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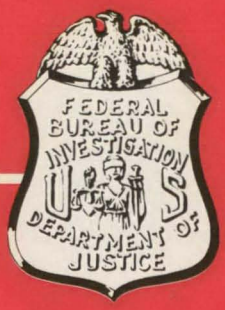
THE COVER

November's cover features Metrorail, a part of our capital's mass transit system protected by the Metro Transit Police Force (MTP). See article on page 16. (Paul Myatt photograph)

From the Director . . .



TODAY, THE USE OF INFORMANTS by law enforcement is a matter of public debate—and the necessary confidentiality of informants is also being challenged. It is not necessary to demonstrate the value of informants to working police officers; law enforcement professionals know the indispensable role of informants in criminal investigations.

The problem is to make our case to the public, whose perception of our need is prejudiced from the outset by a traditional aversion to informing, an attitude characterized by the very words used to describe confidential sources—"snitches," "squealers," and "stoolies."

In our profession we know that informants can range from the traditional small-time entrepreneur who knows every hoodlum in his "turf" to today's employee who learns of a sophisticated white-collar scheme to defraud the firm or the public and is the only person who can alert authorities.

The use of informants is grounded in historic precedent that has been upheld by the courts over the years. But now we must again make a brief for the practice, or risk losing this investigative technique.

The FBI makes no secret of its use of informants. Some of our biggest cases have been solved through a combination of hard legwork and timely informant contributions—the Brinks robbery and the murders of the three civil rights workers in Mississippi come to mind. And last year, 2,600 Federal arrests and the recovery of property valued at $200 million resulted from the FBI's general criminal informant program, accomplishments realized at a cost of only $927,000.

The Department of Justice fully recognizes the necessity of using informants; the Assistant Attorney General of the Criminal Division recently testified that ". . . the use of informants is a most important investigative technique—one that we need in our efforts to combat organized and white-collar crime, official corruption, narcotics, and organized violence."

He also made a most important point about informants who are themselves part of the criminal element: ". . . they are able to report crimes that are still in the planning stages, thus allowing the government to prevent these crimes and to spare potential victims from physical and economic injury."

The traditional common sense of America's jury of public opinion will undoubtedly prevail, and law enforcement will make its case on informants. But we face a second challenge, the

attack on the confidential relationship between law officer and informant.

The Attorney General of the United States has resolutely faced this challenge in a recent case with a determined stand on the side of confidentiality within the limits of the law. Recognition of the serious danger in this issue has even come from the press, which faces challenges of its own on the use of confidential sources.

The *Atlanta Constitution* editorially noted that "like the FBI, the CIA and other intelligence agencies, the press depends to a considerable extent on a trust relationship between confidential informants. . . . Just as it should not be difficult for reasonable people to see why Attorney General Griffin Bell is reluctant to reveal the names of FBI informants—they might get killed, for one thing—the press is reluctant to break its pledges of confidentiality with its news sources. There is nothing sinister about this—it seems to us that a pledge of confidentiality is something that should be honored."

There are inherent risks in the use of confidential sources, as this editorial points out. In both law enforcement and in newsgathering, the question arises, "How far can their information be trusted?" In the FBI a basic rule for many years has been to verify informant information through independent investigation whenever possible.

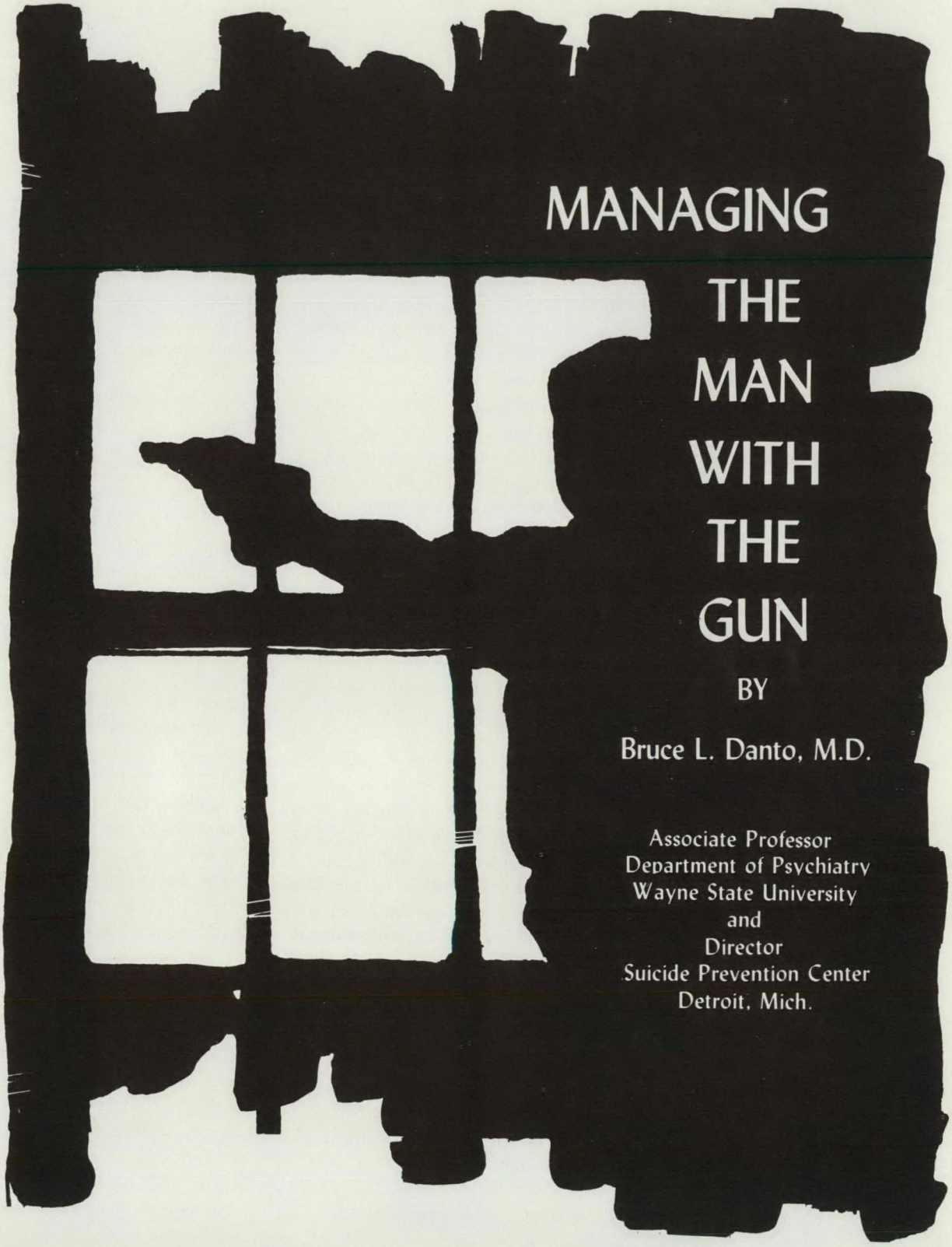
This policy was included in guidelines worked out by the Department of Justice and the FBI under former Attorney General Edward Levi in 1976. In recent congressional testimony on FBI charter legislation, the Department noted the guidelines outlined "limitations on the activities of informants . . . even though many of these limitations were already set forth in individual FBI instructions or recognized in existing practice."

Guidelines for use of informants, whether departmental or embodied in a new congressional charter for the FBI, *will* be followed while I am Director. I fully support the spirit of the present guidelines that "while it is proper for the FBI to use informants in appropriate investigations . . . the FBI must also insure that individual rights are not infringed and that the government itself does not become a violator of the law."

Together, we must reassure the American people that the law enforcement profession recognizes the risks in the use of confidential sources—that we will act judiciously on informant information to insure that "individual rights are not infringed."

November 1, 1978

WILLIAM H. WEBSTER
Director



MANAGING THE MAN WITH THE GUN

BY

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Since most homicides, we now know, occur among family members and most involve firearms, there is probably no type of call more frightening to the police officer than one concerning a man with a gun. With such a call, a policeman knows very well he runs a risk of becoming one of those homicide victims. By learning how to approach disturbed people who threaten him and others with firearms, the officer enhances his chances of survival.

The officer did not have to die. He had been the leader of a five-man team sent to investigate a call from a wife who was concerned about her husband's intentions to commit suicide with a rifle. He and four other officers gathered together on the porch of the white frame home. After ringing the bell, a man who was apparently intoxicated appeared at the screen door. His speech was slurred when he asked what they wanted. The officer explained that they had been called by his wife because she was concerned about him. The man asked to be excused to get a drink. The officers, feeling that the tension which had evoked the call was easing, relaxed momentarily, only to have the subject return with a rifle raised in their direction. The policemen spun out and away from the door, all drawing service revolvers and firing at the same time. Fire from three of his comrades hit the officer, who died shortly afterward on the porch. His death could have been prevented.

Aside from any psychological issues or aspects concerning the subject, five officers should not have gathered together on the porch of the home. They should have anticipated that if it became necessary for them to move quickly or to fire, they would be stumbling over one another. No more than two men should have been on the porch. Two other men should have been stationed on either side of the porch; the fifth should have been located near the rear or side door to cover an attempted escape from that direction.

The officer confronting the subject could have removed his hat, so as to suggest that he and his men had enough time to wait and were in no hurry—a single gesture which usually has a tranquilizing effect and helps calm the disturbed and frightened subject.

They should not have permitted him to leave their view for a drink or any other reason.

Had a dog been present, they would have had to warn the owner that the dog had to be kept under control, removed, or possibly disposed of. Although this action could be questioned because of lawsuits and the like, it would be preferable to risk a lawsuit and bad publicity than to risk a life. A dog can be a disruptive, hostile element if the police are forced to act against the owner.

The subject should either have been invited outside onto the porch or encouraged to invite the officers into the house. Once inside, assuming that is the chosen course of action, an effort should have been made to ask to be seated. Provocative moves like resting the hand on the holster or fingering a nightstick or blackjack should be avoided at all costs, since a disturbed subject might feel that the officer is entertaining violence or aggressive actions or fantasies toward him and causing him to feel more defensive.

When managing the man with a gun, one of the responding officers should attempt to keep members of the family away from the subject. This can prevent relatives from goading the subject toward an act of violence, as it sometimes happens that they tend to serve as instigators or cheerleaders. Taking the family aside likewise offers an excellent opportunity to obtain from them important psychiatric history, such as whether the subject has undergone psychiatric treatment, has ever been hospitalized, has a drug or drinking problem, has firearms elsewhere around the house, has a history of violence, or has any particular person or persons to whom he will listen.

This officer can also reassure members of the family that he will assist them in dealing with their upset loved one since he, too, represents a source of control. He can call an ambulance, city physician, or mental health resource. He can be available to help his fellow officer if there is further trouble with the subject, since his presence suggests to the subject that he (the subject) is not completely in control of the officer with whom he is talking. It means that danger or outside control is beyond his view and this will aid in checking further aggressive actions toward the investigating officer.

What can be done if a subject pulls a gun and points it directly at the officer? Threats against the subject should not be used, since this would only further inflame him and could invite grave consequences. The officer's appealing for the sake of his wife and/or children might work, but usually doesn't. The subject might find some secret revenge in punishing a family to compensate for his impotence in dealing with his own family members. This could involve some feelings of bitterness from childhood, or perhaps through the officer's death,

he could even the score for never having had a family himself. There are far too many unknowns for such a ploy. The officer should make no sudden moves or try to pull some Hollywood cop trick. He will have to write his own script, keeping in mind that while he is doing that, he is writing and acting in his own play.

One may have to face the fact that nothing will work. As in Joseph Wambaugh's novel, *The Onion Field*, it has been clearly demonstrated that even in a situation in which the police involved did everything they should have done for proper management, impulsively oriented criminals kill anyway.

Unfortunately, if the man with the gun is a professional criminal or hitman, or if he is hyped-up on drugs, or suffers from some organic medical problem, nothing may help substantially. However, if the subject is an emotionally disturbed person, much can be done. The following guidelines apply to confrontations between such persons and the police.

Assure the subject that he is in control and ask him what he wants you to do. If he wants you to drop your gun belt or pass your revolver over to him, what do you do? Refusing to follow that order would seem prudent. By giving him your gun you may be giving him a better weapon than he has. Instead, you could either offer to drop it outside through a window or pass it along to a partner. If you are able to do that, you serve as a model for surrender in a manner which will not be costly for you.

If forced to surrender your weapon in the manner recommended, you are free to concentrate on the real issue; namely, the subject's need to trust you and let you help him regain control of himself. If you stall for time and try to avoid safe surrender of your weapon, he will see your thinking activities reflected in your eyes, for example, using or trying to use your gun. If you are free to concentrate on him, you will look like you're completely interested and he will trust you even more. Most of us are poor liars, and if you say you won't try anything but plan on looking for an opportunity, a disturbed person will easily spot that type of behavior.

If you remove your gun to safety and he is still pointing his gun at you, don't be afraid to inform him that his gun makes you feel nervous and it is hard for you to try to understand his troubles with such pressure. You can say, "Look, you have the advantage. I don't have a gun now. Please put the gun down next to you with the barrel toward the wall. That way it won't go off accidentally and we can talk better because I'll be more comfortable. I'm not going to try anything. Just tell me what you want me to do. All you need to do is keep control of yourself. I'm not going to cause you any worry."

When speaking with him, address him as "Sir" or "Sam" or "Mr. ——." For obvious reasons, don't swear, insult him, or cast doubts about his manhood or looks. Don't tell him what you'd like to do to him if you had control of the situation. Speak with a low, comfortable, and reassuring voice. It will help both the subject and you. Should he ask for advice on something you don't know enough about, don't be afraid to admit that you don't know the answer. However, since you can see it is important to him, you might add, "Let's keep talking. Maybe something will come to me." If no answer comes with further dialogue, suggest that you feel you'd like to help him by contacting someone else, perhaps a mental health worker, lawyer, or banker, anyone who might be able to provide the answer.

