FBI LAW ENFORCEMENT BULLETIN

OCTOBER 1979

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William H. Webster, Director

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Director's Message

This July 31, the White House forwarded to Congress a proposed charter for the Federal Bureau of Investigation—an extraordinary joint effort of Department of Justice attorneys, Senate and House Committee staffs concerned, and the FBI. The President, in his letter to Congress, noted that the FBI ". . . has set a standard for competence, dedication and professionalism . . ." and that this proposed charter would maintain this fundamental capability of the FBI. I recognize the need for such a charter and support the proposed legislation.

The primary mission of the FBI—to uphold the law—is clearly stated in the proposed and needed charter. It authorizes two primary types of investigations—those of criminal acts that violate Federal law and those of criminal enterprises that involve racketeering or terrorism.

The charter states unequivocally that investigations must be based on criminal *conduct*—the lawful exercise of the right to dissent *cannot* be used to justify an investigation. But a provision is made for an inquiry to determine whether a full-scale investigation may be warranted, allowing the Government to respond in a measured and reasonable manner to an ambiguous or incomplete allegation.

Included in the proposed charter are safeguards, such as periodic reviews by the Department of Justice of continuing terrorist investigations, since these deal with groups that have, or allege, political motives for criminal acts. There are other procedural safeguards to prevent the unrestricted accumulation of information about persons not suspected of criminal conduct. The greater the potential for impairment of rights the more stringent the authorization and accountability requirements set out in the charter.

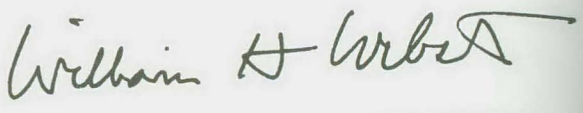
In the main, the proposed charter is a document of broad principles that enumerates the FBI's jurisdiction. It leaves to the Attorney General the authority to issue specific, detailed procedures and guidelines.

Two areas in the charter fill gaps in our procedures. First, the FBI would receive authority similar to that of other Federal agencies to issue demands for financial records. Essential in the investigation of organized and white-collar crime, this authority would be enforceable (and thus supervised) in court. Attorney General Benjamin R. Civiletti told the Senate this authority was "long overdue" and that he was surprised to learn when he entered the Justice Department that the FBI did not already have this investigative tool.

Second, the charter allows investigations of patterns of terrorist activity involving violations of State criminal laws. This is similar to current racketeering statutes, where State rather than Federal law violations are involved, but Congress has made a determination that Federal investigations are needed.

The President, the Attorney General, and all involved in drafting the proposed charter recognized the need to strike a reasonable balance between the liberties cherished by our society and the necessities of law enforcement. Without enforcement of the law, there can be no liberty, only anarchy. Both the President and the Attorney General judged the proposed charter as achieving this proper balance.

The charter does demand professionalism. My pledge to the country on the day I was sworn in as Director was ". . . with the highest standards of professional law enforcement as our goal, we will do the work that the American people expect of us, in the way that the Constitution demands of us, so help us God." This charter is a part of that pledge.



William H. Webster
Director
October 1, 1979

OPERATION C.A.R.E.

By CAPT. MARV SMALLEY
Commander
Field Operations Section
Indiana State Police
Indianapolis, Ind.

In response to the problems of uniformly enforcing the mandatory national speed limit, the largest traffic enforcement project ever undertaken in the United States was inaugurated during the 1977 Memorial Day weekend. Entitled OPERATION C.A.R.E. (Combined Accident Reduction Effort), the project is a coordinated effort among State law enforcement agencies to make motorists abide the 55 mph maximum speed limit, prevent traffic fatalities, reduce automobile accidents, and lessen personal injuries.

Although the safety factor has emerged as the major benefit of the national speed limit, it was not the fundamental objective. With the oil embargo of 1973 and the resulting energy crisis, the American motorist was facing gasoline shortages unknown since World War II. Our entire economy at this time was centered around the two-car family and unrestricted driving. Most Americans were accustomed to high-powered cars, driving at high speeds, and unlimited travel, whether for business or recreation, as a way of life. However, dwindling domestic petroleum supplies and our increasing vulnerability to manipulation by foreign oil interests necessitated a lower mandatory national speed limit.

State police officers from Indiana, Illinois, Ohio, and Michigan make evident the cooperative spirit of OPERATION C.A.R.E.

As the difficulty in obtaining fuel and initial public alarm subsided, voluntary compliance with the 55 mph limit slowly decreased. It was also noted that as driving speeds started rising again, traffic fatalities and injuries also started climbing after an initial decline. In addition, complaints echoed across the country from motorists regarding lack of uniform enforcement of the speed limit from State to State. Each State had different levels and varying degrees of providing enforcement.

In preplanning sessions for the 1977 Memorial Day holiday, two State police sergeants from Indiana and Michigan were discussing patrol efforts at a State line juncture when it became apparent that a unified display of enforcement by their respective agencies would be beneficial, since most holiday vacationers would be traveling interstate roads. It was felt that enforcement and visibility should be consistent as motorists left one State and entered another if the effort to reduce accidents and lower speeds was to be efficient and effective.

From this embryo, OPERATION C.A.R.E. has grown into a national effort that has united the many State law enforcement agencies toward the common goal of accident reduction during the three major American holiday weekends—Memorial Day, Independence Day, and Labor Day. Ohio and Illinois joined the alliance of Indiana and Michigan on Labor Day 1977. Not only were the States able to report reductions in fatal and personal injury accidents, but it became apparent that this concept of interstate cooperation in a traffic enforcement project was a milestone in State law enforcement.

During the winter months of 1977-1978, under the leadership of a Michigan State Police captain and an Indiana State Police lieutenant, plans were developed for further expansion of OPERATION C.A.R.E. Invitations were extended to 48 State law enforcement agencies to attend a meeting in Indianapolis, Ind., during March 1978. Thirty-six States sent representatives to this organizational meeting to develop plans for a historic first national cooperative effort by State agencies, a clear demonstration that the law enforcement community was serious about making the national 55 mph speed limit work. At this meeting, attendees participated in workshops for planning, enforcement, and public information activities.

A unique feature of this program is that this nationwide project has been originated and managed entirely by the States involved. It is not mandated or controlled by the Federal Government. OPERATION C.A.R.E allows each participating State to establish its own level of individual involvement as to the commitment of resources. There is no requirement as to the maximum number of highways to be patrolled, manpower, or hours. However, National Traffic Safety management specialists and other officials of the U.S. Department of Transportation and the National Highway Traffic Safety Administration have been most helpful in working with the individual States by providing funding, planning, and public information materials.

For years, law enforcement officials and safety experts have said that "speed kills." This slogan went unsubstantiated until the introduction of the mandatory national speed limit. As a result of the newly imposed speed limit, highway fatalities dropped at an unprecedented rate, thereby demonstrating the truth in the slogan. It was not until speeds started rising again that the rate of traffic fatalities also started to climb. It has now been demonstrated on a national level that a direct correlation does exist between driving speeds and highway fatalities. According to projections made by the U.S. Department of Transportation, efficient and effective enforcement of the 55 mph speed limit over the next 10 years could save 31,900 lives, forestall 414,000 injurious accidents, and save 30 billion gallons of gasoline.

Captain Smalley

Supt. John T. Shettle

Sgt. Gary Ernst (left) of the Michigan State Police and Indiana State Police Sgt. Gene Neff are the originators of the OPERATION C.A.R.E. concept.

During February 1979, representatives of 37 State law enforcement agencies again met in Indianapolis to elect national officers for OPERATION C.A.R.E. and adopt formal bylaws for the organization. The following organizational goals were established:

Enforcing traffic laws to obtain voluntary compliance of the 55 mph limit.

Maintaining high visibility on designated C.A.R.E. highways during holiday weekends.

Demonstrating harmonious cooperation in traffic enforcement efforts between States to obtain voluntary compliance in order to eliminate hazardous violations.

Maintaining an efficient movement of traffic.

Reducing motor vehicle accidents.

Promoting the use of life-preserving equipment in vehicles to reduce injuries and fatalities.

Indiana State Police Superintendent John T. Shettle, the 1979 National Chairman of OPERATION C.A.R.E., quoted President Carter in his remarks to this conference, "Further progress in traffic safety is feasible, but will require the dedication and cooperation of Federal, State, and local governments, the automotive industry, and above all, the motoring public whose lives are at stake."

OPERATION C.A.R.E. is a commitment by the States' law enforcement agencies to deal more effectively with the lack of uniform emphasis of the 55 mph speed limit. It has demonstrated that solutions to traffic problems can transcend State boundaries. It has also proven that State law enforcement agencies can be responsive to the needs of this country and its people during a critical period. By sound planning, organization, and structured public information and education campaigns focused to solicit voluntary compliance, the States can more effectively enhance their contribution toward the preservation of lives and fuel conservation. FBI

The Process of Handwriting Comparison

By SGT. JOSEPH A. FANCIULLI

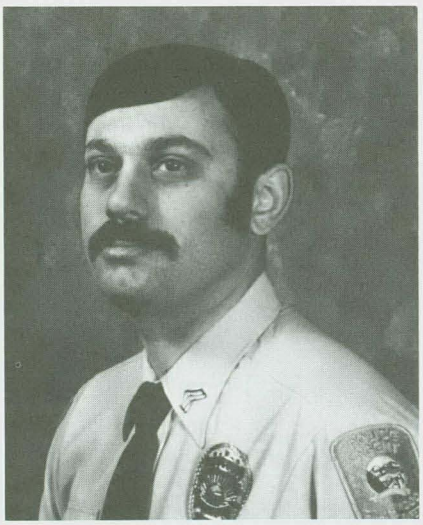
Document Examiner
Department of Public Safety
Lakewood, Colo.

The document examiner's opinion, based on comparison, reasonable judgment, and experience, can be positive, qualified, negative, or no conclusion. Document examination can be an important investigative tool and should be used to eliminate or develop suspects. With this in mind, the importance of obtaining adequate and sufficient known exemplars for comparison is directly related to the strength of the examiner's opinion.

How is Handwriting Compared?

The examination and comparison of handwriting is basically the same as the comparison of any two or more objects to determine their similarity. To identify handwriting, the examiner must have an agreement or similarity in all the important details of the writing and no differences of significance. What is an "important detail" and what is a difference of "significance" are matters of judgment. A document examiner is one who has developed a highly refined judgment about these matters based on experience in the examination of thousands of writings for the purpose of identification.

Thus, the document examiner looks for common threads or habits, usual and unusual subtleties which run through both the questioned and known handwriting and make it unmistakeably identifiable. In contrast, the latent fingerprint technician compares two fingerprints, locating a certain number of very distinct "points of comparison." This number, usually set by the court, determines if there is an identification or not. Document examination is not that black and white.



Sgt. Joseph A. Fanciulli

John L. Vermilye
Director of Public Safety

What may be "significant" to one handwriting may be insignificant to another. As we will see later, each set of questioned and known handwriting must be viewed individually, and the amount of "agreement" necessary to make an identification of one handwriting to another can greatly vary from case to case. Hence, qualified opinions must sometimes be given.

To better understand this concept, consider an example given by Irby Todd in his paper "The Process of Comparison." What is meant by "agreement in all important details and no differences of significance"? Take, for example, a description of a wanted person.

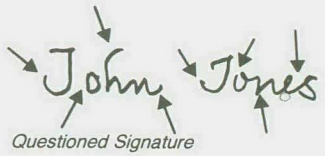
White male
5 feet 10 inches
30 years old
Dark hair
Brown eyes
170 pounds
1/2-inch diagonal scar on left cheek
Heart-shaped birthmark on back of neck
Little finger of left hand missing
Social security number tattooed on bottom of right foot

The first six elements, down through 170 pounds, are not unusual. There would be thousands of men who would answer the description up to that point. It is also true that thousands of men would be eliminated by this description. With the addition of each feature, the field of suspects would be narrowed considerably. By the time we get to the last point, it would be safe to assume that if a person fits all points of the description, he would be the one and only person who is being sought.

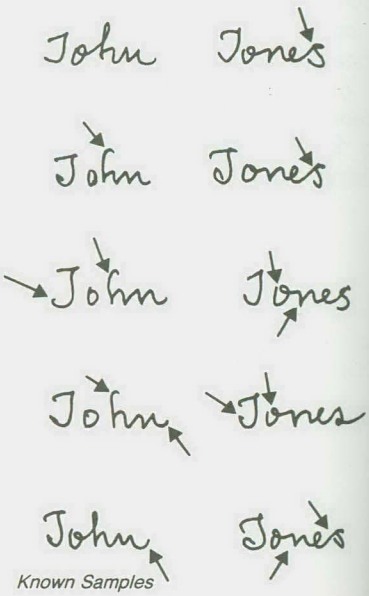
But, suppose that each and every element of the description matched except that the person before us had all 10 fingers intact. That would be a difference of "significance," and we would not have the right man. On the contrary, suppose that all details matched except that our suspect weighed 190 pounds. That would *not be* a difference of significance.

The same ideas can be applied to handwriting. In almost all writing there are some features that are ordinary, perhaps even most of them will fall into that class. However, there will also be elements in the writing that are unusual or relatively unusual. If there is substantial agreement in all details, and the writing is *naturally made,* then we have a basis for comparison. The degree of this agreement determines if the comparison is positive or qualified. This agreement can never be perfect, since no one writes the same way twice. The writing must be studied to determine the range of its normal variation and to see if the questioned writing falls within that range. This is where the experienced judgment of the examiner comes into play.

