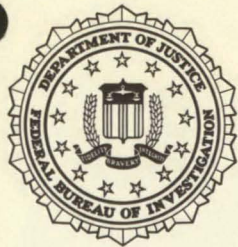


OCTOBER 1971



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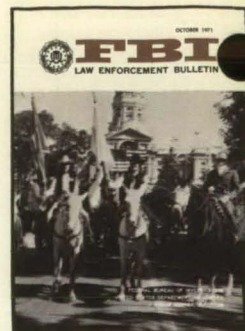
LAW ENFORCEMENT BULLETIN



FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
J. EDGAR HOOVER, DIRECTOR

OCTOBER 1971

VOL. 40 NO. 10



THE COVER—Chief of Police James W. Byrd is ready to lead the Cheyenne Frontier Days parade from the State Capitol of Wyoming. See article beginning on page 2.

FBI

LAW ENFORCEMENT BULLETIN

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MESSAGE FROM THE DIRECTOR . . .

. . . To All Law Enforcement Officials

PERHAPS LAW ENFORCEMENT, because of the nature of its duties, cannot hope to be the most popular profession, but there is no reason why it should not be a respected profession. And respect, like charity, begins at home. No man without self-respect can have the respect of others.

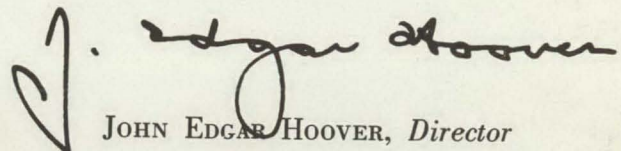
Self-respect and pride in law enforcement, as in other professions, are not built on temporal things. Popularity and praise, however gratifying, do not always endure. Thus, law enforcement does not seek popularity and public acclaim as such. Rather, it strives for performance based on integrity, and a man's integrity, it has been aptly stated, is measured by his conduct, not by his profession.

Law enforcement is a sacred trust—a service to the people who impose the laws under which they govern themselves. Enforcement of these

laws is no mean responsibility. It is a vital function of our democratic system which, if conducted within the ethics of the service, engenders self-respect and public support.

The mission of law enforcement today is to give the most effective and competent service possible and to gain more public cooperation and support, both moral and financial. Law enforcement cannot fulfill its crucial role in society without adequate public support. If law enforcement officers perform their duties vigorously, objectively, fairly, and with complete dedication to the principles of justice, they can face the critics with self-confidence and self-respect.

Thus, in assessing the merits of law enforcement, one should not look to popularity and statistical accomplishments alone. Rather, law enforcement should be judged on how well it discharges its responsibilities in keeping with the ethics of the profession.



JOHN EDGAR HOOVER, *Director*

OCTOBER 1, 1971



By
JAMES W. BYRD
Chief of Police,
Cheyenne, Wyo.

The city of Cheyenne had its beginning in 1867, when the railroad came through on its way to the West Coast. A primary factor in Cheyenne's development and economy was the livestock industry. By 1890, ranching made Cheyenne one of the wealthiest per capita cities in the world.

In 1897, the local newspaper suggested that if Colorado could stage successful community days, perhaps it would be both good business and fun for Cheyenne to have a "Frontier Day." Within 20 days after the suggestion, the first show had been

The "Daddy of 'em All"—

Cheyenne Frontier Days

The Frontier Committee headed by Miss Frontier lead equestrian units in the Frontier Parade.



organized and held. From that first Frontier Day has grown the now world famous, oldest, and largest rodeo in the world, the "Daddy of 'em All," Cheyenne Frontier Days, which celebrated its 75th Anniversary this year.

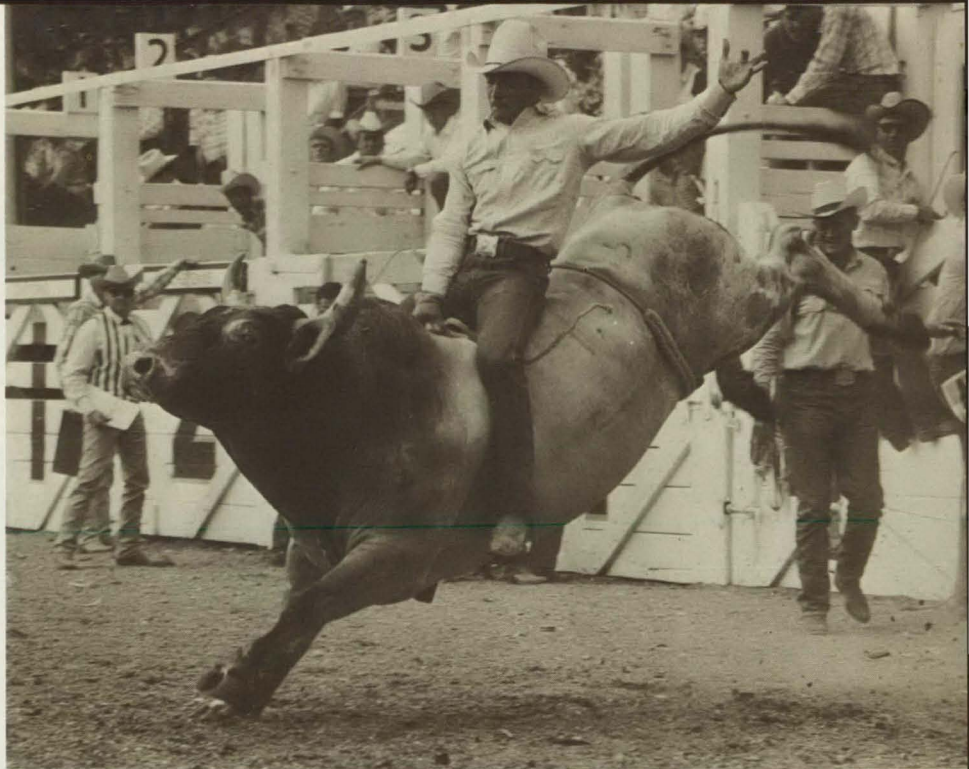
Thus, what was begun as a casual local contest between trail riders and ranchhands now draws contestants from all over the world. Spectators from every State in the Union as well as Canada, Mexico, and other countries pack into Cheyenne during the last full week in July each year to witness the old West come alive again. The 1971 version was extended to 9 days from the traditional 7 in honor of the event's diamond jubilee.

During Frontier Week something is going on all the time. Old and young alike enjoy the exhibitions, street square dancing, band concerts, parades, Indian dances, night arena shows, carnival, and, last but not most important, the rodeos. The "Daddy of 'em All" is a full week of fun for visitors. There are free activities and events open to the entire family, with continuous entertainment each day and night.

Incoming Throngs

Obviously, there are problems in policing a celebration of this size and proportion. The population of Cheyenne is about 41,000, but during Frontier Week that number swells to well over 60,000 people. A large group of college students from nearby colleges and universities and many young people from neighboring communities attend each year. Also, a sizable contingent of Sioux Indians from the Pine Ridge Reservation join the festivities.

Thus, our police force of 51 sworn officers and 12 civilian employees is faced with the considerable task of providing protective and enforcement services to overflow crowds of cele-



The rodeos are one of the most important events of the annual celebration.

brating participants and visitors. Some major restructuring is necessary each year, and special approaches are used to meet our responsibilities and insure a maximum of safety for Cheyenne's citizens and her guests.

The Cheyenne Police Department has no auxiliary or reserve unit. To augment our regular complement of officers, we employ from 8 to 12 special policemen for the Frontier Week. Most of these special officers have law enforcement experience, and most have served with the department during Frontier Week previously. All such special police officers are fully commissioned by the city council and, for their brief tour of duty, have all the powers and responsibilities of regular city patrolmen.

Additional measures are taken to maintain the department's manpower. All leave periods and regular days off for officers are canceled for Frontier Week, and, as a rule, the men work extended shifts.

Because the celebration is centered around special activities and events, the distribution of manpower for the

week is different from that of other weeks. Officers are needed for the daily rodeos, the night arena shows, and the carnival. Their work consists primarily of patrolling the area on foot and assisting the public when needed. Few arrests are made on the rodeo grounds, but the officers must remain alert for such problems as minor thefts, lost children, and disturbances.

Assignments

Traffic and crowd control assignments for all officers are required for each of three long parades in the downtown area on Tuesday, Thursday, and Saturday of Frontier Week. The parades contain a large number of old carriages and similar vehicles pulled by horses. Since many of the horses are high spirited and unaccustomed to large crowds, special measures have to be taken to insure the safe travel of these animals along the parade route.

On Wednesday and Friday mornings of Frontier Week, the Kiwanis Club, together with local civil defense



Officers are assigned to traffic and crowd control during each of the three parades of Frontier Week.

authorities, presents a free, all-you-can-eat, chuckwagon breakfast on a downtown street. In addition to the festive nature of these events, they offer both groups an opportunity to test their emergency mass-feeding plans. The police department assists by barricading the street and routing traffic around the site. Usually, over 3,000 people attend each session of the breakfasts and are entertained by musical groups as they eat.

In recent years the number of college and university students attending the celebration has increased. During Frontier Weeks of 1966 and 1967 these young people congregated in a one-block area of the downtown section, obstructing traffic, littering streets and sidewalks with empty beer bottles, cans, and glasses, and hindering the passage of other people by sitting in the middle of the sidewalks and along the curbs.

Some shop windows in the area were broken, trash receptacles were

overturned, and other minor acts of vandalism occurred. The problem was contained, but it was apparent that the city would have to strengthen its enforcement procedures to handle future difficulties.

In planning the 1968 celebration, the downtown merchants association met with the city council and the chief of police to establish procedures to curtail the vandalism and rowdiness that marred the event the two previous years.

Tactical Plan

As a result of this meeting, our department developed a complete tactical plan to deal with upcoming rodeos. Basically, the plan was to anticipate the potential types of trouble, as well as the trouble spots, and to be prepared to cope with them. A new intelligence unit was established, proven tactical methods were adopted, and arrangements were made with

other police agencies, including the FBI, to provide our personnel with specialized training in mob and riot control techniques.

The plan provided for the coordination of efforts of the three law enforcement agencies in the Cheyenne area: our department, the Laramie County Sheriff's Office, and the Wyoming Highway Patrol. In addition, the Wyoming National Guard would be on standby. In the event of a major disturbance or civil disorder, the Cheyenne Police Department Headquarters would become the core of an emergency operations center, and other law enforcement agencies would have liaison officers assigned to the command post.

Our plan called for the strict enforcement of two city ordinances, which we felt, if complied with, would greatly reduce some of the potential problems. Section 5-21 provides that "no holder of a license issued under the provisions of the laws of the State

within the City or, the servant or employee of such holder shall give, sell, or deliver alcoholic beverages to any person under the age of twenty-one years. No holder of any such retail liquor license or his servant or employee shall permit any person under the age of twenty-one years to remain in the place, except drugstores, in which he sells intoxicating or malt liquors. No person under the age of twenty-one years shall buy, sell, or solicit the sale or purchase of intoxicating liquors." If underage drinking could be reduced during Frontier Week, many enforcement problems would never arise.

Restrictions Emphasized

Section 5-19 of the city code provides that "no alcoholic or malt beverages shall be consumed or carried by any person in open containers of any type in any restaurant, hotel dining room or in any public place or on any street, sidewalk or curb whatever within the city limits except inside such places as are operated by a license under this chapter." In order to better enforce this law, we planned to place signs at the exits of each retail liquor outlet saying: "Warning: Any Person Taking Opened Intoxicants From Premises Is Subject to Arrest and \$100 Fine."

