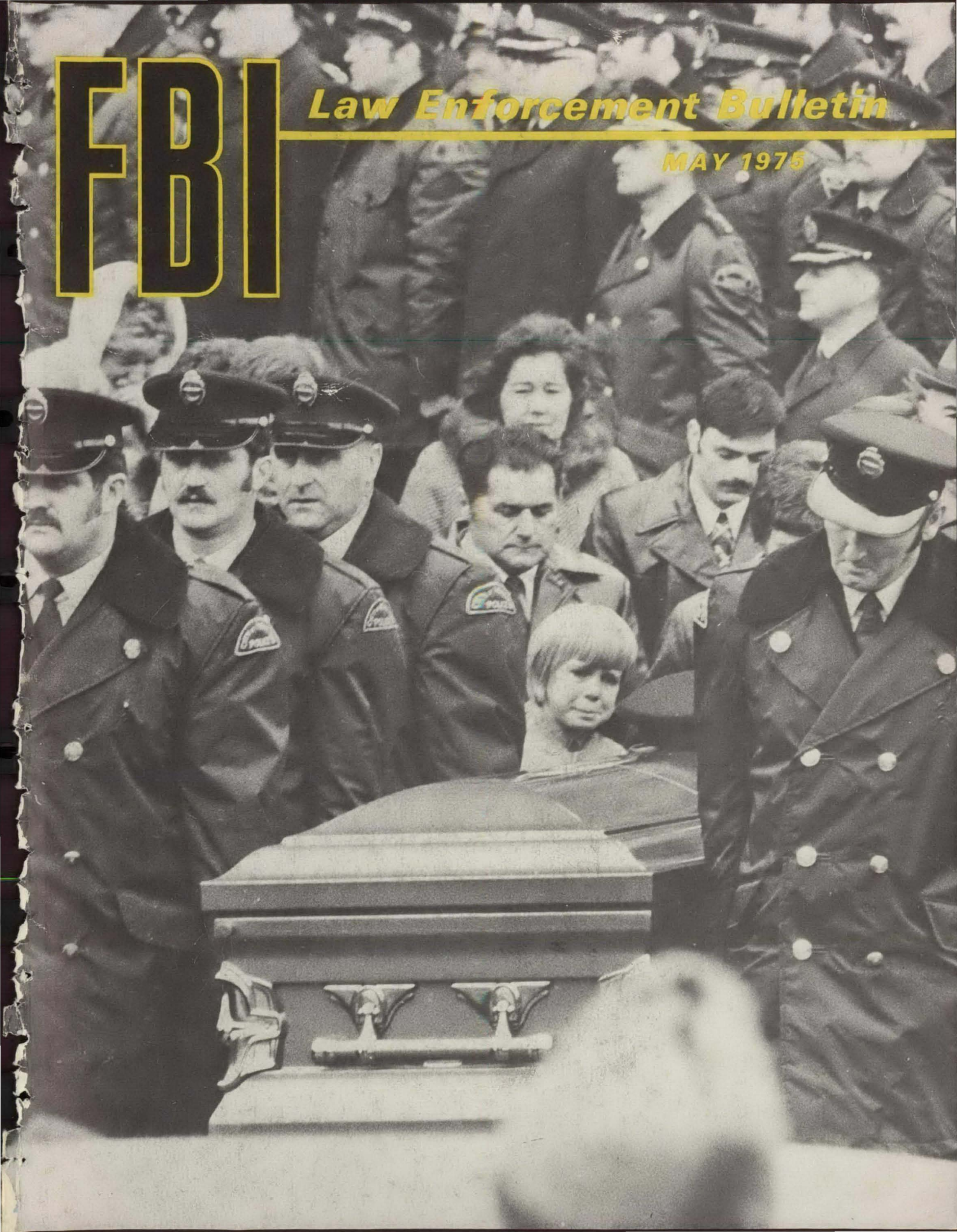


FBI Law Enforcement Bulletin

MAY 1975

FBI Law Enforcement Bulletin

MAY 1975
VOL. 44, NO. 5

Published by the
FEDERAL BUREAU of INVESTIGATION
UNITED STATES DEPARTMENT of JUSTICE
Washington, D.C. 20535

CONTENTS

THE COVER

There are no words to capture, as this month's cover photo has, the grief-stricken boy at the funeral of his police officer father who had been slain in the performance of his duties at the hands of criminals. Photo by Don Dutton (courtesy of Toronto Daily Star), who received the Canadian National Newspaper Award for it as the best spot-news photo in 1974.

Message from the Director . . .

MANY PERSONS WILL PAUSE THIS MONTH, on official days of law enforcement observance, to commemorate the proud and selfless role of our profession. When they do, the unabated killings of law enforcement officers in the performance of their duties must be given special recognition.

It is no comfort that the total of 132 local, county, State, and Federal law enforcement officers slain in 1974 at the hands of assailants was just under the record total of 134 similarly murdered the year before. Thus far this year, the pace of these killings shows no signs for encouragement.

Indeed, the murder of just one officer in the defense of the community ought to weigh heavily on everyone who cherishes the rule of law and the protection it affords us all.

Records of the circumstances in the past year which attended these deaths are filled with many poignant but revealing facts that stand out boldly among the cold statistics. The typical victim officer was aged 33, had 5 years' or less service with his department, and was on Saturday night patrol during July in a large metropolitan area. Soon after arriving at a scene in response to a disturbance call, he was confronted face-to-face by an assailant who shot him from no more than 5 feet away with a bullet, fired from a handgun, that lodged fatally in his upper torso.

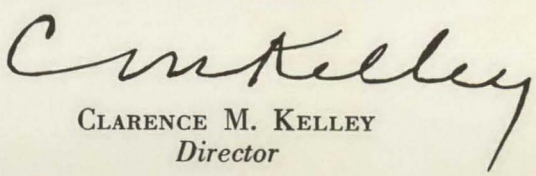
There are many lessons to be pondered from this characteristic incident. Two in particular command my attention for they are overwhelming in their consistency over a period of many years.

One is that handguns are, beyond any doubt, the most deadly of all weapons to be encountered by the police officer. Their easy concealment from the eyes of an approaching policeman, or others nearby who might warn him of their presence, writes DANGER. But, it is in an almost invisible script. Handguns leave the officer with scant opportunity to take cover. And, like all firearms, they are quick, efficient, effortless, and nearly always fatal in their operation.

The other lesson, it seems, is that nighttime is an unwitting but valuable accomplice to the handgun user. It and dimly lit situations predominate the encounters that prove fatal to law enforcement personnel. These two facts alone—the dominance of handguns as the instruments of death and of nighttime as the time of death—require our close examination.

Over recent years the FBI has placed added training emphasis on minimizing the danger of nighttime encounters of law enforcement personnel with armed adversaries. I urge all departments to do the same. We must correct any weaknesses in our capability to handle nocturnal confrontations with armed assailants.

If we are truly to honor our profession this month, let us begin with positive efforts of our own to reduce the slaughter of fellow officers.



CLARENCE M. KELLEY
Director

MAY 1, 1975

Ministry to Law Enforcement

"The churches must somehow speak more effectively to our times—the ministry to law enforcement is one approach."

By
REV. R. JOSEPH DOOLEY*
President
International Conference of Police Chaplains, Inc.
Washington, D.C.

At this very moment, somewhere in this country, a police chaplain is on the scene of some crisis involving either a law enforcement officer or a citizen. It may be a barricaded criminal with hostages; the emergency room of a local hospital where a police officer is fighting for his life; a domestic disturbance involving a husband and wife; a serious highway accident; a would-be suicide; or a sniper shooting from an apartment building. He may be sitting in the chaplain's office counseling an officer and his or her spouse who are having marital problems; or the saddest duty of all, consoling the family of a slain officer.

As Chaplain John Price expressed it so eloquently at a meeting of police chaplains at Chicago, Ill., in July 1974: "Response in crisis is the calling of the police chaplain. Response to God's call is his daily fare. . . . He is a man who brings to the lost, the least, and the lonely—the love of God. The crises that face him are awesome; but the challenge is invigorating! Here is the arena of life—and here people are battered and beaten and questioning the existence of God. Here, by all the 'Jericho Roads' of our Nation lie all the victims that the frightened and fearful would pass by. Here, in the gore and the grime, people cry that God, if He even exists, doesn't care. Here is where the police chaplain lives."

The "Ministry to Law Enforcement" is an immense opportunity. Throughout the country, there are over 500,000 law enforcement officers working in some 40,000 agencies ranging from 25 or less to 31,000 men and women. It is a growing movement! And this ministry has chaplains throughout the length and breadth of the country. Not only does it involve large numbers, but its scope is far ranging. In one form or another,

*Father Dooley has served as a police chaplain since 1963 with the Metropolitan Police Department, the Executive Protective Service, and the U.S. Park Police. He also serves as chaplain of the International Conference of Police Associations, and he is the first president of the International Conference of Police Chaplains, organized in October 1973.

it touches virtually all the contemporary issues facing society. It is a further illustration of the fact that the "mission" of religion today is universal and can no longer be fragmented into unrelated sectors.

Clarence M. Kelley, Director of the Federal Bureau of Investigation, in his remarks before the Festival of Faith in Oklahoma City, Okla., on November 21, 1974, stated: "Sometimes we hear it said that religion cannot mix with daily life . . . that it should not be in the marketplace of life. In the eyes of some, religion is something strictly for private devotions and the inner heart of man. To my mind, however, such a definition is grossly incomplete. It does not tell the full story of either religion or personal faith. If religion is to be meaningful, it must be translated into action—a personal faith at work—helping others and bringing to those in need—comfort, strength, and solace. If an individual leaves his religious faith at home in the morning, he really doesn't have a meaningful faith. . . . My profession, I am proud to say, is a profession in which personal faith is constantly being put to work to help others."

Truly, these are challenging times. The recent crises that have tested our Nation have proven that our institutions are strong and that ours is indeed a government of laws, not of men. Rocky Pomerance, president of the International Association of Chiefs of Police, editorialized recently: "It requires no crystal ball to predict that a century hence, historians will categorize this era as one typifying cynical betrayals of public trust at many levels of government . . . but hopefully future scholars will also note the vigor and forthrightness with which society has responded to the cracks and crevices in its moral fiber." [1]

The churches must somehow speak more effectively to our times—the ministry to law enforcement is one approach.

Role of the Chaplain

Chaplains are not new to law enforcement nor did they get their mandate during the riots and upheavals of the sixties. They have been working with some departments for 40 or more years. However, there has been a greater need for chaplains in recent years and, more and more, police chief executives are utilizing the services of chaplains in an effort to provide the best for the men and women of their agency. We have come from the era of the "invocation chaplaincy," where the cleric was asked to offer the opening or closing prayer at a banquet or promotion ceremony, to the chaplain being "on call" and willing to respond, whenever and wherever his services may be needed.

Consequently, the role of the chaplain has changed! He is a presence—a representative of his denomination in the law enforcement community. And that very fact must enlarge his vision and expand his person and develop the mission that has been entrusted to him.

There are all types of chaplaincies. Some departments utilize the services of only 3 or 4 clergymen; others have a chaplain corps of 30 or more members with a salaried coordinator; others have a volunteer program. Some chaplains are given a uniform and enjoy a rank. Some agencies salary their chaplains and give them other benefits when they are on official duty. Some give a gas allowance and service the chaplain's private auto. Some receive a grant from a private foundation or the church federation which is the source of their salary.

"Police chaplaincy programs run the whole gamut of services and extremes."

The majority of chaplains, however, are still unsalaried and part time. There are some who argue that departments should think in terms of paying for chaplain services, since they would have to pay for such professional expertise on every other level.

Police chaplaincy programs run the whole gamut of services and extremes. One chaplaincy may minister to police officers only, while in another city the chaplain ministers only to prisoners. Then, in some places, there is a blending of these two extremes. In another place, the chaplain also serves the entire community in some way or another. Like his counterpart in the military, the police chaplain tries to be available and is engaged in a wide variety of activities. If he is conscientious in the exercise of his ministry, he is on the go day and night.

Besides the pastoral care and personal counseling he gives to police officers and their families, he must also develop cooperative relations with the upper echelon of the department, city officials, and people in the community.

