

Document Copy

FBI

Law Enforcement Bulletin

SEPTEMBER 1977



FBI

Law Enforcement Bulletin

SEPTEMBER 1977
VOL. 46, NO. 9



Published by the
FEDERAL BUREAU of INVESTIGATION
U.S. DEPARTMENT of JUSTICE
Washington, D.C. 20535

ISSN 0014-5688

CONTENTS

MESSAGE FROM THE DIRECTOR

"As we learn, more and more, that crime is not solely a police problem but one that will respond best to joint attack. . . ."

1

THE EVIDENCE TECHNICIAN PROGRAM IN TROY, N.Y., by Dr. Dorothy Guyot, Associate Professor, Rutgers University, School of Criminal Justice, Newark, N.J.

2

THE "FRIENDLY" CARD GAME

8

THE NATIONAL ACADEMY—AN EXPANDED HORIZON

13

MULTNOMAH COUNTY'S RIVER PATROL, by Sgt. James A. Davis, Sheriff's Office, Multnomah County, Oreg.

16

SPECIAL WEAPONS AND TACTICS TEAMS: A SYSTEMS APPROACH, by Lt. Gerald W. Boyd, Commander, Special Operations Unit, Irvine Police Department, Irvine, Calif.

21

USE OF DEADLY FORCE TO ARREST A FLEEING FELON—A CONSTITUTIONAL CHALLENGE (PART I), by J. Paul Boutwell, Special Agent, Legal Counsel Division, Federal Bureau of Investigation, Washington, D.C.

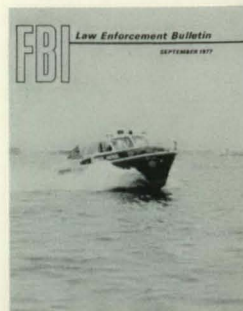
27

WANTED BY THE FBI

32

THE COVER

Pictured on this month's cover is a craft of the Multnomah County Sheriff's Office River Patrol. See related article beginning on page 16.



Message from the Director . . .



MANY RECENT NOVELS, films, and television shows have characterized police officers as a breed apart, alienated by their exposure to the worst aspects of our society. We have been portrayed as callous and disaffected loners who can relate only to other police officers.

I deplore such portrayals.

First, these characterizations hinder our ability to work with our fellow citizens on the problems of crime. As we learn, more and more, that crime is not solely a police problem but one that will respond best to joint attack, to community resistance as a whole, we must counter the image of police as other than full members of their communities.

Second, in spite of the nature of the police profession and its constant exposure of man's inhumanity to his fellow man, the overwhelming majority of police officers are not cynics. They are full, participating members of their communities. They have families, homes, a stake in the community. They are involved in civic works as individuals and as members of groups.

A glance at any police fraternal magazine impresses the reader with the involvement of police officers—a trooper in Missouri serving as president of the local Lions Club and Shriners, an Ohio officer officiating as chairman of an American Heart Association chapter, members of the

largest police department in the world hosting Christmas parties for neighborhood children. Involvement with scouting, police athletic leagues, camps for underprivileged youngsters—the list of police serving their communities is unending.

There are aspects of police service unique to our profession that can engender feelings of separation from the rest of the community, however. Police are those designated by society to enforce its rules of conduct. Today, many of those rules affect all citizens, not just the hardcore criminal element. This fosters an adversary relationship, which is reinforced by the adversary nature of our legal system. In addition, the constant threat of physical attack is another fact that sets police apart. That the threat is all too real is attested to by the long, too long, roll of honor of officers killed in the line of duty.

But disaffected loners? Hardly! We are painted as such with too broad a brush. I submit that our profession recognizes the potential for disaffection and that the ideals of service we have can, and do, override the pressures that would lead to alienation.


CLARENCE M. KELLEY
Director

September 1, 1977

The Evidence Technician Program in Troy, N.Y.

By

DR. DOROTHY GUYOT

**Associate Professor
Rutgers University
School of Criminal Justice
Newark, N.J.**



The blue station wagon of the Troy, N.Y., Police Department Crime Scene Unit rolled along toward the scene of a past burglary. Suddenly it speeded up, lights flashing to pull over a woman who had just run a stop sign. The officer checked her license and registration, warned her, and proceeded on his way to the burglary scene, where an agitated householder explained that only the circuit breakers had been stolen and that he suspected a mentally unbalanced former landlady. As the officer took the report, he advised the man on appropriate antiburglary precautions. Then he began reconstructing the crime scene, explaining his actions to the man and his young son as he worked. The officer successfully lifted latent prints from some bottles of cologne scattered on the floor. After carefully collecting and labeling the evidence, the

officer completed his report and departed.

Thus, in Troy, the evidence technician is a patrol officer who employs scientific techniques in the collection of physical evidence. The department benefits from his specialist skills without draining manpower from the patrol force. This emphasis on the patrol officer as a skilled professional is the guiding principle which this program has followed.

Troy, N.Y.

The location of this evidence technician program is a city of 63,000 in a tricity area, served by a department of 128 officers. The people of Troy come from many diverse national origins. The town includes a considerable middle-class population, but 14

percent of the people have incomes below the poverty level, a proportion similar to New York City's. The burglary rate is up—due in part to the high street prices for narcotics and the activities of a few professional burglars. The purpose of the evidence technician program, begun in May 1975, is to bring to bear scientific expertise in the solution of a range of crimes, especially burglaries.

"The purpose of the evidence technician program, begun in May 1975, is to bring to bear scientific expertise in the solution of a range of crimes, especially burglaries."

Allocation and Training of Personnel

Around the clock at least one evidence technician mans the crime scene wagon. The nine evidence technicians are police officers from the patrol division, one for each of the three squads which make up the three platoons. The evidence technician has the patrol officer's responsibility for a zone and citywide responsibility for processing crime scenes. The direct supervisors of the evidence technician are his squad sergeant and platoon captain, and functional supervision over his crime scene work is exercised by the sergeant. On days when two technicians are working the same tour, one serves as evidence technician and the other works his regular zone in a patrol car.

The department followed this allocation of manpower for the first 5 months of the program. In September 1975, the department modified the pattern, creating six full-time evidence technician-patrol officer positions. Thus, 3 days a week there are now two evidence technicians on duty for every tour, one driving the crime scene wagon and the other driving a patrol

car containing basic search equipment. On the other 4 days, one evidence technician works each shift. He no longer has zone responsibility but patrols across several zones when he is not processing a crime scene. The officer performs the diverse tasks of the patrolman and in addition has at his command the specialist equipment and techniques for identifying, collecting, and preserving physical evidence.

The technicians received 80 hours of intense, practical training from their own identification sergeant and from a consultant who is a highly knowledgeable supervisor of evidence technicians for the Dade County, Fla., Sheriff's Office. Instruction concentrated on fingerprinting and photography, as well as a wide variety of less common techniques: Identifying trace evidence, analyzing body fluids, and casting tool and tire marks. The department put its emphasis on developing the men, not in buying fancy equipment.

Authority

Absolute authority over the physical evidence at the crime scene is given to the evidence technician. The departmental orders establishing this policy state this succinctly:

While the evidence technician holds the rank of police officer, his authority while at the scene of a crime to which he has been assigned is without equal on matters relating to the protection, search, and processing of a crime scene for physical evidence.

The orders instructed supervisory and command personnel in particular to set an example for the rest of the department by not touching any physical evidence except as requested by the evidence technician. A 1975 national survey conducted by the Forensic Sciences Foundation reflects

that less than half the departments having evidence technicians give them this much authority.

In the 5th week of the program, a homicide case put to the test the policy of the evidence technician having complete authority over the physical evidence. Homicides, of course, normally attract a number of officers to the scene, thus increasing the risk of someone inadvertently contaminating the physical evidence. In this particular case, however, the evidence technician and the identification sergeant were, as a result of this authorization, able to quickly preserve and collect the available evidence. Their work, together with leads from field questioning, led to the arrest of a suspect in this case within 24 hours.

Coverage

Departmental orders require that an evidence technician be automatically dispatched to all suspicious deaths, burglaries, hit-and-run accidents, rapes, aggravated assaults where physical evidence may be important, and cases involving city employees or city property. In addition, patrol officers may request an evidence technician in any case where photographs or physical evidence are judged to be important.

Burglaries form the majority of cases handled. Here the program has substantially enhanced the department's investigative performance. Previously, the two identification officers, because of their workload, rarely responded to property crimes, and detectives usually conducted a followup investigation days later. From May, as the monthly total of burglaries rose, the percentage of cases covered kept pace with this increase. Table I shows a shortening of the delay between the arrival of patrolman and specialist. As noted in line two of the table, evidence technicians have been at the scene simultaneously with the patrol officer.

Rarely have they arrived as late as the subsequent tour. Since the program began, up to three-quarters of the households burglarized have received specialist investigation within 24 hours, as shown in the last line of cumulative percentages. Detectives have conducted those investigations which occurred more than 2 days after the crime. As indicated by the chart, the dramatic increase in the investigation of burglaries occurred between April and May 1975 at the initiation of the evidence technician program and has continued at a high level since then.

The Quality of Evidence

The program has increased the amount and quality of physical evi-

"The program has increased the amount and quality of physical evidence. . . ."

dence in three ways. First, evidence from a wide variety of crime scenes no longer escapes notice but is being sought, recognized, collected, and preserved. Second, evidence technicians are bringing in the best quality evidence that their skills permit. And third, the chain of possession of evidence is firmly established with the evidence technician being solely responsible for it from the crime scene to the department's files and evidence locker.

The View of the District Attorneys

The district attorney's office has had high praise for the work of the evidence technicians. Within a few months after the program began, a dramatic improvement in case preparation was noted. One assistant district attorney assessed each of the cases he handled where physical evi-

dence was relevant. Cases predating the program were found to suffer from an inadequate crime scene search or poor control of the evidence. In the several cases involving the services of evidence technicians, the evidence was found to be of high quality.

Problems Encountered With the Program

Among other problems encountered was a backlog in the processing of latent fingerprints collected at crime scenes. A lack of a fingerprint analyst and the disruption of the laboratory area from the ongoing remodeling of the entire police headquarters were basically responsible for this problem. To analyze the vastly increased volume of evidence, it may be necessary for small- and medium-sized departments to use laboratory facilities outside of the department.



Chief of Police John J. Givney

Typically, a new program generates some opposition; in this case, it was low keyed and diffuse. Initially, most officers spoke highly of the program, but a few grumbled that when an evidence technician left his zone they

had to cover for him. There were also some difficulties concerning an evidence technician receiving undesirable assignments on days when he was not driving the crime scene wagon. Also, after 4 months' operation, there were only seven evidence technicians left because one had resigned and one was promoted to sergeant, which meant that consideration had to be given to obtaining replacements.

To solve these problems, the department created a new organizational chart in September for the semi-annual choice of assignment by seniority which the union contract stipulates. The creation of six full-time evidence technician positions relieved them of zone responsibility, allowing them to patrol widely. They do crime scene work on every tour, automatically going to all appropriate scenes. However, the union leadership raised a grievance that the new table of organization restricted the bidding to men already trained as evidence technicians, thus preventing more senior men from choosing the assignment. The department resolved the grievance by permitting men without training to bid for the positions and then providing them with training immediately afterward.

A common problem for evidence technician programs is active hostility from detectives, but in Troy, detectives have accepted it as a support service, relieving them of additional responsibilities. Platoon captains and squad sergeants have generally supported the program, essentially since the evidence technicians work out of the patrol divisions.

The organizational placement in the patrol division gives unusual strength to the program, since in large departments nationwide most evidence technician units are placed inside the detective bureau or technical services. The advantage of assigning evidence technicians to patrol is that the skills of these men are fully utilized, both

Improvement in Timely Investigation of Residential Burglaries
Cumulative Percentage of Cases Investigated by an Evidence Technician or Detective

	1975						1976	
The Evidence Technician or Detective	Jan. Feb.	March April	May June	July Aug.	Sept. Oct.	Nov. Dec.	Jan. Feb.	March April
is the patrol officer	-	-	6	25	6	-	-	-
came with the patrol officer	-	3	28	52	23	37	39	33
came on same tour	-	3	40	66	53	64	57	41
came on next tour	-	3	46	67	66	64	61	48
came next day (cumulative percentage)	9	3	52	73	70	70	65	59
The Evidence Technician or Detective								
came later than 2 days (percentage)	64	43	24	4	13	21	9	19
never came (percentage)	27	54	24	23	17	9	26	22
	<u>No Program</u>		<u>Evidence Technician Program in Operation</u>					
Total Residential Burglaries	113	76	135	145	102	135	80	108
Number in the sample	22	28	50	81	47	33	23	27

Table I. Improvement in Timely Investigation of Residential Burglaries.

