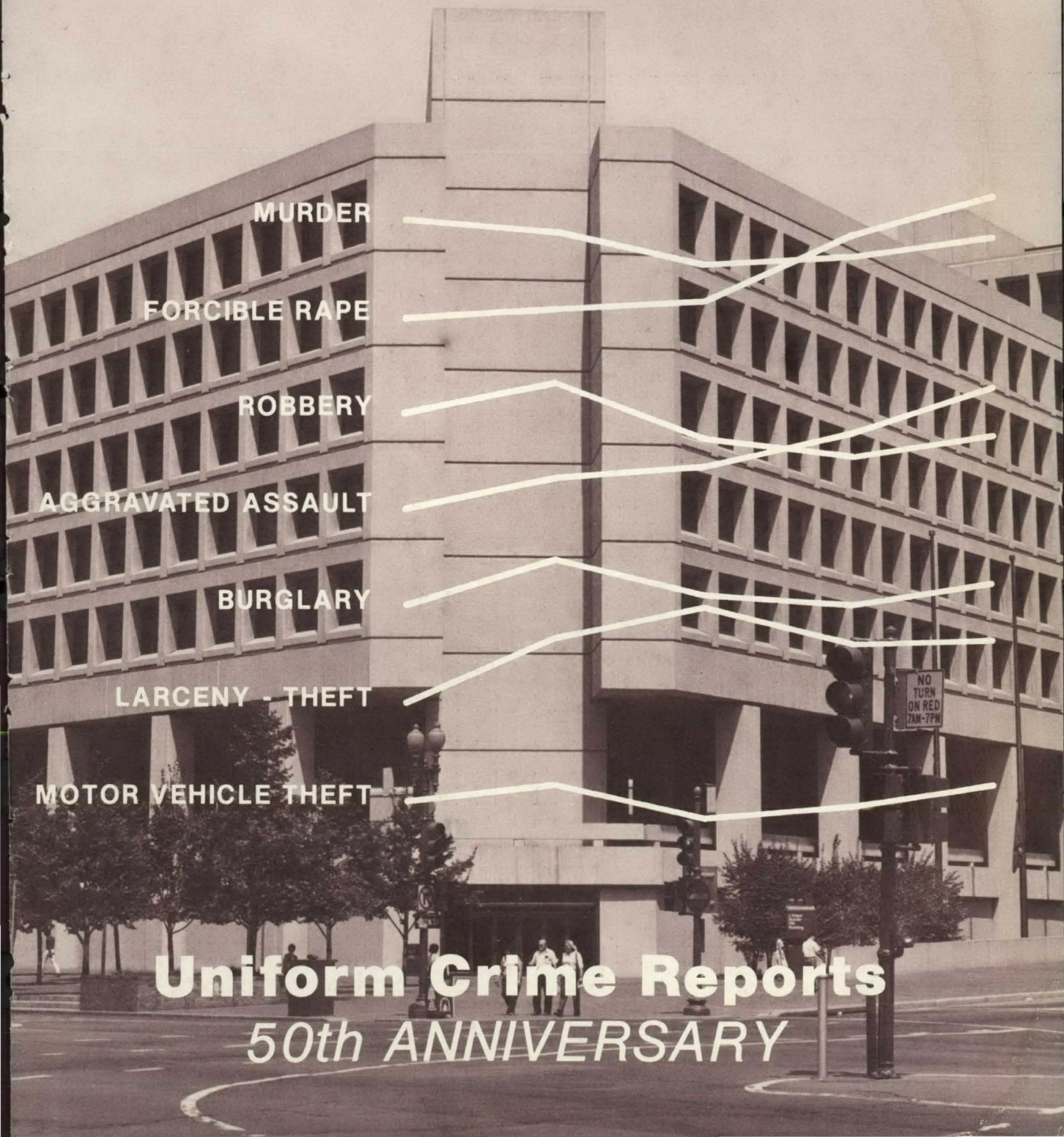
FBI LAW ENFORCEMENT BULLETIN

SEPTEMBER 1980



Uniform Crime Reports

50th ANNIVERSARY

Director's Message

Undercover work—why does the FBI use it? What do we hope to achieve by it?

Undercover work allows the FBI to use its resources to better attack certain crime problems under our jurisdiction and to complement the efforts of State and local law enforcement to the best advantage of the Nation as a whole—to reach beyond the streets to the very heart of criminal enterprises.