With the arrival of Frontier Week 1968, the plan went into effect. Needless to say, members of our department were much better prepared to cope with any problems which might occur. All went well, and no unusual incidents arose until Saturday, the last day of the celebration.

On Saturday afternoon, immediately following the third and final parade of the week, our police intelligence unit reported that an unusually large number of vehicles were moving toward Cheyenne from Colorado to the south. Cheyenne is only 11 miles from the Colorado State line and just

100 miles north of Denver. By 4 p.m. the downtown area was jammed. The crowd was composed mostly of young people, many of whom had come in with the caravan sighted earlier.

Following our plan to strictly enforce the city ordinances, officers began arresting persons carrying containers of opened intoxicant onto the streets. A number of persons under the age of 21 were likewise arrested and brought to police headquarters for booking.

Enforcement activities continued at a busy, but not critical, pace into the evening. About 11 p.m. the crowd began to get unruly. Plate glass windows of three stores were broken, and a generally unstable situation developed. At this time, Phase I of the department's tactical plan was put into effect, and an order was given from the command post to disperse the crowd. At the same time personnel connected with the backup force of Phase II were alerted to a standby position.

Our intelligence unit on the scene reported that the initial complement of 20 officers would be insufficient to

control the mass of people in the one-block area, and we immediately went into Phase II and dispatched 17 additional officers to assist.

At this time the Wyoming Highway Patrol and the Laramie County Sheriff's Officers were summoned to the command post on a standby basis. At 1 a.m., conditions had worsened, and we committed the backup personnel in an attempt to disperse and control the crowd.

Increasing Violence

A large number of arrests had been made, the windows of many businesses had been broken, several M-80 firecrackers had been thrown, trash receptacles had been overturned and many set afire, and rocks and other projectiles were being hurled at police officers.

On the basis of the increase of violence, Phase III was put into effect, and the Wyoming National Guard was called to a standby basis at the National Guard Armory. Also at this time, the command post ordered the

(Continued on page 30)

Cheyenne motorcycle officers escort Frontier Parade.



RETAIL RED ALERT

Rapid City, the second largest city in South Dakota, is situated at the foot of the Black Hills National Forest. Because of its strategic location 25 miles northeast of Mount Rushmore National Memorial and less than a day's drive from Yellowstone National Park, the community enjoys a thriving tourist trade during the summer months.

Rapid City's 65-man police department, under the direction of Chief Ronald F. Messer, patrols an area of approximately 16 square miles and serves a metropolitan population of more than 62,000 people.

Continually victimized by burglary, robbery, shoplifting, and fraudulent checks, the businessmen of Rapid City resolved to make a concerted effort to reduce offenses that persistently chipped away at their profits.

Law enforcement officers were invited to inspect business places, new security measures were inaugurated, locks changed, silent alarms installed, safes relocated, and night deposits made. Store employees received in-

struction in detecting potential shoplifters, and security guards were hired.

The result of these safeguards and increased respect and cooperation between Rapid City's merchants and police was a reduction in the majority of offenses. But the violation of check laws continued to mount. Adding to the paper problem, credit cards assumed a role of prominence as banks and retailers nationally began to stuff citizens' wallets with laminated passports of trust. The proliferation of credit cards brought with it an equal amount of misuse. An estimated 1.2 million cards are lost annually and approximately 500,000 are stolen. Thieves quickly learned that a stolen card could fetch hundreds of dollars worth of merchandise in a few hours.

Ideas Explored

Undaunted by the immensity of this problem, Rapid City's retail dealers continued to explore ideas to blunt misuse of credit cards and checks, and

By
CARROLL W. BOZE
Assistant Chief of Police,
Rapid City, S. Dak.



Checking the Checkpasser

in the fall of 1968 a system known as Retail Red Alert was initiated.

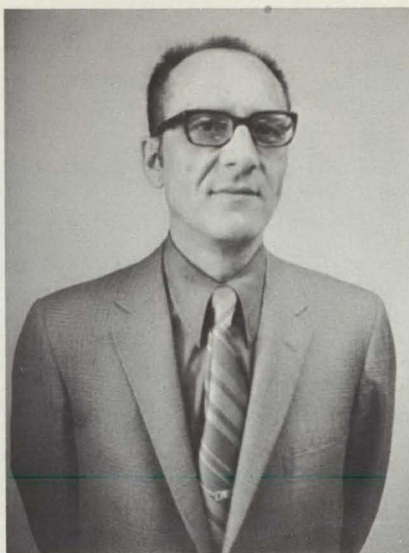
Retail Red Alert, reminiscent of the old chain letter, with its multiplicative dissemination of information, has since become a useful tool in preventing the distribution of bogus checks and credit cards.

Application of the Program

On the afternoon of November 1, 1968, an employee of a local haberdasher was busily arranging clothes when he observed a young man cross the street and enter his store. The clerk assisted the customer in selecting a pair of trousers and agreed to accept a check for \$10 more than the amount of purchase. The young customer was congenial, his manner placid, and through allusions left the impression that he had stopped there on previous occasions. He seemed normal in all respects, was dressed in general attire, and carried a purchase from the shoe store across the street. However, the employee became suspicious when the young man produced a counter check from a local bank and offered an out-of-State driver's license for identification. Accepting the check, the clerk walked to the office and called the bank. At this time, the customer-now-suspect lost his composure and ran from the store without his purchase. When verification was received that the check was "no account," Red Alert was initiated and in a matter of an hour 169 merchants were notified.

Chain in Action

Information received at Red Alert's Central Control was quickly passed on to four other business firms, which, in turn, continued the chain by calling the number assigned to them on a call sheet. On the average, each merchant contacts three other members. Those at the end of the circuit signify completion by notifying central control.



Chief Ronald F. Messer.

The manager of the haberdasher wasted no time in processing the fraudulent check. It was hand-carried to the bank, stamped "no account," and was then taken to the State's attorney's office, where a complaint was signed and a warrant issued.

That evening after the banks had closed, the same young man decided to try his luck again. This time he chose a shopping center located on the outskirts of town. From the excellent description relayed by Retail Red Alert, he was immediately recognized and was arrested by detectives as he attempted to cash another check.

Later, various blank checks from other States were found in the prisoner's possession. A search of his vehicle also revealed several checkbooks and a sizable quantity of new merchandise. Wanted in Wyoming and Nebraska on similar charges, he later waived extradition and was returned to the State of Nebraska to face prosecution.

Details of Alert

Retail Red Alert is a relatively simple operation depending more on the cooperation of its members than on intricate planning. Although conceived by local merchants, the Rapid

City Chamber of Commerce has assumed the responsibility of keeping the system current and effective. They also compile and distribute to members an instruction and call guide. The outlined instructions they distribute are:

1. Activate the alert system by making three calls at the top of your call sheet.
2. Include as much of the following information as possible:
 - A. Description of the check, including:
 - Name of bank.
 - Account number.
 - To whom the check is made out— if other than your business.
 - Signature used on check.
 - General information: such as, payroll, personal, bank draft, money order, etc.
 - B. Description of person writing or cashing check:
 - Sex.
 - How dressed.
 - Distinguishing features—fat, slim, round face, grey hair, etc.
 - Unusual statements or conversation that could be a standard pitch.
 - C. Vehicle description, if known—make, model, and year of car, camper, motorcycle, truck, etc.
3. When you receive a call, please make the calls assigned to you *immediately!* The calls assigned to you are listed under the name of your business on the enclosed call sheet. The Retail Red Alert System depends on *your* making your calls immediately!
4. Identify your call as a "Retail Red Alert Call"—this will quickly explain the nature of the call, thereby cutting down on conversation.
5. Inform and instruct key employees so they know about the Retail Red Alert System—how to use it and how to apply information received in your business.
6. Post your calling sheet in a location where it can be easily found or seen when needed.
7. You will receive a phone call from the chamber office notifying you of the date and time that a test will be made of the system; please ask any questions you may have when you receive a call.

Persons or business firms that wish to activate the alert system do so by calling the police department, sheriff's office, and central control—a retail



Under Retail Red Alert two-party checks are not accepted, and counter check blanks have been removed from the stores. Proper identification is required in all cases.

firm designated to act as coordinator in the distribution of information. Law enforcement and local banks contribute and receive information from the alert system, but are not assigned a position in the calling circuit.

The Chamber of Commerce conducts a periodic test of the alert system; it also answers questions and accepts suggestions from Red Alert members. Revisions are made when deemed necessary, although the total number of merchants (169) has remained fairly constant since the system's inception in 1968.

Other measures have recently been initiated by the retail dealers to discourage the violator. Two-party checks are no longer accepted, and

counter check blanks have disappeared from all stores. Proper identification is required in all cases.

The merchant's most pressing problem now concerns the fraudulent use of credit cards. Locally when a credit card is reported lost or stolen, the information is handled through Retail Red Alert, in the same manner as checks are handled. This procedure has proved to be successful.

Card Thieves Thwarted

Rapid City police files record the arrest of several individuals who attempted to use someone else's card. Such a case occurred when a victim, after waiting 2 days, reported to the

police that while drinking in a downtown tavern, his billfold, containing various forms of identification and a bank credit card, was stolen.

Red Alert was notified. Immediately afterwards merchants began reporting that the stolen credit card was already in circulation. The offenders, described as two middle-aged women, were busily making the rounds and had accumulated in excess of \$300 in merchandise.

"Bad checks and fraudulent use of credit cards will still be prevalent, but with Retail Red Alert the offenders' risks are greater as the odds are in favor of the Rapid City merchant."

Spotted by an employee at a local discount store, the two were apprehended while attempting another purchase. Sufficient evidence was obtained, and they were later charged with obtaining property under false pretenses.

New Methods Sought

Although a printed list of invalid credit card numbers is frequently supplied to dealers, the list is usually not current, and as a general rule, if a questionable number does not appear on the list, there is no inquiry on purchases of less than \$50.

A recent amendment to the Truth-in-Lending Act, establishing a maximum legal liability of \$50 for the legitimate cardholder in any unauthorized purchase, has spurred credit corporations to seek new methods in detecting misuse of credit cards. At the National Retail Merchants Association convention this year, several credit check systems were exhibited. Manufacturers were offering an array of electronic equipment designed to spot

(Continued on page 30)

Civil Liberties Repression: Fact or Fiction?

By

HON. LEWIS F. POWELL*

Former President of the
American Bar Association,
Richmond, Va.

In answer to the cries of repression of civil liberties, Mr. Powell replies, "Law-abiding citizens have nothing to fear." This article was prepared for and appeared in the Richmond, Va., Times Dispatch on August 1, 1971, and is reprinted for Bulletin readers with the permission of Mr. Powell and the Times Dispatch.



*Mr. Powell, a prominent Virginia attorney, was President of the American Bar Association from 1964 to 1965. He has also served on the National Commission on Law Enforcement and Administration of Justice, the Virginia State Board of Education, and the 15-man Blue Ribbon Defense Panel named by the President to study the Defense Department.

At a time when slogans often substitute for rational thought, it is fashionable to charge that "repression" of civil liberties is widespread. This charge—directed primarily against law enforcement—is standard leftist propaganda. It is also made and widely believed on the campus, in the arts and theater, in the pulpit, and among some of the media. Many persons genuinely concerned about civil liberties thus join in promoting or accepting the propaganda of the radical left.

A recent syndicated article by Associated Press writer Bernard Gavzer cited several such persons. According to Prof. Charles Reich of Yale, America "is at the brink of . . . a police state." Prof. Allan Dershowitz of Harvard decries the "contraction of our civil liberties."

The charge of repression is not a rifle shot at occasional aberrations. Rather, it is a sweeping shotgun blast

at "the system," which is condemned as systematically repressive of those accused of crime, of minorities, and of the right to dissent.