Once the disturbed subject feels the tension ease and knows of your interest and cooperation, he will be better able to respond and be more receptive to suggestions that he surrender his firearm and let you help him. He will see you as a friend. Remember, most upset people don't want to lose control of themselves. They, too, are afraid to kill someone. They want somebody like you to intervene to prevent that from happening. In fact, many disturbed subjects fire accidentally or out of nervousness or because they secretly want the police to kill them as a type of suicide.

How you deal with the subject after the danger is over and he has surrendered his weapon is as important as how you behave and speak when you are under pressure with the gun pointed at your head. Talk to him nicely and quietly, just as you did when the pressure was on. Absolutely avoid any humorous, put-down remarks, as well as any roughness or violence; there is a good chance that either a mental hospital or a court will subsequently release this man and he will remember how you dealt with him. Strong-arm actions on your part will make him distrustful of you or one of your associates the next time around, but if you manage him properly, the next time he may not have to resort to threatened violence in order to ask for help and control from the outside.

He may have enough power to make it to a hospital or to walk into a police station, if he has trust and a reasonably good memory of how people in authority work as a result of his contact with you. *Remember*, there will be a next time in terms of an emotional crisis. If his psychiatric treatment has been inadequate or he has not received the care he needs, he may have to press the panic button again in a more desperate attempt to get the help he needs.

If you cuff him en route to your patrol car, do so gently. Don't leave him with wrist scars by which to remember you. Speak with him about getting some psychiatric help. Praise him for being cooperative with you. Such praise is well-deserved. After

all, you're both alive! He helped bring that about.

Once comfortably situated in your car, seat him on the nonfirearm side of an officer in the back seat, if you work as a two-man team. By all means, conduct a careful search for some other type of weapon. One officer was killed recently when he failed to search well enough and overlooked a second gun.

Can anything else be done to aid the officer responding to the man-with-a-gun call? Certainly! Even before the officers reach the scene and initiate an investigation, important measures can be taken by communications personnel, whose skills in obtaining information might help to save lives. What kind of information is helpful? There is a great deal of information which can offer psychological, as well as combat, guidelines for the management of an abnormal person who has a gun.

As a car is being dispatched, the communications officer or dispatcher can ask the caller about the firearms. "Is it a handgun or long rifle or shotgun? Are there more guns, and if so, where are they kept? Are any stashed away in chairs, each room, gun cabinets, or underneath mattresses? Are such guns kept loaded or does the subject keep them locked up with ammunition separate and locked"?

The latter information can reveal that the subject has been an individual concerned about safety and protection, and as a result, might be less likely to hurt someone if he can be talked back into control. If the subject has a gun in every room and keeps them loaded, it might reveal him to be a paranoid person; that is, one who is suspicious of everyone and sees violence coming from others rather than from himself. It also might very well mean that he will be watching you like a hawk and it will be harder for you to encourage him to feel a sense of trust in you or anyone else.

Should the subject himself be the caller, it could be of help to ask for a serial number and some description of the firearm—especially if claim is made for a handgun. A person who has a gun for its sales value and dramatic effect will enjoy reading the manufacturer's name and looking for the serial number. In this way he can verify actual possession of a firearm. If he tends to be melodramatic or exhibitionistic about himself, he may click the hammer of the revolver and this may make a sound which can be heard over the phone. He may add a menacing quality to his exhibitionistic flare by firing off a shot. If he does that as you talk or as someone else reports the incident, he is telling you he has less control and very well might start shooting before or after your arrival at the scene.

It can be helpful to inquire about past military experience, combat experience in particular. If such history exists, it may mean that he had insurrection and counterguerrilla training, and this fact will add extra menace and difficulty to your assignment. He has been through combat and will respond to your armed presence in a very sophisticated and lethal manner. Although slightly different, but just as awesome, is a history indicating that the subject either hunts with firearms or is a shooting enthusiast and sportsman. The latter fact is less common among murderers, due to the discipline and control required of competitive shooters and kinds of people who use firearms for those reasons.

Among the factors deserving additional inquiry are previous psychiatric illness or treatments. The presence of a mental illness might mean the subject has less emotional control and some impaired judgment when upset. Such a history might reveal that there is a doctor who can offer you assistance, since he knows the patient and might be someone the subject trusts and can talk to.

An effort should be made to determine if the subject has been using any street drugs or diet pills, if he has epilepsy or a drinking problem, or if he had been drinking at the time he became upset. If so, simple waiting, quiet talking, and patience might allow the effects of a toxic substance to wear off so that he could come down from a high or agitated state. Furthermore, if he has not slept for a long time either because of an intoxicated or agitated state, waiting and patience might cause him in due time to develop sleepiness and to slow down.

Although this aspect pertains more to combat considerations, you should find out where the subject is located. Is he in an apartment or home? If he is in a home, is he upstairs in a bedroom? If so, try to determine the location of the bedroom in terms of front, back, or side position of the home and where the nearest neighbor's home is in terms of being able to observe the subject through field glasses. This would be of help in case he has to be stopped by a sniper.

It would also be helpful to know if the subject has a history of suicidal behavior, in order to determine a plan for combat operations. Any shooting at police may well mask his suicidal intent in terms of using them as his instrument of suicide. In this way, the police become killers in his mind, and he disclaims responsibility for his suicide. He may even see his behavior as an act of heroism, with him dying in the line of duty for some cause.

With regard to the sniper who may be acting out a rather dramatic type of suicidal plan, it would seem plausible to dispatch only a few police officers to the scene. One patrol car may be all that is required. Responding plainclothes officers, compared to uniformed, generally do not attract bystanders and gawkers; they tend to minimize the carnival aspect seen in recent shoot-outs which involved officers tripping over people who should

not have been there. If the uniforms are not visible, the sniper will not find shooting so attractive, since his plan involves being killed by policemen whose uniforms serve as props for the drama. As little noise and excitement as possible is the best approach to the sniper. Flashers and sirens often will act as stimulants to a person who is already emotionally disturbed before you arrive. Finally (and this is the tough one, because it may not work), send no more than two men to either side of the door to determine if the man can be talked into a calmer state and possible surrender. Only if the disturbed person cannot be talked into a calmer state should the long distance shoot-out maneuver be implemented.

"Usually, the more controlled and quiet approach is the most effective."

Usually, the more controlled and quiet approach is the most effective. It is not as likely to set off the man with a gun. It offers him professional intervention in his life, but still leaves him with an important sense of dignity. Even after the danger and/or smoke of battle is over, such dignity and control are necessary during the arrest and booking phase of the action. His needs must be recognized even more when the balance of power and control have shifted to your side. He will remember all that happens. During his stay in jail or in a mental hospital, he will have time to replay the scene many, many times. When your behavior toward him shows a basic attitude of respect for someone in psychological trouble and crying for help from someone like you, it will go a long way in helping him provide management of the next chapter in his life.

Now, what about the man who does not have a gun, but the caller says he does or might have one? There are many who threaten but who are not really violent; they press the panic button in order to convince you they need help. They have learned that unless some very threatening or dramatic form of crying for help is used, no one will pay any attention. I remember one man who had just been released from a mental hospital about an hour before he called the police department threatening to kill a certain person, saying he had a gun in each pocket to prove it. He waited in the phone booth and chatted with the dispatcher until a patrol car arrived to arrest him. There were no guns found.

These calls are difficult for any professional to assess, but you must play the game as if the subject really has a firearm, or it may cost you your life or the loss of life to another citizen. The following incident offers a number of clues as to what must be considered in reaching a decision.

One Sunday morning in December, near Christmas, I received a call from a local police department. The desk sergeant asked for advice concerning a man who was holed up in a room of a local hotel. He claimed to have a handgun with 1,000 rounds of ammunition, wanted to commit suicide, and would shoot anyone who approached to stop him. The man had kept the police at bay for 14 hours. With honesty, the sergeant said his men felt helpless and did not want to risk blasting away at him.

Bruce L. Danto

It was agreed that I would call the man at his hotel room and then check back with the desk sergeant after my evaluation. I called the man who talked in a firm, but somewhat threatening, voice. He related how he had been there a week, had been drinking alcohol heavily, had a history of a peptic ulcer, and had been bleeding from his stomach for several days. Upon questioning he related that he had a handgun with 1,000 rounds of ammunition. He would not identify the make of the gun or describe its caliber. Instead, he threatened to blast the "first cop bastard who shows up." I asked if he would let me come down and talk to him through the door and bring him some cigarettes if he needed them. He finally agreed to do so. The call took about 15 minutes. I cleared it with the police department and informed the sergeant that I would be carrying my own .38-caliber revolver as well.

After arriving at the hotel, it was decided to send away most of the police cars except the unmarked one. On the second floor were two officers who were positioned on either side of me as I stood away from the door on the side near the wall. I spoke with the subject for 30 minutes. He repeated his story and threats and could offer no reasons for his wish to die. There was no family or personal life stress about which he could talk. Thus, with reason for suicide absent, it sounded to me like he was a down-and-out homeless man and alcoholic who wanted some help and who had only enough nerve to invite the police to do what he could not do—bring about his death. In addition, he sounded too

healthy for a person who supposedly had been bleeding for several days, had not eaten, and had been drinking. His voice was not slurred. He sounded a note of menace in light of no reason. He was tougher sounding than he had to be under the circumstances. No one on our side of the door was threatening him.

He was told we were prepared to break down the door unless he showed good faith by opening the door to talk to me and receive the cigarettes I had promised to bring. He made threats to start shooting, but I didn't hear a hammer cocked back and he did not fire a warning shot—an act I felt he would commit if he really meant business. I gambled that he did not have a firearm. After counting out loud to three, an officer and I kicked in the lower panel of the hotel room door. The man immediately called out that he did not have a gun and asked us not to shoot. Holding the .38 in one hand, I displayed my medical bag in the other, as I didn't completely trust him. I asked where the light switch was and told him we were coming in. After doing that and turning on the lights, we saw him cringing in a corner of his bed. There were neither firearms, whiskey bottles, signs of vomitus in the sink or on the floor, nor anything else to verify his story. The police officers searched the man and looked underneath his mattress for concealed weapons. I continued talking to him and explained he would have to be assisted to the car while wearing cuffs. The officers were very understanding and helpful and explained that he would be driven by them to a local county mental hospital for observation, evaluation, and possible admission. They addressed him as "sir" and were careful not to put him down or embarrass him. The unmarked car was brought to the rear entrance, and he was assisted into the back seat and driven to the hospital. Three weeks later I received a phone call from the man, who expressed his appreciation for our help and his sense of embarrassment over his behavior. I explained that I hoped he would remain in contact with the hospital staff and hoped that if he felt upset he would not have to set himself up that way again. He seemed to understand that there were other less risky ways to ask for help.

There are some areas in which it might be very difficult to obtain information. For example, if the subject is unknown to your department but has a criminal record which turns up later, long after the emergency, it would have been helpful to know at the time. It would offer a measure of his aggressive acting-out if he had killed someone, been involved in felonious assaults, been on drugs, or had been a professional criminal in some way. As regards to homicidal behavior, don't make the mistake of assuming that if the man with a gun threatens suicide, it means you are safe. All of us know that many killers commit suicide either at the time of homicide or subsequently. Many snipers and assassins kill in order to be killed. People who struggle with violent feelings while trying to cope with feelings of rage, helplessness, and fears of the immediate future are people who can lose control of such aggressive feelings, and may express them impulsively toward themselves or others.

Trying to obtain an accurate picture based on a story offered by someone apparently psychotic and weaving distorted stories, expressing disconnected thoughts, and relating bizarre plots and actions of others is difficult, even for a psychiatrist. Speaking with them over the phone lends more confusion to the task, since you are missing important visual clues, as well as contact with others who can verify any or all parts of the story.

I recollect once speaking with a man on the phone who had fired a gun while talking on the phone to a volunteer. Because the volunteer was inexperienced, he panicked and asked for help. He was not sure the noise was gunfire. I spoke with the subject and listened to his delusional story about how he was an inventor of a

machinegun which fired 1,000 rounds of .45-cal. ammunition per minute. He related that the gun weighed only 3½ pounds, never needed oiling, and could not jam. He felt that the Russians were trying to steal the prototype model. When asked why he had called and had threatened suicide, he explained that he would rather die than let the Russians get his invention. He rationalized that it was an act of patriotism to die in this manner. He was sure that anyone sent to his house would be Russian and he would have to kill him.

When the local police began their investigation, I shared what reliable information had been gathered from him. Because my personal belief is that anyone threatening to use a firearm should be locked in by a listener's ears, he was kept on the phone. A short time later he heard a noise on his porch, left the phone to investigate, and told me that he was going to shoot some Communists. He hung up the phone. I immediately called him back, and as is the case with most emotionally upset persons, he could not resist answering the phone. Apparently, persistent phoning was enough to keep him from setting up an ambush for the officers. They entered his home while he was still on the phone. His front door had been left unlocked. Of course, there was no machinegun, even one firing less than 1,000 rounds a minute. There was, however, a loaded, single-shot .22-cal. rifle leaning against the wall near his phone.

What is the moral of this story? Even though he offered an unbelievable claim—his invention wrapped in the colorful array of his delusions about the Russians—he did have a firearm which he had discharged over the phone for the dramatic effect and sales value when the volunteer had initial contact with him. The listener must always take the time to assess properly the real from the unreal dangers in the emergency call.