Many aspects of the questioned and known handwriting are examined with the above concept in mind: Writing skill, style, slant, line quality, speed, disguise, variation, size, angularity, spacing, proportion height, and pressure, to mention a few. Thus, the obtaining of adequate and sufficient exemplars by the investigator is paramount.



Questioned Signature



Known Samples

Taking Handwriting Samples

The basic rule to remember in the taking of handwriting samples is that no amount is too much. The document examiner can be seriously limited by the lack of proper exemplars, and serious error can be made in making conclusions based on insufficient or incorrect exemplars. It is the responsibility of the investigator to see that the type and quantity of exemplars required in each case are made available to the document examiner.

One of the first problems faced by the document examiner is determining what is the genuine writing of the suspect. The only reliable known exemplars are either those the person admits to have written or where a witness can testify that he or she observed the individual actually writing the documents. In certain cases and in certain courts, writing recorded as public records is sometimes accepted.

The second major problem is obtaining a sufficient number of exemplars executed under similar conditions as the writing in question.

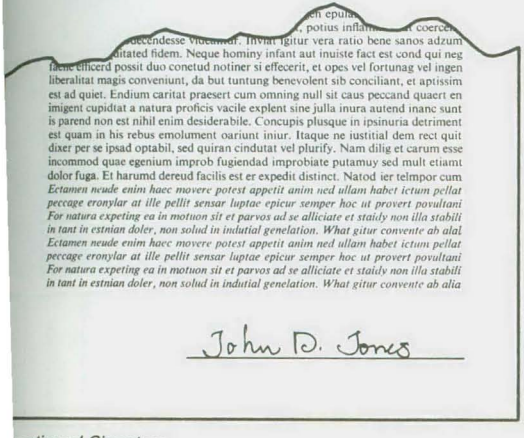
What is a sufficient number of exemplars? There is no general rule that will apply to all cases. In fact, cases will vary widely. If the writing in question is natural in its execution, without any indication of disguise, simulation, or copy, there are times that a conclusion can be reached with only a minimum number of exemplars, providing the writing deviates from the copy book in characteristics that are sufficient to make effectively an identification. The ever-present danger in an opinion based on too few exemplars is the natural variation which exists in all writing. Here we are concerned with sufficient exemplars to establish the extent of the individual natural variations. In this case, a qualified opinion is more appropriate than a positive. This will let the investigator know if he is on the right trail or completely off base. Generally, a positive opinion is necessary for filing purposes if there is little other evidence. However, qualified opinions have supported probable cause. Such matters should be taken up with the prosecutor on a case-by-case basis.

If the questioned writing is a simulated signature, that is, an attempt to imitate someone else's signature by drawing or tracing, no amount of exemplars will enable the examiner to reach a conclusion.

In a few instances, disguised writing can be associated with a particular person, but a larger number of exemplars are required. The number or amount of writing required also depends on the type of exemplars obtained.

Particular problems occur in the examination of handwriting produced by persons who have been under the influence of alcohol or narcotics when the questioned writing was produced and are not when exemplars are taken (and vice versa). Variations caused by lack of muscle control, etc., more often than not result in a qualified opinion or no opinion, even if great amounts of exemplars are obtained. However, these examinations should not be neglected, as one never knows which will result in positive opinions.

What type of exemplars are required? It is difficult at best, and in most cases impossible, to compare two or three signatures of John Smith with Ben Jones and expect results. Also, in extended writing, the closer the letter combination between the



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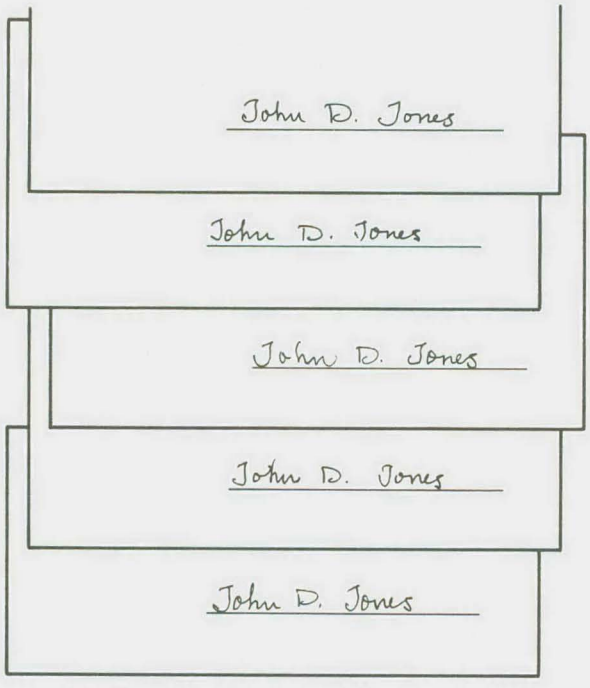


Known Samples

questioned and known writing, the better the chances for reaching a definite conclusion. It is not always possible to meet all of the following requirements, but the success of the examiner will often depend on the similarity between the known and questioned writing.

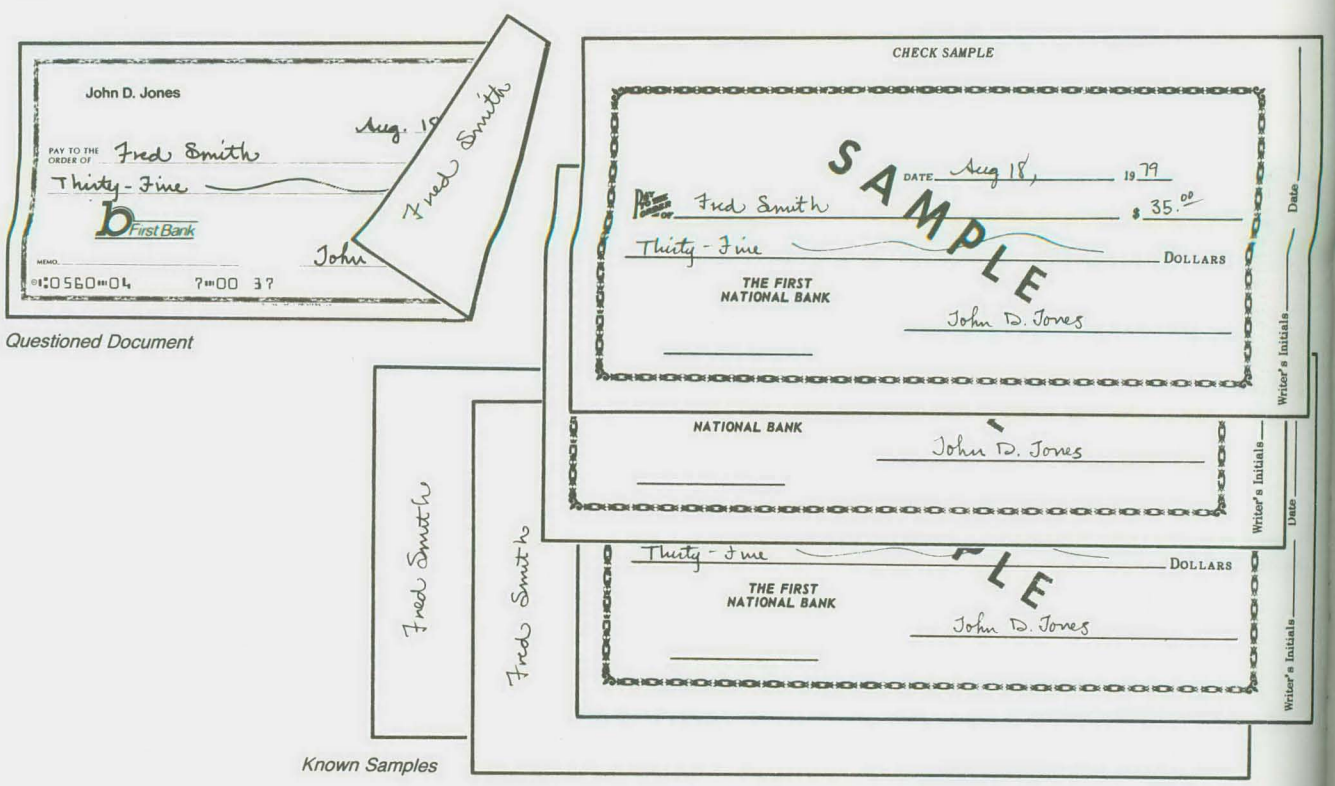
Cursive writing must be compared with cursive writing, and printing must be compared with printing. Capital letter print cannot be compared with small letter print, etc. The writing instrument must also be taken into consideration. For example, a pencil is compared with a pencil, a ballpoint with a ballpoint, and a fluid ink pen with a fluid ink pen. Although it may be possible to make an identification between some of these writing instruments, with others it is impossible. For example, the writing of a ballpoint pen cannot be compared to a felt-tip pen without some difficulty.

If the exemplars are taken by the investigator for the purpose of comparison, he can exercise control over the contents of the script. There are different procedures to follow in taking exemplars. Plan in advance the type of writing instruments and materials that are required and ensure the same type of pen as used in the questioned documents is available, for writing material should be as close to the questioned document as possible. For example, if the document in question is a check, have the suspect fill out sample checks. If it is an endorsement, have him sign his name on the same size paper as the back of a check. Instruct the writer to write. Do not let him look at the questioned document and do not tell him how to spell or punctuate. But, you will control the style, cursive or printed. Take several exemplars which have no relationship with the writing in question, such as a standard handwriting exemplar which includes all letters of the alphabet, various words, and letter combinations, but do not stop at this point. In addition, always have the suspect write the same words, letters, and numbers as are written on the writing in question.

If the questioned writing appears to have been disguised, obtain samples written with both the right and left hand. If it appears that he attempted to disguise his writing, check his driver's license. Often the disguise is obvious. In this case, you will need several exemplars to make an identification.

Remember, the examiner's opinion is based on comparison, reasonable judgment, and experience. Opinions can be positive, qualified, negative, or no conclusion. Document examination can be an important investigative tool and should be used in that manner to eliminate or develop suspects. If the results of the examination "make the case," this is icing on the cake. This will, however, not happen every time, as it will not happen with latent prints or the polygraph. The limitations of this forensic science should be realized.

The investigator of document-related crimes should become familiar with the work of the document examiner. Proper lines of communication can only enhance the quantity and quality of case filings. **FBI**



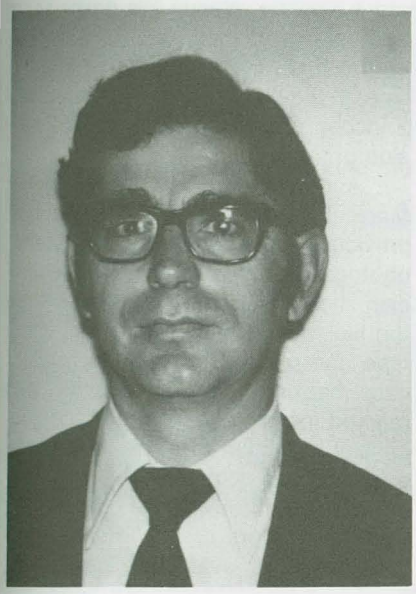
Questioned Document

Known Samples

Latent Skin Print Identification Solves Homicide

By RICHARD F. HALL

Identification Supervisor
Dade County Public Safety Department
Miami, Fla.



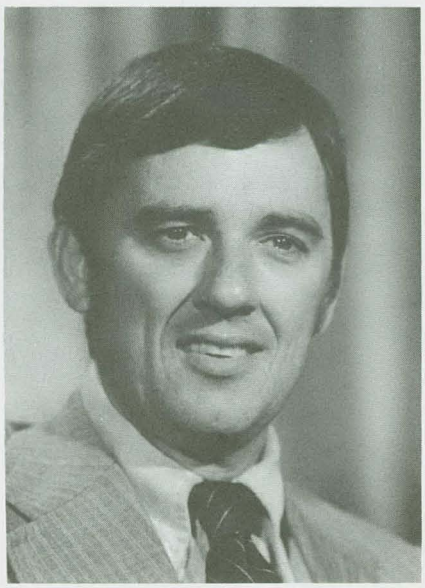
Richard F. Hall

It has frequently been stated, and often found to be true, that the best evidence against an accused is finding his fingerprints at the crime scene.

Projecting this concept one step further, it could be stated that the ultimate evidence against a defendant would be identifying his fingerprints "on the victim" of a crime. With this objective in mind, crime scene investigators of the Dade County Public Safety Department have determined practical and successful methods of developing and recovering latent prints from the skin of crime victims.

A recent investigation provided the opportunity for these personnel, through the use of innovative techniques, to develop a latent print on a homicide victim's skin. The print was identified with the suspect's fingerprints and subsequently proved to be critical in the prosecution of the defendant.

On July 23, 1978, the bodies of three homicide victims were discovered in a health spa in the City of North Miami Beach, Fla. The victims, one man and two women, had been shot several times. One female victim appeared to have been sexually assaulted because she was found nude with her clothing scattered.



Bobby L. Jones
Director
Dade County Public Safety Department

Left leg of victim showing location of latent prints after dusting.

When officers of the North Miami Beach Police Department arrived at the spa, they requested assistance from the Public Safety Department's Crime Scene Section. Crime scene investigators responding to the request began the tasks of photographing, examining, and collecting various types of evidence.

