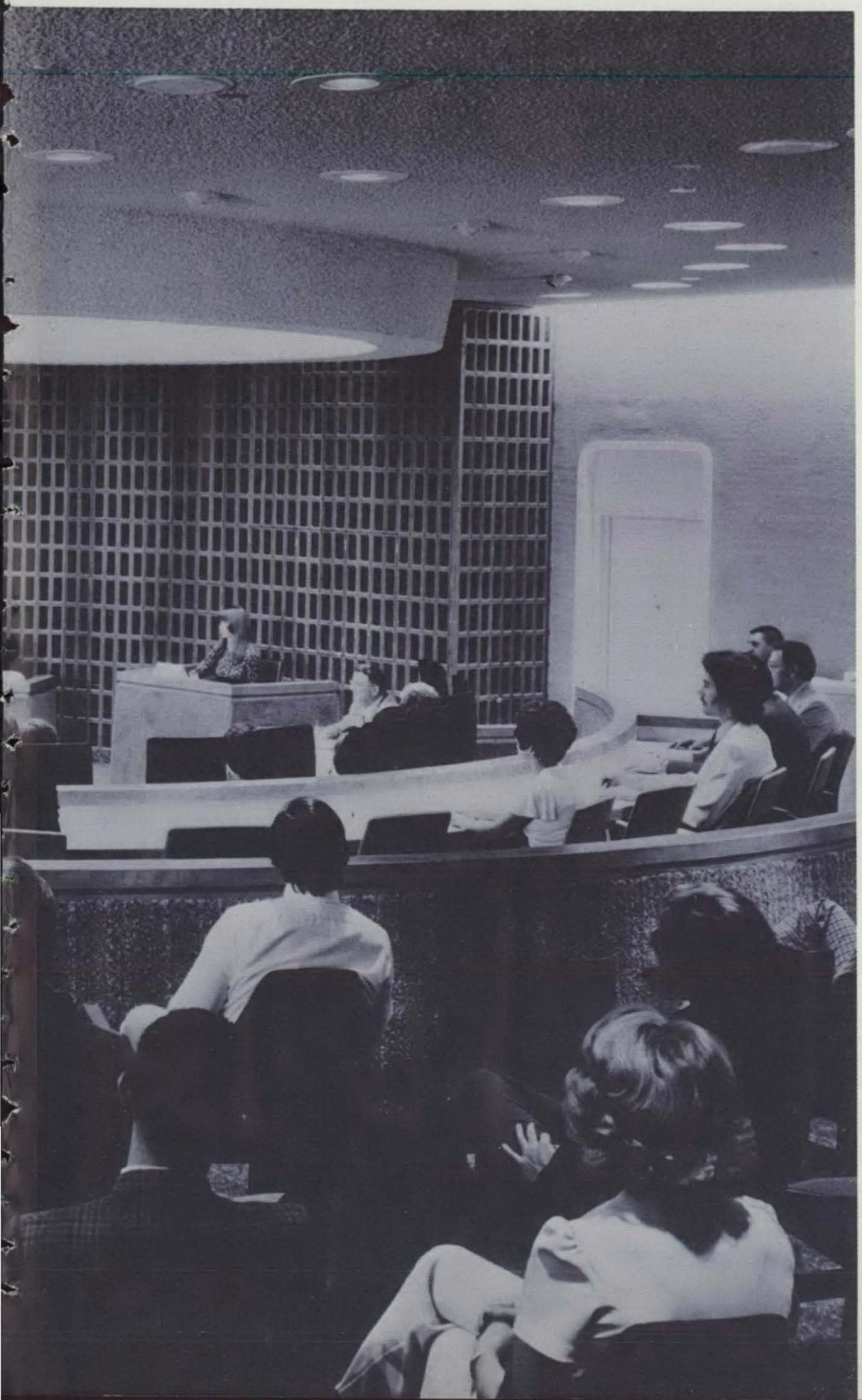
It was startling to hear a young woman reporter announce in a loud voice that "1984 has arrived" on the day of a press review of the facilities of our new Center for Legal Advocacy which includes what we call "Courtroom of the Future." She was commenting on certain of the courtroom's security precautions. Sadly enough, I thought, how wrong she was, for if the forces that led to the built-in protective devices remain strong, we may have a tragic recurrence of courtroom scenes of violence that could, indeed, precipitate the kind of evil she feared.

Design Factors

During the development of our model court facility we had the goal of making security not just a functioning, but an unobtrusive, reality. The features of the Courtroom of the

*Dean Schaber has been dean and professor of law at McGeorge School of Law since 1970. Prior to that he was vice president, Sacramento County Bar Association, presiding judge of Sacramento County Superior Court, and in the private practice of law in Sacramento.

". . . any matter of [courtroom] security, to be functional yet beneficial to our judicial process, must be designed to lift the presumptive innocence of a criminal defendant to its highest required constitutional level."



Future are designed to assist the effective and free administration of justice and not to dominate or control it. Thus, simple structural design factors were considered first for their utility, then for the security provided all courtroom litigants, personnel, and visitors. Some of the design considerations included:

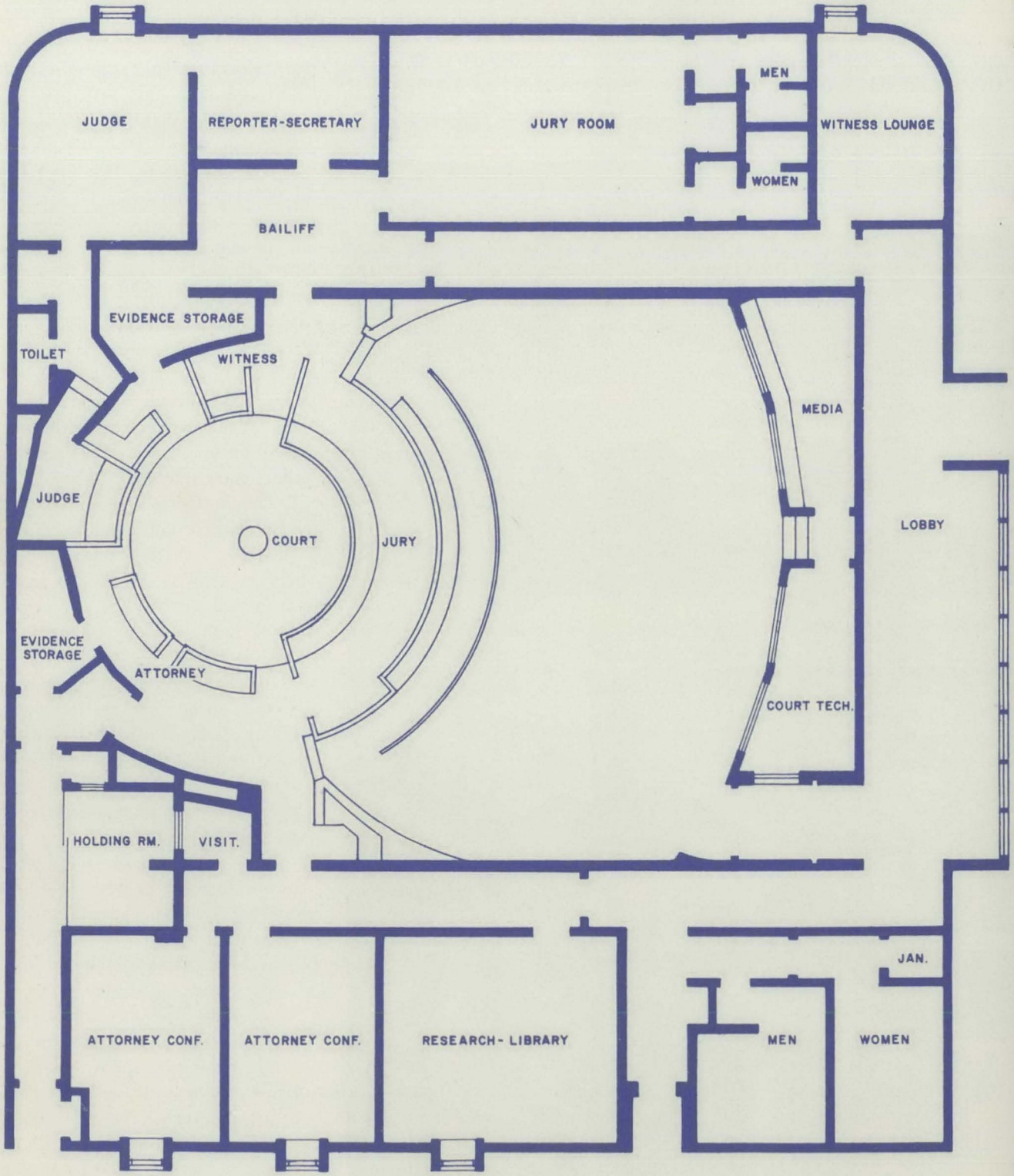
1. The doors to the building housing the courtroom are as far away as possible from the doors which constitute the entrance to the courtroom itself. This allows a free flow of travel, but more importantly puts a distance between entry into the building and the entry into the arena of justice. Obviously, noise levels at the courtroom entry are reduced and the distance reduces the chances of boisterous or unruly crowds disrupting or forcing entry into the courtroom.