We want to get at those who operate through fraud, violence, and intimidation. We want to identify those who are willing to violate their trust to corruptly support the operators of criminal enterprises.

Last year our spending for undercover work amounted to about one-half of 1 percent of our total budget, and this year I have requested a modest increase—from $3.6 million to $4.5 million. This compares most favorably with actual recoveries of more than $190 million last year from these operations and does not try to estimate the potential economic losses averted by shutting down a variety of criminal enterprises.

Undercover operations last year were used in each of our major programs—foreign counterintelligence, organized crime, white-collar crime, and property crimes. While it has been necessary to curtail some operations for a variety of reasons—protection of informants or our Special Agents, fiscal constraints, and premature publicity—the hallmark of these well-planned undercover operations is "staying power." The longest—a penetration of a Weather Underground terrorist cell—lasted over 4 years and ended only to prevent a planned bombing of a California State Senator's office.

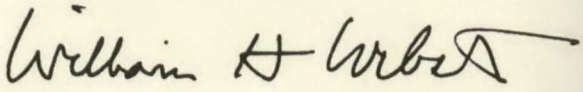
Some, but certainly not all, of our undercover investigations lead us to corrupt public officials. Organized crime needs an early warning system; those who commit major frauds against the Government need assistance from office holders willing, for a price, to look the other way or else supply some other form of competitive advantage. The power brokers—those who have the contacts with such public officials—form the catalyst for corruption and are themselves targets of our investigations. Because such activities are rarely conducted in the public market place, the undercover operation is especially well-suited to detecting and investigating this form of white-collar crime.

We have been developing in the last year and a half a very important institutional knowledge, based on the experience of a number of undercover operations now underway and those that have been completed. This area raises some unique management problems, but like good lawyers, we don't turn down operations because there's a problem. We try to find an appropriate solution so that the project, if worthy, can function effectively and within the rule of law.

My colleagues in the police profession know that undercover work is *not* a panacea for law enforcement; it *is* an important tool. It will not substitute for hard, exacting, traditional investigative work, but it does offer us the best potential to reach beyond the streets.

Despite the dramatic success of undercover work, there remain nagging questions of the "what if" variety. Do we give up too much to get these results? Is this technique overly or indiscriminately intrusive? Can we control it? These are fair questions.

We in the FBI recognize that our mission must be accomplished within the same legal structure that the FBI is designed to protect.
The care we take in the legal training of our Agents and in keeping all Agents abreast of the changes of the law affecting these investigations demonstrates, I believe, the depth of our commitment. Our goal is to achieve the proper balance between the intrusive level of law enforcement necessary to do our job and the level of protection of individual rights demanded by the Constitution and the American people.



William H. Webster
Director
September 1, 1980

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SEPTEMBER 1980, VOLUME 49, NUMBER 9

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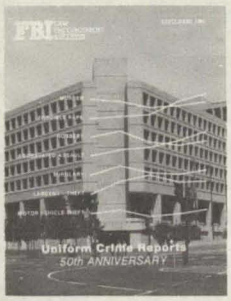

THE COVER: This month, the FBI's Uniform Crime Reporting Program completes 50 years of service to the law enforcement community. See story p. 2.

Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through December 28, 1983.

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The Uniform Crime Reporting Program

50 YEARS OF PROGRESS

Special Agent Zolbe

By PAUL A. ZOLBE
Section Chief
Uniform Crime Reporting Section
Federal Bureau of Investigation
Washington, D.C.

A proud and enduring association between the FBI and the Uniform Crime Reporting (UCR) Program began on September 1, 1930. In the half century since then, the program has grown from a specialized guide of law enforcement activity to one of the most widely quoted social indices of our time. Where the Uniform Crime Reports were once a tool exclusively for police chiefs and law enforcement administrators, they are now a common research resource of sociologists, legislators, municipal planners, scholars, the press, concerned citizens, and criminal justice practitioners at all jurisdictional levels.

The Beginning

The need for uniform police statistics had been expressed frequently among law enforcement leaders and organizations for many years preceding and following the turn of the century. While these oft-voiced concerns generated little effective effort to create workable programs, they were kept alive within the leadership and conference structure of the International Association of Chiefs of Police (IACP).