There is another lesson to be learned here. The one handling the call should maintain contact so that investigating police officers do not walk into an unsuspected ambush. In addition to this advantage, the listener-talker can offer some control to the subject so that his level of agitation can be effectively reduced by the time the officers arrive.

In light of the preceding, it becomes apparent that management of a man-with-a-gun call is a complicated business. It requires a great deal of strategy and cooperation among people from different community agencies, as well as members of the subject's family and neighborhood. Everyone, including the antipolice groups, recognizes that the police officer is the symbol of authority, law, and courage. He, therefore, is drawn into the grim crisis. The problem arises when he feels the need to turn to someone else for guidance and cooperative assistance. All too often, the police officer's cries for help fall on deaf ears and mental health professionals who are unable to understand or cope with violence themselves, except when writing about it from a safe distance. Most mental health consultants have not made patrol with the police and are frightened of firearms. A new type of relationship is needed to handle this type of frightening phone call. Both the police officer and mental health person must rub elbows, share responsibilities for management of the man-with-a-gun call, and search for answers to better understand and cope with this growing problem.

Police personnel should work now for the development of various mental health neighborhood and community resources so that they will know whom to contact before the danger call arises. In one Wisconsin city, bartenders and waitresses receive mental health training so that they can serve as resource people. Every police department should have a program for those mental health professionals who can accept the realities and problems of their police department and who can communicate and be available to officers in need of emergency consultation. Special mental health teams consisting of a police officer, a law student or a member of local public defender's office, a social worker, and a psychiatrist or psychologist could be attached to every department to handle such important and frightening problems as the man with a gun. Unfortunately, special teams in police departments sometimes become alienated from other divisions of the department, soon dissolve into a single man or desk position, and finally are wiped out altogether. But, the mental health team designed to deal with the disturbed person needs continued life, since the community problem of violence is growing like a cancer.

In summation, when coping with the man-with-gun call, follow these general guidelines: (1) Obtain helpful information about any past history of violence or psychiatric disturbances; (2) learn about the location of the subject and his firearms collection and training; and (3) approach him with cautious courtesy and efforts free of provocative signs or behavior that could be misinterpreted by him as threatening.

Although more people are being killed by neighbors and social contracts than by organized crime, little is being done to develop the staff and techniques for dealing with disturbed persons who can readily obtain firearms, explosives, or other lethal instruments. Bigger armaments should not be the only aspects of the management program. We need people who can learn to deal with those who present a danger to our community. We must safely protect the community from the man with a gun, and safely protect the man with a gun from himself.

273-752 O - 78 - 2

Evaluation Program for Investigative Report Writing

By

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Investigative report writing traditionally has been a low training priority for new law enforcement officers. New recruits are given perhaps a 4-hour lecture on report writing and are thereafter expected to write good investigative reports. Officers in the field may be given periodic retraining lectures on report writing as a token measure to correct administrators' complaints that "the reports of our investigators are atrocious." These methods are clearly not benefiting the employee or the organization. Many officers are still struggling with report writing, and many administrators are still complaining about the quality of reports their officers submit.

Report writing taught by the structured lecture method of teaching is not working. Report writing is a skill and should be taught as a skill. Most law enforcement officers have the ability to write clearly and logically; however, this ability is not developed by the organization. In order to develop the skill of investigative report writing, the training must include *practice and evaluation of performance* against set standards.

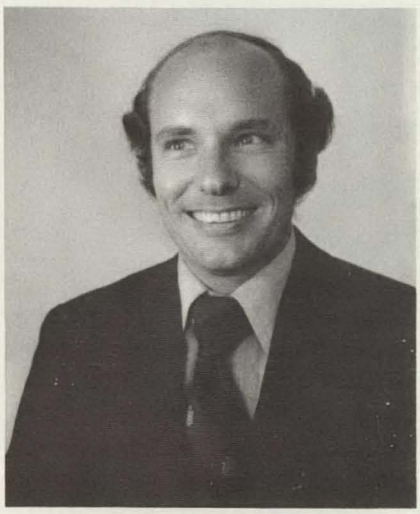
Although much of the law enforcement officer's time is spent preparing reports, further schooling is not the answer to correcting report-writing problems. The answer is practice-evaluation-correction, and more practice-evaluation-correction.

Practice involves the law enforcement officer actually writing a report of an investigation. This is done everyday by investigators. The problem is not one of practice opportunities, but rather one of effective evaluation of the investigative report.

Before evaluating any kind of performance, standards of that performance must be designed and defined. Thus, it must be determined what standards an acceptable report must meet. From these, an evaluation can be made: What was expected versus what was actually in the report. Evaluations with such general comments as "rewrite," "bad report," "can't understand," "report unacceptable," etc., are not effective in changing or developing report writing. Evaluations must be specific and immediate.

Few agencies, if any, have established written standards for investigative reports. However, when an agency does set up investigative report-writing standards, the standards must be supported and accepted by the field personnel. This support is usually achieved if field personnel are included in the decisionmaking process.

"Few agencies, if any, have established written standards for investigative reports. However, when an agency does set up investigative report-writing standards, the standards must be supported and accepted by the field personnel."



Capt. John J. Harris, Jr.

Charles A. Nuzem
Division Director

Investigative report-writing standards should be listed and might include some of the following:

1. Elements of the offense clearly shown;
2. Facts which support increased penalty, as recommended by the investigating officer;
3. Probable cause for stop/detention/arrest;
4. Basis for search and seizure of a person, dwelling, or vehicle;
5. Miranda advisement and waiver;
6. Statements by suspect(s) and witness(es);
7. Suspect's demeanor;
8. Support of extraordinary circumstances, like a 6-month delay in an arrest;
9. Scientific analyses summarized and attached;
10. Proper format used;
11. Too few details;
12. Spelling errors; and
13. Poor organization.

This list could continue and in fact will be continued in the sample investigative report-writing chart. It is important that these investigative report-writing standards remain simple and easily defined.

Once these standards are accepted by management and officers, the evaluation system can then be implemented. The evaluation of the reports should be made by the employee's immediate supervisor as each report is submitted. To assist the supervisors in recordkeeping requirements of any evaluation system, a chart should be prepared listing all of the investigative report-writing standards. This chart could be used to determine problem areas and frequencies, as well as who is having the problems. Without such a management tool, long-range training planning would not be possible in improving investigative report writing. (See chart.)

This evaluation chart will show which aspect of the officer's report writing needs attention, and as time progresses, whether the supervisor and the officer have

	REPORT NUMBER													
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
1. ELEMENTS OF THE OFFENSE NOT CLEAR														
2. PENALTY ENHANCING CIRCUMSTANCES NOT CLEAR														
3. NO PROBABLE CAUSE FOR STOP/ DETENTION/ARREST														
4. CONSTITUTIONAL REQUIREMENTS NOT MET FOR SEARCH OR SEIZURE														
5. NO MIRANDA ADVISEMENT AND WAIVER														
6. NO STATEMENTS BY SUSPECT(S) AND WITNESS(ES)														
7. NO MENTION OF SUSPECT'S DEMEANOR														
8. IMPORTANT ISSUE(S) AND/OR QUESTION(S) LEFT UNANSWERED														
9. NO SCIENTIFIC ANALYSIS INCLUDED														
10. FORMAT INCORRECT														
11. SPELLING ERROR														
12. GRAMMAR FAULT														
13. ORGANIZATION POOR														
14. TOO FEW DETAILS; TOO BRIEF														
15. INADEQUATE PROOF OF CRIME; REASONABLE DOUBT OR PREPONDERANCE OF EVIDENCE RULES														
16. NO CHRONOLOGICAL ORDER TO REPORT														
17. JUMPY, TOO MANY SHORT SENTENCES														
18. RAMBLING SENTENCES AND/OR LONG PARAGRAPHS														
19. INCORRECT USE OF SLANG, CONTRACTIONS, UNEXPLAINED ABBREVIATIONS, ETC.														
20. FAILED TO IDENTIFY ALL PERSONS MENTIONED IN THE REPORT														
21. REPETITIOUS														
22. UNTIDY, MESSY, CARELESS WORK														
23. UNCLEAR, VAGUE, AMBIGUOUS														
24. UNNECESSARY WORDS OR SENTENCES														
25. TOO WORDY, TOO MANY GENERALITIES														
26. LACKS CONTINUITY														
27. SUPPORTIVE DOCUMENTS NOT ATTACHED														
28. CONFUSING														
29. PASSIVE VOICE INSTEAD OF ACTIVE VOICE														

been successful in correcting the major faults. As each investigative report is evaluated, each type of error, as indicated in the margins by the reviewer, should be counted and entered on the chart. For example, if on report number 1 the evaluator enters number 1 in the margin once, it means that the officer did not clearly include the elements of the offense in the report. Thus 1 would be entered under column 1 opposite fault number 1.

The object of training in investigative report writing must become skill development. By using an evaluation program based on specific written standards, problem areas can be defined and corrected. The ratio between cost and benefit of this type of training is suggested to be closer than the ratio between cost and benefit of classroom-type training. The evaluation program has been used for years by coaches in correcting faults of players, as well as by other types of instructors to develop skills.

The benefits of better investigative reports are many. The primary organizational benefit would be time-saving. Initially, supervisors should, and will, take a lot of time to review and evaluate reports. However, once investigators become familiar with the standards and begin correcting many of their own faults by simply re-reading their reports, time and money will be saved by the department.

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REPORT WRITING BLUNDERS: *The Case of the Missing Nail*

By
JOHN E. McHALE, JR.
Special Agent
Federal Bureau of Investigation
Washington, D.C.

Albert Joseph's recent article, "How To Write Clearly In One Easy Lesson," [1] was heartwarming in many respects. It not only made a number of good points—in a practical, effective manner—but most importantly of all, it couldn't possibly have aired them in a better place.

As Mr. Joseph pointed out, the lack of good writing is an almost universal problem, but it has special drawbacks in the field of law enforcement where an improperly worded indictment can get a whole case thrown out of court.

Take, for example, the simple statement: Joe, said Pete, killed Harry. Remove the commas, and the statement is completely turned around, with Joe claiming that Pete has done the dirty deed.

Despite this fact, very few law enforcement officers are hired for their knowledge of the English language,

and almost none of them receive any training in it during their days on the force. The result is that their reports—often written under hectic, harried conditions—contain numerous errors of varying degrees of seriousness. They also contain just as many errors of a nonserious nature. Over the years, I have made a hobby of collecting any I came across.

As a followup to Mr. Joseph's article, I offer some of the funnier "bloopers" I have extracted from actual reports with the hope that each provides a lesson of sorts. None of them deal with such out-dated grammatical problems as split infinitives or sentences that end in prepositions, but misplaced modifiers and dangling participles have led many a writer into garbled constructions that even a Mrs. Malaprop might have envied.

Law enforcement officers, being human, fall prey to the same syntactical errors that plague their contemporaries and are just as apt to say "the general consensus of opinion is . . ." or that something "is comprised of" something else. In the former example, the phrase "of opinion" is unnecessary; in the latter, "of" is incorrect. If the sentence requires "of," the preceding word should have been "composed" instead of "comprised."

On a less staid note are some of the following goofs:

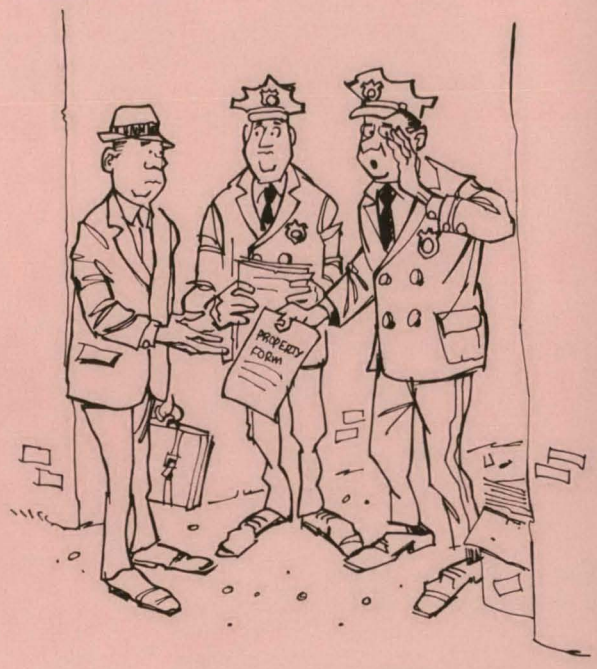
"The Public Safety Director stated that he did not feel any of the county officials were trying to flaunt the gun registration law." (Why not? Better to flaunt it than flout it, since flaunt means to show off, while flout means to scoff at or scorn.)

"The subject was cited for wreckless driving." (I wish my son would get one of these citations. Reckless driving is a different matter altogether.)

"The arresting officer found himself caught in a vicelike grip." (Not unless he was arresting a prostitute, he didn't. The correct word should have been "vise-like.")

"State Police recently arrested two fugitives, both wanted in the State of Ohio on the Pennsylvania Turnpike." (Hard to tell here whether the sentence means that Ohio is on the Pennsylvania Turnpike or whether the subjects were wanted only on the turnpike.)

"The police handed out stolen property forms." (At least that is one way to cut down on the expenses of running a police department. Grammatically, however, a hyphen should have been used between "stolen" and "property" to eliminate the ambiguity.)



"One of the officers called out for the youths to halt three or four times." (This stop-and-start operation must have looked like an old Keystone Kops movie. More accurately, the sentence should have said that the officer called out three or four times for the culprits to halt.)

"At the time of his arrest, the subject had a new revolver which he had bought in the glove compartment of his car." (The glove compartment is a most unusual place to purchase a revolver. I wonder how he and the sales clerk got in there at the same time.)