"The organizational placement in the patrol division gives unusual strength to the program, since in large departments nationwide most evidence technician units are placed inside the detective bureau or technical services."

in terms of their technical specialty and basic police functions. When not involved in crime scene activities, they are out on the street patrolling, rather than sitting behind a desk. Moreover, the confidence which the

evidence technicians feel in their special skills enhances their view of themselves as professional police officers. The department is strongly committed to the generalist-specialist role for evidence technicians.

Evidence technician removing equipment from crime scene wagon.





Evidence technician dusts a typewriter for latent prints at a burglary scene. The attache case outfitted as an identification kit sits open on the desk.

Use of the Evidence Technician in Burglaries

The department will continue to concentrate its greatest investigative efforts on crimes against persons:

Homicide, rape, aggravated assault, hit and run—but it will also endeavor to investigate all burglaries. In connection with these property crimes, the department does not arbitrarily set a dollar figure to judge the impor-

tance of the loss to the victim. It is felt that every burglary victim has the right to the services of the evidence technician. Thus, the officer who responded to the theft of the stolen circuit breakers was performing a better

Evidence technician lifts a latent print from typewriter at a burglar scene.



police service than the department could formerly provide.

Evidence technicians strongly support this policy, recalling the embarrassment they had experienced as patrolmen when they had taken a report and the victim asked, "Is that all you can do?" Now citizens of Troy are observing that the police are conducting scientific and careful investigations. And, as long as the workload of the department continues at about its present level, averaging four cases per day where physical evidence may be present, the chief and the commissioner feel that evidence technicians should check every relevant crime scene.

photo processing equipment have cost \$1,450. In all equipment decisions, the department benefited from the advice of the consultant who participated in the training. The 2-week training program was accomplished with no overtime pay.

"Troy's experience in establishing an evidence technician program demonstrates that sophisticated investigative methods of identifying and collecting physical evidence are within the reach of smaller departments."

Evidence Technicians Within the Smaller Departments

Troy's experience in establishing an evidence technician program demonstrates that sophisticated investigative methods of identifying and collecting physical evidence are within the reach of smaller departments. Individual officers can become generalist-specialists where a department is too small to accommodate yet another specialist unit. The development of this expertise among officers of the patrol division enhances the importance of the patrolman within the department and to the public.

FBI



Cost of the Program

The cost of establishing the evidence technician program in Troy was \$13,400, of which a Law Enforcement Assistance Administration grant covered \$11,800. A station wagon costing \$4,200 was used as a crime scene vehicle in preference to an expensive van equipped as a "mobile crime lab." The new search equipment cost a modest \$950 and included a crime scene latent fingerprint kit, a powerful light, a fingerprint camera, a vacuum sweeper, a blood test kit, a seminal fluid test kit, a narcotic field laboratory, a trace metal detector, and a casting kit. An additional camera and

IACP

Speed Limit Survey

A recent survey conducted by the International Association of Chiefs of Police (IACP) indicates that the 55 miles per hour (mi/h) speed limit is apparently diminishing serious accidents and reducing gasoline consumption.

According to the survey, traffic fatalities declined from 55,639 in 1973 to 46,820 in 1976, and disabling injuries dropped from 2 million to 1.8 million in the same 3-year period. The mileage death rate also shows a decrease from 3.5 deaths per 100 million miles traveled in 1975 to 3.3 deaths in 1976, even though the amount of miles traveled increased by 5 percent.

In this country where 25 percent of the energy consumed is

for transportation, the figures for gasoline economy furnish evidence that fuel savings realized by driving 55 mi/h as compared to 70 mi/h range from 17.1 to 39.8 percent, depending on the type of vehicle.

The results of the survey support the IACP's position of favoring compliance with the limit and encouraging effective implementation without diverting resources from other worthwhile selective enforcement programs. However, it should be noted that enforcement of the new speed limit has not been lax. Speeding arrests in 1973 stood at 4 million, while the 1976 total nearly doubled to slightly under 8 million.

Often, the general public may display a certain amount of apathy toward the "friendly" card game. However, this apathy will quickly disappear if it is learned the friendly game involves marked (gaffed) cards.

The Gambling Unit of the FBI Laboratory considers the detection of

considerable sleight of hand. Simply knowing certain cards are marked is valuable, but it is much more advan-

"As compared to the use of crooked dice, cheating at cards often requires considerable sleight of hand."

hand or voice signals, uncustomary movements, or oral expressions to gain an advantage in the game.

The New Deck

Players should not be fooled when an apparently new deck is opened and

The "Friendly" Card Game

gaffed cards to be the most difficult type of examination it undertakes. In order for such an examination to be successful, it is usually necessary for the examiner to possess experience, patience, keen eyesight, and often special equipment. But once the crooked nature of the cards has been discovered, benefits in prosecution may be reaped; the friendly nature of the game is unmasked for the unwary participants and the public in general.

Although a laboratory examination of suspected playing cards is recommended, certain pointers outlined in this article may be of assistance in the field study of evidence obtained in gambling raids.

Dealer Gambits

As compared to the use of crooked dice, cheating at cards often requires

tageous to also be able to deal certain cards to certain players. Furthermore, cheating may be effectively accomplished without marked cards, but rather by palming, second or bottom dealing, or use of signals to a confederate. The detection of such techniques by skilled card mechanics is next to impossible. Thus, the game may be crooked although the cards are straight.

In many instances, card mechanics adopt a telltale grip of the deck with the fingers surrounding the edges of the cards to a greater extent than usual. This maneuver tends to conceal dealing cards other than the one on top. Oftentimes, dealers or other players may pay conspicuous attention to what are believed to be unrevealing backs of cards, which could indicate "reading the backs," or use

dealt. It is a common practice for crooked gamblers to unseal the cellophane wrapper carefully at the seam, slit open the box, mark the cards, and reseal the deck with colorless glue, so that the deception is hardly detectable with the naked eye. New decks should be thoroughly shuffled prior to dealing, inasmuch as they are packaged in the same value-suit order. If this is not done, a player can tell what cards the others may be dealt simply by the ones he possesses.

Marking Techniques

Experience has shown there are literally hundreds of places or formats for the marking of decks. The main concern in marking is to follow some systematic pattern so that the one using the deck may easily remember

the system. One popular method is to select a portion of a design which is essentially circular and to mark around this design in either a clockwise or counterclockwise manner. Another marking is widening portions of the border to form a sort of hump.

“Experience has shown there are literally hundreds of places or formats for the marking of decks.”

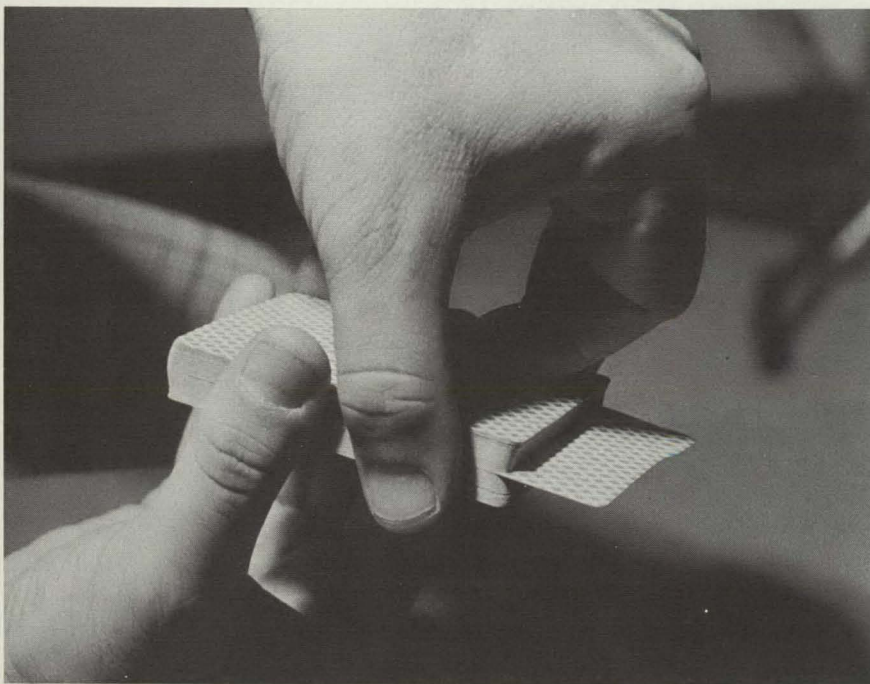
Many adept cheats can make certain limited markings on cards during the course of play. Simple methods include using a fingernail or sharp objects protruding from a ring or bandage to make a slight indentation on certain positions about the tops and edges of key cards. In such games as blackjack or poker, this manner of marking aces and/or face cards can be beneficial to the player “in the know.” These markings are hardly detectable and may appear to come simply from wear and tear on the cards. Sandpaper may be used in a related manner either before or dur-



Sharp protruding objects from a bandage can be used to mark cards. (See arrow.)

ing the game. However, instead of marking the cards on the back, it is generally used to roughen certain portions of the edges.

Key cards with slightly protruding edges can be stripped from the deck.



In addition, various types of gambling daubing materials are available in colors matching the common blue or red ink on playing cards. Here, the cheat surreptitiously puts a bit of daub on a finger and then strategically transfers it lightly to certain portions of certain cards. This imprint can be quite effective in identifying high cards rather than value and suit and has the advantage of possibly disappearing after the cards have been in use a certain amount of time and being indiscernible thereafter.

One type of marked cards, “illuminous readers,” are shaded with a form of paint or ink that becomes readable when one wears specially treated dark or tinted glasses. Thus, a player may harbor some suspicion when he notes others wearing dark glasses. Of course, this same type of colored lens is also available in contact lenses. There even exists a type of eye drops that will enable the user to read the specially marked cards.

“Strippers” are another type of gaffed cards, so named because cer-



Decks with intricate scroll designs offer fertile areas for marking. Colored ink or pencil has been used to thicken lines in this design. (See arrow.)

three most common brands—"Bee," "Bicycle Rider Back," and "Bicycle Fan Back." This is because of their familiarity to cardplayers and the generally accepted feeling that these popular types cannot be marked (or at least are not marked by the reputable manufacturers). To the contrary, any deck may be marked by card companies other than the original manufacturer or by the cheat.

"[A]ny deck may be marked by card companies other than the original manufacturer or by the cheat."

tain cards may be literally "stripped" from the pack. Key cards, such as aces, are made so that the side edges protrude slightly from the rest of the cards when the deck is squared for dealing. Then the dealer surreptitiously strips or slides one or more of these cards from the deck for dealing to whomever he may desire. Although this type of deck is usually purchased in this altered fashion, a deck of strippers can be made by the cheater with sharp scissors or a paper cutter. A similar type of deck has all or some cards more narrow at the "top" than the "bottom," so that if the card is turned end-for-end, there will also be a very slight protrusion ready for "stripping."

It should be noted that occasionally cheats will substitute key cards from another deck of the same design, but with a slightly different finished surface. As a result, when the deck is laid on the table and the upper portion is twisted slightly, the pack will break or slide immediately above or below the card with a different finish. Such a deck may also be rigged by

applying a slick or sticky substance to key cards; e.g., clear wax.

Although numerous designs of card backs are available and used in gambling games, gamblers tend to use the

Since the three most common brands of playing cards have either red or blue coloring in the design on a white backing, these three colors of ink or pencils are obviously used for

This comparison photograph shows the manner in which a colored ink may be used to mark a card.



marking: The red or blue coloring, to add or thicken lines in the design; white coloring, to obliterate or make more narrow certain lines.

The type and extent of marking depends a great deal on the design(s) appearing on the back of the cards being used. There are far fewer ways to mark the regular, simple design; the more intricate the design, the more possibilities for marking.