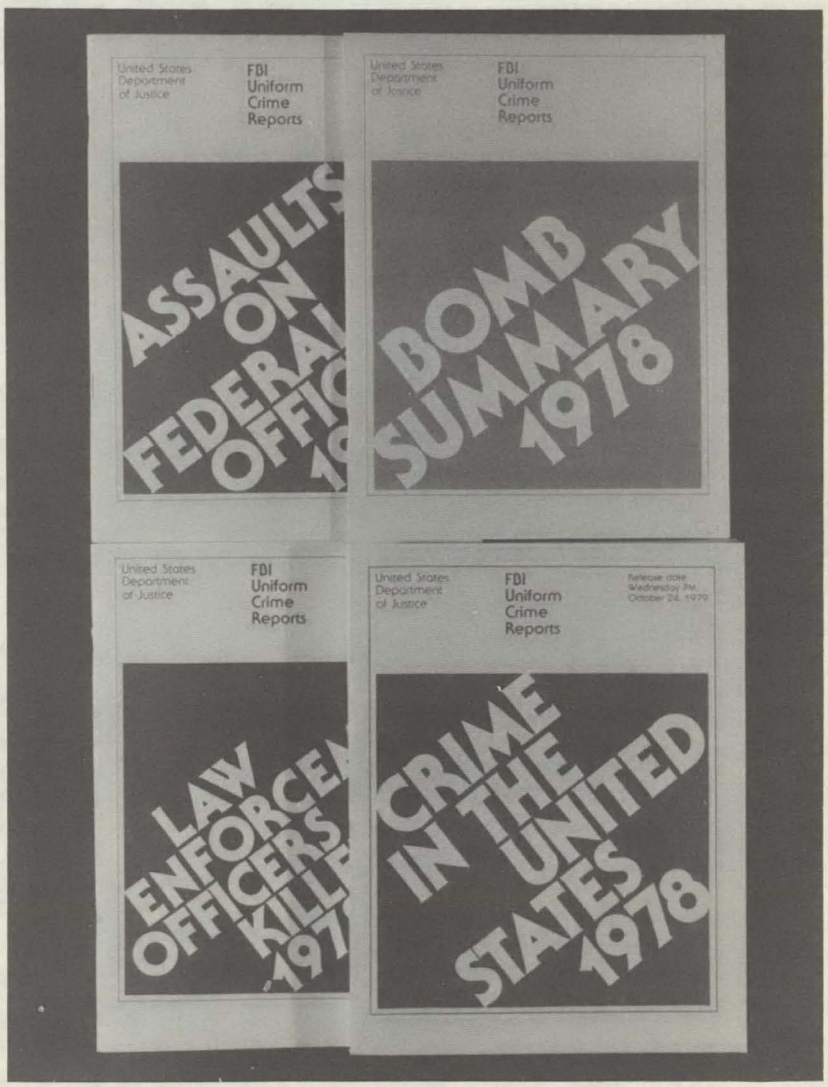
In 1927, a Committee on Uniform Crime Records was formed by the IACP. With the cooperation of an impressive array of international criminal justice administrators, criminologists, academicians, and managers of concerned public and private institutions, the committee was given the responsibility to develop a nationwide system of uniform police statistics that would not only serve law enforcement administrators but would provide a measure of criminal activity throughout the country.

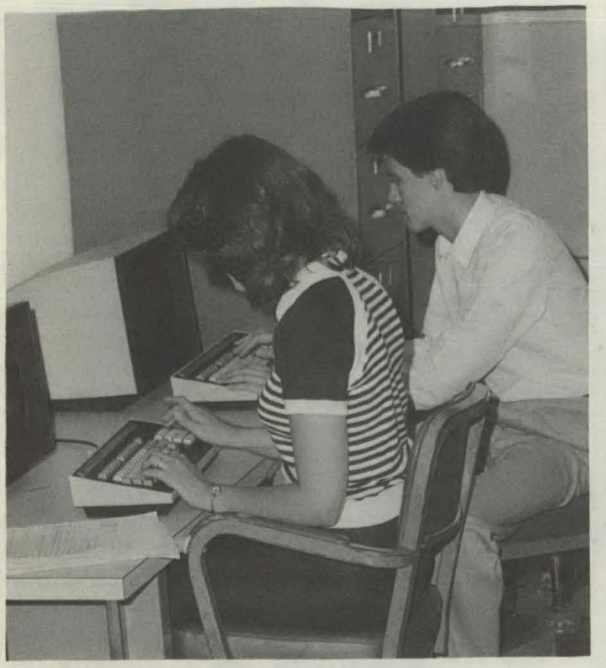
The committee's task was awesome. It had to inspire order and discipline in a haphazard assortment of recordkeeping practices used by thousands of law enforcement agencies and somehow develop uniform crime classifications among these distinct jurisdictional interests which, for the most part, were responsible for criminal codes bearing scant resemblance to one another in their definitions of offenses. Fortunately, the committee met the challenge and in November 1929, published its plan in the book entitled "Uniform Crime Reporting." As a monument to the committee's thoroughness and foresight, the book still serves as the definitive framework of the UCR Program.