The chaplain must be all things to all he serves. He must be knowledgeable and prudent; uncomplicated to the simple; gregarious to the sociable; lighthearted to the fun loving; and serious to the concerned. He must try to have empathy for the suffering; sympathy for the bereaved; patience with the emotionally disturbed; and charity for all.

He represents the church to law enforcement; and the church is as wide in the scope of its activities as it is profound in its meaning and significance.

Men of Faith and Character

It has been my experience that the men in this work are a unique breed—possessing a dynamism and sense of dedication that is contagious. When you stop to realize that only a small

percentage of chaplains receive any compensation from the agency and/or community they serve—then it is truly a specialized ministry.

Sure, there may be some among our number who are "frustrated cops" or "police buffs"—who are enamored with such things as sirens, red lights, and other accouterments of the trade. But, I think they are the exception and not the rule!

There are some chaplains who carry a gun because they feel that they can better "identify" with their men. I have no quarrel with that, as long as they qualify to use a gun and have proper legal authority to carry a weapon. While firearms training for a chaplain could prove controversial, it could be vital if a chaplain riding patrol had to defend a wounded officer. In a life and death situation, it may save the chaplain's life or the life of the officer who is down.

Some chaplains are sworn police officers or have a deputy sheriff's commission. Therefore, it is proper for them to be armed. In one instance, I know of a chaplain who was a police officer before he was ordained a priest. His bishop has granted him permission to continue to function as a police officer/chaplain in his community. I consider this quite a breakthrough. I congratulate both the bishop and the priest involved.

"To those of us who minister to the sworn officer," Chaplain Price remarked, "No stereotype, no TV image, does justice to the problems of daily living borne by those we serve. The hours are long, the temptations great, the family strains unbelievable. Compounding the problem is the ever-increasing exposure of corruption, the reactionary 'old ways' versus the challenging 'new ways.' And the problems are not only of family and role—but alcoholism and police ethics as well. Issues like police incompetence and corruption are not to be stored away in public relations journals or sociologists' files. They are public matters which must be confronted daily by police officers. The police chaplain again must be ready to 'respond in crisis,' not with pious platitudes, but with love and wisdom born of daily awareness of God and daily contact with those who serve."

If we were asked to state some sort of "chaplain's creed" in a concise way, it would sound something like this: "Believing that God is the answer to man's problems and needs, the chaplain stands ready to bear witness to the redeeming power of God and His love for all people—but especially those in crisis. The ministry is on behalf of the community and is truly ecumenical."

The key word is "service" and chaplains take great pride in the fact that they are "on the street" and at the scene—they are willing to respond at any time, day or night, regardless of the weather, when a police officer is seriously hurt or some incident occurs in the city where his ministry can be helpful. Presence—to be where the action is—is an important part of the chaplain's role.

Developing a Program

Many law enforcement agencies have no guidelines for the chaplains, and as a result, members of the force are not aware of the many services that are available through the chaplaincy program. And, by the same token, some chaplains have had to render their services without direction or sanction. Most of us learned the hard way. A few have had the good fortune to be the beneficiaries of advice and counsel of a chaplain who had experience and was a "veteran" in law enforcement. In not a few instances, a minister or priest has had to break down all types of barriers—some came from within the particular agency or department; some from other clergymen; some from ecclesiastical superiors who did not see the importance of the work; and some from the community itself.

"Presence—to be where the action is—is an important part of the chaplain's role."

Many of us inherited one form or another of the chaplaincy from an older chaplain who prepared the way. But I know some men who started from scratch; in other words, they arrived in town on a new assignment, saw the need or perhaps were approached by the local authorities—and went to work on setting up a program. They are the giants in the police chaplain movement! We can all take a page from their book.

Then, too, many had to prove themselves before they would be accepted. One clergyman, in an effort to get acquainted with the policemen near his church, walked into the station house around midnight with hamburgers and coffee. The officers were, to say the least, rather cold and reserved. It wasn't until after the minister ate a hamburger and drank some coffee that they began to enjoy the treat. Policemen are by nature suspicious—he was no exception!

Let's face it, the era of the sixties didn't help our cause, when civil disobedience encouraged open and frequently violent confrontation with law enforcement personnel. Clergymen often were pawns of forces of social change. Even, in this decade, if the clergy rallies to a cause, it seems to be in movements aimed at securing the rights of the criminal and not the rights of the police officer.

Until recent times, articles by and about police chaplains in some parts of the country have had a great impact on the total apostolate. Through reading publications that cater to law enforcement, one learned of what chaplains were doing. It was nothing to read such an article and write the author to ask for more information.

If they indicated that the agency had prepared guidelines or a handbook or that the chaplain had introduced some program within the department, you immediately requested a copy of the guidelines or program.

International Conference of Police Chaplains

It does not take much imagination to realize this special ministry would be greatly helped by some kind of organization which would address itself to the chaplains' needs and keep them informed on matters within their sphere of influence.

In September 1973, a cross section of police chaplains, representing various denominations and law enforcement agencies throughout the United States and Canada, were invited by the International Conference of Police Associations to come to Washington, D.C. This meeting grew out of the phenomenal response to the idea of a Directory of Police Chaplains.

In October 1973, the International Conference of Police Chaplains (ICPC) was organized. Officers were elected for a 2-year term. A constitution and bylaws were adopted. The ICPC is incorporated under the laws of the District of Columbia.

Among the aims and objectives of the ICPC is to serve those selected or appointed as police chaplains on an international, national, State, and local level; and to study, collect, standardize, summarize, and disseminate factual data for the purpose of promoting the professionalism of the police chaplaincy.

Some of the accomplishments of the organization are: almost 200 chaplain members from the United States and Canada registered; a Directory of Police Chaplains published; a Chaplain's Handbook published; a Chaplain Survey of agencies with 200 or more personnel conducted; first Annual Convention of Police Chaplains (July 1974) held; National Memorial Service conducted during convention honoring the memory of those officers killed in the line of duty in 1974; and a monthly report to chaplain members.

"Now . . . domestic and non-crime police matters are being turned over more and more to the expertise of the chaplains with highly satisfactory results."

The projects for 1975 that the ICPC hopes to inaugurate are: publishing an Inter-Denominational Memorial Service; conducting a Survey of the Problem of Divorce; setting up a Training Program for chaplains; sponsoring a Crisis-Intervention Workshop for chaplains in Albuquerque, N. Mex.; creating a National Police Chaplain's Week; and providing technical advice for a TV movie of the week on chaplains.

Police work, as any chaplain can tell you, is a family affair. One of the most welcome additions to police training in recent years is the Family Orientation or Family Life Seminar at the recruit level, whereby seasoned officers and their spouses discuss the realities of police life with the recruit and his or her fiancee or spouse. The ICPC strongly endorses these sessions in the interest of marital stability and better work performance. No one outside of law enforcement can imagine the stresses and strains that police work places on family life. The fact that police families survive at all is due, I think, to the personalities of the men and women who choose law enforcement as a way of life.

Conclusion

Truly, the police chaplain tends to a unique congregation, and there is no question in my mind that this is a proper ministry. A priest whom I know remarked recently: "If I want to judge whether or not some activity is a proper ministry, I look for those situations where the least number of clergy are present. For instance, in any police or fire emergency in this city, the only two clergymen who are ever on the scene are the two police chaplains."

I know that my brother chaplains can all recount experiences where their counseling and availability have helped to bring a satisfactory solution to what began as a tragic incident. Now, for example, domestic and non-crime police matters are being turned over more and more to the expertise of the chaplains with highly satisfactory results.

A young District of Columbia police officer who was shot twice by two subjects attempting to rob a movie theater penned these words: "When I reached the hospital and was completely surrounded by doctors and nurses who were strangers to me, I felt even more alone and uncertain. But, soon I heard the chaplain's voice and felt his hand on my right arm reassuring me that everything was going to be all right. I can never adequately describe the impact of just knowing that he was there with me. In addition, he comforted my parents, my fiancee, and my relatives during those periods when he was not near me . . . . I realize now more than ever before what it means to have a police chaplain who is willing and able to come to one's need at any time, day or night." I am proud to have received that letter, but it also speaks for hundreds of other chaplains throughout our land.

The police chaplaincy is a way of life. It is blessed with a unique group of men doing a special work for God and country.

FOOTNOTE

[1] Pomerance, Rocky, "Corruption: An Archetype or an Anachronism?" Editorial in Police Chief, December 1974, p. 8.

Video Tape in *CRIMINAL CASES*

Video tape recordings in law enforcement are not new; however, their potential has not yet been fully realized, particularly, in criminal cases. The cost, complexity of operation, and size of the mobile self-contained video tape recording units have been greatly improved and are now within the capabilities of small police departments. One unit, simply but properly equipped, can serve as an invaluable tool in training, public relations, communications, and court presentations of criminal matters, to name just a few. In the criminal field, its use is only limited by proper police evidence procedures and the imagination of the user. Successful uses include criminal statements, admissions, reenactments, recordings of arrested subjects' conditions and actions, lineups, civil disturbances, searches, seizures, and crime scene investigations.

By
SGT. ROBERT H. GEBHARDT
Bureau of Criminal Identification
St. Louis County Police Department
Clayton, Mo.

Mobile Unit

The basic equipment needed to accomplish the video recording of such events need not be elaborate studio equipment, but can be accomplished by a relatively simple self-contained and inexpensive mobile video tape recording unit. Several manufacturers produce a self-contained unit of this nature with similar features and a competitive price.

The unit generally consists of two packages of equipment which can be carried and operated by one individual. One part is the video tape recording unit, which is battery or AC powered and is quite similar to a standard audio tape recorder. The tape, slightly larger than audio tape, is threaded, wound, and controlled through similar controls such as play, fast forward, rewind, and record. The camera is generally lightweight and contains all of the controls necessary to tape a sequence of events through a single cable to the recording unit. Once the recording unit has been set up to record, the camera controls the start and stop of the tape. It further controls the video image through a standard lens and the audio through a self-contained microphone.

Prior to the actual taping, the cameraman views, through an eyepiece which allows him to observe the lighting, field of view, and composition, the image to be recorded on a small television tube. When satisfied with what he sees, he merely squeezes the trigger and starts recording. No technical knowledge of lens setting is needed; adjustments can be made and

> *"In the criminal field, its [video tape recording unit] use is only limited by proper police evidence procedures and the imagination of the user."*

"The court held that the presentation of a properly authenticated video tape of a confession of a defendant, after issue of voluntariness has been determined by a trial court, does not infringe upon any fifth amendment constitutional right."

the effects can be readily seen by the cameraman. The untrained individual can learn to focus and set the lens for different lighting situations. With little practice, he may also learn to pan by moving the camera in a slow, sweeping motion, zooming in or out by enlarging the image on camera or decreasing the image size to show its surroundings. The type of lens used to zoom is usually optional equipment.

The audio recording portion of the unit is usually equipped with an automatic volume control and needs no adjustment. If no sound is desired on the tape, a dummy plug can usually be inserted in the remote microphone jack cancelling the sound portion of the tape, which can be added to the video at a later time if desired. If a remote microphone is used, the camera mike becomes inoperative. An earphone can be used to monitor the sound being taped if monitoring is necessary. Earphones must be used to hear the audio when it is replayed on the mobile unit since they are generally not equipped with an audio amplifier.

When a sequence is completed, it can be replayed instantly by the cameraman on the small television tube used in viewing which is located in the camera. For a small group viewing, the eyepiece can be removed or hinged out of the way so several people can view the small screen.

Presentations on full-size television screens and speakers can be accomplished through the use of an optional radio frequency adapter which allows the unit to play through any standard television set. Special video tape recorder monitors are also available which have direct cable outlets that allow the taping of standard television broadcasts, however, they are not necessary to the simple taping operation.

Criminal Statements

Video tapes were first used in criminal statements by the St. Louis County Police Department in early 1970 with a small studio video tape outfit. This timing was due to the availability of the equipment and the indirect pressure of the U.S. Supreme Court decisions involving voluntary statements.