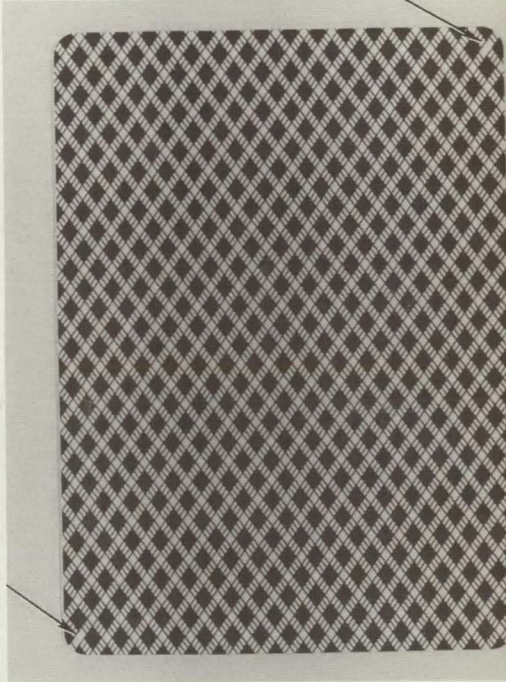
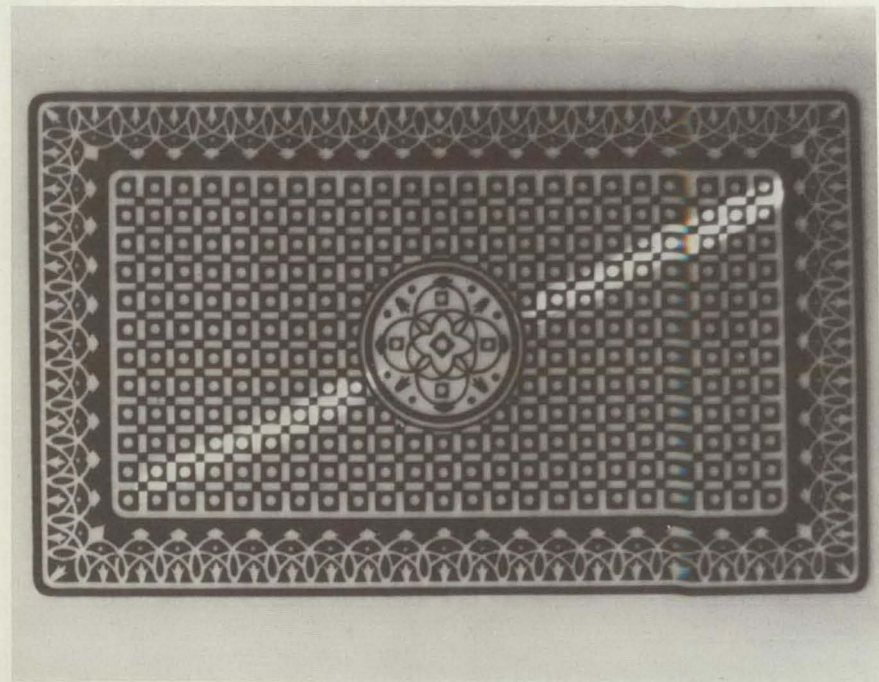
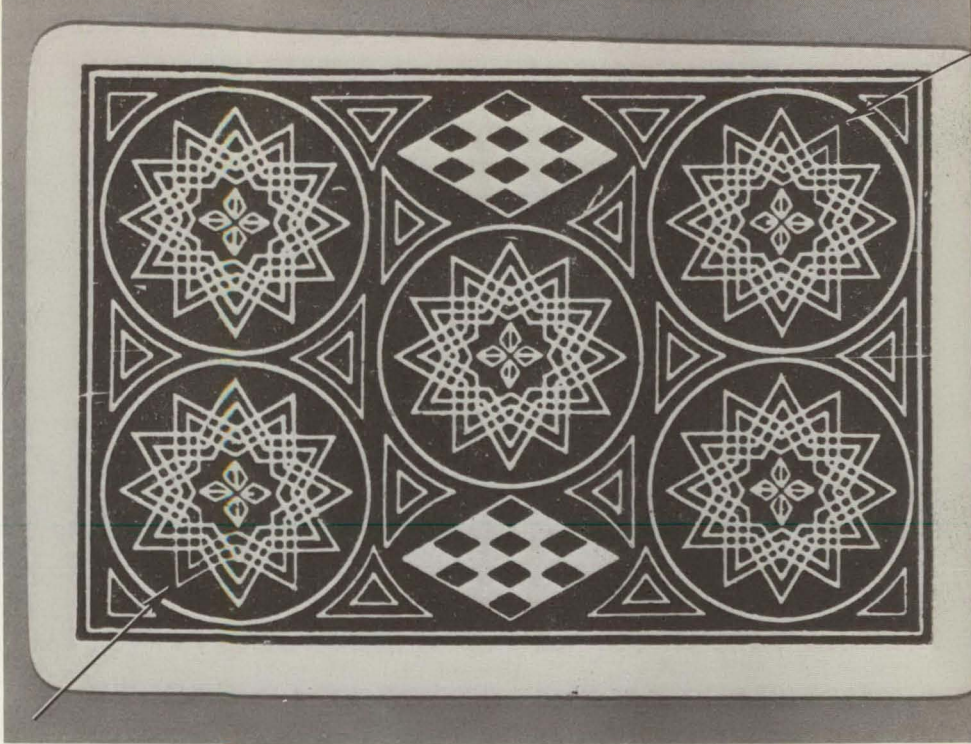
“The type and extent of marking depends a great deal on the design(s) appearing on the back of the cards being used.”

Generally, it can be stated that there is a tendency to favor marking the upper left corner of the cards since this is the portion normally exposed to the other players’ view. However, no fixed rule can be made in this regard. At any rate, the very centers of the cards are usually avoided, and the markings are made about the upper halves of the cards. However, since

Marking as seen with specially treated glasses or contact lenses.

One type of marking is to make more narrow certain lines in the design. (See arrows.)

Arrows indicate where portions of the design have been obliterated to mark the card. Note identical markings on upper and lower portion in the event the card is inverted.



the cards may be inverted by the player, identical markings must also be made on the lower halves of the cards.

“[T]he cheat is interested primarily in [marking] only 2 classes of cards—face cards and 10’s as a group and aces.”

Determining what cards to mark varies with the type of game. In most gambling games, the suit is of little or no importance. Therefore, the four suits are not usually marked. Furthermore, the cheat is interested primarily in only 2 classes of cards—face cards and 10’s as a group and aces. Often, as a result, only 2 types of marks are required—1 for aces, 1 for face cards and 10’s. This makes detection more difficult, while greatly benefiting the crook. Some decks have been found merely with the high cards and low cards marked as groups.

Detection

Because of the myriad of ways of gaffing cards, no complete set of instructions can be formulated. Nevertheless, some helpful hints can be made:

1. Square the deck to ascertain if all cards are of the same size and shape, running the fingers along the sides of the deck.

2. Check the finish on the playing card backs for a difference in type

of surface. This can best be done by holding the card obliquely to a light source.

3. Since the markings usually affect the reflective characteristics of the cards marked and are not absolutely perfectly done, some markings become quite apparent when the cards are held obliquely to the light source or are observed under magnification, if only a simple magnifying glass.

4. Select key cards for careful study and comparison; e.g., face cards or aces, and compare these with normally insignificant cards, such as the 3’s or 4’s. The real effort is particularly in this comparison of key cards, which may take considerable effort and painstaking examination.

5. The study of a card should not be limited to the card as a whole but to the individual portions of the card. This can be very tedious but is required to detect many markings.

6. If some irregularity is found, such as that which might occur through wear and tear, check the same location on the bottom of the card and on other cards of the same value. Of course, if only one card bears a marking, such as a dirty spot or an indentation, that card may be thereafter spotted by the knowledgeable player.

7. A final method of field testing is to square the deck in one’s hand and riffle or flip through the cards. This will be more effective if the cards are put in numerical order. During this procedure, the investigator must care-

fully observe only one small portion of the design at a time through one or more entire riffles. The process is then repeated until all small portions of the backs have been observed. Although this technique is not always effective, it is most revealing once a system of marking is detected and demonstrates how the design seems to move about before one’s eyes.

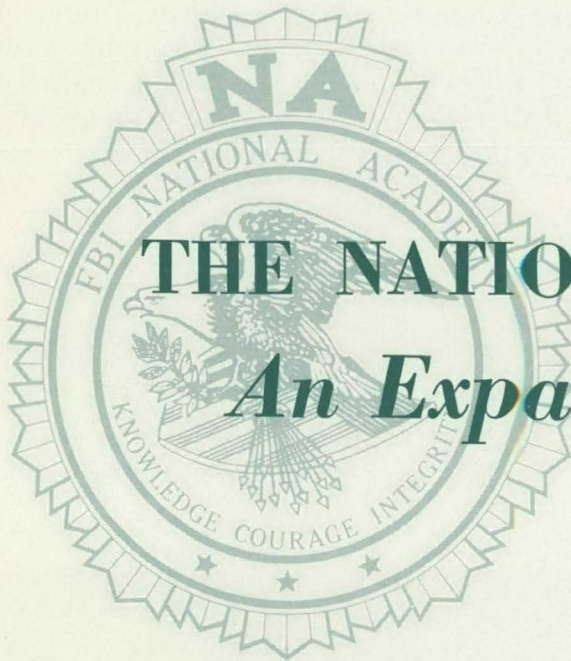
Once a marking system is discovered and developed by full comparison of all cards, people often think how obvious the gaff is. Yet to one in the heat of a card game, this apparently obvious marking will not appear as such. On the other hand, people often think that the marking is so minute that a cheat could hardly recognize it across a table. However, given reasonably good eyesight, a thorough understanding of the marking system, and a minimum of practice, the cheat can very effectively identify all markings even across a large table.

The amount of skill involved in different kinds of card games varies greatly—from “show down poker” and “in between,” requiring relatively little skill, to bridge and cribbage, requiring much more skill. Still, assuming a relatively equal amount of skill of the players and over a relatively lengthy game session, one good indication of cheating may be that certain players consistently win, especially the large pots or critical hands, and especially when certain players (victims) are only barely beaten, so that they are enticed to play and wager heavily. Of course, for the victims’ benefit, this observation or realization may come a bit too late.

As noted above, catching cheats at cards may be extremely difficult, and the outlined suggestions may be helpful. Nevertheless, if suspected cards are checked and no gaffing noted, a more thorough and complete laboratory examination is recommended using special equipment and techniques by experienced examiners.

Widening the border to form a hump is a marking that can be used on any brand of playing cards. (See arrow.)





THE NATIONAL ACADEMY— *An Expanded Horizon*

Graduation exercises were held June 16, 1977, closing the 109th Session of the FBI National Academy. The 11 weeks of advanced training for the 249 select officers concluded with commencement proceedings held in the auditorium of the FBI training complex in Quantico, Va. Many friends and relatives, along with various distinguished guests, gathered to observe this special event.

Officers comprising the 109th Session represented law enforcement

agencies from all 50 States, the District of Columbia, the Virgin Islands, and 6 foreign countries.

This session boasted the 11,000th officer to receive advanced training in such vital areas of law enforcement as ethics, legal matters, urban police problems, police management, and behavioral sciences.

Following a musical selection by the U.S. Marine Band, Assistant Director William A. Meincke of the

Mr. Timothy James, Agent in Charge, Organized Crime Division, Texas Attorney General's Office, is shown addressing the graduating class of the 109th Session of the FBI National Academy.



FBI's Training Division called the proceedings to order. The invocation was then delivered by Capt. A. Wayne Riggs, Chaplain Corps, U.S. Navy.

Mr. Timothy James, Agent in Charge of the Organized Crime Division, Texas Attorney General's Office, was introduced as the elected class spokesman. "These past eleven weeks," began Mr. James, "have given us a great deal of insight, not only into ourselves, but into this fast paced and highly complex society, into our roles as law enforcement officers."

He went on to say that "although our unique fraternal bond of professional brotherhood makes communication between ourselves relatively easy, we sometimes tend to overlook our families, our loved ones and the community whom we serve and protect in this informal communications network."

Mr. James stressed that it is more often the families of law enforcement officers that suffer from the criticisms of today's law enforcement officer.

In closing, he stated that the National Academy "has also given us a new beginning, a renewed spirit, an expanded horizon and a rededication to those lofty ideals of professional law enforcement. It has given us the focusing of the knowledge necessary to articulate to our communities the concerns and the goals of our role as modern law enforcement officers. It has given us the perspective and perhaps the necessary discretion to challenge the criticisms of the naysayer; to firmly, forcefully and knowledgeably stand proudly in our chosen field and speak to those who would look upon us with only criticism . . ."

Following this address, Mr.