Examples ritualistically cited are the "plot" against Black Panthers, the indictment of the Berrigans, the forthcoming trial of Angela Davis, and the mass arrests during the Washington Mayday riots.

The purpose of this article is to examine, necessarily in general terms, the basis for the charge of repression. Is it fact or fiction?

There are, of course, some instances of repressive action. Officials are sometimes overzealous; police do employ unlawful means or excess force; and injustices do occur even in the courts. Such miscarriages occur in every society. The real test is whether these are episodic departures from the norm, or whether they are, as charged, part of a system of countenanced repression.

The evidence is clear that the charge is a false one. America is not a repressive society. The Bill of Rights is widely revered and zealously safeguarded by the courts. There is in turn no significant threat to individual freedom in this country by law enforcement.

Solicitor General Griswold, former dean of the Harvard Law School and member of the Civil Rights Commission, recently addressed this issue in a talk at the University of Virginia. He stated that there is greater freedom and less repression in America than in any other country.

So much for the general framework of the debate about alleged repression. What are the specific charges?

The attack has focused on wiretapping. There seems almost to be a conspiracy to confuse the public. The impression studiously cultivated is of massive eavesdropping and snooping by the FBI and law enforcement agencies. The right of privacy, cherished by all, is said to be widely threatened.

Some politicians have joined in the chorus of unsubstantiated charges. Little effort is made to delineate the purposes or the actual extent of electronic surveillance.

The Facts

The facts, in summary, are as follows. The Department of Justice employs wiretapping in two types of situations: (1) against criminal conduct such as murder, kidnaping, extortion, and narcotics offenses; and (2) in national security cases.

Wiretapping against crime was expressly authorized by Congress in 1968. But the rights of suspects are carefully safeguarded. There must be a prior court order issued only upon a showing of probable cause. The place and duration are strictly controlled. Ultimate disclosure of the taps is required. There are heavy penalties for unauthorized surveillance. Any

official or FBI Agent who employs a wiretap without a court order in a criminal case is subject to imprisonment and fine.

During 1969 and 1970, such Federal wiretaps were employed in only 309 cases. More than 900 arrests resulted, with some 500 persons being indicted—including several top leaders of organized crime.

The Government also employs wiretaps in counterintelligence activities involving national defense and internal security. The 1968 act left this delicate area to the inherent power of the President.

Current Myths

Civil libertarians oppose the use of wiretapping in all cases, including its use against organized crime and foreign espionage. Since the 1968 act, however, the attack has focused on its use in internal security cases and some

One of the current myths is that the Department of Justice is usurping new powers. The truth is that wiretapping, as the most effective detection means, has been used against espionage and subversion for at least three decades under six Presidents.

There may have been a time when a valid distinction existed between external and internal threats. But such a distinction is now largely meaningless. The radical left, strongly led and with a growing base of support, is plotting violence and revolution. Its leaders visit and collaborate with foreign Communist enemies. Freedom can be lost as irrevocably from revolution as from foreign attack.

The question is often asked why, if prior court authorization to wiretap is required in ordinary criminal cases, it should not also be required in national security cases. In simplest terms the answer given by government is the need for secrecy.

"The outcry against wiretapping is a tempest in a teapot. There are 210 million Americans. There are only a few hundred wiretaps annually, and these are directed against people who prey on their fellow citizens or who seek to subvert our democratic form of government. Law-abiding citizens have nothing to fear."

courts have distinguished these from foreign threats. The issue will be before the Supreme Court at the next term.

There can be legitimate concern whether a president should have this power with respect to internal "enemies." There is, at least in theory, the potential for abuse. This possibility must be balanced against the general public interest in preventing violence (e.g., bombing of Capitol) and organized attempts to overthrow the Government.

Foreign powers, notably the Communist ones, conduct massive espionage and subversive operations against America. They are now aided by leftist radical organizations and their sympathizers in this country. Court-authorized wiretapping requires a prior showing of probable cause and the ultimate disclosure of sources. Public disclosure of this sensitive information would seriously handicap our counterespionage and counter-subversive operations.

As Attorney General John Mitche

has stated, prohibition of electronic surveillance would leave America as the "only nation in the world" unable to engage effectively in a wide area of counterintelligence activities necessary to national security.

Apparently as a part of a mindless campaign against the FBI, several nationally known political leaders have

language, urges the young to assault the police.

The New York Times and the Washington Post reported, as established fact, that 28 Panthers had been gunned down by police since January 1968. Ralph Abernathy attributed the death of Panther leaders to a "calculated design of genocide." Julian

This was unlike prior demonstrations in Washington, as the avowed purpose of this one was to shut down the Government. The mob attempted to block main traffic arteries during the early morning rush hours. Violence and property destruction were not insignificant. Some 39 policemen were injured. Indeed, Deputy Attorney General Kleindienst has revealed that the leaders of this attack held prior consultations with North Vietnamese officials in Stockholm.

Yet, because thousands were arrested, the American Civil Liberties Union and other predictable voices cried repression and brutality. The vast majority of those arrested were released, as evidence adequate to convict a particular individual is almost impossible to obtain in a faceless mob.

The alternative to making mass arrests was to surrender the Government to insurrectionaries. This would have set a precedent of incalculable danger. It also would have allowed a mob to deprive thousands of law-abiding Washington citizens of their rights to use the streets and to have access to their offices and homes.

Sheer Nonsense

Those who charge repression say that dissent is suppressed and free speech denied. Despite the wide credence given this assertion, it is sheer nonsense. There is no more open society in the world than America. No other press is as free. No other country accords its writers and artists such untrammelled freedom. No Solzhenitsyns are persecuted in America.

What other government would allow the Chicago Seven, while out on bail, to preach revolution across the land, vastly enriching themselves in the process?

What other country would tolerate in wartime the crescendo of criticism of government policy? Indeed, what other country would allow its

"There is no more open society in the world than America. No other press is as free. No other country accords its writers and artists such untrammelled freedom. . . . What other government would allow the Chicago Seven, while out on bail, to preach revolution across the land, vastly enriching themselves in the process?"

asserted their wires were tapped or that they were otherwise subject to surveillance. These charges received the widest publicity from the news media.

False Charges

The fact is that not one of these politicians has been able to prove his case. The Justice Department has branded the charges as false.

The outcry against wiretapping is a tempest in a teapot. There are 210 million Americans. There are only a few hundred wiretaps annually, and these are directed against people who prey on their fellow citizens or who seek to subvert our democratic form of government. Law-abiding citizens have nothing to fear.

In the general assault on law enforcement, charges of police repression have become a reflexive response by many civil libertarians as well as by radicals.

Examples are legion. Young people are being incited not to respect law officers but to regard them as "pigs." Black Panther literature, in the vilest

Bond charged that Panthers are being "decimated by police assassination arranged by the federal police apparatus." Even Whitney Young referred to "nearly 30 Panthers murdered by law enforcement officials."

These charges, upon investigation (by the New Yorker magazine, among others), turned out to be erroneous. The fact is that two—possibly four at most—Panthers may have been shot by police without clear justification. Many of the 28 Panthers were killed by other Panthers. There is no evidence whatever of a genocide conspiracy.

But the truth rarely overtakes falsehood—especially when the latter is disseminated by prestigious newspapers. Millions of young Americans, especially blacks, now believe these false charges. There is little wonder that assaults on police are steadily increasing.

The latest outcry against law enforcement was provoked by the mass arrests in Washington on May 3. Some 20,000 demonstrators, pursuant to carefully laid plans, sought to bring the Federal Government to a halt.

citizens—including some political leaders—to negotiate privately with the North Vietnamese enemy?

Supreme Court decisions sanctify First Amendment freedoms. There is no prior restraint of any publication, except possibly in flagrant breaches of national security. There is virtually no recourse for libel, slander, or even incitement to revolution.

The public, including the young, are subjected to filth and obscenities—openly published and exhibited.

The only abridgment of free speech in this country is not by government. Rather, it comes from the radical left—and their bemused supporters—who do not tolerate in others the rights they insist upon for themselves.

Prof. Herbert Marcuse of California, Marxist idol of the New Left, freely denounces “capitalist repression” and openly encourages revolution. At the same time he advocates denial of free speech to those who disagree with his “progressive” views.

It is common practice, especially on the campus, for leftists to shout down with obscenities any moderate or conservative speaker or physically to deny such speaker the rostrum.

A recurring theme in the repression syndrome is that Black Panthers and other dissidents cannot receive a fair trial.

The speciousness of this view has been demonstrated recently by acquittals in the New Haven and New York Panther cases—the very ones with respect to which the charge of repression was made by nationally known educators and ministers.

Rights Safeguarded

The rights of accused persons—without regard to race or belief—are more carefully safeguarded in America than in any other country. Under our system the accused is presumed to be innocent; the burden of proof lies on the state; guilt must be proved

beyond reasonable doubt; public jury trial is guaranteed; and a guilty verdict must be unanimous.

In recent years, dramatic decisions of the Supreme Court have further strengthened the rights of accused persons and correspondingly limited the powers of law enforcement. There are no constitutional decisions in other countries comparable to those rendered in the cases of Escobedo and Miranda.

“Rather than ‘repressive criminal justice,’ our system subordinates the safety of society to the rights of persons accused of crime. The need is for greater protection—not of criminals but of law-abiding citizens.”

Rather than “repressive criminal justice,” our system subordinates the safety of society to the rights of persons accused of crime. The need is for greater protection—not of criminals but of law-abiding citizens.

A corollary to the “fair trial” slander is the charge that radicals are framed and tried for political reasons. This is the worldwide Communist line with respect to Angela Davis. Many Americans repeat this charge against their own country, while raising no voice against standard practice of political and secret trials in Communist countries.

The radical left, with wide support from the customary camp followers, also is propagandizing the case of the Berrigans.

The guilt or innocence of these people remains to be determined by juries of their peers in public trials. But the crimes charged are hardly “political.” In the Davis case a judge and three others were brutally murdered. The

Berrigans, one of whom stands convicted of destroying draft records, and charged with plots to bomb and kidnap.

Some trials in our country have been politicized—but not by government. A new technique, recently condemned by Chief Justice Warren Burger, has been developed by the Kunstlers and others who wish to discredit and destroy our system. Such counsel and defendants deliberately seek to turn courtrooms into Roman spectacles—disrupting the trial, shouting obscenities and threatening violence. It is they—not the system—who demean justice.

The answer to all of this was recently given by former California Chief Justice Roger J. Traynor, who said:

“It is irresponsible to echo such demagogic nonsense as the proposition that one group or another in this country cannot get a fair trial. . . . No country in the world has done more to insure fair trials.”

America has its full share of problems. But significant or systematic government repression of civil liberties is not one of them.

The radical left—expert in such matters—knows the charge of repression is false. It is a cover for leftist-inspired violence and repression. It is also a propaganda line designed to undermine confidence in our free institutions, to brainwash the youth, and ultimately to overthrow our democratic system.

It is unfortunate that so many non-radical Americans are taken in by this leftist line. They unwittingly weaken the very institutions of freedom they wish to sustain. They may hasten the day when the heel of repression is a reality—not from the sources now recklessly defamed but from whatever tyranny follows the overthrow of representative government.

This is the greatest danger to human liberty in America.

"Regardless of his training and education, his experience and intelligence, his resourcefulness and initiative and regardless of the technology, facilities, and equipment available to him, the law enforcement officer is no better than his physical capacities allow him to be!"

Why Weight?

By
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There are many areas of study relative to physical fitness, but for the purposes of generalized primary interest and brevity, this article will be confined to the following items and definitions.

Obesity—excessive fat deposit in the body causing body weight 15 percent or more above the optimal weight established by leading life insurance companies of the United States.

