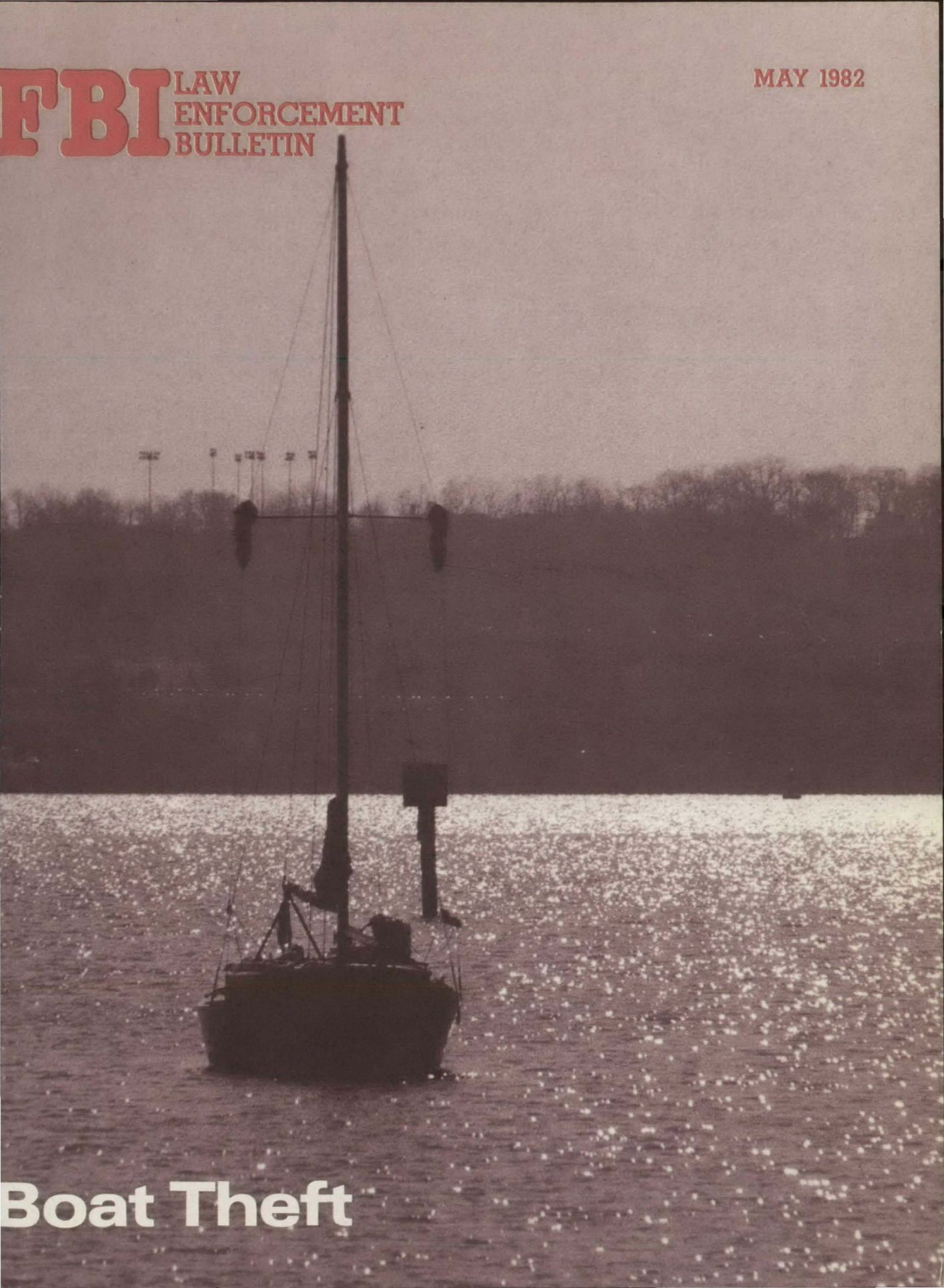
FBI LAW ENFORCEMENT BULLETIN

MAY 1982



Boat Theft

FBI LAW ENFORCEMENT BULLETIN

MAY 1982, VOLUME 51, NUMBER 5

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Theft of boats is a high-profit, low risk opportunity thiefs are finding increasingly difficult to resist. See article p. 1.

Federal Bureau of Investigation
United States Department of Justice
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William H. Webster, Director

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Boat Theft
A High-Profit/ Low-Risk Business

By
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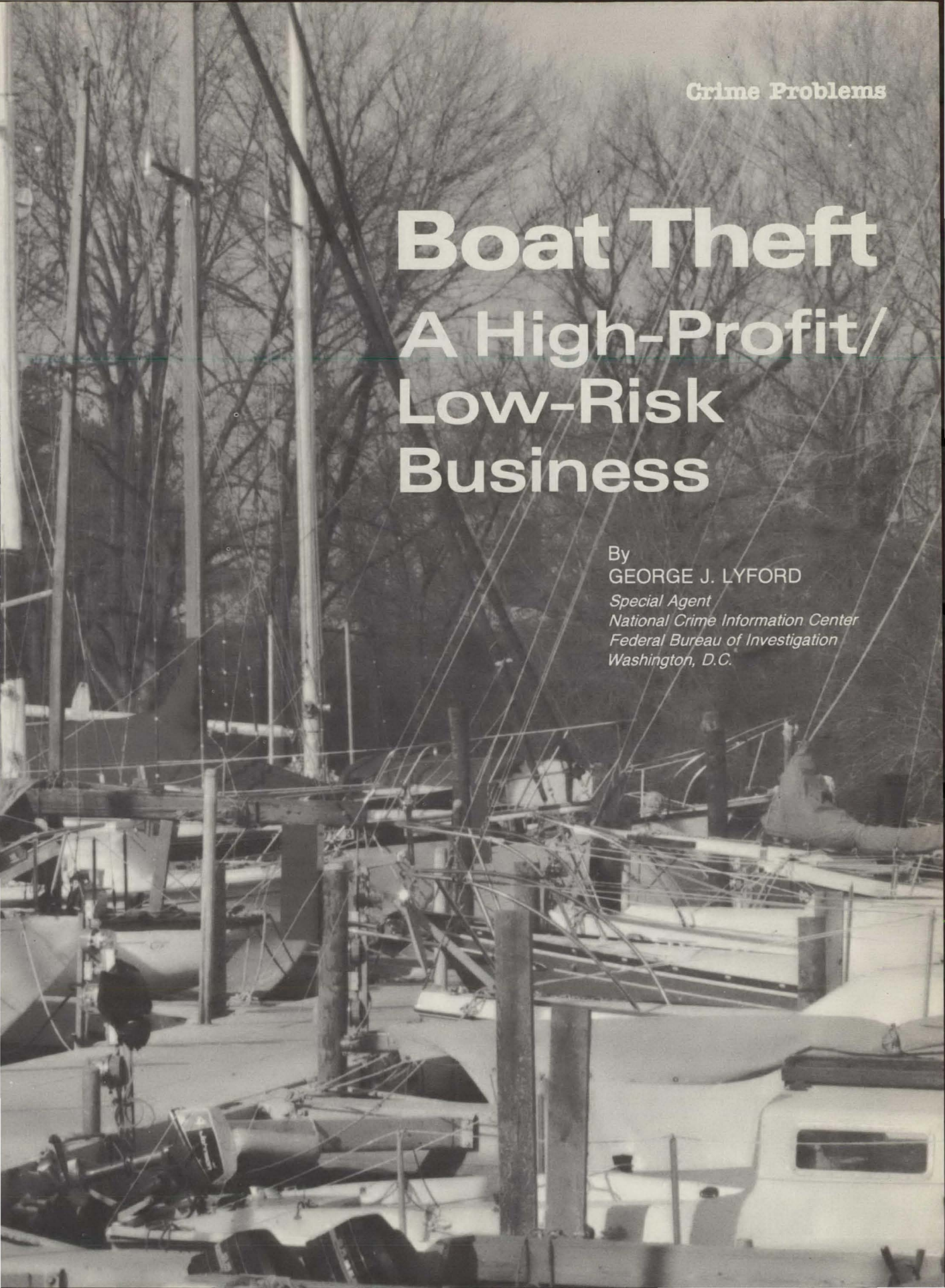


Special Agent Lyford

"The theft of boats and marine equipment has become an increasingly serious problem in recent years. Estimates of the dollar value stolen annually vary widely, but there is a general agreement that a loss of $60 million per year is a conservative figure. Closer estimates have not been possible because of the fragmented nature of the problem." [1]

Two of the factors contributing to this increase in marine thefts are the jurisdictional problems among law enforcement agencies which deal with marine theft and the absence of uniform State titling and licensing laws. This can be translated into the blanket statement that "marine theft is a high-profit/low-risk business" that grows with each passing year. In addition, the absence of complete statistical data leaves law enforcement administrators grasping for assistance when they attempt to analyze and study marine theft when allocating manpower. These factors combined result in a general lack of knowledge regarding the problem and a subsequent lack of resources to address the problem.

There are numerous groups which have an interest in boat thefts, ranging from the boat manufacturers and their associations, to the owners themselves, to the various law enforcement agencies. While each seek solutions to the ever-present problems of boat and marine equipment theft, all of these groups address the matter in question in their own individual manner.

Jurisdiction

Marine theft by its very nature defies traditional investigation. The maze of conflicting jurisdictions and the subsequent confusion hampers the ability of the law enforcement community to curtail boat thefts. As a visible and readily available marine law enforcement agency, the U.S. Coast Guard is often the initial contact point for victims of boat thefts. In June 1977, the Coast Guard established policy guidelines for handling incidents of stolen vessels and marine equipment with the publication of Commandants Instruction #16201.3. It details the following five Federal crimes that may be involved in a marine theft incident and investigated by the Coast Guard:

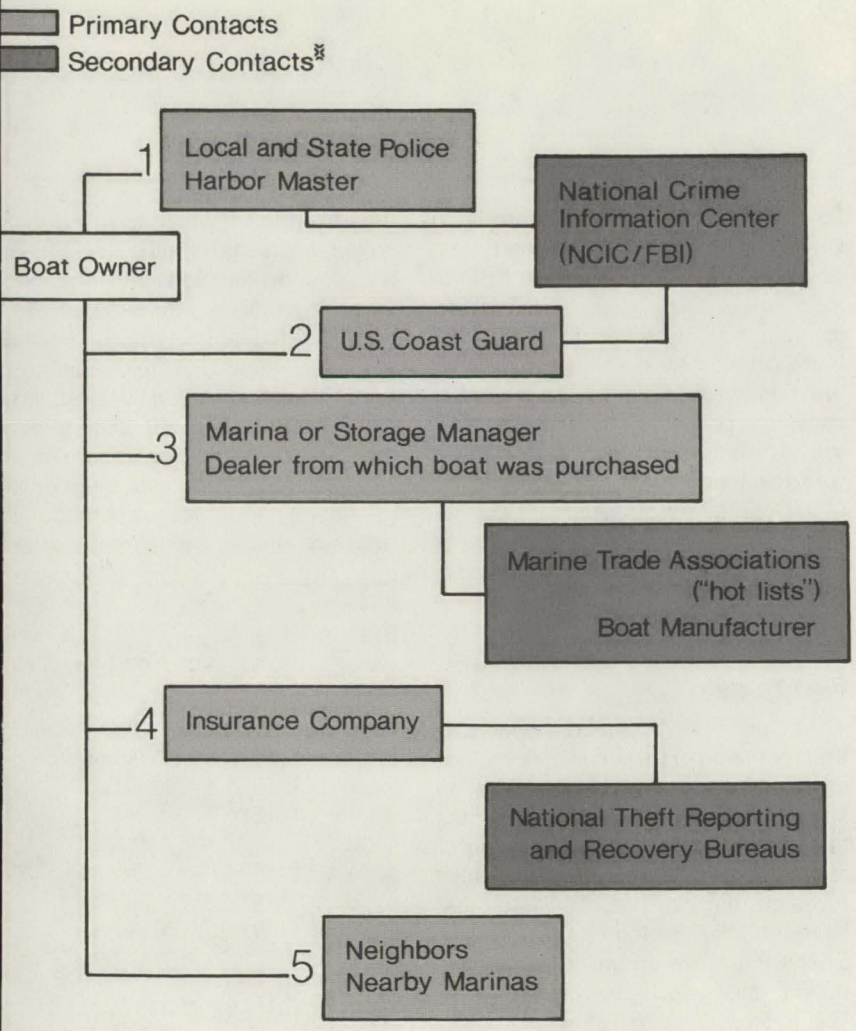
"(1) The Federal Crime of larceny (as set forth in T18 USC 661) consists of the 'taking' and the 'carrying away' of personal property with the intent to steal within the special maritime and territorial jurisdiction of the United States. The theft of a vessel does not, in itself, constitute a Federal crime unless both the 'taking' and the 'carrying away' of the vessel occur within the jurisdiction.

"(2) Breaking or entering a vessel with the intent to commit a felony, if committed in the special maritime and territorial jurisdiction of the United States, is a Federal crime under T18 USC 2276.

"(3) The theft of a vessel by its captain or any other member of its crew within the admiralty and maritime jurisdiction of the United States is a Federal crime under T18 USC 1656.

"(4) The National Stolen Property Act, T18 USC 2314, prohibits the transportation of stolen goods valued at $5,000 or more in interstate or foreign commerce. Thus, it is a

Who to Notify if a Boat is Stolen



*While boat owners cannot directly contact these agencies, they should strongly request that the primary contacts quickly do so.

Federal crime to cross a state boundary with a stolen vessel which, together with its contents, is valued at $5,000 or more. In this context, a state's boundaries include not only its borders with other states but also its maritime boundary, which coincides with the outer boundary of the territorial sea. Therefore, this Federal criminal statute is violated, in one instance, when a stolen vessel of sufficient value is merely taken to the high seas beyond the territorial sea. Once the vessel has been removed from the state where it was stolen, the Federal crime has been committed and returning the vessel to that state will not eliminate Federal jurisdiction.

"(5) The Federal Boat Safety Act requires numbered vessels to have on board a valid certificate of number whenever the vessel is in use (T46 USC 1469). Anyone who uses such a vessel without a certificate of number aboard commits a Federal crime (T46 USC 1461 and 1483). If the genuine certificate of number is aboard a stolen vessel and the operator of the vessel misrepresents himself to the Coast Guard as the owner or as being in possession of the vessel with the permission of the owner, he violates T18 USC 1001. Likewise, presentation of a forged or altered certificate of number, or one obtained by misrepresenting the applicant as a lawful owner of the vessel, also constitutes a violation of T18 USC 1001.

"In cases which do not involve any Federal violation, the Coast Guard may:

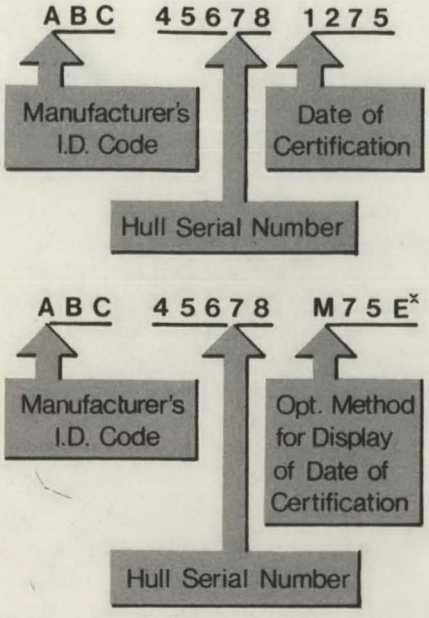
"(1) In its law enforcement role, provide assistance to local and state law enforcement authorities under the provisions of T14 USC 141; or

"(2) In its role as protector of persons and property on the water, assist the vessel theft victim directly by helping locate his vessel."[2]

The FBI may have jurisdiction over boat theft under the Interstate Transportation of Stolen Property Statute, T18 USC 2314. This section reads in part: "Whoever transports in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of $5,000 or more, knowing the same to have been stolen, converted or taken by fraud. . . ." Also, certain crimes described in title 18 of the U.S. Code, such as kidnaping (section 1201), piracy (section 1651), murder (section 1111), and assault (section 113), when committed within the special maritime and territorial jurisdiction of the United States, are punishable in Federal court. The term "special maritime and territorial jurisdiction of the United States," as used in this title, includes: "The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular state, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any

Figure 1

HIN Format



***Key to Month of Model Year**

AUG–A	DEC–E	APR–I
SEP–B	JAN–F	MAY–J
OCT–C	FEB–G	JUN–K
NOV–D	MAR–H	JUL–L

corporation created by or under the laws of the United States, or of any state, territory, district, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular state. . . ." Crimes of this nature would be investigated by the FBI as crimes on the high seas.