2. The courtroom's design separates the circulation routes used by various participants, and the general public. This contributes to efficiency of operation, as well as affording all persons a great deal of unobtrusive protection:

> A concealed prisoner passage access corridor leading from the holding cell to the courtroom permits the bailiff and the criminal defendant to enter through a wall-paneled door a few feet from defendant's counsel table.
>
> The trial attorneys enter through a door directly opposite and across the courtroom from the entrance for the jurors, both inaccessible to the public.
>
> The judge utilizes a private passageway from his chambers to the bench which affords unobstructed ingress and egress. He is able to view the scene in the courtroom, through a slot in the passageway, before taking the bench.

3. All spectator seats are clear plastic, with no legs, permitting an unobstructed view of packages and all

Schematic drawing of the "Courtroom of the Future."



"The features of the Courtroom of the Future are designed to assist the effective and free administration of justice and not to dominate or control it."

other materials carried in by the entrants.

4. The jurors are all seated in highback chairs with their backs to the audience, eliminating almost all distracting factors and yet providing acute visual and auditory capability. The absence of visual or personal contact with the audience will free the jurors from any partisan influences that may be present during the trial. Concern about audience conduct is, therefore, moderated.

Security Factors

I have always felt, throughout my short career as a practicing attorney, trial judge, and now law school professor and dean, that any matter of security, to be functional yet beneficial to our judicial process, must be designed to lift the presumptive innocence of a criminal defendant to its highest required constitutional level.

By removing distractions and disruptions, the judge and jurors are free to convene in a truly impartial courtroom environment. Any of the technical security devices utilized in our Courtroom of the Future are designed to serve the objectives of the criminal justice process. For example:

1. A television system with concealed cameras at strategic vantage points views all access corridors within the courtroom. This system operates automatically and is monitored in the court technician's booth, where all electronic security controls are located. It allows bailiffs to simultaneously view important courtroom areas on their individual monitors for any potentially disruptive or threatening activity.

2. Every person seeking entrance to the trial must pass through a four-door vestibule entry system in which a metal (weapons) detector, concealed in the vestibule, automatically triggers a locking device if it is activated. This leaves anyone conceivably carrying a concealed weapon under the watchful eye of the court technician, whose glassed, bulletproof room also permits him to automatically lock doors, signal for assistance, and ask the person detained in the vestibule to divest himself of the metal object detected by the monitor. A drawer, like that of a drive-in bank which can be extended to and drawn out of the reach of depositors is provided for this purpose.

3. Courtroom entrance doors may be locked and guarded after all spectator space is filled, avoiding disruption of a trial by others waiting to enter the building. All courtroom doors can be locked by remote control by the court technician, judge, or bailiff should a disturbance during trial need to be isolated quickly and removed.

Trials that involve celebrated causes or parties always pose special security problems for the court system. When the decorum and dignity of the courtroom become impaired or destroyed by zealous audiences and obstreperous defendants, the trial begins to take on the characteristics of a farce mitigating the sense of judicial "fairplay."

Courtroom visitor leaves object with court technician (in adjacent room) before entering through remotely controlled doors enclosing the vestibule.

A court technician controls all video taping and sound recording of court proceedings, as well as electronically operated security devices, from a soundproof booth located at the rear of the courtroom.

"When the decorum and dignity of the courtroom become impaired or destroyed by zealous audiences and obstreperous defendants, the trial begins to take on the characteristics of a farce mitigating the sense of judicial 'fairplay.'"

Insuring Justice

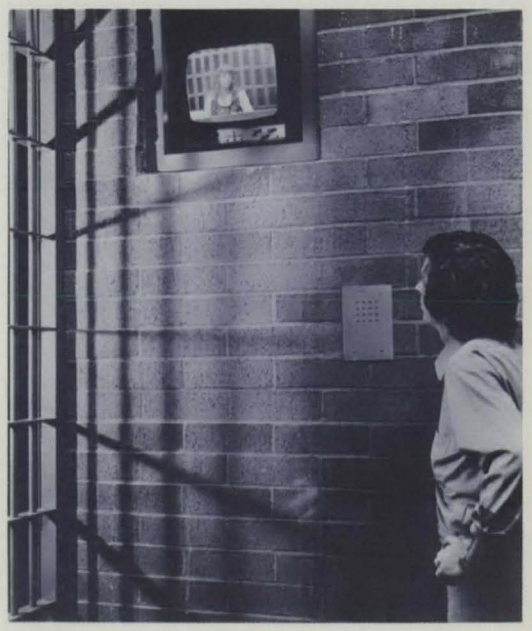
The alternative is not to bind and gag the violent criminal defendant or enclose him in a transparent, soundproof box, however necessary this may seem. Such expedient measures would severely damage his constitutional right to a presumption of innocence. Nevertheless, some method of handling the problem must be created, as the U.S. Supreme Court observed in *Illinois* v. *Allen*, 397 U.S. 337, 346–347 (1970):

"It would degrade our country and our judicial system to permit our courts to be bullied, insulted, and humiliated and their orderly progress thwarted and obstructed by defendants brought before them charged with crimes."