In January 1930, the IACP implemented the plan of the Committee on Uniform Crime Records, and among a small group of cooperating law enforcement agencies, began the collection of uniform categories of statistics based on crimes known to the police.

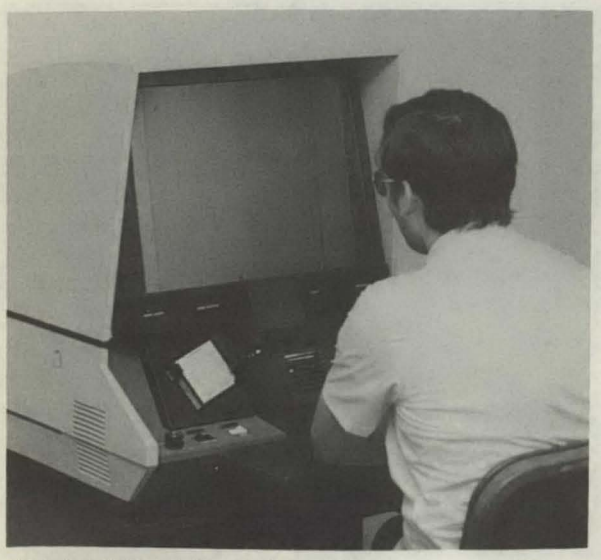
This data base—crimes known to the police—is the keystone of the UCR Program. It was carefully selected by the committee as the most accurate point of reference in the crime discovery process, as well as the base indicated by the accumulated experiences of operational police statistics programs in Europe.

At the outset, the IACP recognized that in order for this highly disciplined effort to succeed, it would have to foster a very unselfish level of professional cooperation among the multitude of agencies the program hoped to serve and on which it depended for data. To carry out the day-to-day administration of the program, an organization was needed that was knowledgeable in police affairs, had the demonstrated ability to manage a nationwide data collection effort, had the confidence of the law enforcement community, and had daily contacts at an operational level with law enforcement agencies throughout the country. As a result, the U.S. Congress, at the invitation of the IACP, enacted legislation under Title 28, section 534, of the U.S. Code, authorizing the FBI to serve as the national clearinghouse for data collected under the program. The Committee on Uniform Crime Records of the IACP continues as a consulting body for the program, and any substantive changes to the program are reviewed by this committee.