FBI policy applicable to T18 USC 2314 is that no investigation will be instituted involving thefts of property valued under $50,000, unless there is sufficient evidence to raise a reasonable inference that the property was transported in interstate commerce or that organized crime figures are involved in the theft. This policy does not preclude investigation being instituted in cases where circumstances and experience indicate interstate transportation of the stolen property is likely. In cases involving stolen property exceeding $50,000 in value, the FBI immediately institutes active investigation to determine whether the interstate transportation of stolen property statute has been violated. These latter cases are classified as major theft matters. The FBI policy, as stated above, was developed in concurrence with the U.S. Department of Justice. In the absence of a theft which comes under the above policy, the primary jurisdiction will rest with the State or local law enforcement agency.

Boat Titling

In June 1979, the National Law Enforcement Telecommunications System, Inc., conducted a boat registration survey which revealed that 45 States have statutes which mandate titling or registration of boats. The survey also revealed that there are 14 States that have an online stolen boat file and 15 States that have an online boat registration file which is available for law enforcement investigations. Several groups are working to promote the adoption of uniform boat titling which, if adopted, will make all States more effective in determining valid ownership and will assist in curtailing thefts.

Hull Identification Number

The 1971 Federal Boat Safety Act mandated that every boat manufactured for sale in the United States have a 12-character Hull Identification Number (HIN) permanently affixed to the hull. However, the method of affixation was not specified, and manufacturers have great latitude in its placement on boats. (See fig. 1.)

The HIN was primarily designed to protect the consumer and to assist boat manufacturers in quality control of their inventories. Prior to 1971, boa were manufactured without any mean for the consumer to identify the mod year. The HIN is a tremendous aid law enforcement officers who must d termine ownership of stolen boats. Th greatest problem faced by law enforc ment when dealing with boat thefts the lack of knowledge regarding th HIN and how this number can be use to determine proper ownership. Th *National Automobile Theft Bureau*

Figure 2

Stolen Boats on File

1/1970	881
1/1971	2,470
1/1972	4,555
1/1973	6,889
1/1974	8,385
1/1975	11,483
1/1976	11,981
1/1977	12,396
1/1978	15,559
1/1979	17,865
1/1980	21,277
1/1981	24,707
1/1982	23,761

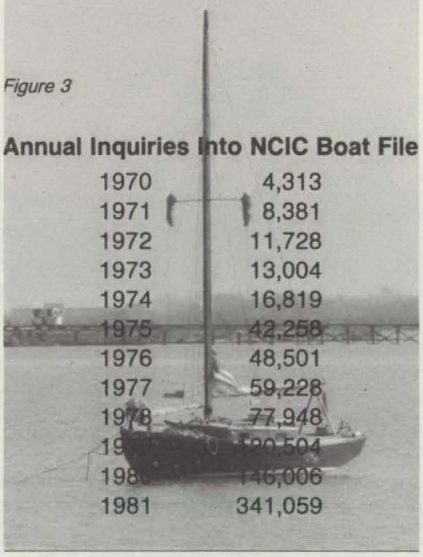
Number of Entries Into NCIC Boat File

(file started in July 1969)

1969	1,002
1970	2,071
1971	2,768
1972	3,520
1973	4,706
1974	4,692
1975	5,850
1976	5,990
1977	6,333
1978	7,974
1979	8,668
1980	10,919
1981	12,710

Figure 3

Annual Inquiries Into NCIC Boat File



1970	4,313
1971	8,381
1972	11,728
1973	13,004
1974	16,819
1975	42,258
1976	48,501
1977	59,228
1978	77,948
19	[illegible]
198	146,006
1981	341,059

1981 Passenger Vehicle Identification Manual briefly describes the HIN for police officers and is readily available to most law enforcement officers.[3]

NCIC Boat File

In the absence of centralized statistical data, law enforcement agencies can obtain statistical information from two sources, one of which is the insurance industry. While providing valuable assistance, insurance companies are unable to provide a total picture of the problem to the law enforcement community. The other source of statistical data, the National Crime Information Center (NCIC) Boat File, has shown the continued growth of boat thefts since the file became operational in July 1969.

Figure 2 shows the growth of the NCIC Boat File since 1969, but there is no way to determine how many boats are stolen which are not listed in NCIC. And, as is evident in figure 3, the law enforcement community is increasing its use of the NCIC Boat File, demonstrating its growing interest in the marine theft problem.

For NCIC purposes, a boat is defined as a vessel for transport by water, constructed to provide buoyancy by excluding water, and shaped to give stability and permit propulsion. A stolen boat which has a registration number, document number, or a permanently affixed hull serial number may be entered in the NCIC Boat File by the agency that has taken the theft report. A loaned, rented, or leased boat that has not been returned may be entered by an authorized agency, if an official police theft report is made or a filed complaint results in the issuance of a warrant charging embezzlement, theft, etc.

Data fields of the boat file facilitate entry of the following information:

1) The identity of the agency holding the theft report,
2) The registration or document number of the boat,
3) The identity of the States of registry or United States, indicating that the U.S. Coast Guard issued the registration or documentation number,
4) The year the registration or document number expires,
5) The type of material used to construct the outer hull, e.g., metal, plastic, wood, etc.,
6) The hull serial number,
7) The type of propulsion, e.g., inboard, outboard, sail, etc.,
8) The type of boat, e.g., airboat, houseboat, hydrofoil, sailboat, yacht, etc.,
9) The overall length of the boat,
10) The color of the boat,
11) The date that the theft occurred,
12) The case number of the agency receiving the theft report,
13) The manufacturer's complete name, model name and/or number, and any additional descriptive information that may be used to identify the boat.

The information required for a law enforcement agency to make an inquiry of the NCIC Boat File is complete registration or document number, complete hull serial number, or both registration or document number and hull serial number. NCIC policy requires that any agency receiving a positive response to a boat file inquiry should immediately contact the agency that entered the record to verify that the status of the record has not changed and that the boat of inquiry is identical to the boat on record.

Since the boat file became operational, records have been entered with the word BOAT in the Make (BMA) Field. The manufacturer of each boat entered in the file is to be identified in the Miscellaneous (MIS) Field. Studies of the boat file have revealed that many records contain misspelled or unintelligible names of manufacturers. Other records contain model names instead of manufacturers' names and some records do not contain a manufacturer's name at all. Records such as these cause problems for inquiring agencies when attempting to identify positively a boat in question. However, the main search parameter is the hull serial number. These problems are currently under study by NCIC and the results of these studies are expected to improve greatly the quality and usefulness of NCIC Boat File records.

Conclusion

The theft of boats is increasing at an alarming rate, and the law enforcement community must take positive steps to address this problem. Only if law enforcement communities work in cooperation with one another can we begin to lower the profit and raise the risk for the boat thieves. **FBI**

Footnotes

[1] "Boat and Marine Equipment Theft," summary report of a 1979 National Workshop (University of Rhode Island Marine Advisory Service, Narragansett, R.I., 1980) p. 5.

[2] U.S. Coast Guard, Commandants Instruction #1620.3 (June 24, 1977).

[3] *National Automobile Theft Bureau Passenger Vehicle Identification Manual,* 52d annual ed. (1981) pp. 172-173.

Law Enforcement Marital Relationships: A Positive Approach

By
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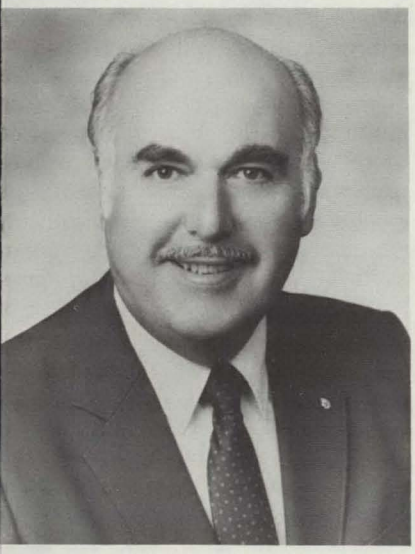
Many law enforcement couples have shared with us their joys and difficulties, along with methods they have used to weather successfully trying times in their relationships. We have also gained knowledge in this area by observing both our parents and others. It is our desire to impart some of this knowledge to you.

Initially, we would like to dispel a few myths! We know of no evidence to support the popular notion that the divorce rate in police marriages is higher than other occupations. Although we have read and heard that police have a higher divorce rate than others, a review of the literature failed to produce any evidence for this belief. In addition, we checked with many authorities in law enforcement and they, too, did not know of any studies to support this common misconception. Often, statements or reports claiming higher divorce rates for law enforcement are based on supposition rather than fact. What may be occurring is that law enforcement personnel who associate mainly with others in the same profession see or hear of officers getting divorced or having marital problems. As a result, those getting divorced or having problems can be seen as representing the majority, if not *all* police. However, if they were to consider divorce rates in other occupational groups, they might discover ratios similar to those in law enforcement. A police officer from a medium-sized city reported that 85 percent of the officers in his department were divorced. When questioned as to how he knew this, he responded, "We keep records, I guess." Records like that are difficult, if not impossible, to keep.

What is meant by divorce rates? Often, in discussing divorce statistics researchers compare apples and oranges. Municipalities and other governmental bodies consider divorce rates as the ratio of divorces to marriages in any given year. For example, if a municipality had 87 divorces and 100 marriages in a year, its divorce rate would be 87 percent for that year. Different marriages and people are used for comparison in reaching a divorce rate. Using these criteria for divorce, the rate in Los Angeles County for 1979 was between 80 and 90 percent![1] Divorce rates by others are determined by examining the number of people who are married and subsequently divorced within an occupation. These statistics are difficult to determine in any profession because of inaccurate or outdated records. However, estimates are that in the 1980's, 40 to 60 percent of all marriages will end in divorce. Law enforcement divorces are not higher than the above statistics.

Police and their spouses are people—members of society. As members of society and like others in various professions, they experience divorce. There is no question police work is stressful. However, it is often forgotten

Dr. and Mrs. Stratton



Sherman Block
Sheriff

that police possess, to a higher degree than most, traditional American values: Dedication to improving society, commitment to family, and freedom for all law-abiding citizens. People in various occupations, whether they be doctors, lawyers, businessmen, or construction workers, seem to have as many problems, divorces, and permanent marriages as those in law enforcement. At a recent Los Angeles County Sheriff's Department Retirement Program for prospective retirees and spouses, a very small minority were divorced. The majority had been in law enforcement for over 20 years and were still married.

Communication

A priority in any relationship is communication. To have communication there must be time to be with each other. In our busy world, whether it be a result of both partners working, getting the kids from one activity to another, or living different schedules because of shift work, time together can become almost impossible. Unless communication and time to be alone, time together as a couple, and time as a family is made a priority, it may not happen. We can end up like one couple who leaves notes to each other on the refrigerator and may not see each other for more than a week at a time. This may be overstating the case, but how much time have you and your spouse spent together or with your family?

U.S. News and World Report (1975) did a study on the amount of time spent on communication between the average American couple, not while they were watching television or during commercials when they were saying, "Get me a beer," or, "How was your day in 30 seconds or less," but listening and paying attention to each other. They discovered that married couples average about 30 minutes a week in involved communication. Some believe that's too high an estimate, while others believe it is too much time dedicated to communication.

Communication is important for many reasons. The way we are today, our thoughts, values, wants, and needs are different now than they were a year, 5 years, or 10 years ago, and they will change in the future.

Consider for a moment what is important and unimportant to you, valued and not valued—your life issues. Now think back to 15 years, 10 years, or even 5 years ago and examine what you valued and thought was important. For example, think of your values in the 1960's—your thoughts about the Vietnam War, "hippies," the civil rights movement, busing, college unrest, etc. For most people over 30 years of age, the day John F. Kennedy was assassinated will always be remembered, and quite possibly you can remember specifically how you heard of the assassination. Also, remember what your values were and begin to think about the changes you've experienced since then, both individually and in your relationship with others. Unless these changes are communicated, a couple can grow apart and become strangers to each other. Consider the normal course of relationships. Initially, there are two complete, separate, and

"Without communication or the desire to reevaluate continually and understand each other . . . many relationships break or crumble."

unique human beings who, for a variety of reasons, are attracted to each other. After this initial attraction, each person still possesses his own individuality, but they begin to share more of themselves and get to know each other better through their communication of feelings, thoughts, and ideas. As their relationship grows and they continue to spend more time together discussing values, attitudes, beliefs, likes, and dislikes, the two either become more interested in each other or they grow apart. They begin to talk more in terms of "we" or "us," while still staying in touch with their own individuality. After further communication and time together, the couple may feel that they know each other totally—they understand each other in all ways. Their wants and needs are compatible—they are able to fulfill the other partner's wants and needs. This closeness and deep understanding are the result of the communication between the two. Because they understand each other so well, the couple decides to marry.

However, after the marriage day, the amount and level of communication may decrease, and after a period of time, become nonexistent. At times, it appears as though the partners assume their knowledge of each other, including knowing and understanding the other's values, wants, and needs, will stay the same forever. They forget that the values that were similar at the beginning of the relationship change for a variety of reasons, such as the influence of social mores, worklife, social life, and all they encounter in their daily experiences. These important and very different changes must be communicated to the spouse or there is a tendency for the relationship to grow apart and be dull, unfulfilling, and lifeless.

When couples seek counseling, it is initially awkward for everyone—they have never done this before! Generally, they face us and talk about each other. Rather than have them talk to us about each other, we ask them to talk to their spouse. First, we ask them to turn their chairs to face each other and not say anything, just look. Comments such as "Do we really have to do this?" "Boy, this is difficult," or "You aren't bad-looking after all" are heard. We may ask them to share feelings. Sometimes we hear, "I really love you," "I'm sad and want to be closer to you," "We've really grown apart," and others.

We may then ask them to share their wants and needs with each other. Sometimes spouses do not realize they can have desires and needs in a relationship and expect to have them satisfied. At times, when a spouse will state his/her desires, replies include comments such as, "Do you really want that!" "That's important to you?" or "I want that too!" Couples who have been married 10 years appear totally shocked by the wants and needs of the person they love and married. They find it difficult to believe what they hear from their loved one.

A final example is that of Harry and Peggy S., who were in their late twenties and were married for 7 years when we first met them. Their decision to marry had developed naturally from their common values and interests and their deep love for each other. It was all so easy—they considered themselves to be a "perfect match."

The young couple could envision their lifestyle for at least the next 10 years and were in perfect accord on what they wanted—all the conveniences, flash, and splendor that goes with "keeping up with the Joneses" in our modern society. To accomplish this, they would both work for at least 3 years before having their first baby. To supplement Harry's income in case of emergency, Peggy would work until the 6th month of pregnancy.

