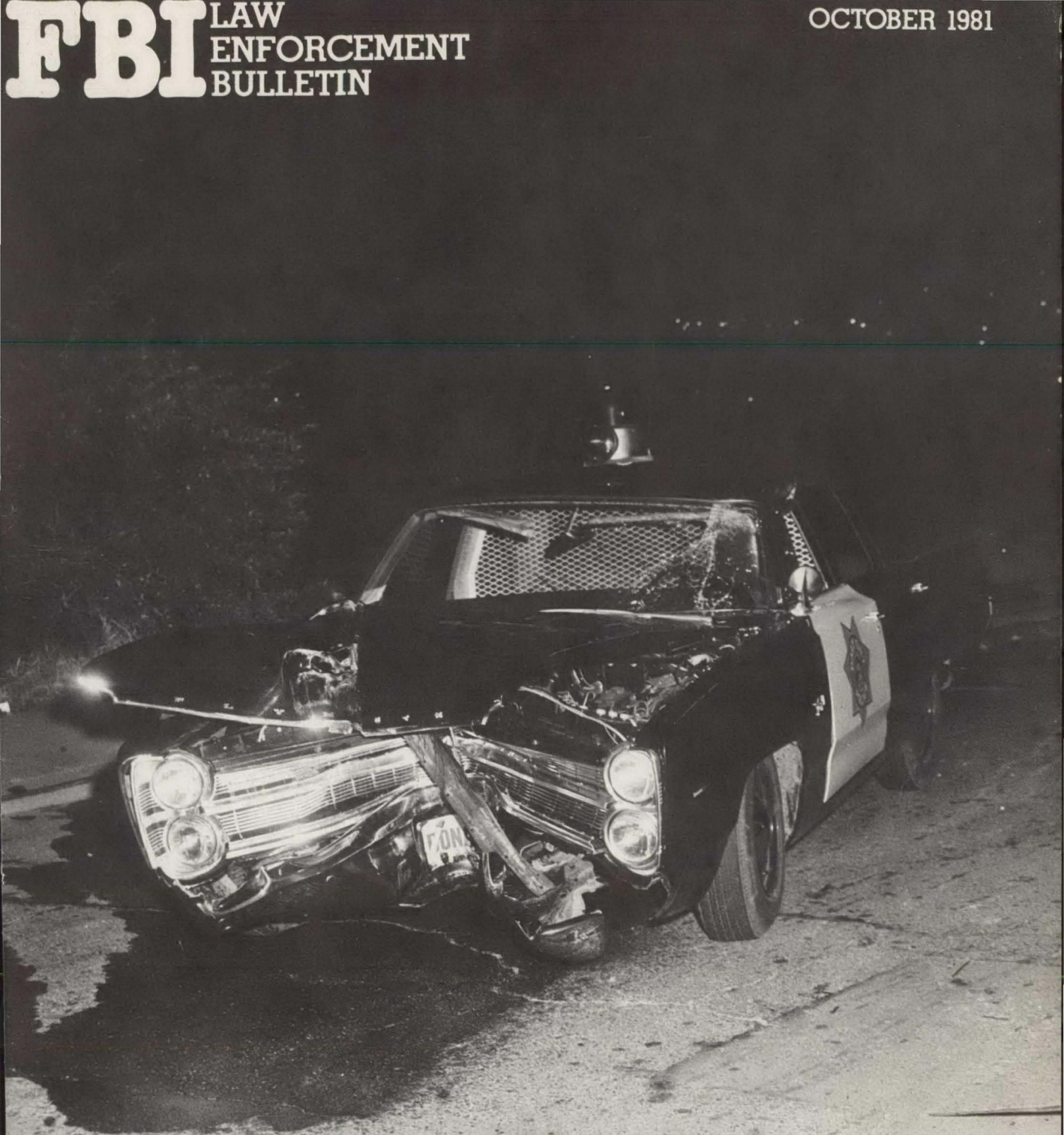
FBI LAW ENFORCEMENT BULLETIN

OCTOBER 1981



Driver Training For Your Department???

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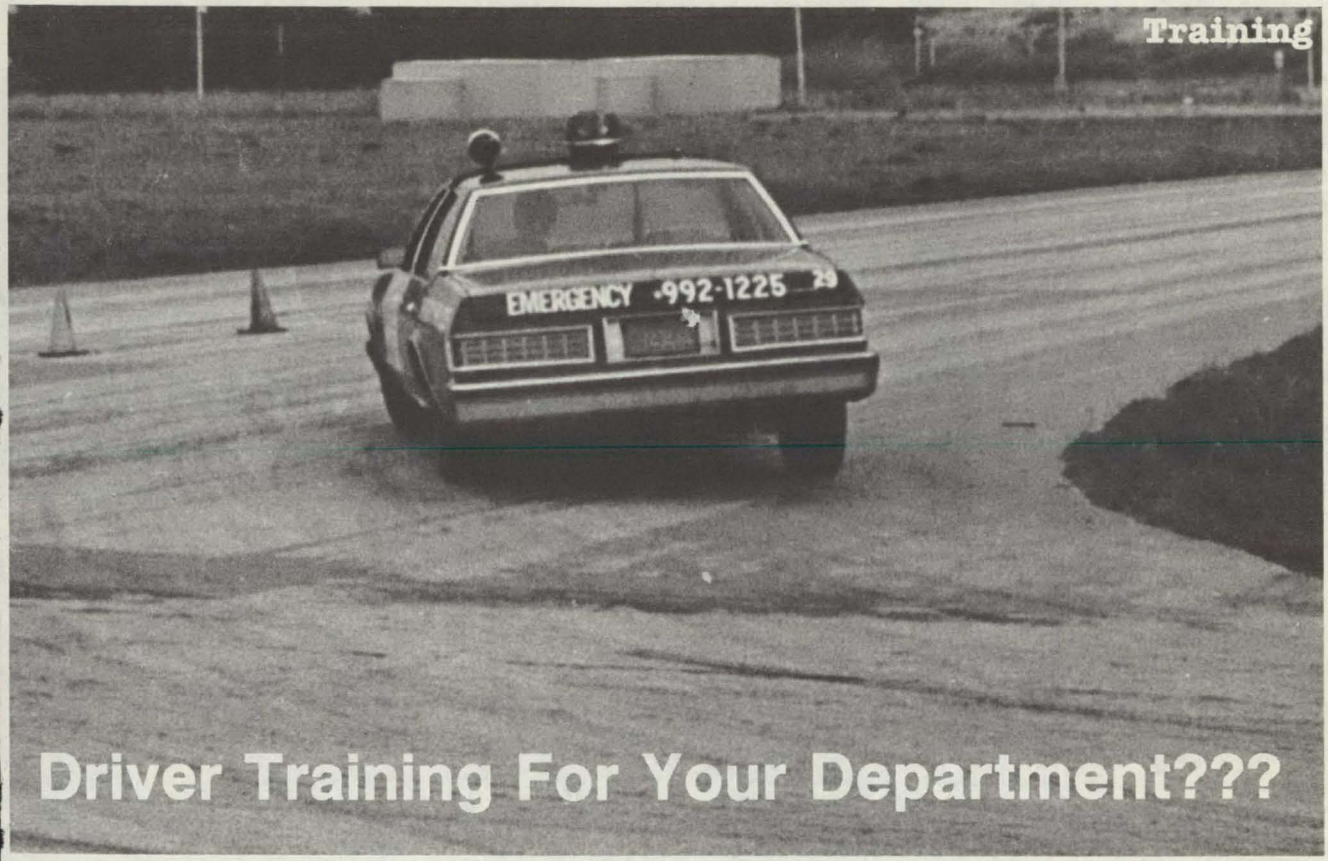


Driver Training For Your Department???

By
LT. JAMES J. BARRON
and
SGT. STEVEN L. AURILIO
Police Department
Daly City, Calif.

Officer H. Charger was moving along at a substantial speed. With a year in the department, he was young, confident, and believed he could handle anything that came along. He was responding to a call about a disturbance in a bar. The last radio message indicated that his partner in the next beat had just arrived at the scene. Officer Charger flipped on the red lights and stepped on the gas. He had to cover his partner! And, after all, the call was in his beat and he could handle his own beat. The speedometer crept past 60, even though it was a 35 m.p.h. zone, but the traffic was light. Up ahead, the signal on Bismark Street had just turned red.

Frank Sola pulled out of his driveway at 20 Bismark Street, with his wife and three kids in the car. He headed down the street, with the windows rolled up, radio on, and kids fussing in the rear seat. A moving van at the corner blocked the view to the south, but the light was clearly green. He got into the intersection just in time to meet a 4,000-pound police car being piloted at 70 m.p.h. The impact killed Sola, seriously injured his wife, and left one of his kids with permanent brain damage. Officer Charger lost a few teeth, and the police car was totaled.

Two years later the gavel sounded. The jury awarded Irene Sola $1.2 million in general damages. The sum might compensate for the expenses and perhaps care for her brain-damaged son. But, she still misses Frank.

What are the chances of a similar mishap occurring in your department? As a police administrator, you might have already pondered such an episode. You may have even considered instituting a police driver training program and silently made a mental note that you would start on a program someday soon. Then, again, you may be an administrator who prefers to handle situations as they arise, employing a minimal amount of planning. Or perhaps you are an administrator who hopes that "it won't happen here." You may believe that a driver training program is beyond the needs and means of your department, since many small and midsized agencies have limited resources and manpower. If so, then this article is aimed at you.

It is not our intention to give a detailed description of a driver training course. The details are for you to decide and to tailor to your agency's structure and needs. Our intention is, however, to convince you to develop or participate in a police driver training program and to show you how to do it efficiently and economically. We realize the problems administrators face in justifying new programs and maintaining current ones, while having to work within a tight budget. Well, we believe this needed training can be accomplished by using the resources already available. Perhaps you are not convinced you need or even want such a program. Well, before looking at the "how to do it," let's take a look at the "why do it?"

Driver training, as with any training, is a product of sound planning; planning is a function of good leadership. Without training, proper performance is left to the "trial and error" method of learning, which is a costly and inefficient practice. An untrained police officer is an unprepared police officer. It's the supervisor's responsibility to insure that he gets the training to perform his job and to accomplish the goals of the organization.

Driver training is an area that has, for the most part, been overlooked by police administrators. Other concerns, such as weapons training, S.W.A.T., and hostage negotiations, have held the training spotlight, which leads us to an interesting paradox. It would seem that the activity which an officer performs most frequently and which has a greater chance for error receives the least amount of training attention. To realize the disparity, one need only compare the amount of time a police officer spends operating his police vehicle as opposed to using his sidearm or shotgun, negotiating with a hostage taker, or rappeling off a tall building.

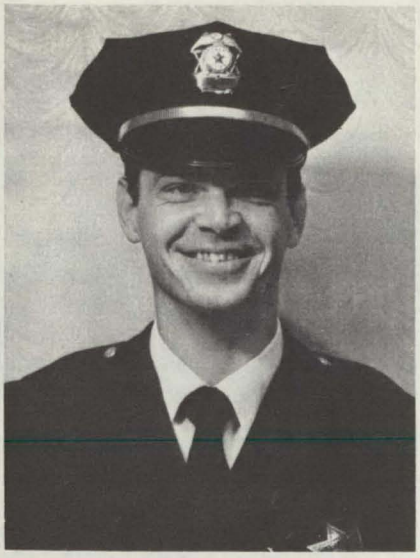
"A trained police officer operates his police vehicle with competence and he arrives at his destination by skill."

Helmets and aircraft-type harnesses are necessary equipment in any driver training program.

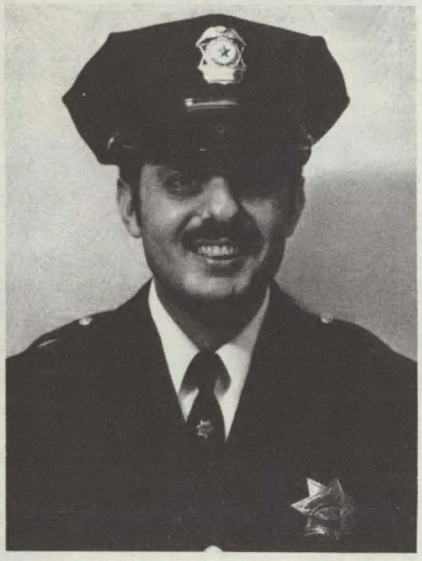
Driver training can and does reduce accidents. The very purpose of training is to improve the worker by optimizing his job skills and knowledge, increasing his confidence and proficiency, and developing efficient and safe work habits. Good, learned work habits are reinforced by a scheduled system of continuous refresher training and by supervisory evaluation of the worker's performance on a day-to-day basis. Soon, the worker exercises good work habits naturally, with minimal physical or mental effort, and the likelihood of job error is significantly reduced.

What happened to Officer Charger is not uncommon. It has happened before; unfortunately, it will happen again. What are the chances of it happening in your agency? Think of your newest recruit. He's young, eager, and ambitious, as was Officer Charger. Are you satisfied with your department's effort to train this officer to operate his vehicle safely? Are you confident of his ability? If he makes a mistake, can you afford it? Can he or his family? Mistakes with police vehicles can be costly.

A trained police officer operates his police vehicle with competence and he arrives at his destination by skill. An untrained police officer, on the other hand, arrives at his destination by luck. That luck sometimes runs out. It did for young Officer Charger. As a matter of fact, what happened to Officer Charger is not necessarily a misfortune that occurs only to new recruits. It can and does happen to veteran officers who have, over the years, developed unsafe driving habits. These officers are especially in need of training in order to break unsafe habits and to instill new and safe driving skills.



Lieutenant Barron



Sergeant Aurilio

Still not convinced? Okay, let's look at the "dollars and cents" of it all. Money is the most obvious reason for improving a police officer's driving ability. It costs money to replace or repair a damaged police vehicle; it costs money to pay for the damage to the other driver's car or property; it costs money to pay for officer's wages should he be injured and unable to work; it costs money to replace the injured officer; it costs money to investigate the accident; it costs money to fight law suits; it costs money for insurance premiums; it costs money to the individual officer who may find himself being held personally liable.

How about time? An officer off duty because of a job-incurred injury is not available. Manpower is depleted. If an officer manages to escape injury after being involved in an on-duty accident, time is still lost. He never arrives at his destination; another officer has to cover his assignment. If it's an assignment in which life is in danger, the accident prevents him from arriving. Officer Charger never arrived to cover his fellow officer on the disturbance call. It could just as easily have been an "officer needs help" call. The bottom line is that he didn't get there because he wrecked a police car.

Consider the loss. Officer Charger lost a few teeth. His department lost a police car. The city lost money to settle the lawsuit and will lose more money to insurance premiums. Irene Sola lost her husband. What can your department afford to lose?