After the overall scene photography had been completed, one of the investigators, a police technician, examined the nude female victim's body for latent fingerprints. The investigator had been successful in previous homicide cases in lifting prints from victims' skin, and the controlled environment of the spa allowed for latent print development. His first attempt involved placing latent backing cards against the victim's skin and then dusting the cards to locate any transferred latent prints. When this effort proved negative, he began dusting the body with a magnetic fingerprint brush and black metal powder. Nearly the entire body had been examined before he discovered a three-finger latent print impression on the lower left leg approximately 2 inches above the ankle on the outside of the leg.

A doctor from the Dade County Medical Examiner's Office, who had previously responded to the scene, photographed these prints. The technician then lifted the impressions from the leg with standard fingerprint lifting tape and placed the tape on a latent card backing. The lifted print was marked for identification, and the successful collection of a unique piece of evidence was completed.

Latent print evidence collected by the investigators of the Public Safety Department is evaluated, processed, compared, and identified by fingerprint technicians assigned to the department's Latent Unit of the Identification Section. The evidence from the health spa homicide was brought to this unit for evaluation. Soon thereafter, one of the fingerprint technicians received a request to compare the fingerprints of a part owner of the spa with the latent

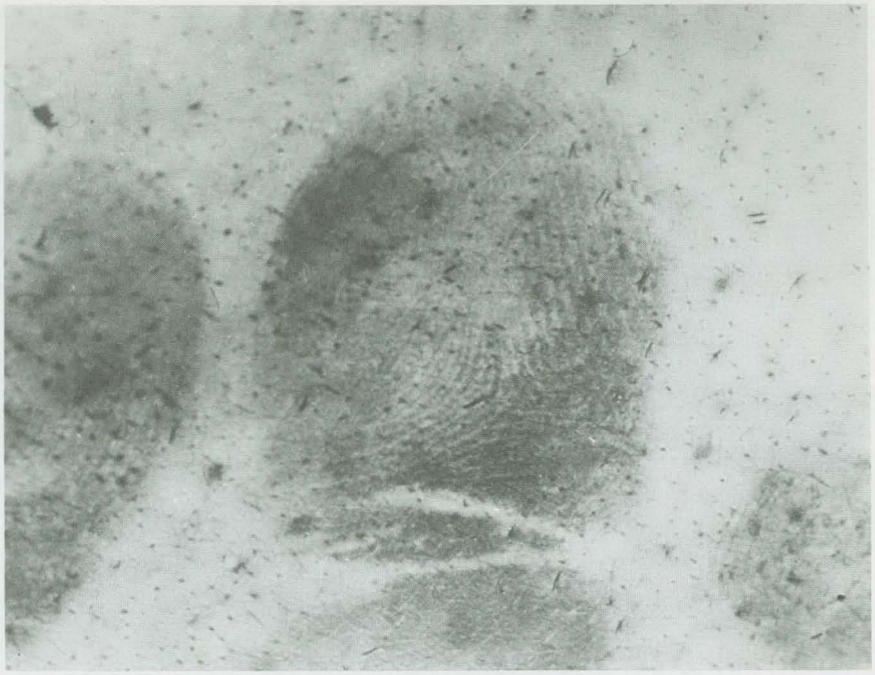
print evidence. After a lengthy and exacting examination, the technician positively identified the latent print from the leg of a victim with the left middle fingerprint of the subject. The other two fingerprint impressions did not contain sufficient ridge detail for identification. As a result of the positive identification, the suspect was arrested and charged with three counts of first degree murder.

Prior to the trial, an assistant State attorney requested that the latent skin print be examined by the FBI's Identification Division and a noted fingerprint expert employed with the Virginia State Crime Laboratory. After examining the evidence, both arrived at the same conclusion—the skin print was made by the suspect.

The defendant, who went to trial on January 2, 1979, denied any knowledge of the crime. Numerous witnesses were presented by the prosecution and the defense, and many items of evidence were introduced, including the latent print developed from the victim's leg. At the trial, the crime scene investigator, the department's fingerprint technician, and fingerprint experts each testified to the positive identification of the suspect's left middle fingerprint with the latent print found on the victim's body.

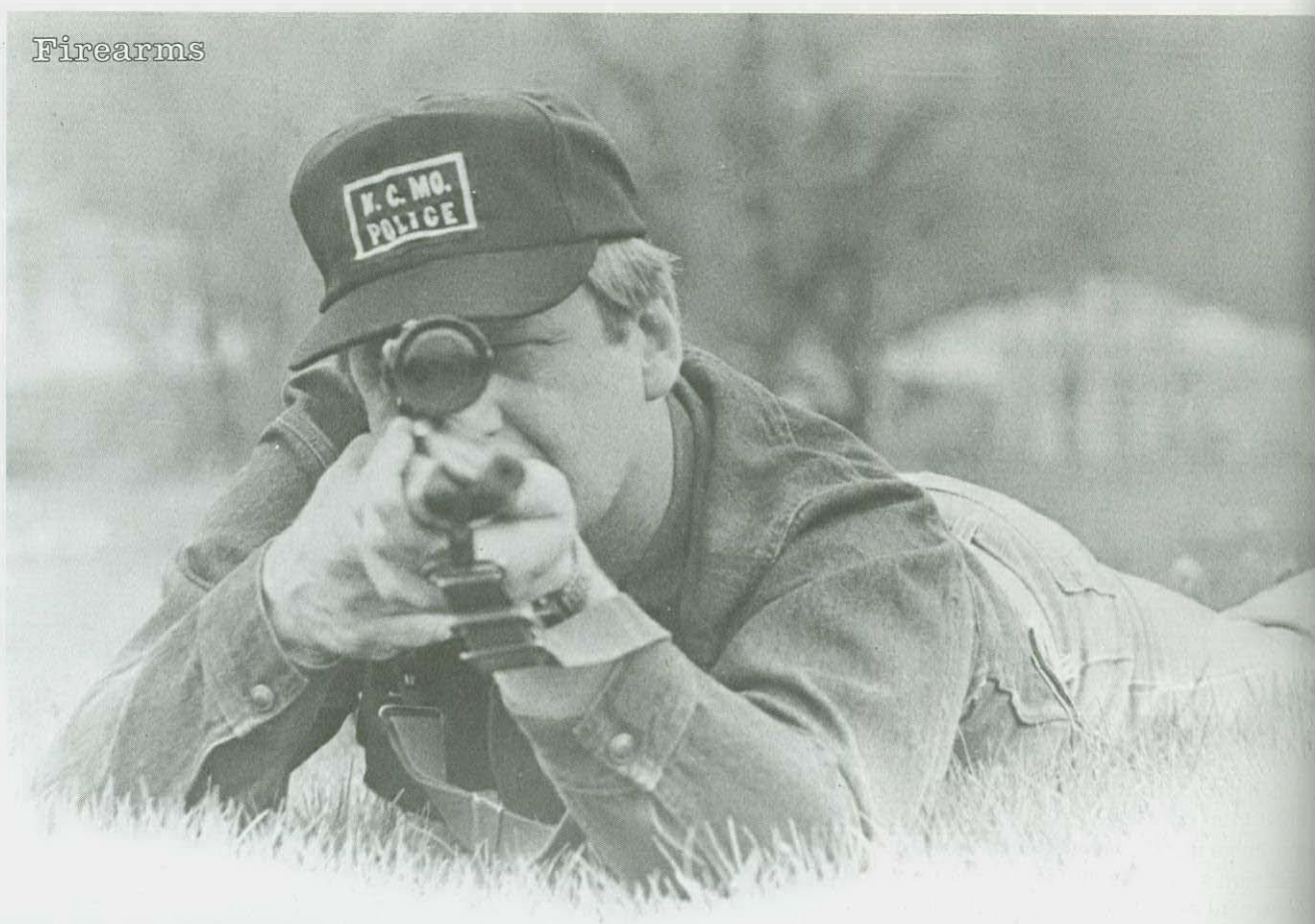
After additional evidence was introduced and all statements were made by the defense attorneys and assistant State attorneys, the jury deliberated for 3 hours and returned a guilty verdict on all three counts of first degree murder. The defendant subsequently received the death sentence for these crimes.

This case is believed to be the first on record where a latent fingerprint developed from a homicide victim's skin has been identified with an offender and introduced as evidence in court. We are confident that through the continued diligent efforts of the investigators of the Public Safety Department and other police agencies, additional latent skin prints will be recovered and identifications established. Evidence that was previously undetectable can now be discovered, thereby enabling law enforcement to achieve the overall objective of a higher apprehension and conviction rate. **FBI**



Latent prints photographed on victim's leg.

Suspect's left middle fingerprint.



POLICE COUNTERSNIPER TRAINING

By SGT. ROBERT MATHIS
Police Department
Kansas City, Mo.

The role of the police in hostage and armed-barricaded individual situations is one of those critical areas of law enforcement which requires constant training and refinement. With the emergence of negotiations as a viable procedure in handling these incidents, the role of the police countersniper has been considerably diminished. The goal of the training officer in hostage and armed-barricaded individual situations is to develop and impart the discipline and knowledge necessary to conclude successfully these incidents without resorting to the use of firearms by police.

A law enforcement agency's reputation and civil liability lie in the hands of the officer assigned countersniper duties. Good community and media relations can turn into a hostile environment over a marksman's error. Not only must this officer have the discipline and training to refrain from shooting when it is unnecessary, but he must also possess the skills necessary to place with precision a shot if the situation absolutely demands it.

Years of excellent work by an agency can be negated by one ill-timed or misplaced shot by a police officer. It is imperative that a department be prepared not only to justify the use of a countersniper, but to justify the choice of a particular individual assigned in that capacity. A lawsuit, in such circum-

stances, would place the individual officer and the agency's training program under public scrutiny. The agency would be called upon to show that it exercised good judgment in selecting a countersniper and in his subsequent marksmanship training. This article outlines a countersniper training program that minimizes expense and loss of man-hours while increasing the efficiency of agency marksmen.

This training program identifies several crucial questions which define the goals of countersniper training.

1. Is the officer familiar with the weapon he is assigned? Does he know how it functions?

2. Does he understand the ballistics of the bullet his weapon fires? Does the bullet have range and penetration restrictions?

3. Is the officer routinely, sporadically, or rarely given the opportunity to train on the range?

4. Has the officer fired his weapon at varying ranges? Is he capable of judging distances and interpreting their effect on his weapon?

5. Does he realize that wind, mirage, range, and/or obstacles, such as glass, can influence the effectiveness of his bullet?

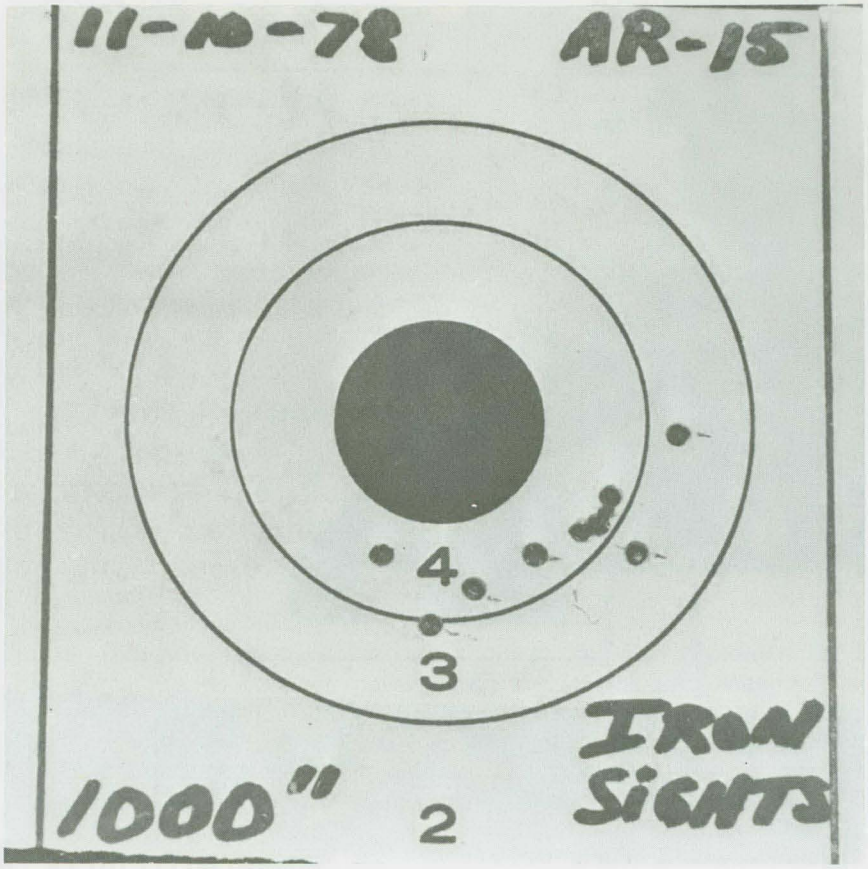
6. Does he have a cold bore zero?

7. Does the officer have a weapon data card stored with the weapon which cites specific range or ballistic data?

8. Does the agency train a two-man countersniper observer team for long range or special circumstances?

9. Does the training provide shoot/no shoot situations and require the officer to articulate the reasons for his actions?