Seven years of research and visits to more than 100 courtrooms in seven States led us to the significant innovations in courtroom technology and design. They are primarily intended as insurance to the obstreperous defendant that all his constitutional rights will be safeguarded. Disruptive influences may be avoided without diminishing the defendant's right to a presumption of innocence in the mind of the jury. The unruly defendant may be removed to a nearby cell adjoining the courtroom where he may observe the proceedings on a closed-circuit television monitor. While seeing and hearing the entire trial, the defendant can converse from the cell with his attorney by way of a telephonic headset and, thus, assume an active role in his own defense. Private discussions with his attorney may take place in a separate room.

Each attorney has a combination wall display unit to exhibit evidence. Concealed cameras focus on wall units, providing closeups of exhibits on all courtroom TV monitors.

A special cell with television monitor and communication facilities is located adjacent to the courtroom.



Jury room includes a 21-inch television monitor for showing video tape replays of court proceedings.

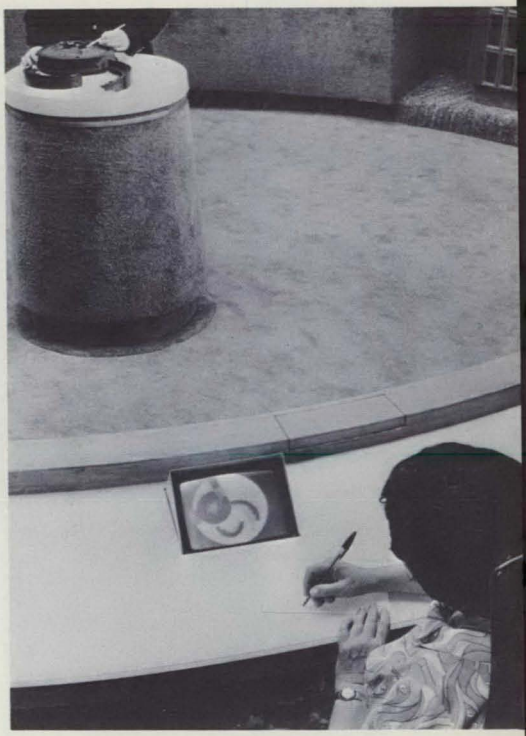
Similarly, the unique audio and visual capabilities of this experimental courtroom facility, in reality, should be much less offensive to the maintenance of judicial standards than the sometimes unreasoning interference, and even violent encounters, that have taken place in some widely publicized trials in the recent past. Prudence counsels us that the introduction of such security measures as physical searches of the person at the entrance to a celebrated trial and seating of the audience behind protective shields can, however, only have a deleterious effect on the attitudes of jurors and render justice less of a functioning reality in that courtroom.

The Future

The Center for Legal Advocacy is now testing a new form of audience control by transmitting a closed-circuit television picture of the criminal proceedings, the same system monitored by the unruly defendant, to a public viewing room separate and apart from the courtroom. All vestiges of partisan pressure are thereby excluded from the actual court proceedings, without stifling public interest.

Weighing security against the normalcy desired for the trial processes, we find that all problems are probably not solved by our approach. However, it is our hope and expectation that construction of the Center for Legal Advocacy makes possible a new dimension of judicial study and research that will make the actual courtroom of 1984 the living reality of true justice and keep in the forefront the constitutional guarantee of presumed innocence of a criminal defendant.

". . . the unique audio and visual capabilities of this experimental courtroom facility, in reality, should be much less offensive to the maintenance of judicial standards than the sometimes unreasoning interference, and even violent encounters, that have taken place in some widely publicized trials in the recent past."



Items on evidence pedestal are displayed on television monitor at juror's desk.

News reporters have a comfortable viewing booth equipped with telephone and television monitor at rear of courtroom.

An Increase in Interest

By
INSP. CHARLES A. DONELAN
Federal Bureau of Investigation
Washington, D.C.

PART I

". . . the law enforcement officer must keep in mind . . . the rules of evidence which ultimately determine the admissibility at trial of the relevant facts he collects."

I. Introduction

It is a truism in criminal investigation that the law enforcement officer must keep in mind not only the elements of the offense involved, but also the rules of evidence which ultimately determine the admissibility at trial of the relevant facts he collects. Some rules of evidence apply to fact situations so frequently encountered that an officer becomes thoroughly familiar with their requirements, for example, those rules, traditional and constitutional, governing the admissibility of a confession made by the accused. But other rules applying to fact situations less frequently encountered may not be so familiar and raise questions in the mind of the officer as to whether or not the cogent information he obtains is admissible in evidence. Suppose, for example, the relevant fact is a confession made not by the accused but by a third party who tells a person out of court that it was he and not the accused who committed the crime charged and who, thereafter, dies, disappears, or otherwise becomes unavailable. May the person so told testify to the confession made by the third party for the purpose of exonerating the accused?

The short answer to the foregoing question is no! A third-party confession is not admissible because it constitutes hearsay evidence and, by the weight of current authority, does not fall within any recognized exception to the hearsay rule. According to a small but growing number of courts and legislatures, however, such a third-party confession is admissible, and in the opinion of many distinguished commentators on the law ought to be admissible. The evidence comes in not by virtue of a doctrine of confessions law, but under an exception to the hearsay rule, long established at common law, called the "Declaration against Interest." [1] Such a declaration qualifies as a hearsay-rule exception

because it satisfies the two requisites traditionally justifying the admissibility of hearsay evidence; namely, a circumstantial guaranty of trustworthiness, and a necessity for its use.[2] The guaranty of trustworthiness is the assumption that persons do not make statements damaging to themselves unless satisfied for good reason that they are true. The necessity lies in the fact that the person who made the statement is not available to testify in court and, if the hearsay evidence is not resorted to, there may be no evidence at all. The only necessity originally recognized was the death of the declarant, but the modern tendency is to accept other grounds of unavailability, such as the declarant's insanity, physical incapacity, absence from the jurisdiction, and successful claim of privilege against self-incrimination.

For almost a century and a half, under the majority rule, declarations within this exception have been limited to statements of fact against the declarant's pecuniary or proprietary interest, for example, that he owes money to another, or that he does not own certain property. The exception has not been deemed to extend to statements of fact exposing the declarant to criminal liability; for example, that he is the one who committed the crime charged against the accused. The thrust of the minority rule, therefore, is to increase the interest permissible under this exception to include declarations against the so-called penal interest of the declarant.

Support for the minority view widening the breadth of the exception may have been somewhat strengthened by the recent decision of the Supreme Court of the United States in *Chambers* v. *Mississippi*.[3] This was a significant State case where the Court dealt not with constitutional evidentiary doctrines which aim at deterring law enforcement officers from invading fundamental individual rights, but with the application of common law rules of evidence whose traditional purpose is to establish the truth by trustworthy means. In *Chambers*, a murder prosecution, the Court ruled that the accused was denied a fair trial in violation of the due process clause of the 14th amendment, partly as the result of a strict application of the declaration-against-interest exception to the hearsay rule which led to the exclusion of three oral confessions to the murder made by a third party—confessions which bore substantial assurances of trustworthiness and were critical to the defense of the accused.

II. The Donnelly *Case*

To put the *Chambers* holding in perspective it may be instructive: first, to review a famous half-century-old decision of the Supreme Court of the United States where the Court excluded a third-party confession on the ground that it constituted inadmissible hearsay evidence; and, then, to chronicle developments in the law governing the declaration-against-interest exception to the hearsay rule in the years between.