Driver training can reduce the possibility of loss. By implementing such a program, our department was able to reduce the ratio of property damage to miles driven from .057 cents per mile to .017 cents per mile in just 1 year. We are talking about 41 vehicles driven well over 700,000 miles. However, don't envision 10 specially equipped police cars, a fancy raceway, and a dozen cops and instructors drinking coffee and burning time. This was accomplished with one car, one instructor, and two students at a time, on a regular basis. Do it once a week, once a month, whatever your manpower allocation allows. The important thing is to get the people trained, then retrained at specified periods. The first step is the hardest—making the decision to do it. The program will flow from there; the officers love it.

What is a police driver training program like? It can include many topics. For example, inform the student of the laws and rules that relate to emergency driving. Let him know your State requirements and restrictions. Let him know your departmental pursuit policy, driving policy, or whatever. Also, let him know what happens to those who forget. Negative strokes also get attention. A swift, sure, and severe penalty works much better than a laissez faire attitude. Drive the point home with information on liability—personal liability that could get into his pocket. The "how to" of driver training can be discussed by lectures on skids, braking, turning, and physics. However, visual aids, such as a commercially available movie, cover the ground more effectively. An informed instructor can fill in the blanks.

Patrol cars should be equipped with sturdy roll bars for officer protection.

Chief David A. Hansen

No amount of talking can replace valuable hours behind the wheel. Commentary driving, a process by which the driver continuously describes what he sees, gives the instructor a clue to the driver's perception and causes the driver to become aware. You will probably find officers who don't attach significance to a child playing with a ball or the slight movement of the front wheel of a parked car. The officer may initially feel like an idiot talking to himself, but he will develop defensive driving skills. This portion of the training can even be accomplished while the officer and instructor are on patrol.

If you can acquire a location for high-speed driving, that's ideal. If not, give some thought to a skid pan or both. A skid pan is simply a hard surface slopped down with oil, water, or another slippery substance. With a $10 wreck from the junkyard, your officers can experience handling high-speed skids while going only 10 m.p.h.

Cone exercises are useful to develop a driver's skill. Cones or pylons can be arranged in an endless variety of ways to build skill, confidence, and perception. The driver soon becomes aware that he can skillfully displace the vehicle by many yards, thus avoiding potential collisions. As he winds and backs through tight patterns, he also develops confidence and a feeling for the vehicle.

High-speed driving is more than just going fast. Some can do it, some can't, most will get better. It's important that the officer finds his level of skill and learns the potential of the vehicle. He will find his limit, then hopefully not get in too deep in the future. The student and instructor will perfect techniques learned in the classroom on the only medium that counts—the roadway. But your roadway will be in a controlled environment, not what Officer Charger met on Bismark Street.

From a driver training class you can diffuse into a variety of vehicle-related training situations. A siren and gunfire demonstration will awaken the dullest trainee to a few realities of policing: Sirens are not very effective, gunshots can't be heard, and you certainly can't kill a car by shooting it. This is also an excellent time to practice felony stops, traffic stops, cuffing, and a variety of hazardous practices that kill officers each year.

What's all this going to cost? Surprisingly, very little. Most of the equipment may be on hand, and most of the training can be done on duty time or with compensating time off. The vehicle may be one that the department or city is about to sell. Old police vehicles are seldom worth much money and keeping the vehicle in the fleet is an excellent option. Besides, who wants to risk a new car? The car simply needs to be outfitted with a roll bar and aircraft-type harnesses. Most jurisdictions have facilities or someone to rig a simple but sturdy roll bar. Aircraft-type harnesses are safer than seatbelts and can be installed with little effort. Heavy-duty steel rims are recommended for high-speed driving, since some stock rims have a tendency to fatigue and tear apart at the bolt pattern. The vehicle should not be further modified. A race car with special features defeats the purpose of training an officer to operate a standard police vehicle safely.

Instructor training has several possibilities. Many jurisdictions have driver training programs run by the State or city. Often, these agencies will allow another department to monitor their program or even train an instructor without cost. The only cost may be accommodations and meals. After all, the instructor's salary will continue whether he's on patrol or at a training facility. Another option may be raceways and private concerns that offer private instruction. Perhaps they can use the publicity of associating their program with a police department.

Finally, but not of the least concern, how about assigning a mature, motivated supervisor, with some driving skill, to research the problem and adjust it to the department's needs? Formal instruction helps, but is not mandatory.

Finding a training facility may be difficult, depending on the locale. The ideal facility should have the same surfaces as found on your city or county streets. The object is to find a facility at the least possible cost. Try a county airport or a private airport. Some have unused areas that can be converted to your use with a few barricades. Some, especially the county, won't require a fee, but will probably require insurance or a bond. Many private concerns are civic-minded and would gladly make available their facilities to the local police department. Private concerns include shopping centers, industries, or anyone with a large-sized parking lot. Think of what's available in the community. Perhaps that abandoned factory down the road is the answer.

"From a driver training class you can diffuse into a variety of vehicle-related training situations."

Since officers drive at night, why not train at night when the parking lot is empty? Depending on the facility, insurance or bond may be required.

Vehicle maintenance will vary with the punishment your officers deliver to the car. They must be allowed to reach their driving potential, and this may cause some damage to the car. Consider the car as expendable, but repairable. Dents can be forgotten; tires need replacement. An aggressive program with high-speed training can grind off a set of tires in a day. A less aggressive program will extend the life of the car and reduce maintenance cost. You can count on broken tie rods, spindles, and tire replacement costs. But remember it's less costly to do it this way than to let Officer H. Charger experiment with a patrol car on a boring night shift.

Vehicle-related training situations can be incorporated into any driver training program.

Other equipment costs are minimal. Safety helmets and aircraft harnesses are a must. The helmets you might possess already, or perhaps a few of your officers own motorcycles and have an extra helmet. A training film may be purchased for under $500. Traffic cones can be purchased outright or obtained from your street or highway maintenance department. You may need 10 or 100, depending on the type of program you design. It's amazing how many can be foraged. A first aid kit, fire extinguisher, steel rims, and tow cable are also recommended. Public-spirited organizations may help purchase some of these items if your budget is already allocated or has little chance of increase.

Training costs also include the salary of the officer, if you look at it in the fashion of a finance director. If your man has to be replaced in the field, certainly a cost is involved in overtime pay. But what if you pay in compensating time off, adjust days off, or simply rearrange the schedule? The object is to do it without paying several people a considerable sum of money. By training only a few at a time, even a very small department can adjust. Some might even get volunteers. Most officers love the program.

We can't estimate a cost for an average program, but you can determine the cost for your program. Consider what you want. Do you need high-speed driving or just want a defensive driver program with a few cone exercises and commentary driving? Have someone estimate the cost items mentioned. Perhaps you can join with other jurisdictions to defray expenses. Is it worth it? Compare it against what you're paying for broken police cars and the potential for even greater liability. One bad accident and you could pay for years to come.

Police agencies would never give an officer a gun and send him out on the street unless that officer was trained to use that gun. Link the same reasoning to emergency vehicles. A car in the hands of an untrained officer is just as deadly as a gun. In fact, a car can be more deadly merely because of the respect given to firearms by those who handle them. Unfortunately, a similar amount of respect is not given to emergency vehicles by their handlers.

A decade ago, training was considered a luxury that only few police departments could afford. Today, it is a necessity that few could afford to do without. Let's face facts. Police administrators spend valuable time, money, and effort to train their personnel to handle a myriad of situations on the street. Yet, unless the officer assigned to handle such calls arrives safely, all his training is wasted. The first factor to consider is getting the officer to where he is going. He must get there quickly and safely. This is the prime aim of a driver training program. **FBI**

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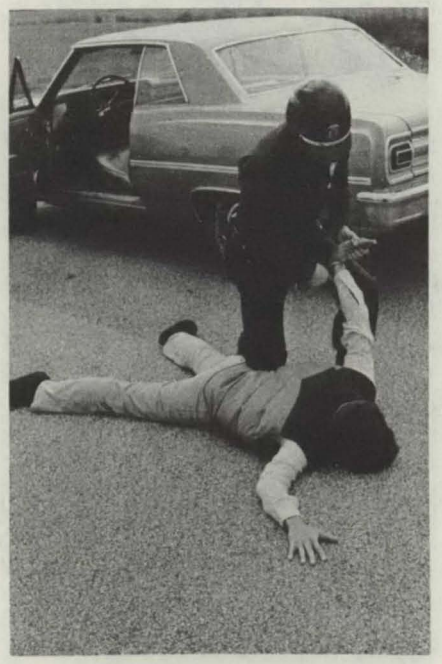


Decrease in Number of Officers Slain

According to preliminary statistics of the FBI's Uniform Crime Reporting Program, the number of law enforcement officers feloniously killed in the United States during the first 6 months of 1981 totaled 42, a decrease from the 50 line-of-duty deaths that occurred in the same 6-month period of 1980. Of the officers slain, 28 were city policemen, 11 were county officers, and 3 were employed by State law enforcement agencies. Thirty-five of the 42 slayings have been cleared by law enforcement agencies.

Firearms were, once again, the dominant weapons used. Forty of the 42 officers, or 95 percent, were slain with these weapons—32 officers were murdered with handguns, 7 with rifles, and 1 with a shotgun. Of the remaining two officers slain, one was killed with a vehicle and the other with a knife.

Ten officers were murdered while responding to disturbance calls, 6 while investigating suspicious persons and circumstances, and 4 while enforcing traffic laws. Five of the victim officers were attempting to thwart robberies or were in pursuit of robbery suspects when slain, four were answering burglary-in-progress calls or were pursuing burglary suspects, and eight were attempting arrests for other crimes. Four victims were ambushed, and another was slain while handling a mentally deranged person.

Geographically, 22 officer's lives were taken in the Southern States, 11 in the Western States, 5 in the North Central States, and 4 in the Northeastern States.

Property Identification Operation

Both the U.S. Army and U.S. Air Force have implemented an owner-applied numbering system for identification marking of personal property. All personnel are encouraged to mark their belongings with their social security number, preceded by the letters "USA" or "AF." Property marked in this manner can be immediately identified as belonging to a member of the Army or Air Force. Law enforcement agencies are asked to contact the military police or security office at the nearest Army or Air Force installation when they recover property marked with the "USA" or "AF" prefix. The identification and location of the property owner will then be traced through the appropriate worldwide locator system and the service member will be informed of the recovery of the property.

Correction

The author of "California's Automated Latent Print System," which appeared in the August 1981, issue of the Bulletin, was misidentified. The author should have been Jack Scheidegger, Department of Justice Administrator II, California Department of Justice, Sacramento, Calif.

Small Department Communications for Small Dollar$

By
JERRY W. LOWE
Chief of Police
Police Department
Carmel, Ind.

In 1960, Carmel, Ind., was a small farm community of approximately 1,500 persons. Some 20 years later, Carmel is now a suburb of Indianapolis—a bedroom community with a population of over 18,000. It has progressed from a town board government with a town marshal to a small city with a mayor/city council and a metropolitan police department with 27 full-time officers, 8 civilians, and 6 reserve officers. Prior to 1972, the police department occupied a small room in the city building and had no communications system of its own. The department then moved into a 3,600-square foot building vacated by the post office, and a base station was installed. However, by 1978, the department had outgrown these quarters which, in 1980, were expanded to 8,300 square feet with a new dispatch/communications center.

The rapid growth of the department created a desperate need for an upgraded communications capability. When plans were initiated in 1978 to expand the physical facilities, the department applied for a Law Enforcement Assistance Administration (LEAA) grant to improve the communications system. At that time, LEAA money was becoming difficult to obtain. Bids were requested from the two major national radio companies and estimates were received for a new dispatch console. Both estimates were for about $15,000 for a single, desktop control console. LEAA agreed to fund the console on a 50-percent basis, and the city budgeted the other 50 percent.

It was very apparent that the single, desktop-type console would not meet the department's needs in the future, but it was also a very fundamental fact that $15,000 for the dispatch/communications center was the maximum amount available to spend on the project. Therefore, the chief of police decided to design a dispatch console that could be built by local manufacturing facilities at a lower cost. The design was completed and drawings and specifications were open for bids. The bids were broken down into two parts—one on the metal work (the mechanical construction of the consoles) and the other on the electronics (the control panels and interface cabinets). The bids included all necessary hardware for two complete consoles.

At the same time, Indiana Bell Telephone Company was requested to install telephones in the consoles, which would be mounted on panels and interconnected with the radio so a communications headset could be used to communicate on both systems intermittently. Indiana Bell advised they could not supply equipment of this type. Realizing our unique requirements for compatible telephone equipment in our innovative communications center, it was decided to explore the considerations of building and owning our own telephone system. A survey of bids from local companies once again resulted in a bid to install an entirely new switching circuitry, telephones for every desk, and the desired interfacing with the new communications system, all for a total of $8,000. By owning the telephones and switching equipment, we pay the Bell system only for line rate and long-distance tolls each month. With the substantial savings, the entire telephone system will be paid for in 2 years. With no future rental charges by the telephone company, an outright reduction of future telephone communications costs of about $4,000 per year

Chief Lowe

was realized. The telephone system now has 8 trunk lines, with the capability of adding 20 more in the future.

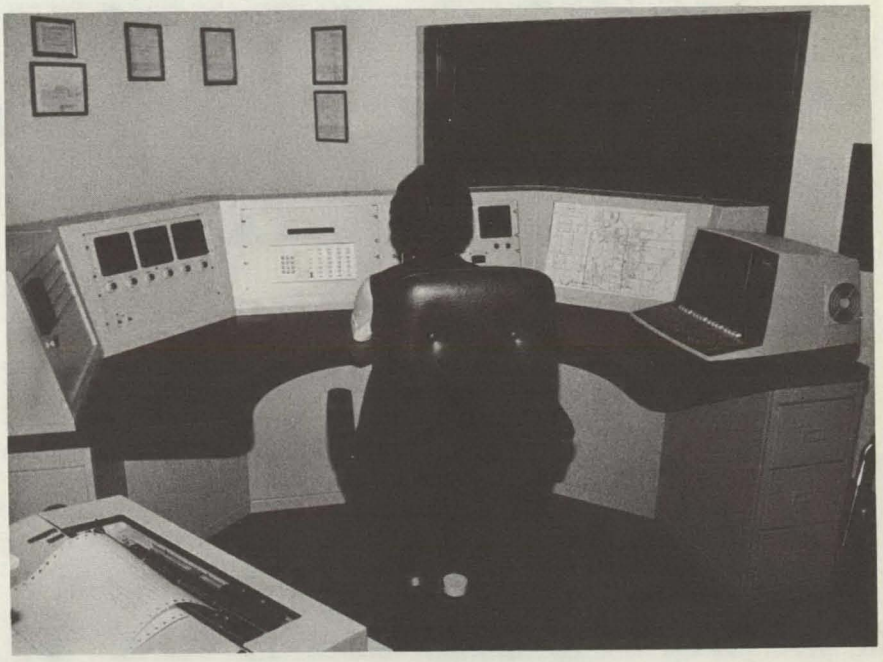
The consoles were in full operation by December 1980. When the project was completed, some money was returned to LEAA.