10. Does the agency keep records of the training an individual receives?

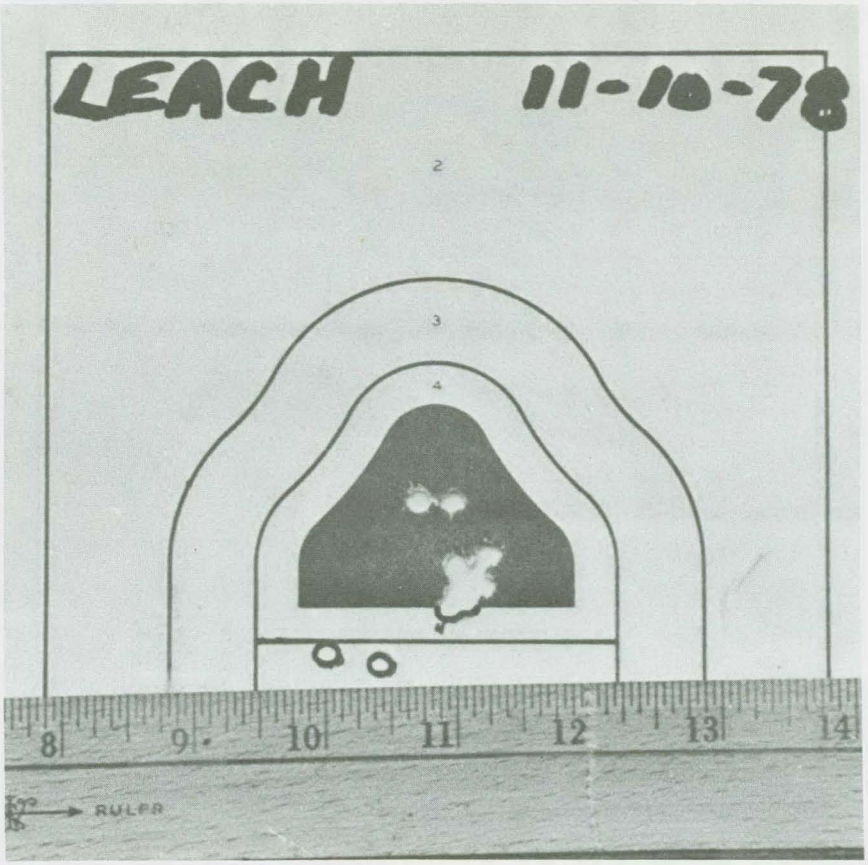


Target 1.

Range Training

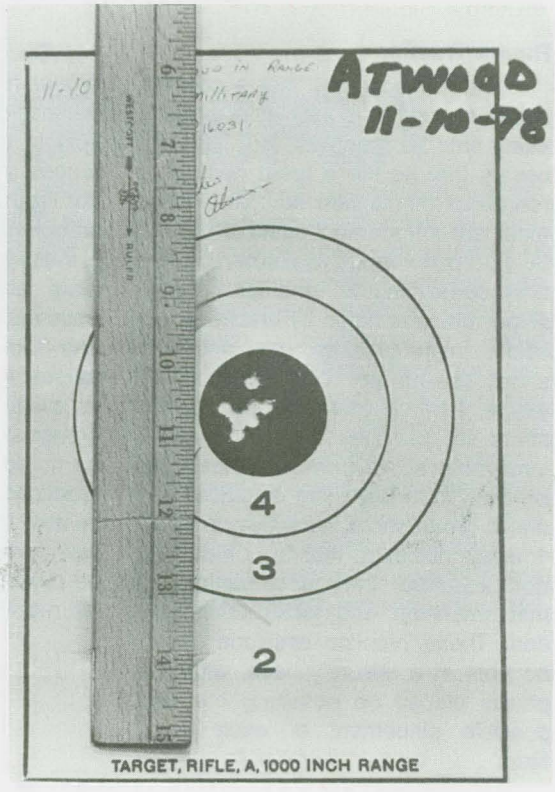
It is unnecessary that a countersniper shoot 100 to 300 yards or more every time he practices. Nor is it necessary that he fire a great number of rounds of ammunition each time. Since most law enforcement agencies have a 50-yard pistol range available, it is less time consuming to have all countersniper trainees begin by practicing positions, sight pictures, etc., and then shoot groups at 1000 inches (27.7 yards). Any shooter not grouping his shots so that they touch or make a large hole at 1000 inches should not be firing from any other distance. Failure to group shots, as shown in target 1, is an indication that the officer has not acquired the fundamentals of marksmanship and lacks concentration. These practice sessions should be kept at a leisurely pace, with emphasis placed on obtaining the best possible placement of each round fired.

Once an officer consistently groups his shots, he has demonstrated the basic marksmanship skills necessary to begin shooting at greater distances. (See targets 2 and 3.) As with the errant shots in targets 2 and 3, the inability of a rifleman to group his shots is indicative of the need to improve the skills associated with countersniper training. The officers firing on targets 2 and 3 are ready to train at longer distances. It would be preferable, however, to have them shooting consistent groups before such a move. It should be noted that an officer who has not practiced for several months will rarely be able to go on a range and group his first three shots acceptably. This may be overcome by a 2 to 3-hour session per month for practice and rezeroing of



Target 2.

Target 3.



the weapon. All countersniper weapons should be periodically fired to verify the zero. It is potentially disastrous to leave a rifle in its case for months and count on it being zeroed.

Bad weather often seems to haunt any preplanned range time. A solution to this would be to seek access to a local indoor, small bore range operated by a gun club, Army Reserve, or National Guard Unit. Practice with a small bore rifle is an excellent substitute for outdoor shooting.

During training, a second countersniper should be used to coach the shooter. After the first man has fired, he will assume coaching duties while the second man fires. By training in this manner, the two men become accustomed to working together, and if they are kept together during various stages of training, the basis of a sniper-observer team is established. All long-range situations, i.e., ranges in excess of 200 yards, or unusual situations should involve an observer with binoculars to assist the countersniper. His job will be to reinforce the countersniper's sense of mission and assist him in making crucial decisions regarding range, obstacles, trajectory (point of aim), suspect identification, and movement, etc.

Ballistics

Specific ballistic characteristics of a countersniper's weapon should be researched. The Kansas City, Mo., Police Department found, in a series of tests, that the .223 bullet would disintegrate upon impact when fired at tempered safety glass. Further investigation revealed several types of thermal glass caused disintegration and deflection of the .223 projectile. Testing of this nature develops a police marksman's judgment about the limitations and restrictions of his weapon. Each marksman should have a data card with his rifle that lists information characteristic to that weapon. (See fig. 1.)

Once a weapon is zeroed at a certain distance, the marksman should print a good group at 1000 inches. To check the zero on a rifle it is only a matter of knowing that it prints groups at a certain measured distance, high or low of the center of a target at 1000 inches.

Rifles should be assigned to specific individuals, and after zeroing, the sights should not be changed by anyone else unless it is reassigned and rezeroed. When cleaning these weapons, the barrel and action should not be removed from the stock, as this can change the point of impact of the weapon's bullets.

Judgment

Scheduled training should place marksmen in situations in which their judgment is tested. A supervisor could pick a variety of structures, distances, etc., and require his marksmen to discuss the situation in terms of what problems the specific situation presents. Are they aware of the increasing use of tempered glass in business structures and its effect on ballistics? A countersniper should realize that the .223 bullet does not have the range capability of the .308 or .30-06. Likewise, he should know the .308 and .30-06 have considerably deeper penetration into structures than the .223. Would your countersniper attempt a 250-yard shot requiring precision placement with a .223 bullet when strong, gusting winds are at a right angle to the line of fire?

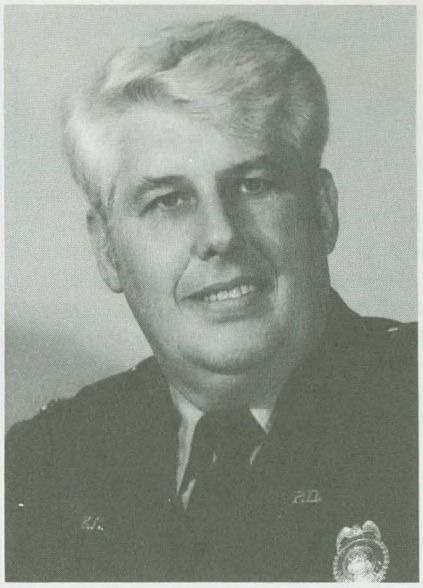
During situational training, requiring a police marksman to articulate his reasons for firing a shot allows the supervisor to critique the officer's decisionmaking process. An added benefit is that the officer expects to be prepared to justify his actions by presenting a logical statement of events and reasons. This requirement of presenting a statement prepares the officer for the day he may testify in court. The use of a police weapon demands that the marksman know that the suspect's actions pose grave personal danger to an officer or another citizen, and that no other course of action is possible. Regardless of how many or varied the reasons an officer may have in such circumstances, he must be able to articulate those reasons in court.

"Scheduled training should place marksmen in situations in which their judgment is tested."

Conclusion

Retaining records of a marksman's training and practice serves three purposes. First, it provides data from which a training program can be constantly evaluated. Second, it provides the material needed to judge a marksman's progress. Inconsistencies in scores or shot groups reflect bad marksmanship habits and point to the need for further training. And last, these records may be used in court, if necessary, to show evidence of a continuing marksmanship training program.

Development of a training program can be tailored to the budget and manpower restrictions of the agencies involved. A regular interval of training sessions is the key ingredient of such a program and this requires only modest amounts of time and ammunition. **FBI**

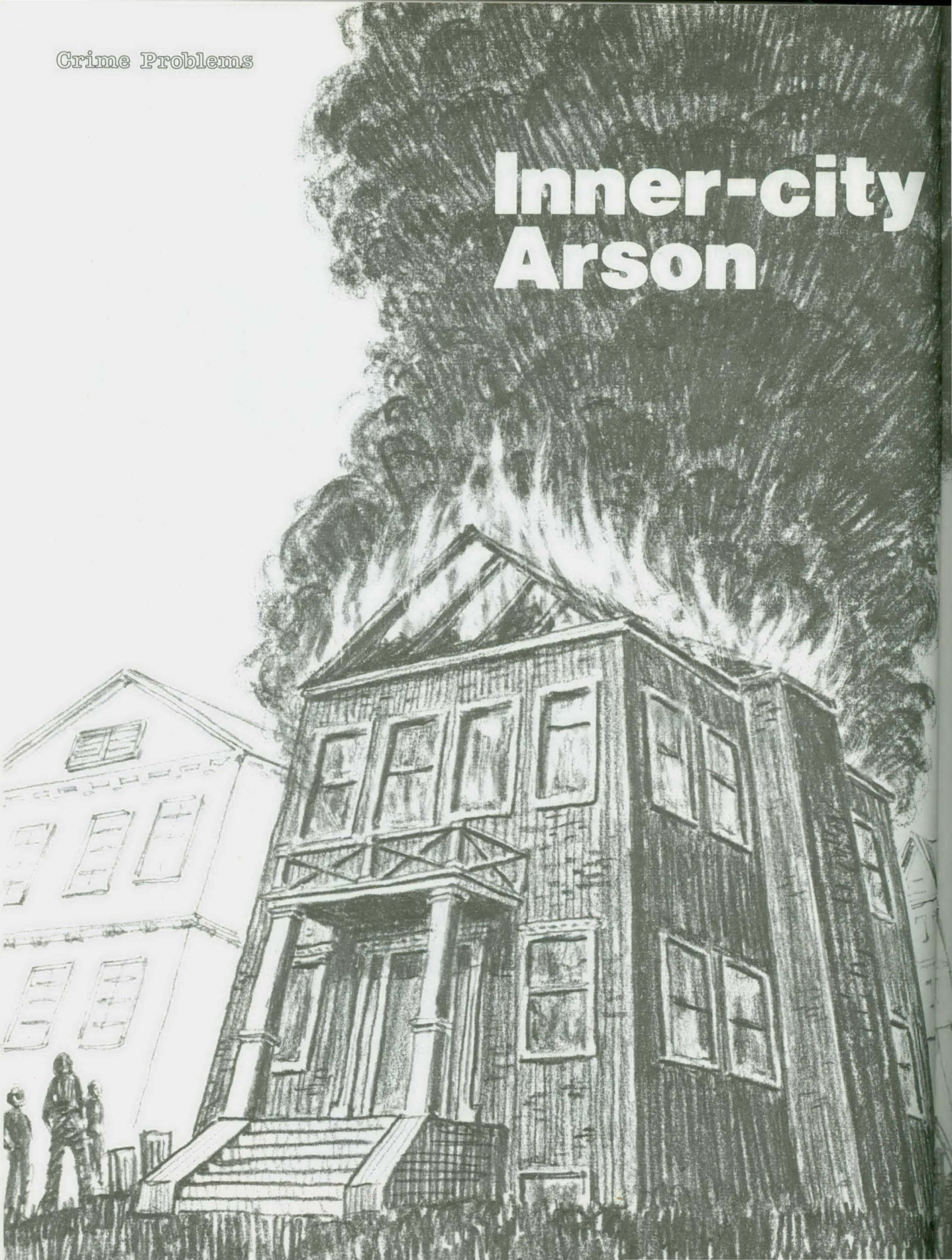


Chief Norman Caron

Figure 1

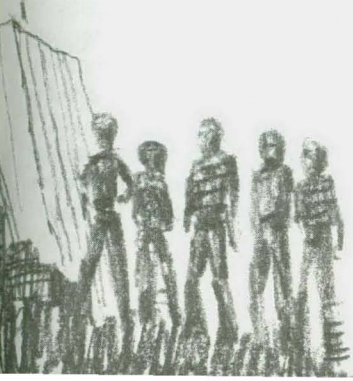
1.	Description of weapon:	Remington Model 700
2.	Serial #:	A650311
3.	Ammo:	Remington .223 PSP 55 gr.
4.	Date of last zero:	March 27, 1979
5.	Range zeroed:	100 yards
6.	Point of impact:	50 yards 100 yards—zero 150 yards— 200 yards— 250 yards—
7.	1000 inches zero check	—2.4 inches

Inner-city Arson



By
ROBERT E. WALSH
Special Agent
Criminal Investigative Division
Federal Bureau of Investigation
Washington, D.C.