"In firing another shot, Jones was struck by Brown's bullet and killed." (Let's hope this sentence was never used in a court of law, because it indicates that Jones was engaged in a shootout with Brown, thereby making possible a claim of self-defense. In reality, what the writer meant to say was that Brown fired more than one shot.)

"During the search of Mrs. Brown's residence, several pieces of jewelry were found buried in a flower pot which had been taken during the course of a burglary."

"Paperwork is an essential part of any law enforcement officer's duties. Lack of preparation can have serious repercussions, regardless of how trivial it may seem at the time."

(My mother always told me to watch out for flowerpot thieves. They're the worst kind.)

"When the subject, West, lunged at the patrolman with a knife in his hand, the patrolman said that he had no alternative except to shoot West in the left shoulder." (I don't know; I think he could just as well have shot him in the right shoulder, or else he could have broken up this thought into two sentences rather than use such an awkward construction.)

"Warden Smith advised that recently there have been numerous incidents of the prisoners or visitors smuggling drugs into the stockade which never before existed except on rare occasions." (Wow! This one is a real beaut. I almost wish I had thought of it myself.)

"The group announced its intention to disrupt a performance at the theater and to ridicule an event sponsored by the Army by various means." (Maybe the demonstrators wouldn't have been so angry if the Army had used only one means.)

"The subject quite frequently sells various gamblers in the area automobiles." (I didn't think there was that much of a market for used gamblers at the present time. Actually, this sentence sounds like the old classic where the immigrant farmer reportedly told someone, "I threw the cow over the fence a bale of hay.")

"What are the true facts in this matter"? (Some day I would like to see someone ask what the untrue facts are, but I suppose that will have to wait for a later report.)

In the meantime, I hope you get the general idea. Correcting grammar is not just an exercise in nitpicking. Often it goes to the very heart of what the writer is trying to say.

Law enforcement officers spend hundreds of hours on the firearms range during their careers, although most of them will retire without ever having fired a shot. At the same time, they are required daily to put their work down on paper, but no one bothers to tell them how to do it.

Part of this problem is being corrected as the educational level of police officers rises, but even a college degree offers no assurance that the holder can compose a coherent sentence. What we need is more emphasis in our training programs on the importance of accurate, understandable report writing.

Possibly, some agencies may feel that they do not have an instructor capable of handling such an assignment. If so, I would recommend that they consider borrowing one, as necessary, from the staff of a local high school or university.

Paperwork is an essential part of any law enforcement officer's duties. Lack of preparation can have serious repercussions, regardless of how trivial it may seem at the time.

As George Herbert pointed out back in the 17th century, the loss of a simple nail cost, in turn, a horse, the horse's rider, the battle they were fighting, and eventually, the kingdom itself. Three centuries later, attention to detail is just as important.

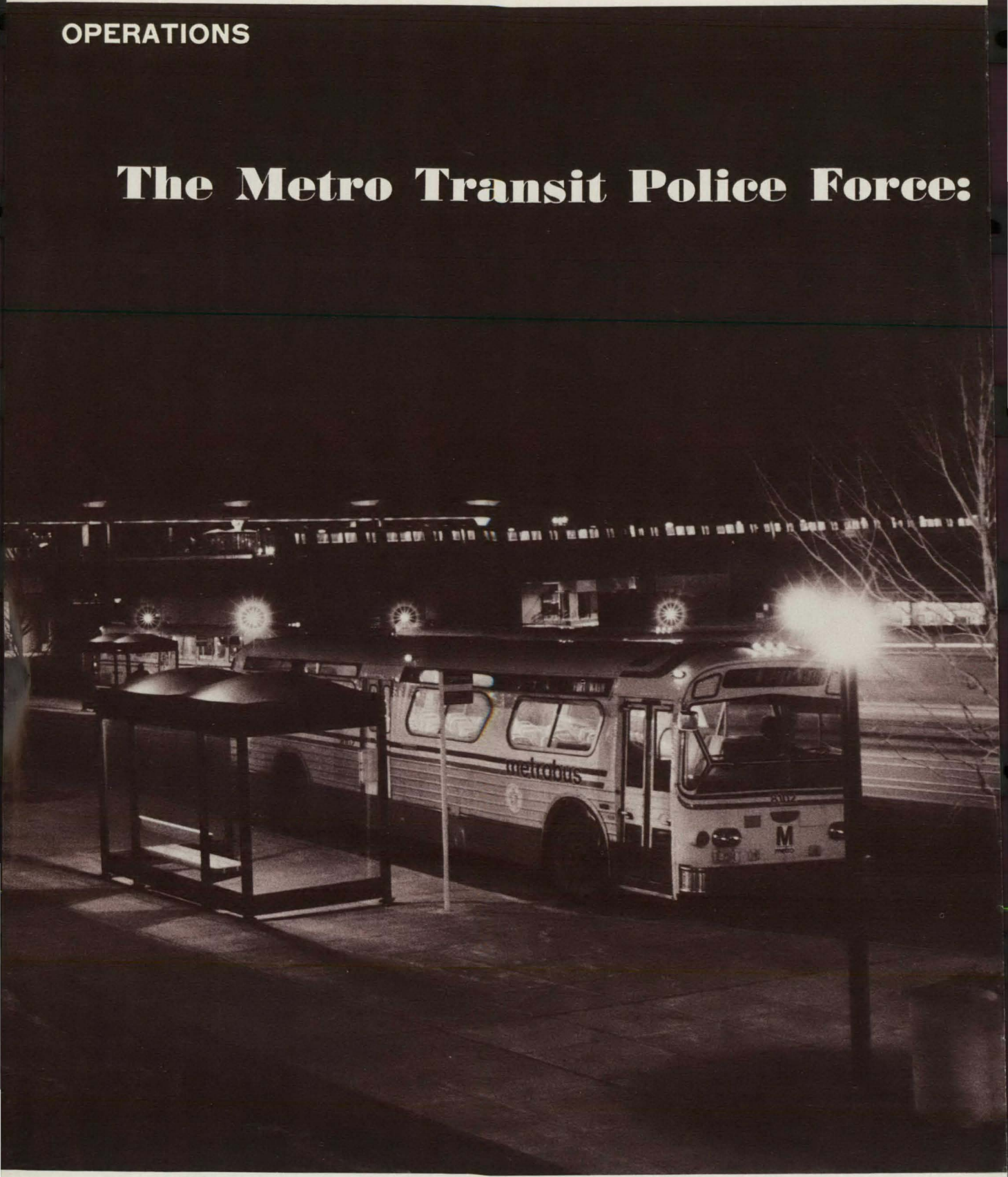
Regularly we go into court and ask juries to convict criminals based on evidence invisible to the naked eye. But how can we expect people to believe what they can't see when what they do see is filled with errors?

Credibility is based on truth; truth is based on accuracy. With a little bit of effort, we ought to be able to get the three of them together. After that, I can abandon my hobby of collecting "bloopers" and turn to something more constructive, like upside-down stamps or coins.

FOOTNOTE

[1] *FBI Law Enforcement Bulletin*, Vol. 47, No. 2, February 1978, pp. 28–31.

The Metro Transit Police Force:



America's First Tristate, Multi–jurisdictional Police Force

By
CAPT. MARTIN HANNON
Director of Training
Washington Metropolitan Area
Transit Authority Police
Washington, D.C.

Metro

On March 27, 1976, Washington, D.C., proudly joined the list of other international capital cities benefiting from an integrated mass transit facility. Washington's system is known officially as the Washington Metropolitan Area Transit Authority (WMATA), and is comprised of Metrobus, a surface transit facility, and Metrorail, the first tristate, fully automated, high-speed, mass transit rail system in the United States.

WMATA was formed by an interstate compact adopted by Maryland, Virginia, and the District of Columbia City Council with the consent of the U.S. Congress. WMATA, in law, has both "body corporate" and "public service" powers to plan, coordinate, and regulate surface and rapid rail mass transit services in the greater Washington metropolitan area.

Mass Transportation in the Greater Washington Metropolitan Area

The greater Washington metropolitan area has a population of 2.87 million, with an anticipated growth of 4.7 million by 1995. For compact purposes, Washington, D.C., a 69.2 square-mile area containing an estimated 750,000 residents, was granted legal status as a coequal partner with Maryland and Virginia.

Metrorail, in the greater Washington metropolitan area, is the interurban link for a new aerial-surface-subterranean mass transit continuum. It provides rapid rail service to Union Station, one of the major railroad terminals on the Atlantic Coast and the home of the National Visitor Center. It likewise serves Washington's National Airport.

Still in its developmental stage, Metrorail has approximately 25 miles of operational track and 29 rail stations located in the heart of downtown Washington and its surrounding suburbs. The system offers rapid rail service from 6 a.m. to midnight during weekdays, with limited weekend service.

During weekday rush hour cycles, Metrobus has approximately 1,600 buses on the streets, servicing 775 established bus routes located throughout the transit zone. These buses log 156,000 route-miles per day. They average 16,000 trips per week, while carrying approximately 2.4 million passengers.

Ridership

One period of peak ridership occurs between 11 a.m. and 2 p.m. These passengers have been dubbed the "lunch bunch" by the Washington, D.C., press. Metrorail's ridership matrix consists of government workers

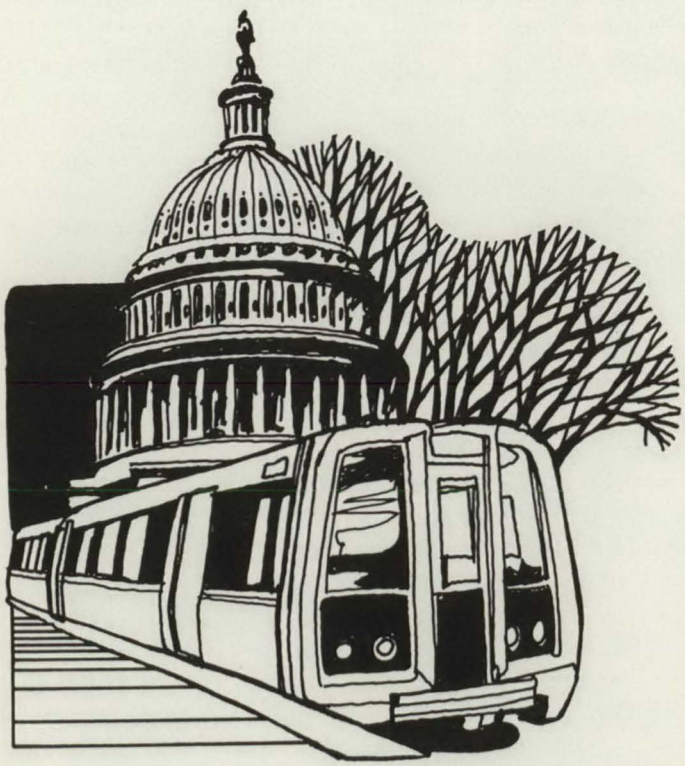
"[T]he protection of Metro ridership, transit employees, systems technologies, transit properties, and public revenues poses a police problem of considerable magnitude."

(Federal, State, and local), non-Government tertiary service workers, foreign nationals, and tourists. Washington's Board of Trade estimates that 18 million tourists visit the metropolitan area each year.

Projected System Hardware

It is anticipated that by its projected completion in 1985 Metrorail will have 556 cars, 7 jurisdictionally based train repair yards, 5 geographically placed communications relay stations, 29,347 revenue-producing parking spaces in 32 parking lots, feeder-bus and taxi service lanes at outlying suburban train station locations, and a fully automated fare-card collection system. Additionally, more than 100 miles of revenue track and 87 station facilities will be operational upon completion. In all, the five presently planned, color-coded, radial-alphabet, rail-route designations will extend outward from core Washington, D.C., to suburban population centers, with Metrobus completing the grid service coverage over the entire Washington metropolitan area. Projected transit revenue is placed at $1 million per day. Metro's work force will number approximately 6,500 and expected patronage is 352 million per year.

Obviously, the protection of Metro ridership, transit employees, systems technologies, transit properties, and public revenues poses a police problem of considerable magnitude.



Metro Transit Police Force

The Metro Transit Police Force (MTP) came into being as an interim special police force in March 1976. However, on June 4, 1976, the MTP's authority and responsibilities were expanded when the President of the United States signed Public Law 94–306, authorizing the establishment of a regular police force ". . . composed of both uniform and plainclothes personnel . . . charged with the duty of enforcing the laws of the signatories, the laws, ordinances, and regulations of the political subdivisions thereof in the transit zone, and the rules and regulations of the Authority." The law further stipulated that " . . . members of the Metro Transit Police shall have concurrent jurisdiction in the performance of their duties with the duly constituted law enforcement agencies of the signatories and of the political subdivisions thereof in which any transit facility of the Authority is located or in which the Authority operates any transit service."

Thus, the President's signature, in concert with previously passed legislation by the appropriate governing bodies of Maryland, Virginia, and the District of Columbia, established the Metro Transit Police Force—a police department unique in that it is the only non-Federal, tristate, transit police force in the United States with concurrent authority to enforce applicable State statutes, as well as local ordinances of municipalities within the transit zone.