Already, a second console has become a necessity, and there are times when one dispatcher cannot handle the volume of traffic. Within the foreseeable future, a second full-time dispatcher will be hired. Furthermore, the second console will facilitate dispatcher training.

The consoles are designed in a horseshoe-shape configuration. The base is all steel, with doors on the back side for access to equipment and wiring. The desktop is formica-covered wood with a cut-in for the arch-swivel, captain-type van seats. The seats are mounted on electric swivel lifts to adjust for the different heights of the dispatchers. These unique seats were custom-built by a citizen.

The tops of the consoles are made of aluminum frame, designed to hold five 12½-inch by 19-inch standard electronic rack panels. The first panel to the left of the operator is an alarm control panel. This panel consists of 48 switches, a reset button, a speaker, and a volume control. Although the cost of the alarm panel was not part of the bid, space for it was planned and incorporated into the original design. The second panel from the left is a monitor/receiver panel used to monitor other agencies in our area.

The third panel from the left, in front of the dispatcher, is the telephone panel. The right panel in front of the dispatcher is the radio control panel. A dispatcher headset (star set) plugs into this panel. The control for switching from one radio channel to another and to intercom channels is on this panel. The radio panel also includes a clock, three speakers, and volume controls for those radio and intercom channels with which the dispatcher has two-way communications. The fifth panel is a back-lit map panel made of white opaque plastic with a mylar map of the city of Carmel on it. A space has been left at the far right side of the desktop for an inhouse computer terminal. The bids have been received and the computer will be ordered this year. At the present time, one console has a computer terminal in this space for the National Crime Information Center (NCIC) and the Indiana Data and Communications System (IDACS).



The dispatcher on duty wears a lightweight headset for all communications, and in no-traffic conditions, monitors all inservice cars. When a telephone line button is depressed, the earpiece is switched to that phone line and the dispatcher can communicate on the phone without the caller overhearing radio traffic. At the same time, the volume on the car frequency speaker is increased automatically so the dispatcher can hear a car calling in while he or she is on the phone. By stepping on the transmit switch, the microphone part of the headset switches to the radio so short acknowledgements can be made on the radio without placing the phone on hold. The dispatcher can select four different transmitters or four different intercom channels from the console by depressing lighted press in and lock switches. In the Carmel area, we can transmit on main police channels, point-to-point, with the city street department and citizens' band channel "9."

The main radio channel is a repeater operation. If a long dispatch is being broadcast, a unit in the field can override the dispatcher with emergency traffic. We also monitor the National Weather Channel and rebroadcast any severe weather announcements.

The direct-line alarm panel can handle 48 alarms. The alarm panel belongs to the police department and was installed by the electronics contractor for the console. When a business connects onto the panel, there is a one-time fee of $100 to the connector to cover the costs of the system. A prerequisite for a business to connect into the alarm panel is an audio capability permitting our dispatcher to monitor any conversation or noise occurring inside the business after the alarm is activated. The added margin of safety to our responding officer is obvious. The mechanics of this feature are simple and inexpensive.

Another feature of the dispatch room is a raised computer floor with removable panels. By lifting necessary panels, new wiring can be run to the consoles or changes in wiring can easily be accomplished. We also have audio tape transports to record all radio and phone traffic in and out of the dispatch room.

Figure 1

Equipment	Year Acquired	Cost
Two consoles	1980	$15,000
Recorders installed	1976	$ 2,500
Base station	1972	$ 2,600
Car radio—Converted to base	1980	$ 1,200
Seven additional receivers	1972	$ 800
C.B. radio, converted to channel "9"		$ 100
TOTAL		$22,200

An interface cabinet has been installed in the dispatch room to make all the connections from the consoles to the maintenance room. The maintenance room is located in the back of the building and houses the radio transmitter, receivers, and telephone switching circuitry.

All connections between the equipment were made by using 25 pair, telephone-type cabling. Our transmitter and receiving equipment is provided by various manufacturers.

All of our main police transmitting and receiving equipment is powered from a 12-volt battery on continuous charge. This arrangement prevents any downtime due to power failures. We also have an emergency power generator that activiates in about 1 minute into a power failure.

The only control wiring used in the system between the dispatch room and the maintenance room is as follows. Each receiver uses one pair of wires. Each transmitter uses one pair of wires for audio to the transmitter, one wire for push-to-talk, and one wire for each frequency on the multifrequency transmitter. Also, ground wires are carried for the push-to-talk.

All audio lines are 600—balanced pairs. All audio amplification for the transmitters and receivers is built on plug-in boards and located in the consoles.

All of the above features provide simplicity, dependability, and easy access when infrequent repairs are necessary.

By careful evaluation of our needs and designing a system to fulfill them and by taking advantage of services provided by local companies, we now have an effective communications system.

The approximate cost of our entire communications system can be seen in figure 1.

Other police departments may not have personnel with the necessary electronic background to design a system for their department; however, there is certain to be citizens in their community with the technical expertise needed to accomplish comparable results and show substantial savings over the purchase price of commercially built consoles and associated communications equipment. **FBI**

Designing a Training Response to Stress

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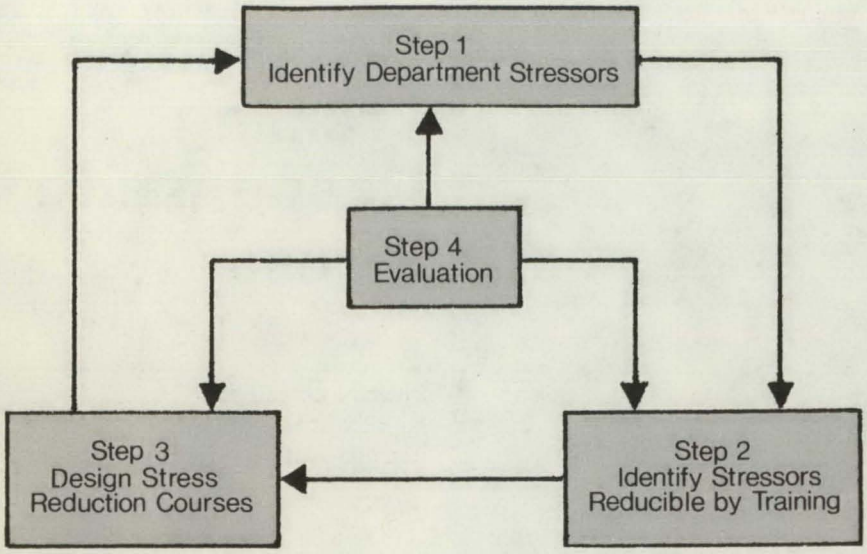
While police stress has received considerable study in the last several years, little attention has been given to designing a comprehensive training response to stress.[1] Initial studies of stress focused primarily on identifying and analyzing those factors which cause police stress. Emphasis was then placed on examination of stress awareness and coping techniques to be used by the individual. More recently, consideration has been given to alleviating stress through examining policies and practices that may be considered stress-producing. The time has come to broaden the strategy used to address this problem. Since the ultimate goal of police training is to maximize the effectiveness with which police officers perform their jobs, it would appear essential that the training program be an integrated and coordinated part of the planned response to the stress problem.

The most important asset of a police organization is its human resources—a department can be no better than its people. The department's effectiveness in terms of providing the community with adequate service is dependent on maximum use of the individual and the total organizational team. Personnel of a police organization must not be allowed to sit idle, unnoticed, unproductive, and thus, of diminished value to the organization. Research has identified unrelieved stress among police as having negative effects on productivity, decision-making, and work attendance, and leading to increased levels of absenteeism, employee turnover, and early or disability retirements.[2] The question is how to prevent this from happening within a police organization.

Figure 1

Training Strategy for Stress Reduction



Training Response Strategy

When training is considered as a means of solving a perceived problem such as stress, administrators sometimes commit the common error of assuming the entire problem can be solved solely by training. While the training program is an integral part of a department's response to police stress, one must remember that not all the factors (stressors) that cause police stress can be dealt with by the department's training program. It is, therefore, necessary to insure that the training program for reducing stress be based on a realistic analysis of those stressors which can logically be affected by training.

Figure 1 is a model for designing a training response to stress. The model consists of four steps:

1) Identify significant stressors in a department;
2) Determine which stressors are likely to be influenced by training;
3) Design and present courses to address the identified stressors; and
4) Evaluate progress and results throughout the planning, training, and post-training stages. This step occurs simultaneously with the other steps.

As a framework for understanding the identification of stressors, one must consider some of the stressors that have been identified. Figure 2 lists six categories of police stressors, with examples in each category. Some of the examples, while important in producing police stress, are not subject to successful modification by a department's training program. For example, stressors, such as lack of recognition and compensation (category I), lack of interagency cooperation (category II), unfavorable court decisions and ineffectiveness of the corrections subsystem (category III), adverse local government decisions (category IV), and adverse work scheduling (category V), will not be significantly affected by any single training program.

The next step in the model is to determine which stressors are likely to be affected by training. To identify stressors, a variety of procedures, such as questionnaires, brainstorming,

Figure 2

Examples of the Six Categories of Police Stressors

I. Departmental
- Poor Supervision
- Lack of Career Development
- Excessive Paperwork
- Poor Equipment
- Lack of Recognition and Compensation

II. Interagency
- Lack of Cooperation Among Law Enforcement Agencies

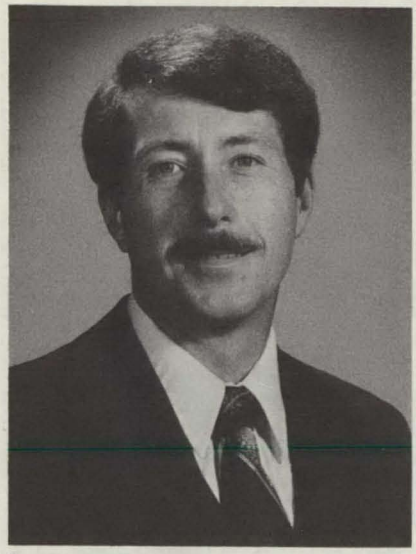
III. Criminal Justice System
- Unfavorable Court Decisions
- Ineffectiveness of Corrections Subsystem

IV. Public
- Distorted Press Accounts
- Unfavorable Citizen Attitudes
- Adverse Local Government Decisions

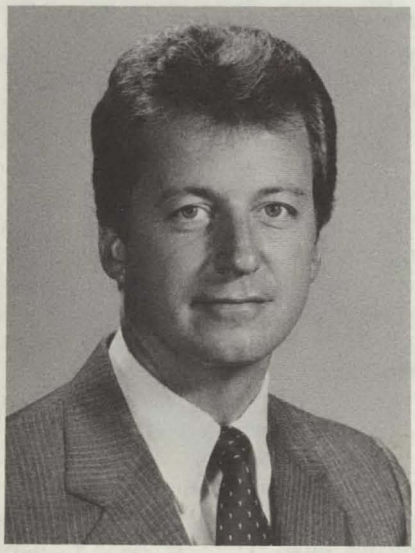
V. Nature of Police Work
- Role Conflict
- Existence of Physical Danger
- Adverse Work Scheduling

VI. Personal
- Incompetence
- Lack of Courage
- Ethnic Minority/Female Officer

Adapted from Terry Eisenberg, "Job Stress and the Police Officer: Identifying Stress Reduction Techniques," in *Job Stress and the Police Officer.* eds. William H. Kroes and Joseph J. Hurrell, Jr. (HEW Publication No. (NIOSH) 76-187), (Washington, D.C.: U.S. Government Printing Office), 1975, pp. 26-34.



Special Agent LeDoux



Special Agent McCaslin

use of consultants, or interviews, are available.[3] Once the stressors have been identified, the training manager must determine, using personal knowledge, experience, or outside consultants, which of the stressors are likely to be affected by a training program.

The third step—designing and presenting courses—may be the most laborious step in the model. In this step, the training manager must build a curriculum containing properly sequenced courses designed to meet specific instructional objectives. Lesson plans, instructional materials, and visuals must be prepared. Instructors, resource materials, and resource persons must be selected.

The fourth step—evaluation—is critical to the model.[4] Evaluation occurs as an inherent part of each of the other steps. Without evaluation the training manager may fail to identify fully departmental stressors or fail to identify successfully those stressors likely to be reduced through training. Only through evaluation may the training manager ensure that the courses given actually affect the levels of stress.

Figure 3

Benefit of Stress Reduction Courses

Direct Benefit

Stress Awareness
Personal Coping Techniques
Spouse/Family Indoctrination
Managerial Response to Stress

Indirect Benefit

Supervision
Departmental Policies and Procedures
Legal
Media Relations
Human Relations
Community Relations
Police Organization and Function
Firearms
Defensive Tactics
Physical Training

Inservice Training

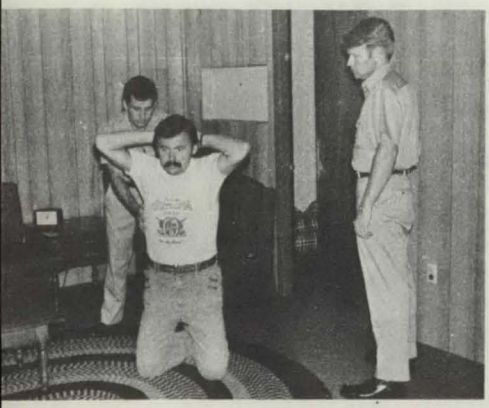
Since use of police stress-related courses as a part of recruit training is a fairly recent development, trainers may wish to consider inservice training first. A specific benefit to the students and the organization should be the goal. Two categories of benefits to be derived from training which may impact on police stress have been suggested. (See fig. 3.)

Courses such as stress awareness, coping techniques, or spouse indoctrination classes which focus on the topic of stress have been defined by the authors as direct benefit classes. The goals of the classes are directly related to the topic of stress. The anticipated benefit for the organization is the reduction of the inability to cope with police stress.

There are, however, other classes which impact on the levels of stress in a department but which never directly address the stress issue. The authors have defined such courses as indirect benefit classes. Consider, for example, poor supervision, the stressor listed in category 1 of figure 2. Classes in first-line supervision cover topics such as human relations, motivation, communications, evaluations, and discipline. The benefits derived for the organization include not only better supervisors but reduction in employee stress through better supervision.

Other inservice classes may be used to reduce the impact of potential stressors. Media relations classes may indirectly reduce stress by training officers to deal effectively with the press, thus eliminating the stress from distor-

tions in press accounts. Similarly, unfavorable public attitudes may be reduced by offering courses in human relations and community relations. Organizing inservice training so that officers progress through a logical sequence of courses designed to enhance their abilities, thus preparing them for advancement, should diminish employees' concerns about career development.