The referenced decision is *Donnelly* v. *United States*,[4] a Federal case of first impression in the Court, decided in 1913, involving the following facts.

The defendant, Donnelly, was tried and convicted of murdering an Indian named Chickasaw on a reservation in California. The victim was mortally wounded by gunshot while bathing in a river at a point near a mining claim. It was the theory of the prosecution that the killer shot Chickasaw from a clump of willows growing on a sand bar in the stream. Following his conviction, Donnelly sued out a writ of error to the Supreme Court. He contended that the trial court erred in refusing to permit him to introduce the testimony of a witness named Norris that Joe Dick, an Indian dying from terminal tuberculosis, confessed to Norris just before he died that it was he and not Donnelly who killed Chickasaw. As a foundation for this offer of evidence, the defense had shown at trial that Dick was dead and thereby accounted for his not being called as a witness.

The Supreme Court opened its discussion on this issue by emphasizing that the confession by Dick, if admissible, would have directly tended to exculpate Donnelly since the circumstances of the crime detailed in the prosecution's case strongly tended to exclude the theory that more than one person participated in the shooting. The Court also emphasized that the defense showed certain circumstances which allegedly pointed to Dick as the guilty man: that he lived in the vicinity and, therefore, presumably knew the habits of Chickasaw; that human tracks on the sand bar at the scene of the crime led in the direction of a camp where Dick was stopping at the time rather than in the direction of Donnelly's home; and that at one place beside the tracks there was an impression as of a person sitting down, indicating a stop caused by shortness of breath which would be natural to Dick who was suffering from consumption. Despite the foregoing observations, a majority of the Supreme Court held that the trial judge was cor-

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.

rect in excluding the testimony of Norris offered to show the confession of Joe Dick to the murder on the ground that it constituted inadmissible hearsay evidence.

The Court said that hearsay evidence, except for a few well-recognized exceptions, is excluded by courts adhering to the principles of the common law. The chief grounds for its exclusion are that the reported declaration, if in fact made, is made without the sanction of an oath, with no responsibility on the part of the declarant for error or falsification, and without any opportunity for the court, jury, or parties to observe the demeanor and temperament of the witness and to search his motives and test his accuracy and veracity by cross-examination. Furthermore, the witness who swears in court to the extrajudicial declaration does so, especially where the alleged declarant is dead, free from the embarrassment of present contradiction and with little or no danger of successful prosecution for perjury.

The Court declared that among the recognized exceptions to the hearsay rule is that which permits the reception, under certain circumstances and for limited purposes, of declarations of third parties made contrary to their own interest. It is almost universally held, however, that the interest involved in the declaration must be that of a pecuniary character, and the fact that a declaration, alleged to have been extrajudicially made, would probably subject the declarant to a criminal liability is deemed not to be sufficient to constitute it an exception to the hearsay rule. In England, this doctrine was held to be controlling by the House of Lords in two notable 19th-century cases, one of them being the *Sussex Peerage* case (1844). In the United States, there is a great and practically unanimous weight of authority in the State courts against admitting evidence of confessions of third parties made out of court and tending to exonerate the accused.

The Court cited cases from 16 States in support of the foregoing statement and then concluded:

> "We do not consider it necessary to further review the authorities, for we deem it settled by repeated decisions of this court, commencing at an early period, that declarations of this character are to be excluded as hearsay." [5]

There was a famous dissent in the *Donnelly* case by Mr. Justice Oliver Wendell Holmes, Jr., in which two other Justices concurred. Pointing out that Professor Wigmore, our greatest writer on the law of evidence, had so well and fully stated the history of the law and the arguments against the English doctrine that there was no need to set them forth at greater length, the Justice declared:

> "The confession of Joe Dick, since deceased, that he committed the murder for which the plaintiff in error was tried, *coupled with circumstances pointing to its truth*, would have a very strong tendency to make any one outside of a court of justice believe that Donnelly did not commit the crime. *I say this, of course, on the supposition that it should be proved that the confession really was made, and that there was no ground for connecting Donnelly with Dick.*—The rules of evidence in the main are based on experience, logic and common sense, less hampered by history than some parts of the substantive law. There is no decision by this court against the admissibility of such a confession; the English cases since the separation of the two countries do not bind us; the exception to the hearsay rule in the case of declarations against interest is well known; no other statement is so much against interest as a confession of murder, it is far more calculated to convince than dying declarations which would be let in to hang a man . . . ; and when we surround the accused with so many safeguards, some of which seem to me excessive, I think we ought to give him the benefit of a fact that, if proved, commonly would have such weight. . . ." [Emphasis added.] [6]

III. The Sussex Peerage *Case*

The *Sussex Peerage* case, the English decision cited by the Supreme Court in *Donnelly*, is the leading case taking the position that declarations by third parties of the commission of criminal acts are not against interest within the meaning of the declaration-against-interest exception to the hearsay rule.[7] In this historic case, the Duke of Sussex, a son of King George the Third, married an English noblewoman in Rome, Italy, in 1793 without obtaining the previous consent of the king. The marriage was celebrated by the Rev. Mr. Gunn, an ordained minister of the Church of England. In failing to receive the King's prior permission to marry, the Duke violated an express provision of the Royal Marriage Act passed by Parliament in 1772 to regulate the line of succession to the throne. This statute declared that the parties to any marriage made in violation of its provisions were subject to the criminal sanctions of forfeiture and imprisonment.

In 1794, the Duke and his wife were remarried in England, and that same year their only son was born. After the Duke died in 1843, the son presented a petition to the Crown claiming the lands and title of his father as his only male heir. At the time of this proceeding the Rev. Mr. Gunn was dead. The son's petition was eventually referred to the House of Lords

where his claim was denied on the ground that his father's marriage in Rome, upon whose validity he relied, violated the Royal Marriage Act and, therefore, was null and void.

The question on the scope of the declaration-again-interest exception came before the House of Lords when the Duke's son attempted to prove the fact of the marriage of his father and mother in Rome by certain items of evidence including the testimony of a son of the Rev. Mr. Gunn. The minister's son would have testified that before his father died he made a statement to him that he had celebrated the marriage between the Duke and his wife in Rome and that he believed, when he did so, that he was committing a crime. Counsel for the claimant argued that these declarations by the deceased clergyman were admissible since they constituted declarations of a person who was now dead, who knew the facts, who was not interested in misrepresenting them, and who had an interest in being silent respecting them. He stressed that the Rev. Mr. Gunn had at one time in a prior proceeding declined to testify with respect to the Duke's marriage because he might subject himself to criminal prosecution. Counsel also argued that the interest which the law considered was not confined to a pecuniary one and that the necessity of the case justified the admission of this testimony.

The arguments made by counsel for the claimant, however, were not accepted by the House of Lords, and the declarations of the Rev. Mr. Gunn tendered by the Duke's son in proof of the marriage were rejected. The law lords held that only declarations against the proprietary or pecuniary interests of the party making them were receivable in evidence and that the law did not recognize the apprehension of possible danger of a prosecution as creating an interest bringing a statement within the rule governing the admission of declarations against interest.