Joint Policing Concept

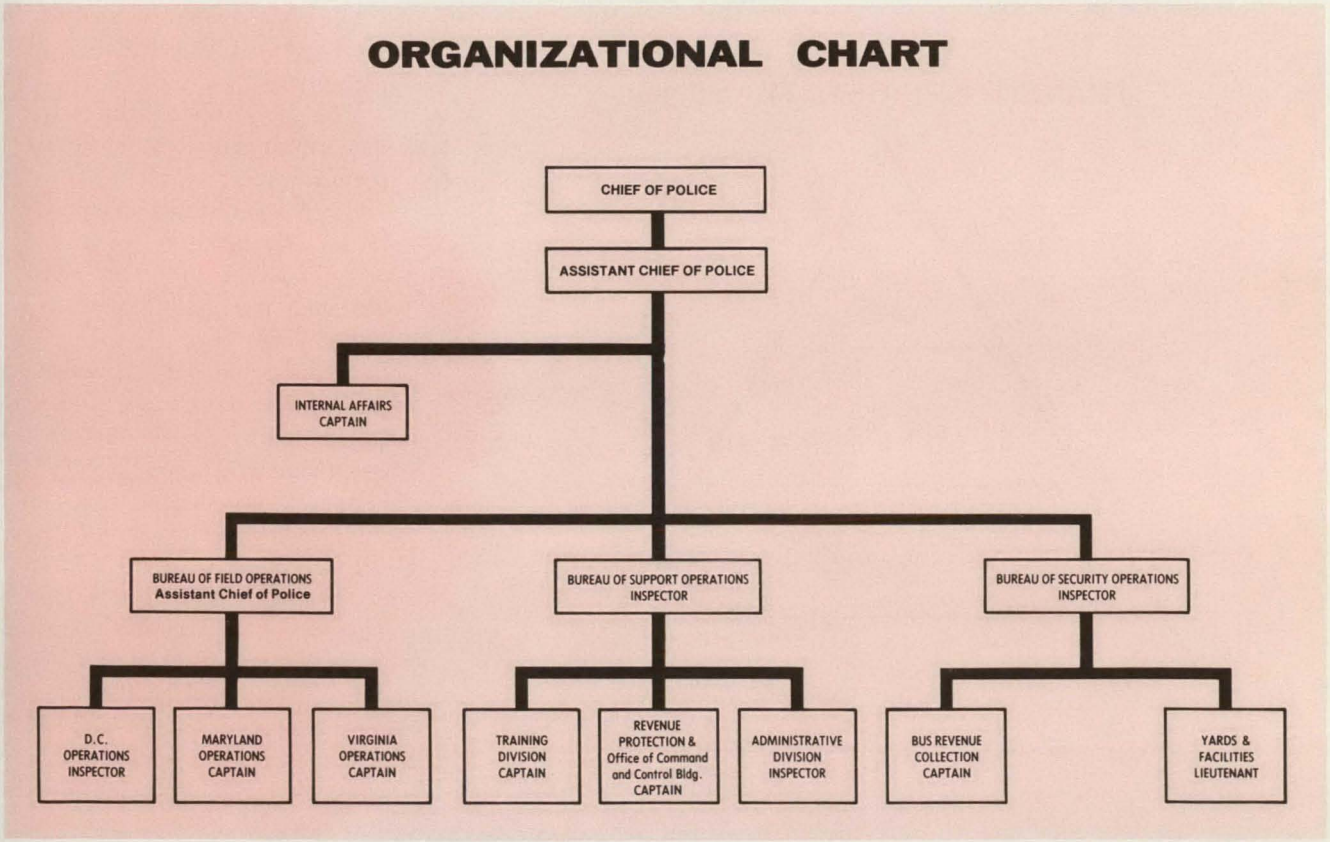
In the interests of efficiency, a joint policing concept between the local and transit police evolved. The MTP, as a result, now assumes primary enforcement responsibility on the trains, tunnels, and fund-generating properties, while local police departments assume primary responsibility for rail stations, parking lots, and buses.

Services, such as booking, detention, court liaison, recordkeeping, and transportation, as well as the specialized help needed for homicides and juvenile delinquency cases, for example, are provided by the respective local jurisdictions, thereby eliminating the duplication of costly administrative support service. Teamwork and cooperation allow each agency to achieve its objective within cost effective constraints.

Organization

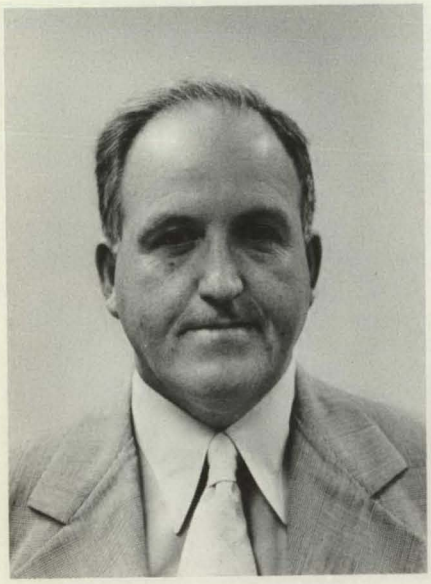
In order to meet the administrative challenge that a tristate law enforcement jurisdiction presented, the selection of senior ranking transit police officials was based upon the record and achievements of each as an expert in law enforcement and/or security operations in a police force located in Maryland, Virginia, and the District of Columbia, or in the military.

Since Public Law 94–306 stipulated that the MTP would exercise administrative control over entry level qualifications, position classifications, removals, compensation, pension, retirement, mandated police training, and other related administrative matters, policy demanded that the MTP assume a posture commensurate with those public police departments interfacing with it. As such, the MTP now has a rank-structured pyramid as its "chain of command." (See organizational chart.)



At the apex of the organization is the position of chief of police, the chief administrator over the Authority's combined Metrorail/Metrobus police operation. He is assisted by a personally selected staff composed of an assistant chief of police, three inspectors, seven captains, and five lieutenants. The line supervisory police management level is composed of sergeants.

MTP personnel are deployed among three operational bureaus. The Bureau of Field Operations has the around-the-clock policing responsibilities for Metrobus and Metrorail operations within the transit zone. The Bureau of Security Operations maintains industrial plant-type security on fixed posts for rail/bus facilities, such as train repair yards, bus divisions, and the Metro command center building. The Bureau of Support Operations has the responsibilities for staff functions in support of line operations, such as training, revenue protection, fiscal affairs, personnel, and administrative clerical services.



Capt. Martin Hannon

Angus B. MacLean
Chief of Police

Training

Due to the multijurisdictional aspect of the MTP, WMATA is required to train and qualify each officer, both uniformed and plainclothes, to meet or exceed the stipulated training requirements of each signatory State and the political subdivisions located within its transit zone. To comply with the legal training mandates, WMATA has sought consensus in answering two major training questions:

What police duties will a tristate transit police officer actually perform? and

How much training is required to properly integrate the transit police mission with multijurisdictional law enforcement responsibilities?

In response, the MTP developed a four-phased training curriculum to meet or exceed all of the tristate training mandates. (See fig. 1.)

Phase 1, basic officer entrance level training, is conducted at the Prince George's Police Academy in Maryland. Phase II, special training, is composed of instruction received from police personnel of the Washington, D.C., Metropolitan Police Force and specialized courses in Federal law, hostage negotiations, and firearms training conducted by the FBI. Phase III training consists of

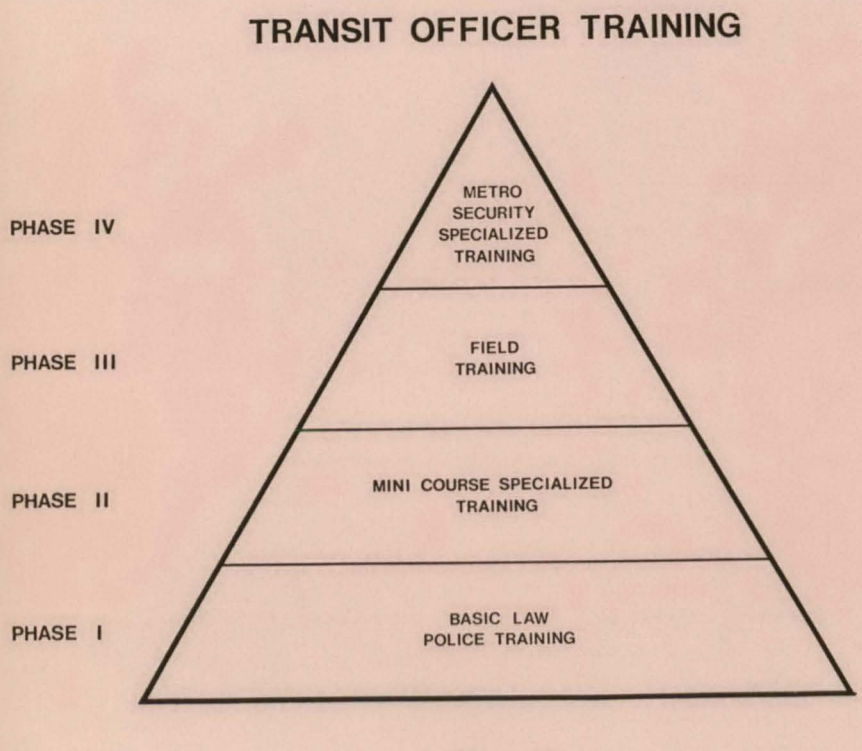


Figure 1

specialized instruction received from police personnel of the Northern Virginia Police Academy and on-the-job training with Virginia's Arlington County Police Force. Phase IV is exclusively devoted to instruction in transit technology. MTP officers have also received training from the Drug Enforcement Agency and the Bureau of Alcohol, Tobacco and Firearms. Mandatory inservice training will be conducted in every 2-year period subsequent to each officer's date of entry.

The Public Safety Committee of the Washington Council of Governments, the Police Training Commissions of both Maryland and Virginia, the greater metropolitan Washington area local police departments, the Federal Bureau of Investigation, the Federal Law Enforcement Training Center, and all other mass transit police operations in the United States, Canada, and Great Britain have assisted in the development of the MTP curriculum. Caution and administrative diplomacy effectively resolved training and operational issues, such as the maintenance of local autonomy, concurrent arrest authority, use of physical or deadly force, the Authority's primary police mission, and the establishment of emergency response procedures.

Transit Police Primary Mission

The department's view on its primary rail mission focuses on a high-visibility patrol for trains and station platform areas to create an aura of passenger safety through conspicuous police presence. Toward this objective, patrol manpower is deployed in a variety of ways, overtly and covertly. All of the below-listed strategies are employed to combat crime:

Fixed posts, or the assignment of patrol officers to a given station.

Riding posts, or train patrols.

Mobile, random patrol, or the coverage of multiple stations.

Saturation patrol, or the substantial increase in patrol manpower at a given location to maximize visibility.

Decoys, or the deployment of officers posing as potential crime victims, and

Stakeouts, or covert surveillance.

Of course, fixed posts, riding posts, and marked patrol cars assigned to selective enforcement patrol areas are the most frequently employed strategies. Saturation patrols, decoys, and stakeouts are instituted as a response to a specific problem, such as fare evasion or a series of robberies exhibiting a similar pattern.

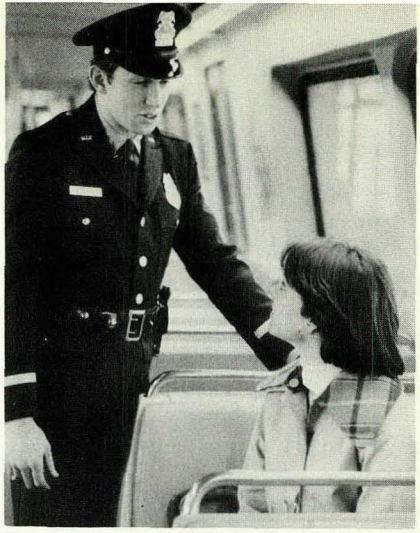
Patrol Environment

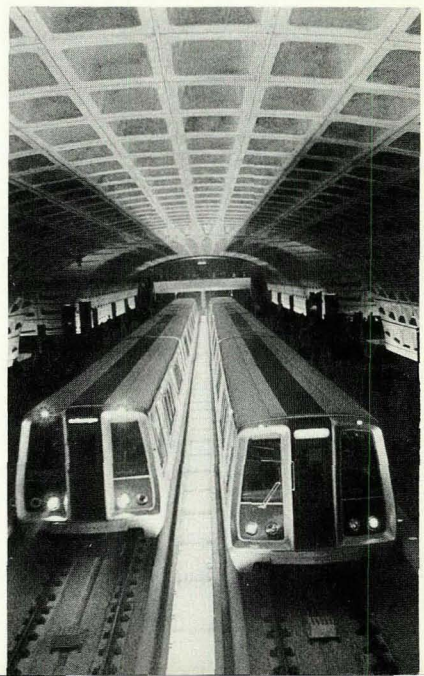
The cause and effect relationships between rail facility design, security, crime, and transit population behavior were given thoughtful consideration. Early on it was realized that safe rail transit technology would be ineffectual if problems related to passenger harassment, vandalism, crowd control, and like issues were not addressed prior to public service revenue operations.

In an effort to deter and prevent juvenile delinquency and criminal behavior, the Authority adopted a "hardening of the target" constructional design concept for all Metrorail stations. In essence, a built-in, open-view, transit patrol environment was achieved by utilizing vaulted arches in favor of supporting columns, thereby reducing the possibility that transit crime and juvenile misbehavior could go undetected or unobserved.

To further assist transit policing, the "technological cop"—closed-circuit television (CCTV)—can be found at each Metrorail facility. The CCTV's help to monitor ridership behavior on all of the mezzanines and station platforms.

The CCTV's are housed in octago-





nal metal and glass kiosk booths which are strategically placed just inside the entrance of all Metrorail stations. The booths are manned by civilian station attendants who monitor the CCTV's, the public address system, land-line telephones, fire and intrusion alarms, etc., all of which allow them to sound an early alarm should trouble occur.