Recruit Training

The logical time to address the problem of reduction of long term job stress among police personnel is during recruit training. The recruit represents the new generation of police. Training should insure that only candidates who can successfully deal with police stress become police officers and that unnecessary stress is not initiated and perpetuated. Recruit training consists of two phases. Phase I is the training received while the candidate is in the training academy; phase II is the probationary period when the trainee is placed on the street. The real test is whether the officer can perform the tasks of the job.

William Kroes has noted that the first concern is to screen out persons who will not be able to deal successfully with police job stress.[5] Even the best preemployment screening techniques allow some inappropriate candidates to enter the training program. Recruit training, therefore, becomes a part of the screening process.[6] Trainers must evaluate, among other traits, the student's ability to deal with the stress associated with police work.

"Training should insure that only candidates who can successfully deal with police stress become police officers. . . ."

One method of evaluation is role-playing. This technique is a valuable tool in evaluating the trainee's reaction to situations faced in actual police work. Carefully designed scenarios, such as arrest scenes, domestic disputes, and traffic accidents, reveal the manner in which individuals tend to react to a stressful situation. Despite excellent evaluation techniques, some persons who should not be officers will graduate from the academy. To alleviate this problem, additional evaluation is required.

The additional evaluation involves a probationary period to determine the ability of the student to work on the street. The trainee is teamed with a specially selected and trained veteran officer, who provides additional training to "polish or hone" the trainee to the level of a fully qualified officer.[7] An important aspect of this program is evaluation of the trainee's reaction to stressful incidents.

The John Wayne Syndrome

Training should not initiate and perpetuate unnecessary stress. Recruit training sometimes serves to influence a behavioral manifestation of police stress—the growth of the John Wayne Syndrome.[8] The syndrome appears as the young officer attempts to deal with the stress of police work and gain the respect of his/her coworkers while learning how to best perform his duties. After 1½ to 6 years, the syndrome begins to emerge. In its most extreme form, it is characterized by an officer who is overly self-sufficient, macho, "badge heavy," introverted, unlikely to show emotion, and one who separates society into police (us) and citizens (them). Authors describing the police personality have used terms such as paranoid and cynical.[9]

The John Wayne Syndrome can be a response to stress—it does not necessarily reduce stress. An officer exhibiting the syndrome is affected by stressors that result from the officer's attempts to build a defensive wall between himself/herself and the cruel shock of "life on the street." The wall decreases and possibly even destroys the ability of the officer to communicate successfully with others. This reduced ability to communicate, as well as other personality traits associated with the syndrome, makes it difficult for the officer to share fears, doubts, or emotions.

Any course that helps retard the John Wayne Syndrome may reduce an officer's stress level. An example of such a course would be human relations. This course would aid officers in both communicating and dealing with persons as individuals and dealing with and expressing their own personal emotions.

Aside from course selection, one must consider the selection of recruit academy instructors. An experienced officer usually acts as the instructor, and because of the instructor's position, the recruit assumes the person is a successful police officer. Since the recruit wants to be successful, he logically patterns his own personal behav-

ior after the instructor. After all, hasn't the department provided the instructor to the recruit as an example of how a successful officer acts and thinks? One must, therefore, question whether instructor behavior during police training is presently perpetuating the John Wayne Syndrome, thus increasing levels of police stress.

Arthur Bandura and his associates suggest a learning theory which seems pertinent to understanding the possible significance of instructor behavior in facilitating the growth of the John Wayne Syndrome. The Social Learning Theory deals with learning that occurs based on observation. When an individual observes a person (the model) acting in a certain manner, it may affect the likelihood of the person acting in a similar manner.[10]

Few administrators, however, consider the fact that all learning occurring in classrooms is not limited to the specific subject being taught. Incidental learning also occurs. Students are not merely learning about arrest techniques in a class dealing with that topic. They may also learn how the instructor views society, the unwritten policies concerning arrest, the "correct" attitude for a recruit, the general supervisory attitude toward the welfare of the officers, and a variety of other matters. The new officer uses these as a guide to how he should talk, act, and think.

Research suggests that almost all officers experience the John Wayne Syndrome.[11] Inability to cope successfully with stress in conjunction with the John Wayne Syndrome is a major cause of the high incidence of divorce, family problems, and alcoholism found in the police community.[12] The implication of students being instructed by officers who present the "normal" lifestyle of the successful police officer as being one of heavy drinking, family problems, inability to communicate emotions, and divorce has not been examined.

The possibility is raised, however, that using instructors who are enmeshed in the behavior patterns associated with the John Wayne Syndrome may increase the likelihood of the students adopting the same behavior patterns. This effect could be suggested from Bandura's theory. Administrators should, therefore, observe the behavior of all instructors to determine whether the training staff is perpetuating the John Wayne Syndrome.

Still another theory suggests the relevance of instructor behavior in determining the behavior patterns of police. This theory is that of the self-fulfilling prophecy.[13] The theory implies that persons who are expected to behave in a certain manner and are treated as if they will behave in this manner will eventually do so. If instructors indicate to students that they should expect family problems, and quite likely divorce, the students are preconditioned to anticipate and possibly develop such problems.

Whichever theoretical justification is employed, the practical implication seems inescapable. The use of instructors exhibiting the John Wayne Syndrome is not productive. Such instructors may add to the administrative problems of a department by fostering and perpetuating the growth of the syndrome in new officers.

Police stress may result in police officers who are less capable of adequately performing their duties. To minimize stress, police officials not only must examine management practices and policies but also design a training response to stress. **FBI**

Footnotes

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[7] San Jose, Calif., Police Department, *Field Training and Evaluation Program, Field Training Officer Manual,* April 1977.

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[9] George L. Kirkham, "From Professor to Patrolman: A Fresh Perspective on the Police," *Journal of Police Science and Administration,* March 1974, p. 136; Arthur Neiderhoffer, *Behind the Shield: The Police in Urban Society* (New York: Anchor Books, 1967), pp. 237-247.

[10] A. Bandura and R. H. Walters, *Social Learning and Personality Development* (New York: Holdt, Rinehart, and Winston, 1963).

[11] Tom Curtis, "Support Your Local Police (or else)," *Texas Monthly,* September 1977, p. 89.

[12] Bruce L. Danto, "Police Suicide," *Police Stress,* No. 1, 1978, p. 32; Peter E. Maynard and Nancy W. Maynard, "Preventing Police Family Stress Through Couples Communication Training," *Police Chief,* 47 (1980), p. 30.

[13] R. Rosenthal and L. Jacobson, *Pygmalion in the Classroom: Teacher Expectation and Pupils' Intellectual Development* (New York: Harper and Row, 1968).

SIGHTING SHADOW BOX

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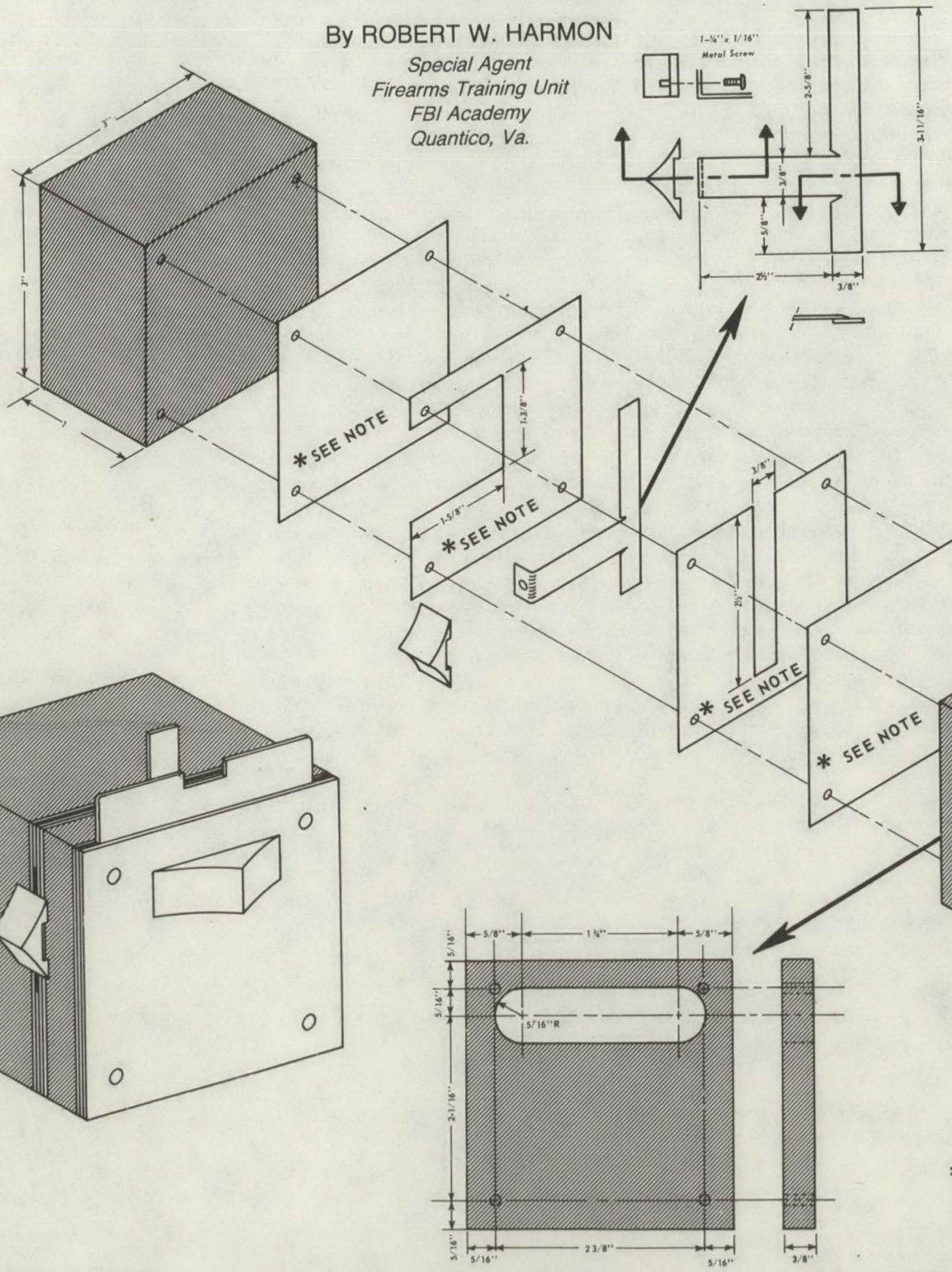

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A recurring problem encountered in teaching revolver shooting is the lack of student understanding of proper sight alinement and sight pictures.

The sighting shadow box, when used with transparencies and an overhead projector, is a valuable tool for teaching proper sight use. It enables the student to grasp quickly the relationship required between rear and front sights and the target.

The shadow box is used as follows:

1) A transparency of a target, either silhouette or bull's-eye, is placed on the overhead projector and properly focused on the screen. (See figs. 1 & 2.)

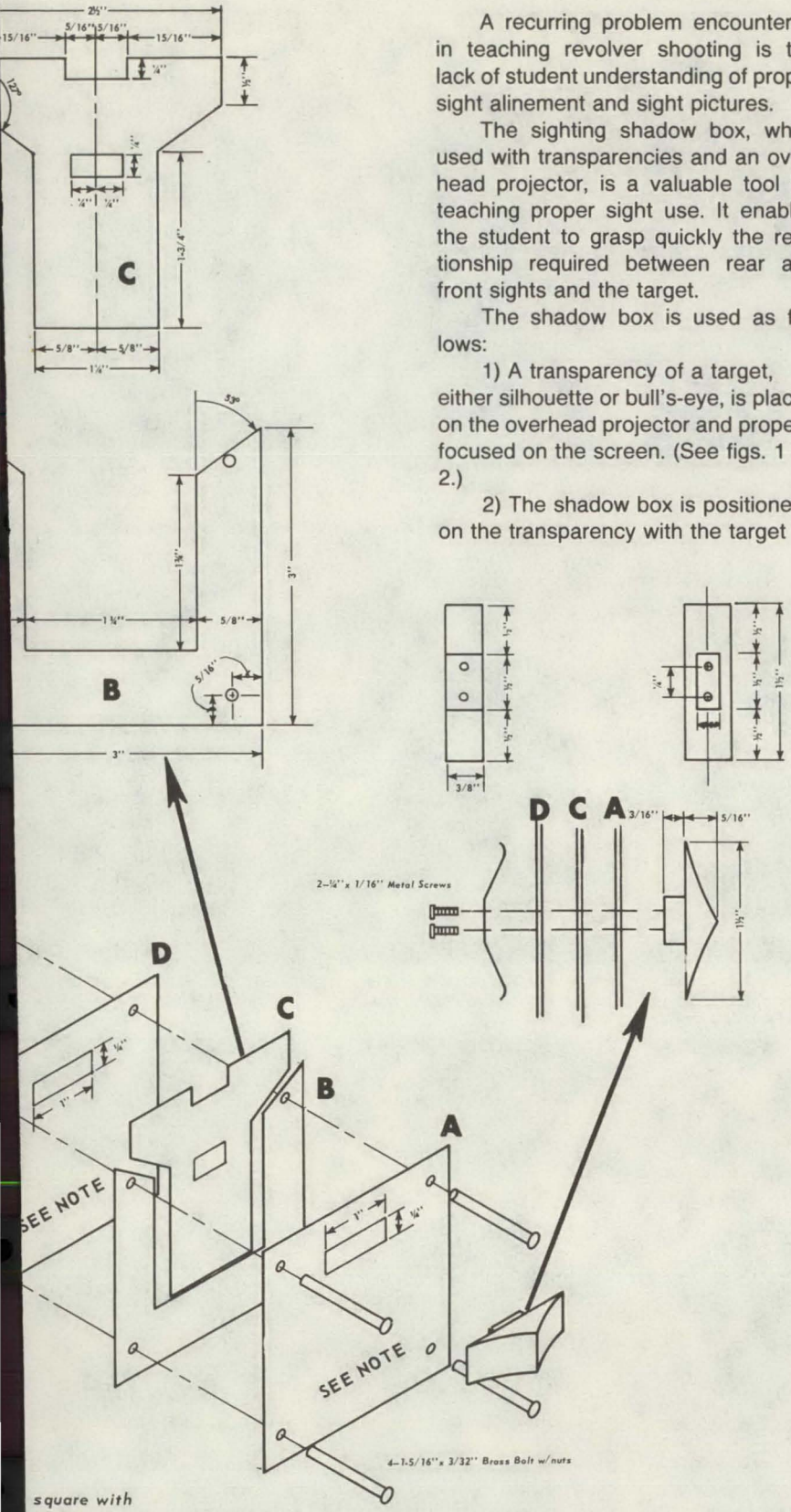
2) The shadow box is positioned on the transparency with the target image in focus. (See fig. 3.) The shadow box image will be blurred. (See fig. 4.)