Initially, all went according to plan. After the baby's birth, things seemed fine for a year or so. The funds for "extras" were somewhat limited, but they were financially stable. Although Officer Harry's income steadily increased and his position was secure within the department, he began to fret about providing for his wife and child in the manner to which they had grown accustomed. Harry felt compelled to keep up with his peers, who had no children and two incomes. Without consulting his wife, he began to work overtime occasionally for additional money. Soon, he found himself working two shifts a day and because of the long distance between home and station, it often made more sense to sleep in his camper truck, parked in the station parking lot. So now Peggy was home alone at night while he slept alone in his truck.

As pressure between the couple mounted, they sought counseling. After the initial introductions and general conversation to help them feel comfortable, Harry stated his wants. "I want to provide my wife and child with a very satisfactory lifestyle." Peggy burst out, "I don't give a damn about expensive clothes, a beautiful home, a nice car, swimming pool, and a boat, or anything else that may impress others. I want to spend more time with you. I want you to hold me, touch me, I want to *be* with you." Barely listening, Harry angrily interrupted, "What's gotten into you? We both knew exactly what we wanted, didn't we?"

Tragedies like this can and do occur to couples and families. When either spouse presumes that there will be no changes in the relationship, their values, wants, or needs, there is bound to be less communication and more problems.

Without communication or the desire to reevaluate continually and understand each other, without attention to exploring our problems, many relationships break or crumble.

In discussing communication, time has been emphasized. Even more important than the quantity of communication is the *quality* of what we communicate. Often, individuals get caught up in verbiage. They believe they must tell each and every detail of an event or discuss nothing at all. Although the events—positive or negative—an officer experiences at work do not have to be communicated in detail to the spouse, he could communicate how the day was. Statements of feelings, such as, "I am bushed," "I am tired, worn out," "I am feeling good," "I had a rough day," or "I am really sad," tell a great deal. These statements often communicate more about the individual and are often more important than the details of the day.

Attitudes in Relationships

A major component of our life and relationships is the attitude with which we approach them. A positive attitude can be seen in the following saying: "As we ramble through life, whatever our goal, keep your eye upon the donut and not upon the hole." Life, like a donut, is very rich and good. There does exist the hole, but it's not the major part. We have to be careful not to fall into it. When we do, we can approach our difficulties with a positive attitude expressed by the view, "If life gives you lemons, make lemonade."

An approach that sees relationships like life, with ups and downs, good and bad, happy and sad times, emphasizing the belief that the relationship is important and can be successful is much more positive than a position of "if it doesn't work, I'll get out—it's not important anyway." One's attitude and view of relationships and life greatly affect the end results.

A spouse's attitude toward his partner also affects the relationship. A spouse who is seen as a special, valuable, and important person will add more to the relationship than one who is seen as unimportant. At times, officers forget that spouses who are not in law enforcement can add a perspective they may not consider, insights they do not have, a balance to some of their law and order dominated views, and different ways to understand, approach, and relate to their children. Our partners help, contribute, and add to us. Spouses love us and make us what we are, as we do them.

Qualities of Relationships

We have talked to, counseled, and worked with a wide spectrum of law enforcement couples—young couples who have just entered the academy, those who marry after an officer is already in the department, those anticipating retirement, and retired couples.

In lecturing to couples beginning the academy, we generally talk about what could happen in law enforcement relationships—or any relationship for that matter—and feel sure those young bright-eyed couples are saying to themselves, "That will never happen to us; we're different."

We have worked with couples in the midst of problems at various stages in law enforcement careers and in their relationship. Some weather the storm; others experience too much turbulence and decide to separate.

Our belief is that for every successful, competent, caring police officer, there is an equally successful, competent, and caring spouse. These couples have the insight, the conviction, and the courage to make their marriages work—to tread through the struggles and to enjoy the excitement, love, and happiness in their relationships. Both contribute to each other, their marriage, children, other people, and society as a whole.

". . . for every successful, competent, caring police officer, there is an equally successful, competent, and caring spouse."

Love

Love, being in love, staying loved, working at love, and nurturing a relationship take as much work and determination as a career, running a house, or raising children, but the rewards are many. However, there are days that being involved with anyone either directly or indirectly connected with law enforcement is difficult at best.

It is difficult to love someone who, when he leaves his position of authority and arrives home, forgets that when he walks through the door, he is *not* the boss. This is especially difficult when he tries to treat his spouse like a secretary, requesting that she wait on him while he sits in front of the TV.

It is difficult to love someone who has been in a position of telling others what to do and how to be and then continues this lecture at home. He may continue to believe that he's the expert and begin lecturing on how to clean the house, cook dinner, or have a better relationship. At this time, the "boss" may need to be reminded that he is at home and not at work. Some spouses suggest ignoring him the first hour. Another approach is for the couple to take a walk or get out of the house for awhile to allow him to defuse all the day's happenings. Perhaps then they can share again more equally.

It can be especially difficult to love someone when he treats his spouse and her world as less important than his. Police officers deal with crises—life and death situations—and as a result can treat everybody else, including their spouse, as if police work is the only thing that is important and whatever anybody else does is meaningless. Even though the job is difficult and demanding, the spouse may believe, because of the officer's behavior, that she has to be in a crisis before the officer will talk to her, acknowledge her, or even listen to her.

In our own particular case, we have established a code that signals John that it's time for him to listen. One week after several emergencies occurred at the house, Barbara was frustrated because she couldn't get through to John. Finally she commented that she would have to call his answering service and tell them that Dr. Stratton's wife was commiting suicide. When they "beeped" him, he would give at least 1 hour of his time to listen to her.

Now, when she says, "answering service" or "suicide," John listens. Sometimes Barbara threatens to call the sheriff and tell him that "Stratton isn't practicing what he preaches." She knows then that John realizes he must listen.

It can also be difficult to love an officer when he forgets that men and women are different sexually. It is difficult to love someone when he comes home wired, after an adrenalin-filled shift or from an emergency at 3:00 a.m., flips on the lights, and concludes that this is the perfect time to make love, even though his spouse may be sound asleep. Occasionally, this may be acceptable, but a steady habit of it can cause problems.

Yes, there are days that being married to a police officer is difficult. There are also weeks, months, and years that can be exciting, rewarding, and totally fulfilling.

There is value in loving and being loved by someone who has purpose in life and who helps people. Law enforcement officers have a sense of direction and dedication and want to make the world a better place to live. They believe in tradition and their families, and at times they need support, patience, and understanding from their wives and children. It is important that they share that sense of fulfillment and purpose in life with their loved ones.

Suggestions

We have emphasized the importance of communication. For over a year we both worked within a few miles of each other, and as a result, drove to and from work together. We liked this time together, but never realized how important it was until one of our work locations changed.

While driving home, we had a half hour together with no interruptions and were able to discuss all the day's happenings, problems, feelings, etc. When we arrived home we were ready to be with the kids, prepare food, and handle other responsibilities. However, when this ceased, we arrived home, dealt with the children, and did household chores with no time to talk with each other.

It took losing this time together to make us realize how important the time was to us. Because we believe in the value of having time to "let down" or defuse, we developed an alternate method. We exercise now in the evening—jogging, walking, bicycling—

sometimes by ourselves, sometimes with the children. Though we preferred the time driving to and from work, this approach allows for diffusion and discussion of the day's activities for us and the children. The conversations we have at these times are different and easier than if we make a special effort to talk when we have other pressing responsibilities. This time is important. Communication is a two-way street in which each partner must be willing to express feelings, thoughts, ideas, etc.

The value of sharing, and the power we each have to help each other through sharing, cannot be over-estimated. We help each other by sharing. Many of the things we experience are similar. Just to know someone has had similar difficulties and survived or has found a successful way to handle a problem can be most helpful.

This type of sharing can be accomplished in numerous ways. A frank discussion with another spouse, whether it be among officers or their spouses, is one type of sharing. Workshops, seminars, 1-day programs, or meetings of small groups and associations enable law enforcement couples to discuss common problems and find solutions to these problems. The sharing of our experiences and methods of handling difficulties is very powerful and influential in helping others.

We have been fortunate to have people share their difficulties, as well as their enjoyable times. They let us understand their struggles and how they handled them to make their law enforcement relationships better. This has helped us to find ways to improve our relationship. Knowing how other couples have coped with similar problems can assist us in coping with ours. Each spouse can also talk, listen, and learn from the other.

It is essential that each individual value himself—we are all important. If you don't believe you are valuable, there is little we can do to change that belief. The change must come in your attitude and feelings about yourself. These positive attitudes and feelings must also extend to your spouse for a healthy relationship.

In the Los Angeles County Sheriff's Department, special emphasis is focused on the employee and his family. We believe in the interrelationship of one's home, work, and social life. If an individual is happy and content at home, it is likely that he will be more effective at work and vice versa. We provide services to our officers and their families because we know if things are unsettled at home, the officer's work suffers.

The recognition of the importance of the spouse is evidenced by our spouses program, which has been replicated in over 100 departments throughout the United States. This only emphasizes the value attributed to the spouse by the sheriff's department. Employees are paramount to the organization. Any program that benefits the employee and/or the spouse, whether it be programs such as confidential counseling for work or personal problems, alcoholism programs, spouses programs, retirement seminars, workshops or other approaches, can only add to an officer's successful career.

Conclusion

Our emphasis has been on the positive—what we can do to improve relationships when difficulties arise. Hopefully, by sharing with others, we can all develop new ideas, concepts, and approaches that can add to and improve our relationships. If successful, we will be involved in a relationship that allows each partner to continue to grow into a new person with whom the other can continually fall in love. **FBI**

Footnote

[1] J. G. Stratton, and D. A. Parker, "Los Angeles County Sheriff's Department Stress Assessment Survey" (Unpublished manuscript, 1981).

Correction

In the article "Obtaining the Bitemark Impression (Mold) From Skin: A Technique for Evidence Preservation," published in the January 1982, issue of the FBI Law Enforcement Bulletin, the term "dye stone" was incorrectly spelled. The term should actually have read "die stone."

Coupon Fraud:

Profiting from "Cents-Off" Coupons

By
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In 1979, a California entrepreneur created a bread mix and produced 10,000 packages of his product to test the market. To create public awareness of the mix, he placed advertisements in local newspapers. These advertisements included a "cents-off" coupon entitling the purchaser of the product to receive a portion of the purchase price back from the retailer at the time of sale. When the number of coupons redeemed exceeded double the number of packages of the item manufactured, the businessman realized he had become another victim of fraudulent coupon redemption—a scheme that can involve consumers, grocers, truckdrivers, and redemption "middlemen."

All levels of law enforcement are involved in the fight against fraudulent coupon redemption which can include fraud by trick or deceit, fraud by wire, mail fraud, grand theft, and theft from interstate shipment. Coupon abuse is possible in any part of the country where merchants redeem coupons.

The Coupon System

Most major manufacturers of food and household products use "cents-off" coupons as a method of advertising. Over 80 billion coupons were printed in 1980 in an attempt to encourage consumers to buy specific products.[1] According to marketing surveys, 80 percent of shoppers occasionally use "cents-off" coupons, and some retail outlets encourage coupon trading among customers.[2]

Special Agent McChesney

Of the 80 billion coupons printed annually, it is expected that approximately 20 percent will be redeemed.[3] The average face value of a coupon is about 18 cents, making coupon fraud a multimillion dollar business that presents the opportunity for illegal redemption at various levels of the process.

Until recently, law enforcement had little involvement in this type of fraud. In 1980 and 1981, 19 individuals involved in coupon fraud operations were convicted in San Diego and San Francisco as a result of FBI and Postal Service investigations. The subjects were convicted of various counts of mail fraud, conspiracy, and receiving stolen goods in interstate commerce. Several other investigations are currently in progress throughout the country.

Coupons are generally printed in newspapers or magazines but are also printed as "freestanding inserts"—glossy pages of coupons and advertisements placed inside a newspaper. Less frequently, coupons are obtained through costly direct mailing from manufacturer to consumer or from inpackage distribution, where the consumer finds a "cents-off" coupon inside the packaging for future purchases of the product.

In the legitimate use of "cents-off" coupons, the consumer purchases a newspaper or magazine, removes the coupon, and takes it to the retailer, where it is remitted at the time of purchase of the product depicted on the coupon. Some coupons are dated, and it is the responsibility of the retailer to insure that the coupon presented has not expired and that it is presented with the purchase of the required item. Nearly all coupons contain directions from the manufacturer to the retailer, indicating the method of redemption and a warning that any use of the coupon other than in combination with the purchase of the specified product constitutes fraud.

While some manufacturers will not process their own coupons, others allow retailers to submit the coupons directly to them for redemption. The usual method for retailer redemption, however, is to separate the coupons by manufacturer or price and submit them to a coupon redemption center or clearinghouse.

There are approximately 70 coupon redemption centers in the United States. The bulk of these centers' business is with retailers and manufacturers by mail. Upon receipt, the coupon is processed to determine the appropriate payment to the retailer. The retailer is then paid the face value of all legitimate coupons submitted, plus 7 cents per coupon for handling. Deductions are made for rejected coupons, if any, from previous submissions of the particular retailer.

Coupons are also checked at the clearinghouses for signs of fraud, such as submissions of large quantities of a particular coupon, all appearing to be in mint condition or "gang cut." Mint condition coupons are those which are clean and unwrinkled, not typical of the coupon which has been in a consumer's wallet or purse for some time. "Gang cut" coupons are identical coupons that have been piled on top of one another and cut simultaneously with the same apparatus.

"Miscounting, overpayment, and ignorance of the signs of fraudulent coupon redemption can produce greater profit for the center or its employees."

Coupon redemption centers sort submitted coupons, and in some instances, forward them to manufacturers or make them available for manufacturer review. Manufacturers may refuse to pay redemption centers for coupons which they believe were gang cut, in mint condition, expired, counterfeit, or submitted by a retailer who does not stock the manufacturer's product.

Participants of Fraudulent Coupon Redemption

Consumers participate in coupon fraud by submitting expired coupons when purchasing products or by redeeming coupons for items they have not purchased.

Retailers participate in coupon fraud in a number of ways. They may "buy" coupons from consumers or magazine and newspaper vendors and then redeem them with manufacturers. The retailer may also accept coupons for products they do not carry or accept coupons for one product while actually selling a competitor's product.

Coupon "middlemen" sort, count, package, and mail a retailer's coupons to manufacturers or coupon redemption centers. Middlemen charge a fee for their services and may work for one or more stores.

Providing this service for retailers is not illegal. What constitutes fraud is "padding" the coupon submission—taking coupons from magazines or newspapers and combining them with coupons used legitimately by consumers to make a larger submission to the coupon redemption center. In some cases, middlemen buy or steal large quantities of coupons and submit those in place of legitimately used coupons.

Coupon redemption centers and manufacturers will only mail coupon payments to retailers at the street address of the market, precluding middlemen or others from setting up false-front stores for submission purposes. Middlemen receive their fees from the retailer once the payment has been received from the coupon redemption center or manufacturer.

Newspaper and magazine companies do not sell large quantities of papers or magazines to individuals; however, some newspaper truckdrivers have sold as many as 10,000 newspapers per week to coupon middlemen. A truckdriver who steals 10,000 newspapers and sells them for 20 cents per copy receives a tax-free profit of $2,000. The sale of freestanding coupon inserts, which generally contain coupons worth $5.00, amounts to a 25-percent profit per insert.

The opportunity to participate in coupon fraud also exists at the level of the coupon redemption center. Miscounting, overpayment, and ignorance of the signs of fraudulent coupon redemption can produce greater profit for the center or its employees. Payments are sometimes made "under the table" to center personnel from coupon middlemen who want their coupons to be redeemed without question.

In 1980, a joint FBI/Postal Service investigation conducted in San Francisco uncovered four major fraudulent coupon redemption operations. Each of the operations, headed by coupon middlemen, operated in a similar manner.