As the next line of defense, the Authority's telephone patch and telecommunications computer system serve as the nerve center for instantaneous information to and from the field. Metrorail trains, Metrobuses, and MTP personnel patrol vehicles are radio equipped. Furthermore, each train has an emergency callbox which passengers can use to sound an alarm to request service. Blue light callbox stations are positioned every 800-feet along the rail guideways and they can be used to deactivate the third rail and summon help when crimes or transit emergencies occur. Additionally, each patrol officer has a footman's radio. Metrorail, Metrobus, and the Metro Transit Police Department communications converge at WMATA's Command Center, which is in turn linked to the Washington Area Law Enforcement System's computer and the National Crime Information Center (NCIC).

It was this communications capability which led to the first felony arrest on the rapid rail system in December 1976. After robbing a Washington jewelry store, a gunman attempted to escape via the rail system. He was quickly apprehended aboard the train as a result of timely communications and the cooperative efforts of the local police, a jewelry store employee, a kiosk attendant, and a transit police officer.

In 1977, only 60 arrests—6 felonies and 54 misdemeanor arrests—were made. The offenses reported, in the order of frequency of occurrence, have been disorderly conduct, robbery, grand larceny, and assault followed by petit larceny, violations of public ordinances, traffic violations, and destroying property.

"Although some local residents had expressed a fear that crime might increase in the vicinity of the Metrorail stations, statistics indicate to the contrary."

Although some local residents had expressed a fear that crime might increase in the vicinity of the Metrorail stations, statistics indicate to the contrary. There has occurred an actual decline in crime in those areas. It would appear that criminals prefer to operate where people and the police aren't visible.

Summary

In the interest of transit safety and ridership protection, today's most modern techniques and technologies have been applied to Metrorail's police operations. It is apparent that the public is supporting WMATA's efforts to maintain a safe transit environment. The Metro Transit Police Force has accepted the challenge of insuring that the expectations of WMATA and the public are met now and in the future.

National Committee On Operation Identification Prescribes Basic Standards

A National Law Enforcement Committee established by the National Sheriffs' Association (NSA) and the International Association of Chiefs of Police (IACP), two organizations representing nearly all of the State, county, and municipal law enforcement administrators, has recently completed the first phase of its attempt to provide a workable solution to the problems associated with the identification and return of stolen property.

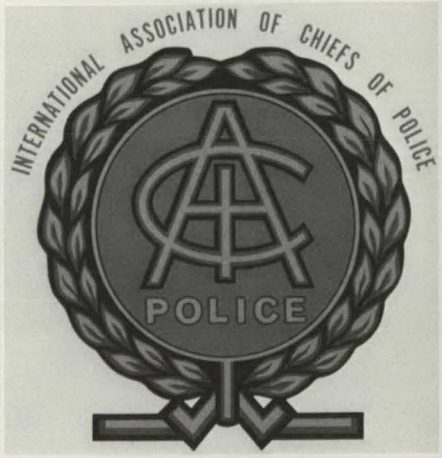
Since July 1977, representatives of the Federal Bureau of Investigation, the National Crime Prevention Institute, the National Conference of State Criminal Justice Planning Administrators, and the Criminal Division of the U.S. Department of Justice have met on several occasions with representatives of the IACP and NSA in Washington, D.C., to discuss possible solutions to the problems. (See, *FBI Law Enforcement Bulletin*, Vol. 46, No. 11, pp. 1–2.)

As an initial task, the committee examined the feasibility of developing a standardized owner-applied numbering system for use in a nationwide property identification program. Such a program has often been suggested as a means to facilitate law enforcement's return of lost/stolen property to its rightful owner(s). During the committee's review of existent property identification programs, it became readily apparent that there are both a number of programs and a variety of owner-applied numbering systems in use throughout the country. It was also quite clear that there has been little effective coordination between jurisdictions in the selection of owner-applied numbering system(s) and in the development and implementation of property identification programs.

Despite the number of existent owner-applied numbering systems which provide citizens with a permanent, personal, and traceable identifier, no one system appeared to the committee to be readily adaptable for nationwide use. This conclusion was based largely upon the committee's realization that a number of factors, which vary widely from one jurisdiction to another, must be taken into consideration in the selection of a numbering system. In addition, there are a number of economic and political considerations which preclude the development of a standard, national system of personal identification and/or the creation of a national repository for such information at this time. Among those considerations are the following:

1. Initial costs of establishing such a system would undoubtedly be substantial;
2. Effective administration of such a system would require the establishment of a complex and costly bureaucratic structure; and
3. Many citizens would view such a system either as a potential threat to their privacy or as a violation of their civil rights.

Although not in favor of the establishment of a national property identification program, the committee has concluded that both locally and privately administered property identification programs can contribute greatly to law enforcement's ability to return lost or stolen property to its rightful owner. Based upon its study of existent programs, the committee identified the following characteristics



of an effective property identification program.

1. An owner-applied property identification number must be universally RECOGNIZABLE by the public and law enforcement.

2. An owner-applied property identification number must be interjurisdictionally TRACEABLE—any law enforcement officer must be able to use the number as a ready and continuing means to establish the identity and current whereabouts of an individual property owner.

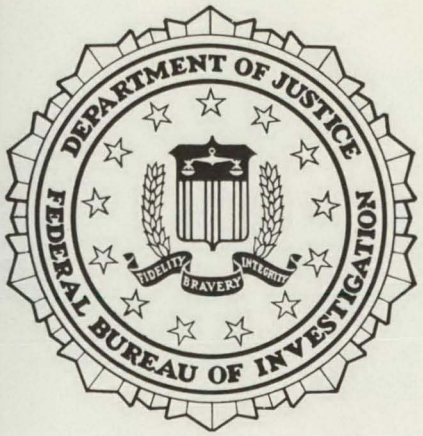
3. It is of great importance for an owner-applied property identification number to be TRACEABLE and RECOGNIZABLE not only within the jurisdiction in which the property was marked but in other jurisdictions as well.

4. An owner-applied property identification number must be a UNIQUE personal identifier—no two individuals may have the same identifier.

5. An owner-applied property identification system should be SIMPLE. The extent of citizen participation and system effectiveness can be directly related to a program's utilization of existing community resources, and its satisfaction of user needs, i.e., for confidentiality, accessibility, etc., and

6. An owner-applied property identification system should be FUNCTIONAL. Utilization of a personal identifier which is compatible with requirements established for entry of a stolen article in the National Crime Information Center's (NCIC) Stolen Article File is recommended.

To assist a police officer both in the *recognition* of an owner-applied number and in *tracing* ownership of the property, the committee recommends that owner-applied numbers utilize prefix and suffix abbreviations which identify the marking jurisdiction and the type of identifier system being used. For example, the prefix "CA" and suffix "OLN," when added to the number N0011440 in a sequentially standardized format (CA/N0011440/OLN), make the number readily recognizable to a police officer as a California driver's license number, and potentially traceable to the owner, dependent upon the internal efficiency of the local system and the uniqueness, currency, and permanency of the identifier in use. Similarly, the number DCMPD000/123456 would be recognizable as a property identification number, potentially traceable with the assistance of the Washington, D.C., Police Department to the owner. In the former example, the prefix and suffix are accepted abbreviations for the State of California operator's license number, and in the latter example, DCMPD000 is the NCIC code for the Metropolitan Police Department, Washington, D.C. Adoption of a nationwide uniform prefix, such as "OI," by systems not employing the NCIC State and local alpha prefixes would also serve to facilitate nationwide recognition of a number as an owner-applied property identification number. However, some provision for identifying the specific system would be required for tracing purposes, e.g., registration of a system identifier with a central, although private, repository generally known and referenced by the law enforcement community.



Some number systems employed in property identification programs are not permanent; those based on phone directories, zip codes, or other forms of cataloging individuals which are subject to change over time are examples of this shortcoming. In addition, drivers' license numbers used in some States, which are subject to reissuance to another individual when the original holder changes address, license status, and/or surrenders the license, are not traceable identifiers for purposes of property identification.

Although there are a number of unique personal identifiers available for use in property identification systems, many are not retrievable or cannot be traced after passage of a short period of time, due to their failure to maintain current records. Social security numbers are readily recognizable and for the most part constitute a unique personal identifier. However, the identity of the holder of a social security number will not be released by the Social Security Administration in most instances, and therefore, cannot be traced by law enforcement personnel. Some jurisdictions effectively employ the social security number in their property marking program by using a local data bank to store and retrieve the identity of social security number holders who have participated in the program. In such instances, it is very important that other agencies are able to identify the data-storing jurisdiction in order to assure tracing of owners by law enforcement officers throughout the country.

NCIC now permits the entry of stolen property in its Stolen Article Files on the basis of an owner-applied property identification number.* This change in NCIC policy has provided a means to identify stolen property marked with a personal identifier, if the property has been reported stolen to police, and if it has been entered in NCIC. In order for a property identification number to be enterable/searchable in NCIC, it must consist of no more than 20 letter/number characters.

The relative utility and simplicity of a property identification number can contribute greatly to the effectiveness of a program. If a property identification number is easy to acquire, and essential for purposes other than property identification, citizen participation in the program will be greatly enhanced. Similarly, recruiting activities in a property identification program are more productive when citizens understand how the property identification number was selected and why it will prove to be, or has been, an effective personal identifier.

Many jurisdictions have found that utilization of an existing unique number system, for example, a driver's license number, tax number, voter's number, etc., has enabled the jurisdiction to avoid the creation of a new recordkeeping system and to avoid problems associated with maintenance of such a system. However, any jurisdiction planning the adoption of such existing numbering systems should first consider their permanency and ubiquity.

The committee strongly urges that jurisdictions administering or considering the adoption of property identification programs evaluate their numbering system in light of the foregoing criteria and strive to attain these minimum standards of effectiveness and efficiency.

The committee shall continue to seek out information and suggestions from law enforcement administrators, business, industry, and citizen groups, and to analyze current programs and systems for the purposes of identifying problem areas, discerning the most effective existent practices, and formulating minimum acceptable criteria for a nationally uniform system. Areas to be examined include: Strategies for promoting, facilitating, and maintaining citizen participation; techniques for employing OI as an investigative tool; and procedures for marking, registering, and inventorying personal property, etc.

To assist local and State law enforcement agencies to adopt—or adapt—their program to the identified uniform standards, the National Committee on Operation Identification anticipates seeking financial support to facilitate the development, publication, and dissemination of written guidelines and the provision of follow-up training and technical assistance to local OI projects. The committee shall also solicit the assistance of the National Media Campaign on Citizen Action Against Crime to convince citizens to participate in local property marking programs.

*The NCIC participants at their March 1978 meeting voted to extend the OAN capability to the Stolen Vehicle File, especially to assist in indexing that property found in the construction and farm industries. Approval of the concept to implement the application had been obtained from the NCIC Advisory Policy Board in June 1978. With the eventual implementation of this application, all property (except license plates, guns, and securities) marked with an OAN will be eligible for entry into NCIC when stolen.

The Warrant Requirement In Crime Scene Searches

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(Part I)

In a Midwestern State, an arson investigator for the State police is assigned to assist local authorities in the investigation of a fire of suspicious origin. Four days after the fire, the investigator goes to the scene and enters the fire-gutted furniture store. He takes photographs and collects items of evidence from the debris.

Detectives assigned to the homicide squad of a metropolitan police department receive a police radio report of a shootout in which both an undercover narcotics officer and a suspect are seriously wounded. They immediately respond to the scene of the shooting, the suspect's apartment. After supervising the removal of the wounded officer and suspect, the detectives begin a methodical and extensive search of the apartment during which numerous items of evidence are seized.

What do these two fact situations have in common? If your answer is that they are both searches of the scene of a recent crime, you are at least partially correct (although in the case of the fire there may or may not be a crime). Unfortunately, they also share another common attribute—they were both recently declared to be unlawful searches under the fourth amendment of the U.S. Constitution [1] because they were undertaken without a search warrant or consent of the lessees of the premises.

Law enforcement officers of other than Federal jurisdiction who are interested 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.

The fact situations described above are taken from two cases recently decided by the U.S. Supreme Court, *Michigan* v. *Tyler* [2] (search of fire-damaged store) and *Mincey* v. *Arizona* [3] (search of suspect's apartment where a shooting occurred).

This article will explore the question of when a search warrant is necessary in searching the scene of a recent fire or a known crime scene, using *Tyler* and *Mincey* as points of reference.

Because of the nature of a fire, which may be the result of a criminal act, simple negligence, or accident, the Supreme Court has treated fire-scene investigations somewhat differently than searches of the scene of a known crime. Therefore, the *Tyler* case and search of fire-damaged premises are discussed separately in Part I of the article. The conclusion of the article (Part II) will examine the *Mincey* case and searches of premises which are the scene of a known violent crime.

Searches of Fire-damaged Premises

In *Michigan* v. *Tyler*,[4] the U.S. Supreme Court dealt with the applicability of the 4th and 14th amendments to entries and searches of fire-damaged premises by fire service and law enforcement officials. As knowledge of the facts of the case is essential to understanding the reasoning of the Court, they are being set forth in some detail.

Shortly before midnight, January 21, 1970, a fire broke out in a furniture store which was leased by Loren Tyler and operated by Tyler and a business partner. The local fire department responded and had succeeded in getting the fire under control, although not entirely extinguished, by the time the fire chief arrived at about 2 a.m. Upon his arrival at the burning building, the chief's attention was immediately directed to two plastic containers of flammable liquid which the firemen had noticed during the course of fighting the fire. After examining the containers, the chief concluded the fire could possibly have been arson and called a detective from the local police department. The detective, who arrived on the scene shortly thereafter, took several photographs. The fire chief and the detective then removed the containers from the premises. Further investigation by the police and fire officials was discontinued at that time because smoke, steam, and darkness hampered the search. By approximately 4 a.m., the fire was extinguished and the premises were secured (apparently the walls were still standing but the store was gutted by the fire). The firemen and police left the building unattended.