3) By adjusting the focus of the overhead projector, the shadow box image can be brought into focus. A sharp image of the "front sight," slightly blurred "rear sight," and blurred target image can be obtained. (See fig. 5.) This condition depicts the proper sight picture.

The shadow box is constructed in such a way that a sharp image of either the "front" or "rear" sight may be obtained, enabling the instructor to demonstrate incorrect perceptions of sight picture, occasioned by failure to focus on the front sight.

This demonstration allows the student to see that the shooter's eye must be focused on the front sight while firing a revolver. By moving the "front sight" vertically and/or the "rear sight" horizontally, both proper and improper sight alinement can be demonstrated. (See fig. 6.) The expected point of bullet impact on the target image can be shown by using small discs or a pointer on the transparency. (See figs. 7–13.)

The shadow box can be constructed by any department with access to a small machine shop. The two large spacers should be constructed of either wood or plastic. The 3- by 3-inch brass pieces "B" and "E" are of 19-gage brass, while all others are 21-gage brass pieces. The four holes in the large spacer are counterdrilled from the bottom to accept the nuts required for the 3/32-inch brass bolts. Figure 14 shows an exploded view of the shadow box to aid in its assembly. **FBI**



square with evenly spaced, ed panel. Other l are shown on

Figure 14

Figure 1—Transparency is placed on the overhead projector.

Figure 2—Target image in focus on the screen.

Figure 3—Shadow box placed on the transparency.

Figure 4—Target image is in focus with the shadow box "sights" out of focus.

Figure 5—The overhead projector has been adjusted so that the "sights" are in the proper focus.

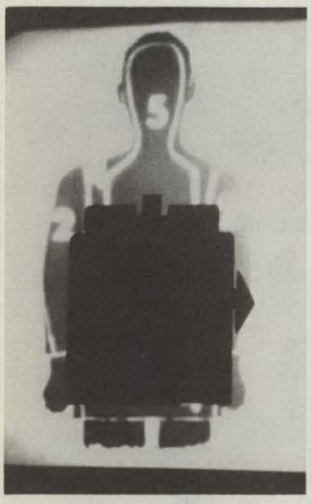


Figure 6—Misalinement of the "sights" showing the front sight centered but high.

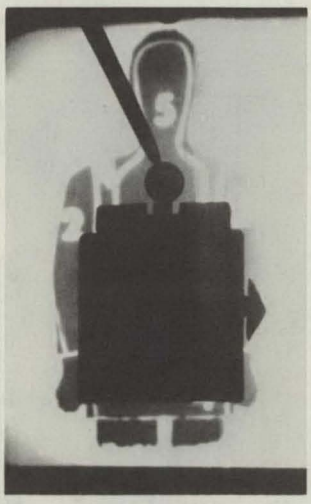


Figure 7—Point of the bullet strike on the target when "sights" are properly alined and in proper focus.

Figure 8—Bullet strike when the front sight is alined left and right but low.

Figure 9—Bullet strike when the front sight is alined left and right but high.

Figure 10—Bullet strike when the front sight is alined level with the rear sight but off center to the left.

Figure 11—Bullet strike when the front sight is alined level with the rear sight but off center to the right.

Figure 12—Bullet strike will be high and left when the front sight is misalined high and left with respect to the rear sight.

Figure 13—Bullet strike will be high and right when the front sight is misalined high and right with respect to the rear sight.

New York State Gears Up to Fight Arson

By FRANCIS A. McGARRY
State Fire Administrator
New York State Office of Fire Prevention and Control
Albany, N.Y.

ARSON!

It kills, it cripples, it destroys. It can rival earthquakes or floods in death and destruction, and in many communities, it has reached epidemic proportions.

Nationally, the direct loss due to arson is estimated at over $1.3 billion annually. The losses in employment, income, and taxes may multiply these losses several fold. Apart from the direct loss of life, injury, and the destruction of property, the crime of arson has a sizeable fallout of indirect costs. When assessed in "real world" dollars in terms of lost jobs and income, erosion of the tax base, medical costs for the injured, increased expenses paid to firefighters, and increases in insurance premiums paid by the policyholders, the true cost to society is 2.5 to 4 times higher than the direct loss report. Add to this the loss of an estimated 1,000 lives to arson each year, according to the National Fire Protection Association.[1]

With the use of hydrocarbon detector, testing for accelerants can be an effective tool in determining the cause and origin of incendiary or suspicious fires.

In 1978, New York State began a concentrated effort to combat the "arson epidemic." It was recommended that a strong, coordinated State arson control program be developed. A Governor's Arson Task Force was appointed to study the problem and recommend solutions.

The task force convened to discuss both arson and arson-for-profit in New York State. Over 100 key individuals from the fire service, law enforcement, prosecution, insurance and banking industries, and State and local officials attended. The major issues relating to the State's arson problem were identified and discussed. Following the conference, the task force submitted a final report recommending a State arson control program. Subsequently, legislation for a $2 million program to combat arson was initiated by the Governor of New York.

It is difficult to determine the reasons for arson. The arsonist's motives may range from revenge to arson-for-profit. The roots of the crime lie not only in criminal involvement but also in human behavior, social trends, and urban decay. There is no question, however, that no matter what the cause or the devastating aftereffects, arson must be stopped!

Traditionally, there is a division of responsibility and authority between fire protection and law enforcement agencies. Arson, a fire-related crime, lies within the province of both entities. The result has been that arson control too often "falls through the cracks," receiving the full attention of neither. The responsibility for stopping arson lies not with one, but with a multiplicity of agencies in both the public and private sectors. Arson is a crime that crosses municipal boundaries and controlling it requires broad-based countermeasures.

New York State's Division of Criminal Justice Services recognized this and in its 1979 comprehensive crime control plan, identified arson as one of its priority multiyear objectives for concentrating law enforcement resources on specific crime targets. A bill was later signed into law charging the Office of Fire Prevention and Control (OFPC) with the responsibility of administering the statewide arson control program. The concept of this legislation places the responsibility for arson control at the local level and identifies the State's role as one of assistance in the support, guidance, and development of local efforts.

"The responsibility for stopping arson lies not with one, but with a multiplicity of agencies in both the public and private sectors."

Lack of information on arson occurrences, characteristics, and motivations are significant obstacles to an effective response to arson. Without such information, the true extent of the problem is not identifiable, thus delaying necessary priorities and impeding the allocation of resources.

Because of a variety of factors, including poorly trained investigators and a lack of thorough cause and origin investigations, many fires are classified as unknown or "undetermined," seriously hindering arson control efforts. New York State's arson control program is attacking this weakness by improving training, raising public awareness, developing a fire and arson data system, improving arson evidence analysis, and providing planning, technical, and financial assistance for local arson control efforts.

Awareness

The awareness program is provided for all probationary firefighters and police officers through the State fire training and the State municipal police training programs, respectively. During the 12-hour program, firemen are made aware of the need for determining the cause of all fires. It is also stressed that their activities in suppressing and overhauling a fire can have an impact on accurately determining the cause of the fire.

The program is taught regionally by State fire instructors; 130 instructors were certified at conferences in August and September 1980, and in January 1981. Begun in October 1980, this course is presently the most heavily attended course in the fire training curriculum. To date, over 3,000 firefighters have been trained.

In conjunction with this, the Bureau of Municipal Police has developed a 4-hour course as part of its basic program to make police officers aware that their skills in crime scene observation, interviewing witnesses, and evidence handling can be used productively in working side-by-side with firefighters. The OFPC's course for firefighters is also open to police officers.

Training

The probability that an arsonist will set a fire decreases in proportion to the perceived criminal risk. Providing an adequate number of well-trained fire and police personnel increases both the arrest conviction rates for arson and the perceived criminal risk. To increase the skills of firefighters, police officers, and prosecutors, a comprehensive training program has been developed. This program, coordinated by the OFPC, is delivered jointly by those State agencies responsible for providing training to local personnel. These agencies include the OFPC's Division of Fire Services Education and Training, the Division of Criminal Justice Services' Bureau for Municipal Police, and the Bureau of Prosecutorial and Defense Services (BPDS).

The training program identified three levels of skill requirement, as shown in figure 1:

1) Awareness level—For all fire-

Mr. McGarry

"Arson is a crime that crosses municipal boundaries and controlling it requires broad-based countermeasures."

fighters and police to increase observation skills on the fire scene;

2) Cause and Origin Determination—Primarily for fire personnel to increase cause determination skills;
3) Investigation—For fire and police personnel whose duties include the full investigation of incendiary fires to increase fire investigative skills of both groups.

Concurrently, training for prosecutors to improve case preparation skills is being conducted regionally. Prosecutors are also being invited to participate fully in the investigation training.

Cause and Origin

To meet the mandate of Section 204-d of the New York State General Municipal Law regarding the duties of the fire chief, a 24-hour detection course entitled "Cause and Origin Determination" (C.O.D.) has been developed. This law states:

> "The fire chief of any fire department or company shall, in addition to other duties assigned to him by law or contract, to the extent reasonably possible, determine or cause to be determined, the cause of each fire or explosion which the fire department or company has been called to suppress. He shall contact, or cause to be contacted, the appropriate investigatory authority if he has reason to believe the fire or explosion is of incendiary or suspicious origin."

The cause and origin course is taught regionally by three full-time senior training instructors. Since its introduction in November 1980, 700 firefighters across the State have received the training. In addition, a 3-day detection training course is under development by the Bureau of Municipal Police, designed as an inservice program for all police officers in the State.

Investigation

The 80-hour investigation course provides training to police and fire personnel who conduct arson investigations. Based on the U.S. Fire Academy investigation course, the program provides instruction in fire investigation, case preparation, and hands-on investigative training. Since its beginning in January 1980, three courses have

Figure 1

New York State Comprehensive Arson Training Plan

SKILL LEVEL

Target Population	I Awareness	II Detection	III Investigation	Continuing Education Inservice Refresher Program
Fire	12-hour course by OFPC part-time program	24-hour course by OFPC full-time program	80-hour course Training program for designated arson investigators	TO BE DEVELOPED
Police	A 4-hour course included in the BMP's basic 8-week course is in progress.	A 24-hour detection training course for police – Inservice is being conducted by the BMP.	Based on US Fire Academy course at NYS Academy of Fire Science	
Prosecution	I and II Case preparation skills – based on seminar program of the National College of District Attorneys 2.5-day regional seminars		DA's and Assistant DA's invited to participate	

Arson can rival earthquakes or floods in death and destruction. In many communities it has reached epidemic proportions.

been completed, with one course per month being scheduled. Fire and police personnel participate in each course and district attorneys and assistant district attorneys are also invited.

Prosecution training is provided by BPDS' prosecutor training system. The arson prosecution seminar program of the National College of District Attorneys is the basis for this training. In addition, police and fire investigators are invited to participate in the program. Cross-training at all levels is a vital element of the overall training plan.

Juvenile firesetting is the cause of a significant percentage of fires in many communities. Because of concern with this issue, dealing with juvenile firesetters is an objective identified in the Guidelines for Arson Control Plans, Section III. C.6(b). As part of the State's arson control effort, the Office of Fire Prevention and Control presented a series of workshops in September 1980. Entitled "Interviewing and Counseling Juvenile Firesetters," these workshops trained local government personnel to establish and conduct juvenile firesetter counseling programs in their communities. In the future, the juvenile firesetters program will be institutionalized and seminars will be held annually throughout the State.

Public Awareness and Education

Public awareness and education programs are effective tools in the fight against arson. Using the resources of an informed public, such programs can reduce the incidence of arson by meeting three objectives:

1) Awareness must be created by informing the public of the seriousness of arson and the toll it takes in their community;
2) Through fostering involvement, the assistance of the public must be attained to aid in combating arson; and
3) Potential arsonists must be warned that antiarson efforts are underway and the possibility of being apprehended and convicted is increasing.

Efforts on the part of the State are coordinated and implemented cooperatively with local governments and the private sector, particularly the insurance industry. The State is concentrating on projects that are statewide in scope and those that are unable to be undertaken at the local level due to fiscal limitations.

In addition, the State, through the OFPC's Public Education Unit and the Division of Criminal Justice Services' Crime Prevention Agency, will provide technical assistance to local govern-

Learning what to look for at the fire scene is an important part of the investigative training program. A firefighter removes a floor sample for analysis.

ments in the development of programs and serve as a clearinghouse for public arson awareness and education information.

A bid was recently awarded to a research firm to determine what type of media campaign would be most effective in making the public aware of the arson problem in New York State. A pamphlet entitled "Arrest Arson" has already been developed and distributed to the public. In working with the Department of Commerce, three public service announcements have been developed and sent to all radio stations across the State. Finally, also available is a fire "800" telephone number, manned 24 hours a day, on which information on suspected incendiary fires can be forwarded to the appropriate enforcement agency.

A bid proposal for developing a model curriculum to be used in schools is to be developed in compliance with the New York State education law. This law requires 45 minutes of fire and arson prevention education for all students each month.

Arson Data System

The base of the arson data system was determined to be the State fire reporting system. This system, however, was inadequate and the data had to be improved. Only 950 of the 1,870 fire departments were reporting data, representing less than 30 percent of the State population. Efforts to improve this system have begun, including faster processing time, earlier data collection methods, and prompt issuance of reports. These efforts produced immediate results. Fire department participation has increased significantly. Presently, over 1,000 departments are submitting more accurate and meaningful data. Data for 1980 were delivered to each fire department during the first quarter of 1981.

In addition, the system for arson pattern development and recognition is being installed and tested with actual case data. It is anticipated that the pattern recognition system, once tested, will be available for use by various local investigative agencies throughout the State.

"There is no single, simple solution, nor is there one that will totally eliminate the arson problem."

In an effort to secure better reporting of corporate parties of interest, the OFPC is aiding the New York City Fire Marshal's Office in securing corporate data from State corporation records. This system, when perfected, will be available to other investigative agencies in the arson field.

Laboratory Services

There are 15 laboratories in New York State that provide forensic services to local fire and law enforcement agencies. Ten of these have assumed a primary role in handling fire-generated evidence produced in the geographic area immediately adjacent to the laboratory.

Due to the limited availability of equipment, productivity in handling fire-generated evidence is relatively low. Certain areas were found to have a large backlog of these submissions. In addition, significant time was lost due to changeover and required instrument calibration procedures necessary to handle fire-generated evidence. In view of this, OFPC developed an arson laboratory improvement program. The plan calls for the acquisition of laboratory equipment that would be placed in selected State and local facilities. Specifications have been prepared and 10 gas chromotography analyzers have been ordered. Provisions for eliminating existing backlogs and for implementing technician training are also included in the plan in order to standardize testing and evidence handling procedures.

Planning and Technical Assistance

In recognizing the need for increased arson prevention and control efforts at the local level, the New York State Legislature enacted a new section of the general municipal law which requires each county and the City of New York to prepare a plan to prevent and control arson within its jurisdiction. The completed plan must be submitted to the OFPC for approval. No plan will be approved unless it provides for coordination of fire, law enforcement, and prosecutorial services.