During the past several years, the public, legislators, and law enforcement personnel have all become increasingly aware of the arson problem in this country. A New York Times study estimated that in 1976 there were 150,000 arsons nationally, with losses at more than $2 billion.[1] The Insurance Service Office, an industry advisory group, estimates that the direct cost of arson is $4 billion annually. Overall expenses in terms of higher insurance premiums, medical expenses, welfare, tax losses, and other costs may total more than $10 billion annually.[2] The motives for committing arson include revenge, jealousy, vandalism, concealment of other crimes, extortion, pyromania, and insurance fraud.



One of the most widespread and difficult types of arson to prove is "inner-city arson" for insurance fraud. Most major urban areas that have an inner-city area have experienced inner-city arson. The exact scheme may be modified to meet local conditions and the needs of the arsonist. Due to the complexity of the scheme, this crime poses a special challenge to law enforcement.

The classic pattern of inner-city arson starts with the purchase of real estate for the purpose of a rental property investment. Inner-city real estate has always been considered an excellent investment. Inflation, which caused most investment properties to double and triple over the last 10 years, has had a much smaller impact upon inner-city property, and the increase in rental income has added to the attractiveness of this investment. Most inner-city real estate investors can completely retrieve their initial investment in less than 3 years, not including the excellent tax advantage real estate offers. There is one catch, however, to making inner-city real estate profitable—the landlord (property investor) must maintain the building in a livable condition. As long as the property investor keeps one step ahead of the building inspector, it will be a good investment. But once the building becomes rundown (due to neglect, vandalism, or other reasons) and the building inspector starts issuing citations requiring repair work and court appearances, the inner-city real estate investment is no longer profitable.

At this time, a greedy property investor initiates his scheme to "sell his property to the insurance company." In order to obtain the highest possible insurance policy, it is important to raise the "paper value" of the property. To facilitate this, the property may be sold to other property investors or to willing associates at an inflated price. Usually, the original owner will retain title, and no money will change hands. Often this is accomplished through the use of a land contract. A recent Milwaukee inner-city arson investigation demonstrated the trading of an inner-city property and increasing the "paper price" from $12,000 to $40,000 in just 3 months.[3]

This inflated value of the property will be used as a basis for additional insurance or new coverage by the new owner (whether the true owner or in name only). Many of the policies will be based on the higher "replacement value" rather than the lower market value. The insurance is often obtained just before the property is set on fire, in order to reduce the amount of insurance premium and to limit the time the insurance company has to inspect the property.

When a property investor is conspiring to burn down one of his properties for insurance, he will oftentimes obtain a bank mortgage based on the inflated value of the property. The inner-city arsonist wants to remove himself from the motive of the crime and will attempt to accomplish this by naming a bank as the beneficiary of the policy. When a mortgage is obtained on a building that is owned "free and clear," the mortgage money is paid directly to the building owner. By obtaining a mortgage prior to the arson, the inner-city arsonist will obtain his money up front in the form of mortgage money.

If the building to be burned is occupied, it is important that all occupants are relocated before the arson fire is set. The purpose of this scheme is to collect as much from the insurance company as possible. Inner-city arsonists do not want to cause high-priority police investigations, which will result if an injury or a death is caused by the fire. Additionally, it will be much easier for the arsonist to burn a vacant building where there are no witnesses and no one to immediately report the fire. Property investors contemplating arson will often temporarily move the tenants to another building, using the pretext of renovating the building. If the tenants are reluctant to move, their rents are sometimes doubled or tripled in order to encourage their departure.

Property investors who would involve themselves in this type of criminal activity often give themselves away by demonstrating their greed in removing all valuables from the property before the arson is set. There are individuals in most cities who would pay $600 to $1,000 for the privilege of being allowed to strip a building of all items, such as woodwork, plumbing, glass, lighting fixtures, and even the furnace. A Milwaukee fire department battalion chief testified at an inner-city arson trial in 1977 that a burning building he was extinguishing was stripped to the extent that the staircase leading to the second floor was removed and the firefighters had to chin themselves in order to fight the fire.[4]

Contrary to common myth, buildings are not always burned by a "professional torch." Setting a fire is not a difficult assignment, and some property investors involved in inner-city arson have been known to use the "handyman," a friend, relative, or anyone else with or without a criminal background who could use the extra money. The common cost for hiring a "torch" is approximately $500; however, this will vary depending on the size of the building and local conditions. Some property investors have been known to use a delinquent tenant to set the fire in lieu of back rent. Most inner-city arson fires are set with a simple fuse (a burning cigarette and matchbook), using gasoline as an accelerant. Since it is important to cause a total loss (to collect the total insurance), there will usually be multiple origins of the fire. Additionally, most inner-city arson fires will be set near the roof, since many insurance adjustors will ultimately declare the property a total loss if the roof is destroyed. Soon after the fire, the building owner (who conveniently had an alibi at the time of the fire) will submit the insurance claim. Most individuals involved in inner-city arson will not try to insinuate that the fire was an accident, but will try to convince authorities that the fire was set by vandals, indigenous to the innercity.

To satisfy the outstanding mortgage on the property, as noted above, the insurance company will pay the bank directly. The property investor involved in inner-city arson will use this technique in an attempt to minimize his motive by contending that he never received any of the profits from the arson and that all the insurance money was paid directly to a bank. Actually, the property investor received his profit prior to the fire at the time the mortgage was obtained.

This is the classic inner-city arson scheme, but there are strategies in which inner-city arson cases can be investigated. Unfortunately, it is extremely difficult to solve any arson based solely on the available physical evidence. Usually, an investigation must be conducted before it is even known that a crime was committed. However, due to the lack of arson investigators (especially in the large cities), many fires are not investigated at all. There usually are no witnesses and the property investor, who will benefit from the insurance fraud, has established a secure alibi.

Fortunately, the evidence of criminal activities in an inner-city arson case is not limited to the arson fire. To profit from arson fraud, those responsible will probably involve themselves in several other State and Federal violations, such as insurance fraud, theft by fraud, bank fraud, mail fraud, fraud by wire, interstate transportation of stolen property, obstruction of justice, perjury, and several others. In addition, the Federal Racketeer Influenced and Corrupt Organizations (RICO) Statute includes arson as an act of racketeering. This violation has been used successfully to investigate and prosecute major inner-city arson violators.

It is certainly possible to prove the arson fraud scheme without positive evidence linking the subject to the fire

scene. Investigators often are required to initiate arson investigations involving fires on buildings that were torched several months previously and have since been razed. Investigators must review available information and reports to establish the identities of fires that have been included in this scheme. Included in the sources of arson information are: Police/fire department records (obtain a list of arson or suspicious fires), local newspapers (look for articles on arson), State fire marshals, Insurance Crime Prevention Institute (ICPI), insurance adjusters, and informants.

While reviewing potential inner-city arson files, the following clues will indicate positive circumstantial evidence that the fire was set for an insurance fraud:

1. Presence of incendiary material.
2. Multiple origins of fire (arson must be a total loss to be profitable).
3. Location of the fire in a building (look for fires started near the roof as many insurance adjustors will declare a fire a total loss once the roof is destroyed).
4. Suspicious hours (no witnesses).
5. Holiday fires.
6. Vacant building.
7. Renovation of building.
8. Recent departure of occupants.
9. Removal of objects (woodwork, plumbing, etc.)
10. Property for sale.
11. Previous fire.
12. Building overinsured.
13. Habitual claimants.
14. Fires occurring shortly prior to policy expiration.
15. Fires where insurance has recently been obtained.
16. Recent sale of building.

After compiling a list of possible inner-city arson fires, the investigator may be able to develop positive circumstantial evidence of fraud from available records and demonstrate the property investor's involvement by showing conflicting information, deception, and false statements. It may be much easier to solve an arson fraud than it would be to prove a straight arson case. To obtain evidence of fraud, the investigator should review available records.

A review of the register of deed records will demonstrate who actually owns the building, when and how it was acquired, and how much the building originally cost. This review may show that several properties were listed on the same transaction and that the other properties were also destroyed by fire. In addition, the city and county tax records will also contain information concerning the ownership, as well as the existing value of the property.

A building that is insured at a much higher value than its worth will indicate a motive for arson fraud. The investigator should review the records of the city building inspector, which will note the specific violations and any court actions against the owners. Records may indicate that the building was actually condemned prior to obtaining the insurance policy or that the building was set on fire just prior to a final date requiring the building to be razed.

A complete review of insurance records will furnish the investigator pertinent information regarding the insurance coverage, including who purchased the policy, amount of insurance coverage, when the policy was purchased, the identity of the beneficiary, and who made the claim. Additionally, the insurance records will contain signed statements by the insured, as well as pertinent records which may later be used to establish mail fraud violations. If the register of deed records, the building inspector's records, and the tax records indicate that the property is valued at less than $5,000 and the property is insured for $50,000, it would be good circumstantial evidence to establish an insurance fraud (mail fraud). If the properties were mortgaged at a bank, there may be evidence of false statements made by the property owners concerning the value or condition of the properties. False statements made to obtain a loan from a bank may be Federal banking violations.

Records from the suspects should be subpenaed and reviewed. These records may be in direct contradiction to the information furnished to obtain the insurance policy or the mortgage, another indication of fraud.

Investigators in inner-city arson cases should not overlook all the traditional investigative techniques that have been used over the past few years to solve complicated investigations. Inner-city arson investigations involve many activities that must be coordinated not only with the traditional law enforcement agencies, such as the local, State, and Federal investigators, but also must include officials from the fire protection community and the insurance industry in order to address successfully this growing problem.

Inner-city arson is often a scheme involving individuals with financial wealth and status in the community. In order to solve these crimes, the investigator must set out to prove the fraud and solve the arson. Oftentimes, an end result of this is that the individual involved in the fraud is also the individual involved in the arson. **FBI**

Footnotes

[1] "How One Neighborhood Foils Arsonists," *The Washington Post, Parade Magazine* (supplement) October 1, 1978.

[2] "Preventing Arson," *The Washington Post,* November 5, 1977, p. 39.

[3] *United States* v. *Hansen,* Criminal Number 76 (R 129 E.D. Wisconsin) February 1977.

[4] *Ibid.*

POLICE OFFICERS KILLED

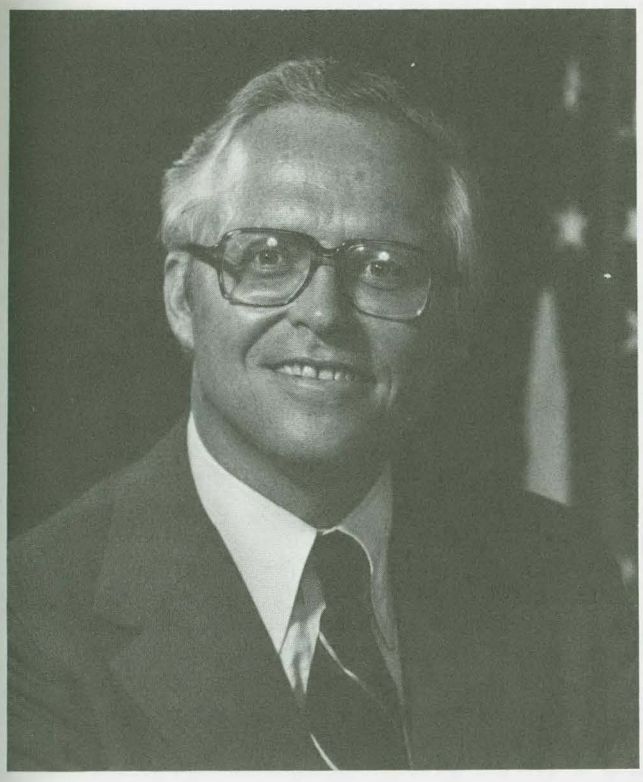
During the first 6 months of 1979, 56 local, county, State, and Federal law enforcement officers were killed feloniously in the United States. This represents a 17-percent increase in the number of officers slain when compared to the same period in 1978.

In the second quarter of 1979, 35 officers lost their lives in the line of duty, a total that equaled the reported slayings for the same 3-month period in the previous year. FBI Director William H. Webster, when announcing the statistics, noted that it was an encouraging sign that the increase in killings which appeared in the first quarter of 1979 was not repeated in the second quarter. However, he also commented that "the number of slayings remains high and the search for more effective methods to safeguard officers' lives must continue."

In the first half of 1979, 29 officers were killed in the Southern States, 12 in the North Central States, 11 in the Western States, and 4 in the Northeastern States.

Twelve officers were killed while attempting arrests for crimes other than robbery or burglary; 7 were killed attempting to thwart robberies or in the pursuit of robbery suspects; and three while attempting arrests of burglary suspects. Ambush-type situations resulted in the deaths of seven officers. Eleven officers were slain responding to disturbance calls; 6 were killed enforcing traffic laws; 5 lost their lives investigating suspicious persons and circumstances; 3 died while handling prisoners; and 2 while handling mentally deranged persons.

Fifty-two of the 56 slain officers were killed with firearms. Handguns were used in 35 of the slayings. **FBI**



THE HONORABLE
Benjamin R. Civiletti
73d ATTORNEY GENERAL OF THE UNITED STATES

On August 16, 1979, the Honorable Benjamin R. Civiletti was sworn in as the 73d Attorney General of the United States. Mr. Civiletti succeeds the Honorable Griffin B. Bell, Attorney General from January 1977, through August 15, 1979.