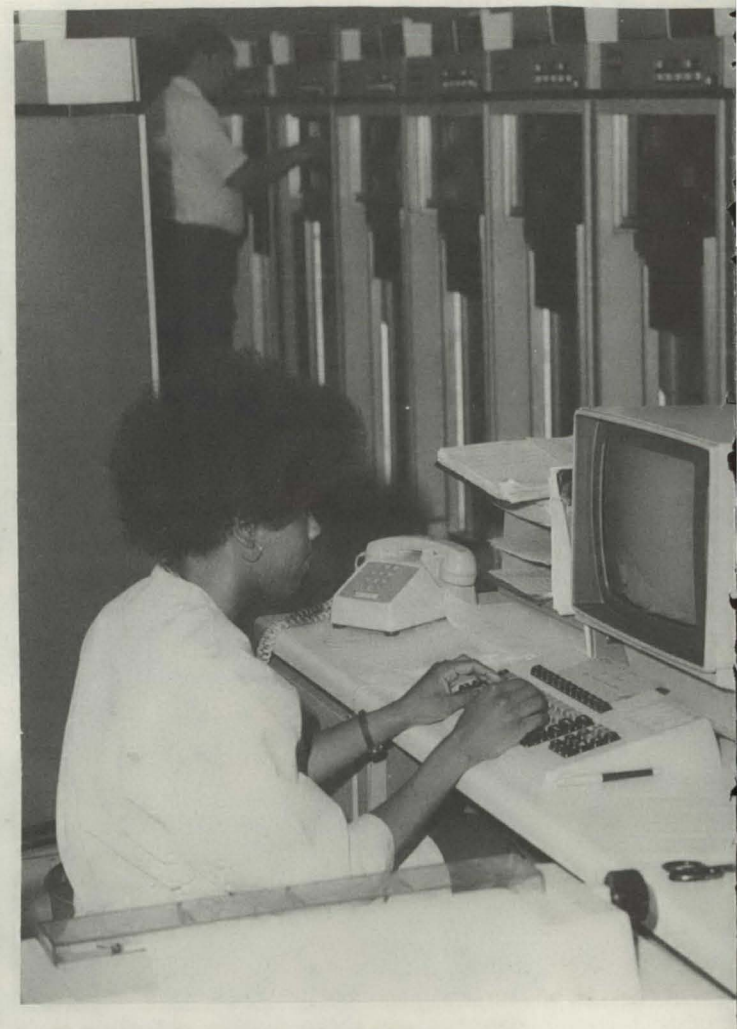




Statistical assistants enter data into UCR system via intelligent-type minicomputer.



Historical UCR statistics are also stored on microfilm for ready retrieval in response to requests from data users.



The FBI's main computer system is used to store UCR data for retrieval of summary tabulations.

Statistical assistants have access to over 15,000 agency files as part of the verification process.

Although the Uniform Crime Reports have earned considerable recognition for its estimated crime trends, the program's purpose was, and continues to be, to produce a reliable set of crime-related statistics on a national basis for use in law enforcement administration, operation, and management.

The Program

The Uniform Crime Reports produce four distinct groups of comprehensive statistical data. These are: 1) The volume of certain serious offenses known to the police, 2) the number of known offenses which are cleared by arrest, 3) the age, sex, and race of persons arrested, and 4) police employee information.

Arrest data are collected for all crimes except traffic violations, while reports of crime incidents are limited to eight Crime Index offenses. These are murder, forcible rape, aggravated assault, robbery, burglary, larceny-theft, motor vehicle theft, and arson. The first seven Crime Index offenses were selected at the outset of the program because of their general acceptance as serious crimes, their frequent occurrence, and the fact that they were reliably and promptly reported to the police. Arson became a Crime Index offense in 1979 as a result of congressional mandate. Much like the volume of selected stocks on the Dow Jones Index are used to gage price trends for the thousands of securities on the New York Stock Exchange, the volume of eight Crime Index offenses are used to measure trends in the hundreds of different crimes normally coming to the attention of the police.

Although all Crime Index offenses are serious crimes, all serious crimes are not Crime Index offenses. Because of the fact that they occur infrequently, are not reliably reported to the police, or do not readily reveal themselves as criminal acts at the time of their occurrence, some serious crimes are inadequate as an index to the volume of crime at a particular time and at a particular place—the purpose of the Crime Index offenses.

Not all law enforcement agencies participate in the UCR Program, but the populations within the jurisdictions of those that do participate account for nearly all of the Nation's population. As a result, the program provides an estimate of the total volume of Crime Index offenses for the country as if all law enforcement agencies participated in reporting them.

The Uniform Crime Reports are published annually by the FBI in the bulletin entitled "Crime in the United States," which contains detailed and varied textual, graphic, and tabular presentations of the data collected under the program. This annual publication is supplemented by semiannual press releases showing trends in the volume of Crime Index offenses known to law enforcement. The booklet and the press releases are sent to program participants, as well as thousands of criminal justice agencies and administrators who have requested them.

"... crimes known to the police ... [are] the keystone of the UCR Program."

The Present

Although the original UCR Program plan urged the early establishment of State UCR centers whose administrators could more easily require the reporting of UCR data from all law enforcement agencies within the State, this portion of the program faltered until funding from the Law Enforcement Assistance Administration provided acceptable incentives for its adoption. As a result, since 1969, 47 State UCR Programs have become operational and a majority of these States have enacted legislation requiring their law enforcement agencies to collect and report data under the program's guidelines. Today, 23 of the State programs use computer processing of data and these States submit their entire statewide collection of UCR statistics by magnetic tape. In the remaining 24 States, summary data for the entire State is submitted periodically on forms. In the three States where statewide collection efforts have yet to be completed, data are submitted directly to the FBI by individual law enforcement agencies.