The middlemen, who were former grocers, obtained large quantities of coupons or coupon inserts from newspapers and magazines. They then hired individuals to clip and sort the coupons. The cutters and sorters were usually persons who did not speak English or understand the coupon redemption system. The middlemen then made arrangements with various grocers to use the names of their stores to submit coupons to various redemption centers. Occasionally, middlemen submitted coupons provided by the grocer, along with coupons from the middleman's source of supply, to coupon redemption centers. In most instances, however, the middleman was the sole provider of the coupons submitted.

The middlemen made several submissions of coupons, generally by mail, to various redemption centers each week, keeping records of the dates and volume of submissions from each store to each coupon redemption center. This process allowed the maximum number of submissions, while using as many coupon redemption centers as

These clipped and sorted coupons were found in a subject's home during the execution of a search warrant. Shelves were installed for the purpose of holding coupons.

One of hundreds of "mom and pop" markets in San Francisco involved in the fraudulent redemption of coupons. Coupons submitted from this store greatly exceeded the normal number of coupons that should be submitted from a store this size.

possible to achieve a higher rate of return. One middleman handled as many as 80 stores at one time, redeeming coupons worth $350.00 several times per week in the names of particular retailers. When the coupon redemption centers mailed the payment to the market, the middleman would take his share of the check in cash.

These newspapers, stripped of coupons, were sold in bulk to independent paper companies.

Controlling Coupon Fraud

The security of coupons is the starting point for eliminating coupon fraud. Coupons stolen from printers, truckdrivers, and newspaper and magazine companies are generally stolen in large enough quantities to generate profit for middlemen and grocers. Stricter accountability and control of coupons, particularly free standing inserts, have been the result of coupon investigations throughout the country.

Manufacturers are attempting to reduce the problem of coupon fraud by developing new methods to detect and prevent counterfeit coupons, making inspections of retailers who redeem their coupons, and by verifying stock purchases of coupons redeemed.

Coupons more difficult to obtain are less likely to be fraudulently redeemed. Coupons found inside packaging are most often legitimately redeemed. While this is not the most popular method for coupon advertising, it is a good way to increase the number of bonafide redemptions.

Retailers can help curb coupon misuse by submitting coupons used only in legitimate purchases at their stores and by dealing only with reputable middlemen. Some stores require clerks to initial and date each coupon as they are remitted. This assists in pinpointing unusual redemptions by particular clerks.

Consumers may report coupon misuse to manufacturers or law enforcement agencies. Many successful investigations may be credited to cooperation between investigative agencies at the Federal and local levels. Since fraudulent redemption of coupons may involve both State and Federal violations simultaneously, it is important to conduct joint investigations rather than leaving the entire investigative burden on a single agency or department. With the support of the consumers and manufacturers who bear the cost of coupon fraud, and through aggressive investigation and prosecution, the outlook is good for making fraudulent redemption schemes a thing of the past.

FBI

Footnotes

[1] "Why is this Market Down on Coupons", *San Mateo Times*, June 3, 1980.

[2] "Cashing in at the Checkout," (New York) *Stonesong Press*, 1979.

[3] *San Mateo Times*, June 3, 1980.

Cults:

A Conflict Between Religious Liberty and Involuntary Servitude?

(Part II)

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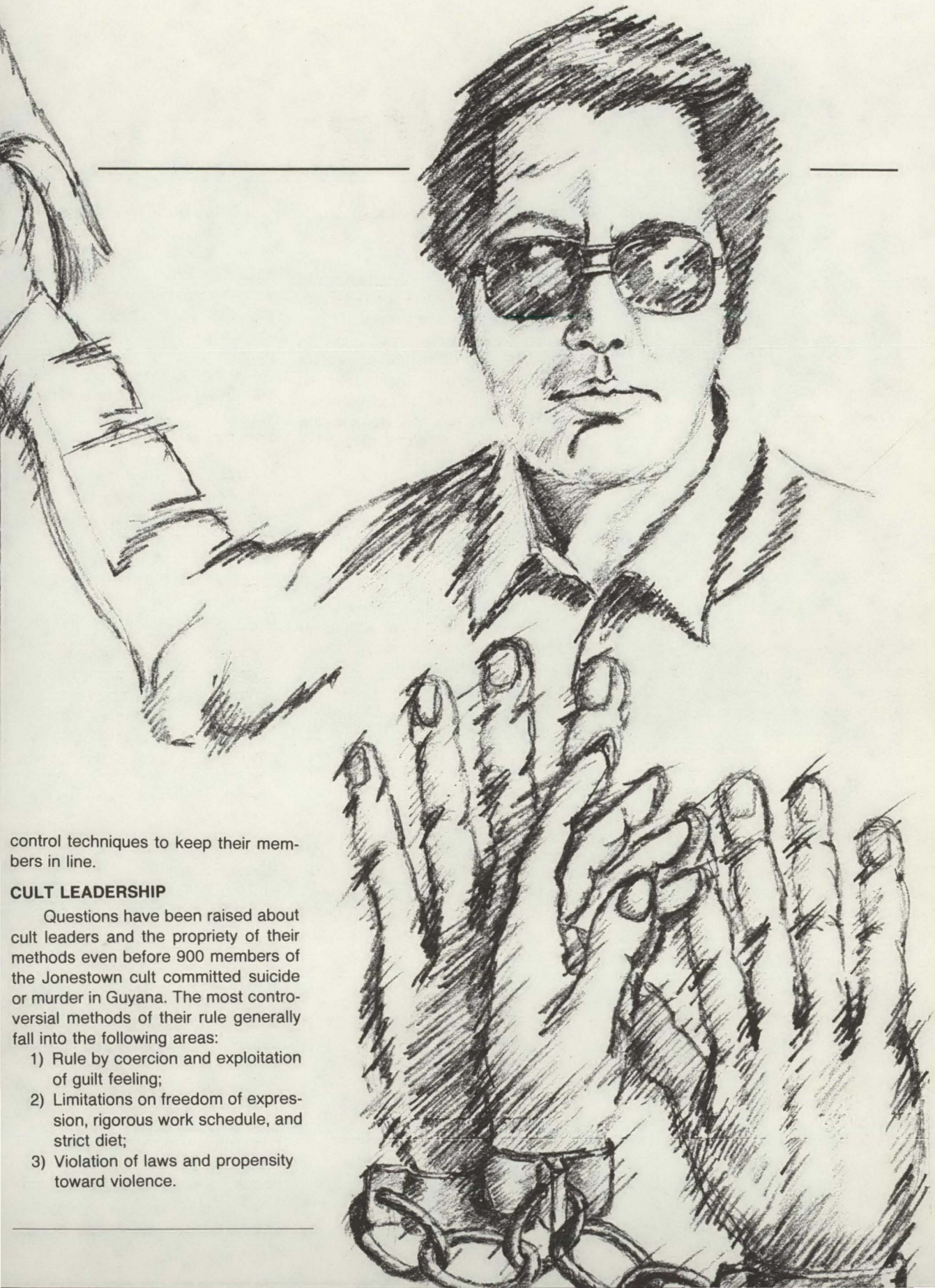
Part I of this article discussed the first amendment guarantee of freedom of religion and the constitutionality of Government interference into the actions of religiously motivated groups. Part II examines certain cult activities and the sometimes detrimental effects these activities have on the public.

Cult Activities and Public Reaction

As our society has grown more complex and competitive, many young people have sought refuge in the use of psychedelic drugs and in the pursuit of unorthodox ideology. This phenomenon has helped to encourage the growth of various cult groups all over the country. These groups claim to have the answer to the world's problems and to offer an escape mechanism from our "inhumane," "materialistic" society. People who join these groups no longer have to wonder what to do in life or explain why they are not doing well. Some cult members can rise to positions of considerable power, living in luxury, while exercising great authority over new members. However, many excult members, writers, and reporters have discovered disturbing characteristics common to many of these cults.[33] Among these characteristics are:

1) An authoritarian, charismatic leader who claims to have an exclusive revelation about God or reality. He exerts complete authority over the cult, requiring unquestioning obedience by his followers to his strict rules. Many such edicts have resulted in harm to his followers and society.
2) The leader becomes a substitute parent, creating a family or communal living arrangement by establishing a controlled environment through a variety of behavior-control techniques. These techniques purposely destroy old family ties and social norms by placing the new cult member in a setting isolated from family and friends, under constant cult supervision and peer pressure.
3) New members are recruited primarily from the young, intelligent, affluent, and idealistic. Often, the recruitment process is deceptive and focuses on troubled youths by indoctrination into cult thinking by cult members. This process begins with the establishment of interpersonal bonds and ends with the systematic destruction of the recruit's original identity.

Some have argued that these characteristics are not unique to cults, but are often found in strictly organized religions or military schools. There are important differences, however. In cults, the loyalty of cult members is to their individual leader, not to a religious institutional philosophy. Such loyalty often leads the cult to believe it is above the law. Moreover, there is considerable evidence that many cults do not confine their activities to ordinary religious pursuits, emphasizing recruitment of other members and solicitation of money rather than prayer. Finally, some cults are reportedly using mind-

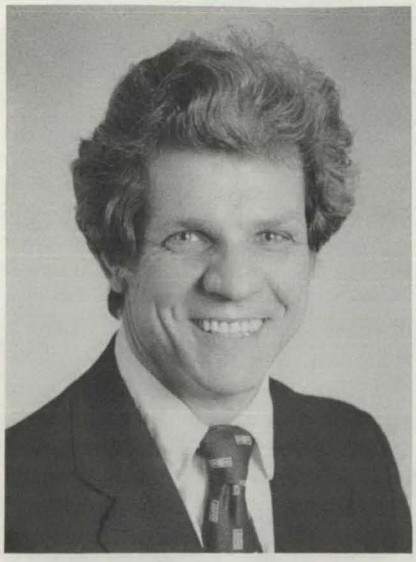


control techniques to keep their members in line.

CULT LEADERSHIP

Questions have been raised about cult leaders and the propriety of their methods even before 900 members of the Jonestown cult committed suicide or murder in Guyana. The most controversial methods of their rule generally fall into the following areas:

1) Rule by coercion and exploitation of guilt feeling;
2) Limitations on freedom of expression, rigorous work schedule, and strict diet;
3) Violation of laws and propensity toward violence.



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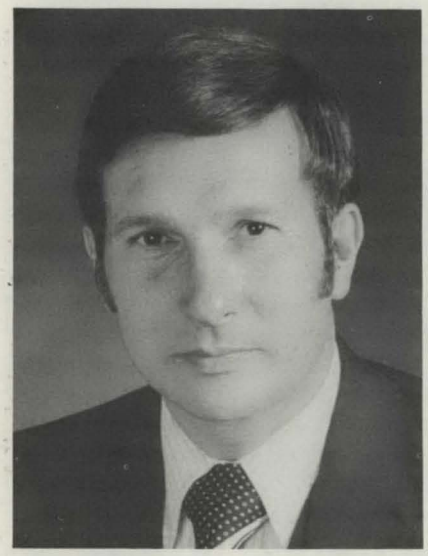

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Rule by Coercion and Guilt

In 1976, the Vermont Senate Committee for the Investigation of Alleged, Deceptive, Fraudulent and Criminal Practices of Various Organizations in the State heard the testimony of a number of psychologists and psychiatrists regarding mental impairment of cult members. Such expert testimony characterized the cult members' indoctrination as a forced rejection of the past and an intense concentration on the present in supernatural terms.[34] It was revealed that reality for the cult member consisted of a struggle between good and evil with dependence on the peer group within the cult for support.[35]

Testimony also revealed that cult leaders would warn the members that if they left the cult, God would punish them or they would be killed within the year. One former member testified that she was told that if she notified her parents or left the cult, she would doom her parents, brothers, and sisters to hell.[36]

A similar inquiry was made by the attorney general of New York. He ordered an 18-month investigation of the Children of God in response to parental complaints of coercion by that sect upon their children. This inquiry revealed an indoctrination process similar to that disclosed in the Vermont investigation.

Both inquiries determined that cu leaders implant in the cult member mind a preoccupation with the supe natural and indoctrinate the memb with the consequences of breakin from the cult. This has driven some cu members to irrational behavior. Res dents of Duchess County, N.Y., site Reverend Sun Myung Moon's Unific tion Church training centers, have no ed many cult members with psychot disorders and many who have attemp ed suicide, one of which was succes ful, being admitted for treatment local hospitals.[37]

Other lawsuits have shed furth light on cult coercion. A successf malicious prosecution case involvin the Church of Scientology of Californ is revealing.[38] In this case, a memb resigned from the church without ob taining permission and took with hi financial statements from the churc safe and turned them over to the IR Church leaders then made a complai to the police that he had stolen func from the safe. At trial, the plaintiff intr duced an exhibit reflecting the writte policy directives of L. Ron Hubbar founder of the Church of Scientolog Hubbard's policy (to be enforce against "enemies" or "suppressiv persons" of the church) stated tha such persons "may be deprived o property or injured by any means b any Scientologist. . . ." (Methods ap proved were trickery, lawsuits, or lies In awarding $50,000 in compensato damages and $50,000 in punitive dam ages to the plaintiff, the court foun that the church had a policy of "lyin and cheating in order to attack its 'en emies'." [39]

Economic motivation is likely to b behind the coercive practices of som cult leaders. Aside from turning in a material wealth in their possessio

Economic motivation is likely to be behind ıe coercive practices of some cult leaders."

ıen they join the cult, members are rced to solicit donations, recruit other embers, and perform menial jobs be- w their capabilities for long hours. If eir efforts fail to meet their quotas, ey must spend their evenings in ayer.[40] Money quotas are not small; Moonies" average $50 to $200 a ay.[41] The fact that cult leaders live in xury while cult members work as any as 12 hours a day does not seem deter the members from solicitation. nce the cult is legally a religion, all come is tax free.[42]

In *Schuppin* v. *Unification Church,*[43] arents of a cult member in the Unifi- tion Church alleged that their daugh- r was forced to work in "compulsory ervice." The parents alleged that the ult leadership used constant threats nd fear to coerce their daughter to ell merchandise for the cult. The suit iled, however, because the parents ould only allege mental restraint, not hysical force, on the part of the cult to ompel the member to stay within the ult.

imitations on Freedom, Strict Diet, nd Regimentation

Cult leaders place such limitations n language, thought, and experience iat the decisionmaking ability of cult iembers is reduced to the level that ieir behavior becomes childlike.[44] tudies of cult members by psycholo- ists and psychiatrists reveal detrimen- al changes in voice patterns, posture, eading, arithmetic skills, and handwrit- ng.[45] Former scholastic achievers in ollege reportedly wrote letters of hildlike simplicity to their parents.[46]

Questioning of cult philosophy or procedures is equated with influence of the devil. Cult members must let the leaders do all the thinking. In the Krishna cult, no speech or thought is allowed other than in conjunction with teaching or duties.[47] "Moonies" are asked to drop all objections to cult leadership. Statements of Reverend Moon are illustrative.

> "What I wish must be your wish.
>
> "I am your brain.
>
> "The whole world is in my hand, and I will conquer and subjugate the world."[48]

Vitamin-deficient diets, lack of sleep, and overwork have resulted in emergency hospital care or even death for cult members.[49] Moreover, some cults teach that medical science and doctors, in particular, are derived from Satan. Illness, therefore, is God's punishment or a sign of spiritual shortcomings.[50]

Prescribed cult medicine is also dangerous. At least two deaths were reported in the Love Family cult from inhaling toluene, an industrial solvent, to achieve "spiritual insight."[51]

In North Webster, Ind., Melvin Creider, leader and founder of the Glory Faith Assembly, a cult which forbade consultation with medical doctors, was the object of public outrage when nine of his followers, two mothers and seven infants, died in childbirth between 1975 and 1978.[52]

Propensity Toward Violence and Lawbreaking

Because the outside world is frequently equated with Satan, many cult leaders encourage cult members to use any means to advance their goals. In some cases, the cult leader predicts the end of the world through some cataclysmic means, either by man in a world war or by God Himself. Therefore, traditional "moral" rules of society may be disregarded in the service of the leader so that cult members may attain "special power."[53] As a consequence of the above, incidents involving violence or lawbreaking are not uncommon.