To assist counties in this task, the State legislature appropriated $595,000 for grants for the preparation of these plans. To date, 58 of 60 counties have been awarded grants, and 24 have submitted tentative plans.

In addition, eight regional workshops were held with the assistance of the U.S. Fire Administration to present the arson task force concept—a management system for arson prevention and control that has been established as the organizational model for all county plans.

There is no single, simple solution, nor is there one that will totally eliminate the arson problem. Yet, with the cooperation of concerned individuals and groups at the local, county, and State levels, a positive step can be made toward controlling arson.

New York's statewide arson control program, administered by the OFPC, is moving New York State closer each day to more effective arson prevention and control. **FBI**

Footnote

Target: Arson. A series of recommendations adopted by the Insurance All-Industry Committee for Arson Control, September 1978.

CONSPIRACY AND THE DEFENSE OF FEIGNED ACQUIESCENCE

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

On September 30, 1977, Shirley Garcia discussed her marital problems with a friend, Allen Young. She told him that her husband constantly beat her and her children and that she could not take it any longer—that she wanted her husband killed. Young tried to discourage her and dismissed her comments as unintentional. A few days later, Garcia again contacted Young and pressed him to find someone to kill her husband. Convinced she was serious, Young notified the Whiting, Ind., Police Department. Detectives recorded additional telephone conversations between Young and Garcia, at which point they too recognized the seriousness of her intentions. Young subsequently introduced a plainclothed detective to Garcia as a man willing to do the job. She thereupon produced $200, a picture of her husband, and a record of his daily habits. She gave them to the detective and agreed to pay the balance of the contract price when the "job" was completed.[1]

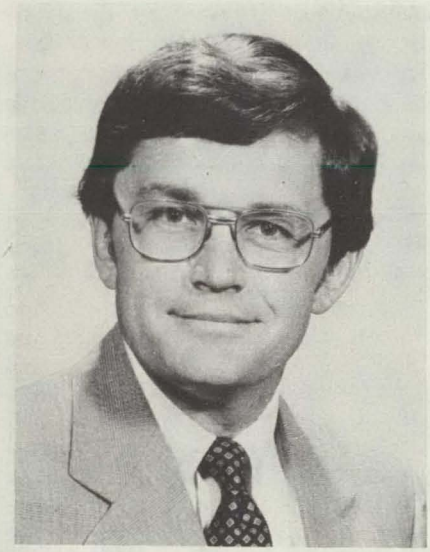
Has Shirley Garcia committed the crime of conspiracy to commit murder? The answer to the question requires an appreciation of the unique position traditionally afforded conspiracy in the substantive criminal law, as well as an understanding of the modern statutory approach to conspiracy that a majority of States have incorporated into their criminal codes.

Conspiracies are, by their nature, clothed in secrecy. They are difficult to detect and generally require a great deal of time and effort for their discovery. The detection and dissolution of a conspiracy will often depend on the successful infiltration of government agents who feign acquiescence in the unlawful plan. Law enforcement officers should, therefore, consider the benefits, as well as the burdens, that accompany the use of undercover police officers and confidential informants in conspiracy investigations.

THE TRADITIONAL VIEW

At common law, conspiracy is defined as a combination between two or more persons to accomplish a criminal or unlawful act.[2] The gist of the offense is the combination, the "partnership in criminal purposes,"[3] between multiple parties. The U.S. Supreme Court has made it clear that "it is impossible in the nature of things for a man to conspire with himself."[4]

What makes conspiracy unique, however, is the application of this concept of plurality to the basic premise of law that a crime consists of a combination of intent and act. As a specific intent statute,[5] conspiracy requires proof of each party's individual intent to engage in unlawful activity with another person. The act required consists of no more than the joining of this intent with the similar intent of that other person. In other words, conspir-



Special Agent Campane

acy is a combination of the criminal intentions of two or more individuals.

The idea that criminal conspiracy must consist of a meeting of two minds, an agreement between at least two persons, is known as the traditional or "bilateral"[6] formulation. It is the prevailing view of the many Federal conspiracy statutes and was the traditional approach in most State criminal codes up to the mid-1960's. The U.S. Supreme Court summarized this view in a 1933 conspiracy case: "[C]onspiracy imports a corrupt agreement between not less than two with guilty knowledge on the part of each."[7] As a more recent court noted, it takes "two to tango"[8] to the bilateral tune of criminal conspiracy.

Parties Unknown

An appreciation of the bilateral formulation can be shown when a defendant's sole co-conspirator is one or more individuals whose identity is unknown. So long as the evidence at trial shows that a conspirator and at least one other are guilty of agreement to engage in some unlawful activity, it is not necessary that more than one person be convicted. Nor is it necessary to show the identity of the other co-conspirators, for the bilateral view of conspiracy does not preclude prosecution of only one conspirator. Conviction is prohibited only where proof of agreement with someone is lacking. For example, most courts hold that where all but one conspirator were acquitted after a joint trial for want of an agreement, a conviction of the remaining conspirator cannot stand.[9]

However, in situations where there has been no determination of the guilt or innocence of the alleged co-conspirators, there is nothing incongruous or inconsistent about convicting a sole defendant, if there is sufficient evidence of an unlawful agreement by at least two parties. Thus, convictions have been sustained where one of only two conspirators has been granted immunity,[10] is dead,[11] untried,[12] unapprehended,[13] known but unindicted,[14] or is someone who received a *nolle prosequi.*[15]

It is also well-accepted that the bilateral view does not preclude prosecution where one of only two parties to a conspiracy is unknown. As the Supreme Court stated:

> "[A]t least two persons are required to constitute a conspiracy, but the identity of the other members of the conspiracy is not needed, inasmuch as one person can be convicted of conspiracy with persons whose names are unknown."[16]

As a result, prosecutors will frequently add "person or persons unknown" as co-conspirators in an indictment to cover the possibility that only one of many named conspirators ultimately is convicted.[17] In such a case, however, the prosecution still has the obligation to prove the *existence* of other unknown conspirators and the sole defendant's agreement with them.

In *United States* v. *Artuso,*[18] two individuals, Wadra and Artuso, were convicted in Federal court of two counts of conspiracy to violate the Federal narcotics laws and one substantive count of distributing cocaine. The trial judge set aside the jury's verdict as to Wadra because the Government failed to prove his predisposition after he raised the defense of entrap-

". . . under the traditional bilateral view of conspiracy, the existence of a defendant's sole co-conspirator is of utmost importance, although the identity of the unknown co-conspirator need not be proved."

ment. Artuso appealed and argued he was entitled to acquittal on the two conspiracy counts because there was no one with whom he was proven to have conspired, Wadra's conviction having been set aside. The court noted that there was considerable evidence that Artuso conspired with "others unknown." [19] This evidence included references by Artuso to his "money people" and "his man" and a statement by Artuso that he personally had seen the cocaine divided into bags. Based on this evidence, the court believed that even had Wadra been correctly acquitted, Artuso's conviction would still stand even though he was the only remaining named defendant.[20]

Thus, under the traditional bilateral view of conspiracy, the existence of a defendant's sole co-conspirator is of utmost importance, although the identity of the unknown co-conspirator need not be proved. The proof required is the meeting of two minds to engage in some unlawful activity.

Undercover Police Officers and Informants

It should logically follow from this traditional premise that if one person only feigns acquiescence in a proposal of another to pursue an unlawful enterprise, there can be no conspiracy, since there is no meeting of two minds. This has been the prevalent view throughout the country, and where one of only two persons conspiring is a law enforcement officer acting in the discharge of his duties [21] or is a government informer who intends to frustrate the conspiracy covertly,[22] the only remaining participant cannot be convicted of conspiracy. Although he may possess the requisite criminal intent, there has been no agreement with another person to act together to achieve an unlawful purpose.

This principle is exemplified by the decision in *Sears* v. *United States*.[23] One Davis, a former bootlegger, worked with Federal Government investigators as a confidential informant and ran an illegal still. Sears was a Georgia county sheriff who conspired to protect Davis' operation. The court held that the jury could not convict Sears of conspiracy to accept a bribe merely upon a finding that he had accepted money from Davis and furnished protection to his bootlegging enterprise:

> "This would establish only that Sears had combined with Davis, and as it takes two to conspire, there can be no indictable conspiracy with a government informer who secretly intends to frustate the conspiracy." [24]

Returning to the case described at the beginning of this article, Shirley Garcia clearly has not committed the crime of conspiracy under the bilateral test, even though she subjectively believed Young, the informant, and his friend were going to help her murder her husband. Surprisingly, however, the Indiana Supreme Court upheld her conviction. Garcia had the untimely misfortune of engaging government agents to kill her husband a year after the Indiana Legislature rewrote and enacted a new criminal conspiracy statute. Indiana, in company with a majority of States, adopted a criminal statute in line with the Model Penal Code's [25] approach to criminal conspiracy.

The interpretation of new conspiracy statutes, like that of Indiana's and as the *Garcia* case exemplifies, is beginning to have an impact on the opportunity law enforcement agencies may have to use government agents to help uncover and prosecute single conspirators. Because of the increasing acceptance of the modern statutory scheme,[26] its import is significant.

THE MODERN VIEW

The frequent use of the conspiracy prosecution, especially by Federal prosecutors in the war against organized crime, has resulted in frequent and severe criticism. The underlying source of the dissatisfaction is a widespread and deep-seated aversion to the punishment of mere illegal intent.[27] In the late 1950's, drafters of the American Law Institute's Model Penal Code undertook the task of writing a model conspiracy statute to accommodate various viewpoints and achieve an appropriate balance between the desire to afford adequate opportunity for early law enforcement intervention in conspiratorial activity and the obligation to safeguard the rights of individual defendants.[28] The product of their effort has since served as the basis for revision of criminal statutes in nearly every jurisdiction. The statutory changes, in turn, are beginning to have an impact on informant and undercover operations in conspiracy investigations.

The Code provision, referred to as the "unilateral" [29] formulation by its drafters, stresses each individual's culpability rather than the conduct of a group of which the conspirator is charged to be a part. On the one hand, the unilateral view makes it difficult to bring numerous individuals into a single conspiracy prosecution because the intent of each participant must be proved. On the other hand, the Code makes it immaterial to the guilt of any single conspirator whose culpability has been established that the person or persons with whom he conspired has not been or cannot be convicted. If

one participant has conspired in the belief that another is with him, his guilt is not diminished by the other's feigned intention. The scheme's chances of success are eliminated, but the major basis for conspiratorial liability, the evidence of one party's firm purpose to commit the crime, remains the same.[30] In effect, the drafters adopted a new definition of conspiracy, one which isolates a defendant from his associates and individually looks at the evidence of his subjective intent and measures culpability accordingly.

It would appear as if the unilateral definition has thus eliminated the act requirement that is a necessary prerequisite to all criminal behavior. The drafters of the Model Penal Code have advanced three theories to overcome this problem. First, the Code requires proof of an overt act as a necessary element of the crime for all except conspiracies to commit felonies of the first or second degree.[31] Proof of an overt act by the sole conspirator will satisfy the act requirement. Second, a conspiratorial agreement is understood to be the advancement of the illegal intention that a person has conceived in his mind to the point where the conspirator acts on that intention by consulting with another. That is, the supposed agreement is itself an overt act if the intention is to commit a first or second degree felony.[32] Third, as a practical matter, government attorneys do not prosecute unless they are able to show some activity in addition to the sole conspirator's intention.[33]

At the time Shirley Garcia engaged Young and the police officer to kill her husband, two relevant sections of the new Indiana unilateral conspiracy statute read:

> "[Sec. 2] (a) A person conspires to commit a felony when, with intent to commit the felony, he agrees with another person to commit the felony. . . .
> (c) It is no defense that the person with whom the accused person is alleged to have conspired:
> (1) has not been prosecuted;
> (2) has not been convicted;
> (3) has been acquitted;
> (4) has been convicted of a different crime;
> (5) cannot be prosecuted for any reason; or
> (6) lacked the capacity to commit the crime."[34]

The Indiana Supreme Court held that the conspiracy statute is similar to the Model Penal Code version, and therefore, Garcia had no defense of feigned acquiescence. Because her activities fell within the unilateral definition of conspiracy, her conviction and 20-year sentence were affirmed.[35]

The Minnesota Supreme Court reached the same conclusion a few years earlier in the case of *State* v. *St. Christopher,*[36] based on a unilateral interpretation of Minnesota's conspiracy statute. The defendant agreed with his cousin, Roger Zobel, to have Zobel kill the defendant's mother for $125,000. The idea was for Zobel to break her neck, attach bricks to her body, and throw it in a river. Fortunately, Zobel only pretended to agree and notified the police who subsequently arrested St. Christopher.

The court affirmed the conspiracy conviction on the grounds that language in the new statute, "whoever conspires with another,"[37] permits a conviction without a true agreement. The defendant only had to conspire with his cousin; the cousin did not have to conspire with him. "The act of conspiracy by *a defendant* . . . is the decisive element of criminality."[38] (emphasis added)

The court concluded:

> "[T]he Minnesota statute is now phrased in unilateral terms similar to those used in the Model Penal Code . . . . Because of this wording, we hold that the trial court was free to convict defendant of conspiracy under the facts of this case."[39]

These are not isolated cases. As courts in other unilateral jurisdictions have been given the opportunity to address the sole conspirator issue, they too have followed this interpretation.[40] Even in those jurisdictions which still adhere to the bilateral approach, it is important to note how courts have been able to overcome the meeting-of-two-minds objection when informant and undercover operations are involved.