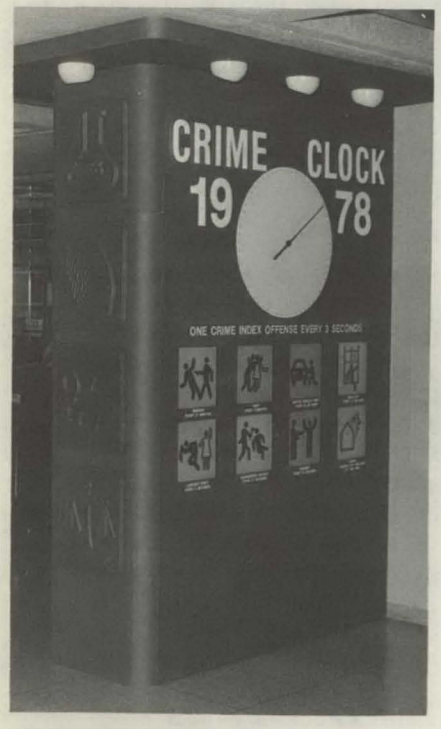
The State programs have not only expanded the coverage of the UCR Program but have enhanced the accuracy of the data collection effort. It is hoped that with the development of statewide UCR Programs in all 50 States, all law enforcement agencies will eventually participate in the program and provide complete, national coverage.

Changes

While the UCR Program has remained strikingly close to its original design, changes have taken place through the years. In almost all cases these changes have resulted from the dictates of practical program experience. In a few instances, changes in crime classifications have disturbed the historical sequence of the data and have prevented the comparison of certain crime counts along the entire length of the program's operations.

Among the more notable program changes were the discontinuance, in 1952, of fingerprint records received at the FBI as a source of arrest data and removal of statutory rape as a Crime Index offense in that same year. In 1958, both larceny of articles worth less than $50 and manslaughter by negligence were also dropped as Crime Index offenses. These changes in the Index did not alter its fundamental character, since the deleted offenses were subcategories of more serious crimes of the same class. Forcible rape, larceny, and nonnegligent manslaughter remained in the Index.

State representatives from Mississippi, the 47th State to initiate a UCR Program, confer with UCR training instructors at FBI Headquarters.



UCR Crime Clock exhibited at FBI Headquarters shows the relative frequency of occurrence of Crime Index offenses.

During the period 1963 through 1975, excluding 1973, "Crime in the United States" included statistical studies concerning certain offenders who had been arrested during the period 1963 through 1969 and another group arrested during the period 1970 through 1975. The purpose of these studies, known as the Careers in Crime Program, was to trace, through fingerprint records, the paths of select offenders through the criminal justice system. The studies, which were last conducted with data from the Computerized Criminal Histories (CCH) project, confirmed what had long been suspected by criminal justice practitioners—that recidivism among offenders was high and that the incidence of recidivism tended to be more frequent among youthful offenders. The Careers in Crime Program was discontinued in 1976, and because of unresolved legal and jurisdictional questions surrounding CCH, it is not anticipated that these studies will be resumed in the near future.

The most recent and perhaps the most significant change in the program since its inception has been the addition of arson as a Crime Index offense. In October 1978, Congress enacted legislation mandating that arson be classified as a Crime Index offense in the UCR Program. This legislation stemmed from a surge in arson offenses in recent years and the resulting clamor by the firefighting and fire insurance communities for additional publicity and law enforcement emphasis to control the spread of this serious crime. Arson has always been regarded as a serious crime in the UCR Program, but due to delays and uncertainties in establishing fires as arsons, fragmented lines of authority in the investigation of the crime, and peculiarities in scoring the offense consistent with other Index crimes, arsons were poorly reported and did not readily lend themselves to the requirements of the Crime Index. With growing efforts toward consolidating and improving investigative procedures concerning arson, together with better reporting of the crime, collection of this offense statistic will appear among the Crime Index offenses published in the future.

Criticism

As with many successful and well-known efforts, the UCR Program is not without its critics. Criticism has ranged from the cynical—such as that which suggests the police cannot be trusted to report crime accurately—to the thought-provoking, which have helped form new insights into the complex problem of data processing. Among all the responsible criticisms of the program, two main contentions emerge that are really expressions of what the program ought to be rather than criticisms of what it is. These are: 1) That the program is an inadequate index for the entire criminal justice system, and 2) not enough can be determined from the program's data base about the crimes reported.