A lawyer who successfully sued the Synanon cult in an action charging the cult with brainwashing, kidnaping, and false imprisonment was bitten by a rattlesnake secreted in his mailbox. Synanon's leader and founder, Charles Dederich, was charged with attempted murder and later sentenced to 5 years' probation for his part in this offense.[54]

The House Subcommittee on International Relations found evidence that the Rev. Sun Myung Moon and his Unification Church violated immigration, currency transaction, and tax laws. The Immigration and Naturalization Service (INS) found evidence of the Unification Church using mass marriages as a means of bringing aliens into the United States for fundraising purposes. Moreover, INS ordered deportation of almost 600 members who were granted visas for religious education and training, but were really soliciting funds and selling on the street.[55]

David Berg, leader of the Children of God cult, decreed prostitution for its female members, holding that women members may seduce wealthy and influential businessmen to "save souls"

"Former members of cults have reported a variety of behavior-control techniques, other than simple coercion, which have been used by some cults."

and raise money for the church.[56] Female members were commanded to become "fishers of men" and "happy hookers for Jesus."

Specific acts of cult violence have ranged from excult members being physically harassed and parents being beaten while trying to visit their children in the cult to professionals who opposed cults being threatened with death.[57] Excult members also have reported that while under cult influence, they would have willingly killed their own parents if ordered by their leaders.[58]

Even more disturbing are reports of a growing paramilitarism among some religious cults. Robert M. Press of the *Christian Science Monitor,* in a series of articles on paramilitarism, cited a police search of a ranch in northern California run by a Krishna leader of the International Society for Krishna Consciousness, which search resulted in confiscation of large samples of arms, including AR15's (semiautomatic rifles), shotguns, and several thousand rounds of ammunition.[59]

Other similar incidents have resulted in growing public concern about cult activity. In 1976, a petition was signed by 14,000 citizens calling for an investigation of the Unification Church. Three U.S. senators presided over an informal meeting of 400 persons from 32 States complaining of cult activities. Similar hearings have occurred involving other cults in California (1974) and Vermont (1976). Testimony at these hearings revealed difficulties in separating the sometimes illegal political and criminal activities of cults from their religious beliefs. Accordingly, public opinion toward cults remains divided. Critics like Dr. Flo Conway and Jim Siegelman warn of cult-leader takeovers on a national, even international, level. "Large numbers of people in other countries may be laid open to mind control at the direction of self appointed religious social and political leaders." [60]

On the other hand, some critics voice fears of the widespread concern, even hysteria, on the part of the public. They accuse public protests of cults as "a predictable form of . . . scapegoating, and use of outside agitator, theory to explain away problems." [61] This view shrugs off any potential threat by cults as similar to the anti-Masonic, anti-Catholic, and anti-Mormon literature of a hundred years ago. These critics voice concern more for "overstereotyping" of cults with parallels of McCarthyism in the 1950's.[62]

As a result of these positions, there has been a natural reluctance on the part of some State and Federal authorities to get involved in the fray by prosecuting cult leaders. Unfortunately, this position has placed law enforcement in a quagmire of conflicting direction. Does one prosecute the parent of a cult member when that parent has become involved in a kidnaping for deprograming or should cult leaders be prosecuted for coercive acts against the young?

BEHAVIOR-CONTROL TECHNIQUES

Former members of cults have reported a variety of behavior-control techniques, other than simple coercion, which have been used by some cults. These techniques are characterized by social isolation of cult members from the family and general public and rejection of traditional social values in their backgrounds.

Isolation

In most cults, communication with family members is strictly limited, exceptions being recruitment of other members of the family or solicitation of family wealth.[63] Parents naturally become distraught and view the conversion of their offspring as a repudiation of everything they hold dear. Efforts to contact their offspring have sometimes resulted in their children being hidden or in physical beatings by cult guards "protecting" cult members from the satanic influences of their parents.[64] Biblical passages are often cited to the cult member to justify the member's isolation from the family.[65]

Indoctrination and Isolation

Total isolation from the outside world, particularly from access to the communication media, is accompanied by an intense indoctrination. Former cult members speak of chanting and self-induced trancelike states,[66] being constantly on the move, living on little sleep, and eating low protein diets.[67] They are instructed to follow orders without question. Some change their names, shave their hair, even change their way of telling time,[68] all in an effort to destroy systematically their original identities.

The experience of a reporter who was with the Moon cult for 3 days is illustrative. As reported in *The Congressional Record*, the reporter endured 17-hour days of lectures followed by songs, prayers, games, and exercises, and then more songs and prayers.

"The assault on our brains continued without let up. Over and over we repeated, 'Please father, I pray that our brothers will open their hearts and accept what they have been told.' Then the prayers would go straight into a song: Father, make me a rainbow to bridge old and new. Father make me a gateway for many to come through. . . . Father, make me a prism held in your hand.

"I felt myself being gripped by strange tensions. Everywhere I looked, I saw moonies watching us with those fixed smiles and blank eyes. . . . by Sunday my head was swimming in the non-stop verbal barrage, my nerves were shot, my muscles ached. I began to realize the meaning of brainwashing." [69]

Despite his short stay of 3 days, he reporter experienced such extreme nxiety that he was forced to request o be relieved of his assignment.

Lack of sleep, inadequate diet, nd excessive regimentation combine o form what observers and physicians describe as a robotlike appearance of ult members. The finding of the N.Y. ttorney general's investigation into he Children of God cult is typical. "Virually every parent testified his child ppeared drugged, in a trance, a hypotic state after joining the Children of God." [70]

Distraught parents have brought uits against cults alleging that their hildren have become involved with eligious organizations that place psychological pressure on the children, causing impairment of their physical and mental health and loss of their free will. In a recent conservator suit, wherein the parents of five adult children sought temporary custody of their children for 30 days, an excult member summarized the techniques of the Unification Church:

1) A very strong isolation of the individual from his home, friends, and even his own mind.
2) A completely structured program from 7:00 a.m. to 12:30 a.m.
3) Every single activity a person engaged in was done by a group, and a person was given no time to himself whatsoever.
4) An intense schedule and a deluge of religious concepts which left the participant confused and too fatigued at the end of the day to reflect on the day's activities and lectures.
5) A limited amount of sleep and food which left everyone sluggish.
6) The inculcation of a feeling of personal guilt if the participant doubted or failed to follow the teachings.[71]

A psychiatrist and a psychologist examined the five children and found:

1) They all suffered from a gross lack of information regarding current events.
2) They all showed a moderate degree of memory impairment, especially about their childhoods.
3) They were emotionally frozen in an inappropriate childlike smile to all input, whether it be hostile or otherwise.
4) They were all wide-eyed, had short attention spans, and a decreased ability to concentrate.
5) They had very little concern for previous and future personal goals; they were paranoid about previous relationships.[72]

The psychiatrist then stated the symptoms were the result of "coercive persuasion," by which he meant a series of techniques similar to those used against U.S. prisoners of war in Korea and Vietnam, more commonly referred to as "brainwashing."

Similar observations have been made by Dr. John G. Clark, a psychiatrist who summarized his examination of over 60 former members of cults, including members of cults other than Children of God and Unification Church.

"There is a sudden conversion through aggressive and skillful manipulation of a naive subject who is passing through or has been caused to enter a susceptible state of mind. Through highly programmed behavioral control techniques and in a controlled environment, the subject's attention is narrowed and focused to the point of becoming a trance. *As a result, the convert becomes dependent on this new environment for definitions of reality* . . . basic controls of the central nervous system become altered, menstrual periods may stop, beard growth is slowed." [73] (emphasis added)

Psychology of Excult Members

The degree of psychological trauma cults inflict upon their members seems directly related to the amount of time the cult spends in mind-control rituals.

A recent study of excult members by Conway and Siegelman revealed most of the long term psychological damage inflicted upon members appears to be done in the first few months of indoctrination by the cult.[74]

Effects of cult membership are longlasting. Dr. M. T. Singer in examining former cult members determined in her studies a ". . . slippage into dissociative states, severe incapacity to make decisions and related extreme

". . . certain cult behavior . . . appears to result in substantial harm to society and this outweighs their first amendment protection."

suggestibility." [75] She believed this was derived from the effects of behavior-conditioning practices on especially susceptible persons. She found her subjects taking much time and energy making simple decisions, like choosing socks or deciding whether to cook or sleep.

Recruitment and Indoctrination

An examination of cult recruiting and indoctrination methods is revealing. Most cults recruit members in their teens when prospective members are young, impressionable, and troubled.[76] In a recent case, an adult daughter sued her parents for false imprisonment when they hired a deprogramer to disassociate her from The Way cult.[77] The defendant's parents introduced a publication by The Way which was a guide instructing Way recruiters how to recruit more members. The parents were attempting to show that their fears for their daughter's physical and emotional well-being were firmly based, prompting her deprograming. The publication, "The 'How' of Door to Door Witnessing," instructed the recruiters to focus on the "hungry" and on "individuals whose resistance is temporarily lowered because of loneliness, worry over exams, or other adolescent crises." [78]

Children of God recruiters frequent hangouts at university counseling centers, where they find troubled and vulnerable youths.[79] The Unification Church focuses on university freshmen and seniors, believing them to be anxious and insecure.[80]

Even more disturbing is the fraudulent and deceptive practice of some cults to hide their recruitment purpose behind front groups or social issues, like the betterment of mankind, ecology, or morality.[81] Krishna members have informed the public that they are collecting for a "world relief program." [82] The Unification Church sponsored a "Tel Aviv Quarter Concern," soliciting funds from the Jewish-concern community under the guise of a Jewish charity.[83]

At the end of the initial encounter with the cult recruiter, the potential recruit is encouraged to join members at a retreat. The "victim" in our second kidnaping for deprograming in part I of this article was originally approached in high school when he was invited to attend "free" concerts, lectures, and meetings. At subsequent meetings, the indoctrination process intensified and an interpersonal bond developed between him and cult members.

The methods of establishing this interpersonal bond are many and varied. A chronological life history is often requested, detailing every aspect of the recruit's life, particularly those sensitive areas involving sex, relationship with parents, and trouble with law enforcement authorities. Other cults take a more direct approach. The recruit may be seduced by a member of the opposite sex or supplied with drugs, as in the Jones cult. At the same time, he may be deluged with hate literature attacking organized religions, particularly Judaism and Catholicism.

Whatever method is used, the cult tries to convince him that despite his problems at home and in school, "he is loved." This expression of "love" is vital to the establishment of the interpersonal bond.

Research has indicated that the interpersonal bond plays an important, if not the most important, role in cult recruitment. In the "participant-observation" studies by Lofland and Stark of the Korean-based cult of Rev. Sun Myung Moon, it was shown that if the interpersonal bonds between cult members and potential recruits failed to materialize, the newcomers failed to join.[84] This decision to join often comes only after a long period of day-to-day interaction with cult members. Conversion thus comes about not because of the appeal of its ideology, but because of the acceptance of the opinions of one's friends.[85]

These studies were reinforced by Brainbridge's study of satanic cults from 1970–1976. Brainbridge found that interpersonal bonds not only played a critical role in the recruitment of new members but was also essential to the formation of the cult itself.[86]

Summary

The foregoing discussions in parts I and II of this article suggest that in America, there has been a legal history of tolerance for religious beliefs, no matter how bizarre or unorthodox those beliefs are. However, with respect to religiously motivated conduct the courts have used a balancing test weighing the interest of the religious group against the State's legitimate interest in regulating that religiously motivated activity which is harmful to society. Congress, the U.S. Department of Justice, and State law enforcement agencies must be responsible enough to avoid interfering with religious belief; but, given this restraint certain cult behavior (i.e., fraud, violence, deceptive practices) appears to result in substantial harm to society

d this outweighs their first amend-
nt protection. Moreover, some cult
ruitment methods and behavior-
ntrol techniques indicate that deci-
ns to join and remain in the cult
en are not freely and voluntarily
de.

Law enforcement can investigate
t activities and members upon re-
pt of information that laws have
en broken. Such initiatives can be
complished without infringing on cult
mbers' rights to religious freedom or
ating their civil liberties. Both State
d Federal statutes exist under which
t leaders and cult members could
prosecuted for recruitment prac-
s in which the decisions by youths
join or remain in the cult are not
untarily made. Unlawful imprison-
nt under State law and kidnaping
tutes under both Federal and State
can be used. There is U.S. Su-
me Court authority for the doctrine
t bonafide religious beliefs cannot
solve one from liability under the
deral Kidnaping Act.[87] However, as
will see in part III of this discussion,
ch prosecution is rare.

The conclusion of this three-part
ies will explore the problems the
estigator or prosecutor has in pros-
uting the deprogramer or parent of
cult member who attempts to break
cult's hold on their children by
traordinary means. **FBI**

tnotes

[33] See generally, "Cults in America," *N.Y. Times,* uary 21, 22, 23, 1979; Hearings Before the Vermont ate Committee for the Investigation of Alleged, Decep- Fraudulent and Criminal Practices of Various Organi- ons in the State, August 18, 1976, (hereafter referred to Vermont Hearings); Charity Frauds Bureau, Final Re- on the Activities of the Children of God, 1976, (submit- to New York attorney general—hereafter referred to as Attorney General Report); R. Delgado, "Religious alism: Gentle and Ungentle Persuasion under the First endment," 51 S. Cal. L. Rev. 1 (1977).

[34] *Vermont Hearings, supra* note 33, at 11; C. Stoner J. Parks, *All God's Children* (Chilton Book Company, 3), p. 175.

[35] *Id.*

[36] *Vermont Hearings, supra* note 33, at 59–60.

[37] *N.Y. Times,* September 30, 1975, p. 41, col. 7; Waters, "Tammy Doesn't Live Here Anymore," *Boston Magazine,* November 1975, p. 100.

[38] *Allard* v. *Church of Scientology of California,* 58 Cal. App. 3d 439, 129 Cal. Rptr. 797 (1976), *cert. denied,* 429 U.S. 1091 (1977).

[39] *Id.,* p. 805.

[40] Rice, "The Pull of Sun Moon," *N.Y. Times,* May 30, 1976, (magazine).

[41] *Id.*

[42] *Id.* p. 19 (Reverend Moon owns a $620,000, 25-room mansion overlooking the Hudson River and a 50-foot cabin cruiser); *Time,* June 14, 1976, p. 50 (Unification Church planning to purchase Empire State Building); *N.Y. Times,* May 25, 1976, p. 16, col. 7 (Moon's income reported to be $60 million).

[43] *Schuppin* v. *Unification Church,* Civil No. 76–87 (D. Vt., filed April 8, 1976).

[44] R. Enroth, *Youth, Brainwashing and the Extremist Cults* (Grand Rapids, Mich.: Zondervan, 1977), pp. 163–64; Sage, "The War on Cults," *Human Behavior,* October 1976, p. 76.

[45] Roche Report, "Cultism and the Young," *Frontiers of Psychology,* September 1, 1976, p. 2.

[46] C. Stoner and J. Parks, *supra* note 34, at 218.

[47] R. Enroth, *supra* note 44, at pp. 23–24.

[48] Rice, "Messiah from Korea: Honor Thy Father Moon," *Psychology Today,* January 1976, p. 39; *Time,* June 14, 1976, p. 49.

[49] C. Stoner and J. Parks, *supra* note 34, at 106–107 (starving cult members during cold weather); Vermont Hearings, *supra* note 331, at 63; Enroth, *supra* note 44, at 23–24; Rice, "The Pull of Sun Moon," *N.Y. Times,* May 30, 1976, p. 23 (magazine).