In *State of Missouri* v. *David Michael Lusk*,[1] which was heard by the Supreme Court of Missouri, a constitutional question of infringement on the rights set out in the fifth amendment was raised. Defendant contended that use of the video tape confession deprived him of his fifth amendment privilege against self-incrimination inasmuch as he was compelled "to be a witness against himself by appearing before the jury on the State side of the case." The court held that the presentation of a properly authenticated video tape of a confession of a defendant, after issue of voluntariness has been determined by a trial court, does not infringe upon any fifth amendment constitutional right. At first this procedure was limited to major offenses, but eventually, it became practical in any felony case of interest. A set of rather strict guidelines was adopted which was reviewed and found legally correct by the St. Louis County Prosecuting Attorney's Office. The guidelines and techniques are effective in overcoming problems in the courtroom before they develop.

Col. Gilbert H. Kleinknecht
Superintendent of Police

The guidelines prescribe that, in addition to the subject and the cameraman, the number of people present in the room during taping should be restricted to investigators who are directly involved in the case.

The recording site should be similar to any standard interview or interrogation setting in that it should be private, simply furnished, and without distractions. A table, a minimum number of chairs, and a clock that can be monitored continuously through the camera lens are the only furnishings needed.

In order for the interview to proceed as smoothly as possible without major mistakes, the investigator should prepare himself through the use of an outline, and the subject should be advised what is going to occur and made aware that his actions and statements will be recorded on video tape.

The participants should be seated and the camera mounted on a tripod

with the picture composed and set before starting the tape. After the taping has begun, the cameraman should do nothing other than assure that the equipment is functioning properly. Any efforts to zoom in or pan the subject or participants ought to be avoided.

Authentication

Video recordings subsequently intended to be used as evidence should be made on clean, unused tape, and several winds of the tape should be taken up prior to taping. This leader acts as an assurance that the tape was blank to begin with and reduces the possibility of any distortions affecting the recording. At least 30 seconds of video should be taped of the participants in a standby position prior to giving the cue to start the narration. The investigator should then identity himself, the subject matter, the date, time, place, and all persons present in the room, including the cameraman who is not seen on camera. Following this identification, the investigator should have the subject identify himself by name, date of birth, home address, and then proceed to ask several personal questions such as family identification, occupation, and educational level. He should direct the subject to acknowledge that the recording equipment is functioning and everything he says or does is being recorded.

The subject's ability to read, write, and understand should be established, and then he should be given the four points of the *Miranda* warning. The interview should continue only if he furnishes an express waiver. He should be asked if he still wishes to make a statement. If he acknowledges that he wishes to continue, proceed by clearly outlining the offense, location, time, and date, and ask him if he has any knowledge of the offense. He should be asked to tell you everything he knows about the offense in his own words. After he makes a statement, specific questions can be asked if care is taken not to lead his responses. After he has finished, ask if there may be something he has forgotten and would like to add. Ask if there were any threats or promises made to induce him to make this statement. Ask him if he is under the influence of any drug or alcohol. Ask him if anyone entered or left the room during the interview. Ask if the recording equipment has been functioning continuously during the interview. Finally, note that the interview is concluded and state the time and date.

It is important to remember only one offense can be handled in one statement. The statement must be completely voluntary. No changes can be made in the tape and any mistakes must remain intact. The tape must also be handled as criminal evidence insofar as its security and chain of custody are concerned.

Aid to Investigation

Once the St. Louis County Police Department became accustomed to using the video tape and no specific problems were encountered in court, the field was expanded to include crime scenes and crime reenactments. The video tape has become a valuable aid in the investigation of complex crime scenes and supplements still photographs. Investigators and prosecutors are aware of the value of a photograph to depict something or some situation that would take virtually hundreds of words to describe to a juror, and at best would give only a vague impression which could be totally inaccurate. Armed with a photograph and a few words, the point can usually be made with reasonable accuracy. There is little that must be said to prove the value of thousands of photographic images in sequence, to say nothing about a synchronized audio track.

"The video tape has become a valuable aid in the investigation of complex crime scenes and supplements still photographs."

An interesting case pointing out the courts' position on motion pictures and in particular sound motion pictures, which are not dissimilar from video tape, is discussed in *People* v. *Hayes*.[2] The appellant's contention was that a sound motion picture of the defendant making a confession to a police officer was reproduced to the jury over the objection that the reception of such evidence was prejudicially erroneous to the defendant.

The court in upholding the conviction said that such a reproduction stands on the same basis as the presentation in court of a confession through any orthodox mechanical medium. That is, a preliminary question must be determined by trial judge as to whether or not the sound moving picture is an accurate reproduction of that which is alleged to have occurred. If, after preliminary examination, the trial judge is satisfied and other requirements relative to admission of confession are present, i.e., it was freely and voluntarily made without hope of immunity or promise of reward, then, not only should the preliminary foundation and the sound moving picture go to the jury, but in keeping with the policy of the courts to avail themselves of each and every aid of science for the purpose of ascertaining the truth, such practice is to be commended.

The test for admissibility of a video tape is that it is relevant and material to the case and that it has been properly authenticated and verified. When video tape has been excluded from a trial in St. Louis County, it has been

"The test for admissibility of a video tape is that it is relevant and material to the case and that it has been properly authenticated and verified."

due to some reason other than the fact that it is a video tape. This is pointed out by the appeal to the Missouri Supreme Court in the case of *State of Missouri* v. *Joseph Hendricks*.[3] This case involved a murder trial in which video tape was used. The appeal was based on the defendant's contention that a motion to suppress a video taped statement of the defendant making statements to the police officer, which were made by means of mental and physical coercion, was an error. Citing *State* v. *Lusk* (*supra*) regarding video tapes, the court stated that "taped recording of a confession, after proper foundation, is admissible; that moving pictures may be shown to the jury when properly identified and when material to an issue . . . and that use of video tape is a combination of the two." The video tape supported and corroborated the testimony of the police officer involving admissions made by the defendant.

What seems to impress a jury more than a statement is a reenactment of the crime by the perpetrator at the actual crime scene. When a subject is willing to tell you what he knows about an offense, he usually will be willing to return to the scene and show, on camera as well as give a running statement, what took place. With a little preparation to insure that the subject does not escape and a set of guidelines with which to work, most officers should be able to run successfully through a reenactment without difficulty. This type of taping almost always requires starting and stopping the video tape recorder when going from one room to another which could create a small problem. This problem can usually be overcome if the cameraman can locate a clock to photograph in the beginning and at the end of the tape. If the clock shows 15 minutes elapsed time from the front to the back and the tape runs 13 minutes, this discrepancy should easily be overcome with the proper foundation.

When concluding the tape, the subject should be asked if this tape was continuous with the exception of the actual number of short breaks required to move into a different room or location. An acknowledgment of the actual elapsed time should also be received prior to ending the tape. It should be kept in mind that the St. Louis Court of Appeals of Missouri in *Philippi* v. *New York, C. and St. L. R. Co.*[4] related that motion pictures should not be admitted in evidence until proper foundation has been laid. They must also accurately represent what they purport to represent, and any inaccuracies or exaggerations must be explained to the jury. The court stated: "The admissibility of photographs as evidence has long been held proper and within the discretion of the trial court. In this instance a witness, who was present when the motion pictures were taken, explained just where the camera was placed, and testified that the moving pictures were a correct portrayal of the physical conditions and surroundings." In addition, the court pointed out that the witness was subject to cross-examination.

The video tape recording system has been used successfully on several oc-

A detective makes a video tape recording of a staged homicide crime scene.

"The video tape recording system has been used successfully on several occasions as an aid to crime scene searches."

casions as an aid to crime scene searches. However, all of the cases were of a major nature and are still pending trial or are under appeal.

One such case is *State of Missouri* v. *Anthony Paul Damico*,[5] which was heard by the Supreme Court of Missouri. The case was a murder trial where several forms of photography and video tapes were admitted. Some of these reproductions were of the decomposed body both at the scene and the morgue. As the remains of the victim were recovered from a wooded area, a continuous video tape of the actions and comments of the medical examiner were recorded. The appellant complained of error in admitting in evidence various exhibits on grounds that they were gruesome, obscene, inflammatory, and prejudicial. This included the video of the recovery of the remains.

Arguments that this and other exhibits were not necessary to prove any vital issue proved unsuccessful. The State's contention was that no such abuse of discretion occurred in admitting these exhibits in evidence because they shed light on material matters in issue, including the degree of the homicide, the nature of the trauma inflicted upon the victim, the instrument used in inflicting the blow or blows, whether the fatal blow was administered after the victim had been rendered unconscious, and whether the victim's head was free swinging at the time the *coup de mort* was administered. They were also corroborative of the oral testimony of witnesses and illustrated the conditions existing at the scene, including the fact that it was a lonely, secluded area. The court said there was no error and affirmed the lower court's judgment.

Conclusion

This by no means covers all the uses of video tape recordings in criminal matters, but should give some agencies not now using it sufficient information to become interested and establish their own program. The agencies already involved may obtain additional ideas about how St. Louis County is using one of law enforcement's newest technological advances in the fight against crime.

FOOTNOTES

[1] *State of Missouri* v. *David Michael Lusk*, 452 S.W. 2d 219 (1970).

[2] *People* v. *Hayes*, 71 P. 2d 321 (1937).

[3] *State of Missouri* v. *Joseph Hendricks*, 456 S.W. 2d 11 (1970).

[4] *Philippi* v. *New York, C. and St. L. R. Co.*, 136 S.W. 2d 339 (1940).

[5] *State of Missouri* v. *Anthony Paul Damico*, 513 S.W. 2d 351 (1974).

SURVEY REVEALS WOMEN OFFICERS PERFORM WELL ON PATROL DUTY

A national survey of police chiefs of 42 major U.S. cities gave conclusive evidence that policewomen perform exceptionally well on patrol duty, which has always been considered a "man's job."

According to the poll which was conducted by Ladies' Home Journal, almost 70 percent (19 of 28) of the chiefs of police having uniformed women on patrol duty believed that properly trained women can be as effective as men. Only two of the police chiefs said that women can't do the job as well as men, and seven felt it was too soon to judge.

In the survey, 43 percent of the police chiefs found no particular advantages or disadvantages in assigning women to patrol duty, and 32 percent believed it was too soon to evaluate. The remaining 25 percent noted the following:

Advantages of Using Women on Patrol. Women are more effective with women and children victims and offenders, victims of sex-related offenses, and family disputes. Women are less aggressive and therefore less likely to generate complaints or provoke violence. Women write good reports and pay more attention to detail. Women are not hesitant about asking for assistance from other police officers when necessary.

Disadvantages of Using Women on Patrol. Women are not as "physically rugged" as men. Male officers at first tend to be overprotective of female colleagues and are reluctant to accept women as equals. Women allow themselves to be overprotected by men. The assignment of women to patrol can cause "internal problems" when policemen's wives object.

"The most important result of the task force operation is that vast quantities of illegal drugs and narcotics are not reaching the streets and homes in cities throughout the United States."

The Yuma City-County NARCOTICS TASK FORCE

By
TRAVIS YANCEY
Sheriff
Yuma County
Yuma, Ariz.

Few officials in the law enforcement profession have the opportunity to start with an idea and see it develop into positive law enforcement which benefits the community as well as the law enforcement agencies which are involved.

For this to be accomplished, there must be a clearly defined problem in the community that is not being solved by the present method of operation. In Yuma, Ariz., the problem dealt with narcotics and drug traffic. Specifically, the problem was that of almost free flow of dangerous drugs from Mexico into and through the community to other parts of the Southwestern United States. One of the first questions to arise was, "Why is Yuma County one of the hottest spots along the international border for drug traffic?" The answer is to be found in the geographic location of Yuma County which offers almost unrestricted travel along approximately

100 miles of border between Mexico and our country. Seventeen miles of the border is the Colorado River. Any part of the river can be waded by men and animals, and little difficulty is encountered by motorized equipment. In addition, there are miles of desert terrain, which can be crossed by a pickup truck or four-wheel drive vehicle.

Since much of the growing of opium poppies and the manufacturing of heroin is carried on in the northwest part of Mexico, the San Luis, Sonora, area is a terminal and dispersement point of heroin and other dangerous drugs into the more heavily populated parts of California, Arizona, and other points in the United States.

Task Force Organized

The individual efforts of the customs agencies, the sheriff's office, and the Yuma Police Department were unable to cope with the drug problem. After analyzing the efforts of the narcotics squads of these agencies, it was found that officers were putting in many long hours attempting to stem the flow of drug traffic into the community and that much of their effort was being duplicated by other officers working toward the same end.