THE TRADITIONAL BILATERAL APPROACH—FINDING TWO MINDS

The Reluctant Informant

One distinguishing example involves the conspirator who notifies the police well after the conspiracy is under way. In such a case, the informant initially agrees on his own. The crime is complete upon agreement. The decision in *United States* v. *Sacco*[41] illustrates the point. In April 1968, the defendant asked one Parness to rent a truck large enough to hold approximately 60 cartons of televisions. On May 1, 1968, Parness met Sacco with a truck and helped him pick up and unload a truck full of televisions. He was paid $100, no questions asked, for his efforts. A few days later, Parness notified the New York State Police and

"A mere assertion of a co-conspirator's association with a law enforcement agency, without more, will be insufficient to preclude a conviction."

became a paid informant. Sacco and others were subsequently indicted and convicted in Federal court of conspiracy to knowingly transport stolen property in interstate commerce. On appeal, Sacco claimed correctly that the Federal rule prohibits a conspiracy between a defendant and a police informer. But the court distinguished this case from the general rule and upheld Sacco's conviction, noting that it was not until May 10th that Parness assumed the status of government agent:

> "The fact at a point in the conspiracy one of the conspirators becomes an informer does not alter the character of the conspiracy as it existed up to that point."[42]

The Unauthorized Informant

Another possible situation involves the informant acting on his own without the knowledge of a law enforcement agency. The government can disavow his actions and hold the informant to be the co-conspirator. In *Beasley* v. *State,*[43] a female undercover agent for the Okeechobee, Fla., Police Department contacted a lawyer suspected of dealing in narcotics and asked him where she could obtain a quantity of marihuana. The lawyer referred her to Donald Raulerson, who owned a grocery store in Ft. Pierce. He eventually sold her some marihuana. Unbeknown to the agent, Raulerson was a confidential informant for the Florida Department of Law Enforcement, but without authority to sell drugs. Beasley, the lawyer, was subsequently convicted on marihuana charges, but claimed on appeal that the Florida rule prohibited a conspiracy conviction where the only other participant (Raulerson) was a police operative. The court disagreed:

> "The sale was set up by appellant and Raulerson and the evidence shows that Raulerson was a confidential informant with no authority to deal in drugs. Therefore any analogy to the general rule that where one of two persons who conspire to do an illegal act is an officer acting in the discharge of his duties, the other person cannot be convicted on a charge of conspiracy is inapplicable."[44]

The Occasional Informant

A mere assertion of a co-conspirator's association with a law enforcement agency, without more, will be insufficient to preclude a conviction. In *United States* v. *Corallo,*[45] four individuals were convicted in Federal court of conspiracy to use the interstate telephone system with the intent to violate New York State bribery laws. The evidence established Corallo's conspiracy with Herbert Itkin to bribe a New York City water commissioner in exchange for the award of favorable construction contracts. Itkin claimed to have had some contact with the FBI some 4 years before the alleged offense. Corallo claimed the bilateral Federal conspiracy law prevented a conspiracy with a Government informant. The Second Circuit Court of Appeals was not impressed:

> "The path of the prosecutor in a conspiracy case is full of snares and pitfalls. As the conspirators run for cover, a favorite diversionary tactic is to spread confusion by pursuing digressions suggested by proof having only a tangential bearing on the case. Just such an opportunity presented itself when a reference was made to the fact that Itkin claimed to have had some contact with the FBI as early as 1962 . . .. [W]hatever else he [Itkin] might have been doing with the FBI to uncover the machinations of the underworld, he was in this venture entirely on his own and acting wholly without knowledge of the FBI until he found it to his interest to tell the FBI, after the last installment of the bribe had been paid."[46]

The Independent Informant

In *United States* v. *DeSapio,*[47] the same appeals court described exactly what Itkin was up to. The defendant was one of Corallo's co-conspirators whose trial was severed but who was, nonetheless, convicted of conspiring with Itkin. The record showed that Itkin kept the FBI informed almost daily of the progress of the conspiratorial plan. He gave the FBI advance notice of meetings, tape recorded incriminating conversations, and obtained physical evidence. However, the FBI never told him what to do and denied directing or authorizing Itkin to participate in the scheme. Itkin testified he was "infiltrating . . . picking and choosing as it came . . . very definitely a participant."[48]

On balance, the court concluded that Itkin was acting on his own initiative "even though he was currently reporting developments to the FBI and doubtless did not expect to be prosecuted."[49]

The Aggressive Informant

Another way to avoid an unfavorable bilateral ruling is to use an informant or undercover police officer to draw otherwise unconnected individuals to-

gether to create a plurality of parties. In *Sigers* v. *United States,*[50] the Federal Government used an informant to bring three unsuspecting groups together for a successful single conspiracy prosecution to violate Internal Revenue laws.

A Miami, Fla., group of whiskey retailers bought untaxed alcohol from a group of north Florida moonshiners. A third group of unconnected manufacturers and wholesalers operated out of Okeechobee, Fla. A Florida State Beverage Department informant, Willie Lee, who knew the leaders of the Miami and Okeechobee groups from prison, began working as a buyer and hauler for the Miami retailers. When Lee's employers began having difficulty maintaining their supply from north Florida, Lee made purchases from his friend in Okeechobee. Lee also began making purchases for the Okeechobee group through the north Florida suppliers.

The north Florida suppliers, of whom Sigers was a member, claimed to have no part in an overall conspiracy with the two south Florida groups. They argued that the evidence showed, at most, the existence of two conspiracies, one between themselves and the Miami group and one between themselves and the Okeechobee bootleggers. They denied any knowledge of an agreement between the two south Florida groups. But the Fifth Circuit Court of Appeals ruled otherwise. The court believed that because Lee was buying from a limited supply for the two south Florida customers, the jury could infer an agreement between the two buyers to share in the supply. The jury could further conclude that the north Florida supplier should have known that two buyers using the same salesman must have come to an agreement to share in the purchase of a limited supply of north Florida whiskey. Even though there was no direct evidence of any sharing agreement between the three participants, the informant Lee, acting at the direction of two of the conspirators, was the connecting link to draw the two south Florida purchasers together and all three groups into a single conspiracy.[51]

Because the defendants were multiparty groups rather than three individuals, the *Sigers* case does not present the possibility of a single conspirator defense to a Federal conspiracy prosecution. But it does illustrate, by analogy, how undercover operations can bring two otherwise unconnected individuals into an agreement constituting a conspiracy. The *Sigers* court noted, however, that the informer's activities were at all times in accordance with instructions from his employer and that none of the defendants was lured into the violation solely through the efforts of the informer acting on his own initiative.[52]

Two years later, the same Federal appeals court took this aggressive government agent issue one step further. In the *Sears* case, noted earlier, Dorsey Davis approached Federal Government agents and offered to secure evidence of bribery against Sheriff Sears, with whom he had dealt in prior moonshine operations. On his own, Davis bought into an ongoing bootlegging business as a cover to legitimatize the need to pay the sheriff for protection. Sheriff Sears reluctantly accepted bribes, and along with Davis' two partners, was indicted and convicted of conspiracy to violate Internal Revenue laws. On appeal, Sears claimed to have no knowledge of Davis' partners; further, he argued that he could not be a party to a conspiracy with a Federal Government agent. The court held differently:

> "The fact that Sears' only connection with and knowledge of the unknown co-conspirators (Johnson and Wright) was through a government informer (Davis) does not vitiate the conspiracy. In *Sigers* v. *United States* . . . we recently held that government informers may serve as the connecting link between co-conspirators. The facts of that case were somewhat different in that the informers acted at all times in accordance with instructions furnished by the co-conspirators, but we do not deem this difference significant."[53]

The Overt Act and the Government Agent

At common law, a conspiracy was punishable even though no act was undertaken beyond the meeting of two minds.[54] While common law conspiracy States do not require an overt act,[55] most jurisdictions make an overt act an element of some or all types of conspiracy.[56] The general Federal conspiracy statute is representative of the modern trend to require that one of the co-conspirators "do any act to effect the object of the conspiracy."[57]

". . . undercover operations can bring two otherwise unconnected individuals into an agreement constituting a conspiracy."

The overt act requirement is a legislative determination that an evil state of mind, without more, should not be punished. The Supreme Court's opinion in *Yates* v. *United States*[58] supports a dual justification: (1) No credible threat to commit a substantive crime exists, and (2) the rule acts as a safeguard against the prosecution of innocent persons. Justice Harlan noted:

> "The function of the overt act in a conspiracy prosecution is simply to manifest 'that the conspiracy is at work' . . . and is neither a project still resting solely in the minds of the conspirators nor a fully completed operation no longer in existence."[59]

Virtually any act will satisfy the overt act requirement. Thus, mailing a letter,[60] consulting a lawyer,[61] or attending a lawful meeting[62] have all been held to be overt acts in the context of the criminal object alleged. But under the *Yates* reasoning, the act must be completed by one of the conspirators or someone directed by a conspirator.[63] A government agent, acting on his own, cannot commit the overt act.

In *United States* v. *DeMayo*,[64] two undercover Government agents acted as go-betweens for sellers in Kansas City, Mo., and buyers in Tulsa, Okla. The buyers and sellers were convicted in Federal court of conspiring to cause alcohol to be transported into the Oklahoma Indian territory. The informants did some of the actual transporting. On appeal, the defendants successfully argued that the overt acts of the Government should not be attributed to them. The court held:

> "[W]e are of the opinion that government officers should not so far participate as themselves to perform unaided by any of the conspirators the crucial act of introducing the liquor into the forbidden territory. They may properly afford opportunity to those suspected of crime to commit the original offense. They may be participants to a certain extent, but they, themselves, may not *unaided,* as in this case, do the very overt act which is essential to the consummation of the offense charged. In conspiracy cases no matter what evil may be planned, the crime has not been committed until an act has been done in furtherance thereof. There is a locus poenitentiae lying between the thought and the deed. The accused may not be deprived of that period of immunity by the act of a government officer who is not in law a conspirator."[65] (emphasis added).

This view is the general rule and is consistent with the Supreme Court's reasoning in *Yates* that intent alone does not make a Federal conspiracy. Although there are few cases on point, the *DeMayo* rule would appear to distinguish overt acts committed by informants with the knowledge, direction, or assistance of a defendant conspirator from those committed independently or "unaided."

Conclusion

As the foregoing suggests, the intricacies of modern conspiracy statutes do not make the crime an easy one to understand. Its history, as Justice Jackson of the Supreme Court noted years ago, exemplifies "the tendency of a principle to expand itself to the limits of its logic."[66] But its difficulties can be overcome. Because conspiracy prosecution promotes the breakup and punishment of criminal groups well before they achieve their unlawful purpose, it is a necessary adjunct to the investigation and prosecution of substantive offenses and important for the protection of the public.

It is important to a law enforcement officer charged with the task of orchestrating the infiltration of a conspiracy to make an effort to read and understand his State's conspiracy statutes. The officer should determine: (1) Whether the statute is written in terms of the traditional common law view or in accordance with the modern unilateral approach; (2) whether it is a defense to a conspiracy prosecution that the sole co-conspirator is unknown, or a government agent; and (3) whether an overt act is an element of the statute.

In addition, the officer should follow the court decisions that have begun to analyze recently enacted conspiracy statutes. As this article implies, courts can suggest important investigative techniques, especially in the vital area of informant and undercover operations. A thorough knowledge of the law of conspiracy will help the officer draw a fine line between successful penetration of a conspiratorial group and one where the prosecution is defeated because the government agent's activities negate a necessary element of the statute. **FBI**

Footnotes

[1] The facts are from the decision *Garcia* v. *State,* 394 N.E.2d 106, 107 (Ind. 1979).

[2] *Commonwealth* v. *Hunt,* 45 Mass. (4 Met.) 111, 123 (1842); *Pettibone* v. *United States,* 148 U.S. 197, 203 (1893); *Pinkerton* v. *United States,* 328 U.S. 640, 643 (1946). For a detailed history of conspiracy, *see* Sayre, *Criminal Conspiracy,* 35 Harv. L. Rev. 393 (1922).

[3] *United States* v. *Kissel,* 218 U.S. 601, 608 (1910).

[4] *Morrison* v. *California,* 291 U.S. 82, 92 (1934).

[5] *See* Harno, *Intent In Criminal Conspiracy,* 89 U. Pa. L. Rev. 624, 635 (1941); *Developments In The Law—Criminal Conspiracy,* 72 Harv. L. Rev. 420, 435 (1957).

[6] *See* Wechsler, Jones, and Korn, *The Treatment Of Inchoate Crimes In The Model Penal Code Of The American Law Institute: Attempt, Solicitation, And Conspiracy,* (Part II Conspiracy), 61 Colum. L. Rev. 957, 965 (1961), where the terms "bilateral" and "unilateral" are used by the principal authors of the Model Penal Code, hereinafter cited as MPC, to distinguish the common law and MPC definitions of conspiracy; Notes, *Conspiracy: Statutory Reform Since The Model Penal Code,* 75 Colum. L. Rev. 1121, 1135–36 (1975).

[7] *Morrison* v. *California, supra* note 4, at 92.

[8] *Gardner* v. *State,* 396 A.2d 303, 305 (Ct. Spec. App. Md. 1979), *aff'd,* 408 A.2d 1317 (Ct. App. Md. 1979).

[9] *See* LaFave and Scott, *Handbook On Criminal Law,* 488 (1972). This proposition is known as the rule of consistency, but is the subject of a great deal of inconsistency when applied to separate trials, guilty pleas, reversals on appeal, and the like. *Compare United States* v. *Bruno,* 333 F.Supp. 570 (E.D. Pa. 1971) (Prior acquittal of all other conspirators precludes conviction of the remaining one), *with United States* v. *Musgrave,* 483 F.2d 327 (5th Cir. 1973), *cert. denied,* 414 U.S. 1023 (1973); (Lone conspirator could be convicted because the rule does not apply to separate trials). Other courts have held that a prior guilty plea will stand despite the subsequent acquittal of all other co-conspirators. *See, e.g., United States* v. *Strother,* 458 F.2d 424 (5th Cir. 1972), *cert. denied,* 409 U.S. 1011 (1972); *State* v. *Oats,* 108 A.2d 641 (Super. Ct. App. Div. N.J. 1954). *See also Bates* v. *United States,* 323 U.S. 15 (1944) (Defendant's conviction vacated where co-conspirator's conviction reversed by appellate court); *cf. United States* v. *Espinosa-Cerpa,* 630 F. 2d 328, 331–33 (5th Cir. 1980), where the court questioned the logic of this rule as acquittals are not necessarily equivalent of a finding of innocence, nor do they necessarily negate the fact of criminal complicity with other conspirators. This view seems more consistent with the U.S. Supreme Court's recent opinion in *Standefer* v. *United States,* 447 U.S. 10 (1980), where the Court rejected the applicability of nonmutual collateral estoppel in criminal cases, specifically holding that a prior acquittal of one party could not be invoked to bar the government's subsequent litigation of the fact of the party's criminal conduct as an element in the prosecution of a second defendant.

[10] *Hurwitz* v. *State,* 92 A.2d 575 (Md. 1952); *Farnsworth* v. *Zerbst,* 98 F.2d 541 (5th Cir. 1938) (Diplomatic immunity).

[11] *State* v. *Davenport,* 42 S.E.2d 686 (N.C. 1947).

[12] *DeCamp* v. *United States,* 10 F.2d 984 (D.C. Cir. 1926).

[13] *Rosenthal* v. *United States,* 45 F.2d 1000 (8th Cir. 1930).

[14] *United States* v. *Monroe,* 164 F.2d 471 (2d Cir. 1947); *cf. United States* v. *Briggs,* 514 F.2d 794, 806–08 (5th Cir. 1975), where the court found that the practice of naming, but not indicting, alleged co-conspirators denied them their due process rights, because they would not have the opportunity to establish their innocence at trial.

[15] *United States* v. *Shipp,* 359 F.2d 185 (6th Cir. 1966), *cert. denied,* 385 U.S. 903 (1966) (*Nolle prosequi* not the equivalent of an acquittal).

[16] *Rogers* v. *United States,* 340 U.S. 367, 375 (1951); *accord, State* v. *Collins,* 293 A.2d 235, 236 (Super. Ct. N.J. 1972).