Meinke introduced FBI Director Clarence M. Kelley who began by expressing appreciation to the Marine Corps for their continuing help and interest in National Academy affairs. Director Kelley stated, "It was at the invitation of the Marine Corps, and by special congressional appropriation and authorization, the building we now know as the Old Academy here at Quantico was initiated . . . And though our battles in defense of this great Republic are fought on different fronts, we are very proud of the unique relationships which we always had with the United States Marine Corps."

Mr. Kelley then told the graduates, "You were professionals when you came here. We can enhance your professionalism only if we offer you training above and beyond that which you received elsewhere."

"The traditions of professionalism, performance and productivity are vital to law enforcement," concluded the

Director, "and I hope they have been enhanced for you in the past eleven weeks. But there is another important dimension apparent on occasions such as this. That dimension derives in part from the quality of the officers who come here. Duty is the foundation of that dimension and service is its hallmark. Friendship enlarges and enriches it. You will find the dimension of which I speak in FBI National Academy graduates wherever they reflect a high degree of training and they embody a professional fellowship which now embraces all of you."

Following his remarks to the graduating officers, Mr. Kelley then introduced the principal speaker, Gen. Louis H. Wilson, Jr., Commandant of the U.S. Marine Corps.

In his speech, General Wilson compared the similarities of the military and the law enforcement profession. "We, the military, the law enforcement agencies both Federal and local . . . we all have been accused at one

Gen. Louis H. Wilson, Jr., Commandant, United States Marine Corps, delivered the principal address.





Pictured with FBI Director Clarence M. Kelley are the five section leaders of the 109th Session. Shown, left to right, are: Mr. William E. Crosier, Assistant Chief of Police, Willoughby Police Department, Willoughby, Ohio; Mr. Timothy James, Agent in Charge, Organized Crime Division, Texas State Attorney General's Office, Austin, Tex.; Sgt. Anthony Joseph Mancuso, Rhode Island State Police, North Scituate, R.I.; Director Kelley; Lt. Edwin V. Secott, Pennsylvania State Police, Harrisburg, Pa.; and Det. Sgt. John J. Carney, New Jersey State Police, West Trenton, N.J.

time or another of being a threat to freedom," he stated. "We have all been thought of as expensive, unnecessary, even brutal and inhuman. . . . Yet, what those who point the finger fail to realize is that by doing the jobs we have to do and by doing them well, we, in a real way, help guarantee the freedoms that our critics profess to fear of losing."

The Commandant said that he felt a strong military force is essential for continued freedom. "We must be strong enough so that free enterprise, imagination, and creativity can flourish at home," he added. General Wilson then averred that there is a real need for strong law enforcement agencies dedicated to protect society from internal threats, such as burglary and

assault.

He also stressed the importance of discipline in dealing effectively as a people and as a Nation against threats to our freedom. Another similarity between military and law enforcement, he explained, is the "common calling of helping provide deterrents and maintaining order among men. And, of course, a strong military force and sound law enforcement structure, both with solid discipline, are needed if we are to remain free."

In his closing remarks, General Wilson left two thoughts for the graduates. The first thought was that "too much military clout during peacetime may always strike some as wasteful or extravagant; and a large, highly visible police force in a democracy always

are seen by some as threatening or dangerous. But those needs for both internal and external security forces, despite the critics, cannot be ignored." He continued, "And second, while we Americans may debate and while we may dissent and while we may disagree, I believe firmly that unstinting integrity, loyalty, and professionalism will carry the day and our country will be stronger for it."

Following this address, Insp. James V. Cotter, Supervisor of the National Academy program, presented the class to Director Kelley, who then awarded the diplomas.

The program was concluded with a benediction and the rendering of the National Anthem by the U.S. Marine Band.

Multnomah County's River Patrol



Among the several thousand vessels cruising the rivers, lakes, and streams within and near Metropolitan Portland, Oreg., are the boats of the Multnomah County Sheriff's Office River Patrol. An arm of the Multnomah County Division of Public Safety, the men of the patrol cover 93 miles of waterways along the picturesque north-central boundary of the State of Oregon.

The River Patrol, which operates under a contractual agreement with the Oregon State Marine Board, has responsibility for waterways in and surrounding the city of Portland,

which include the Columbia, Willamette, and Sandy Rivers, as well as several minor tributaries, streams, and lakes. Of primary importance is the patrol of the Columbia River, separating the States of Oregon and Washington.

Created in 1960, the River Patrol first consisted of two deputies and a single boat. It was in operation during the summer boating season only, primarily on weekends. During the fall and winter months, the deputies were assigned to uniform patrol duties. Because of increased criminal problems, including thefts of and from

boats and vandalism to boats and moorages, coupled with the upsurge in waterborne activities, the patrol was made a year-round operation in 1961. It now has four craft: Two welded-aluminum, specially designed and built patrol boats; a flat-bottomed, waterjet-propelled "sled" (used for traversing the rapids and white waters of the surrounding smaller, snow-fed rivers); and a self-powered diving barge. Four deputies are assigned to the unit on a full-time basis; three additional deputies are assigned during the 6-month peak boating season.

By

SGT. JAMES A. DAVIS
Sheriff's Office
Multnomah County, Oreg.



function of the section; to insure boater safety through public education; assistance, and cooperation with outside agencies; and patrol of county waters. The policy is also predicated on the knowledge that the majority of boat operators are vitally interested in safety—that of the other boater as well as their own. Generally, therefore, boaters have the desire (and exert considerable effort) not only to obey the law but to exceed the legal safety requirements.”

The manual continues:

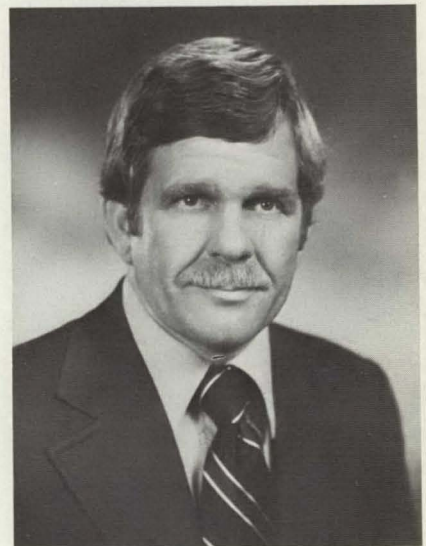
“... the River Patrol will actively attempt public education (and will) assist and support outside agencies. In addition to these activities, the River Patrol will take direct enforcement action.”

The first function of the unit is boater safety—enforcement and investigation run a distant second and third.

Despite its many and varied duties, the patrol has maintained a low profile, and even those who use the rivers in the area seldom understand its purpose. It has been stated by the local news media that the patrol may be the least known and most often misunderstood arm of local law enforcement. The cloud of misapprehension goes beyond the public, extending into the ranks of the very department of which the unit is a part. As one River Patrol officer states, “Everyone thinks this is a bikini run. The bikinis last about 3

months, 3 of the busiest months of the year; 3 months when we’re too busy to care. We’re here all year.”

All year the members of the patrol are there—inspecting, assisting, educating, and too often, searching for or



Sheriff Edgar E. Martin

recovering one of the nearly 1 million in population or more than 51,000 boats in the metropolitan area. They carry out their duties not only in the pleasant summer months, but during the winter period when severe winds and icing conditions make the duty far from pleasant.

Training

The River Patrol deputies are among the best trained law enforcement officers in the State. In addition to meeting the requirements for “advanced” certification as police officers

Responsibilities

The primary responsibility of the River Patrol is educating the general public in safe boating practices and assuring they and their boats comply with safety regulations. The patrol is not as concerned with making arrests or issuing citations as it is with assisting the public whenever possible. In fact, the preamble to the 40-page comprehensive “Manual of Unit Procedures” reads:

“The enforcement policy of the Multnomah County River Patrol is based on the primary

by the Oregon State Board on Police Standards and Training, marine deputies must attend a variety of other schools and comply with further requirements, including completing a marine law enforcement program conducted by the Oregon State Marine Board.

Other courses include firefighting on boats, houseboats, and boathouses. The officers attend U.S. Coast Guard "boarding schools" on Federal laws, documentation of vessels, and aircraft crash/emergency rescue procedures. Most officers also continue their boating education by enrolling in U.S. Coast Guard or U.S. Power Squadron advanced courses. Some pursue college-level courses relating to law enforcement, marine studies, or the like. The River Patrol, in addition, maintains a continuous, updated training program in all aspects of water usage.



Craft of the Multnomah County's River Patrol.

"The River Patrol . . . maintains a continuous, updated training program in all aspects of water usage."

This training supplements the programs in which the officers voluntarily enroll.

The deputies are well-trained and eminently qualified to carry out the mission of the unit: that of decreasing the possibility of tragedy by boarding and inspecting boats and by assisting and educating boaters, swimmers, and waterskiers.

Tactical Operations

Upon boarding a boat, the officers first check the possible violation that attracted their attention. They then make a safety check to ascertain that all required equipment is aboard. While equipment requirements vary with type and class of vessel, the inspection generally involves the number and adequacy of personal flotation devices, presence of flame arrestor and fire extinguisher(s), ventilation, and so on. Deputies generally discuss boating safety with the operator and give him a copy of the "Oregon Boaters' Handbook." The booklet explains State boating regulations and safety requirements. In addition, it offers information regarding river markings, buoys, and signing. The boardings,



Officers aid accident victim.

rather than taking on the character of a confrontation, often end with an admonition from the deputy and thanks and a handshake from the operator.

It has been the experience of the unit that the warning, generally given verbally, is an excellent educational tool. Often, if cited, the operator pays the court-imposed fine, but fails to correct the cause of the citation. The personnel of the River Patrol would by far prefer that he spend his money to correct equipment deficiencies and thus protect himself and his passengers from possible tragedy.

In 1975, unit members boarded and inspected 2,811 boats, warning 1,635 operators. Boaters who are given warnings are generally checked again. They are seldom found to be in violation at the time of the rein-

spection.

Although the patrol renders a variety of services to boaters, the immensity of the area to be covered precludes its giving the type of assistance the boaters sometimes desire or expect.

If a boat is out of fuel, the patrol will either tow the vessel to the nearest dock so that it can be safely secured and the operator can obtain further assistance, or if the operator has money to purchase fuel, tow the boat to the nearest gas dock. Many boaters, surprisingly, carry no cash, as wallets are often left on beaches, in cars, or at home.

Should a disabled vessel beach on one of the many islands that dot the Columbia River or a boat fail in mid-stream, the boat is towed to the nearest

safe harbor or dock where the operator can make arrangements for repairs. Although boaters frequently request to be towed to the marina, moorage, or launching ramp where their trips began, the patrol is often unable to comply with those requests because of the distances and time involved. The officers must always con-

"The officers must always consider the possibility of receiving an emergency call and must be able to respond rapidly."

sider the possibility of receiving an emergency call and must be able to respond rapidly. If they were involved in a long tow, the officers would have to either desert the vessel under tow or



An officer inspects a vessel for a possible violation.

delay their response to the more serious situation. Neither alternative could be considered viable.

"Along with the very active inspection and enforcement program, the unit maintains a highly proficient search, rescue, and recovery capability."

Along with the very active inspection and enforcement program, the unit maintains a highly proficient search, rescue, and recovery capability. Patrol officers are well trained in land, above-water, and underwater search techniques. Many members of other units within the Multnomah County Division of Public Safety are trained and certified scuba divers. These officers augment the River Patrol's own divers. During the peak boating season, officers respond to numerous overdue-boater calls, drownings, missing persons and lost children reports, and so on. After the boating "season" ends, they are faced with new problems. Duck hunters become stranded on islands. Anglers set out in small boats in search of the elusive salmon, often amid snow, ice, and bitter-cold east winds that move out of Canada and down the Columbia River Gorge.

Besides enforcing State safety regulations and county ordinances, assisting disabled or sinking boats, and providing search and rescue services, the patrol has many other duties. It provides the only waterborne fire protection based on the Columbia River, excluding the city of Portland. All patrol boats are equipped with two fire pumps. Officers have fought boat fires, moorage fires, and grass and brush fires on the heavily used islands. The unit administers first aid and ambulance services on the water, and officers keep a watchful and protective eye on millions of dollars worth of boats in local moorages. Boating

safety presentations are made to civic groups, yacht clubs, and are planned for schools within the county.

Commendations

The patrol has earned numerous awards and received many letters of appreciation from the boating industry, governmental bodies, and the public. Three major awards have been presented to individual members of the unit: Two bronze plaques from the Oregon State Marine Board, and a Department of Public Safety Commendation.