The UCR was, of course, not designed for the entire criminal justice system. It was devised by law enforcement personnel to meet law enforcement needs, and its success in this objective has been due solely to the professional cooperation of law enforcement personnel. If there is to be a comprehensive data network for the entire criminal justice system—and indeed this is an imperative goal—then other segments of the system—prosecutors, the courts, probation and parole, and correctional institutions—

must demonstrate the same commitment, the same discipline, and the same spirit of cooperation as has the law enforcement community in developing the UCR Program. What many proponents of a comprehensive criminal justice data system overlook in their understandable desire to undertake wide-ranging analyses of criminal justice data is the fact that before we can analyze we must have comparable data and before we achieve comparability we must have uniform data. Lack of uniformity is the crux of the problem. To achieve uniformity requires arduous planning and extraordinary sacrifice on the part of participants.

The UCR data received and published by the FBI is summary data which demonstrates crime trends by the volume of crimes reported. Such summary programs at their collection point—which in the case of the UCR Program is FBI Headquarters—have no means by which individual crimes can be sorted out for examination of all aspects of their commission. In recent years State UCR Programs, many of which are crime incident based, have made important inroads in solving the problem of producing definitive data concerning certain offenses or classes of offenses reported in the UCR Program. While these States report UCR data to the FBI in summary fashion, their records base often contains the type of specific information much sought after by many crime researchers. Moreover, as computerized data systems become the rule rather than the exception, the information will become more readily retrievable in a wider range of categories of statistical interest.

Accomplishments

There are many impressive facts and figures that can be cited to document the accomplishments of the UCR Program. For example, cooperating agencies in the program now number more that 15,000, compared with the less than 400 with which the program began. While crime coverage during the program's formative years was limited to a few metropolitan areas, the data now represent 98 percent of the Nation's population.

"Cooperation has been the foundation of the program's success. . . ."

During the 5-decade period of the FBI's association with the UCR Program, an estimated 230 million Crime Index offenses have been tabulated which, for the curious, break down roughly into 600,000 murders, 1 million forcible rapes, 9 million robberies, 11 million aggravated assaults, 60 million burglaries, 130 million larcenies, and 22 million motor vehicle thefts.

Furthermore, the program was the inspiration for the FBI's National Crime Information Center, now in its 13th year of serving as a computerized telecommunications network for law enforcement agencies in this country and abroad.

Of all the program's accomplishments, none can match the 50-year record of cooperation that has consistently characterized participation in the UCR. Cooperation has been the foundation of the program's success and its spirit has grown and prospered over the years. It is for this reason more than any other that the UCR stands alone as the only ongoing uniform data collection program in the criminal justice system from which meaningful assessments of crime trends can be made.

The Future

The UCR Program looks forward to many dynamic improvements in the collection of criminal justice statistics. The most recent decade has seen other aspects of the criminal justice system develop first efforts in the aggregation of statistics. The upcoming decade promises enhancements for a better understanding of the entire phenomena of crime and its ramifications. The need for credible criminal justice statistics becomes more intense as public service agencies experience constrained budgets. The development of meaningful programs to diminish the impact of crime on our society rely more and more on empirical data which identify the seriousness, extent, and nature of criminal activity. For the law enforcement executive, the municipal planner, and the serious student of the crime problem to address responsibly their obligations in the criminal justice arena, valid information must be at their disposal. The UCR Program commits its resources to assisting in these endeavors.

To understand crime we must know the who, what, where, when, and why of its occurrence. The UCR Program has made unmistakable progress in estimating what crimes have occurred, where they have occurred, and when they have been committed. But, a good deal less is known about who exactly has committed these crimes or precisely why they have occurred. To answer these important questions will require more revealing data from other elements of the criminal justice system. **FBI**

"Every time the price of gasoline increases by one cent per gallon, it costs the Ohio State Highway Patrol $30,000 annually. Watching our automotive costs closely is not only desirable, it is mandatory."

—Col. Jack Walsh
Superintendent

computers monitor vehicle costs

By COL. JACK B. WALSH
Superintendent
Ohio State Highway Patrol
Columbus, Ohio

Colonel Walsh

Within recent years the Ohio State Highway Patrol has experienced a critical need to monitor rapidly rising vehicle costs. Because of the drastic increase in fleet operating expenses, especially fuel costs, it became imperative that management personnel know exactly which maintenance areas required the most funds. A functional, timely, and accurate system of vehicle cost recordkeeping would provide the information necessary to identify inefficient vehicles in time to take corrective measures.

If facts and figures could be compiled on individual vehicles, those assigned to certain geographical areas, a specific category of vehicles, or the total fleet, management could identify problem vehicles and trends in defective parts and separate costs into areas of consumable items, such as fuel, tires, air filters, and others. This information would aid in making future decisions on choice of vehicles and budget preparation and allocation.