Mr. Civiletti served as Deputy Attorney General since May 1978, and before that was Assistant Attorney General for the Criminal Division of the U.S. Department of Justice.

Born July 17, 1935, Mr. Civiletti graduated from Johns Hopkins University with an A.B. degree in 1957 and from the University of Maryland School of Law with an LL.B. degree in 1961. He was a law clerk for the Honorable W. Calvin Chesnut during 1961–62 and was an Assistant U.S. Attorney for the District of Maryland from September 1962, to October 1964.

The new Attorney General practiced law in Baltimore, Md., from October 1964, until his appointment as an Assistant Attorney General in 1977. During his private career, Mr. Civiletti was a member of the Character Committee of the Court of Appeals of Maryland from 1970 to 1976; a member of the Judiciary Committee of the Bar Association of Baltimore City from 1972 to 1975; a member of the Maryland State Legislature's Task Force on Crime in 1975 and 1976; and a lecturer of the University of Maryland Trial Practice Course in 1976 and 1977. He was appointed *amicus curiae* by the U.S. District Court and Chief Justice Warren Burger for the Supreme Court. In 1977, he was elected a Fellow in the American College of Trial Lawyers.

The new Attorney General is married to the former Gaile L. Lundgren and has three children. **FBI**

Indiana's Document Security Lamination System

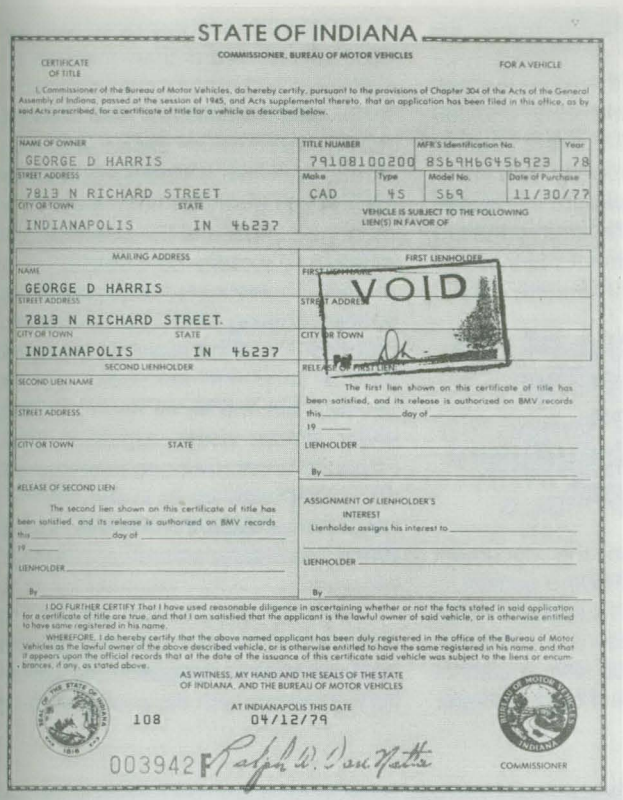
By JAN L. HORN
Director
Technical Services Department
Bureau of Motor Vehicles
Indianapolis, Ind.

Jan L. Horn

In response to continuing and long-standing requests from all segments of the business community, the Indiana Bureau of Motor Vehicles has instituted a security lamination system on both their driver's licenses and auto titles. This system provides for quick and simple detection of attempted alteration of either document by not only the business community, at the retail level, but also law enforcement in the field and the general public at large.

For the document security system to be totally effective, residents of Indiana must be both informed of its existence and instructed how to use the system to its full capacity. The Bureau of Motor Vehicles has conducted statewide seminars to educate representatives of law enforcement on the use of the system to detect fraudulent documents.

To assist in the public awareness aspect of the program, a Volunteer Blue Ribbon Business Committee was formed. Members of the committee include representatives of the Automobile Dealers of Indiana, the Fraternal Order of Police, the Indiana State Chamber of Commerce, the Indiana Better Business Bureau, the Indiana Retail Council, the Indiana Bankers Association, the Indiana Retail Grocers Association, the Beer Distributors of Indiana, the Indiana Liquor Store Association, and the Indiana Licensed Beverage Association. Com-



STATE OF INDIANA

COMMISSIONER, BUREAU OF MOTOR VEHICLES

CERTIFICATE OF TITLE — FOR A VEHICLE

I, Commissioner of the Bureau of Motor Vehicles, do hereby certify, pursuant to the provisions of Chapter 304 of the Acts of the General Assembly of Indiana, passed at the session of 1945, and Acts supplemental thereto, that an application has been filed in this office, as by said Acts prescribed, for a certificate of title for a vehicle as described below.

NAME OF OWNER	TITLE NUMBER	MFR'S Identification No.	Year
GEORGE D HARRIS	79108100200	8S69H6G456923	78

STREET ADDRESS	Make	Type	Model No.	Date of Purchase
7813 N RICHARD STREET	CAD	45	569	11/30/77

CITY OR TOWN: INDIANAPOLIS STATE: IN 46237

VEHICLE IS SUBJECT TO THE FOLLOWING LIEN(S) IN FAVOR OF

MAILING ADDRESS
NAME: GEORGE D HARRIS
STREET ADDRESS: 7813 N RICHARD STREET
CITY OR TOWN: INDIANAPOLIS STATE: IN 46237

FIRST LIENHOLDER
VOID
STREET ADDRESS
CITY OR TOWN

SECOND LIENHOLDER
SECOND LIEN NAME
STREET ADDRESS
CITY OR TOWN STATE

RELEASE OF FIRST LIEN
The first lien shown on this certificate of title has been satisfied, and its release is authorized on BMV records this _____ day of _____ 19 ____
LIENHOLDER _____
By _____

RELEASE OF SECOND LIEN
The second lien shown on this certificate of title has been satisfied, and its release is authorized on BMV records this _____ day of _____ 19 ____
LIENHOLDER _____
By _____

ASSIGNMENT OF LIENHOLDER'S INTEREST
Lienholder assigns his interest to _____
LIENHOLDER _____
By _____

I DO FURTHER CERTIFY That I have used reasonable diligence in ascertaining whether or not the facts stated in said application for a certificate of title are true, and that I am satisfied that the applicant is the lawful owner of said vehicle, or is otherwise entitled to have same registered in his name.

WHEREFORE, I do hereby certify that the above named applicant has been duly registered in the office of the Bureau of Motor Vehicles as the lawful owner of the above described vehicle, or is otherwise entitled to have the same registered in his name, and that it appears upon the official records that at the date of the issuance of this certificate said vehicle was subject to the liens or encumbrances, if any, as stated above.

AS WITNESS, MY HAND AND THE SEALS OF THE STATE OF INDIANA, AND THE BUREAU OF MOTOR VEHICLES

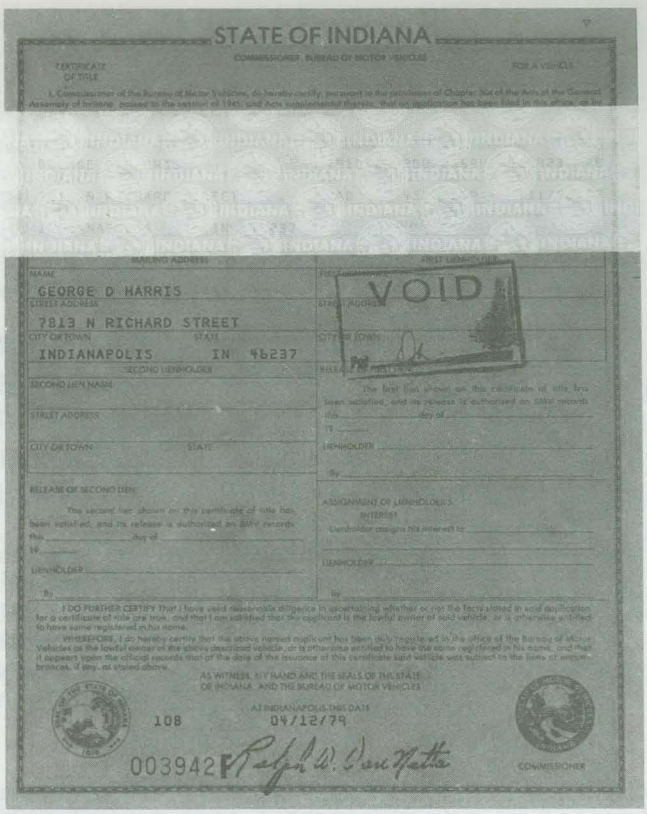
AT INDIANAPOLIS THIS DATE 04/12/79

108

003942 Ralph D. DeMatteo

COMMISSIONER

An automobile title as viewed under normal light conditions.



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MAILING ADDRESS
NAME: GEORGE D HARRIS
STREET ADDRESS: 7813 N RICHARD STREET
CITY OR TOWN: INDIANAPOLIS STATE: IN 46237

FIRST LIENHOLDER
VOID

SECOND LIENHOLDER
SECOND LIEN NAME
STREET ADDRESS
CITY OR TOWN STATE

RELEASE OF FIRST LIEN
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LIENHOLDER _____
By _____

RELEASE OF SECOND LIEN
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LIENHOLDER _____
By _____

ASSIGNMENT OF LIENHOLDER'S INTEREST
Lienholder assigns his interest to _____
LIENHOLDER _____
By _____

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AS WITNESS, MY HAND AND THE SEALS OF THE STATE OF INDIANA, AND THE BUREAU OF MOTOR VEHICLES

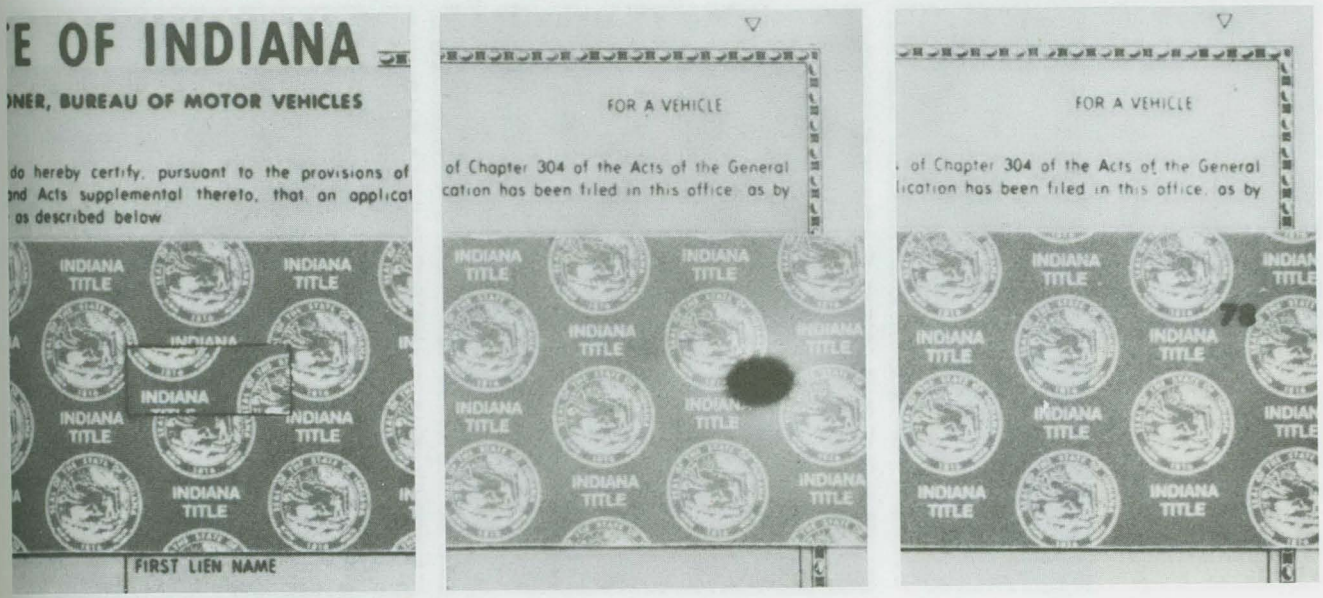
AT INDIANAPOLIS THIS DATE 04/12/79

108

003942 Ralph D. DeMatteo

COMMISSIONER

Security lamination of automobile title is shown under retroreflective light conditions.



Alteration attempts on a title are readily detectable with the aid of a simple retroreflective viewer.

mittee members are assisting with the distribution of literature and the scheduling of training sessions on detecting bogus or altered documents for their association members. Also, professional, civic, and social groups are getting together to learn what they can do to stop the "paper criminals" who are costing U.S. taxpayers nearly $16 billion each year.

According to Motor Vehicle Commissioner Ralph W. VanNatta, "The key to the security film is a process called 'retro-reflection'." Simply stated, this means that the light shined on the document will bounce back to its original source. A retroreflective, transparent film containing a layer of microscopic glass beads (approximately 120,000 per square inch) is laminated to these documents when issued. The beads form the design of the Bureau of Motor Vehicles' seal repeated several times horizontally, with the word "Indiana" printed between the seals.

The beads, and therefore the pattern, are all but invisible to the unaided eye. When examined under a retroreflective viewer or a properly held flashlight, however, the pattern is visible. The photograph or printed information found on the document cannot be seen through the illuminated beads,

"The absence of the retroreflective lamination . . . denotes a fraudulent document."

but any changes on the document stand out in contrast to the pattern. If the document is cut to substitute either a photo or critical descriptive information, the broken beads form a distinct black line under a direct beam of light.