Adiposity—body weight not necessarily exceeding normal but composed of excessive fatty tissue.

Why Should We Be Concerned?

The physical appearance as well as the efficient functioning of all officers is a direct reflection upon law enforcement. Public expectations relative to the capabilities of officers are ever on the rise.

Are officers trained adequately?

Are they educated properly?

Are they physically capable of performing their duties?

Do they conform to the same high level of professional appearance that they, as a collective body, are attempt-

ing to reach in capabilities and function?

In other words, in addition to "being sharp," today's officer is expected to "look sharp." Not only does the slim, trim officer personify what is expected of him today, but that same trimness enables him to efficiently perform his duties with a minimum of expended effort. His mobility, speed, strength, agility, self-confidence, and aggressiveness are all increased to some degree.

To look at the question in another perspective, consider the physical well-being of the individual. Although excessive weight itself is a problem, what other infirmities may be brought about by or are directly connected with excessive weight? From all indications, there are an appreciable number.

Certainly, today's law enforcement officers should look the part of physically fit and capable individuals. Therefore, let us examine and consider some of the physical aspects of adiposity and obesity.

A Layman's Viewpoint

Both adiposity and obesity are, of course, directly associated with a common factor, fat. Adiposity is usually considered the "lesser of the two evils"; however, in most instances it is a physical state prior to and conducive to the development of clinical obesity. The significance of each to our own personal situation is of utmost concern.

Fortunately, for the majority of us, there are a number of ways in which we can rationalize our present physical condition. All of them are quite valid, if proven by medical diagnosis, but not so valid if they are based upon conjecture alone.

Adiposity and/or obesity may be attributed, in some people, to varying metabolic rates; use of fat following

absorption; tissue factors; use of energy; glandular efficiency or deficiencies; social factors; influences of heredity; and psychological factors which, in this extremely complex and frustrating age, cover a number of things. No matter what the reason for our weight problems, our ultimate physical appearances and physiological responses are just as meaningful to our overall life function as are those of a person of average weight.

For many of us, there is a basic confusion between hunger and appetite. Hunger may be thought of as the principal organic need of the body, exhibited in a variety of ways from simple "yearnings" to extreme muscular contractions of the empty stomach. Appetite, on the other hand, is a sensation, primarily psychic in foundation, causing an intense desire regardless of the bodily need. Much evidence indicates that appetite is largely acquired, based upon previous experience, training, or environmental influences.

Let us now look at some typical problems caused by excessive weight.

Medical Aspects of Obesity

We may wonder why overweight, of all health defects, is the most common reason for refusal of standard risk life insurance. There are a wealth of valid, highly technical, and respected studies on the problems of obesity and its effect on health and longevity.

For instance, two prominent, qualified researchers¹ have found that "the penalty of overweight is $\frac{1}{4}$ to $\frac{3}{4}$ excess in mortality." Persons from 5 to 14 percent overweight have an excess mortality rate of 22 percent; those from 15 to 24 percent overweight a rate of 44 percent; those 25 percent or more overweight a rate of 74 percent. Age also plays a part in these statistics. For instance, persons 45 to 50 years of age when 10 pounds overweight have an increase of 8 percent

above the average death rate; when 20 pounds overweight, of 18 percent; when 30 pounds overweight, of 28 percent; and when 50 pounds overweight, of 56 percent.

Another study² on the causes of death among obese persons as compared with persons of normal weight revealed that deaths from degenerative diseases of the heart, the arteries, and the kidneys account for the greatest proportion of the higher mortality. The latest statistics of the American Heart Association show that some 54 percent of all deaths in the United States are products of some type of heart disease. The death rate from diabetes is almost four times as great for obese persons as for individuals of desirable weight. Additionally, there are a much greater number of deaths due to accidents among obese persons, presumably because most overweight individuals are less agile.

It has also been demonstrated³ that obesity, in its varying degrees, has a definite adverse effect upon other medical disorders by (1) increasing their incidence (overweight people are more susceptible to the condition), (2) increasing the severity of the disease itself, (3) increasing the number and severity of the symptoms caused by the disease or by (4) increasing the incidence and severity of complications of the disease. Disorders falling into this category, and reacting in one or more of the preceding ways, include diabetes, heart disease, hypertension, acute and chronic nephritis, pulmonary emphysema, arteriosclerosis, and a number of other illnesses.

Further, a study of 1,250 random autopsies⁴ shows there is close association between obesity and atherosclerosis with advanced degrees of vascular change found twice as often among the obese as among the poorly nourished.

Atherosclerosis may be differentiated from arteriosclerosis in that,

while in a sense of the term, it is a hardening of the vascular system, it is much more than that because of the way the disease develops. Collections of materials such as cholesterol, fats, and fibrous tissues are deposited on the inner walls of the vascular system and cause ever-decreasing ability of that system to function efficiently as a dispenser of oxygenated blood. This is a comparatively normal condition even in individuals of the highest physiological well-being; however, the factor that should cause us concern is that cholesterol, wax-like and crystalline in structure, is much like fats. Both are found in substantially the same foods, are relatively insoluble in composition, and, therefore, require the same components and conditions to break them down so that they may be eliminated. Unfortunately, the requirements are so high that in the overwhelming majority of cases, little, if any, breakdown progress is made.

Over-Indulgence

The problem for most people is that they over-indulge in items such as meats well-marbled with fat, dairy products, and hydrogenated food-stuffs—items much more detrimental to their physical well-being than diets of persons dependent almost entirely upon fish and vegetable oils, such as corn, cottonseed, and soya.

But to go on—is it possible that either adiposity or obesity might have a deleterious effect on our hearts, our circulation, or our respiration? In one word, "yes." Excessive fat may cause difficult or uncomfortable breathing, excessive fatigue, and limited capacity in the performance of muscular work simply by increasing the body weight. Should this occur, any given task requiring mechanical efficiency naturally increases the demand for a greater expenditure of energy and greater oxygen consumption among other less definable effects.

It has been shown that the degree of cardiac enlargement in obesity is roughly proportional to the increase in body surface area. In some instances, enlarged hearts, which appear normal otherwise, fail⁵ because adiposity between the heart muscle bundles causes a general restriction of efficiency.

The effects of excessive weight upon respiration, and the resultant problems, are multiple. The accumulation of fat may restrict the mechanical act of breathing by occupying areas along the abdominal and thoracic walls. This increases the effort required to breathe up to several times the normal amount.⁶ Then again, the fatty tissue may itself infiltrate the muscles between the ribs and the muscles of the diaphragm. Should the diaphragm, which is responsible for approximately two-thirds of the breathing function, be impaired, a general inadequacy of pulmonary ventilation will result with a decrease in oxygen saturation and an increase of carbon dioxide retention.⁷

All the ill effects of adiposity and obesity may not even be known, but from those mentioned above, we can

see that excessive weight can be a critical physical problem. It also affects many persons emotionally or psychologically as well.

Conclusion

In conclusion, a review of present evidence⁸⁻⁹ dictates that the best possible diets for general body welfare include those foods low in saturated (animal) fats and relatively high in polyunsaturated (generally vegetable) fats. The total amount of fat is the significant factor in controlling blood cholesterol levels.¹⁰ Since the degree and duration of excessive weight are important factors in causing predisposition to (and many times establishing irreversibility of) a large number of disorders, prevention of excessive weight is much more important than its removal.

Last, but not least, are two points that may be brought out from past experiences and general knowledge.

1. Whether or not the agency by which you are employed makes demands upon you for conformity to weight and health standards, the final responsibility rests squarely upon

your shoulders to develop and utilize the self-discipline necessary to control the intake of proper foodstuffs for your personal well-being.

2. Regardless of his training and education, his experience and intelligence, his resourcefulness and initiative and regardless of the technology, facilities, and equipment available to him, the law enforcement officer is no better than his physical capacities allow him to be!

FBI

FOOTNOTES

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FBI Numbers Assigned to All Criminal Fingerprint Cards

All criminal fingerprint cards requiring an answer are now given an FBI number if one has not been assigned previously. The practice in the past had been to assign such a number upon receipt of a second set of prints. A number is now assigned upon receipt of the first set.

This change is deemed desirable in view of the Computerized Criminal History Program scheduled for implementation in November, wherein the FBI number is a necessary element for entry into the system. This new procedure also should materially aid in curtailing multiple fingerprint submissions applicable to the same arrest or incarceration. In the past, such submissions led to the costly and time-consuming task of locating fingerprint jackets which were out of file as a result of the original fingerprint submission.

New, modern police facilities are conducive to effective enforcement. Chief Breier describes some of the features of Milwaukee's new headquarters.

A New Police Building for Milwaukee

The Milwaukee Police Department was established by ordinance on September 10, 1855. At that time the chief and his six patrolmen were housed in the basement of a building located on East Wisconsin Avenue. In 1857, a two-story brick building, referred to as the "Central Station," was erected on the city's east side. In 1885, 28 years later, the Broadway Street Central Station was constructed. The expanding population and growth of the city brought similar expansion to all branches of city government.

In 1930 a new facility called the Safety Building was erected. It was a governmental structure constructed for the use of both the city and Milwaukee County. It housed the police department headquarters, fire department administrative offices, the county jail, and criminal court branches.

By 1971, 41 years later, Milwaukee had expanded to 95.77 square miles and increased correspondingly in population. The 2,289 civilian and police members of our department outgrew the Safety Building and moved into



The Milwaukee Police Administration Building is conveniently located

By
HAROLD A. BREIER
Chief of Police,
Milwaukee, Wis.





vice to the public.

one of the most modern police buildings in the United States. This \$6.3 million structure is unique in appearance. The exterior treatment of the building gives an expression of strength, boldness, and dignity. The vertical marble-faced columns set off the precast cement and stone "fins" which are designed to exclude sunlight and thereby reduce the cost of air-conditioning. An additional \$372,500 was used to purchase furniture, fixtures, and communications equipment.

Our new facility is located in the downtown Civic Center Plaza and is surrounded by the Pool of Fountains, the Safety Building, North Seventh Street, and West State Street. The location is convenient for motorists who can use the two street-level teller windows. Pneumatic tubes connect these windows with the second floor traffic bureau. This feature reduces parking conflicts and pedestrian traffic in or near the structure. For those who must enter the building, there is underground parking in the Civic Center Plaza which accommodates 1,234 vehicles.

Property Storage

The base of the building contains two subfloors used by the property bureau for the storage of over 100,000 items of property and evidence. The police garage, a two-level facility situ-

ated on the subbasement and street levels, accommodates 170 vehicles.

The mall or first level is enclosed in glass and includes an information booth, elevators, and concession stand. Escalators provide access to the second floor traffic bureau, accident investigator, the first district station, and a branch office of the city attorney.

On the third floor are the detective bureau clerical division and the identification bureau, the clearinghouses for information dealing with criminal activities. They maintain the criminal records for the department and are presently in the process of changing to a complete computerization of records and identification.

The detective bureau and vice squad, situated on the fourth floor, are the criminal investigative bureaus. The detective bureau assembly room has a showup stage with a screen having a rear projection capability. The

Escalators on the first floor facilitate movement to offices with the greatest number of contacts with the public.





An identification technician compares fingerprints by means of a computer.

officer conducting a showup will be able to control the lighting effects and project slides or movies to simulate actual crime scenes when the showup stage becomes operational.

The medical bureau, youth aid bureau, and city jail are located on the fifth floor. A prisoner elevator provides transportation from the police garage directly to the jail facility. In case of an emergency within the elevator, an alarm is activated and the elevator will proceed to the jail level only. A "skyway bridge" provides added security by connecting the city jail with the courtrooms in the Safety Building. The 111 cells are individually or "gang" controlled by electrical or mechanical means.