[50] R. Enroth, *supra* note 44, at 43; C. Stoner and J. Parks, *supra* note 34, at 13.

[51] C. Stoner and J. Parke, *supra* note 34, at 106–107; *Seattle Post-Intelligencer,* January 24, 1972, A–3, col. 5.

[52] *N.Y. Times,* January 21, 1979, A–52, col. 3.

[53] *N.Y. Times,* January 21, 1979, A–52, col. 1.

[54] N.Y. Times, September 4, 1980, A–21.

[55] Rice, "The Pull of Sun Moon," *N.Y. Times,* May 30, 1976 (magazine); National Ad Hoc Committee, "The Unification Church: Its Activities and Practices, A Meeting of Concerned Parents, A Day of Affirmation and Protest," April 20, 1976; *N.Y. Times,* April 24, 1977, A–25 col. 1.

[56] *N.Y. Times,* January 23, 1979, A–6, col. 2.

[57] R. Enroth, *supra* note 44, at 188 (mother beaten when she tried to see daughter; father beaten at Hare Krishna Temple); *N.Y. Times,* September 30, 175, A–41, col. 7 (father allegedly beaten); Vermont Hearings, *supra* note 33, at 6 (psychiatrist threatened with "trouble for your house and wife"); *Philadelphia Daily News,* April 22, 1977, A–6, col. 3 (Connecticut woman active in anticult movement receiving threatening phone calls).

[58] Erickson and MacPherson, "The Deceptions of the Children of God," *Christianity Today,* vol. 17, 1973, p. 1090 (as quoted by followers of Children of God on Canadian T.V.); *Dallas Morning News,* October 19, 1975, A–34, col. 1; National Ad Hoc Committee, *supra* note 55, at 29 ("If my family proved to be a threat to the mission of the Messiah, I would murder them."); *Washington Post,* August 20, 1975, C–1, col. 4 (where psychiatrist testified former cult members have stated they would kill if ordered to do so by the Church).

[59] *The Christian Science Monitor,* "Some U.S. Religious Militants Adopt Trappings of Real War", March 24, 1981.

[60] Ted Patrick, Playboy Interview, *Playboy,* March 1979, p. 68.

[61] James J. Richardson, "Conversion and Commitment in Contemporary Religion," *American Behavioral Scientist,* vol. 20, No. 6, July–August 1977, p. 800.

[62] T. Robbins and D. Anthony, "Cults, Brainwashing, and Counter Subversion," *American Academy of Political and Social Science,* November 1979, pp. 78–90.

[63] R. Enroth, *supra* note 44, at 174–175; Gunther, "Brainwashing: Persuasion by Propaganda," *Today's Health,* February 1976, p. 15; Erickson and MacPherson, *supra* note 58.

[64] *Supra* note 57.

[65] W. Peterson, *Those Curious New Cults* (New Cannan, Conn.: Keats Publication Co., 1976), p. 131.

[66] Vermont Hearings, *supra* note 33, at 17; R. Enroth, *supra* note 44, at 12, 183. N.Y. Attorney General Report, *supra* note 33, at 11.

[67] R. Enroth, *supra* note 44, at 63–64, 160. Rice, *supra* note 55; N.Y. Attorney General Reports, *supra* note 33, at 38.

[68] R. Enroth, *supra* note 44, at 12; Beckford, "A Korean Evangelistic Movement in the West," Acts of the 12th International Conference for the Sociology of Religion, 1973, pp. 319, 321–323; see generally, F. Conway and J. Siegelman, *Snapping,* (Philadelphia, Pa.: J. B. Lippincott, 1978).

[69] 94th Congress, House, 2d sess., January 28, 1976 *Congressional Record,* vol. 122, part 2, p. 1391.

[70] N.Y. Attorney General Report, *supra* note 33, at 11.

[71] *Katz* v. *Superior Court,* 73, Cal. App. 3d 952, 141 Cal. Rptr. 234, 975 (1977).

[72] *Id.* at 976.

[73] John G. Clark, Jr., M.D. "Cults", *Journal of the American Medical Association,* July 20, 1979, vol. 242, No. 3, pp. 279–281.

[74] F. Conway and J. Siegelman, "Have Cults Created a New Mental Illness?" *Science Digest,* January 1982, p. 86.

[75] M. T. Singer, "Coming Out of the Cults," *Psychology Today,* January 1979, pp. 72–82; M. T. Singer, "Therapy with Excult Members," *Journal of the National Association of Private Psychiatric Hospitals,* vol. 9, No. 4, pp. 14–18.

[76] Harayda, "I was a Robot for Sun Myung Moon," *Glamour,* April 1976, p. 216; N.Y. Attorney General Report, *supra* note 33, at 10–12; R. Enroth, *supra* note 44, at 149.

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

[78] *Id.* at p. 130.

[79] Enroth, *supra* note 44, at 158–159.

[80] *Id.*

[81] *Time,* June 14, 1976, pp. 18–49 (Unification Church, in order to peddle their wares, may claim to be helping drug addicts, orphans, anyone since such lies are merely "heavenly deceit.")

[82] *L.A. Times,* April 7, 1976, A–11, p. 1, col. 1.

[83] *N.Y. Times,* December 29, 1976, A–14, col. 4.

[84] John Lofland and Rodney Stark, "Becoming a World Saver: A Theory of Conversion to a Deviant Perspective," *American Sociological Review,* vol. 30, 1965, pp. 862–875; John Lofland, *Dooms Day Cult* (Englewood Cliffs, N.J.: Prentice Hall, 1966).

[85] Other researchers revealed similar findings with Church of the Sun cult (F. R. Lynch, "Toward a Theory of Conversion and Commitment to the Occult," *American Behavioral Scientist,* vol. 20, 1977, pp. 889–903) and the Jesus Movement Cult (J. T. Richardson and M. Stewart "Conversion Process Models and the Jesus Movement," *American Behavioral Scientist,* vol. 20, 1977, pp. 819–838.

[86] R. Stark and W. S. Brainbridge, "Networks of Faith: Interpersonal Bonds and Recruitment to Cults and Sects," *American Journal of Sociology,* May 1980, pp. 1376–1399; W. S. Brainbridge, *Satan's Power* (Berkeley and Los Angeles: University of California Press, 1978).

[87] *Chatwin* v. *United States,* 326 U.S. 455, 90 L. Ed. 199, 66 S. Ct. 233, (1945) at 460.

THE FOURTH AMENDMENT AT A ROCK CONCERT

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

" 'Over and again this Court has emphasized that the mandate of the [Fourth] Amendment requires adherence to judicial processes,' and that searches conducted . . . without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions."

This now famous quotation from the U.S. Supreme Court's landmark 1967 decision of *Katz* v. *United States* [1] affirmed the preeminence of the Warrant Clause in fourth amendment [2] jurisprudence. With the *Katz* mandate in mind, consider this scenario:

The chief of police summons you to his office. He has just been informed by the manager of the new city-owned civic center that a popular rock band has been booked for a 1-night concert. The center is obligated by contract with the promoter to provide security. The chief has heard that such concerts usually draw crowds of unruly young patrons, many of whom may be in possession of bottles, cans, alcohol, and assorted weapons and drugs. He therefore believes the police department will have to augment the center's own security force. He asks you to take charge of the police detail and draw up a security plan to prevent the introduction of these items into the concert. As you leave, the chief suggests, "A good shakedown at the door ought to do the job." [3]

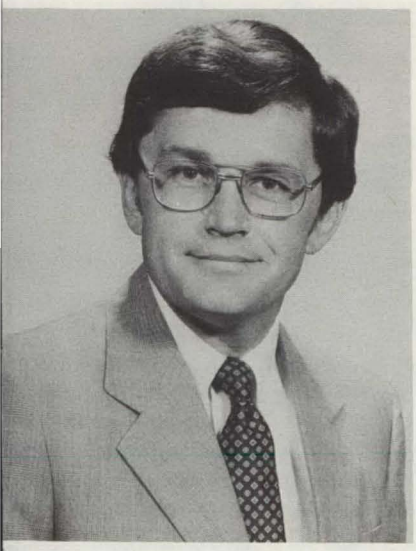
What kind of procedures would you draft to effectuate the chief's wishes? Can persons suspected of possessing alcoholic beverages, drugs, or weapons be searched? Does the Warrant Clause of the fourth amendment present a problem? If so, could you articulate a "specifically established and well-delineated exception" to the warrant requirement to fit this situation? Would you be surprised to learn that when courts have had the occasion to address these questions, they have consistently refused to permit either the enactment or implementation of any practical procedure that would appease the chief's legitimate concern?

Although these questions are associa ed with any attempt to provide secur at a large public gathering, such athletic events, conventions, symph ny concerts, and the like, most litig tion on this issue relates to poli screening procedures at performanc by rock-and-roll bands.

The rock concert is a major sour of revenue for civic centers, arena stadiums, and coliseums with lar seating capacities. Events at su places are oftentimes sold out. T musicians and tens of thousands spectators, many just teenagers younger, have a reasonable expect tion of police protection. This article designed to help a law enforceme agency secure a legal foundation up which it can provide that protectio First, it provides an overview of t fourth amendment. Second, it revie the security measures used and cha lenged at six civic centers across t country. Third, it analyzes the cou decisions in these six contested cas and points out the constitutional inad quacies in the procedures employe And fourth, it provides some sugge tions to help overcome the four amendment pitfalls awaiting a law e forcement agency confronted with similar security problem.

THE FOURTH AMENDMENT WARRANT CLAUSE

To appreciate the legal difficulti implicit in the chief's request requir an understanding of how the Suprem Court views the fourth amendment. two principal clauses guarantee pe sons the right to be free from unre sonable searches and seizures ar



Special Agent Campane

require that warrants be issued only upon a showing of probable cause. At one time, the Court did not believe the fourth amendment required a law enforcement officer to obtain a warrant every time he conducted a search. Searches were upheld as reasonable without reference to the availability of a warrant so long as the officer had probable cause to make the fourth amendment intrusion. The Court thought that a test of reasonableness, applied after the fact when the prosecution attempted to introduce the evidence, afforded ample safeguards for a citizen's rights. This view was expressed by the Court as follows in *United States* v. *Rabinowitz*:

> "The relevant test is not whether it is reasonable to procure a search warrant, but whether the search was reasonable. That criterion in turn depends on the facts and circumstances—the total atmosphere of the case . . . and not upon the practicability of procuring a search warrant, for the warrant is not required." [4]

The earlier emphasis on the reasonableness standard has been criticized as emasculating the value of the Warrant Clause, for it is but a short step to the next position—that it is never necessary for the police to obtain a warrant (and thus establish probable cause) to conduct a search or seizure. For years the Court struggled with this problem in an effort to find the proper relationship between the two clauses.[5]

The *Katz* decision ended the debate. The reasonableness view typified by the *Rabinowitz* decision was rejected and the Warrant Clause now predominates. Today, the Supreme Court equates the warrant requirement with reasonableness and requires judicial scrutiny before, not after, privacy is invaded. The Court is convinced that law enforcement officers become too involved "in the often competitive enterprise of ferreting out crime" [6] to make the kind of informed and deliberate determination which reasonable men would draw from the evidence in a criminal investigation.[7]

This emphasis on the warrant provision has been criticized for making the reasonableness stricture superfluous and contrary to colonial history, when warrantless searches were common and accepted.[8] In order to give the reasonableness standard some meaning, therefore, the Supreme Court has fashioned a small number of carefully drawn exceptions to the warrant rule.[9] These exceptions have remained limited in scope, despite continuous efforts to expand upon them.[10] Each has been fashioned only after the Court has been satisfied that a narrowing of a person's expectation of privacy is justified under the particular circumstances presented by each case.

GOVERNMENT ACTION

The constitutionality of civic center screening procedures can only be brought into issue when they implicate government action. The fourth amendment's origin and history show that it was intended only as a restraint upon the activities of sovereign authority, be it local, State, or Federal.[11] In 1961, the Supreme Court made clear in *Mapp* v. *Ohio* [12] that the remedy for an unreasonable fourth amendment search is the exclusion of any evidence derived therefrom, if it is offered as evidence by the prosecution in a State criminal trial. In 1968, the Court held in

"... the Supreme Court equates the warrant requirement with reasonableness and requires judicial scrutiny before, not after, privacy is invaded."

Terry v. *Ohio*[13] that pat-downs or "frisks," as well as full body searches, are "searches" within the meaning of the fourth amendment. Thus, if a civic center patron is detained, frisked, or searched by a police officer employed by a government agency and duly sworn to enforce the law, the patron may use the exclusionary rule to challenge the admissibility of any evidence seized. This is one method by which a patron can question the lawfulness of the screening procedure used.

The fact that the officer is on or off duty, or in or out of uniform, is not controlling. It is the nature of the officer's actions which invoke the fourth amendment. In one civic center case, off-duty police officers were employed as security officers. In response to a motion to suppress the fruits of a search, the State claimed the fourth amendment did not apply to conduct of private citizens, albeit off-duty police officers. The court quickly dismissed this claim.

> "The men were police officers, they were in uniform, they carried sidearms. . . . Most significantly of all, the whole arrangement was effected in cooperation with the Des Moines Police Department. . . . 'The Fourth Amendment applies to a search whenever the government participates in any significant way in this total course of conduct.'"[14]

Even if a privately owned facility enlists the aid of off-duty police officers, the requisite government action is present to circumscribe their activity within the ambit of the fourth amendment. The courts reason that a police officer's off-duty status is not a limitation on his or her right to exercise police authority and perform those law enforcement functions he or she normally performs during duty hours.[15]

However, most rock concert patrons who are stopped and searched will not be in possession of prohibited items. Even when such items are discovered, they are usually confiscated and no arrests are made. In such cases, the exclusionary rule cannot help an aggrieved citizen. In order to remedy the claimed illegality, a searched patron must sue the responsible authorities. Such a civil suit is generally initiated in Federal court and seeks declaratory and injunctive relief under the Civil Rights Act of 1871, codified in Title 42, U.S. Code, Section 1983 (commonly known as Section 1983 suits).[16] The plaintiff usually alleges a deprivation of rights secured by the 4th amendment as made applicable to the States through the 14th amendment Due Process Clause.[17]

The statute clearly provides that relief is only available under its provisions to those who show that the person depriving the citizen of a constitutional right was acting under color of State law. This is known as the 1983 State action requirement. State action is present whenever a person is acting under the order, instruction, request, or at the acquiescence of a State or local government agency.[18] If a privately owned civic center hires or contracts out for its own private security force, the security procedures used should not be subject to attack on either a fourth amendment or a Section 1983 basis.[19] But a law enforcement officer, even while employed by a private vendor, is sworn to enforce State criminal statutes. The officer's security activities at a civic center provide the requisite government action to make him amenable to suit under Section 1983. In addition, where the coliseum is owned by the city, or where local ordinance empowers coliseum officials to operate the facility and make all rules and regulations governing its use, or where police departments permit the off-duty employment of their officers, courts have not hesitated to join local governments, police officials, and coliseum authorities as defendants in the suit.[20] In fact, the requisite State action is present even when the city requires rock concert promoters to hire their own private guards to maintain order and security.[21]

The civic center security cases litigated to date invoke the strictures of the fourth amendment, either directly in a criminal proceeding or indirectly through a Section 1983 civil suit. It is obviously impractical to obtain individualized body and property search warrants when 10,000 to 20,000 spectators are due to attend any given event. The authorities faced with drafting a screening mechanism and those employed to execute it are thereby forced to justify their activities pursuant to one of the exceptions to the fourth amendment warrant requirement. The three exceptions which have been used are the *Terry* stop-and-frisk, the administrative search, and the consent search. But these exceptions were fashioned in factual settings far removed from the massive invasion of privacy envisioned by the possible search of hundreds of citizens and their property at government-sponsored public events. Not unexpectedly, the arguments made to justify civic center screening procedures were all doomed to fail under today's fourth amendment standards.