In 1966, the Multnomah County River Patrol as a unit was awarded a commendation "in recognition of an outstanding contribution to safe boating in Oregon" presented by the Oregon State Marine Board. In 1967, the unit won the Governor's Award, a bronze plaque awarded to law enforcement agencies for "outstanding contributions" within the field of boating safety.

Diversifications

Members of the unit have assisted the Oregon State Marine Board in obtaining needed revisions in State marine laws by offering testimony before the legislature (and legislative committees) on many occasions. Unit officers designed the Uniform Marine Citation and Complaint form used in


Multnomah County and assisted in the adoption of the form for statewide use. The Motorboat Inspection Report, designed and used by the River Patrol for several years, has also been approved by the marine board and is now in use throughout the State.

Members of the patrol serve as lecturers and/or panel members at many conferences, schools, and classes dealing in boating safety. Officers have been subpoenaed to courts within the State to present testimony regarding the effects of currents and water depths. This testimony, bordering on "expert," has been of benefit and has been well received by the courts.

The members of the unit have assisted other county and local jurisdictions in building their water safety programs. In addition, the patrol has aided State and local agencies in developing needed water safety legislation.

"[T]he patrol has aided State and local agencies in developing needed water safety legislation."

A full-scale crime prevention program on and near the waters of the county has been launched by the patrol. Officers have developed (or are developing) security systems for private clubs, moorages, and trailer/boat enthusiasts. Unit members speak to sports, water, and other interested groups on methods of protecting boating or water-related equipment. Programs concerning water safety are being formulated by the unit and will be offered to the elementary, middle, and high schools throughout the county.

Far from remaining static, the Multnomah County River Patrol, working with the Division of Public Safety, continues to progress. All members of the patrol welcome the challenge to meet the unit's growing responsibilities in the field of water safety. 

Special Weapons and Tactics Teams: *A Systems Approach*

By

LT. GERALD W. BOYD
Commander
Special Operations Unit
Irvine Police Department
Irvine, Calif.

Approximately 10 years ago, a number of perceptive law enforcement agencies on the Federal, State, and local levels across this Nation recognized the need for the development of specialized cadres of personnel trained and equipped to deal with dangerous, armed-suspect confrontations. Early innovators in this regard were the Federal Bureau of Investigation, the New York City Police Department, the Los Angeles Police Department, and the Los Angeles County Sheriff's Department. Each of these departments realized that for too many years qualified, experienced police officers across the Nation had been dying needlessly in armed confrontations with extremist groups, terrorists, mentally deranged persons, and criminals.

It was time to develop specially trained and equipped teams who would be proficient in the use of tactical techniques and operations designed to terminate armed confrontations with minimum use of force.

Emphasis would be placed upon the safe release of hostages and apprehension of the perpetrators through negotiation.

Justification for the teams is found in the daily encounters that occur in this country between law enforcement personnel and suspects fleeing from crime, mentally disturbed individuals, and those involved in domestic and neighborhood disputes. "Routine" incidents such as these account for far more gun battles and police officer injuries and deaths than the more newsworthy conflicts between police and militant or terrorist groups. In the month of December 1976 in the greater Metropolitan Los Angeles area alone, some 16 barricaded suspect confrontations took place, all of them involving violators of local or State laws. It is to deal with the ongoing, rather than the exceptional, armed-suspect incidents that Special Weap-



ons and Tactics (SWAT) teams were initially organized, and it is for the purpose of coping with precisely those types of daily occurrences that the units remain in existence and that new groups of similar nature are being created continually.

Agencies of varying sizes have adopted the SWAT concept in one form or another. Whether entitled SWAT, Special Operations Unit, STRIKE team, or one of the many other commonplace terms used, the capability these groups ideally possess is the same. Their mission is to resolve, with minimum force, armed confrontations without injury to anyone. The prevailing philosophy of the SWAT movement is, in all cases, to attempt to negotiate the release of hostages and the surrender of suspects without the need for aggressive, tactical deployment of police personnel. In the event a negotiated conclusion is impossible, force is generally utilized in predetermined increments, with the use of deadly force reserved as a last resort.

"The need for continued maintenance of special weapons capabilities is mandated by increased levels of crime, violence, and terrorism, not only within our own Nation but throughout the world."

The need for continued maintenance of special weapons capabilities is mandated by increased levels of crime, violence, and terrorism, not only within our own Nation but throughout the world. In an address to the International Association of Chiefs of Police Annual Conference held in Denver, Colo., in September 1975, Los Angeles, Calif., Police Commissioner Samuel Williams discussed the extent of the problem. Alluding to the May 17, 1974, armed confrontation between law enforce-

ment officers and purported members of the Symbionese Liberation Army in Los Angeles, he commented:

"The threat which existed in Los Angeles in May 1974 was not an isolated phenomenon. Terrorism, as very recent events remind us, is a frequent, and even anticipated, occurrence nowadays. From Munich to Malaysia to Buenos Aires and Belfast, violence . . . has become almost horribly routine."¹

In an address to that same conference, Deputy Chief A. E. Oliver of the Vancouver, British Columbia, Police Department stated:

"The past 10 years will probably be recorded in Canadian history as the 'decade of violence.' This time span produced the greatest upsurge in crime ever experienced in Canada. It was certainly the largest crime rise ever recorded since the provinces were joined together to form the Dominion of Canada.

"Murders and attempts, robberies, rapes, assaults, and gun incidents rose by 300 percent."²

Rappelling is among the exercises in the SOU's physical training program.



It can be fairly stated most law enforcement administrators resolutely believe that effectively dealing with such incidents in modern society requires specialized cadres of highly trained officers. Citizens, however, do not always concur. While popularized police TV programs may engender some support for the SWAT function, that support is by no means universal. Regardless, we are faced at present with two basic facts: First, the need for SWAT capabilities will likely continue in perhaps all but the smallest police departments; and second, such units will remain under heavy public scrutiny in a very critical fashion.

The concern of contemporary police administrators and operational command personnel must then be directed toward the perfection of the SWAT component of police operations. The highest possible level of service, coupled with the need to minimize tragic occurrences, becomes a paramount goal. One of the most frequent problems encountered is a lack of basic training and ongoing proficiency maintenance by team personnel. Of even greater impact is the lack of training provided a department's non-special weapons team personnel. Un-

less the entire department has an understanding of the team's purpose and function, a commitment to support it, and the necessary expertise, perfection in SWAT missions is unlikely. In the absence of perfection, tragedies, or near tragedies, are probable results.

"[T]he systems approach [is] one in which any given police function is viewed not as separate and distinct from all other police functions but as part of an interrelated series of activities mutually dependent on one another."

A seldom-considered solution to the aforementioned problems is the systems approach—one in which any given police function is viewed not as separate and distinct from all other police functions but as part of an interrelated series of activities mutually dependent on one another.³ It treats the police agency as a whole entity with interdependent parts, the SWAT unit being one of those components. Many police agencies adopting the

systems approach have effectively and successfully integrated the SWAT unit with other department units and functions. Other agencies have had problems.

Many police departments consider the formation of a SWAT team only after experiencing a barricaded suspect incident which results in an officer being injured or killed, or the incident being otherwise mishandled. Some develop the capability upon direction of the chief of police; others at the insistence of personnel who are successful in convincing department administrators of the desirability of such units. In most cases where creation of SWAT teams is relatively spontaneous, the equipping, training, and integration of the unit into total department operations tends to be deficient. Only when the advantages of a well-trained, sufficiently equipped, disciplined, and properly structured unit are recognized does a proficient and professional capability result.

Likewise, some police agencies have become enamored with the SWAT concept, but have done little to imple-

ment it other than create a "team" outfitted in distinctive jumpsuits and proclaimed to be "special." Often, the same patrol officers or detectives who responded to special weapons-type incidents prior to the creation of the unit are assigned to the team without benefit of specialized training or any effort to establish policies and procedures relative to the proper use of such groups.

Any unit so ill-conceived is almost certainly doomed to failure which, in some incidents, is deadly. Yet, a few police administrators naively accept SWAT teams and openly brag of them, regardless of their proficiency. In modern police circles, the greater error rests not in the failure to establish teams, but in the fact they are created in name only without adequate training. This all-too-common practice not only constitutes a disservice to the public which the agency serves, but it is totally unfair to the officers assigned to the unit.

What then is the answer to the modern police administrator's dilemma, especially when he is faced with a rise in violent, armed confrontations? The answer may well be found in a systems approach to the problem.

The systems approach to the special weapons capability requires the recognition of a basic fact, one that is simple yet frequently ignored. Special Weapons and Tactics teams are not unique, elite groups separate and distinct from the rest of the police organization. To consider them as such results in several negative effects, the foremost being a potentially high level of resentment on the part of other police personnel toward members of the team and its concept. This resentment results from not only being excluded from the unit, but also from a basic lack of understanding as to how the unit might benefit them. Arising from these hard feelings is an unwillingness to accept the merits of developing specialized capabilities,

The role of communications personnel in SOU operations is discussed with a radio dispatcher by Chief Peart (left) and Lieutenant Boyd.



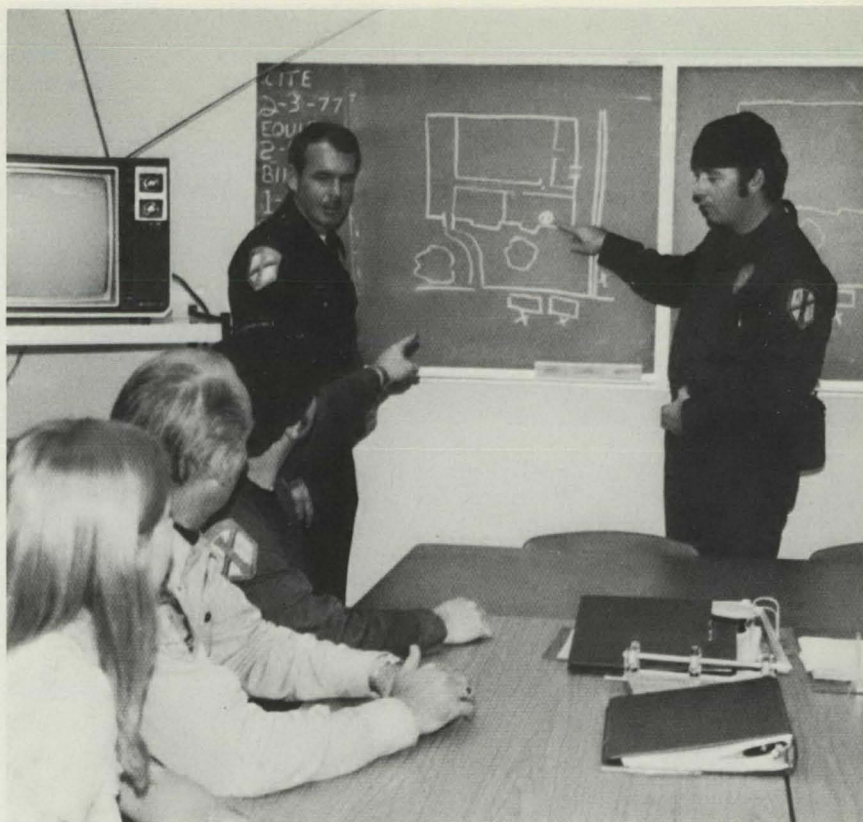
coupled with a further reluctance to utilize the services of such a group, or if utilized, to cooperate with it in a team effort.

Even if resentment of the concept and team members can be avoided, a second equally detrimental effect, the inability of other department units to function in concert with and support of the special weapons component in crucial operations, usually results. This is due to an unfamiliarity with the team's purpose and capabilities.

The systems approach greatly reduces and frequently eliminates the above-noted difficulties. It does so because the entire department gains an understanding of and appreciation for the role of the specialized groups and a thorough understanding of how their activities support the SWAT complement, making them part of the team.

For instance, the Irvine Police Department was created on July 1, 1975, to serve a city situated in a rapidly growing area of southern California, an area of considerable affluence. Residents of the city have been, since the department's inception, extremely demanding in terms of requiring "non-traditional" police services delivered in a nonauthoritarian manner. Thus, it would appear almost inconceivable that this community would accept a cadre of police officers commonly referred to as a SWAT team.