Other Features

The sixth floor encompasses the second tier of prisoner cells, separate lounges for male and female employees, the tabulating bureau, print shop, and communications bureau. The tabulating bureau uses a computer in

processing cards for input into City Hall's Central Electronic Data Services' computer. This processing of data provides the 19 police district and bureau computer terminals access to information on open traffic citations, moving traffic violations, vehicle license registration, and National Crime Information Center responses. The print shop publishes the department's forms, brochures, bulletins, and training materials.

The communications bureau maintains radio contact with the department's 356 vehicles, two police boats, and numerous portable radios. The Milwaukee Police Radio System presently operates on a total of 14 radio frequencies in the VHF and UHF radio spectra. Seven modular radio dispatch consoles and a five-position automatic dial switchboard provide radio and telephone communications. Forty solid-state satellite receivers are

From this rostrum in the detective bureau assembly room, an officer can control lighting effects and projection of crime scenes on a screen.





From the consoles in the communications bureau, dispatchers maintain radio contact with the officers in the field.

A detective secures his revolver in a weapons depository before entering a consultation room.



located in 10 specific locations throughout the city and significantly improve the quality of radio reception. Installation and repair of communications equipment are performed in a separate structure away from the administration building.

The seventh floor includes the offices of the administration bureau, the personnel bureau, the bureau of internal affairs, the special assignment bureau, the pension office, the Fire and Police Commission, and my office. In addition, there are three oak-paneled conference rooms with unique lighting used by department administrators, the Fire and Police Commissioners and myself. A teleprocessing computer terminal links the administration bureau directly to the City Hall computer. It can refer immediate answers to the department on budget matters.

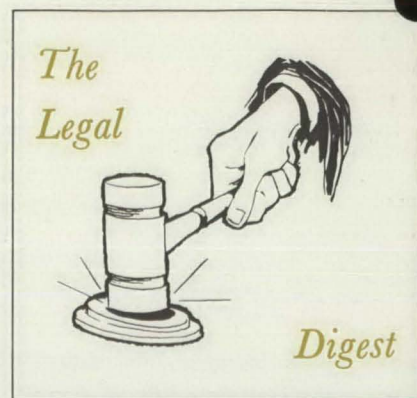
The eighth floor houses the heating and air-conditioning equipment.

In general, the administrative offices were assigned to the upper floors, the bureaus with a great amount of con-

(Continued on page 31)

Misdemeanor Arrest— The Presence Requirement

PART II



By
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(This is the conclusion of a two-part article.
Part I appeared in the September issue.)

S *mell*: In *McBride v. United States*,²⁷ prohibition officers, lawfully present on the premises of subject, detected the fumes of whisky being manufactured, apparently coming from a stable. They entered the stable and found in the cellar a 75-gallon still, together with a quantity of whisky and beer. Defendant was convicted of possession of untaxed whisky and possession of a still, and his appeal was based on the agents' failure to detect the crime in their presence. The court, in rejecting this view, noted that when an officer is apprised by any of his senses that a crime is being committed, it is being committed in his presence, so as to justify an arrest without warrant.

Speaking in the context of searches rather than arrests, the Supreme Court has noted that odor alone may be sufficient to establish probable cause for a search warrant. In *Johnson v. United States*,²⁸ experienced narcotics officers received a report from a confidential informant that unknown persons were smoking opium in a hotel, went to the hotel, and detected the

strong distinctive odor of burning opium coming from a particular room. They knocked, and after one officer announced his identity, the defendant opened the door, and "acquiescently" admitted them. The defendant denied there was an opium smell in the room, whereupon she was arrested. The room was searched incident to the arrest and incriminating evidence seized.

The question before the Court was whether the warrantless arrest of defendant and the search of her room were lawful. It held the arrest illegal, pointing out that the Government conceded that the officer did not have probable cause to arrest until after he entered and was able to ascertain that defendant was the room's sole occupant. The decision was based upon this unauthorized entry. It would appear that if the sense of smell could direct an officer to a particular room, the present occupant could be identified specifically before entry, and the arrest made prior to searching the premises, the arrest would be lawful. Thus in *Cothren v. United States*,²⁹

Federal agents detected the odor of illicit whisky coming from the basement of defendant's weekend home and saw the defendant in the house. He was arrested without warrant in the basement, and the court held that the agents had "probable cause to believe a crime was being committed in their presence."³⁰ (Emphasis added.)

One Federal court has stated in dictum that odor alone may be sufficient to establish probable cause to arrest. In *Fernandez v. United States*,³¹ an immigration officer also designated as a customs inspector stopped the defendant's car at a checkpoint near the United States-Mexican border. After brief questioning, the officer walked around the car and detected the odor of marihuana, with which he was familiar, coming from under the hood. The defendant, at the officer's request, opened the hood, and five packages of marihuana were discovered. The defendant was arrested and convicted of smuggling. In affirming the conviction on appeal, the court noted that "it could also be argued . . . that the odor of marihuana, coming as it d

from under the hood of the vehicle in appellant's control, alone provided probable cause for the arrest of appellant."³²

In one State decision, the court solved the problem raised by *Johnson* by holding that the Federal rule as enunciated in that case does not apply to the States, that the lawfulness of an arrest by a State officer must be determined by State law.³³ Other courts have gone a step further, rejecting the reasoning of *Johnson*, and fashioning a less restrictive State rule of arrest.³⁴

In practice, the sense of smell alone very seldom will be relied upon to establish presence for purposes of a misdemeanor arrest. It will generally be coupled with other sense perceptions to make a stronger case of presence.³⁵

Touch: The sense of touch as satisfying the presence requirement is not singled out for special treatment by the courts. And yet it seems likely that where an officer makes a self-protective pat-down search of a suspect's outer clothing in a detention situation, feels the outline of a gun or other recognizable weapon, and reasonably believes that possession of the object is a crime, he may make an immediate arrest.³⁶

"Touch" of Experience

Though in many situations the commission of the concealed weapon violation will not be readily apparent (and hence "presence" not met) until the object is removed from the clothing and observed, an experienced officer, particularly when dealing with pistols, knows to a high degree of certainty, by touch alone, that the subject is armed. In those cases, the offense would appear to be committed in the officer's presence when the gun is felt.

Taste: It is difficult to imagine that the "in-presence" requirement can be satisfied by the sense of taste alone. In certain cases, especially those involving narcotics and untaxed whisky,

taste could become a valuable adjunct to the sense of smell and sight. Where such contraband possesses a distinctive taste, then its flavor, in combination with odor or appearance, would be helpful in establishing probable cause to arrest for an "in-presence" violation.

Admissions: An admission in response to a lawful inquiry by an officer has been held sufficient to satisfy the "in-presence" requirement for a misdemeanor arrest. Thus, in *Brown v. State*,³⁷ an officer stopped the defendant for reckless driving. While conversing with the officer, defendant admitted he had moonshine whisky in his car. The Florida Supreme Court said, in commenting on the legality of this misdemeanor arrest: ". . . when defendant voluntarily admitted that his ranch wagon was stocked with moonshine, such admission was tantamount to the commission of the offense of possessing illicit liquor in the presence of the officer . . . (and) he is authorized to arrest without a warrant."³⁸ A statement that one's driver's license has been revoked,³⁹ that he is carrying a concealed weapon,⁴⁰ that he is in possession of betting paraphernalia,⁴¹ or that he permitted the unauthorized operation of a motor vehicle,⁴² have all been held instances in which the admission is sufficient to authorize a misdemeanor arrest for an offense occurring in the presence of the officer.

Constructive Presence and the Police-Team Rule: The Supreme Court of Maryland recently reaffirmed its approval of a constructive presence doctrine or, as it has been described, a "police-team" rule. In *Robinson v. State*,⁴³ one officer on routine patrol observed a fence lock cut, the door of a storehouse inside the fence open, and four men within the storehouse. The men fled and the officer radioed a lookout for the offense of "storehouse breaking," a misdemeanor in Maryland. Two of the four were described

by the clothing they wore. Shortly thereafter another officer, not working with the first, but having heard a radio lookout, sighted two of the apparent subjects within a mile of the crime scene and arrested them for commission of the misdemeanor. They were convicted and based their appeal on the unlawfulness of the arrest, contending that the arresting officer did not comply with Maryland law requiring that the misdemeanor occur in the officer's presence in order to justify the arrest.

"Team" Rule

The Maryland Supreme Court, citing its 1964 decision which established the "police-team" rule,⁴⁴ held that where one officer observes the commission of a misdemeanor, and another is thereafter made aware of this by radio or other form of communication, the second officer is empowered to arrest. The presence requirement is satisfied on the grounds that the officers operate as a team and an offense committed in the presence of one in effect is committed in the presence of all.

This reasoning has also been applied to the use of an airplane in the arrest of traffic violators. In 1965 the Kansas Supreme Court approved the "police-team" rationale in a case where three patrolmen were checking speeders on a Kansas highway. Two were in an airplane, the other on the ground in an automobile, but in radio communication with the plane. The officers aloft observed a speeding violation and radioed the officer below, who stopped the car and arrested the driver. The court deemed the offense of the errant driver to have been committed in the presence of the officer on the ground, although the infraction was observed by the airborne officers. The court noted that for purposes of the presence requirement "knowledge of one was knowledge of all."⁴⁵

The "police-team" rule represents a judicial effort to satisfy the common law requirement of presence where justice and commonsense require it. It is a legal device which has not received wide acceptance in State courts.⁴⁶

A New Approach

Many jurisdictions have not accepted the reasoning exemplified by the "police-team" rule. In an effort to overcome the need for satisfying the "in-presence" requirement for misdemeanor arrests, some legislatures have simply abolished the traditional felony-misdemeanor distinction, requiring only that reasonable grounds be established.⁴⁷ Others have by statute exempted specific, serious misdemeanors from the presence requirement, generally upon condition that such arrests be made only when the suspect may otherwise escape, cause injury to persons, damage to property, or destruction of evidence.⁴⁸

Where arrests for designated misdemeanors are exempted from the presence requirement, they are gen-

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

erally of a serious nature: burning vehicles or personal property; carrying concealed weapons; petty larceny; breaking into a building with intent to steal; assault to do great bodily harm; shooting at trains, cars, and vessels; receiving stolen goods; and unlawful entry.⁴⁹

In 1966 one author defined the overall problem of archaic arrest law, of which the "in-presence" aspect of misdemeanor arrests is but a part, as follows:

"... the modern police officer is armed with a collection of powers of such bewildering vari-

ety, and all subject to much different conditions, that often neither he nor anyone else is in a position to make an estimation of the legality of an arrest in a particular case. . . . By far the most serious consequence of the obscurity and inadequacy of the law of arrest is that it inevitably weakens the respect in which the law and the principle of legality is held by police officers."⁵⁰

Since 1933 fourteen States have taken steps to modify the common law of misdemeanor arrest.⁵¹ The American Law Institute recommended in 1966 a power of arrest without warrant for misdemeanors not committed in the officer's presence in cases of necessity.⁵² Such changes already undertaken and those currently proposed will not solve all the police officer's arrest problems. However, it is hoped they will make misdemeanor arrest law sufficiently clear for correct understanding and application, not only by courts, attorneys, and legal advisors after careful study, but also by police officers who are expected to act swiftly in circumstances that may be dangerous as well as ambiguous. [®]

FOOTNOTES

²⁷ *McBride v. United States*, *supra* footnote 4.
²⁸ 333 U.S. 10 (1948).

²⁹ 386 F. 2d 364 (4th Cir. 1967), cert. denied, 390 U.S. 949 (1968).