CIVIC CENTER LITIGATION

Hofheinz Pavilion, University of Houston, Houston, Tex.

The first civic center screening procedure subject to judicial scrutiny involved a State university. The decision, *Collier* v. *Miller,*[22] has become the benchmark for all subsequent civic center litigation. A female student was stopped by a security guard as she entered the building to attend a rock concert. The employee worked for the university's Traffic and Security Department. He claimed he instructed the student that he was going to search her purse for beverage containers, weapons, and drugs. He purportedly grabbed her purse, whereupon she snatched it back. The student then claimed the guard seized her arm, took her into the lobby, threatened her with arrest, and thoroughly searched her purse. The officer did not find any items worth confiscating and returned the purse. She then proceeded on to the concert. Subsequently the student, Ms. Collier, brought suit in Federal court seeking declaratory relief under Section 1983.

At trial it was determined that the search policy was unwritten and left much to the discretion of the individual security officer. The officer gave no reason why he decided to search the purse of the plaintiff, but not those of her companions. There was no history of incidents at Hofheinz Pavilion that would have prompted a screening procedure. Further, those searches in fact conducted appeared to depend largely on the type of crowd expected, with more searches made at rock concerts than at other events. University authorities sought to justify the searches on these grounds: (1) They provided safety and security for all present, (2) some entertainers requested the banning of bottles and cans, and (3) the floor of the pavilion was composed of a special synthetic material which could easily be damaged by projectiles.[23]

After the incident with Ms. Collier, the school expressed its then existing policy in writing as follows:

> "[Do] not allow persons to enter . . . with containers, packages or bundles that could conceal alcoholic beverages, cans or bottles unless they are willing to let those packages and parcels or bundles be opened and examined to be sure that they do not contain such beverages or containers. If they do not wish such an examination to be made, the University is within its rights to refuse admittance. The principle involved is the same as that used in the examination of hand luggage before boarding aircraft. All should understand that this does not mean there is a wholesale license to require examination of all parcels and handbags but only those bags that could reasonably be of such size as to conceal bottles or cans." [24]

It was this written policy that the parties agreed to litigate. The court did not believe any of the recognized exceptions to the warrant requirement apply to personal searches authorized and enforced by the policy. First, airport and courthouse administrative warrantless searches were inapposite. Courts have universally permitted these precautionary security measures under the tripartite considerations of public necessity, efficacy of the search, and degree and nature of the intrusion.[25] As for public necessity, the court believed precautionary screening procedures at airports and courthouses are required due to the unprecedented violence created by those threatening to use weapons of mass destruction. The dangers posed by the potential misuse of bottles and cans, however, "pales in comparison" [26] to the danger posed by a bomb or gun. Also, the defendants produced absolutely no evidence of any history of disturbances or injuries necessitating a search policy.

Aside from this problem, the court believed the effectiveness of any procedure that is only applied at random to many thousands of patrons is questionable at best, because the task of discovering all hidden flasks of alcohol and caches of drugs is virtually insurmountable. Airport and courthouse searches, on the other hand, are a product of the use of terrorist profiles, magnetometers, and X-ray machines which have been able to detect all unusual quantities of metal. Consequently, these search procedures have caused a dramatic decline in the number of hijackings and bombings. In addition, the character of the searches suggests a minor invasion of privacy. Airline passengers, in particular, have come to expect a search applied quickly and indiscriminately to all who enter the protected locations. Contrariwise, the pavilion searches were substantial and randomly applied. The security officers operating under the University of Houston's policy were required to apply their own subjective standards in determining which large pockets or purses to search thoroughly. That determination did not turn on whether a given container was large enough to hold a prohibited item, as fewer items were searched at symphony concerts than at rock concerts, thus suggesting that only certain members of a class were singled out and searched.[27]

Second, the court reasoned that the stop-and-frisk doctrine of *Terry* v. *Ohio* did not apply to Ms. Collier's case. Viewed from the level of suspicion necessary to justify an investigative detention constitutionally, *Terry*

"The civic center security cases litigated to date invoke the strictures of the fourth amendment, either directly in a criminal proceeding or indirectly through a Section 1983 civil suit."

requires a law enforcement officer to be able to point to specific and articulable facts which, taken together with rational inferences drawn from those facts, would reasonably warrant the intrusion.[28] The detentions authorized under the university's policy, however, were conducted without any definitive basis for suspicion that a crime was being or was about to be committed. Nor were the resulting searches limited in scope to a pat-down for inherently lethal weapons. Rather, they sought to exclude items which could pose a danger to the public only if misused. *Terry* did not sanction wholesale searches of the general public specifically designed to discover contraband and evidence of crimes.[29]

Third, the court did not believe these procedures presented a case of implied consent. Voluntary consent is based on the totality of the circumstances,[30] but here the university made no effort to post signs or provide some other means of advance notice that might justify its reliance on an implied consent theory. Verbal consent was not sought, if at all, until after the patron was initially seized. In order to legitimize the search on consent grounds, the university had to establish that both the initial detention at the door and the subsequent search for proscribed items was voluntary. Further, the court disapproved of the university's attempt to reserve the right to deny admittance. Access to the pavilion was a privilege extended to the public at large. If the exercise of the privilege was conditioned on submission to a search, that submission would be coerced and hence not consensual.[31]

In sum, the court declared the policy unconstitutional and concluded that none of the recognized exceptions to the warrant requirement nor the balancing test of reasonableness applied in carving out these exceptions could validate the broad, random intrusions authorized by the university's search procedure.[32]

Subsequent civic center decisions have relied on the *Collier* reasoning to dismiss screening procedures on administrative search, stop-and-frisk, and implied consent grounds. Although Ms. Collier was never asked to consent, the court suggested that a consent theory may be viable if expressed and truly voluntary. The later cases therefore reflect screening procedures sought to be justified primarily on this expressed consent exception to the warrant requirement.

Greensboro Coliseum Complex, Greensboro, N.C.

The Greensboro Coliseum is owned by the City of Greensboro, and by local ordinance, regulated by the War Memorial Commission. The commission hired off-duty policemen to act as security personnel. The officers wore uniforms and were armed. A search policy was instituted as a result of detailed, statistical evidence of violence at sporting events and rock concerts, where officers were assaulted and performers injured by flying bottles.[33] If an individual refused to be searched at the turnstile, he or she was denied admission. The policy, as exhibited on signs, printed on the back of tickets, and announced over the public address system, was designed to exclude alcohol, drugs, and other contraband from the coliseum grounds.

The searches consisted of four stages: (1) Visual surveillances at turnstiles, (2) plain view seizures (drug offenders were arrested), (3) instructions to patrons with large packages that they could not come inside, and (4) random searches of handbags, coats, and trouser pockets. The guards regularly asked permission before they looked into women's purses, although on occasion such requests were worded, "I need to see into that," or "Let me see what you have got there," and were perceived by the patrons as commands. Patrons were not told they could elect not to be searched, obtain a refund, and leave.[34]

This policy was challenged in the Section 1983 case of *Wheaton v. Hagan*,[35] decided in 1977. The court paraphrased the decision in *Collier*, decided only a year earlier, and concluded that no exception to the warrant requirement was applicable to the Greensboro screening procedure. The court sympathized with the crowd control problem exhibited at rock concerts and admitted that the Greensboro policy was a far better effort to imply consent to search, but pointed out that implied consent had been repudiated by *Collier*. Nor was this policy indicative of individualized and voluntarily expressed consent, for which the court believed the officers should have:

1) Dressed in civilian clothes,
2) Provided the patrons with the choice to either deposit bulky items in a checkroom or take them to their cars,
3) Notified each person stopped of the right not to be searched,
4) Avoided implied commands, such as "I need to look in your purse," and
5) Abolished festival seating (first come, best seat), where patrons are reluctant to secure packages after the rush to the turnstiles begins.[36]

Veterans Memorial Auditorium, Des Moines, Iowa

The third Section 1983 case *Stroeber v. Commission Veteran's Audi*

orium,[37] also decided in 1977, presented a screening policy almost identical to that employed at the Greensboro Coliseum. The court, like those before it, dismissed the airport-courthouse, stop-and-frisk, and implied consent justifications for the search policy. It held that when a random number of patrons, having purchased tickets and entered turnstiles, are suddenly confronted with armed, uniformed police officers and told that admission is conditioned upon their submission to a search of their persons and effects, no implied or expressed consent is possible:

> "Under the circumstances, which are marked by coercion and duress, the Court cannot possibly conclude that any ensuing consent to search was of a voluntary nature. . . . The mere fact that most patrons submitted to search bespeaks more of coercion and duress than voluntariness." [38]

Montgomery Civic Center, Montgomery, Ala.

In the Section 1983 case of *Gaioni v. Folmer,*[39] decided in 1978, serious questions about the voluntariness of any expressed consent were again raised. The mayor and chief of police attended a rock concert at the new city-owned civic center and were apparently appalled at the drug and alcohol consumption they observed. As a result, a one-time-only shakedown plan was put into effect for a subsequent rock concert. Forty-nine police officers, including strike force members, conducted discretionary, random searches. Approximately 65 percent of the entering patrons were searched. Citizens were ordered to open coats and lift shirts. Bulges were patted, pockets searched, purses examined. Forty-two patrons were arrested. Many citizens did not know they could refuse to be searched nor were those who knew of their right given an opportunity to do so.[40]

The city posted signs and argued this step justified implied consent searches. The court held that the atmosphere at the concert, which it characterized as an armed camp, was hardly conducive to people making free and unconstrained choices whether to allow themselves to be searched. But the court went on to hold that under these circumstances, even expressed consent would not have been voluntary, since people undoubtedly believed if they refused to be searched, they would forfeit their right to attend the concert. Further, the court cited certain reasoning in *Collier,* overlooked by subsequent decisions, to the effect that an arena cannot condition public access on submission to a search and then claim those subjected to the searches voluntarily consented.[41]

In other words, a sixth factor must be added to the five express consent factors enumerated by the *Wheaton* court—verbal notification to each person detained that the officer cannot deny entry for refusal to submit to search. To the argument that if notification is required, hardly anyone would consent, the *Gaioni* court replied: "If an event cannot be policed in a manner that comports with the Constitution, it should not be sponsored by the City of Montgomery." [42]

Neal Blaisdell Center, Honolulu, Hawaii

The latest Section 1983 case to consider the screening problem, *Nakamoto* v. *Fasi,*[43] was decided in 1981. Plaintiff Nakamoto was stopped at the turnstile and told that a handbag search would condition her entry. She was not informed, as the *Gaioni* court had suggested, that she could refuse the inspection and testified that she felt compelled to consent. The court reiterated as part of its decision invalidating the procedure that even if Ms. Nakamoto had been notified of her right to refuse to submit to the search, conditional entry is inherently coercive. The city could not require a patron to relinquish the right to be free from unreasonable searches and seizures in order to be allowed to exercise a privilege for which the patron had paid.[44]

SUMMARY

To date, no civic center screening procedure has withstood judicial scrutiny. But this is not to suggest, as the *Gaioni* court intimated, that the fourth amendment bars civic centers from staging rock concerts altogether. Nor should the law enforcement agency wash its hands of the problem and permit a few rock concert patrons to engage in unlawful and dangerous activities. The many law-abiding spectators deserve adequate police protection.

However, it has been no easy task justifying the various turnstile screening procedures employed at civic centers around the country. Analogies to courthouse and airport searches have been held inappropriate, even when the arena authorities have been able to document injuries. A bottle or can is just not taken as seriously as a bomb or handgun.

The courts agree that a *Terry* stop is always permissible if an officer's articulable suspicion is drawn to a particular patron. However, the *Terry* approach is not very practical. Citizens wishing to smuggle drugs or contraband into an arena could succeed without creating a bulge in their clothing large enough to suggest a weapon and thus justify a frisk. Also, the sheer number of people congregating at one time at the arena doors militates against an

"Two (factors in any screening process) are essential: (1) Individualizied verbal notice that the patron need not consent to a search, and (2) individualized verbal notice that the patron will not be denied admittance if he or she refuses."

officer's attempt to focus his suspicion on one patron.

The focus of the screening would seem more appropriate in the seating area where disorderly patrons can be observed drinking, using drugs, and throwing bottles and cans. But probable cause, warrantless arrests do not seem suitable when there is a possibility that hundreds, if not thousands, of patrons may be engaged in some of these activities. Besides, interior policing would defeat the purpose of the security force, which is to keep dangerous articles and contraband out of the arena in the first place.

The *Wheaton* court suggested banning all parcels over a certain size and providing checkrooms for their safekeeping. But this approach would not screen out the items of greatest concern to civic center authorities—the small flasks of alcohol and packages of drugs easily hidden under clothing.

The implied consent justification for warrantless searches has been uniformly rejected. Signs, ticket warnings, and elaborate public address announcements do not in and of themselves overcome the inherently involuntary nature of consent given by a citizen anxious to get into the area.

An expressed consent procedure offers the most promise. A number of factors are essential, as pointed out above, and should be part of any screening mechanism. Two in particular are essential: (1) Individualized verbal notice that the patron need not consent to a search, and (2) individualized verbal notice that the patron will not be denied admittance if he or she refuses. This too has its impractical aspects, for a spectator with contraband, when so informed, may act normal and refuse to be searched. However, the mere impression of enforcement can be a major deterrent for others.

SUGGESTED PROCEDURES

The courts all agree that civic center authorities are entitled to take necessary steps to prevent the misuse of the premises, to provide protection for those invited to enter, and to prohibit the introduction of contraband and dangerous items. The courts also agree that such events are difficult to police. Their sympathies seem to suggest that a screening procedure designed to avoid creating the impression of arbitrary and coercive searches directed primarily at minors will eventually pass judicial review.

Security personnel should be instructed to rely primarily on the plain view, stop and frisk, probable cause, and express consent rationales when searching patrons. The six express consent factors could be printed on small cards and read or given to the patron selected to be searched. Advance notice on tickets and signs will enforce an impression of voluntary consent, as will the availability of checkrooms for the deposit and safekeeping of large packages. Unarmed officers in civilian clothes will help overcome the coercion factor. The elimination of festival seating will avoid the mad rush through the turnstiles as the doors first open and will give the security force a better opportunity to observe the patrons. When items are seized or arrests made, mass media publicity of the fact may help dissuade those so inclined to introduce prohibited items at future concerts.

Above all, any procedure should be uniformly applied. It should not be employed only at rock concerts and only against teenagers. Civic center authorities should carefully document any incidents of violence and unruly behavior and apply the screening procedure at all events where such conduct is likely to take place. In addition, all patrons with certain kinds of packages, such as coolers or paper bags should be subject to the screening mechanism. Searches in fact conducted should be as brief and unobtrusive as possible.

These suggestions are certainly not all-inclusive. But an imaginative screening procedure incorporating many of these factors will certainly create a far better impression on the courts than the procedures litigated to date. It will show that civic center security personnel are taking every possible precaution to protect the privacy of their guests, while at the same time providing the kind of law enforcement and crowd control required by such large public gatherings. **FB**

Footnotes

[1] 389 U.S. 347, 357 (1967), quoting *United States,* v *Jeffers*, 342 U.S. 48, 51 (1951).

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

[3] *See generally Gaioni* v. *Folmar,* 460 F.Supp. 10 (M.D. Ala. 1978). The chief's suggestion is similar to that made by the public safety director for the City of Montgomery, Ala., in anticipation of a rock concert in Montgomery's Civic Center.