As mentioned by Mr. Justice Holmes in his *Donnelly* dissent, Professor Wigmore traced the history of the declaration-against-interest exception to the hearsay rule in his treatise and set forth his much-quoted arguments against the *Sussex* limitation which excluded statements subjecting the declarant to criminal liability.[8]

Professor Wigmore said that the exception goes back to the early 1700's in England when the hearsay rule itself had gained a complete development and final precision. The general principle behind this exception, that is, that a statement of fact against interest is receivable on the ground that it would presumably not be made unless truth compelled it, made its way slowly. But from 1800 up to the fourth decade of the century when the *Sussex Peerage* case was decided, it was understood that all declarations of facts against interest by deceased persons were to be received without limitation. In view of this history, Professor Wigmore strongly criticized the holding in the *Sussex Peerage* case. He said that the case was not strongly argued, and that the English judges did not consider the case in the light of the precedents, that they took a backward step, and that they put an arbitrary limit upon the rule.

He declared, further, that the limitation to this exception excluding declarations against penal interest cannot be justified on the ground of policy. The only policy reason that has ever been advanced for such a limitation is the possibility of procuring fabricated testimony to such an admission if oral. But this argument of danger of abuse would be a good argument against admitting any witness at all, for it is notorious that some witnesses will lie and that it is difficult to avoid being deceived by their lies. The truth is, he said, that any rule which hampers an honest man in exonerating himself is a bad rule, even if it also hampers a villain in falsely passing for an innocent. He said:

> "The only practical consequences of this unreasoning limitation are shocking to the sense of justice; for, in its commonest application, it requires, in a criminal trial, the rejection of a confession, *however well authenticated*, of a person deceased or insane or fled from the jurisdiction (and therefore quite unavailable) who has avowed himself to be the true culprit. . . .
>
> * * * * *
>
> "It is therefore not too late to retrace our steps, and to discard this barbarous doctrine, which would refuse to let an innocent accused vindicate himself even by producing to the tribunal *a perfectly authenticated written confession*, made on the very gallows, by the true culprit now beyond the reach of justice." [Emphasis added.] [9]

Just as Professor Wigmore severely criticized the holding in the *Sussex Peerage* case, he condemned the decision of the Supreme Court in the *Donnelly* case. He referred to the limitation in the latter decision as "irrational" and the rule as "an intellectual disgrace to our system of Evidence." [10]

(Continued Next Month)

FOOTNOTES

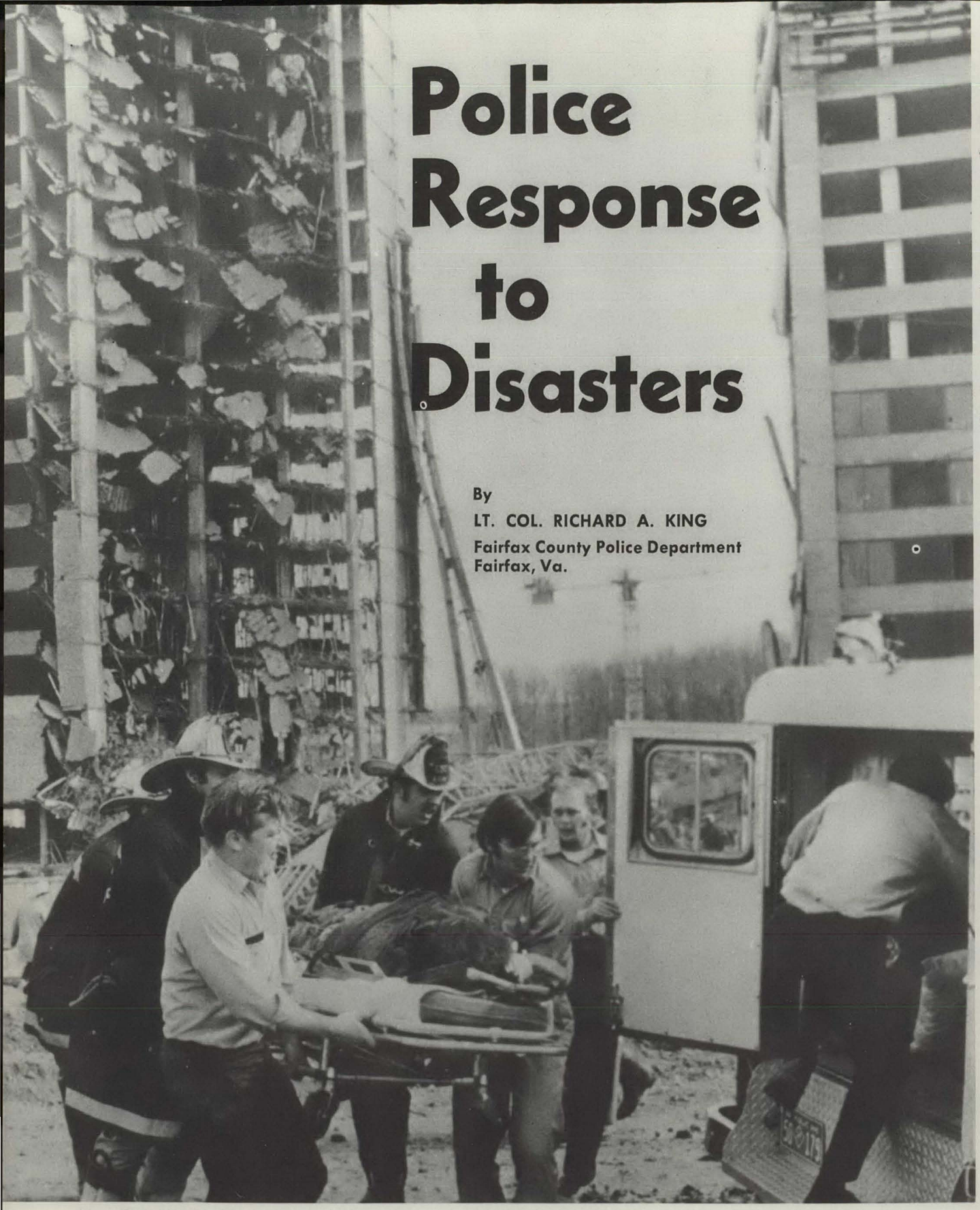
[1] Under confessions law, a confession as an item of evidence is peculiar to the situation of the accused in a criminal case, being an acknowledgment in express words by the accused of the truth of the guilty fact charged or of some essential part of it. See 3 Wigmore, *Evidence* §§ 821, 816 n. 1 at 231 (3d ed. 1940). See also 4 Wigmore, *Evidence* § 1050 (Chadbourn rev. 1972). Even the admission of one codefendant in a criminal case is receivable against himself only. *Tong's* Case, Kelyng 18 (1663). For the special rule in conspiracy cases, see 4 Wigmore, *Evidence* § 1079 (Chadbourn rev. 1972).

[2] See Tracy, *Evidence* at 245–250; 5 Wigmore, *Evidence* §§ 1420–1423, 1455 (3d ed. 1940); McCormick, *Evidence* §§ 276–280 (2d ed. 1972).

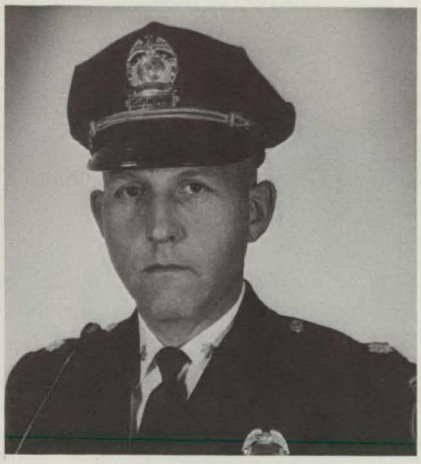
(*Continued on page 31*)

Police Response to Disasters

By
LT. COL. RICHARD A. KING
Fairfax County Police Department
Fairfax, Va.