To solve this problem, the decision was made to consolidate the narcotics squads of the city and county into one squad known as the Yuma City-County Narcotics Task Force, whose only duty would be to enforce drug laws.

In starting a new organization of this type, some plan of operation had to be submitted to the governing bodies of the city and county governments in order to secure the necessary financing. After submitting a rough plan to the governing boards, permission was given to go ahead with the consolidation. Help was solicited from the organization which handles Federal funds for the State of Arizona. A small grant was obtained, in 1970, to supplement existing task force funds.

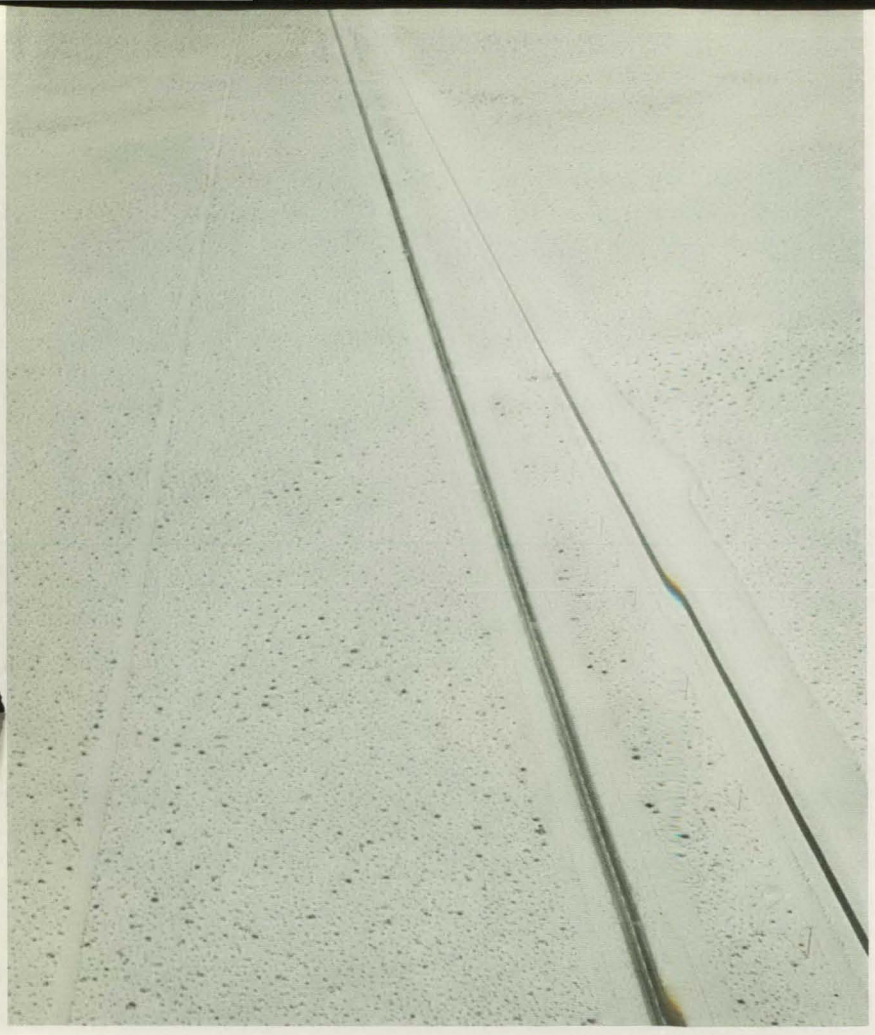
> ". . . the narcotics squads of the city and county [were consolidated] into one squad known as the Yuma City-County Narcotics Task Force . . . ."

Staffing of the newly created task force was the next order of business. The supervisor chosen was an individual who had a complete understanding of the objectives and a full knowledge of the job. The second in command was equally knowledgeable as to the problems and objectives. The remaining personnel was made up of the best available manpower.

All manpower, equipment, building space, utilities, and supplies had a monetary value placed upon them in order that the two participating agencies could arrive at a somewhat equal share in the cost of the new task force.

After the first year of operation, it was felt that the plan was right, however, the manpower and the equipment were insufficient. The next move was to apply for additional Federal moneys. A grant was received in the amount of $14,000 and was used for the addition of two agents to the task force. After another year of operation, the task force was again evaluated, and it was found that more agents and equipment were needed. Another Federal grant of $50,000 was received and was used for the addi-

The Colorado River, which at one time formed a natural barrier between the United States and Mexico at this point, is about 30 feet wide and only 3 feet deep.



The border between San Luis, Sonora, Mexico, and the United States (right) is mostly desert terrain which can be crossed in a pickup truck or four-wheel drive vehicle.

tion of two agents, one clerk, cars, and radio equipment. The addition of the two agents brought the total to seven persons working on the task force.

The trafficking of dangerous drugs in Yuma County reached its peak during the year of 1973. Many long hours were spent by task force agents and Federal agents enforcing the drug laws along the Mexican border. Seizures of contraband were doubled from the previous year. Again, Federal moneys were solicited, and a $100,000 discretionary loan was received. With this grant, four new agents were added, as well as new equipment, including eight walkie-talkies, four new cars, and one small airplane. The task force now has 10 working agents, including the supervisor, and 1 clerk who maintains records and files and types reports.

Probably the most valuable purchase made for the task force was the aircraft. This has proven to be most effective in surveillance of vehicles after they cross into the United States with dealers attempting to make contact with their buyers. New radio equipment has given the task force complete coverage of the entire county.

The objective has not yet been achieved. It may never be achieved, but the task force is working hard toward its goal.

Cooperation among Federal, State, and local agencies is at its greatest height. Without the full cooperation of Federal and State agencies that is now enjoyed, Federal funding would have been much more difficult to obtain, and the smuggling of narcotics and drugs from Mexico into the United States would still be flourishing.

Program Success

In evaluating the full 3 years of the program, it is felt that a certain degree of success has been obtained. Seizures of dangerous drugs are becoming less frequent. One reason for the decrease in seizures can be attributed to Mexican federal officers who have increased their pressures upon the drug smuggler.

Over the past 3 years, 836 persons have been arrested for smuggling, and seizures include 13,850 pounds of marihuana, over 9 pounds of amphetamine powder, and 312,000 amphetamine and barbiturate pills. Street value of these seizures would be well into the millions of dollars. The task force has also provided the regular law enforcement officers with valuable information concerning stolen merchandise such as televisions, silverware, weapons, and cars.

The most important result of the task force operation is that vast quantities of illegal drugs and narcotics are not reaching the streets and homes in cities throughout the United States.

"Over the past 3 years, 836 persons have been arrested . . . [and the] street value of . . . seizures would be well into the millions of dollars."

571-235 O - 75 - 2

You check your watch; it's 2:15 in the morning. The streets are empty. The wind blows cold, you're tired, and your pulse pounds hard at your temples. You steer the patrol car to the curb and park in front of a residence where a porch light is burning. You get out and, with your partner, walk to the door. You push the bell and also knock. In a moment you can hear movement inside, then you see a hall light come on and hear a man's voice say, haltingly, "Who is it?" "Police officer," you answer. The door opens a crack and a slight, little man looks at the badge and the identification credentials you hold before him, yet he pays no attention to what they say. You read the worried concern on the man's face, and you wish you were a hundred miles away.

"Mr. Smith?" you ask. He half nods. "Mr. Raymond Smith?" "Yes," he answers. There is no mistake, you have the right address. "What is it?" he asks, as his puzzlement gives way to a sense that your presence represents something very serious. "Mr. Smith, it's about your son, James. James has been in an accident."

The glimmer of hope, the feeling that your news did not involve him is gone. You ask if you can come in and he says yes. He stares at you, the fear of what you are about to tell him shows, and yet he must ask, "Is, is he hurt bad? Where is he?" At this point his wife walks into the living room, sleepily tying a bathrobe around her waist. "What is it, Ray?" "They're police officers, James has been in an accident." "Oh no," she cries out with the concern only a mother can feel. "I'm sorry," you say, "would you please sit down, it's very serious, James was driving his car on Highway 101, the car left the roadway on a curve and overturned." They are both blinking wide eyed, both now awake and tense. "I'm sorry," you continue, "James didn't make it." For a moment neither speaks. Words form on their lips, but are unspoken. You continue, "James is dead." You finally have said what they feared you would say. Their 16-year-old son, straight A student, athlete, and junior class vice president is dead.

Probably nothing a law enforcement officer is called to do comes any harder than this scene. The bringing of news that alters the course of an entire family. Tragic, personal news that must be told quickly, concisely, yet with compassion and understanding. Having been involved in this unpleasant situation many times over the years, I have some observations which may help. Each situation will be unique, yet each will carry a certain similarity.

Never Go Alone

If there are any rules to follow, one I would consider basic is to try and never go alone. Take another officer with you if at all possible.

If you are by yourself and no fellow officer is available, get a neighbor of the victim's family. If possible, determine which neighbor is closest to the family and seek them out to help you. It is very beneficial to have some advance knowledge of the person you will notify. Are they invalids? pregnant? emotionally disturbed? This will offer you an opportunity to gage your approach. You must be prepared for reaction. People will faint, some will become aggressive and want to attack you for telling such a "lie." Some will become extremely hysterical and must be watched to prevent an attempt to take their own life.

Be Direct

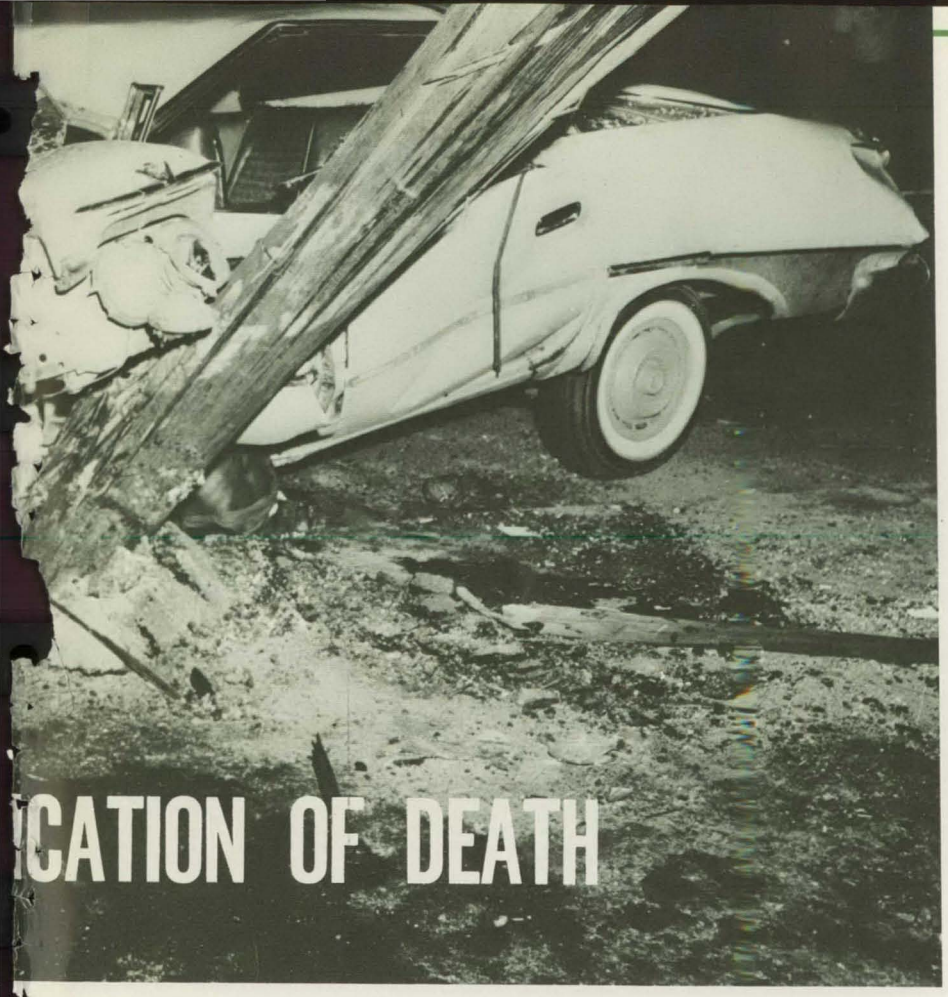
When making notification, get on with the business. I can assure you that your stomach will knot, your throat will be dry, you will feel a futile helplessness as a family sud-

(Photo courtesy of Savannah, Ga., Police Department.)

denly realizes their grief. Men will apologize for crying. They should be assured that showing emotion is natural and nothing to be ashamed of. When you have made a notification, there is nothing wrong with standing by quietly while the family begins to get itself together. Unnecessary attempts at conversation will only impede this process.