At approximately 8 a.m., fire officials returned to the building for a cursory examination, but no evidence was obtained. At 9 a.m. the detective and an assistant fire chief returned to the premises and conducted a more thorough inspection. Burn marks of a suspicious nature were found on the carpets, as well as other evidence indicating the possibility of arson. Portions of the carpet and other evidence were seized without a search warrant and removed from the premises at that time.

In addition to the searches conducted on the morning the fire was extinguished, a State police arson investigator and other officials reentered and searched the premises (and seized evidence) on at least three other occasions, 4 days, 7 days, and 25 days after the fire. Each of these searches was made without a warrant and without the consent of Tyler or his business partner.

Evidence from the various searches mentioned above was used to convict Tyler and his business partner of conspiracy to burn real property and related offenses; the convictions were affirmed by the Court of Appeals of Michigan.[5]

On appeal, the Supreme Court of Michigan[6] reversed the convictions and ordered a new trial, holding that: (1) The initial entry to fight the fire and the discovery and seizure of the evidence while the fire was still burning was proper; but (2) once the fire was extinguished and the officials had left the premises *any* subsequent reentry to the premises (apparently including the 8 and 9 a.m. reentries) should have been made pursuant to a search warrant. This ruling was appealed to the U.S. Supreme Court.

The Court, in reviewing the case, agreed in large measure with the reasoning and the holding of the Michigan Supreme Court. However, the U.S. Supreme Court disagreed with the Michigan Court on one major issue. Whereas the Michigan Supreme Court seemed to indicate that as soon as the fire was extinguished the emergency was over and no further search

"The Supreme Court made it clear that generally any reentry after the fire has been extinguished and officials have left the scene should be made pursuant to a search warrant, unless justified by some other recognized exception to the warrant requirement (i.e., consent, emergency circumstances, abandonment)."

of the premises was proper (absent consent or a warrant), the U.S. Supreme Court felt this approach was unrealistically narrow. The U.S. Supreme Court, in explaining its view of the function of fire-service personnel, stated in part:

> "Fire officials are charged not only with extinguishing fires, but with finding their causes. Prompt determination of the fire's origin may be necessary to prevent its recurrence, as through the detection of continuing dangers such as faulty wiring or a defective furnace. Immediate investigation may also be necessary to preserve evidence from intentional or accidental destruction. And, of course, the sooner the officials complete their duties, the less will be their subsequent interference with the privacy and the recovery efforts of the victims. *For these reasons, officials need no warrant to remain in a building for a reasonable time to investigate the cause of a blaze after it has been extinguished.* And if the warrantless entry to put out the fire and determine its cause is constitutional, the warrantless seizure of evidence while inspecting the premises for these purposes also is constitutional." [7] [Italic added]

Turning then to the specific circumstances of this case, the Supreme Court indicated that the 8 and 9 a.m. reentries on the morning the fire was extinguished were ". . . no more than an actual continuation of the first (search), and the lack of a warrant did not invalidate the resulting seizure of evidence."[8] However, the subsequent reentries, made from 4 to 25 days after the fire, were held to be improper and the evidence therefrom was ordered suppressed.

Although the Court in the *Tyler* case found the morning reentries to be legal, this was apparently based in large part on the fact that a continuation of the initial search was made impracticable by the smoke, steam, and darkness. The Supreme Court made it clear that generally any reentry after the fire has been extinguished and officials have left the scene should be made pursuant to a search warrant, unless justified by some other recognized exception to the warrant requirement (i.e., consent, emergency circumstances, abandonment).

Another problem becomes apparent when it is recognized that a search warrant is required. How may a fire marshal or other official who has no substantial indication of arson, but who needs to enter the premises to determine the cause of the fire, satisfy the traditional probable cause standard necessary to obtain a criminal search warrant (probable cause to believe that a crime has been committed, and that evidence of the crime will be located within the premises[9])?

Administrative Search Warrants

The Supreme Court resolved this apparent dilemma by drawing a parallel between a search necessary to determine the cause of the fire, where no crime is indicated, and "administrative" searches or inspections of residential and business premises undertaken by officials to enforce housing or fire codes or other governmental regulations of general applicability. In a series of previous cases involving administrative inspections made pursuant to housing codes,[10] fire codes,[11] and other health and safety regulations,[12] the Supreme Court has established the principle that such "administrative inspections" are "searches" within the meaning of the fourth amendment. Therefore, such inspections are required to be conducted pursuant to a warrant, unless consent of the proper party is obtained.

Although the Supreme Court has refused to relax the warrant requirement with respect to administrative inspections, the Court has indicated that a reduced, less rigorous showing of probable cause will be sufficient to justify issuance of a warrant for such inspections.[13] Significantly, this reduced probable cause standard does not require a showing that a crime has been committed or that evidence of a crime is probably located within the premises.

In applying the administrative search warrant rationale to the inspection of fire-damaged premises, the Court in *Tyler* stated:

> "To secure a warrant to investigate the cause of a fire, an official must show more than the bare fact that a fire has occurred. The magistrate's duty is to assure that the proposed search will be reasonable, a determination that requires inquiry into the need for the intrusion on the one hand,

and the threat of disruption to the occupant on the other . . . . The number of prior entries, the scope of the search, the time of day when it is proposed to be made, the lapse of time since the fire, the continued use of the building, and the owner's efforts to secure it against intruders might all be relevant factors. Even though a fire victim's privacy must normally yield to the vital social objective of ascertaining the cause of the fire, the magistrate can perform the important function of preventing harassment by keeping that invasion to a minimum." [14]

Criminal Search Warrants

The reduced probable cause standard discussed above is applicable only when there is not probable cause to believe an arson has occurred. Once officials have probable cause to believe arson has been committed, any subsequent reentry to search for evidence must be made pursuant to a criminal investigative search warrant issued upon a traditional showing of probable cause.

"Once officials have probable cause to believe arson has been committed, any subsequent reentry to search for evidence must be made pursuant to a criminal investigative search warrant issued upon a traditional showing of probable cause."

The Supreme Court summarized its holding in *Tyler* as follows:

"In summation, we hold that an entry to fight a fire requires no warrant, and that once in the building, officials may remain there for a reasonable time to investigate the cause of the blaze. Thereafter, additional entries to investigate the cause of the fire must be made pursuant to the warrant procedures governing administrative searches. Evidence of arson discovered in the course of such investigations is admissible at trial, but if the investigating officials find probable cause to believe that arson has occurred and require further access to gather evidence for a possible prosecution, they may obtain a warrant only upon a traditional showing of probable cause applicable to searches for evidence of crime." [15] [Citations omitted]

Impact of *Tyler*

The primary thrust of *Michigan* v. *Tyler* was to reiterate the established fourth amendment principle that searches of premises, even those damaged by a fire, conducted without prior judicial authorization are *per se* unreasonable, and to establish a two-level probable cause standard for issuance of search warrants for fire-damaged premises. However, in the process of reaching this conclusion, the Court in *Tyler* directly or by implication rejected several theories previously relied upon by some State and lower Federal courts to justify warrantless searches of fire-damaged premises days and weeks after the fire. It may be helpful to consider a few of these in order to assess the impact *Tyler* may have on practices and procedures which are based on these prior court decisions. Three areas are of particular interest in this analysis:

(1) Use of the "habitability test" to determine whether a warrant must be obtained;

(2) The effect of State legislation and/or regulations authorizing inspection of fire-damaged premises; and

(3) The scope of the "emergency" or "exigent circumstances" search doctrine.

The Habitability Test

Prior to *Tyler*, some courts had viewed fire-damaged premises, particularly those which were severely damaged, as being outside the protection of the fourth amendment. Their reasoning was that there was no "expectation of privacy" [16] remaining in the premises, primarily because they were uninhabitable. This theory was explained by a New Jersey court in *State* v. *Vader*,[17] as follows:

"The basic purpose of the Fourth Amendment is the protection of an individual's privacy and the security of his home. Here, the premises had been rendered uninhabitable by a fire. All utilities had been disconnected. No one was occupying the house, the doors and windows of which were broken. The fire was of suspicious origin and had resulted in the death of a child. Under these circumstances, the prompt, on-the-scene investigation of the fire by the authorities did not infringe on defendant's right of privacy or the security of his home and was not a Fourth Amendment search requiring a search warrant." [18]

It is clear that if premises are, in fact, abandoned—by the owner intentionally relinquishing his rights in what remains of the property—no fourth amendment protections are violated by a subsequent search. Abandonment has traditionally been recognized as an exception to the warrant requirement, because once a person abandons property he foregoes any expectation of privacy in it.[19] However, use of the habitability test, at least as the sole factor to establish abandonment, is made questionable by *Tyler*.

In addressing the "reasonable expectation of privacy" issue in *Tyler*, the Supreme Court stated that the proposition that fire victims inevitably have no expectation of privacy in whatever remains of their property is contrary to common experience. The Court went on to state, in part:

> "People may go on living in their homes or working in their offices after a fire. *Even when that is impossible, private effects often remain on the fire-damaged premises.*" [20] [Italic added]

Although habitability alone should not be determinative of whether a person has fourth amendment protection in fire-damaged premises, it certainly is one factor which will be considered by courts. Note that this is one of the items, discussed previously, which the magistrate is to consider in determining whether to issue a warrant to allow inspection to determine the cause of a fire.

The Effect of State Statutes Authorizing Inspections

Many States have statutes which charge some State or local officials, often fire chiefs or fire marshals, with the duty of investigating and establishing the cause of fires.[21] Many of these statutes also authorize this official or his assistants to enter fire-damaged premises at any time after the fire to investigate the cause.[22] Often the statutes place no time limitation upon the reentries and make no mention of the requirement that a search warrant be obtained.

It is worth noting in this regard that in earlier cases decided by the Supreme Court involving administrative searches to enforce building, fire, and health codes, the inspections were authorized in each case by a statute or regulation, apparently without warrant.[23] Nonetheless, in each decision, including the recent case of *Marshall* v. *Barlow's Inc.*[24] decided in May 1978, the Court has flatly rejected the argument that a legislative grant of authority to inspect can substitute for the detached and neutral judgment of a judicial officer in determining the necessity for searches of premises protected under the fourth amendment. In fact, in *Marshall* the Supreme Court declared a portion of the Occupational Safety and Health Act of 1970 unconstitutional to the extent that it purports to authorize warrantless inspections.[25]

In the *Tyler* case, just such a statute was involved. The Michigan statute provided that:

> "The director or any officer is authorized to investigate and inquire into the cause or origin of a fire occurring in this state resulting in loss of life or damage to property, and for that purpose may enter, without restraint or liability for trespass, any building or premises and inspect the same and the contents and occupancies thereof."[26]

The U.S. Supreme Court did not consider the impact of this statute, as the State apparently did not raise this issue on appeal. Before the Michigan Supreme Court, the State contended that the later reentries to the fire-gutted store were authorized by the above statute.

The Michigan Supreme Court rejected this contention. Instead, to avoid holding the statute unconstitutional, the court read into the statute a requirement that a warrant be obtained before the inspection, except in exigent circumstances.[27] This approach is consistent with that taken by at least one other State court considering a similar statute [28] and is also consistent with the approach taken by the U.S. Supreme Court in interpreting statutes, when possible, in such a way to avoid having to declare them unconstitutional.[29]

In view of the foregoing, it appears that "blind" reliance on a statute authorizing such inspections without warrant is a questionable procedure at best.

Emergency or Exigent Circumstances Doctrine

The emergency or exigent circumstances doctrine has been a traditionally recognized exception to the warrant requirement. This doctrine actually encompasses several more specific exceptions to the warrant requirement. Probably the most familiar of these is the "hot pursuit" exception, which allows officers pursuing a fleeing suspect to enter premises and search for him without a warrant.[30] Of course, this exception will be inapplicable in most investigations of burned premises.

An exception has been recognized where an immediate entry and search is necessary to prevent destruction or loss of evidence. More than a mere *possibility* that evidence might be destroyed is required.[31]

A related exception has also been recognized in situations where law enforcement officers hear a scream, or otherwise have reason to believe a violent crime, or other event requiring immediate attention, is taking place within particular premises.[32] Likewise, the emergency search rationale has been recognized in regard to administrative inspections where time is critical, such as a seizure of unwholesome food, or an immediate health quarantine.[33]

The Supreme Court in *Tyler* was careful to point out that it did not intend to cast any doubt on the continued validity of the emergency search doctrine. The Court specifically relied on this theory to justify the immediate warrantless entry of the firemen to fight the blaze *and* to remain on the premises a "reasonable time" after the fire had been extinguished to determine the cause. Significantly, the Supreme Court recog-

nized that because of the possibility of recurrence, the emergency is not over when the last ember is snuffed.[34] Of course, it is equally apparent that the "emergency" will not continue indefinitely. In a footnote to its opinion, the Supreme Court commented on the scope of the "reasonable time" standard:

> "The circumstances of particular fires and the role of firemen and investigating officials will vary widely. A fire in a single-family dwelling that clearly is extinguished at some identifiable time presents fewer complexities than those likely to attend a fire that spreads through a large apartment complex or that engulfs numerous buildings. In the latter situations, it may be necessary for officials—pursuing their duty both to extinguish the fire and to ascertain its origin—to remain on the scene for an extended period of time repeatedly entering or re-entering the building or buildings, or portions thereof. In determining what constitutes a 'reasonable time to investigate,' appropriate recognition must be given to the exigencies that confront officials serving under these conditions, as well as to individuals' reasonable expectations of privacy." [35]

In most instances, when fire officials complete their initial investigation into the cause and depart from the scene, it will be difficult to justify a later reentry under the emergency search rationale. This is so because a court is likely to view the fact that all fire-service personnel have left the scene as a clear indication that they thought the danger of recurrence of the fire to be minimal.[36] Therefore, the emergency which forms the factual basis for the exception to the warrant requirement will likely be considered as over.