Fire and rescue personnel rush victim to waiting ambulance at construction site disaster.



Lieutenant Colonel King

ments can deploy manpower resources in a reasonably efficient manner to cope with the problem. Disaster response, on the other hand, is a much more problematic situation. Because certain areas of the country are not considered disaster-prone, local government officials responsible for public safety may become complacent with respect to disaster planning. Effective planning may take place only after a disaster strikes and people realize that it can happen again.

A case in point is Fairfax County, Va. With virtually no history of natural or man-made disasters, Fairfax County experienced four tragedies during the 13-month period from March 1972 to April 1973. Two of the disasters were natural: the floods generated by Hurricane Agnes in June 1972 and a tornado which struck parts of the county in April 1973. The other two disaster situations—a natural gas explosion in a residential area and the collapse of a high-rise apartment building under construction—were man-made.

Col. William L. Durrer, Chief of Police.

"The preservation of human life is of prime concern to those participating in the disaster operation."

The role of the police in today's society has been a much-discussed topic in recent years. That role—as viewed by most police agencies—is the traditional one of protecting life and property, suppressing criminal activity, and performing public services. Although this statement of mission is very general, the context in which it is normally viewed is that which relates to criminal matters. Another important, though generally unrecognized, role of the police in public safety is that of providing services in disaster situations. Most police administrators would agree that disaster reponse is germane to the police role, but because these events are of limited frequency, disaster countermeasure response is not always considered in the planning process.

Disasters, either natural or man-made, are events which cannot be foreseen. The occurrence of a criminal act can be reasonably anticipated by the police, even though its time and place of occurrence may not be known. With this expectation, and the analysis of criminal offense data, police departments can deploy manpower resources in a reasonably efficient manner to cope with the problem. Disaster response, on the other hand, is a much more problematic situation. Because certain areas of the country are not considered disaster-prone, local government officials responsible for public safety may become complacent with respect to disaster planning. Effective planning may take place only after a disaster strikes and people realize that it can happen again.

In order to appreciate the impact of these situations on a police department, it is necessary to describe in some depth the sequence of events and the scope of operations in these specific instances.

Gas Explosion

On March 24, 1972, what proved to be the first in a series of natural gas explosions in the Washington, D.C., metropolitan area occurred in a residential subdivision in the Annandale area of Fairfax County. A gas line was

Fire and rescue workers at scene of gas explosion which demolished two homes.

"Disasters, either natural or man-made, are events which cannot be foreseen."

ruptured accidentally by a backhoe operator digging for the installation of a sewer line. Natural gas seeped into two houses near the break in the gas line and an explosion occurred, completely demolishing both homes. Three persons were killed, and two were injured by the explosion. The immediate consideration of the responding public safety agencies in such a case is the prevention of further death or injury.

Even though this tragedy was limited in geographic scope, the initial impact on public safety resources was substantial. Adequate police manpower had to be dispatched immediately to the disaster scene to evacuate residents and cordon off the area to facilitate movement of emergency vehicles. Coordination between the police department and fire department is essential in such an incident. Response must be rapid and in sufficient numbers to control effectively the situation.

Fairfax County has the ability to achieve effective control and coordination by having both police and fire resources controlled through a single Emergency Operations Center. This arrangement facilitates the dispatching of police or fire units by dialing one emergency telephone number. Calls received in the Emergency Operations Center are routed to either a police or fire dispatcher who then coordinates the appropriate response. The operations center becomes the command post for the county government during disaster situations unless the situation dictates the establishment of a field command post. Control and coordination can be adequately achieved in most instances through the Emergency Operations Center, provided the disaster situation is of limited duration.

Hurricane and Flood

Natural disasters, of course, are generally more widespread than the man-made variety and, consequently, create a greater impact on the public safety agencies of local government.

Hurricane Agnes, which struck many parts of the country during June 1972, affected portions of Fairfax County, primarily during the weekend of June 23 and 24. The immediate impact of this situation was substantial because the Northern Virginia area rarely experiences any extremes in weather conditions. The primary concern for the area was the projected flooding caused by the Potomac River overflowing its banks. Although the flooding never became as serious as originally feared, it nevertheless caused the death of six persons and left considerable damage in its wake.

The primary role of the police department during this disaster was the evacuation of residents from the threatened areas and the security of property. The police are not equipped for rescue operations, per se, but they play an important role by acting as the "eyes" for the county government. Information gathered from field units is vital to the decisionmaking process and the deployment of appropriate resources to combat the disaster.

An important consideration for any public safety agency in a situation such as a major flood is the isolation of field units created by the topography of the area coupled with the disaster at hand. In the case of the floods, several major roads were cut off, creating several separate spheres of activity with respect to disaster operations. This seriously disrupts the element of coordination, and each isolated unit is forced to cope with the disaster situation under conditions of limited mobility and resources.

The disaster countermeasures employed in the flood situation exemplify the involvement necessary by many agencies of local government in order to adequately cope with the situation. In addition to the police and fire departments, which are, of course, the first line of defense in disasters, the schools, public works, health department, social services, public affairs, and county planning department all play key roles in the countermeasure effort.

During the floods, for example, a significant portion of the water supply for the county became unavailable because of damage to the pumping facilities. The water shortage necessitated not only close coordination among agencies within the Fairfax County government, but also cooperation from neighboring jurisdictions and the Federal Government. Potable water was brought in from nearby Fort Meade, Md., and the Virginia National Guard also provided a quantity of water in mobile tanks. Local governments adjacent to Fairfax County provided additional assistance with respect to water supplies.

The health department provided tetanus and typhoid shots for persons who became exposed to contaminated water. The county school system served as the nucleus for relocating families which were displaced by the flooding. A high school centrally located within the county served as an evacuation center for persons who were unable to obtain shelter near their homes. Several of the 23 fire stations throughout Fairfax County also provided temporary shelter for displaced families. The police department played a major role in the evacuation process, particularly in the southeastern part of the county where some 8,000 residents were notified of flood dangers.

"Patrol response to the scene of the disaster must be rapid and in sufficient number to provide for emergency assistance and crowd control."

Although the danger period of the floods lasted only 2 days, the aftermath of the disaster necessitated sustained response by many county agencies in restoring the area to a situation of normalcy.

Building Collapse

Fairfax County experienced another major disaster on March 2, 1973, which required the mobilization of a significant number of police department personnel in addition to fire and rescue services and other county public service agencies. At approximately 2 p.m. on that date, a large section of a high-rise apartment building under construction collapsed. This occurred at the Skyline Center, a high-rise complex at Baileys Crossroads in the eastern part of Fairfax County. Fourteen construction workers were killed and 34 injured as a result of this disaster.

The immediate impact of such a situation in the police department is substantial. Patrol response to the scene of the disaster must be rapid and in sufficient number to provide for emergency assistance and crowd control. In addition, vehicular traffic must be diverted from the area to relieve congestion and facilitate movement of emergency equipment.