[17] *See, e.g., United States* v. *Lance,* 536 F.2d 1065, 1068 (5th Cir. 1976) (Conspiracy to commit extortion through the mail); *United States* v. *Espinosa-Cerpa,* supra note 9, at 330–31 (Drug conspiracy); *United States* v. *Allen,* 613 F.2d 1248, 1253 (3d Cir. 1980) (Drug conspiracy); *People* v. *Sagehorn,* 294 P.2d 1062, 1068 (Dist. Ct. App. Cal. 1956) (Conspiracy to procure the arrest of another); *State* v. *Caldwell,* 105 S.E.2d 189, 192 (N.C. 1958) (Conspiracy to bomb a school).

[18] 618 F.2d 192 (2d cir. 1980), *cert. denied,* 101 S.Ct. 401 (1980).

[19] *Id.* at 197.

[20] *Id.*

[21] *Beasley* v. *Florida,* 360 So.2d 1275 (Dist. Ct. App. Fla. 1978) (Conspiracy to sell marihuana); *United States* v. *Barnes,* 604 F.2d 121 (2d Cir. 1979), *cert. denied,* 100 S.Ct. 1833 (1979) (Drug conspiracy).

[22] *Delany* v. *State,* 51 S.W.2d 485 (Tenn. 1932) (Conspiracy to commit murder); *Moore* v. *State,* 290 So.2d 603 (Miss. 1974) (Drug conspiracy); *State* v. *Horton,* 170 S.E.2d 466 (N.C. 1969) (Conspiracy to murder a spouse); *Johnson* v. *Sheriff, Clark County,* 532 P.2d 1037, 1038 (Nev. 1975) (Conspiracy to murder spouse).

[23] 343 F.2d 139 (5th Cir. 1975).

[24] *Id.* at 142; *accord, United States* v. *Chase,* 372 F.2d 453 (4th Cir. 1967), *cert. denied,* 387 U.S. 907 (1967); *United States* v. *Rosenblatt,* 554 F.2d 36, 38 (2d Cir. 1977); *United States* v. *Moss,* 591 F.2d 428, 434 n.8 (8th Cir. 1979).

[25] MPC § 5.03 *et seq.* (Proposed Official Draft, 1962).

[26] *See* Notes, *Conspiracy: Statutory Reform Since The Model Penal Code, supra* note 6, at 1122, 1125, n.8, for citations to all relevant State statutes. The MPC conspiracy provision has been adopted in whole or in part in at least 26 States and is under consideration in most others.

[27] *See* Marcus, *Conspiracy: The Criminal Agreement In Theory And In Practice,* 65 Geo. L.J. 925, (1977); *see, e.g., Krulewitch* v. *United States,* 336 U.S. 440, 445–58 (1949) (Jackson, J., concurring).

[28] MPC § 5.03, Comment (Ten. Draft No. 10, 1960).

[29] *See* Wechsler, Jones, and Korn, *The Treatment Of Inchoate Crimes In The Model Penal Code Of The American Law Institute: Attempt, Solicitation, And Conspiracy,* (Part II Conspiracy), *supra* note 6.

[30] MPC § 5.03, Comment at 104–05 (Ten. Draft No. 10, 1960).

[31] MPC § 5.03(5) (Proposed Official Draft, 1962). This exception has not been readily adopted by the States which have modeled their conspiracy statutes on the MPC. For a list of those States requiring an overt act in all conspiracy prosecutions and those few which follow the MPC, *see* Notes, *Conspiracy: Statutory Reform Since The Model Penal Code, supra* note 6, at 1153 n.n. 168 and 170.

[32] See, Wechsler, Jones, and Korn, *The Treatment Of Inchoate Crimes In The Model Penal Code Of The American Law Institute: Attempt, Solicitation, And Conspiracy* (Part II Conspiracy), *supra* note 6, at 1001–1003; Notes, *Conspiracy: Statutory Reform Since The Model Penal Code, supra* note, 6, at 1153–1158.

[33] *Id., see* Ill. Ann. Stat. Ch. 38 § 8–2 (Smith-Hurd 1972) Comment at 458. "[N]o case has been found in which some activity pursuant to the agreement has not been present. This leads to the conclusion that prosecutors find proof of the agreement without subsequent activity too difficult . . . to warrant criminal prosecution." *See* Ore. Rev. Crim. Code § 59, (Proposed Official Draft 1970), Comment at 59–60. The drafters stated they "could find no value in adding such a requirement [overt act], particularly since the significance of the acts that will meet the requirement renders it almost meaningless."

[34] Ind. Code § 35–41–5–2– (Burns 1979).

[35] *Supra* note 1, at 111.

[36] 232 N.W.2d 798 (Minn. 1975).

[37] Minn. Stat. § 609.175 (2) (Supp. 1976).

[38] *State* v. *St. Christopher, supra* note 36, at 803.

[39] *Id.*

[40] *See Saienni* v. *State,* 346 A.2d 152, (Del. 1975); *State* v. *Lavary,* 377 A.2d 1255 (Super. Ct. N.J. 1977); *People* v. *Lanni,* 406 N.Y.S.2d 1011 (Sup. Ct. 1978).

[41] 436 F.2d 780 (2d Cir. 1971), *cert. denied,* 404 U.S. 834 (1971); *see also United States* v. *Swainson* 548 F.2d 657 (6th Cir. 1977), *cert. denied,* 431 U.S. 937 (1977) (Conspiracy to bribe a judge. Informant acting on his own, even though the government suggested the payoff with the informant's funds).

[42] *United States* v. *Sacco,* 436 F.2d 780, *supra* note 41, at 783.

[43] 360 So.2d 1275 (Dist. Ct. App. Fla. 1978).

[44] *Id.* at 1277.

[45] 413 F.2d 1306 (2d. Cir. 1969), *cert. denied,* 396 U.S. 958 (1969).

[46] *Id.* at 1320–21.

[47] 435 F.2d 272 (2d Cir. 1970), *cert. denied,* 402 U.S. 999 (1971).

[48] *Id.* at 281.

[49] *Id.* at 282.

[50] 321 F.2d 843 (5th Cir. 1963).

[51] *Id.* at 845.

[52] *Id.* at 847.

[53] *Sears* v. *United States, supra* note 23, at 142. Sears also raised the defense of entrapment. The court did not rule on the claim directly, but believed the facts were sufficient to warrant the defense's consideration by the jury. For an analysis of the traditional entrapment defense in a conspiracy setting, *see United States* v. *Rosner,* 485 F.2d 1213, 1220–23 (2d Cir. 1973), *cert. denied,* 417 U.S. 950 (1974) (Conspiracy to bribe a police officer). For an example of government overreaching amounting to a violation of due process, *see United States* v. *Twigg,* 588 F.2d 373, 380–82 (3d Cir. 1978) (Drug conspiracy).

[54] *See* Sayre, *Criminal Conspiracy, supra* note 2, at 395–400; LaFave and Scott, *Handbook On Criminal Law, supra* note 9, at 453–55.

[55] *See, e.g., Commonwealth* v. *Beneficial Finance Co.,* 275 N.E.2d 33, 69 (Mass. 1971); Fla. Stat. Ann. § 777.04 (3) (West 1976).

[56] *See, e.g.,* N.Y. Penal Law § 105.20 (McKinney 1975); Ohio Rev. Code Ann. § 2923.01 (B) (Page Supp. 1978); Wisc. Stat. Ann. § 939.31 (West Supp. 1979–80); Tex. Penal code Ann. § 15.02 (a) (Vernon 1974); N.J. Stat. Ann. § 205–2 d. (West Spec. Pamphlet 1979); Cal. Penal Code § 184 (West 1970 and Supp. 1979).

[57] 18 U.S.C. § 371 (1976). Various Federal conspiracy statutes do not require an overt act. *See, e.g.,* 18 U.S.C. § 372 (1976) (Conspiracy to impede or injure a Federal officer); 18 U.S.C. § 1951 (1976) (Conspiracy to interfere with commerce by threat or violence).

[58] 354 U.S. 298 (1957).

[59] *Id.* at 334.

[60] *Cochran* v. *United States,* 41 F.2d 193, 199–200 (8th Cir. 1930) (Mail fraud conspiracy).

[61] *Kaplan* v. *United States,* 7 F.2d 594, 596 (2d cir. 1925) (Bankruptcy conspiracy).

[62] *Bary* v. *United States,* 248 F.2d 201, 208 (10th Cir. 1957) (Conspiracy to overthrow the Government).

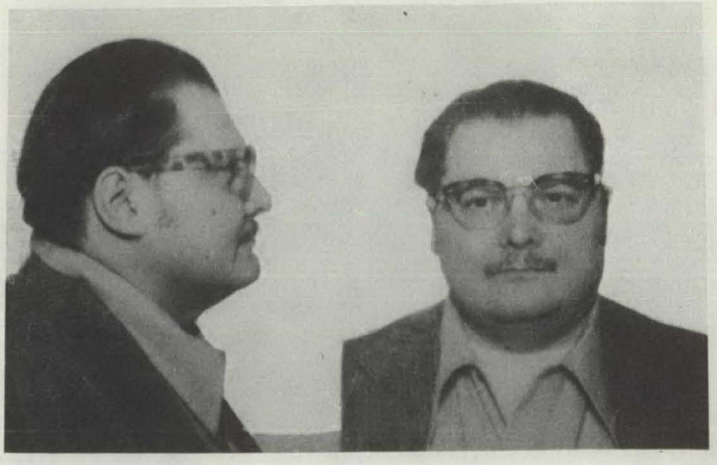
[63] *See, e.g., United States* v. *Rose,* 590 F.2d 232, 234–35 (7th Cir. 1978) (Conspiracy to burglarize a house with the help of a Federal agent).

[64] 32 F.2d 472 (8th Cir. 1929).

[65] *Id.* at 474; *accord, King* v. *State,* 104 So.2d 730 (Fla. 1958); *Woo Wai* v. *United States,* 223 F. 412 (9th Cir. 1915).

[66] *Krulewitch* v. *United States, supra* note 27, at 445.

WANTED BY THE FBI



Photographs taken 1977

William Frederick Schroeder, Jr.

William Frederick Schroeder, Jr., also known as Wilbur L. Bohn, William D. Jennings, Leroy Martin, Lesher Lee Martin, Jr., Leslie Lee Martin, David McCoy, Jr., Richard Mertz, William F. Schroeder, Jr., William Fredrick Schroder, Stanley William Weem, and others.

Wanted for:

Interstate Flight—Armed Robbery

The Crime

Schroeder is being sought in connection with an armed robbery of a market in which two female employees were threatened with a handgun. He is also being sought by local authorities for murder and armed robbery.

Criminal Record

Schroeder has been convicted of firearms violations, armed bank robbery, and unauthorized use of a vehicle.

Description

Age	45, born June 5, 1936, Baltimore, Md.
Height	5'11" to 6'.
Weight	240 to 300 pounds.
Build	Obese.
Hair	Brown-gray.
Eyes	Brown.
Complexion	Medium.
Race	White.
Nationality	American.
Occupations	Carpenter, kitchen helper, mechanics helper, salesman, truckdriver, and welder.
Remarks	Wears prescription glasses, avid gun collector, drinks light beer, chronic gambler, and race track enthusiast; shops at tall and big men shops.
Social Security Nos. Used	216-32-4862. 216-32-1862. 216-32-6297. 219-32-6297.
FBI No.	872 274 D.

Caution

Schroeder should be considered armed, extremely 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.

Classification Data:

NCIC Classification:

DO16152016DI5919CI19

Fingerprint Classification:

16 O 5 U OOO 16

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Left middle fingerprint.

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Tool Cracks Safe-deposit Boxes

The homemade tool depicted here is used to pry open quickly safe-deposit boxes by:

1) Inserting a self-topping screw in the keyhole of the lock (see figs. 2 & 3);
2) Hooking the jaw of the tool on the screw (see figs. 4 & 5); and
3) Applying backward pressure to the handle of the tool, which applies force to the tongue of the lock, thereby snapping it and allowing the box to open. (See fig. 6.)

(Submitted by the Ontario, Canada, Provincial Police.)

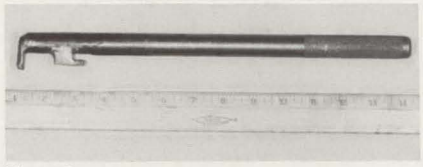

Figure 1

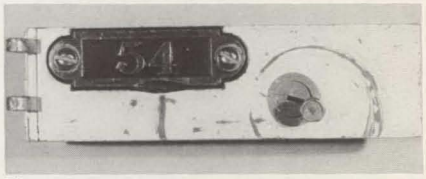

Figure 2

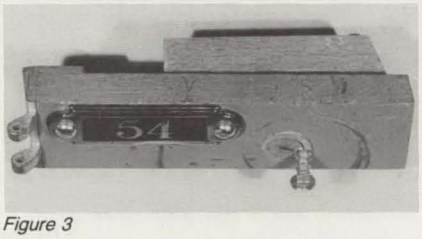

Figure 3

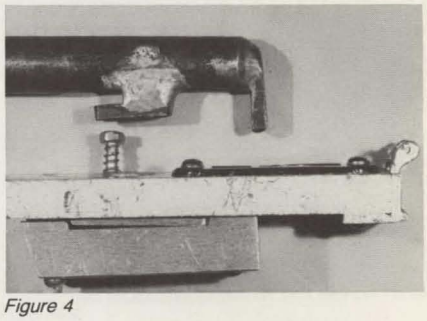

Figure 4

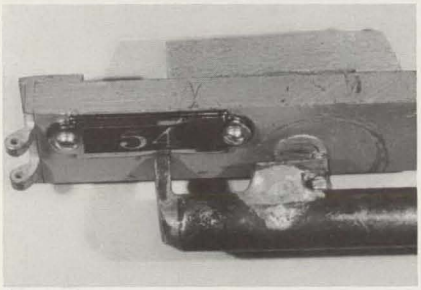

Figure 5

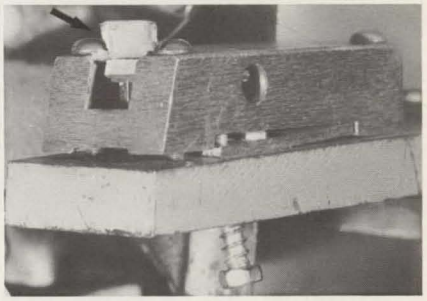

Figure 6

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Questionable Pattern

This pattern has the minimum requirements of a central pocket loop whorl, i.e., a recurve in front of two deltas and an imaginary line between the deltas does not cut or touch a recurve in front of the right delta. This pattern is questionable inasmuch as inking or pressure may destroy the recurve in front of the right delta and a reference search would then be conducted as a loop. This pattern is classified as a whorl with an "outer" tracing and referenced to a loop.