Be Reassuring

It is always good to wait and insure that family members have composed themselves before leaving. A neighbor or friend in the house helps as you can brief them of the circumstances of what occurred and also what steps are to be taken next. Often, you will find later, the family only



ICATION OF DEATH

By
LEO RICHARDSON
Chief Investigator
Office of Medical Examiner-Coroner
Ventura County
Ventura, Calif.

has a hazy recollection of what you said following the notification.

Show Tact and Understanding

The proper words to use can be very important. Make sure they understand what you say. I have heard people say, "Can you take a shock?" then go into the notification. This approach is in very poor taste. Some investigators feel that by the use of some words the impact is softer. To say a person is "fatally injured" does mean that a person was killed, yet the party being notified may misinterpret the meaning. The words "dead" and "killed" may be hard, yet they do describe the situation exactly and, when spoken with compassion, get the meaning across concisely. It is a wise investigator who will allow the family to express their own religious feelings and who does not interject any of his own. You may ask the family or person if they have a minister or priest whom you could call for them, but do not insist on this point since it might offend or make some persons feel guilty for not wanting or having a religious counselor.

Telephone Inquiries

Probably one of the most difficult of all situations arises when a family calls your department after hearing a rumor about a relative being involved in a serious mishap, but they have received no official word. This requires much steadiness on the part of the officer in order that he might respond promptly, accurately, and compassionately to the questions of the caller. Clumsy and heartless situations can develop when a family member calls a hospital emergency room, for example, inquiring about their loved one, only to be curtly told to call the coroner's office. Telephone inquiries should be handled cautiously. The very best you can do under such circumstances will often be inadequate.

Still, you have no choice other than to furnish the facts. You cannot delay, you must tell the family at that time, offering any assistance you can. Determine if you can call a neighbor, friends, relatives, or have a police unit respond to offer assistance.

Regardless of whether you have been in law enforcement for 6 months or 25 years, notifications will always be unpleasant. You will never get used to the emptiness and helplessness experienced as you must stand by and watch the suffering of families. It may help to remember that we may also have to face the same dreadful news someday, and the same courtesy and understanding should be extended that we would ourselves expect to receive.

Obtaining Exemplars Without Probable Cause

"When an officer understands what *can be done* under the law, it helps to build a positive attitude toward the solution of investigative problems."

By
J. PAUL BOUTWELL
Special Agent
Federal Bureau of Investigation
Washington, D.C.

The body of a homicide victim was found in a vacant lot. The crime scene search disclosed a school ring bearing the name of an elementary school. The police investigation showed the class ring could belong to any one of 22 male students. Two days after the victim's body was discovered, his car was located in a nearby city where the elementary school was located. The victim was shown to have had exclusive possession and use of the automobile. An examination of the car led to the discovery of latent fingerprints, none of which matched the known fingerprints of the victim.[1]

The Problem

The obvious investigative need is to obtain the fingerprints of each one of the 22 students and compare them with the latents lifted from the victim's car. How can the police obtain the prints? Clearly, probable cause does not exist for an arrest.[2] The police cannot detain the students for the sole purpose of obtaining their prints.[3] Most of the students refused to submit their fingerprints voluntarily. Must the investigation be frustrated despite the existence of known suspects? This article discusses possible solutions to this problem.

Background

Development of the law in this area best begins with the now famous dictum from the U.S. Supreme Court decision in *Davis* v. *Mississippi*,[4] in which Justice Brennan, speaking for the Court, said:

> "Detentions for the sole purpose of obtaining fingerprints are no less subject to the constraints of the Fourth Amendment. It is arguable, however, that, because of the unique nature of the fingerprinting process, such detentions might, under narrowly defined circumstances, be found to comply with the Fourth Amendment even though there is no probable cause in the traditional sense." [5]

The implication of the *Davis* dictum is that the scope and nature of permissible police action may vary according to the circumstances of the case and the police procedure involved. Certainly, it is fair to say, the "reasonableness" requirement and the probable cause standard of the fourth amendment is not always a rigid, inflexible standard.[6] Society's interest in individual privacy is no more absolute than the need for effective law enforcement.

Arguments that the fifth amendment's privilege against self-incrimination prohibited the compelled production of nontestimonial evidence, such as an individual's identifying physical characteristics, were rejected in three significant Supreme Court decisions.[7] More recently the Court pointed out, "It has long been held that the compelled display of identifiable physical characteristics infringes no interest protected by the privilege against compulsory self-incrimination." [8]

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.

Objection to the admissibility of such evidence is usually based on fourth amendment grounds. More precisely, it is contended that where the traditional standard of probable cause does not exist, compelled production of exemplars violates the fourth amendment. Thus the problem is whether there is constitutional justification for forcible production of nontestimonial evidence without probable cause.[9]

Solutions to the Problem

Legislative or Court-Adopted Procedure

Several States, by either legislative enactment or court-adopted rule, have prescribed procedures for obtaining prior judicial approval to compel a suspect to submit to fingerprinting in the absence of probable cause to arrest.[10] A good example is the Nebraska statute entitled "Identifying Physical Characteristics" which is set forth as follows:

> "*Terms, defined.* As used in sections 29–3301 to 29–3307, the terms identifying physical characteristics or identification procedures shall include but not be limited to fingerprints, palm prints, footprints, measurements, handwriting exemplars, lineups, hand printing, voice samples, blood samples, urine samples, saliva samples, hair samples, comparative personal appearance, and photographs of an individual.
>
> "*Order of judges and magistrates; fee.* Judges and magistrates are authorized to issue orders authorizing identification procedures for the purpose of obtaining identifying physical characteristics in accordance with the procedures specified in sections 29–3301 to 29–3307. The order may be issued by any judge of the district or Supreme Court for service and execution anywhere within the State of Nebraska. An order may also be issued by any county judge or municipal court judge or other magistrate for service within the county of issuance. Any court issuing such an order shall receive a fee of two dollars for all services connected therewith, including the taking of necessary acknowledgments and the filing of the return.

"Society's interest in individual privacy is no more absolute than the need for effective law enforcement."

> "*Order; issuance; requirements.* The order may issue upon a showing by affidavit of a peace officer that (1) there is probable cause to believe that an offense has been committed; (2) that procurement of evidence of identifying physical characteristics through nontestimonial identification procedures from an identified or particularly described individual may contribute to the identification of the individual who committed such offense; and (3) that the identified or described individual has refused, or there is reason to believe he will refuse, to voluntarily provide the desired evidence of identifying physical characteristics. The contents of the affidavit may be supplemented or augmented by the affidavits of other persons or by sworn testimony given to the issuing judge or magistrate.
>
> "*Order; when not required.* No order shall be required or necessary where the individual has been lawfully arrested, nor under any circumstances where peace officers may otherwise lawfully require or request the individual to provide evidence of identifying physical characteristics, and no order shall be required in the course of trials or other judicial proceedings.
>
> "*Order; contents.* Any order issued under sections 29–3301 to 29–3307 shall specify (1) the character of the alleged criminal offense which is the subject of the application; (2) the specific type or types of identifying physical characteristic evidence which are sought; (3) the identity or description of the individual who may be detained for obtaining such evidence; (4) the name and official status of the peace officer or officers authorized to obtain such evidence and to effectuate any detention which may be necessary to obtain the evidence; (5) the place at which the obtaining of such evidence may be carried out; (6) that the person will be under no legal obligation to submit to any interrogation or to make any statement during the period of his appearance except that required for voice identification; (7) that the individual shall forthwith accompany the officer serving the order for the purpose of carrying out its objectives, or, in the alternative, fixing a time at which the individual shall appear for the purpose of carrying out the objectives of the order; (8) that the person, if he fails to accompany the officer, or to appear at the time fixed, as may be provided, or to otherwise comply with the provisions of the order, shall be guilty of contempt of court and punished accordingly; (9) the period of time during which the named or described individual may be detained for obtaining such evidence, which in no event shall exceed five hours; (10) the period of time, not exceeding fifteen days, during which the order shall continue in force and effect; and (11) any

other conditions which the issuing judge or magistrate finds to be necessary to properly protect the rights of the individual who is to supply such evidence.

"*Order; copy; service; return.* A copy of the order shall be given to the individual at the time it is served on him. No more than thirty days after the identification procedures have been carried out, a return of the order shall be made to the issuing court setting forth the type of evidence taken. Where the order is not executed, a return so indicating shall be filed within thirty days of its issuance.

"*Contempt; penalty.* The penalty for contempt of court, as provided in sections 29–3301 to 29–3307, shall not exceed thirty days' imprisonment in the county jail." [11]

If the problem arises in one of the States which has a statute similar to Nebraska's, the solution would be clear. The 22 students could be compelled, by court order, to submit to fingerprinting. As yet, there are no reported cases from these jurisdictions regarding the constitutionality of those procedures.[12]

Court Order in Absence of Legislation or Court-Adopted Rule

What is the possible solution if the case discussed in the introduction takes place in a State where there is no legislation or court-adopted rule? This was in fact the situation faced by the police in the New Jersey case, *In Re Fingerprinting of M.B. and Twenty-One Other Juveniles.*[13] In this case the officer filed an affidavit before a judge setting forth the compelling need for the fingerprints of the male members of the class. The judge issued an order directing the students to submit to fingerprinting at the sheriff's office. The order permitted the pupils to be accompanied by a parent, guardian, or attorney and directed the fingerprints should be used only for the homicide investigation and further specified the prints should be destroyed upon the completion of the investigation. The students appealed the order. They conceded, on the basis of *Davis*, that fingerprinting may be compelled in certain "narrowly defined circumstances" short of probable cause for arrest; however, they further contended the order was unreasonable since they were not afforded either an opportunity to see the police affidavit or an adversary hearing prior to the issuance of the order. The State, on the other hand, argued that involuntary fingerprinting is wholly outside the constraints of the reasonableness requirement imposed by the fourth amendment. The New Jersey court rejected both arguments and held the fourth amendment protection does cover investigatory fingerprinting, but stated that in the early stages of a criminal investigation there is no need for adversarial "mini-trials" for "routine investigative steps." [14] The court order was found reasonable under the fourth amendment, and the motion to stay the order was denied.

There are two interesting cases from the District of Columbia. In *Shaykar* v. *Curran*,[15] the district court ordered a suspect, not in custody, to report for the taking of fingerprints, palm prints, and hair samples, although there was insufficient evidence to establish probable cause to arrest. This order was affirmed by the U.S. Court of Appeals. Two months later, in *Wise* v. *Murphy*,[16] the District of Columbia Court of Appeals upheld in principle a magistrate's order that a suspect appear in a lineup for purposes of identification by a rape victim, but dismissed the order without prejudice, suggesting more specific facts implicating the suspect should have been submitted. These three decisions, rendered without benefit of either legislative enactment or court-adopted rule, in effect prescribe procedures similar to those in States which have adopted such a procedure.

Another case of interest from a Federal appeals court is *United States* v. *Long*.[17] In that case the court, after holding handwriting exemplars obtained following an illegal arrest should have been suppressed as evidence, added, "We think it important to emphasize here that our decision does not mean that the Government had no right to obtain exemplars of Long's handwriting . . . . It seems clear to us that while there may not have been probable cause for the defendant's arrest on the check forgery charge, there was clearly probable cause for a search warrant to obtain the exemplars because of Long's nexus with the cashing of the check." [18]

Grand Jury Procedure

Some prosecutors have sought to obtain fingerprints and other evidence of an individual's identifying physical characteristics through the grand jury's power to subpoena witnesses.[19] Two fourth amendment questions emerged; does the grand jury subpoena constitute a seizure of the witness, and does a demand by the grand jury for identifying physical characteristics without a showing of probable cause constitute an unreasonable search within the meaning of the fourth amendment? These two questions were answered no by the Supreme Court of the United States in *United States* v. *Dionisio* [20] and *United States* v. *Mara*,[21] decided in 1973.