The initial difficulty with response to disaster scenes is that the patrol force is geared toward response to calls for service and crime deterrence. When disaster strikes, sufficient resources must be diverted to the disaster scene, but without seriously hampering response to the normal workload. The fact that police must continue to respond to calls for service, notwithstanding the scope of a disaster, required the swift mobilization of additional manpower resources. Immediate coordination is necessary between the various agencies which might play a role in the disaster operation.

The initial response to a disaster is carried out by the two main public safety agencies—the police department and the fire department. Immediate assessment of the scope of the disaster and the potential need for additional resources and equipment must be accomplished by key field personnel from these two organizations.

Floodlights illuminate collapsed section of a high-rise apartment building under construction as rescue personnel work round-the-clock to locate survivors.

In the Skyline Center building collapse, two construction workers were stranded atop a section of the building left standing after the collapse. Because of the structural damage and the possibility of the remaining section collapsing, the stranded men had to be brought to safety immediately. A military helicopter from nearby Fort Belvoir was dispatched to the scene and successfully lifted the men from the building.

The preservation of human life is of prime concern to those participating in the disaster operation. Efforts must be directed toward preventing further escalation of the disaster. The attainment of this objective is premised on a rapid yet methodical coordination between all operational entities participating in the disaster countermeasure effort. Coordination is best achieved through the establishment of a command post to serve as the focal point of all decisionmaking relative to disaster operations.

In the Skyline tragedy, a temporary command post was established at a church near the construction site. One of the first tasks confronting the police department was the determination of how many people may have been victims of the building collapse. Investigators were assigned to each of three local hospitals to determine the identity of injured persons admitted. The parking lot at the construction site was also checked to identify the owners of the vehicles which remained after workmen left the scene.

Within 2 hours after the building collapse, a meeting was held to determine the nature and scope of the disaster operation to follow. It was determined that a 24-hour-a-day effort would proceed to locate the workmen listed as missing.

A special crane was called to the scene to conduct a search operation, and personnel from nearby military bases provided searchlights to aid in the night operations. The rescue effort was sensitive due to the fact that the remaining uncollapsed portion of the building represented a serious hazard to anyone working in debris removal near the building. Large concrete slabs were left hanging by steel support rods after the collapse, and these could fall at any time. Before any attempt was made to remove debris, all equipment in the area was turned off, and a silent search was conducted in an attempt to locate persons trapped beneath the rubble. The only noise heard during this period was that caused by settling debris.

A member of the rescue party was transported in a bucket by the special crane in order to conduct a floor-by-floor search of the remaining portion of the 24-story building. None of the missing workers were located as a result of this phase of the search. By 6 p.m. on the date of the disaster, it had been determined that 34 persons were injured, 4 were known dead, and 10 were missing and presumed dead.

Demolition of the remainder of the building and removal of debris had to proceed with two major considerations. Care had to be exercised in the event that any of the missing workers were still alive, and the removal of debris had to be slow and methodical to ensure the safety of the men in the demolition operation. The hanging slabs of concrete were carefully removed with cutting torches, and the major task of debris removal began.

Throughout the disaster operation the police department was faced with the problem of security and crowd control. The major roadway passing through the area was blocked to all normal traffic, and additional manpower was used to augment on-duty personnel for traffic control. A system of issuing passes was instituted to restrict the area of operations to authorized personnel only. Telephone and radio communications were established in the police department's mobile command post which served as the focal point for all decisionmaking and information dissemination.

From March 2 through March 11, 1973, a 24-hour-a-day operation was conducted for debris removal and recovery of bodies. Operations were reduced to a 12-hour period from 6 a.m. to 6 p.m. from March 12 until the operation was terminated. On March 17, the body of the final missing worker was recovered, bringing the death toll to 14.

". . . catastrophic events often take place without warning, imposing extraordinary demands on public safety agencies."

Tornado

At approximately 2 p.m. on April 1, 1973, a quiet Sunday, a tornado struck parts of Fairfax County without warning. This disaster, of a type previously unknown to Fairfax County, injured 34 persons and caused nearly $14 million of property damage. Miraculously, no one was killed.

The immediate problem caused by the tornado was that of identifying the scope of the disaster. Reports of damage came into the Emergency Operations Center, but because of the lack of experience with this condition, it was at first not known that a tornado had actually developed. The tornado touched down in six separate areas of the county while moving in a northeasterly direction from its starting point just southwest of the city of Fairfax, centrally located in the county. Several residential areas were damaged in addition to a high school, two shopping districts, and segments of an apartment complex.

Approximately 270 persons were displaced because of structural damage to homes and apartments. Once again several county agencies were called upon to provide services; however, the public safety agencies' role was limited to problems caused by the initial impact of the tornado. The fact that the tornado struck on Sunday lessened the impact compared to the situation which would have existed had it occurred during the week. The damaged school was, of course, unoccupied at the time as were most of the damaged stores in the business districts. Highway traffic densities, too, are fortunately lower on Sunday afternoon as compared with a typical weekday.

Notwithstanding the limited history in Fairfax County of disaster situations, the tornado which struck in April 1973 was the fourth major disaster, either natural or man-made, suffered by the area in a 13-month period. In these disasters, the county executive of Fairfax County worked at the scene, coordinating the required interface with other local governments, Federal agencies, and military support services. This coordination was vital to the success of public service agencies in coping with disasters of this magnitude.

Importance of Planning

There are several valuable lessons to be learned as a result of situations such as those described in this article. The first is the realization that catastrophic events often take place without warning, imposing extraordinary demands on public safety agencies. Unfortunately, it often takes the occurrence of such disasters to generate the development of adequate disaster planning. The experience gained by

responding to a disaster situation is invaluable in the determination of tactical plans for future response.

While the police department had well-planned measures for civil disorders, the disasters served as a catalyst to develop a comprehensive disaster plan. The Fairfax County government has published a disaster preparedness plan which outlines the nature and level of response to be carried out by all county agencies which have a potential role in disaster countermeasure operations. This document was generated as a result of experiences gained throughout the four disaster situations previously described.

The Fairfax County Police Department's annex to the disaster preparedness plan describes the role of the police department in disaster situations in relation to the other county government agencies. The decision to mobilize additional manpower resources is discussed as well as the procedures to follow in effecting such a mobilization. One of the most important features of the plan is the delineation of responsibilities of key command personnel within the police department. The importance of establishing a command post with adequate lines of telephone and radio communication is also stressed.

Familiarization with the plan gives the appropriate commanders the basic knowledge necessary to apply effective decisionmaking should a disaster strike. The first few hours following a disaster are critical and often determine the ultimate outcome of the situation. It is, therefore, essential that the initial police response be swift, adequate, and coordinated.

Local governments should seriously consider the development of comprehensive disaster plans, irrespective of their past history or probability of disaster occurrence. Aircraft, rail, and other transportation accidents, as well as major fires, power failures, and similar events could potentially occur anywhere in the country. The development of well-defined plans can be translated into savings of life and property when disaster strikes. Adequate planning allows for a more rapid response to meet crisis situations and ensures that the delivery of disaster countermeasure services will be timely and adequate.