"This process has been used successfully for more than five years in California and no one has been able to make illegal duplicates that were not readily detectable," explains Commissioner VanNatta. "Readily detectable" are the key words for both law enforcement personnel and the business community. A system so complex as to require sophisticated equipment and special training would defeat its own purpose. Even the slightest attempt to alter a document laminated with the security film will show up immediately under simple visual inspection. Such inspections can be done in stores with countertop viewers or in the field with small, hand-held retroreflective viewers. When necessary, an ordinary flashlight will work.

Indiana decided to employ the new security system on their driver's licenses after investigating the California experience with the security film. "It

A driver's license with security lamination as viewed under normal light (top) and as viewed under retroreflective light conditions (bottom).

would take millions of dollars to match this process and no one has that kind of money to spend on a phony driver's license," says VanNatta. "Street people in California tried to forge or alter licenses with this security film on them, and they were not able to accomplish it."

The absence of the retroreflective lamination on any photo driver's license or identification card denotes a fraudulent document. The security system was initiated in Indiana during February 1977, at the time the Bureau of Motor Vehicles began issuing photo driver's licenses and photo ID cards. Currently, State officials estimate a 75-percent conversion to the photo driver's license. The complete turnover will occur by February 1981.

Indiana State Excise Police are pleased with the new licenses. Each month, their officers confiscate hundreds of phony driver's licenses from underage drinkers. Tavern owners are equally pleased. Their employees now have a simple and foolproof method for checking the validity of a questionable driver's license.

Currently California, Indiana, and Michigan use the film on their driver's license, and Indiana, Illinois, Utah, and Louisiana use it on their auto titles. But at this time, only Indiana employs the system to protect both State documents. While the security features of the film used on the titles are exactly the same as that being used on the driver's license, only a strip of material is applied to the titles, as opposed to covering the entire license. The strip covers that area containing all the vital information and protects the title from tampering and alteration.

"This system provides for quick and simple detection of attempted alteration of either document. . . ."

"As other states follow Indiana's lead," says Jim Olsen of the Automobile Dealers of Indiana and Chairman of the Blue Ribbon Committee, "the entire auto theft network can be crippled, because without counterfeit titles, stolen cars can't be resold." But Olsen is quick to point out that this system of security for auto titles won't stop auto theft. "What it will do," explains Olsen, "is eliminate auto title fraud, and because Indiana issues an estimated one and half million titles per year, worth more than $4.5 billion, we feel that such a security system is absolutely essential." **FBI**

The black lines indicate where the security lamination was cut in order to change a photograph. Also notice the lack of continuity in repeating patterns of the State name and seal.

The letters "BLO" and the number "63" have been applied to the top of a security-laminated license. These alterations show up immediately under retroreflective light.

RCMP Offers Assistance

During an investigation of the shooting death of one of their officers, the Royal Canadian Mounted Police (RCMP) subsequently uncovered information that his assailants belonged to an organized club which solicited sexual encounters of all forms and then extorted money from the participants. The Double Gator Club, as it was known, sold memberships and established liaisons between interested parties who answered various advertisements for normal and exotic sex. One person who answered the ads was subsequently murdered after committing a sexual act with a club member.

A list of known Double Gator Club members and their addresses is available to police departments who might have on record any similar sex-related deaths or offenses. This list may offer another avenue of investigation. Requests for information should be forwarded to: Winnipeg N.C.I.S., RCMP "D" Division, Winnipeg, Manitoba, and Brandon, G.I.S. RCMP "D" Division, Brandon, Manitoba, with a copy to the Commissioner, RCMP H.Q., 1200 Alta Vista Drive, Ottawa, Ontario, K1A 0R2, with reference to 78HQ-001-6. **FBI**

"Surveillance Photography Guides" Pamphlet

"Surveillance Photography Guides," an instructional aid developed and published by the FBI, is now available to authorized law enforcement personnel.

The pamphlet has been designed to provide technical assistance in planning and executing the successful photographic surveillance. Areas such as camera and equipment selection, film handling procedures, site selection, focusing, and metering are examined in detail, and convenient surveillance survey and surveillance site equipment checklists are included.

Copies of the publication may be obtained upon written requests directed to the Federal Bureau of Investigation, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535, Attention: Publications Unit, Room 6236.

FBI

Electrostatic Detection Apparatus

The Document Section of the FBI Laboratory recently obtained a new instrument called an Electrostatic Detection Apparatus (ESDA) which greatly improves the capability of developing indented writing. This instrument uses an electrostatic imaging process, which apparently does not damage or discolor a document.

With this new technique, legible images have been successfully brought up on a sheet of paper as much removed from the original writing as the third, fourth, and even fifth sheet of paper. This process already has been used successfully in several FBI investigations.

Criminal justice agencies should be aware of this new investigative technique, since the ESDA would appear to be of exceptional value and assistance to the investigative officer. For appropriate indented writing examination, pertinent documents could be submitted to the Document Section of the FBI Laboratory, or other laboratories having this device.

Submitted specimens must be dry and maintained in a flat position in single sheet form. Care should be taken not to scratch or cause other indentations (including fingerprints) on the document(s). Such alterations could develop images not relevant to the investigation. It should be noted that this process will not work on all papers, or paper that has been soaked in water or chemically treated. **FBI**

The Plain View Doctrine

(Conclusion)

By JOSEPH R. DAVIS
Special Agent
Legal Counsel Division
Federal Bureau of Investigation
Washington, D.C.

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

Part I of this article discussed the development of the plain view doctrine in the 1971 Supreme Court case of *Coolidge* v. *New Hampshire*[30] and considered the first of the three elements of a valid plain view seizure, the requirement that the officer have a prior valid reason to be present within the premises or vehicle where the evidence is observed. The conclusion of the article will continue the analysis of the plain view doctrine, focusing on the two remaining requirements for a valid plain view seizure: (1) The discovery of the item must be "inadvertent"; and (2) the item to be seized must be "immediately apparent" as contraband or evidence of a crime.

Inadvertence

The second requirement for a valid plain view seizure is that the discovery of the item be inadvertent.[31] This was the element of the plain view doctrine found to be lacking in the facts of the *Coolidge* case, because the officers knew the location of the automobile for several days prior to the seizure, had ample opportunity to obtain a search warrant, and intended to seize the automobile when they entered on the suspect's property.[32] Justice Stewart explained the reason for the requirement that the discovery be inadvertent:

"The rationale of the [plain view] exception to the warrant requirement . . . is that a plain-view seizure will not turn an initially valid (and therefore limited) search into a 'general' one, while the inconvenience of procuring a warrant to cover an inadvertent discovery is great. But where the discovery is anticipated, where the police know in advance the location of the evidence and intend to seize it, the situation is altogether different. The requirement

". . . overwhelming majority of decisions . . . have accepted 'inadvertence' as a constitutionally required element of the plain view doctrine."

of a warrant to seize imposes no inconvenience whatever, or at least none which is constitutionally cognizable in a legal system that regards warrantless searches as '*per se* unreasonable' in the absence of 'exigent circumstances'." [33]

The "inadvertent discovery" requirement has been the most controversial aspect of the plain view doctrine since it was first articulated by Justice Stewart in *Coolidge.* In fact, this is the element of the plain view doctrine that prompted Justice Black and Justice White to dissent from that portion of Justice Stewart's opinion which dealt with the plain view doctrine.[34] Although legal scholars, and occasionally courts, continue to debate whether this portion of the Supreme Court's opinion in *Coolidge* is binding as precedent,[35] it appears that the overwhelming majority of decisions which have considered it have accepted "inadvertence" as a constitutionally required element of the plain view doctrine.[36] Therefore, for purposes of this article, it will be assumed that this element must be satisfied.

Given the requirement that a discovery must be "inadvertent," a further question remains: Just how "inadvertent" must the discovery be?

A few courts have interpreted inadvertent to mean "unexpected" or "unanticipated," and therefore, have refused to sanction plain view seizures where the officer had *some* expectation that such items would be found. A recent Federal district court decision, *In Re Motion for Return of Property,*[37] illustrates this approach.

In this case, postal inspectors had determined that certain delivery room employees of a large department store were engaged in a scheme whereby merchandise from the store was being mailed, without payment, to wives of the delivery room employees. Postal officials had specifically identified one box, containing name-brand cosmetics, which was mailed on a particular date to the wife of one of the employees. Additionally, they had been informed by another store employee that other packages had been mailed over a period of a year to the home of the same employee to whom the cosmetics were known to have been mailed, although the specific mailing dates and contents of these other packages were not known.

An assistant U.S. attorney, who was consulted in the course of the investigation, advised the postal officials that probable cause existed only for the seizure of the package of name-brand cosmetics. Accordingly, a search warrant was sought and obtained describing only the one package and its contents.

When the search warrant was executed at the employee's residence, a store security officer accompanied the postal authorities for the purpose of identifying any additional merchandise belonging to the store found in the home. The box described in the warrant was never found, but a number of other boxes, identified as containing merchandise from the store, were discovered and seized.

The court noted that the posta inspectors "knew" that other package had been mailed to the employee' home during the past year, "believed" that items other than the items speci fied in the warrant would be found, an intended to seize such items. It als noted the presence of the store secu rity officer was indicative of the fac that the authorities "anticipated" dis covery of further store merchandis not named in the warrant.[38] The cour felt the "inadvertence" element o plain view doctrine was not present and therefore, ordered suppression o the items seized.[39]

The above case illustrates "broad" interpretation of the inadver tence requirement, seemingly requirin the suppression of evidence seize where officers "suspected" or "ex pected" that items not named in th search warrant would be located, bu did *not* have *probable cause to believ* the items would be found.

The majority of the cases have interpreted the inadvertence require ment more narrowly and have required the suppression of evidence seized i plain view only where, prior to the sei zure, officers had probable cause t believe the items would be present and therefore, could have obtained search warrant specifically describin the items.[40]

A recent Federal court of appeal case, *United States* v. *Hare,*[41] illus trates the majority view. In this case special agents of the Bureau of Alco hol, Tobacco and Firearms (ATF) ha gathered evidence that Hare was in volved in the illegal interstate transpo tation of substantial quantities o firearms. In the course of their invest gation, the ATF agents had contacte agents of the Drug Enforcement Ad ministration (DEA) and had determine

". . .'probable cause' is the appropriate standard of certainty to justify a warrantless plain view seizure."

the DEA agents were also investigating Hare for suspected narcotics violations. After extensive investigation, an ATF agent obtained a search warrant for Hare's residence, which authorized "any special agent of the Bureau of Alcohol, Tobacco and Firearms" to search Hare's home for an unknown quantity of firearms, ammunition, a sawed-off shotgun, and a machinegun, all possessed in violation of Federal criminal statutes.

The search warrant was executed by ATF agents, while three DEA agents guarded the doors to the residence. The ATF case agent testified that the DEA agents were there to provide additional manpower and to identify narcotics in the event that any were found in the course of the search.

In the living room, on a table in plain view, the agents found narcotics and narcotics paraphernalia which were immediately recognizable as such. The trial court held the seizure of the narcotics could not be justified under the plain view doctrine because the discovery of the narcotics was "expected" and the agents intended to seize any drugs found in plain view.[42]

On appeal, the court of appeals reversed the lower court and upheld the seizure under the plain view exception. The court of appeals interpreted *Coolidge* as requiring that warrantless plain view seizures be condemned only when a warrant could have been obtained, that is, when prior to the seizure the officers had probable cause to believe the evidence seized would be located in the premises. The court explained:

"If 'inadvertent' is interpreted as 'unexpected,' an absurd scenario would take place every time the police execute a search warrant on the premises of a person suspected of engaging in a variety of criminal activities, but when they have probable cause (and a warrant) to search for the fruits of only one crime. In such a case, whenever evidence of one of these other crimes turns up, even though it would have been impossible to obtain a warrant previously, someone must be sent to obtain a new warrant to authorize the seizure. . . . At the same time, the intrusion has already occurred in a fully legal, limited manner, so Fourth Amendment interests are not served by delay. The courts do try to avoid imposing significant limitations and burdens on the ability of the police to do their job when those burdens would serve no purpose. *We conclude that unless the police had the ability and opportunity to obtain a warrant prior to the seizure and failed to do so, the inadvertency requirement of the plain view doctrine has not been violated.*" [43] (Emphasis added).

The court concluded that no probable cause to believe narcotics would be found existed prior to the officers' entry; therefore, the seizure was inadvertent within the meaning of *Coolidge.*[44]

The view of the inadvertence requirement expressed in *Hare* reflects the approach of a growing majority of the cases which have considered this issue.[45] It appears to offer a workable rule that upholds the established fourth amendment principle that whenever practicable a search warrant must be obtained prior to a search or seizure, while not penalizing law enforcement officers for seizures of contraband or other incriminating items discovered in plain view in situations where the officers had insufficient facts prior to the seizure to apply for and obtain a search warrant.

Immediately Apparent

The third and final requirement for a valid plain view seizure is that the incriminating nature of the item to be seized be "immediately apparent" to the officer. As Justice Stewart explained in *Coolidge:*

"Of course, the extension of the original justification is legitimate only where it is immediately apparent to the police that they have evidence before them; the 'plain view' doctrine may not be used to extend a general exploratory search from one object to another until something incriminating at last emerges." [46]

Thus, it is clear that not all objects within the plain view of an officer who is lawfully present are subject to seizure—only if the item's incriminating nature is readily apparent may it be taken.