"Some prosecutors have sought to obtain . . . evidence of an individual's identifying physical characteristics through the grand jury's power to subpoena witnesses."

In *Dionisio*, a special Federal grand jury, which was investigating possible violations of gambling statutes, and which had received in evidence voice recordings from authorized wiretaps, subpoenaed about 20 persons and directed them to make voice exemplars at the U.S. Attorney's Office by reading the transcript of the wiretaps into a recording device. The exemplars would then be compared for identification purposes with the wiretap recordings. Dionisio refused to give the exemplar, and the Government filed a petition in U.S. District Court to compel compliance. Dionisio again refused and was adjudged in civil contempt.

In *Mara*, the subpoenaed witness was directed to furnish handwriting and handprinting exemplars. He refused to comply. After considering *in camera* an FBI Agent's affidavit setting forth the basis for seeking the exemplars, the U.S. District Court ordered compliance. After again refusing, Mara was cited for contempt.

The Federal appeals court reversed the contempt citation in both *Dionisio* and *Mara* and held the district court order constituted an unreasonable search and seizure. The U.S. Supreme Court did not agree, holding that "a grand jury subpoena is not a 'seizure' within the meaning of the Fourth Amendment and, further, that that Amendment is not violated by a grand jury directive compelling production of 'physical characteristics' that are 'constantly exposed to the public.' . . . Handwriting, like speech, is repeatedly shown to the public, and there is no more expectation of privacy in the physical characteristics of a person's script than there is in the tone of his voice. . . . Consequently the Government was under no obligation here . . . to make a preliminary showing of 'reasonableness.' " [22]

In a State case decided in 1973,[23] the State's attorney sought a court order to compel a grand jury witness to produce exemplars of his handwriting. The grand jury was investigating circumstances surrounding a nominating petition. An investigator testified he had interviewed 18 of the persons whose names appeared on the petition and 16 of them stated they had not signed the petition. The grand jury sought an order from a circuit judge requiring the witness to furnish handwriting exemplars. The judge refused the order and dismissed the motion. The Illinois Supreme Court held that the judge must grant the motion since a grand jury order such as that requested by the State's attorney would violate neither the witness's fourth nor fifth amendment rights.

In *Application of Connie Rodgers for a Protective Order*,[24] a grand jury witness was ordered to stand so her photograph might be taken. She later sought an order directing destruction of the photograph and suppression of any evidence obtained directly or indirectly by use of the photograph. The court held *Dionisio* and *Mara* to be dispositive of the issue and denied the order. Taking the witness's photograph infringed no interest protected by the privilege against self-incrimination nor was there such a reasonable expectation of privacy as to require fourth amendment protection.

In *United States* v. *McNeese*,[25] the district judge observed: "It . . . appears that the United States Supreme Court has ruled that the obtaining of handwriting specimens from a suspect does not come under the Fourth Amendment."

Limitations on the Grand Jury

In the case of *In Re Grand Jury Proceeding (Schofield)*,[26] a subpoena was issued for a witness to testify in a grand jury proceeding. When she appeared, she was directed to submit handwriting exemplars and to allow her fingerprints and photograph to be taken. She refused to comply with the request. The U.S. attorney requested an order from the district court requiring her to comply with the grand jury's request. The Government, in support of the motion, made no representation other than she had been requested by the grand jury to provide exemplars and had refused. The district court adjudged her in civil contempt and directed her confinement until she submitted to the court order. She appealed.

She contended on appeal the Government should at least be required to state the purpose and necessity for requesting the exemplars. The Third Circuit Court of Appeals agreed and reversed the district court order. The court observed, "[T]he federal courts have never lent their enforcement machinery to an executive branch investigative body in the manner of a rubber stamp." The opinion makes several suggestions about the use of the grand jury procedure for compelling nontestimonial evidence. The points may be summarized as follows:

(1) Grand juries are called into existence by order of the district court, but they are basically a law enforcement agency. "They are for all practical purposes an investigative and prosecutorial arm of the executive branch of government." [27]

(2) Grand jury subpoenas may be resisted on nonconstitutional grounds as well as constitutional grounds. Examples of nonconstitutional grounds are:

(a) Undue breadth,

(b) Improper inclusion of irrelevant information,

(c) Lack of authority to conduct investigation in issue,

(d) Improper issuance of subpoena, and

(e) Investigation conducted in bad faith and from desire to harass.

(3) Grand jury subpoenas are not a self-executing process. A

court order is required for its enforcement. There must be a refusal to obey before a witness may be held in contempt.

(4) Before a witness can appeal a grand jury subpoena, he must have been held in civil contempt by a district court.

(5) Before the district grand jury can utilize the enforcement machinery of the judicial branch, there must be a minimum showing of "proper purpose" by the Government.

In addition to the above, the opinion pointed out the Federal Court of Appeals has supervisory power over the grand jury and over the district court enforcement of subpoenas. Exercising this power, the court set forth the way in which relevancy and proper purpose of grand jury investigation should be shown. A prosecutor seeking judicial enforcement of a grand jury's subpoena must meet a three-pronged test; namely, (1) The Government affidavit must show evidence sought is relevant to the grand jury's investigation; (2) The investigation is properly within the grand jury's jurisdiction; and (3) The evidence is not being sought primarily for another purpose.

Following this decision, another subpoena was issued. The Government sought to obtain fingerprints, handwriting samples, and photographs from the witness. She refused. The Government sought enforcement. The trial judge concluded the affidavit was sufficient under the guidelines set by the court of appeals and ordered compliance. She again refused and was thereafter held in contempt. Again she appealed. This time the appeals court upheld the judge's order and reaffirmed the earlier decision.[28] The opinion emphasized the district judge will be allowed considerable discretion in his assessment of the Government's affidavit.

Thus, *In Re Grand Jury Proceeding (Schofield)*, both decisions, are instructive on several points. The fourth amendment does not require a showing of probable cause before a witness may be compelled to furnish exemplars. However, the Government will be required, at least in the third circuit, to present an affidavit in which a proper purpose is shown. The district judge may order an *in camera* inspection, additional affidavits, and a hearing. The court said, "[T]he decision to require additional investigation is committed to the sound discretion of the district court." [29]

Conclusion

This article has discussed two methods of compelling exemplars from a suspect where no probable cause exists for arrest. One method discussed was to obtain a court order compelling the suspect to submit the necessary exemplars. Some States have, through legislation or court-adopted rule, provided for such a procedure. The other method discussed was to compel exemplars through the grand jury power to subpoena witnesses.

Obtaining exemplars by either method is an illustration of the positive approach to the solution of legal problems. When an officer understands what *can be done* under the law, it helps to build a positive attitude toward the solution of investigative problems. To concentrate on what cannot be done is negative and defeating. *In Re Fingerprinting of M.B.*, the case used as the introduction to this article, is a good example of what can be accomplished through a positive approach.

FOOTNOTES

[1] *In Re Fingerprinting of M.B. and Twenty-One Juveniles*, 309 A. 2d 3 (Super. Ct. App. Div. 1973).

[2] The constitutional validity of an arrest depends upon whether the officer had probable cause to make it, that is, whether he had facts and circumstances within his knowledge which would lead a prudent man to believe that a crime has been committed and the person to be arrested committed it. *Beck* v. *Ohio*, 379 U.S. 89 (1964).

[3] *Davis* v. *Mississippi*, 394 U.S. 721 (1969). See also *United States* v. *Jennings*, 468 F. 2d 111 (9th Cir. 1972); *Beightol* v. *Kunowski, et al.*, 486 F. 2d 293 (3d Cir. 1973).

[4] 394 U.S. 721 (1969).

[5] Id. at 727.

[6] In *Camara* v. *Municipal Court*, 387 U.S. 523 (1967), the Court formulated a probable cause test which balanced "the need to search against the invasion which the search entails." This rationale was used by the Court in *Terry* v. *Ohio*, 392 U.S. 1 (1968). There the Court permitted a "frisk" for a weapon notwithstanding the lack of probable cause to arrest. Balancing society's interest in the officer's safety and the need for crime prevention against the minor intrusion involved, the Court held the search reasonable.

[7] *Schmerber* v. *California*, 384 U.S. 757 (1966); *Gilbert* v. *California*, 388 U.S. 263 (1967); *United States* v. *Wade*, 388 U.S. 218 (1967).

[8] *United States* v. *Dionisio*, 410 U.S. 1 (1973).

[9] Schmerber was arrested on a drunk-driving charge and a blood sample was extracted by a doctor at a hospital and analyzed for alcoholic content. This procedure brought the police into contact with the fourth amendment at two points: (1) the seizure of Schmerber and (2) the seizure of his blood without a warrant. The Supreme Court held that the police had probable cause to arrest Schmerber, therefore the seizure of his person was reasonable. The seizure of evidence (the blood sample) from his body without a warrant was reasonable because of the need for immediate action (the percentage of alcohol in the blood diminishes quickly after the drinking stops). Gilbert and Wade both were indicted before custody, thus no fourth amendment problem.

[10] Arizona—Ariz. Sess. Laws (ch. 75 § 1), Ariz. Rev. Stat. § 13–1424 (Supp. 1971).
Colorado—Col. R. of Crim. P., Rule 41.1, "Court Order for Fingerprinting."
Nebraska—Rev. Stat. of Neb. §§ 29–3301—29–3307, Art. 33, "Identifying Physical Characteristics," eff. Apr. 23, 1971.
Proposed—"Preliminary Draft of Proposed Rule 41.1 of the Federal Rules of Criminal Procedure." See "Detention to Obtain Physical Evidence Without Probable Cause: Proposed Rule 41.1 of the Federal Rules of Criminal Procedure." 72 Col. L. Rev. 712 (1972).

[11] Rev. Stat. of Neb., *supra* footnote 10.

[12] See *In Pima County Anonymous, Juvenile Action No. J24812–2*, 515 P. 2d 600 (Ariz. 1973), in which the Supreme Court of Arizona indicated that the police should have made an application for an order pursuant to A.R.S. § 13–1424. See also *State* v. *Fierro*, 489 P. 2d 713 (1971).

[13] 309 A. 2d 3 (Super. Ct. App. Div. 1973).

[14] Id. at 5.

[15] No. 24,826 (D.C. Cir. interim unpublished order, Jan. 25, 1971), quoted in *Wise* v. *Murphy*, 275 A. 2d 205 (1971).

[16] 275 A. 2d 205 (1971).

[17] 453 F. 2d 1317 (8th Cir. 1972).

[18] Id. at 1323.

[19] *United States* v. *Doe* (*Schwartz*), 457 F. 2d 895 (2d Cir. 1972).

[20] 410 U.S. 1 (1973).

[21] 410 U.S. 19 (1973).

[22] Id. at 21.

[23] *People ex rel. Edward V. Hanrahan* v. *Power*, 295 N.E. 2d 472 (Ill. 1973).

[24] 359 F. Supp. 576 (U.S.D.C. E.D. N.Y. 1973).

[25] 361 F. Supp. 1100 (U.S.D.C. E.D. Okla. 1973).

[26] 486 F. 2d 85 (3d Cir. 1973).

[27] Id. at 90.

[28] *In Re Schofield*, 16 CrL 2389 (CA 3, 1/16/75).

[29] Id.

MEDIA HOTLINE

By
LT. JACK MC CANNE
Police Department
Beaumont, Tex.

Fast-breaking police actions of news interest, competitive reporting by 11 different news media, and an overburdened police switchboard are the ingredients which prompted Chief Willie Bauer of the Beaumont, Tex., Police Department to come up with a new recipe for improved communications between his department and the citizens of Beaumont.

"How can a police department keep all the media fully and equitably informed of news events without impairing the discharge of its own fundamental duties?"

The Beaumont Police Department maintains an "open door" policy for all the news media. Members of the press are encouraged to have a close working relationship with the police department and are assisted as much as duty allows in gathering the facts they need to give the public comprehensive coverage of newsworthy events. "No area of our building is

An officer uses the hotline to alert newsrooms to occurrence of newsworthy incident.

Chief Willie Bauer

'off limits' to the press, and there is no aspect of our operation that the media cannot inquire about," Chief Bauer says. "We see a truly free press as our greatest asset. Reporters have been present when events led to charges of police misconduct. Their objective testimony as to what actually took place has, on many occasions, been our best defense against unfair allegations."