Early in the agency's history, administrators and officers alike recognized that a department serving approximately 44,000 citizens over an area of more than 42 square miles was likely to require officers with specialized capabilities. Just 1 month after the department became operational, it experienced its first barricaded suspect incident in a densely populated residential area of the city. Not having its own special weapons team, the department requested the services of an adjacent police jurisdiction. However, due to geographic



Special Weapons and Tactics training sessions were attended by Irvine patrol personnel, radio dispatchers, and representatives from adjacent police agencies.

separation between Irvine and the other municipality, an excessive timelag resulted from time of request to time of response. The special weapons team of the adjacent city was thoroughly trained and extremely proficient, but difficulties were experienced in handling the incident because of the lack of familiarity of Irvine police personnel with the mission of the group. The incident was terminated successfully, however, and shortly thereafter, a debriefing was held with the chief of police, the command staff, and officers of the department who had been involved in the incident.

As a result of that meeting, a commitment was made to develop a Special Weapons and Tactics capability. Rather than rush into such an undertaking with the chance of creating an ill-trained, poorly equipped team, it

was decided to phase into the SWAT concept over a 6-month period.

One of the department's operations lieutenants, who had previous exposure to the SWAT function, was assigned the responsibility of organizing, training, equipping, and integrating the team into overall department operations.

To properly describe the unit's function, which included personal and VIP security assignments and major disaster response, as well as SWAT activities, it was decided to refer to the team as the "Special Operations Unit" (SOU).

Rather than approach individual officers known for their proficiency in weaponry and recruit them for the unit, the department openly stated its intention of developing a specialized capability to all peace officer personnel. Interested officers, regardless

of assignment, were invited to attend a series of informational briefings on the unit and its training program, types of assignments, on-call procedures, and items of equipment. Suggestions of interested personnel were solicited and considered prior to the actual selection of team members and initiation of the training program. Many officers, who ultimately elected not to seek assignment to the two SOU teams, were at least exposed to the concept and gained an appreciation for the capabilities which the unit would possess once the basic training program was completed. Most importantly, those officers derived a clear view of how they, as patrol officers or investigators, fit into the SOU "system" within their current non-SOU assignment.

Following the orientation meetings, a copy of the comprehensive training agenda was disseminated. The basic training program consisted of some 60 hours of exposure to the following: Specialized uniform equipment; specialized weaponry; chemical agents and their use; approach, entry, and search and arrest techniques; use of specialized equipment; physical training and conditioning; and hostage negotiation techniques. This basic training would be supplemented by ongoing training sessions held several times a month. To those who expressed interest in team membership, a comprehensive manual of policies and procedures, as well as voluminous training bulletins, was provided well in advance of the first training session.

What made the Irvine approach unique and systematic from the outset was the fact that the Special Operations Unit's philosophy, training, etc., was not kept a carefully guarded secret from other police personnel in the department. The same written training material provided to the SOU members was made available to each officer, as well as the written policies and procedures attendant to the SOU

operation. The written material was reinforced by several training video tapes, which were presented at various patrol briefings held for field personnel. In addition, monthly training tests were administered to patrol officers and investigators to insure their understanding of vital information contained in the department's policies and procedures relating to the SOU function.

As the two SOU teams progressed through the 4-month inservice training program, patrol supervisors, middle management personnel, line officers, investigators, and the chief of police were given an opportunity to view the training first hand. In some instances, non-SOU personnel actually participated in certain field training problems. Officers of the Irvine Police Department assigned to the University of California were also exposed to unit training in anticipation of future on-campus incidents to which the Special Operations Unit might respond.



Chief of Police Leo E. Peart

Training was afforded by various experts within the department, as well as clinical psychologists, representatives of the Federal Bureau of Investigation, Orange County Fire Depart-

ment personnel, and others. In addition, nonpolice agencies, such as water and power companies, which might become involved in a SOU incident, were exposed to procedures and their support role clearly defined and discussed.

The thrust of the entire approach was to insure that by the time the SOU teams became operational the members would be highly skilled in their specialty and that those who would command or support the teams would be equally prepared to assume their roles.

As the success of a special weapons unit operation depends heavily upon the performance of patrol officers who initially respond to barricade incidents, two additional training video tape segments were shown to all patrol officers, just prior to the activation of the Special Operations Unit. Again, the "team" aspect of the SOU was stressed, emphasizing that it is not an elite, self-sufficient group.

Two factors reinforce the partnership attitude between the unit and other members of the department: One, assignment to the unit is a collateral, voluntary duty—not a full-time assignment; and two, members of the two unit teams represent a cross section within the department. While some of the unit members are assigned to patrol duties, others are drawn from the investigative, traffic, crime prevention, and school resource officer operations. Thus, daily conversations between unit members and others in the department contribute, in an informal way, to a more thorough understanding of and appreciation for the unit and its purpose.

As further evidence of the systems approach to SWAT operations, consider the fact that such units depend heavily upon information—information which must be timely and accurate. The sources of information with which SWAT teams are most concerned begin with the initial telephone

call placed by a citizen informant to the police department, generally received by a civilian dispatcher or communications person. The maximum amount of relevant information for communication to field officers is needed. The systems approach dictates an awareness of SWAT needs and an understanding of the types of information which must be gathered and disseminated to the field specialists by communications staffers. Recognizing this, the Irvine Police Department included its nonpolice classification complaint desk and radio dispatch personnel in its SOU orientation pro-

gram and designated portions of several video tape training programs to a discussion of the role of such personnel in SOU incidents.

"It is only when the systems approach to [Special Weapons and Tactics] operations becomes more common that the mistakes of the past will be avoided and true efficiency and effectiveness will result."

The advantages of this approach are obvious, if one compares it to the

manner in which many special weapons teams have been established over the past few years. It is only when the systems approach to such operations becomes more common that the mistakes of the past will be avoided and true efficiency and effectiveness will result.

FBI

FOOTNOTES

¹ Samuel Williams, "Contemporary Violence, The Police Response." *The Police Yearbook* (Gaithersburg, Md.: International Association of Chiefs of Police, 1976).

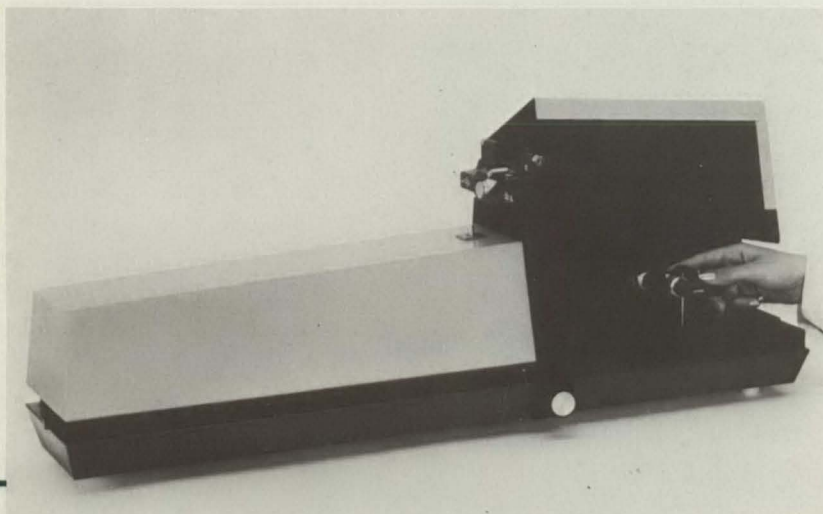
² A. E. Oliver, op. cit.

³ Stanley Young, *Management, A Systems Approach* (Glenview, Ill.: Scott-Foresman, Inc., 1967).

Positive Gem Identification



Random pattern of different sized and shaped points which are generally sharply defined.



LAB The FBI Laboratory has always had the capability to determine real diamonds from imitations, including zircons, synthetic rutile, strontium titanate, and others. Recently, the capability of positive identification of a stolen diamond has been added, if a photograph of the gem was taken prior to the theft and no alteration of the stone has been made.

The innovative instrument utilized by the Laboratory to aid in identification consists of a ruby laser light source, a holder for Polaroid film, and a device for positioning the gem. A photograph of the gem is taken by directing the laser light through the table surface of the diamond so that the light is reflected by the lower facets back onto the Polaroid film, resulting in an array of small bright spots. Due to the lack of precise control by the gemcutter when fashioning the stone, no two diamonds would be expected to have the same pattern of spots, thereby making positive identification a possibility.

Use of Deadly Force to Arrest a Fleeing Felon— *A Constitutional Challenge*

By

J. PAUL BOUTWELL

Special Agent
Legal Counsel Division
Federal Bureau of Investigation
Washington, D.C.

PART 1

INTRODUCTION

From the 15th century to the present day, a law enforcement officer's use of deadly force¹ to apprehend one fleeing from a crime has been largely governed by the felony-misdemeanor classification of crimes.² An officer may use deadly force to prevent the escape of a fleeing felon, but he may not use such force to apprehend a fleeing misdemeanor. The rationale for permitting deadly force to be used against a felon, at least at early common law and in 18th century America, was that all felonies—murder, rape, manslaughter, robbery, sodomy, mayhem, burglary, arson, prison break, and larceny—were punished by death.³ The use of deadly force was seen as merely speeding up the process. "It made little difference if the suspected felon were killed in the process of capture since, in the eyes of the law, he had already forfeited his life by committing the felony."⁴

On the other hand, deadly force could not be used against a fleeing misdemeanor under any circumstances. "[T]o permit the life of one charged with a mere misdemeanor to be taken when fleeing from the officer would, aside from its inhumanity, be productive of more abuse than good. . . . The security of person and property is not endangered by a petty of-

fender being at large. . . ."⁵

Through the years, the line between felonies and misdemeanors has become less distinct. The number of crimes classified as felonies has increased significantly. Our concept of punishment has undergone substantial changes since the early days of common law. Yet, there has not been a significant change in the rule permitting the use of deadly force to arrest any fleeing felon. This has meant, therefore, that deadly force is authorized in many more situations today than existed in earlier days.

While there is general agreement that deadly force is justified against a fleeing felon when the felony committed is a dangerous or violent one, there is considerable controversy over the use of such force when the felony is a minor, nonviolent one. The argument is that many of today's minor felonies are simply not analogous to the felony classification at common

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.

law when the fleeing felon rule was formulated.

"While there is general agreement that deadly force is justified against a fleeing felon when the felony committed is a dangerous or violent one, there is considerable controversy over the use of such force when the felony is a minor, nonviolent one."

Efforts to reform the common law fleeing felon rule have been directed primarily toward limiting the use of deadly force to dangerous felons. While there has been some movement away from the "any felony" rule during this century, it has remained essentially intact. Those who have sought to restrict the use of deadly force in arrest situations have done so on four fronts; namely, (1) legislative reform, (2) State civil court action, (3) departmental policy restrictions, and (4) challenge to the rule's constitutionality.

One State's codification of the common law fleeing felon rule has been declared unconstitutional by a Federal court of appeals.⁶ While the U.S. Supreme Court vacated judgment in the case they did so on a procedural deficiency and not on the merits of the court's holding.⁷ Therefore, the opinion of the appeals court continues to represent, at least on the merits, a conflict with other Federal circuits as to whether the use of deadly force to apprehend a nondangerous fleeing felon is a constitutional violation.

This article, while discussing efforts made toward legislative reform and departmental policy restrictions, emphasizes the challenge that has been made in Federal court to the constitutionality of the rule. This type of litigation will be distinguished from a State court civil suit.

THE COMMON LAW FLEEING FELON RULE

The Common law rule permitting the use of deadly force to effect the arrest of any fleeing felon has been both severely criticized and staunchly defended. A summary of the commonly expressed arguments for and against the rule is presented to bring the different views into sharp focus. Even though some of the points are more moral and sociological than legal, they should add to our understanding of the rule and illustrate why controversy seems to develop when the rule is discussed.

Argument for the Rule

Society requires protection against criminals. Criminal laws are enacted to give legal content and efficiency to such protection. Enforcement of these laws requires prosecution of those who violate them. Arrest of the violator is a condition precedent to the entire enforcement procedure. The whole criminal justice system breaks down unless society can require peaceable surrender to the exertion of law enforcement authority. Therefore, society benefits from that which facilitates arrest. Obviously, the right to use deadly force facilitates arrest. Its lawful use notifies the criminal that flight is not an option open for his consideration. If he flees from the commission of a felony, against the order of an officer of the law, he should realize that he invites the risk of injury or death. This does not mean that the officer will always exercise the right to shoot, but it should not mean that the advantage should belong to the criminal.