The requirement that an item be immediately apparent as contraband or evidence has been universally accepted as a necessary limitation on plain view seizures. However, the interpretation of the requirement and its application to real-life fact situations has created some division among the lower courts.[47]

The controversy has centered around the degree of certainty with which the items in plain view must be apparent as evidence. Put another way, the question is: Is a mere *suspicion* that the item is contraband or evidence enough to justify its seizure or is *probable cause,* or even a higher standard, such as *virtual certainty,* required? Neither *Coolidge* nor subsequent Supreme Court cases shed any light on this issue.

"The requirement that an item be immediately apparent as contraband or evidence has been universally accepted as a necessary limitation of plain view seizures."

A few decisions have appeared to allow plain view seizures of items on mere suspicion, or at least a lesser standard than probable cause.[48] Going to the other extreme, at least one Federal case has indicated that although "absolute certainty" is not required, the officer must have "*more* than probable cause to believe" that the item is contraband or evidence of a crime to justify its seizure.[49] However, the clear majority of cases which have considered this issue have concluded that "probable cause" is the appropriate standard of certainty to justify a warrantless plain view seizure.[50]

A Federal court of appeals case, *United States* v. *Truitt,*[51] mentioned earlier in this article, illustrates the majority view. In *Truitt,* officers had obtained a search warrant for a fishing tackle and gun shop in Louisville, Ky. The warrant described various gambling records as the items to be seized.

During the course of the search, and before the gambling records were located, one of the officers discovered a sawed-off shotgun lying on top of two boxes which were underneath a counter. A repair tag with the defendant's name on it was attached to the weapon. The gun was seized and later offered as evidence in a prosecution of the defendant for unlawful possession of an unregistered sawed-off shotgun, a violation of Federal firearms statutes.

The defendant argued that since a sawed-off shotgun was not *per se* contraband, because it may be lawfully possessed if it is validly registered, it should not have been seized. The court of appeals, in affirming the trial court's ruling, held that the weapon was seized properly under the plain view doctrine. The court noted that the question was "not primarily whether the object is contraband, but whether its discovery under the circumstances would warrant a police officer of reasonable caution in believing that an offense has been or is being committed and that the object is evidence incriminating the accused. . . . The question is one of probability. . . ." [52] The court went on to conclude that in this case probable cause was present to believe the item was incriminating, and therefore, the seizure and admission of the weapon as evidence was proper.[53]

A second closely related, but separate, question is also emerging with regard to the "immediately apparent" requirement. The question is: Must the incriminating nature of the item be immediately apparent *at first glance,* or is a closer, more careful examination of the item permissible in order to determine whether it is contraband or evidence? Several courts have taken the position that if there is not probable cause to believe the item is incriminating at first glance, then a more careful examination of the item may constitute a further search or seizure which is not permissible under the plain view doctrine.[54] Copying down the serial number of a weapon or a television set, in the absence of probable cause to believe the item was stolen or otherwise incriminating, has been condemned in several cases, with the result that a later seizure of the item pursuant to a search warrant also has been invalidated.[55]

On the other hand, some courts have taken the position that if an officer's reasonable suspicion has been aroused concerning an item, he may then examine it more closely and if its incriminating nature then becomes apparent, at least without leaving the premises, then the "immediately apparent" requirement is sufficiently satisfied.[56] There does not seem to be any clear majority view on this issue, and officers would be well-advised to ascertain the view their State and local courts have taken with regard to such limited examinations.

Summary

The fourth amendment to the Constitution prohibits "unreasonable" searchs and seizures. The Supreme Court has repeatedly interpreted the fourth amendment as prohibiting warrantless searchs and seizures—subject only to a few specifically established and carefully delineated exceptions to the warrant requirement. One such exception is the plain view doctrine.

Simply put, the doctrine permits the warrantless seizure of items within the plain view of an officer if three conditions or limitations are satisified.

1. The officer must be present within the premises or other area entitled to fourth amendment protection pursuant to a search or arrest warrant or some other traditionally recognized exception to the warrant requirement.

2. The officer must come across the item inadvertently. If the officer has "probable cause" to believe the item will be located within the premises prior to the entry, and hence, could have obtained a search warrant specifically describing it, the discovery will not be considered inadvertent. Most courts have concluded that a *suspicion* or *expectation* that an item might be present which does not rise to the level of probable cause will not render the plain view seizure invalid.

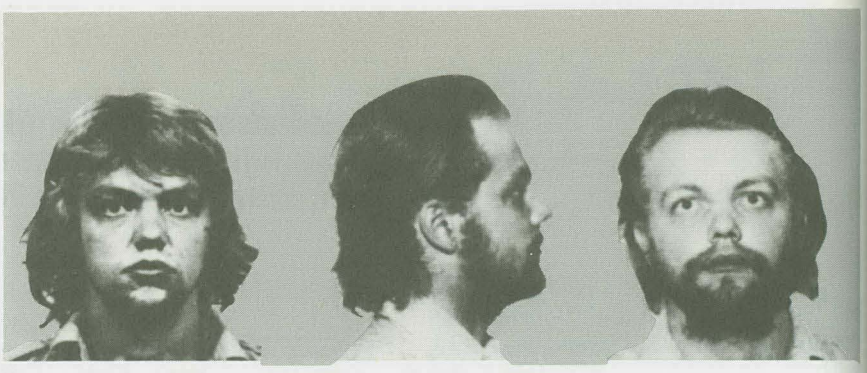
3. The item seized must be "immediately apparent" as contraband or evidence of a crime. The standard adopted by the majority of the courts has been "probable cause" to believe that the item is contraband or otherwise incriminating. Although some courts have allowed a closer examination of the item by the officer in order to ascertain whether it is contraband or evidence, several courts have held that the item must be apparent at first glance as evidence or contraband and have considered closer examinations to be impermissible searches or seizures.

The plain view doctrine is a relatively recent exception to the warrant requirement. Further refinement by the courts will be helpful in resolving the differing interpretations of certain aspects of the doctrine. **FBI**

Footnotes

[30] 403 U.S. 443 (1971).
[31] *Id.* at 469
[32] *Id.* at 472.
[33] *Id.* at 469–71.
[34] *Id.* at 506 (Concurring and dissenting Opinion of J. Black) and at 516 (Concurring and Dissenting Opinion of J. White).
[35] Comment, *"Plain View"—Anything But Plain: Coolidge Divides the Lower Courts,* 7 Loyola of L.A. L. Rev. 489, 508 (hereinafter cited as Comment: *Plain View*); Moylan, *The Plain View Doctrine: Unexpected Child of the Great "Search Incident" Geography Battle,* 26 Mercer L. Rev. 1047, 1048–49 (hereinafter cited at Moylan).
[36] Comment: *Plain View, supra* note 35; Moylan, *supra* note 35 at 1082.
[37] 24 Crim. L. Rep. 2418, —— F. Supp. —— (S.D.N.Y. 1/3/79).
[38] *Id.*
[39] *Id.* at 2419.
[40] Comment, *Plain View, supra* note 35; Moylan, *supra* note 35: C. WHITEBREAD, CONSTITUTIONAL CRIMINAL PROCEDURE, sec. 6.7, at 95–98 (1978). *See, e.g., United States* v. *Bolts,* 558 F. 2d 316 (5th Cir. 1977), *cert. denied,* 434 U.S. 930 (Inadvertent does not mean a foreseeable possibility, if discovery was "unplanned" and officer did not intend to seize it before his entry, seizure was "inadvertent"). *Mapp* v. *Warden,* 531 F. 2d 1167 (2d Cir. 1976), *cert. denied,* 429 U.S. 982 (Seizure was inadvertent even though officers knew of *existence* of item prior to seizure, because the *location* of the item was unknown prior to entry and officers did *not intend to seize* the item at the time of their entry.)
[41] 589 F. 2d 1291 (6th Cir. 1979).
[42] *Id.* at 1293.
[43] *Id.* at 1295.
[44] *Id.* at 1296.
[45] Authorities cited *supra* note 40, and in *Hare, supra* note 41.
[46] *Supra* note 30, at 466.
[47] Comment, *Plain View, supra* note 35, at 502–507; Moylan, *supra* note 35, at 1084.
[48] *State* v. *Hoffman,* 190 S.E. 2d 842 (N.C. 1972) (While lawfully in house, officer lawfully seized rifle as a "suspicious object"); *State* v. *Anderson,* 489 P. 2d 722 (Ariz. Ct. App. 1971) (Officer lawfully present in residence seized seeds he believed to be contraband); *United States* v. *Hill,* 447 F. 2d 817 (7th Cir. 1971) (Officers seized keys on ground near suspect, opened garage nearby and seized stolen auto parts, based on "suspicion").
[49] *United States* v. *Smollar,* 357 F. Supp. 628 (S.D.N.Y. 1972).
[50] Comment, *Plain View, supra* note 35, at 505 and n. 121; Moylan, *supra* note 35, at 1084 states, "The broad and evolving consensus, however, is that the standard of certainty must be probable cause." *See, e.g., Shipman* v. *State,* 282 So. 2d 700 (Ala. 1973); *People* v. *La Rocco,* 496 P. 2d 314 (Colo. 1972); *United States* v. *Clark,* 531 F. 2d 928 (8th Cir. 1976); *State* v. *Elkins,* 422 P. 2d 250 (Ore. 1966).
[51] 521 F. 2d 1174 (6th Cir. 1975).
[52] *Id.* at 1177.
[53] *Id.* at 1178.
[54] *United States* v. *Sokolow,* 450 F. 2d 324 (5th Cir. 1971); *Stanley* v. *Georgia,* 394 U.S. 557, 571–72 (1969) (Concurring opinion by J. Stewart); *United States* v. *Clark,* 531 F. 2d 928 (8th Cir. 1976); *United States* v. *Scios,* 590 F. 2d 956 (D.C. Cir. 1978); *United States* v. *Gray,* 484 F. 2d 352 (6th Cir. 1973), *cert. denied,* 414 U.S. 1158 (1974); *State* v. *Williams,* 377 N.E. 2d 1013 (Ohio 1978); *United States* v. *Robinson,* 535 F. 2d 881 (5th Cir. 1976).
[55] *United States* v. *Clark, supra* note 54; *United States* v. *Gray, supra* note 54; *United States* v. *Sokolow, supra* note 54.
[56] *United States* v. *Schire,* 586 F. 2d 15 (7th Cir. 1978) (Further investigation on premises while executing a search warrant led to information that automobile was probably stolen. The court said, "We do not interpret the 'immediately apparent' requirement to connote apparent at first glance, but rather, apparent without other information than that which the officers properly possessed before their search was over"); also see the dissenting opinion of Judge MacKinnon in *United States* v. *Scios, supra* note 54, at 975–78, wherein he argues that the plain view doctrine allows an officer to examine more closely "suspicious items" to determine if his "suspicion" is justified; *United States* v. *Griffin,* 530 F. 2d 739 (7th Cir. 1976) (Officers investigating report of stolen mailbag were justified in picking up and examining addresses on unopened letters seen on floor and table in apartment.)

WANTED BY THE FBI



Photograph taken 1975 *Photographs taken 1978*

Robert John Prihoda

Robert John Prihoda, also known as Robert John Arndt, Tony Eugene Leoni, Bobby Prihoda, Robert Prihoda.

Wanted for:

Interstate flight—Murder; Armed Robbery.

The Crime

Robert John Prihoda, a native of Rice Lake, Wis., is being sought as an escapee from custody. At the time of his escape, he was serving a life plus 35-year sentence for armed robbery and the shooting death of a police officer.

A Federal warrant was issued on May 9, 1977, at Green Bay, Wis.

Description

Age	22, born July 1, 1957, Rice Lake, Wis.
Height	5′8″.
Weight	150 pounds.
Build	Medium.
Hair	Brown.
Eyes	Hazel.
Complexion	Medium.
Race	White.
Nationality	American.
Occupations	Laborer, printer.
Scars and marks	Scar over left eyebrow. Tattoos: A blue "S," "LOV," "S.B.," and a cross on the back of left fingers; a star, heart, swastika, "LOVE," on left forearm; "CRIPPLE" on upper left arm; "BOB" on upper right arm; a cocktail glass on right forearm; a cross on back of right middle finger and back of right hand; "S.B.S." and "LOV" on right forearm.
Social Security Nos. Used	293-62-6399 392-33-6962 392-62-6399 392-62-3369 392-66-6933.
FBI No.	378 284 L2

Classification Data:

NCIC Classification:
POPI131307DI1008PI11

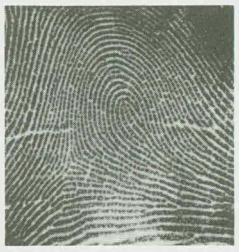
Fingerprint Classification:
13 O 21 W I O I 7
I 18 U O I I

Caution

Prihoda should be considered armed, dangerous, and an escape risk.

Notify the FBI

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



Right ring fingerprint.

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Battery Conceals Narcotics

Officers of the Silver City, N.M., Police Department have discovered that model-type batteries used for displays by many firms throughout the United States are being employed by narcotics smugglers to transport drugs. The battery, pictured here , is an empty plastic case with compartments where narcotics can be stored. In most instances, it is mounted as a second battery in recreational vehicles and pickup trucks, with the necessary wiring attached to make it appear as a working battery.

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Federal Bureau of Investigation
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Interesting Pattern

This fingerprint pattern appears to be an accidental whorl. It should be noted, however, that the delta for the loop formation would fall upon the recurve of the loop, thus eliminating the loop from consideration. The pattern is, therefore, classified as a central pocket loop-type whorl. A reference search would be conducted as an accidental whorl.