Such a policy, highly beneficial to the Beaumont Police Department and the public, does have problems. The department is dealing with two newspapers, three television stations, and six radio stations, all competing for "scoops" on the big stories. How can a police department keep all the media fully and equitably informed of news events without impairing the discharge of its own fundamental duties? A major crime that occurred in 1970 led to an innovative solution to this problem—the "police hotline."

Necessity Mothers Innovation

Prior to the implementation of the police hotline, when a major police story broke, it was necessary for an officer in the police communications section to call each of the media individually to give them the facts. To insure impartiality, the officer would vary the order of the call with each new release so that "first call" would be fairly rotated among the interested media. The system left none of the media really satisfied. Everyone still wanted the story first, and considerable delay ensued between the first call and the last. In addition, a police officer's time was tied up when his services were often urgently needed elsewhere by the department. To save time, most of the newsrooms began monitoring police radio calls and phoning the police station when it seemed a newsworthy event was occurring.

In late 1970, following a major armed robbery, the police switchboard was swamped with calls from the media, all trying to get the facts first. At the same time, the chief was trying to call headquarters from his home to get information on the crime. He couldn't get through. At the time, it seemed to be only an inconvenience to Chief Bauer. But what if a citizen had been trying to report a serious emergency or crime at that particular time, and could not get through? It was a potentially dangerous situation to persons seeking or in need of police assistance and, therefore, intolerable. Something had to be done. It was at this time that the chief considered a police hotline exclusively for the media. He envisioned a one-way private telephone line linking the police department with all news media simultaneously.

Technical and Media Advice Sought

Technical representatives of the telephone company were consulted, and Chief Bauer outlined his idea to them. The phone company was able to work out a private line system that would run directly from a special phone in the police station to various newsrooms across the city, enabling the police department to achieve immediate and simultaneous contact with all of them. The system was designed for one-way communication—from department to newsrooms.

Lt. Jack McCanne

A meeting with representatives of the media was then held by Chief Bauer and the idea explained to them. At first, some of the representatives were apprehensive that such a system would stifle the police reporter's initiative. They expressed fears that reporters would start depending on the police to do their jobs. However, the system wasn't intended to function in that way. Basic facts on major police related incidents are transmitted to the media as soon as they occur. It's up to the reporters to follow up on leads and develop them into good stories. "The capable reporters will come up with better results than the indifferent ones," said Chief Bauer.

Overall, the Beaumont media liked the idea. An association was set up to

". . . a private line system . . . [runs] directly from a special phone in the police station to various newsrooms across the city, enabling the police department to achieve immediate and simultaneous contact. . . ."

establish guidelines and handle such things as bills and bookkeeping for the system. Each participating agency shared expenses for the private line rental. The nature of incidents to be reported over the hotline was agreed upon—major crimes, serious accidents, fires, and severe traffic congestion reports.

Three bright-red hotline phones were installed at police headquarters and each strategically placed in the communications section, traffic section, and detective division. Corresponding receivers were placed in the newsrooms of participating agencies. Before a hotline call is initiated, a police officer writes out a brief report giving the facts of the incident and the date and time of the report for future reference. The officer then lifts the hotline receiver and depresses a button which rings all of the phones in the newsrooms. After allowing 30 seconds for everyone to get on the line, the officer reads the information. Since the line is one-way, the listening newsmen cannot ask questions. After reading the report, the officer simply hangs up. In many instances, the identity of a person to contact for followup information is mentioned in the report.

Television and radio stations find the police department's traffic reports particularly valuable. Beaumont is the hub of an agricultural and industrial complex with a population of one-half million, and a freight train breakdown or a refinery fire can create serious traffic tieups. Traffic congestion warnings broadcast during the rush hours enable motorists to avoid lengthy delays.

With the timely leads furnished by the police hotline, the various media are able to provide good coverage of newsworthy incidents. The police make no effort to evaluate the news value of any particular incident—they merely report the facts as they occur.

"With the timely leads furnished by the police hotline, the various media are able to provide good coverage of newsworthy incidents."

The media decides which stories to cover.

Disaster Coverage Added

Recently, the local Red Cross chapter made arrangements with the police department and the news media to utilize the police hotline during natural disasters and further extend the usefulness of the system. Emergency bulletins concerning shelter locations and evacuation notices to the public are given prompt media coverage in this manner.

A new $3 million police-municipal court building has been completed recently in Beaumont, and the police hotline is moving in with the rest of the department. In the new building, the hotline will play an important part in the emergency Civil Defense operations center incorporated in the design. During a disaster the hotline should be a lifesaver.

Media and Police Benefits

Since its inception, the media has found the police hotline both inexpensive and effective. "It helps us cover stories more quickly," one newspaper official related. "We don't get a full story—just a tip—but it can be very helpful, especially when we're close to press time. Once, for instance, two serious accidents were reported within minutes of each other. By making a few phone calls we were able to decide whether or not to dispatch a photographer to cover them. This helps us make more effective use of our manpower."

"The hotline has proven to be a giant step in improving police-media relations," says Chief Bauer. "We get the news out fast and give the media all of the essential facts. We've learned from experience that the more the public knows about their local police and its responsibilities the more they are inclined to support them. The hotline has been a valuable tool in providing the public with that knowledge."

BOMBING INCIDENTS

During 1974, 2,041 bombing incidents occurred in the United States and Puerto Rico according to preliminary figures. In 1973, 1,955 incidents were reported. Twenty-four persons were killed and 206 were injured in connection with incidents during 1974, as compared with 22 deaths and 187 injuries reported in 1973.

Of the 2,041 incidents, 1,128 involved the use of explosive devices. Detonation occurred in 891 of these incidents. Incendiary devices were utilized in 913 incidents and ignition occurred in 760.

Geographically, the Western States reported the highest number of attacks in 1974 with 814. The Southern States reported 482, the North Central States 411, the Northeastern States 276, and Puerto Rico 58.

The leading targets for the year were residences with 554 attacks. Commercial operations and office buildings were targets of 460 attacks, 254 attacks were against vehicles, 186 against school facilities, 69 against law enforcement personnel, buildings, and equipment, and 63 against utilities. The remaining incidents involved miscellaneous targets.

The Honolulu Family Court

By
HON. HERMAN T. F. LUM
Senior Judge
Family Court, First Circuit
State of Hawaii
Honolulu, Hawaii

"The highest attention must be given to preventing juvenile delinquency, to minimizing the involvement of young offenders in the juvenile and criminal justice system, and to reintegrating delinquents and young offenders into the community."

—A priority of "A National Strategy to Reduce Crime," a report of the National Advisory Commission on Criminal Justice Standards and Goals.

Introduction

Juvenile delinquency and family and community disorganization have come to the forefront as national and local concerns. Drug abuse, child abuse, and crime are seen as symptoms of a rapidly disintegrating American society. All of these rightfully are of significance and concern to the community. Unfortunately, however, too often reactions are to symptoms rather than to underlying causes. In this connection, Hawaii's sustaining community consensus, which led to the development of the family court system, can be seen as an example of community focus on causes rather than on symptoms. In essence, Hawaii's response was that, if the State was to remove the symptoms of social disorganization, it should look toward positive ways to preserve the child and family.

This article will describe the development and jurisdiction of the Hawaii family court system, the recent innovations undertaken in pursuit of the family court philosophy, and planning undertaken by the family court. The frame of reference will be a statewide family court system, but specific programs and procedures relate to the Honolulu family court.

A Brief History

Hawaii's family court system was established by legislation in 1965, long before the recommendation was made by the National Advisory Commission on Criminal Justice Standards and Goals that jurisdiction over juveniles be placed in a family court.

There were two main selling points in arguing for the establishment of a family court system before the legislature. The first was the coordination of efforts under one special court of all child and family matters. This implied centralization of records and coordination of activities so that problems and issues concerning members of a family unit would be addressed in a single court under a common philosophy. The second main point was the employment of social science knowledge and techniques and the provision of various kinds of aids or services so that the best interests of children would be met and family units preserved whenever possible.

The Family Court Act established the jurisdiction of the court to cover all matters involving the relationship of husband and wife or of parent and child, plus a few additional matters.

The legislature, in considering the underlying causes of crime, came to the conclusion that, in order for them to grow into mature, law-abiding citizens, children require the guidance and support of and interaction within a family. The emphasis of the act, then, was not on fighting delinquency per se, but on developing healthy children within a stable, healthy family and in this way preventing delinquency. Therefore, the mandate

"The emphasis of the [Family Court Act] . . . was not on fighting delinquency per se, but on developing healthy children within a stable, healthy family and in this way preventing delinquency."

in the application of the Family Court Act was that the act "shall be liberally construed to the end that families whose unity or well-being is threatened shall be assisted and protected, and restored if possible as secure units of law-abiding members; and that each child and minor coming within the jurisdiction of the court shall receive, preferably in his own home, the care, guidance, and control that will conduce to his welfare and the best interests of the State, and that when he is removed from the control of his parents the court shall secure for him care as nearly as possible equivalent to that which they should have given him."

At the inception of the Family Court Act in fiscal year 1966–67, the referrals of children for law violations numbered 6,023, and in fiscal year 1973–74, the total was 3,199. On the other hand, the referrals of children on the basis of needing supervision went from 629 in fiscal year 1966–67 to 1,136 in fiscal year 1973–74.

The reasons for the decrease in referrals to the court over the years are difficult to ascertain with any precision, but we would like to think that our focus and efforts are, in part, responsible for the decrease. Of course, the real benefits cannot be seen until a number of years after a child is released from court jurisdiction. One survey, involving 836 adults indicted in the first circuit court for criminal offenses, for the period January 1, 1974, through June 30, 1974, revealed that only 28 percent had a prior record with the family court for law violations or for needing services as a minor. This would tend to support the belief that, for most children and their parents, the family court's service is of help. There are real benefits accruing to the community if a child does not return to the family court or if he does not commit other law violations as an adult. This, the preservation of a child, is the real benefit to be sought. The development of the family court and the initiatives taken within the context of the spirit of such a law hopefully have been of benefit to our community.

Jurisdiction—Minors

With respect to minors, the jurisdiction of the family court extends to all alleged violations of Federal, State, or local laws or municipal ordinances by any person under 18 years of age; all matters concerning any person under 18 years of age who is neglected or abandoned or beyond the control of his parent or guardian or whose environment or behavior is injurious to himself or others; and custody determinations, guardianship of the person, adoptions, terminations of parental rights, judicial consents to marriage, employment or enlistment, petitions for the treatment or commitment of mentally ill or mentally retarded minors, and proceedings under the Interstate Compact on Juveniles.

A basic change in the Family Court Act was the elimination of labels such as "delinquent child" or "dependent child." References to behavior such as "incorrigible" or "growing up in idleness and crime" were also eliminated.

The three major categories for jurisdiction in children's cases are law violations by a child, a child in need of supervision, and a child who is neglected or abused. The separation of jurisdiction is in accord with the current national concern for keeping children who are not law violators out of the juvenile justice system wherever possible. The act also provided that no child shall be held in detention or shelter longer than 48 hours, excluding Sundays and holidays, unless a petition has been filed or unless the judge shall otherwise order.

Jurisdiction—Adults

With respect to adults, the jurisdiction of the family court extends to matrimonial actions and ancillary custody, support, and property matters; paternity suits; misdemeanors against the person of one spouse by the other spouse; all crimes against a minor by the minor's parent or guardian or other person having the legal or physical custody of the minor; and guardianship matters and hospitalization of a person alleged to be mentally ill or mentally retarded.

The Family Court Act provided for a philosophy of preserving family units and providing aids or services to family units threatened with dissolution. Consequently, counseling services are provided in the hopes that, where possible, the circumstances leading to divorce or separation can be corrected or ameliorated, but where such circumstances are so exacerbated that divorce or separation is inevitable, help is given to make the dissolution amicable. This, then, has long-term advantages in the subsequent interactions of the couple with respect to their offspring. Where child custody is in dispute, the court under the act is provided social studies by social workers so that the court's decisionmaking is facilitated.