³⁰ *Id.* at 366. It should be noted that *Cothren* involves the commission of a felony, but the "in-presence" principle propounded is applicable to misdemeanors.

³¹ 321 F. 2d 283 (9th Cir. 1963).

³² *Id.* at 287, note 8 (dictum).

³³ *State v. McGuire*, 479 P. 2d 187 (Ariz. Ct. App. 1971), citing *Ker v. California*, 374 U.S. 23 (1963).

³⁴ *Vaillancourt v. Superior Court*, 273 Cal. App. 2d 791, 78 Cal. Rptr. 615 (1969); *People v. Bock Leung Chew*, 142 Cal. App. 2d 400, 298 P. 2d 118 (1956).

³⁵ See *Cothren v. United States*, *supra* footnote 29 (sight); and *State v. McGuire*, *supra* footnote 33. See, also, *United States v. Williams*, 227 F. 2d 149 (4th Cir. 1955), where the sense of smell was combined with those of sight and hearing to establish grounds to believe a felony was being committed "in-presence"; *State v. Hill*, 178 S.E. 2d 462 (N.C. 1971), where the senses of hearing, sight, and smell were usefully employed; *United States v. Young*, 322 F. 2d 443 (4th Cir. 1963), sight, smell, and hearing; and *United States v. Gibbs*, 435 F. 2d

621 (9th Cir. 1970), sight and smell.

³⁶ In *Terry v. Ohio*, 392 U.S. 1 (1968), an experienced police officer, on a downtown retail business street, approached Terry and two others who were acting in such a suspicious manner as to warrant further investigation. After the officer identified himself and did not receive a satisfactory response to his inquiries, he grabbed Terry, spun him around, and patted down the outside of his clothing. In Terry's left breast overcoat pocket, he felt a pistol. The gun was removed from Terry shortly thereafter, he was arrested and subsequently convicted of carrying a concealed weapon. The *Terry* case, although involving the commission of a felony, demonstrates how the sense of touch might be usefully employed in misdemeanor cases to satisfy the "in-presence" requirement.

³⁷ 91 So. 2d 175 (Fla. 1956).

³⁸ *Id.* at 177.

³⁹ *Cornish v. State*, 215 Md. 64, 137 A. 2d 170 (1957).

⁴⁰ *Johnson v. Commonwealth*, 304 Ky. 490, 200 S.W. 2d 913 (1947).

⁴¹ *Kershaw v. State*, 199 Md. 135, 85 A. 2d 783 (1952).

⁴² *Kirby v. State*, 217 So. 2d 617 (Fla. Dist. Ct. App. 1969).

⁴³ 4 Md. App. 515, 243 A. 2d 879 (1968).

⁴⁴ *Farrow v. State*, 233 Md. 526, 197 A. 2d 434 (1964).

⁴⁵ *State v. Cook*, 194 Kans. 495, 399 P. 2d 835 (1965).

⁴⁶ For a more detailed discussion of the "police-team" rule, see "Comment," 26 Wash. & Lee L. Rev. 119. See, also, *Prosser v. Parsons*, 245 S.C. 493, 141 S.E. 2d 342 (1965), a false imprisonment action in which the South Carolina Supreme Court held that a game warden arresting for the misdemeanor of night hunting not committed in his presence, but in the presence of fellow wardens, acted lawfully.

⁴⁷ E.g., Ill. Ann. Stat., Ch. 38, Sec. 107-2(c), *Smith-Hurd 1964*; and Iowa Code Ann., Sec. 755.4 (1950).

⁴⁸ E.g., Md. Ann. Code, Art. 27, Sec. 594B (1969); D.C. Code Ann., Sec. 4-140 (1967).

⁴⁹ E.g., Ohio Rev. Code Ann., Sec. 2935.03 (1967); Md. Ann. Code, Art. 27, Sec. 594B (1969); D.C. Code Ann., Sec. 4-140 (1967).

⁵⁰ Thomas, "Arrest: A General View," 1966 Crim. L.R. 639 (1966).

⁵¹ Model Code of Pre-Arrest Procedure, Appendix II (Tent. Draft No. 1, 1966). "Comment," *supra* footnote 46, at 122, notes 17 and 18. See, also, Ohio Rev. Code Ann., Sec. 2935.03 (1967), and Md. Ann. Code, Art. 27, Sec. 594B (1969).

⁵² Model Code, op. cit., *supra* footnote 51, Sec. 3.

(This is the conclusion of a two-part article. Part I appeared in the September issue.)

PART II

Classification of Footprints

W Group

The general classification of whorls is designated W. The W Group is further classified into three types: w, d, and x as follows:

Type Ww: The plain whorl and central-pocket loop-type whorl, as defined in fingerprint classification, make up the Ww type of footprints, an example of which is shown in Figure 14.

Type Wd: The double loop whorl is designated as Wd and is shown in Figure 15.

Type Wx: Accidental whorls designated as Wx include those types of patterns which do not conform to any of the other definitions as found in "The Science of Fingerprints."

Ridge Counting for the W Group

A necessary part of the classifica-

"In some instances, it may become necessary to use footprints for identification, particularly where all fingers or hands are missing because of accidents or other reasons."

tion formula is the ridge count for patterns in the W Group. The procedure for counting whorls is exactly the same as for loops. In this connection the proper delta and the core must be determined. The delta of all types of the W Group is located directly below the great toe as shown in figures 16 and 17.



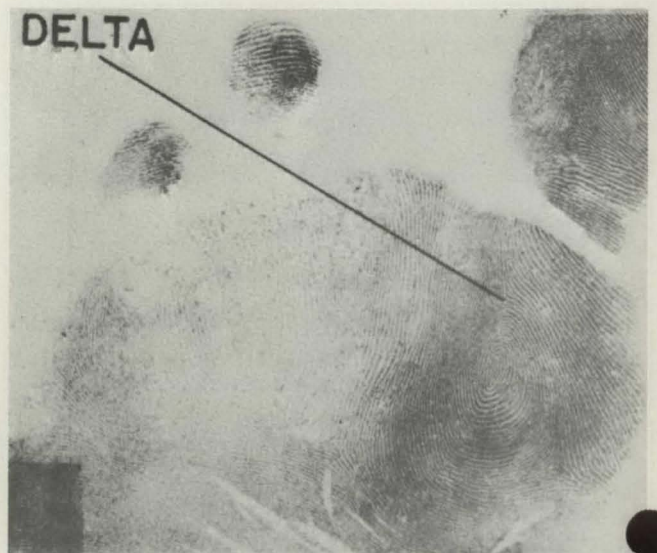
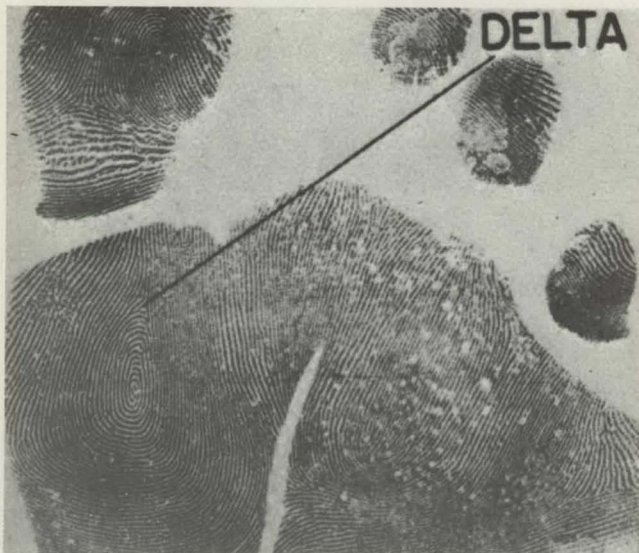
Figure 14.



Figure 15.

Figure 16.

Figure 17.



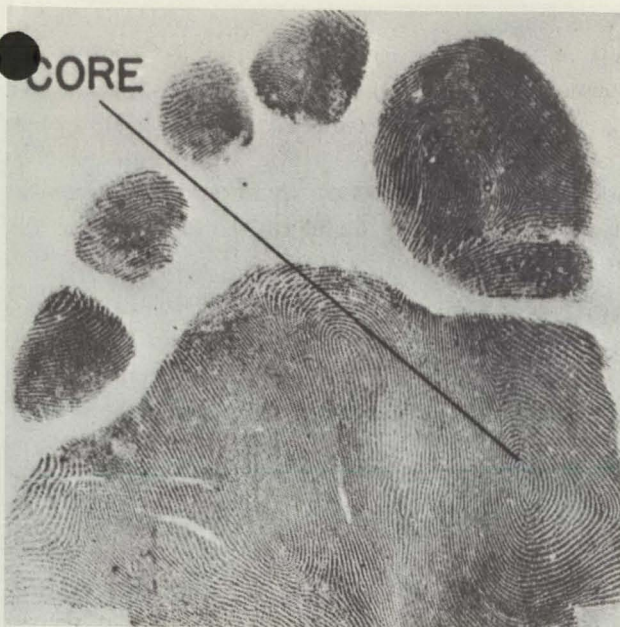


Figure 18.

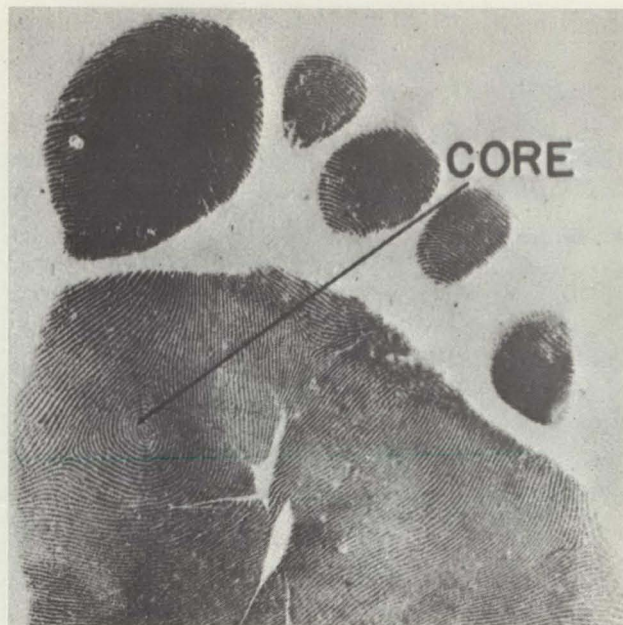


Figure 19.

Location of Core in the W Group

The core of the Ww type is located on the innermost recurving ridge on the delta side as shown in figures 18, 19, and 20. The Wd type is counted from the delta to the core of the upright loop, figure 21. Where the loops of a double loop are horizontal, the nearer core to the delta is used. The

Wx type of whorl may have two or more cores; the ridge count of this type is made to the core that has the least number of ridges intervening from the delta.