[4] 339 U.S. 56, 66 (1950). *Accord, Carroll* v. *United States,* 267 U.S. 132 (1925) (warrantless search of automobile based on probable cause and exigent circumstances held reasonable); *Harris* v. *United States,* 331 U.S. 145 (1947) (warrantless search of premises incident to arrest held reasonable); *Brinegar* v. *United States,* 338 U.S. 160 (1948) (warrantless search of automobile held reasonable).

[5] *See, e.g., Coolidge* v. *New Hampshire,* 403 U.S. 443 (1971). Justice Stewart, writing for the Court, surveyed the inconsistent application of the reasonableness standard to search incident to a lawful arrest. *Compare Trupiano* v. *United States,* 334 U.S. 699 (1948) (warrantless seizure of still within sight of the location of arrest held unreasonable because officer had time to obtain a warrant) *with Harris* v. *United States, supra* note 4 (warrantless search of entire premises following arrest of suspect held reasonable); *Urited States* v. *Rabinowitz, supra* note 4 (overruling *Trupiano, supra,* warrantless search of desk, safe, and file cabinets in room where suspect arrested held reasonable); *and Chimel* v. *California,* 395 U.S. 752 (1969) (overruling *Rabinowitz, supra*, warrantless search of any part of a room not accessible to subject at moment of arrest held unreasonable). *See also, New York* v. *Belton* 69 L. Ed. 2d 768 (1981) (expanding area in motor vehicle subject to search in arrest context).

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

[7] *Coolidge* v. *New Hampshire, supra* note 5. The ...ate goes on for a number of Supreme Court Justices. ..., *e.g.,* Justice White's opinion for the Court in ...*mbers* v. *Maroney,* 399 U.S. 42 (1970), and his ...senting opinions in *Coolidge* and *Payton* v. *New York,* ... U.S. 573 (1980). *See also* Justice Rehnquist's ...senting opinion in *Steagald* v. *United States,* 451 U.S. ..., 224 (1981) "Here as in all Fourth Amendment ...es, 'reasonableness is the ultimate standard' ". ...re is no debate with reference to arrests, which may ...made without warrants in any public location, so long ...the arrest is supported by probable cause. *See* ...*ted States* v. *Watson,* 423 U.S. 411 (1976).

[8] *Coolidge* v. *New Hampshire, supra* note 5 (1971) ...hite, J. dissenting).

[9] *See, e.g., Carroll* v. *United States, supra* note 4, ...tor vehicle exception); *Warden* v. *Hayden,* 387 U.S. ... (1967) (hot pursuit exception); *Terry* v. *Ohio,* 392 ... 1 (1968) (stop-and-frisk exception); *Schneckloth* v. ...*tamonte,* 412 U.S. 218 (1973) (consent to search ...eption); *Chimel* v. *California, supra* note 5 (search ...dent to arrest exception); *Coolidge* v. *New Hamp...e, supra* note 5 (plain view exception); *United States, ...Martinez-Fuerte,* 428 U.S. 543 (1976) (border search ...eption); *Camera* v. *Municipal Court,* 387 U.S. 523 ...67) (administrative search exception; although court ...er required in highly regulated industries where public ...ety is a major governmental concern, a lesser justifi...ion than probable cause required).

[10] *See, e.g., United States* v. *Chadwick,* 433 U.S. 1 ...77) (footlocker in trunk of an automobile not subject ...search under motor vehicle exception to the warrant ...uirement); *Mincey* v. *Arizona,* 437 U.S. 385 (1978) ...rrantless crime scene search cannot rely on a State ...tute creating a homicide crime scene exception to the ...rant requirement); *Michigan* v. *Tyler,* 436 U.S. 499 ...78) (no arson crime scene exception for searches ...ducted from 4 to 25 days after the fire put out); ...*naway* v. *New York,* 442 U.S. 200 (1979) (detention ...custodial interrogation requires probable cause and a ...rant); *Payton* v. *New York, supra* note 7 (arrest of ...pect in his own residence, absent consent or exigent ...umstances, requires a warrant).

[11] *Wolf* v. *Colorado,* 338 U.S. 25 (1949).

[12] 367 U.S. 643 (1961).

[13] *Supra* note 9 (*Terry* permitted a carefully limited ...-down on less than probable cause if suspect reason...y believed to be armed and dangerous).

[14] *State* v. *Carter,* 267 N.W. 2d 385 (Iowa 1978), ...oting *United States* v. *Davis,* 482 F.2d 893, 896–97. (9th ... 1973) (private airport search by private security ...rds, but on behalf of Federal Aviation Administration, ...d to be Government action).

[15] *See, e.g., State* v. *Williams,* 297 So.2d 52 (Fla. App. ...'4) (off-duty police officer employed as security guard at ...ate club); *State* v. *Robinson,* 379 So.2d 712 (Fla. App. ...0) (off-duty police officer employed as security guard at ...ate jai-alai fronton); *Wood* v. *State,* 486 S.W.2d 771 ...x. App. 1972) (off-duty police officer directing traffic out ...a private corporation's parking lot onto a public street); ...*te* v. *Wilkerson,* 367 So.2d 319 (La. 1979) (off-duty ...uty sheriff employed as security guard at private apart...nt complex); *McGibiany* v. *State,* 399 So.2d 125 (Fla. ...D. 1981) (off-duty police officer employed as a hotel ...ective); *Hughes* v. *State,* 400 So.2d 533 (Fla. App. ...1) (off-duty deputy sheriff employed as department ...re security guard).

[16] The statute reads:

> Every person who, under color of any statute, ordi...ance, regulation, custom, or usage, of any State or ...erritory, subjects, or causes to be subjected, any citi...en of the United States or other person within the ...risdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

[17] U.S. Const. amend. XIV provides, in part:

> "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

See, e.g., Wheaton v. *Hagan,* 435 F.Supp. 1134, 1138, note 1 (M.D.N.C. 1977). Independent 14th amendment due process and equal protection issues arise where patrons of rock concerts are subjected to search, while patrons of other events are not, or where a contraband arrest policy is enforced against patrons in possession of drugs but not those in possession of intoxicating beverages. *See also Gaioni* v. *Folmar, supra* note 3 (class action by patrons of a civic center rock concert subjected to warrantless searches. Jurisdiction is invoked under 28 U.S.C. 1343 (3) and (4) and 28 U.S.C. 2201, *et. seq.,* and the class action provision of Rule 23(b)(2), Fed. R. Crim. P.).

[18] *See Screws* v. *United States,* 325 U.S. 91 (1945); *Williams* v. *United States,* 341 U.S. 97 (1951); *Monroe* v. *Pape,* 365 U.S. 167 (1961); *Griffin* v. *Maryland,* 378 U.S. 130 (1963); *Robinson* v. *Davis,* 447 F.2d 753 (4th Cir. 1971), *cert. denied,* 405 U.S. 979 (1972); *Stengel* v. *Belcher,* 522 F.2d 438 (6th Cir. 1975), *cert. dismissed,* 425 U.S. 910 (1976); *Davis* v. *Murphy,* 559 F.2d 1098 (7th Cir. 1977); *Traver* v. *Meshriy,* 627 F.2d 934 (9th Cir. 1980).

[19] *See, e.g., United States* v. *Francoeur,* 547 F.2d 891 (5th Cir. 1977), *cert. denied,* 431 U.S. 932 (1977) (Florida Disney World security guard); *People* v. *Toliver,* 377 N.E.2d 207 (Ill. App. 1978) (store detective); *People* v. *Holloway,* 267 N.W.2d 454 (Mich. App. 1978) (store detective); *Gitlett* v. *State,* 588 S.W.2d 361 (Tex. Ct. App. 1979) (store detective); *United States* v. *Lima,* 424 A.2d 113 (D.C. App. 1980) (store detective). *But see People* v. *Zelinski,* 594 P.2d 1000 (Cal. 1979) (Exclusionary Rule applied under State constitution where private security personnel exercised arrest and weapons search powers under California Penal Code); *Lucas* v. *United States,* 411 A.2d 360 (D.C. App. 1980), *rehearing denied,* 414 A.2d 830 (1980) (when private detectives have arrest authority by statute, their actions are subject to the fourth amendment). *See generally* LaFave, *Search And Seizure, A Treatise On The Fourth Amendment,* volume III, § 1.6 (1978), criticizing the general view.

[20] *See, e.g., Collier* v. *Miller,* 414 F.Supp. 1357 (S.D. Tex. 1976); *Wheaton* v. *Hagan, supra* note 17; (*Stroeber* v. *Commission Veteran's Auditorium,* 453 F.Supp. 926 (S.D. Iowa 1977); *Gaioni* v. *Folmar, supra* note 3. These cases permit Section 1983 suits against the authorities in their individual capacities. However, since the Supreme Court's decision in *Monell* v. *Department of Social Services,* 436 U.S. 658 (1978), local governments and coliseum authorities are also subject to suit. *See, e.g., Chenkin* v. *Bellevue Hospital Center,* 479 F.Supp. 207 (S.D. N.Y. 1979); *Nakamoto* v. *Fasi,* 635 P.2d 946 (Hawaii 1981).

[21] *Nakamoto* v. *Fasi, supra* note 20.

[22] *Supra* note 20.

[23] *Id.* at 1359–61.

[24] *Id.* at 1360.

[25] *See, e.g., United States* v. *Edwards,* 498 F.2d 496 (2d Cir. 1974) (airport); *United States* v. *Skipwith,* 482 F.2d 1272 (5th Cir. 1973) (airport); *United States* v. *Bell,* 457 F.2d 1231 (5th Cir. 1972) (courthouse); *Downing* v. *Kunzig,* 454 F.2d 1230 (6th Cir. 1972) (courthouse); *McMorris* v. *Alioto,* 567 F.2d 897 (9th Cir. 1978) (courthouse).

[26] *Collier* v. *Miller, supra* note 20, at 1362. *But cf. Chenkin* v. *Bellevue Hospital Center, supra* note 20, at 214 (warrantless search of hospital employees' clothing and baggage upon exit from hospital upheld under a similar screening procedure: "[T]he public's interest in controlling pilferage from public institutions is nevertheless substantial and legitimate").

[27] *Collier* v. *Miller, supra* note 20, at 1362–64.

[28] *Terry* v. *Ohio, supra* note 9.

[29] *Collier* v. *Miller, supra* note 20, at 1365.

[30] *Schneckloth* v. *Bustamonte, supra* note 9.

[31] *Collier* v. *Miller, supra* note 20, at 1366–67.

[32] *Id.* at 1367.

[33] *Wheaton* v. *Hagan, supra* note 17. Over a 3-year period, 494 events accommodated over a million customers, 838 of whom were arrested. Of those arrested, 818 were for possession of marihuana and controlled substances and 12 for weapons possession. Of the total number of arrests, 743 were at rock concerts. On one occasion, the rock performer, Elton John, was hit on the head by a bottle thrown from the audience.

[34] *Id.* at 1138–43.

[35] *Id.*

[36] *Id.* at 1148.

[37] *Supra* note 20.

[38] *Id.* at 933. A year later, the same Des Moines Auditorium search policy was again subjected to judicial scrutiny in *State* v. *Carter, supra* note 14 when the Exclusionary Rule was brought into issue subsequent to a search, seizure of drugs, arrest, and prosecution of a patron at a rock concert. The court held that warnings on tickets, at doors, and on tape recorded messages were at best ambiguous and no implied consent could be drawn from them.

[39] *Supra* note 3.

[40] *Id.* at 11–12.

[41] *Id.* at 14–15.

[42] *Id.* at 15.

[43] *Id. Supra* note 20.

[44] *Id.* at 951–52.

WANTED BY THE FBI

Photograph taken 1978.

Photographs taken 1975.

Frank Joseph Lach

Frank Joseph Lach, also known as John Cole, William Englis, Frank Lach, Frank J. Lach, Frank J. Lach, Jr., Frank James Lach, Frank Joseph Lash, Jr., Gabriel Macedo, Kenneth Robinson, Frank Russo, Frank Tobin.

Wanted for:

Interstate Flight—Attempted Burglary

The Crime

Lach, a professional criminal and con man, has been convicted of breaking and entering, grand larceny, and obtaining money through fraud and larceny. He was last reported posing as a sewer inspector to gain entry into business establishments which he burglarized.

A Federal warrant was issued for his arrest on December 14, 1979, in Albany, N.Y.

Description

Age	41, born November 23, 1940, Providence, R.I.
Height	6′.
Weight	240 to 270 pounds.
Build	Heavy, fat.
Hair	Brown, balding.
Eyes	Brown.
Complexion	Medium.
Race	White.
Nationality	American.
Occupations	Butcher, pizza parlor manager, plasterer, salesman.
Remarks	Lach is considered a professional criminal who poses as a local public servant to gain entry into business establishments which he proceeds to burglarize.
Social Security Nos. Used	028-38-0591 038-28-5091 038-82-5091 038-28-0591.
FBI No.	398 547 E.

Caution

Lach may be accompanied by a associate, Donald Eugene Webb, or of the Ten Most Wanted Fugitives, wh is charged with the murder of a polic chief. Lach and Webb should be co sidered armed, dangerous, and escap risks.

Notify the FBI

Any person having informatio which might assist in locating this fug tive is requested to notify immediate the Director of the Federal Bureau Investigation, U.S. Department of Ju tice, Washington, D.C. 20535, or th Special Agent in Charge of the neare FBI field office, the telephone numb of which appears on the first page most local directories.

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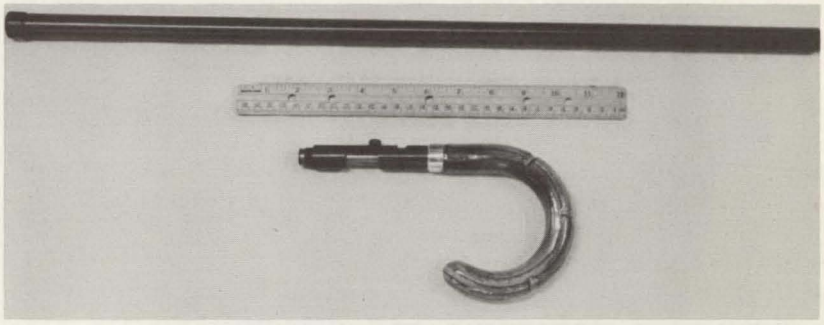
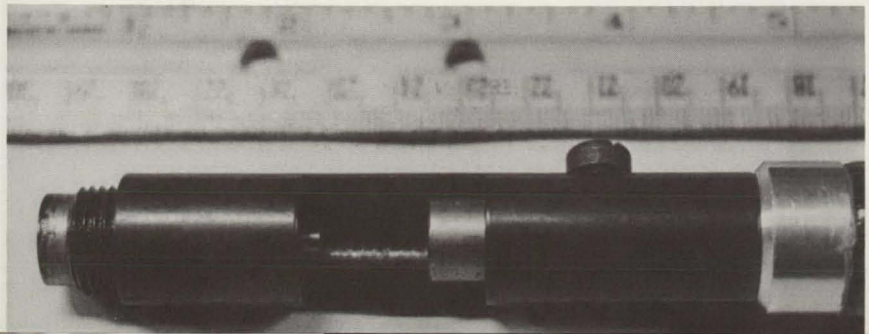


Close inspection of a walking cane revealed it to be a black powder weapon capable of firing a cap and ball. When the top portion of the metal cane is removed, black powder and a ball may be placed in the opening. The handle is then attached to the longer portion of the cane, and a firing cap is placed on the extension within the opening in the handle section. When the spring-loaded screw on the handle is released, it strikes the firing cap, igniting the powder that fires the lead ball.

Because this is a black powder weapon, no regulations apply, allowing it to be sold over-the-counter or at flea markets.

(Submitted by the Tipp City, Ohio, Police Department.)



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Interesting Pattern

In the Identification Division of the FBI, this pattern is given the classification of a tented arch. The presence of the upthrusting ridges in the center of the pattern is most interesting.