The act also provided for a systematic, aggressive followup procedure on delinquent court-ordered support payments through the employment of support enforcement officers. These officers interview persons who are delinquent in their payments in order to encourage their resumption of payments. Where necessary, enforcement of a court order for support is pursued through court hearings. Where the person's ability to meet court-ordered support has diminished, modification in the amount of payment is adjusted with the consent of the parties involved, thus lessening the conflict between the divorced parties. The effort here is to expedite enforcement of support with a minimum of involvement by judicial personnel, thereby reducing the judicial workload while at

"In recent years, the family court of Honolulu has taken a unique position, that of an advocate for children's needs, showing positive concern and initiating actions on behalf of the children to secure the help and treatment they need."

the same time insuring some measure of continued financial support to families.

Recent Innovations

The Court as Advocate for Children. In recent years, the family court of Honolulu has taken a unique position, that of an advocate for children's needs, showing positive concern and initiating actions on behalf of the children to secure the help and treatment they need. This, then, has meant considerable pressure on public and private agencies and others dealing with children to provide these services.

Diversion. The diversion of children from the family court, where appropriate, has been emphasized. Probation officers screen out children whose circumstances are such that their cases can be disposed of without adjudication, but where children and their families are in need of further services of a community agency, such referrals are made wherever possible.

Intensive Intervention Project. Because of its concern for positive intervention in appropriate cases, the court instituted the Intensive Intervention Project with funding from the State Law Enforcement and Juvenile Delinquency Planning Agency. This project grew out of concern that some children released on informal adjustment and their families were not being helped by a service agency. These children often return to court with their problems more pronounced. Families in this group often fail to follow up on referral to social agencies, and their situations require aggressive pursuit of counseling services. The project currently has a project coordinator and one social worker who, supplemented by specially trained volunteer workers, make almost immediate contact with the children who appear to be candidates for diversion. Services provided are in the nature of crises intervention, and further counseling involves the entire family. Receiving agencies providing long-term counseling are involved in prereferral sessions whereby agency workers are included in the family counseling sessions.

Incommunity Treatment. Because children require a variety of opportunities and approaches to adjust to society, the need for more treatment programs within the community became apparent. Accordingly, every effort was made to stimulate the development of private incommunity treatment programs. Some 5 years ago, a resource list of two incommunity treatment programs was available to the court. Now, there are a dozen programs available. Under an arrangement of fee-for-service payments, the court's willingness to utilize these programs helped to stimulate their growth.

Short-Term Commitment. The court has always been concerned about children who seem headed for indefinite commitment to a correctional facility. On a very selective basis, it has committed some of these children to the correctional facility for a short-term period as a means of getting them to understand what commitment means and to modify their behavior. For some, positive effect results and the number of subsequent offenses diminishes.

Right to Speedy Trial. Keeping in mind that adjudications and dispositional actions are most meaningful and relevant to children whose court hearings are held almost immediately after their referral to the court, court rules specify that such hearings must be conducted within 15 court days after such referral.

Personnel Assignment. To expedite court hearings, to allow court personnel to spend a greater amount of time and effort with children with serious problems, and to help court personnel develop greater rapport and contact with the community, the probation office personnel were assigned cases along specific geographic areas. Juvenile judges were also assigned to hear cases along the same geographic areas and conduct hearings within these areas, thus providing continuity and consistency and better community understanding and community involvement in helping children before the court.

District Family Courts. In 1973, through legislative enactment, district family courts with district family judges were created, and the position of referee was eliminated. Under this change, the decision of the district family judges became final and appeals, if any, were to be heard by the supreme court. This change saved the court's time by eliminating the requirement that the referee's findings and recommendations must be approved by a circuit judge and review hearings must be heard by a circuit judge. Previously, the number of review hearings of referee-heard juvenile cases averaged two a year, being as high as six a year. Since 1973, there have not been any appeals to the supreme court on juvenile cases heard by the district family court judges.

Traffic Cases. In line with the court's efforts to use existing personnel to service more serious law violators, all juvenile traffic law violators are now referred to Honolulu district traffic court, where adult traffic violations are also heard. In view of the lowering of the age of majority to 18 years, it was seen as appropriate to hold juveniles to the same standards as adults in the own-

ership, handling, and operating of motor vehicles. Also, it was thought that children would benefit from the expertise and resources of the traffic courts.

Family Court Rules. The first comprehensive uniform rules of the family courts were developed. This development was a major achievement, and became possible, in part, due to the evolvement of a common philosophy nurtured by the workings of the Family Court Act. These uniform rules, among few of a similar nature in the Nation, were formulated to regulate procedures and practices in the family courts of the State. The practicing attorneys have found the rules helpful, and these have facilitated court operations by reducing the number of errors in documentation and the number of questions raised as to practices and procedures.

Planning Efforts—Future Direction

An area of substantial effort for the past several years has been the court's assistance in the development of the juvenile justice master plan for the State. The court has assisted in collecting data and in providing consultation. The court recognizes, in the development of such a plan, that the real hope for the betterment of services to children lies in the commitment and involvement of the community in solving the problems of child deviancy and family disorganization, and that the problems cannot be the sole responsibility of the court.

As a summit activity, the family court conducted a goal planning conference, which was funded under the State Law Enforcement and Juvenile Delinqency Planning Agency. The conference addressed itself to the question of what the family court's goal and role should be. A wide cross section of the community's leaders in the fields of health, welfare, education, corrections, and law, and other related fields was involved in discussing issues and concerns in these areas as they affected the family court.

The conference participants confirmed that the court's focus and activities were what professionals and lay persons of the community saw as being appropriate. It was agreed that "the goal of the Family Court is the accommodation of the rights and needs of the child, parents, and the family unit." It was further agreed that the "goals can best be accomplished when (1) the court is responsible to insure treatment of the child; (2) the court has authority to mandate and monitor treatment when necessary; (3) the court insures the best interest of the child and the family unit in a marital conflict situation; and (4) the court under its jurisdiction can institute responsible diversion which satisfies appropriate standards that adhere to constitutional requirements." The conference participants concluded that "the court functions as a member of a concerned community and as such (1) shall be concerned and involved in the positive growth of children; and (2) shall promote greater understanding and improvements where the health and general welfare of children are handicapped, through leadership and supportive efforts that remove those handicaps and promote the development of children."

Conclusion

The family court system contemplated a consistent and enlightened approach to children and families with problems. The nature of these problems ranges from minor child deviancy problems or problems of parent-child interactions to more serious problems of children who express them symptomatically through law violations, child neglect or abuse by parents, divorce, spouse abuse, etc. The Family Court Act amended archaic jurisdictional provisions and distinction made between the child law violator and the child who is in need of supervision. Provisions were made for counseling to adults filing or on the verge of filing for divorce and for social studies in child custody disputes.

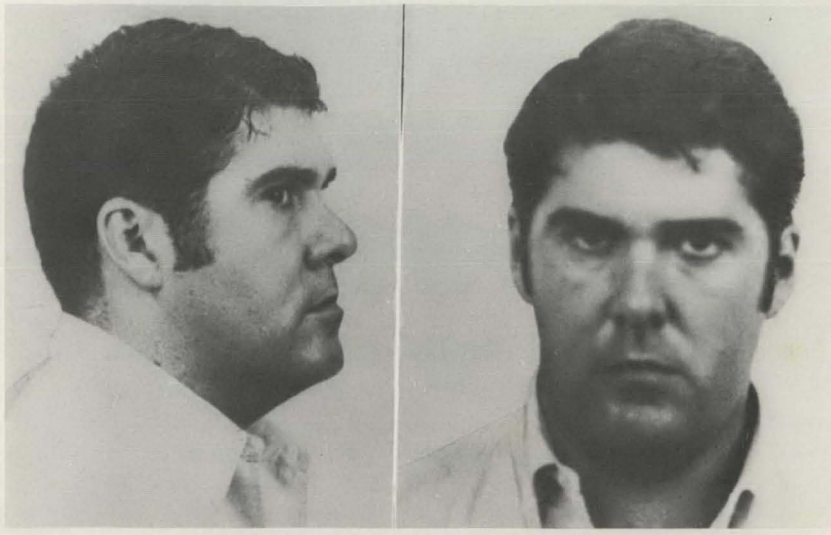
"The family court system contemplated a consistent and enlightened approach to children and families with problems."

The continuing concern has been for assistance to and protection of children in a stable family. The concern was for helping children, guiding them, and securing or providing necessary treatment for them, so that they may develop into contributing, law-abiding citizens. The concern for adults was in terms of healthy, positive-minded persons who can function as loving parents and adult models. As a court of law, however, the court must necessarily keep in focus its responsibility to the community, as well as its concern for individual children and adults; and the Family Court Act is the vehicle to provide this kind of balance.

Since the inception of the family court system, the family court attempted to develop uniform policies, coordinated procedures, and an array of services within the court and the community. It has attempted to be vigorous in its agitation for services, to children in particular, in the thought that if society, through its courts, intervenes in children's lives, then, it is responsible to see that children are provided treatment to become rehabilitated or redirected.

The movement for improvement has evolved under a cohesive philosophy, and with the support of the community, it can be sustained. Hawaii's "aloha" spirit must be harnessed for the betterment of its people.

WANTED BY THE FBI



Photographs taken in 1969.

RICHARD LEROY BENEDICT, also known as Jason Benedict, Sidney G. Brown, Roger Dean Curtis, James Wesley Humphrey, David L. Schaefer, Arno Tarquini, Arnold Tarquini, Ivan Tufty, Richard Valenti, and others

Height	6 feet 2 inches.
Weight	190 to 200 pounds.
Build	Medium-heavy.
Hair	Black.
Eyes	Brown.
Complexion	Medium.
Race	White.
Nationality	American.
Scars and marks	Vaccination scar upper left arm.
Occupations	Automobile salesman and public relations consultant.
Social Security No. used	439-88-0236.
FBI No.	62, 633 C.
Fingerprint classification	10 O 5 Rr 14 I 17 U
NCIC classification	PO 60 54 05 14 DI 05 07 11 13

Interstate Stolen Automobile; Conspiracy

Richard Leroy Benedict is being sought by the FBI for unlawful interstate transportation of stolen motor vehicles and conspiracy. Federal warrants for Benedict's arrest were issued on August 7, 1968, at Salt Lake City, Utah, on September 24, 1969, at Oklahoma City, Okla., and on November 23, 1970, at Tampa, Fla.

The Crime

Benedict, while employed as a used car salesman in Denver, Colo., in 1967, allegedly sold at least 15 stolen automobiles. In 1968, Benedict opened a used car lot in Oklahoma City, Okla., where he allegedly sold 38 stolen automobiles. Benedict and an accomplice were arrested in Dallas, Tex., in August 1969 in possession of two stolen automobiles. Both were released on bond but failed to return for trial.

Right ring fingerprint.

Description

Age	37, born January 8, 1938, Hamburg, Iowa.

Caution

Benedict has been convicted of interstate transportation of a stolen motor vehicle and reportedly carries a handgun. He should, therefore, be considered armed and dangerous.

Notify the FBI

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

U. S. GOVERNMENT PRINTING OFFICE : 1975 O - 571-235

FOR CHANGE OF ADDRESS ONLY

(Not an Order Form)

Complete this form and return to:

DIRECTOR

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

NAME TITLE

ADDRESS

CITY STATE ZIP CODE

LAW AND POLICE OBSERVANCES

On the 1st of May, Law Day, U.S.A., Americans pause to renew their respect for and obligation to our system of law. For this year's celebration, the theme is "America's Goal—Justice Through Law." The American people also pause during Police Week (May 11 to 17) to honor those individuals who serve our Nation through the enforcement of its laws, and on Peace Officers Memorial Day (May 15) to honor law enforcement officers who have been killed or disabled in the line of duty. On the eve of our 200th birthday, it is particularly fitting that we rededicate ourselves to the ideals of law upon which our Nation was founded.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

OFFICIAL BUSINESS

ADDRESS CORRECTION REQUESTED

U.S.MAIL

POSTAGE AND FEES PAID
FEDERAL BUREAU OF INVESTIGATION
JUS-432

THIRD CLASS

MR. FRANK DE MARTINO
198 WOODSIDE AVENUE
NEWARK, NJ 07104

F

INTERESTING PATTERN

In the FBI Identification Division, the pattern presented here is classified as a plain whorl with a meeting tracing. When turned on its right side, this impression is interesting due to the unusual face-like formation in the core area.