Additional Issues of Practical Importance

From a practical standpoint, there are some additional issues which deserve consideration: (1) The problems relating to consensual searches—(i.e. who may give consent; was it freely and voluntarily given?); (2) who may object to evidence obtained from an allegedly illegal search of premises (often referred to as "standing"); and (3) the "plain view" concept and its application to crime scene searches.

Because these issues are common to both searches of fire-damaged premises and searches of other crime scenes—such as the homicide scene search dealt with in *Mincey* v. *Arizona*—these will be discussed in Part II of this article to be published in the next issue of the LAW ENFORCEMENT BULLETIN.

FOOTNOTES

[1] U.S. Constitution, Amendment IV. The fourth amendment states:

"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."

[2] 56 L.Ed.2d 486 (1978).

[3] 57 L.Ed.2d 290 (1978).

[4] *Supra* note 2.

[5] *People* v. *Tyler*, 213 N.W.2d 221 (Mich. Ct. App. 1973).

[6] *People* v. *Tyler*, 250 N.W.2d 467 (Mich. 1977).

[7] *Michigan* v. *Tyler*, *supra* note 2, at 498.

[8] *Michigan* v. *Tyler*, *supra* note 2, at 499.

[9] *United States* v. *Ventresca*, 380 U.S. 102 (1965); see Fed. R. Crim. P. 41.

[10] *Camara* v. *Municipal Court*, 387 U.S. 523 (1967).

[11] *See* v. *City of Seattle*, 387 U.S. 541 (1967).

[12] *Marshall* v. *Barlow's Inc.*, 56 L.Ed.2d 305 (1978).

[13] In explaining the standard which must be met to justify the issuance of a warrant for administrative inspections to enforce building, fire, and safety codes, the U.S. Supreme Court has stated: "'probable cause' to issue a warrant to inspect . . . exists if reasonable legislative or administrative standards for conducting an area inspection are satisfied with respect to a particular dwelling . . . . [T]hey will not necessarily depend upon specific knowledge of the condition of a particular dwelling." *Camara* v. *Municipal Court*, *supra* note 10, at 538.

[14] *Michigan* v. *Tyler*, *supra* note 2, at 497.

[15] *Michigan* v. *Tyler*, *supra* note 2, at 500.

[16] In *Katz* v. *United States*, 389 U.S. 347 (1967), the U.S. Supreme Court held that an individual's reasonable expectation of privacy is protected by the fourth amendment. Therefore, if a person has a reasonable expectation of privacy with regard to a particular location, any intrusion into that area would be considered a "search" within the meaning of the fourth amendment. Conversely, if no reasonable expectation of privacy remains in a particular location, no fourth amendment interests are infringed by a search of those premises.

[17] 276 A.2d 151 (N.J. Super. Ct. 1971).

[18] Id. at 152, *accord State* v. *Murdock*, 500 P.2d 387 (1972). For a critical analysis of *State* v. *Vader* and the habitability test, see Note, *Arson Investigations and the Fourth Amendment*, 30 Wash. & Lee L. Rev. 133, 143 (1973).

[19] *United States* v. *Minker*, 312 F.2d 632 (3d Cir. 1962), *cert. denied*, 372 U.S. 953 (1963).

[20] *Michigan* v. *Tyler*, *supra* note 2, at 495.

[21] Va. Code sec. 27–56; Mich. Comp. Laws Ann., sec. 29.6; Ind. Stat. Ann., sec. 22–11–5–6 (Burns); Ill. Stat. Ann. Chapter 127½, sec. 6 (Smith-Hurd).

[22] Va. Code sec. 27–58; Mich. Comp. Laws. Ann. sec. 29.6; Ind. Stat. Ann. sec. 22–11–5–9 (Burns); Ill. Stat. Ann. Chapter 127½, sec. 8 (Smith-Hurd).

[23] *Camara* v. *Municipal Court*, *supra* note 10 (Inspection authorized by provision in city housing code); *See* v. *City of Seattle*, *supra* note 11 (City fire code provided for inspections of commercial premises); *Marshall* v. *Barlow's Inc.*, *supra* note 12 (Inspection of premises authorized by sec. 8(a) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657(a) (1970)).

[24] *Supra* note 12.

[25] *Marshall* v. *Barlow's Inc.*, *supra* note 12, at 319.

[26] Mich. Comp. Laws Ann., sec. 29.6.

[27] *People* v. *Tyler*, *supra* note 6, at 475.

[28] *Buxton* v. *State*, 148 N.E.2d 547 (Ind. 1958).

[29] E.g., *G. M. Leasing Corp.* v. *United States*, 429 U.S. 338 (1977).

[30] *Warden* v. *Hayden*, 387 U.S. 294 (1967) (Warrantless entry and search of house by police in pursuit of fleeing robber).

[31] *Ker* v. *California*, 374 U.S. 23 (1963) (Warrantless and unannounced entry of dwelling by police to prevent imminent destruction of evidence); cf. *Cupp* v. *Murphy*, 412 U.S. 291 (1973) (Warrantless taking of fingernail scrapings of suspect, where delay would likely result in loss of evidence); *Schmerber* v. *California*, 384 U.S. 757 (1966) (Warrantless taking of blood sample for alcohol test, where delay would result in loss of evidence).

[32] *United States* v. *Barone*, 330 F.2d 543 (2d Cir. 1964), *cert. denied*, 377 U.S. 1004 (1964).

[33] *North American Cold Storage* v. *City of Chicago*, 211 U.S. 306 (1908) (Warrantless seizure of unwholesome food); *Compagnie Francaise* v. *Board of Health*, 186 U.S. 380 (1902) (Immediate quarantine because of infectious disease).

[34] This is consistent with a number of Federal courts of appeals decisions, e.g., *United States* v. *Green*, 474 F.2d 1385 (5th Cir. 1973), *cert. denied*, 414 U.S. 829 (1973); *Steigler* v. *Anderson*, 496 F.2d 793 (3d Cir. 1974), *cert. denied*, 419 U.S. 1002 (1974); *United States* v. *Gargotto*, 476 F.2d 1009 (6th Cir. 1973), appeal after remand, 510 F.2d 409 (1975), *cert. denied*, 421 U.S. 987 (1975).

[35] *Michigan* v. *Tyler*, *supra* note 2, at 499 n. 6.

[36] *Honeycutt* v. *Aetna Ins. Co.*, 510 F.2d 340 (7th Cir. 1975), *cert. denied*, 421 U.S. 1011 (1975) (Search of house 3 days after fire without a warrant or valid consent was improper, as no exigent circumstances still existed); cf. *G.M. Leasing Corp.* v. *United States*, *supra* note 29 (Delay of 2 days following initial entry and warrantless search supported finding that no exigent circumstances were present to justify second warrantless entry).

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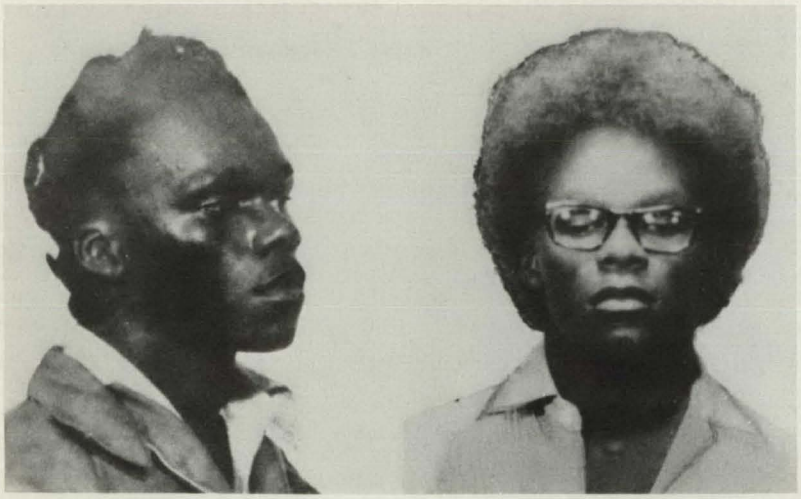

Photograph taken 1975. **Photograph taken 1974.**

DONALD EUGENE COOK

Unlawful interstate flight to avoid prosecution—Aggravated robbery, felonious assault, kidnaping.

The Crime

The armed robbery involved an Urbana, Ohio, liquor store and took place on May 27, 1976. Following the robbery, Cook and an accomplice fled in a getaway vehicle and exchanged shots with a pursuing deputy sheriff. Both vehicles subsequently became disabled. Cook and his partner then abandoned their vehicle, went to the residence of a citizen, and at gunpoint directed him to drive them out of the area.

A Federal warrant for Cook's arrest was issued on September 3, 1976, at Springfield, Ohio.

DESCRIPTION

Age	27, born August 28, 1951, Springfield, Ohio (not supported by birth records).
Height	5'8" to 5'10".
Weight	150 to 160 pounds.
Build	Medium.
Hair	Black.
Eyes	Brown.
Complexion	Dark.
Race	Negro.
Nationality	American.
Occupations	Baker, press operator, welder.
Remarks	Reportedly a drug user and may be wearing glasses.
Scars and marks	Appendectomy scar, scars on right arm, wrist, knee, and forehead.
Social Security Nos. used	298-50-4855. 298-50-4588.
FBI No.	573,845 H.

Fingerprint Classification:

18 L 9 U 000 14
M 1 U 101

NCIC Classification:
181012CO141605121309

Caution

Cook is being sought for an armed robbery and subsequent gun battle with local police from which he fled by kidnaping a private citizen. He should be considered armed and extremely dangerous.

Notify the FBI

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

Right ring finger.

U.S. GOVERNMENT PRINTING OFFICE : 1978 O - 273-752

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(*Name*) (*Title*)

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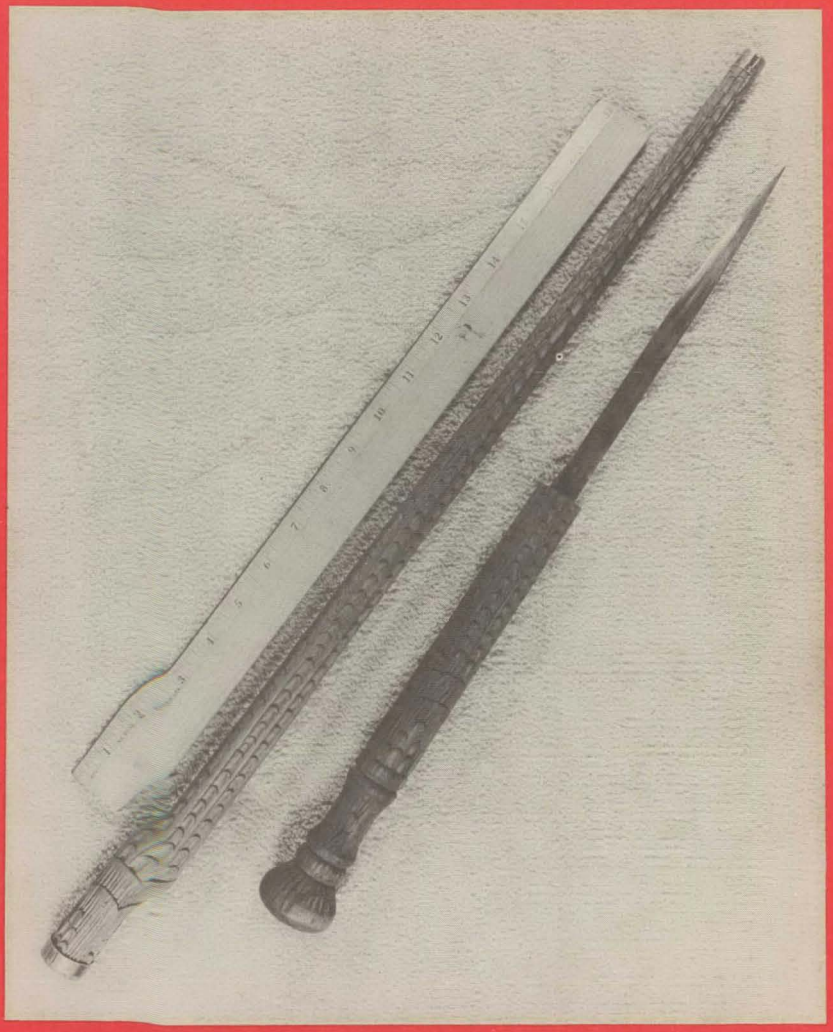
(*City*) (*State*) (*Zip Code*)

Concealed Dagger

Recently, the Alexandria, Va., Police Department seized a potentially dangerous weapon to law enforcement. The weapon, a walking cane which conceals a deadly dagger inside, is similar to the one discovered by the St. Louis, Mo., County Police Department in 1974.

The cane is being sold in retail stores in the metropolitan Washington, D.C., area. Made of teakwood and manufactured in Thailand, it measures 34½ inches in length, somewhat longer than the earlier version. However, when pulled apart, an 8½-inch steel blade attached to the handle is exposed.



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QUESTIONABLE PATTERN

At first glance, the above impression appears to be a double loop whorl. However, upon closer scrutiny, it can be seen that the formation in the right central area of this pattern is a tented arch. Therefore, this impression is a combination of two different pattern types (loop and tented arch) and is classified as an accidental whorl with an inner tracing.