If effective law enforcement is to be maintained, certainly an arrest should not be made to turn on who can run the fastest. There is no constitutional right to commit a felony and then escape the consequences by fleeing. There is no constitutional

right to flee from an officer lawfully exercising his authority. It has been said that if a fleeing felon is injured or killed, he must be regarded as the author of his own misfortune.⁸

"If effective law enforcement is to be maintained, certainly an arrest should not be made to turn on who can run the fastest. There is no constitutional right to commit a felony and then escape the consequences by fleeing."

A law enforcement officer is called upon to make a difficult, on-the-spot legal judgment. His facts are often vague and ambiguous. Yet, his decision must be swift. If he uses force, it must not be unreasonable. This standard presupposes that a law enforcement officer is endowed with foresight. Of those who would change the rule, some would require the officer, before using deadly force, to believe the felon will use force against others if not immediately apprehended. How can a police officer ever know, reasonably or otherwise, whether the felon will use force against others?⁹

Given the long history and current status of justification, the ready availability of handguns to the populace at large (including nonviolent felons), and the needs of law enforcement in a society where violence is widespread, the justifiable homicide statutes which permit deadly force against any fleeing felon are not unreasonable.¹⁰

Surely a police officer should not be imprisoned if he mistakes a nondangerous felon for a dangerous one or a nonforcible felon from a forcible one. A police officer faced with an emergency situation makes a mistake and uses deadly force against a nondangerous felon. He and his employ-

ing agency may or may not be civilly liable, he may or may not be disciplined for not following a departmental policy, but it should not be said, out of awareness of his difficult job in emergency situations, that he assumes the risk of going to jail for his mistake.

Argument Against the Rule

The common law distinction between felony and misdemeanor crimes for the purpose of determining the scope of the privilege to use deadly force is grossly inadequate for modern-day law enforcement. A felony usually is based merely on the length of sentence involved, and some misdemeanors embrace conduct more dangerous than many felonies.

In 15th century England, as well as 18th century America, the rule reflected the social and legal context of felonies at that time. They were punishable by death. It made little difference if the suspected felon were killed in the process of capture, since in the eyes of the law he had forfeited his life by committing the felony. It was assumed that a suspected felon facing death upon capture was more desperate than a misdemeanor, and greater force was required for his apprehension. Only a few crimes were felonies. In most American jurisdictions, the social and legal context of felonies today bears little resemblance to that of the early common law. For example, some modern code revisions classify felonies according to five different categories ranging from Class A felonies, the most serious, down to Class E felonies, the least serious.¹¹

Felonies today include numerous crimes not involving force or violence, such as property-based crimes and compliance with complex government regulations (e.g., income tax fraud). Since the felony-misdemeanor distinc-

tion is usually based merely on the length of sentence involved, and since some misdemeanors involve conduct more dangerous than some felonies, a deadly force justification, which makes no distinction between felonies or does not address the gravity and need of such force, bears elements of irrationality.¹²

"Since the felony-misdemeanor distinction is usually based merely on the length of sentence involved, and since some misdemeanors involve conduct more dangerous than some felonies, a deadly force justification, which makes no distinction between felonies or does not address the gravity and need of such force, bears elements of irrationality."

Deadly force should not be permitted when the felony committed is a minor, nondangerous one. Felonies against property, such as larceny, forgery, and counterfeiting, are regarded as being nondangerous. Deadly force should be permitted only to apprehend or prevent escape of a dangerous felon. The crime for which the arrest or recapture is sought should involve conduct including the use or threatened use of deadly force.

Speaking against the common law rule, Professor Michael Mikell stated:

"It has been said, 'Why should not this man be shot down, the man who is running away with an automobile? Why not kill him if you cannot arrest him?' We answer: because, assuming that the man is making no resistance to the officer, he does not deserve death . . . May I ask what we are killing him for when he steals an automobile and runs off with it? Are we

killing him for stealing the automobile? If we catch him and try him, we throw every protection around him. We say he cannot be tried until 12 men of the grand jury indict him, and then he cannot be convicted until 12 men of the petit jury have proved him guilty beyond a reasonable doubt, and then when we have done all that, what do we do to him? Put him before a policeman and have a policeman shoot him? Of course not. We give him three years in a penitentiary. It cannot be then that we allow the officer to kill him because he stole the automobile, because the statute provides only three years in a penitentiary for that . . . Is it for fleeing that we kill him? Fleeing from arrest is also a common law offense and is punishable by a light penalty, a penalty much less than that for stealing the automobile. If we are not killing him for stealing the automobile and are not killing him for fleeing, what are we killing him for?"¹³

And also from Professor Wechsler:

" . . . [T]he preservation of life has such moral and ethical standing in our culture and society, that the deliberate sacrifice of life merely for the protection of property ought not to be sanctioned by law."¹⁴

As can be readily seen, valid points are to be made on both sides of the argument. It is also clear that the debate deals with competing interests of society at the highest rank—interests in protecting human life against unwarranted invasion and in promoting peaceable surrender to the exertion of law enforcement authority. Yet, the balance that has been struck to date is very likely not the best one that can

be. In the area where any balance is imperfect, there must be some room for different views to prevail.¹⁵

The American Law Institute's almost 50 years of consideration of the problem demonstrates that the area in which we are treading is one still characterized by "shifting sands and obscured pathways."

RESTRICTIONS UPON THE USE OF DEADLY FORCE THROUGH LEGISLATIVE REFORM

Most States have justification statutes dealing with the use of deadly force by law enforcement officers to effect arrest. They may be divided into three groups; namely, those that follow the common law rule, those that have modified the rule and mandate that only "forcible" felonies justify the use of deadly force, and those that have adopted the Model Penal Code. Each approach will be discussed.

Codification of the "Any Felony" Rule

At least 24 States currently have codifications of the common law fleeing felon rule.¹⁶ It would not be accurate to assume, however, that States with such statutes are relying on archaic law or that the respective State legislative bodies have not considered different versions of the rule. At least 17 of the 24 States have revised and updated their penal codes since 1970 and have preserved the rule in legislative recodifications. The Missouri House of Representatives, for example, rejected an attempt to amend their statute in June 1975.¹⁷

Under the provisions of a typical State statute, four requirements must be present to justify deadly force: (1) The officer must have probable cause to believe that a felony has been committed and that the person to be arrested committed it; (2) the arresting

officer must give the defendant notice of his intention to arrest; (3) the defendant either flees or forcibly resists; and (4) whatever force the officer uses must be necessary to effect the arrest.¹⁸ While an officer cannot use deadly force to apprehend a fleeing misdemeanant, he is privileged to use such force regardless of the felony that is committed.

The significance of "necessity" as a limitation upon the use of deadly force was illustrated recently in a civil rights case. At approximately 10 p.m., two officers received a radio dispatch indicating an "entry in progress, three Negro males on the scene. . . ." Armed with a 12-gage shotgun, one officer positioned himself at the scene on a well-lighted public sidewalk, while his partner circled around to the rear of the homes located on the block. The officer on the sidewalk was 5 to 10 yards away when he observed three black males emerge from the gangway located between two houses. Each one was of junior high school age and approximately 5 feet 6 inches tall. The plaintiff, one of the three boys, had in his hand a thin, 12-inch steel-blue file. He turned and faced the officer for an instant after he was ordered to halt. All three then retreated into the gangway of an adjacent house. The officer fired his shotgun over their heads as they ran. The officer ran up the sidewalk, parallel to their path of retreat, and positioned himself directly in front of that gangway. The plaintiff was now facing the officer again. He was approximately 45 feet from the officer. The officer fired a second shot directly at the plaintiff, hitting him in the head. Another boy was also hit. A civil rights action against the police officer claiming money damages for the use of excessive force in connection with the arrest was commenced in Federal district court by the two injured.

The trial was a bench trial, which means simply that the trial judge, in

addition to deciding questions of law, also makes the necessary factual determinations. He decided that the officer's version of the events, related above, represented the factual backdrop against which the liability issue would be determined. The officer testified that he believed the plaintiff wielding the file had a long-barreled revolver and that he feared for his life. He also testified that he believed that mere flight by one suspected of burglary justified the use of his shotgun. Under State cases, the test for liability was whether the amount of force used by the arresting officer was reasonable under the existing circumstances. While an officer may use deadly force to apprehend any fleeing felon, he must reasonably believe it *necessary* to prevent escape.

The trial judge held that the defendant's second shot, aimed directly at the suspects, was unreasonable and unjustified. The judge took into account not only the officer's frightened state of mind, but also the lighting conditions, the proximity of the boys to the officers, the physical appearance of the file, the suspects' retreat, and the defendant's awareness that his partner covered the only available avenue of escape, and determined the officer used excessive force in effecting the arrest. While the defendant may have actually feared for his life, he said, a defense is still not established. The belief must also be reasonable under all the existing circumstances. Judgment was for the plaintiff.¹⁹ The judge's decision was affirmed on appeal.²⁰

Statutes Limiting Use of Deadly Force to "Forcible" Felonies

Seven States have justification statutes which specify the felonies for which deadly force may be used.²¹ These statutes permit such force only for "forcible" felonies. The force used

must be necessary to effect arrest. In addition, if a person is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay, then deadly force is permitted.

The officer knows which felonies are "forcible" because they are defined by statute. In States which have such statutes, the law enforcement officers memorize those felonies so that there is no misunderstanding as to what constitutes a forcible felony. Generally, training academies use the acronym MA M. BARKER to teach what felonies are forcible—M is for murder, A for arson, M for mayhem, B for burglary, A for aggravated battery, R for rape, K for kidnaping, E for extortion, and R for robbery.

The officer, in deciding whether or not to use deadly force, asks himself two questions: (1) Has the person to be arrested committed a forcible felony? and (2) is it necessary to use deadly force? If the answer is "no" to either question, then he may not use such force. Take this illustration. A thief steals a \$500 diamond ring from the counter of a jewelry store. A deputy is attempting to arrest the thief, but he flees. The thief does not have a weapon. The deputy is *not* justified in using deadly force, since theft, although a felony under these circumstances, is not a forcible felony.²²

Model Penal Code

The Model Penal Code proposes that the use of force be justifiable only where the arresting officer believes that (1) the crime for which the arrest is made involved conduct including the use or threatened use of deadly force, or (2) there is a substantial risk that the person to be arrested will cause death or serious bodily harm if his apprehension is delayed.²³ The philosophy of this approach is to ig-

nore the technical classification of a crime as a felony or misdemeanor and to focus instead on a balance of interests—the need to apprehend suspects and preserve the safety of the arresting officers as against the value of human life.

"The Model Penal Code proposes that the use of force be justifiable only where the arresting officer believes that (1) the crime for which the arrest is made involved conduct including the use or threatened use of deadly force, or (2) there is a substantial risk that the person to be arrested will cause death or serious bodily harm if his apprehension is delayed."

Seven States have justification statutes which have adopted the Model Penal Code.²⁴ New York adopted the Model Penal Code approach in 1965, but returned to the forcible felony rule in 1967. Idaho adopted it in 1971, but repealed it 3 months after its effective date in 1972.²⁵

(Continued Next Month)

FOOTNOTES

¹ "Deadly force" as a term of legal art means force by an officer for the purpose of causing, or which he knows creates a substantial risk of causing, death or serious bodily injury. See *Schumann v. McGinn*, 240 N.W. 2d 525, 540 n. 1 (Minn., 1976).

² Plucknett, *A Concise History of the Common Law*, 424-54 (5th Ed. 1956).

³ Comment, *Deadly Force to Arrest: Triggering Constitutional Review*, 11 Harv. Civ. Rights—Civ. Lib. L. Rev. 361 (1976) (hereinafter cited as Comment, 11 Harv. Civ. Rights—Civ. Lib. L. Rev. 361).

⁴ *Petrie v. Cartwright*, 70 S.W. 297, 299 (Ky. 1902). See Note, *The Use of Deadly Force in Arizona by Police Officers*, 1973 L. & Soc. Order 481, 482.

⁵ *Head v. Martin*, 3 S.W. 622, 623 (Ky. Ct. App. 1887). See Pearson, *The Right to Kill in Making Arrests*, 28 Mich. L. Rev. 957, 964 (1930).

⁶ *Mattis v. Schnarr*, 547 F. 2d 1007 (8th Cir. 1976), cert. filed 45 U.S.L.W. 3669.

⁷ *Ashcroft v. Mattis*, 45 U.S.L.W. 3751 (1977).