The local governing body must assess its capability to effect service delivery under a variety of hypothetical situations. No agency of local government should be overlooked in the planning process. Virtually every unit can potentially play a role in the disaster countermeasure effort. The Fairfax County plan, in addition to police and fire department response, covers services by the School Board, Public Works, County Development, Health Department, Social Services, Public Affairs, Red Cross, Water Authority, Management and Budget, General Services, and the Park Authority. The involvement of some or all of these agencies depends on the severity of the disaster with respect to scope and duration. Five alert stages are specified, each subsequent alert calling for the mobilization of additional agencies and resources. Police and fire personnel are the first to be involved in any disaster situation, and other county departments enter the situation as dictated by the particular circumstances at hand.

"Adequate planning allows for a more rapid response to meet crisis situations and ensures that the delivery of disaster countermeasure services will be timely and adequate."

The planning process must identify which agencies have services to offer, how they will function with other local units, and which key individuals will assume responsibility when a disaster occurs. Government leaders at the local level must determine what resources are not available and take steps to seek assistance from neighboring jurisdictions, State agencies, and the Federal Government. Mutual aid agreements developed with the cooperation of the various political subdivisions will assist in eliminating bureaucratic stumbling blocks which might occur in the midst of a disaster.

It should be recognized by police officials that the development and existence of a disaster plan is no assurance of success. The plan must be subjected to periodic review to ensure its viability. No plan articulates the types of action to take in every specific situation. It is impossible to cover all contingencies. Because of the unpredictable nature of disasters, the plan should be viewed as a basic overview of response, with enough flexibility to instill in the minds of police commanders the potential need for deviation from the plan in actual operations. Recognition of certain limitations is an important prerequisite of any realistic plan. These issues should be recognized and steps undertaken to avoid an atmosphere of complacency.

AN INCREASE IN INTEREST

(*Continued from page 25*)

FOOTNOTES

[3] 410 U.S. 284 (1973).
[4] 228 U.S. 243 (1913).
[5] Ibid. at 276.
[6] Ibid. at 277–278.
[7] 11 Clark & F. 85, 8 Eng. Reprint 1034. See also Anno. Declaration as Against Interest, 162 A.L.R. 446 (1946).
[8] See 5 Wigmore, *Evidence* §§ 1364, 1455, 1475, 1476 and n. 4 at 282, 1477 (3d ed. 1940).
[9] 5 Wigmore, *Evidence* § 1477 at 289 (3d ed. 1940).
[10] 5 Wigmore, *Evidence* § 1476, n. 9 at 284 (3d ed. 1940).

WANTED BY THE FBI

ALBERT LOUIS BRADFORD, also known as Malik El Assaalam, Albert Louis Bardford, Louis Cable, Malik Hakim, Malik El Saalam, "Al"

Interstate Flight—Forcible Rape

Albert Louis Bradford is being sought by the FBI for unlawful interstate flight to avoid prosecution for forcible rape. Federal warrants for his arrest were issued at St. Louis, Mo., on September 13, 1968, and again on February 24, 1972.

On August 26, 1968, Bradford allegedly raped and brutally beat a woman in Clayton, Mo. Four months prior to this offense, on April 30, 1968, Bradford was released on parole from the Missouri State Penitentiary, where he was serving a life-term sentence received on March 12, 1951, for two counts of forcible rape and armed robbery.

FBI Agents arrested Bradford at Boston, Mass., on May 13, 1971. Then, on May 25, 1971, Federal process was dismissed and he was turned over to local police pending removal to St. Louis, Mo. He fought extradition and was released on $50,000 bond. Although extradition was upheld, Bradford reportedly disappeared from the Boston area around February 16, 1972.

Right thumbprint.

Description

Age	40, born December 11, 1933, at St. Louis, Mo.
Height	5 feet 11 inches to 6 feet.
Weight	170 to 185 pounds.
Build	Medium.
Hair	Black.
Eyes	Dark brown.
Complexion	Dark.
Race	Negro.
Nationality	American.
Scars and Marks	Scars on back of right hand; tattoos of an insect, a tepee, "DEX," "BERNICE," and "KENO" on left arm.
Occupations	Artist, musician, porter, teacher.
FBI No.	683,609 A.
Fingerprint classification	17 L 25 W IOO M 14 U OOI 12

Caution

Bradford, who has reportedly attempted suicide in the past, has been convicted of rape and robbery and should be considered armed and very dangerous.

Notify the FBI

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

U.S. GOVERNMENT PRINTING OFFICE : 1973—O-535-332

Voluntary filler credited New Orleans 2-19-74

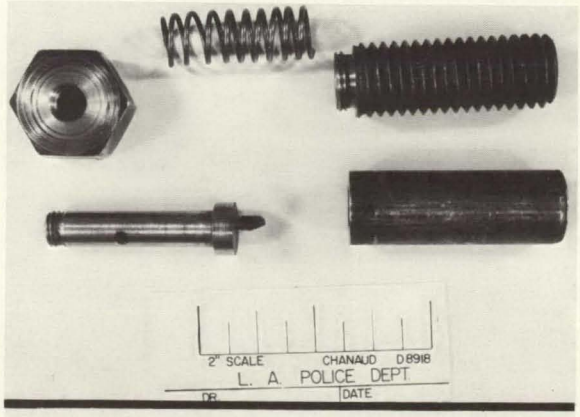
Machine Bolt Gun

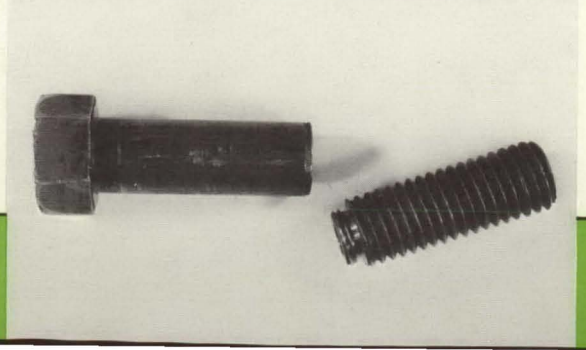
The Los Angeles, Calif., Police Department has advised law enforcement officers to conduct thorough inspections of both motorcyclists and their vehicles when involved in criminal activities. Close attention should be paid to bolts carried on the suspect or having no apparent purpose on a motorcycle frame. A lethal weapon capable of firing a .22 caliber long rifle hollow point or standard cartridge can be constructed, for example, from a standard 5/8-inch machine bolt.

The weapon is composed of five segments, each machined out of the original bolt, which can be inconspicuously fitted into the motorcycle's frame as if it were standard equipment. By removing the threaded barrel from the shank of the bolt and inserting the cartridge in the open end, the weapon is loaded. The barrel is then replaced, and the gun is fired by pulling back and releasing the spring-loaded hexagonal bolt head which drives a firing pin against the cartridge.

Officers are advised that this weapon is very innocent appearing and can be easily overlooked. The bore of the gun is sometimes disguised with greasy or dirty paraffin wax. An easy way to determine if a bolt may be a gun is to attempt to turn the hexagon head of the bolt while holding the shank portion fast. If the head or the shank turns independently of one another, the bolt should be examined closely.

The machine bolt gun disassembled





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INTERESTING PATTERN

The unusual impression presented here is classified as an accidental whorl with an outer tracing. It possesses two deltas with recurving ridges in front of each. However, you will note that no ridges form a complete circuit. The pattern is very unusual as the ridges all flow out the top of the impression.