Classification Formula

The numerator portion of the classification formula of footprints is

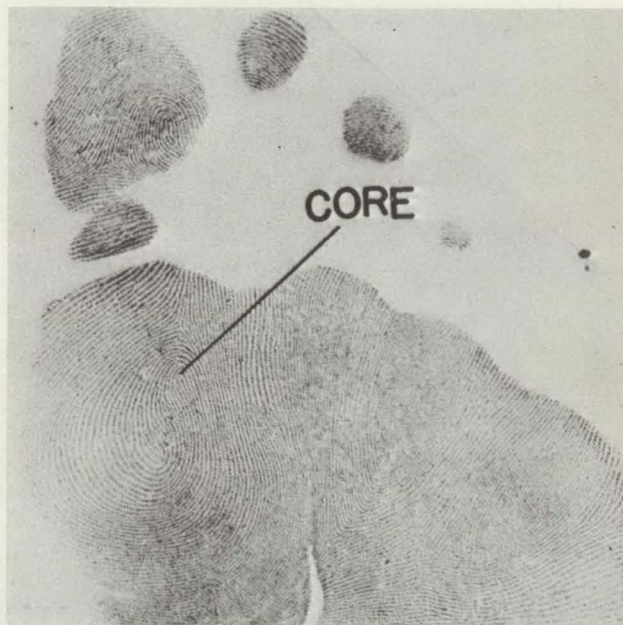
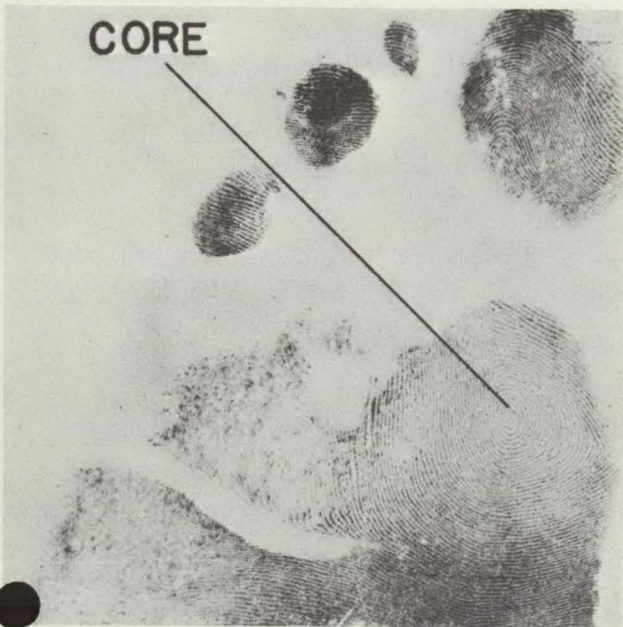
always the pattern group and its sub-classifications of the right foot; the denominator portion is the pattern group and its sub-classifications of the left foot.

Primary

The symbols O, L, and W represent the patterns on the ball pattern areas

Figure 20.

Figure 21.



and are considered in the primary classification. They are always written in capital letters.

O L W etc.
O O O

Secondary

The secondary classification is obtained by using the various types of the O, L, and W. The secondary or group type is always placed to the right of the primary, the right foot classification over the left foot classification.

O1 Ww Wd etc.
La Lc Ld

Final

The ridge count of the L or W appearing on the right foot is the final classification. It is placed to the right of the primary and secondary classifications as part of the numerator.

La 32 Ww 25
La Ww

Key

The ridge count of the L or W appearing on the left foot is the key classification. It is placed to the left of the primary classification as part of the denominator.

Lb 32 Ww 25
25 Lc 38 Ww

The complete classification would be as follows;

| | | | |
|-----|---------|-----------|-------|
| Key | Primary | Secondary | Final |
| | La | 42 | |
| 26 | Wd | | |

Filing Footprints

It is important that the footprints should be filed properly by classification formula. The first separation in

the sequencing of the footprints is by the primary classification. The O is followed by L and then the W. The complete sequence by primary is as follows:

O L W O L W O L W
O O O L L L W W W

Within each primary classification they are further sequenced by the

secondary and by final and key if present.

The complete sequence of the denominator including primary and secondary is O1, O2, La, Lc, Ld, Ww, Wd, and Wx.

The complete sequence of the numerator is O1, O2, La, Lb, Ld, Ww, Wd, and Wx. For each of the primary



Figure 22.

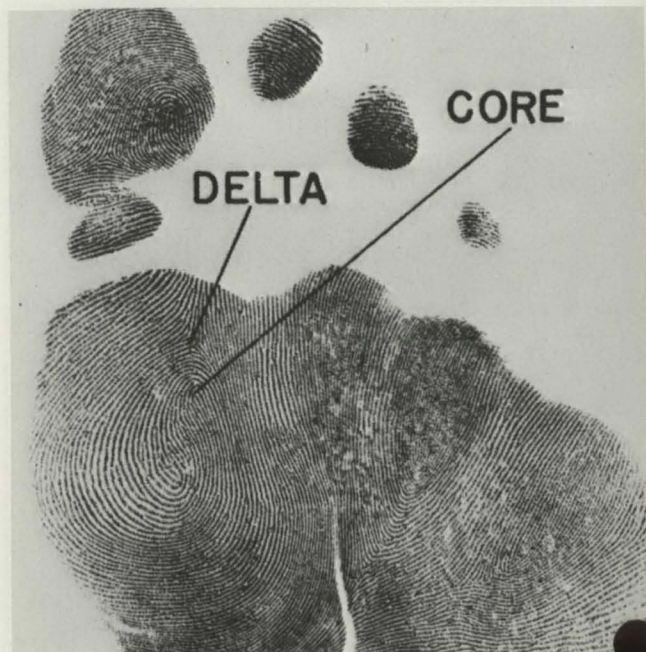


Figure 23.

and secondary classifications in the denominator, the sequence of the numerator is completely exhausted before continuing with the next sequence of the denominator.

When the sequence of the primary and secondary classifications is as follows:

There will be no final or key:

O1 O2 O1 O2
O1 O1 O2 O2

These will have only a final:

La Lb Ld
O1 O1 O1
Ww Wd Wx
O1 O1 O1

La Lb Ld
O2 O2 O2
Ww Wd Wx
O2 O2 O2

These will have only a key:

O1 O2 O1 O2
La La Ww Ww
O1 O2 O1 O2
Lc Lc Wd Wd
O1 O2 O1 O2
Ld Ld Wx Wx

These will have a final and key:

| | | | | | |
|----|----|----|----|----|----|
| La | Lb | Ld | La | Lb | Ld |
| La | La | La | Ww | Ww | Ww |
| Ww | Wd | Wx | Ww | Wd | Wx |
| La | La | La | Ww | Ww | Ww |
| La | Lb | Ld | La | Lb | Ld |
| Lc | Lc | Lc | Wd | Wd | Wd |
| Ww | Wd | Wx | Ww | Wd | Wx |
| Lc | Lc | Lc | Wd | Wd | Wd |
| La | Lb | Ld | La | Lb | Ld |
| Ld | Ld | Ld | Wx | Wx | Wx |
| Ww | Wd | Wx | Ww | Wd | Wx |
| Ld | Ld | Ld | Wx | Wx | Wx |



Figure 24.

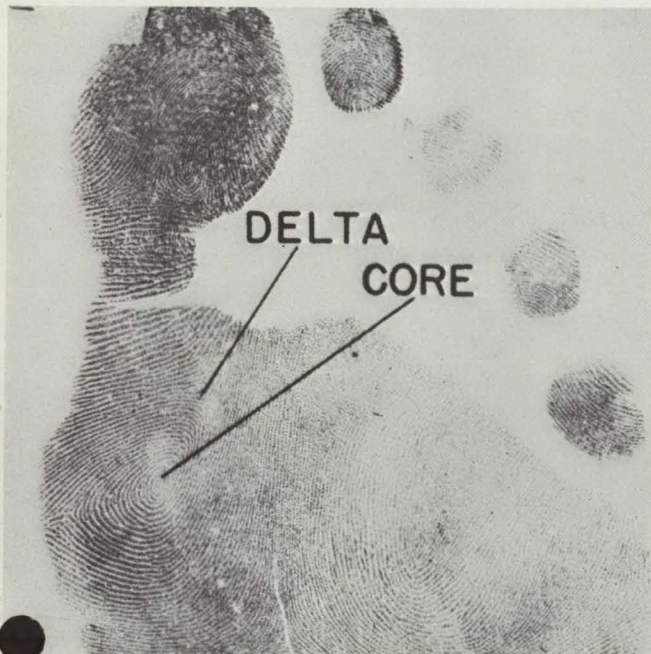


Figure 25.

Within each primary and secondary classification, the prints are filed numerically by final; within the same final the key is sequenced numerically.

La 31 precedes
28 La
La 31
32 La

The above outline is a simple system for the classification of footprints; it is for general information of identification officers.

It is realized that further subdivisions can be made. In this connection the whorls can be further classified as to the formations of the core, namely, spirals to the left, spirals to the right, circular, oblong, etc., and other various subdivisions.

Figures 22, 23, 24, and 25 are examples of fully classified footprints.



Gen. Raymond G. Davis, Assistant Commandant, U.S. Marine Corps (center), and (to his left) Quantico Special Agent in Charge William M. Mooney assemble with the class of Provost Marshals.

Marine Provost Marshals Attend Special FBI School

Thirty-five U.S. Marine Corps Provost Marshals recently completed a security and law enforcement training school sponsored by the FBI and held at the FBI Academy at Quantico, Va.

The special 1-week training session, conducted at the request of the Marine Corps, provided advance inservice training to top echelon personnel and served as a vital phase of the Marine Corps' program to upgrade and professionalize its military police services.


The training curriculum included such timely subjects as human relations in management, legal considerations affecting law enforcement, organized crime, civil disorder a

violence, bombing matters, and serv-
of the FBI Laboratory. The Pro-
vost Marshals were also given basic
firearms training in the use of the .38
caliber revolver on the FBI ranges. In-
struction was provided by the FBI
Training Division staff.

Distinguished military officers ap-
pearing before the group included
Gen. Raymond G. Davis, Assistant
Commandant, U.S. Marine Corps;
Brig. Gen. D. L. Faw, Staff Judge
Advocate, Marine Corps Headquar-
ters; Maj. Gen. L. B. Ramsey, Provost
Marshal General, U.S. Army; and Col.
R. E. Blauw, Director, Security Police,
U.S. Air Force.

General Davis, while referring to the
high degree of cooperation existing
between the FBI and the U.S. Marine
Corps, emphasized the significance
of this special training in helping the
Corps to maintain maximum profes-
sionalism. The Marine Corps, he
pointed out, could not lower its stand-
ards nor relax its strict discipline and
still preserve its image of "readiness."