⁸ Note, *The Use of Deadly Force in the Apprehension of Fugitives From Arrest*, 14 McGill L. J. 293 (1968). See also, Comments of Professor John Barker Waite reported in Model Penal Code, Tent. Draft No. 8 (1958), § 3.07, p. 60.

⁹ *Mattis v. Schnarr*, *supra* note 6, at 1023 (Judge Gibson, dissenting).

¹⁰ *Jones v. Marshall*, 528 F. 2d 132 (2nd Cir. 1975).

¹¹ N.Y. Pen. Law § 55.05(1) (1973).

¹² *Jones v. Marshall*, *supra* note 10, at 142. Chief Justice Burger's comment in *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 419 (1971) (dissenting opinion): "I wonder what would be the judicial response to a police order authorizing 'shoot to kill' with respect to every fugitive. It is easy to predict our collective wrath and outrage. We, in common with all rational minds, would say that the police response must relate to the gravity and need; that a 'shoot' order might conceivably be tolerable to prevent the escape of a convicted killer but surely not for a car thief, a pickpocket or a shoplifter."

¹³ 9 American Law Institute Proceedings 186-187 (1931), quoted in *Mattis v. Schnarr*, *supra* note 6, at 1014.

¹⁴ ALI Proceeding (1958), p. 285; *Schumann v. McGinn*, *supra* note 1, at 541.

¹⁵ *Jones v. Marshall*, *supra* note 10, at 142.

¹⁶ The 24 States, according to Comment, 11 Harv. Civ. Lib. L. Rev. at 368 n. 30, are: Alaska Stat. § 11.15.090 (1970); Ariz. Rev. Stat. Ann. § 13-461 (Supp. 1972); Ark. Stat. Ann. § 41-510(2) (a) (Spec. Pamphlet 1976); Cal. Penal Code § 196 (West 1970); Colo. Rev. Stat. Ann. § 18-1-707(2) (b) (1973); Conn. Gen. Stat. § 53a-22(c) (2) (1975); Fla. Stat. Ann. § 776.05 (Supp. 1975); Idaho Code § 19-610 (1970); Ind. Code § 35-1-19-3 (Burns 1975); Iowa Code § 755.8 (1971); Kan. Stat. Ann. § 21-3215(1) (1974); Minn. Stat. § 609-065(3) (1974); Miss. Code Ann. § 97-3-15 (1972); Mo. Rev. Stat. § 559.040 (Vernon 1969); Mont. Rev. Code Ann. § 94-2512 (Spec. Supp. 1973); Nev. Rev. Stat. § 200-140(3) (b) (1973); N.H. Rev. Stat. Ann. § 627-5(11) (b) (1) (Supp. 1973); N.M. Stat. Ann. § 40A-2-7 (1963); Okla. Stat. Ann. tit. 21, § 732 (1951); R.I. Gen. Laws § 12-7-9 (1969); S.D. Comp. Laws Ann. § 22-16-32 (1967); Tenn. Code Ann. § 40-808 (1956); Wash. Rev. Code Ann. § 9A.48.160 (1961), § 9A.16.040(3) (1975) (effective July 1, 1976); Wis. Stat. § 939.45(4) (1973).

¹⁷ *Mattis v. Schnarr*, *supra* note 6, at 1022.

¹⁸ Mo. Rev. Stat. § 554.190, § 559.040 (1969).

¹⁹ *Clark v. Ziedonis*, 368 F. Supp. 544 (E.D. Wis. 1973).

²⁰ *Clark v. Ziedonis*, 513 F. 2d 79 (7th Cir. 1975).

²¹ According to Comment, 11 Harv. Civ. Rights—Civ. Lib. L. Rev., at 368 n. 31, they are: Ga. Code Ann. § 26-902 (1972); Ill. Rev. Stat. ch. 38, § 7-5 (a) (2) (1973); N.Y. Penal Law § 35.30(1) (a) (ii) (McKinney Supp. 1971); N.D. Cent. Code § 12.1-05-07 (2) (d) 1975; Ore. Rev. Stat. § 161-239 (1973); Pa. Stat. Ann. tit. 18, § 508(a) (1) (ii) (1973); Utah Code Ann. § 76-2-404(2) (b) (Supp. 1975).

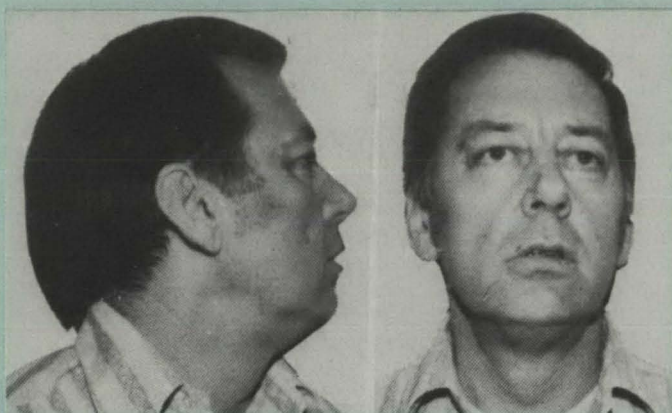
²² Harvie, *The Police Officer's Use of Force: Law and Liability* 10, published by Police Training Institute, University of Ill. (undated).

²³ Model Penal Code, §§ 3.04-3.11 (Proposed Official Draft, 1962).

²⁴ According to Comment, 11 Harv. Civ. Rights—Civ. Lib. L. Rev. at 369 n. 32, these States are: Del. Code Ann. tit. 11 § 467(c) (1974); Hawaii Laws, Act 9, ch. 3 (1972) (effective 1973) § 307(3); Ky. Rev. Stat. § 503.090(2) (1975); Maine Rev. Stat. Ann. tit. 17A § 107-2(B) (1975) (effective March 2, 1976); Neb. Rev. Stat. § 28-839(3) (Supp. 1974); Tex. Penal Code art. 2, § 9.51(c) (1974). North Carolina allows the use of deadly force to arrest one fleeing from a felony with a deadly weapon in addition to those situations in which the Model Penal Code formulation authorizes deadly force. N.C. Gen. Stat. § 15A-401 (d) (2) (b) (1973).

²⁵ Note, *Justification: The Impact of the Model Penal Code on Statutory Reform*, 75 Column. L. Rev. 914, 955 (1975).

WANTED BY THE FBI



Photographs taken 1973.

DEWEY ADMIRAL DANIELS, JR., also known as James E. Burns, James W. Burns, Admiral Dewey Daniels, Jr., Lee Johnson, Charles Morgan, Gene Smith, George Tipton, Robert Whitson

Unlawful Interstate Flight—Armed Robbery and Felonious Assault

Dewey Admiral Daniels is currently being sought by the Federal Bureau of Investigation for unlawful interstate flight to avoid confinement after conviction for armed robbery and felonious assault.

The Crime

On December 29, 1969, in an attempted supermarket robbery, Daniels fired upon and seriously wounded a deputy sheriff in Carter County, Tenn.

On March 27 of the following year, while allegedly posing as an FBI Agent, Daniels kidnaped the police chief of Weaverville, N.C. After handcuffing him to a tree, Daniels took his gun, credentials, and police cruiser, and shortly thereafter, robbed the

Weaverville Branch of the Bank of French Broad, Marshall, N.C.

Daniels was apprehended on February 8, 1971, and later convicted of armed robbery and felonious assault. On December 29, 1973, while awaiting the results of an appeal, he escaped from the Carter County Jail, Elizabethton, Tenn.

A Federal warrant charging Daniels with unlawful interstate flight to avoid confinement for armed robbery and felonious assault was issued on January 4, 1974, at Elizabethton, Tenn.

Description

Age----- 48, born April 9, 1929, Washington County, Tenn.
Height----- 5 feet 10 to 11 inches.
Weight----- 190 to 220 pounds.

Build----- Heavy.
Hair----- Brown.
Eyes----- Blue-green.
Complexion-- Medium.
Race----- White.
Nationality-- American.
Occupations- Carpenter's helper, farmer, former police officer, heavy equipment operator, laborer, machinist, salesman.

Social Security Number used----- 409-56-5976.
FBI No.----- 178,723 H.
Fingerprint Classification:
4 O 9 R I IO 14
L 18 U O OI
NCIC Classification:
DO5407CO1420114CI11

Caution

Daniels, an alleged judo expert, has reportedly been heavily armed in the past. He should be considered armed and dangerous.

Notify the FBI

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



Right thumb print.

FBI LAW ENFORCEMENT BULLETIN

FOR CHANGE OF ADDRESS ONLY—NOT AN ORDER FORM

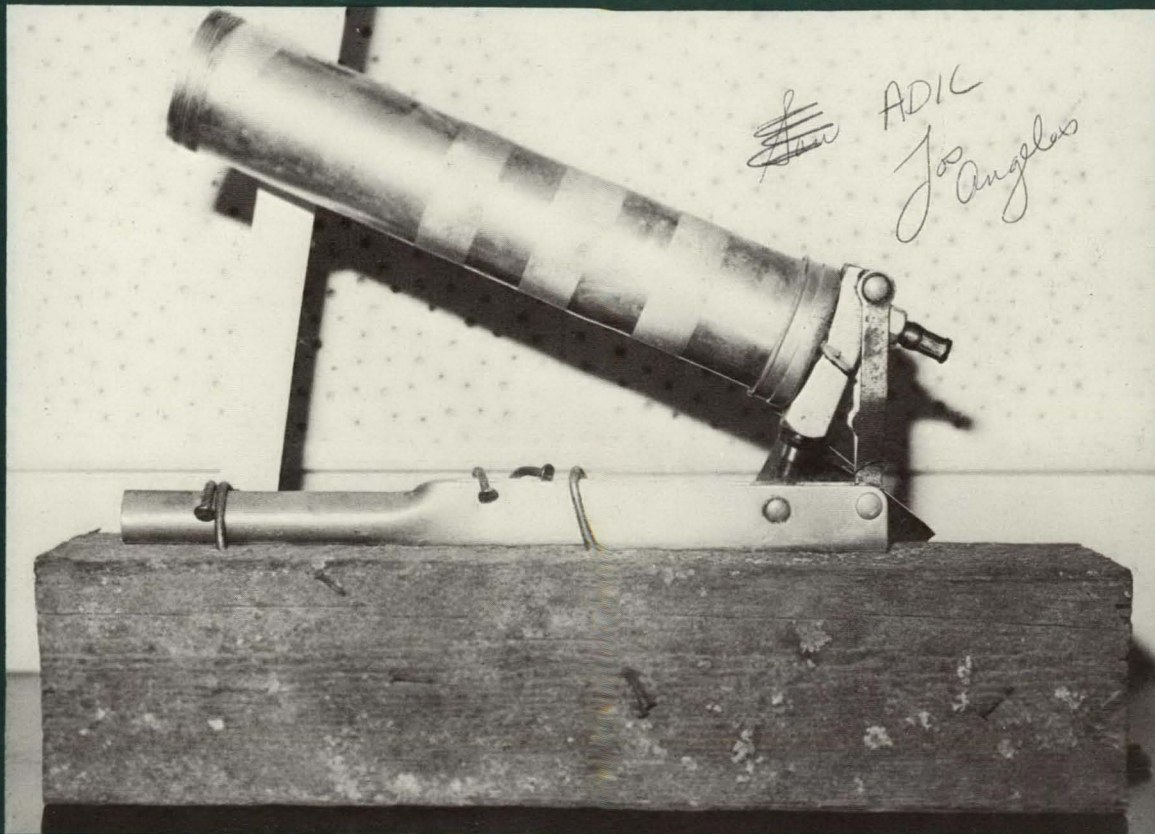
Complete this form and return to:

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

_____		_____
(Name)		(Title)

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

IMPROVISED ARTILLERY



The homemade mortar pictured above was recently recovered by the San Luis Obispo County, Calif., Sheriff's Office during the search of a mobile home. The device was improvised from a heavy-duty, hand-held

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

OFFICIAL BUSINESS

ADDRESS CORRECTION REQUESTED



POSTAGE AND FEES PAID
FEDERAL BUREAU OF INVESTIGATION

JUS-432

THIRD CLASS

QUESTIONABLE PATTERN



The fingerprint presented above is very unusual as it contains a loop-type pattern over a plain whorl-type pattern. It is, therefore, classified as an accidental-type whorl with an outer tracing. The left delta of the whorl and the delta of the loop, which are the extreme left and right deltas, are used to determine the tracing. This impression is referenced to a double loop whorl because of the questionable nature of the right recurve in the whorl-type pattern.