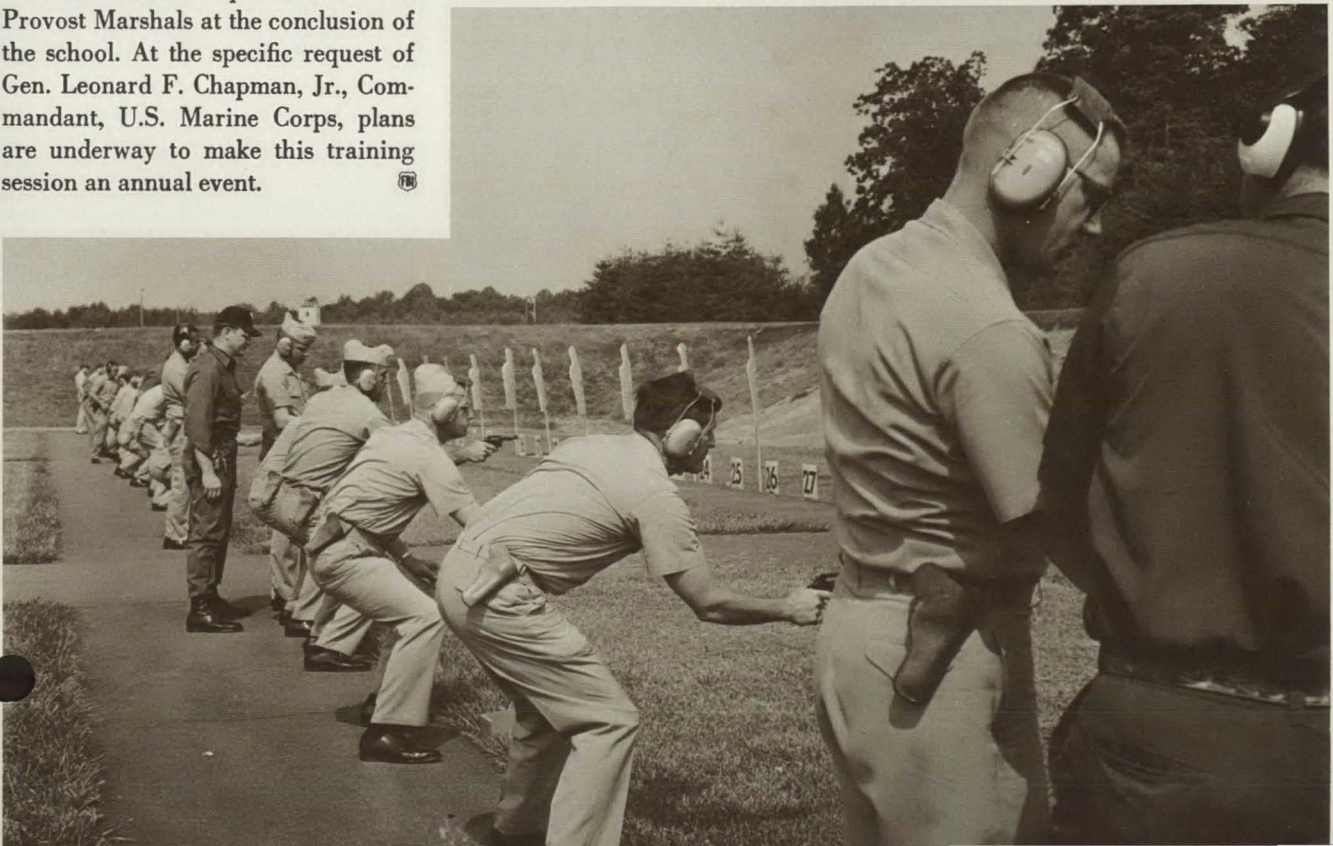
said the Corps would continue to
be selective and recruit top candidates
who could "make the grade."

Certificates were presented to the
Provost Marshals at the conclusion of
the school. At the specific request of
Gen. Leonard F. Chapman, Jr., Com-
mandant, U.S. Marine Corps, plans
are underway to make this training
session an annual event. 



Lt. Col. Archie Van Winkle, Director, Office of Security and Law Enforcement, U.S. Marine Corps Headquarters, presents Director Hoover a plaque in appreciation of FBI assistance in sponsoring the security and law enforcement training school.

The Provost Marshals receive firearms training on the FBI ranges.



FRONTIER DAYS

(Continued from page 5)

use of chemical agents including Mace and tear gas (CN) to clear the streets. This was done, and the problem quickly eased. Constant vigil was maintained through the morning hours, but normal operations did not resume until late Sunday morning.

A survey of the downtown area on Sunday showed that our plan had done the job. It prevented a highly explosive condition from becoming a full-scale riot. True, there was plenty of evidence of vandalism, but no deaths occurred, no major fires developed, and the damage was confined to one specific area.

A total of 417 persons were arrested, and while the traditional concept of Frontier Week had not been destroyed, its image had been blemished somewhat by the unruly crowd. The effective use of law enforcement techniques during Frontier Week of 1968 had a telling effect on the celebration in 1969. The trouble makers either did not show up or had learned their lesson. While we were ready with our tactical plan, its implementation was unnecessary. The number of arrests for the week dropped to 289, and property damage was at least 50 percent less than the previous year.

An even more dramatic change was experienced during Frontier Days

1970. The number of arrests dropped to a mere 149, scarcely double that of a regular summer week. The property damage was negligible. What a pleasure and a relief it was for the merchants, the townspeople, and especially the Cheyenne policemen to see Frontier Week return to "normal."

While the amount of violence and disorder occurring during Frontier Week may fluctuate due to the makeup and mood of crowd elements, the Cheyenne Police Department is prepared for any contingency. We know from experience that a prescribed plan of action can mean the difference between order and unlawful pandemonium. Our objective is to always be prepared. FBI

RETAIL RED ALERT

(Continued from page 8)

stolen or invalid credit cards, but for most of the Rapid City retailers the cost was prohibitive. Thus, Retail Red Alert has been a valuable program for Rapid City businesses.

The Retail Red Alert System should not be construed as a panacea to all the merchant's ills. Bad checks and fraudulent use of credit cards will still be prevalent, but with Retail Red Alert the offenders' risks are greater as the odds are in favor of the Rapid City merchant. FBI

A clerk initiates a Red Alert after a "customer" tried to pass a "no account" check. The alert system is a relatively simple operation depending more on the cooperation of its members than on any intricate planning.



CHANGES IN PROCESSING NON-FEDERAL APPLICANT FINGERPRINTS

On June 15, 1971, U.S. District Judge Gerhard A. Gesell, District of Columbia, acting on remand in *Menard v. Mitchell*, 430 F. 2d 486 (1970), handed down a memorandum opinion which prohibits the FBI from disseminating identification records in response to fingerprints submitted by State and local law enforcement and other government agencies in connection with non-law-enforcement purposes. This prohibition also extends to federally insured banks and savings and loan institutions as well as railroad police.

This means that the FBI can no longer accept for processing fingerprints taken in connection with licensing or local or State employment which were formerly submitted to

FBI either directly from the regulatory agency or institution or through a local law enforcement agency.

The FBI will continue to process applicant prints where the position sought is directly with a State or local law enforcement or correctional agency, as such processing directly serves a law enforcement purpose. There are no other exceptions.

In examining the issue of historic statutory authority for the Government to engage in such practice, the court observed, "It is abundantly clear that Congress never intended to or in fact did authorize dissemination of arrest records to any State or local agency for purposes of employment or licensing checks." Judge Gesell further noted, "The Bureau (FBI) needs legislative guidance and there must be a national policy developed in this area which will have built into it adequate sanctions and administrative safeguards. It is not the function of the courts to make these judgments, but the courts must call a halt until the legislature acts. Thus the court finds that the Bureau is without authority to disseminate arrest records outside the Federal Government for employment, licensing or related purposes."

Conclusion Reached

In its study and review of the court's action, the FBI has sought and obtained guidance and interpretation from the Department of Justice. The conclusion is clear. Thus, the processing of all types of non-Federal applicant fingerprints except those for a position with a State or local law enforcement or correctional agency has been discontinued. Fingerprint contributors will be promptly advised of any congressional clarification of the Bureau's authority in this area. In the meanwhile, all such fingerprint submissions are being returned to the contributing agency.

NEW POLICE BUILDING

(Continued from page 19)

tact with the public to the lower levels, while security areas were placed in the central and upper sections of the building. A sufficient number of rooms for interviews and consultation were provided for all the bureaus. The security areas are equipped with stainless steel wire screens designed to withstand

prying, sledge hammer blows, and missiles. The traffic pattern for prisoners keeps them out of public areas from the time they enter the building until they appear in court.

Located in a parklike setting, our Police Administration Building is convenient to other major buildings and is centrally located for service to the public and all seven police districts. (RM)



Pushing a control panel button, an officer may lock or unlock individual or a group of cells by electrical or mechanical means.

WANTED BY THE FBI



GAIL MELVINA TRULY; HARRY OKEON TRULY, also known as: Harry Armstrong, Christopher L. White, Marvin Lee White, Marvin Lee Wilson.

Bond Default; Bank Robbery

Harry Okeon Truly and Gail Melvina Truly are being sought by the FBI for bond default and bank robbery.

On April 14, 1970, Truly, his female accomplice Gail, and another individual, who has since been apprehended and sentenced, allegedly attempted to rob the 57th-Crenshaw Branch of the Security Pacific National Bank in Los Angeles, Calif. During the attempted robbery, Truly reportedly fired a shot from his handgun when bank employees refused to meet the robbers' demands.

The Trulys are also fugitives from the U.S. District Court in San Diego,

Calif., for bond default resulting from their failure to appear for a court hearing on April 21, 1970, on charges of narcotics smuggling.

Federal warrants for the arrest of Harry Okeon Truly and Gail Melvina Truly were issued on April 29, 1970, at San Diego and on May 14, 1970, at Los Angeles.

Caution

Truly allegedly fired a pistol during the bank robbery. He reportedly carries a pistol in his belt and will resist arrest. Gail Melvina Truly, who may accompany Harry Okeon Truly

posing as his wife, reportedly carries a handgun in her purse or strapped to her upper leg. Both fugitives should be considered extremely dangerous.

Description of Harry Okeon Truly:

Age..... 36, born Apr. 20, 1935,
Memphis, Tenn.
Height..... 5 feet 10 inches.
Weight..... 150 pounds.
Build..... Medium.
Hair..... Black.
Eyes..... Brown.
Complexion.. Medium.
Race..... Negro.
Nationality.. American.
Scars and marks. Scar on back of left hand between little and ring finger, scar at corner of left eye.
Occupations.. Employment counselor and sociology instructor.
Remarks.... Wears prescription glasses.
FBI No..... 692,091 D.
Fingerprint classification:
10 S 28 W IIM
S 16 W OMI

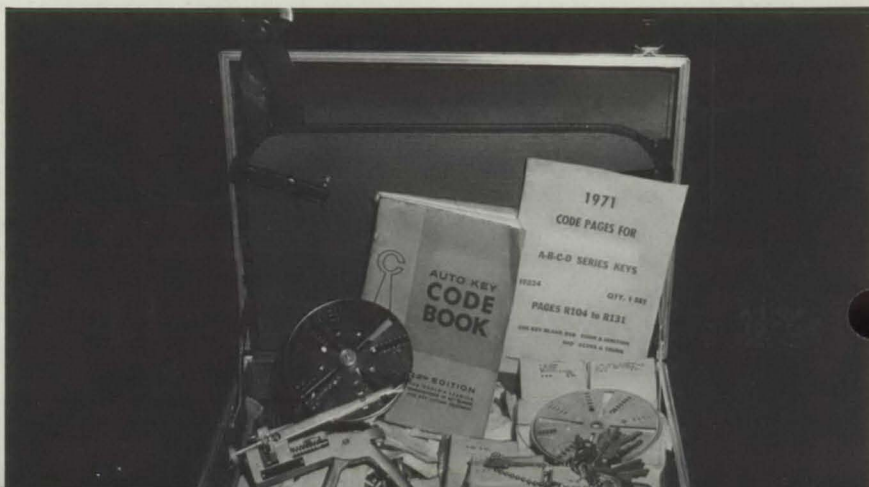
Notify the FBI

Any person having information which might assist in locating these fugitives 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.

AUTO KEY CASE

Police in an eastern city recently seized an average-size briefcase compactly fitted as an on-the-job key-making kit. Blank keys, automobile key codebooks, key-cutting tools, a metal cutter, and a modified screwdriver were among the items in the case found in the possession of a person suspected of auto theft.

Police seized this briefcase fitted with tools for opening vehicles.



FOR CHANGE OF ADDRESS ONLY

(Not an order form)

Complete this form and return to:

DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

_____ (Name) _____ (Title)

_____ (Address)

_____ (City) _____ (State) _____ (Zip Code)

FBI Visitor



During a recent visit to FBI Headquarters, Chief of Police James M. Murphy (left), Norwood, Mass., met with Director J. Edgar Hoover and Assistant Director Joseph J. Casper (right), FBI Training Division.

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

OFFICIAL BUSINESS

RETURN AFTER 5 DAYS



POSTAGE AND FEES PAID
FEDERAL BUREAU OF INVESTIGATION

QUESTIONABLE PATTERN



This pattern is classified as a double loop-type whorl with a meeting tracing and is referenced to an accidental-type whorl with an inner tracing. This reference is necessary as the formation above and to the left of the lower loop may be construed as a looping ridge with a third delta.