A committee was formed to study the problem and devise a solution. They were to develop a system which would record and categorize all vehicle costs in an efficient and accessible form. The recording system would have to be easy to operate, comprehensive in scope of stored information, and flexible to accommodate variable data needs.

System flexibility becomes important when considering the decentralized highway patrol operations in Ohio. There are 57 posts in the State, each having a fleet of 7 to 18 vehicles. The posts are distributed among 10 districts into which the State is divided, and each district is assigned approximately 90 vehicles, amounting to a statewide total of 950 cars, trucks, vans, tractors, and lawnmowers.

System Implementation

After nearly 2 years of planning, the division designed and implemented a computerized automotive cost records system which allows for the direct entry of all vehicle costs into the computer by the terminal operator. This one-step daily process of placing all cost records into computer storage enables management personnel to retrieve current cost information on individual vehicles or fleet totals whenever necessary.

This system is considered to be a revolutionary advancement in our recordkeeping procedures, as well as a valuable decisionmaking and troubleshooting tool. It keeps track of all costs incurred on division-owned vehicles, including patrol cars, vehicles used for communications, vehicle inspection, driver licensing, and other specified areas, division airplanes and helicopters, tractors, and lawnmowers.

Upon request, the computer terminal operator can retrieve the cost history of a vehicle on a month-to-date and year-to-date basis, including year and make of vehicle, cost-per-mile to operate and mileage-per-gallon figure, hours of downtime, cost of routine maintenance and/or repair, miles traveled by month, year, and total registered on the odometer, gallons of gasoline used and cost, and a complete listing of parts replaced and cost with accompanying labor charges. This information is available for individual vehicles, fleet figures at post and district levels, or State totals of all division-owned vehicles.

Limitations of the Old System

The previous vehicle cost recording system grouped costs into general categories, but provided no individual car information. It gave a total parts cost and total labor charge figure with no breakdown as to specific part, cost of installation, or whether it was routine maintenance or wreck repair.

Another problem with the previous system was that it required too much of an officer's time—time which could be better spent on enforcement duties. Record books were carried in each vehicle so that the officer could enter costs incurred while using the car. All mathematical calculations were done by the officer, including tax, and the records were given to a supervisor. Additional time was needed for the supervisor to check all the figures before the monthly records were mailed to general headquarters, where thousands of these sheets had to be keypunched. Finally, the keypunched information was sent to the data center to be processed into monthly reports. The whole process took a minimum of 2 weeks. When the monthly report was finally compiled, it not only was inefficient in terms of the information provided but also out of date.

Development of Computerized Cost Records

After considerable study by the committee, a list of the 134 most used vehicle replacement parts and labor costs was compiled. This list was used to build the computer program so that all division locations would have a uniform way to enter vehicle repair costs.

Vehicle cost records are kept current on a daily basis. Each day the service record of every vehicle assigned to a particular location is entered into the computer. This information includes any gasoline, oil, tires, air filters, or repair work done on a specific vehicle on that day. Just as daily records are available at the close of any day, monthly vehicle costs are available on the first day following the month—there is no time lag as with the old system.

Since the prices of these items are updated by personnel at the division's general headquarters, field personnel are not concerned with computing amounts. The computer automatically works with the latest prices entered into the system.

The computer also keeps track of the gasoline used from storage tanks installed at field locations and automatically notifies personnel when it is time to refill the tanks.

Multilevel Management Tool

The computerized cost reporting system provides an excellent management tool to all levels of supervision. In seconds a post commander can see how many miles are being logged by officers in his command, check expenses, compare miles-per-gallon efficiency on vehicles assigned to the post, and be informed of the cost-per-mile of each vehicle.

In turn, the district commander can objectively look at the vehicle cost records of the six posts within his jurisdiction and begin to see a comprehensive picture of how the vehicles are being used and which vehicles are best suited to particular geographical areas.

At the administrative level, personnel can tell exactly how much is being spent on general repair of all vehicles of a certain make, model, and year during a specific month. This information, compared with comparable figures on other vehicle models, allows management to spot trends in equipment defects, as well as the gas efficiency of all division-owned vehicles.

It is possible to compare exact costs incurred by the division to operate two different car makes of the same age, or the same make of car at 10,000 miles, 20,000 miles, or whatever factor is selected for comparison. If a certain mechanism fails with regularity, the computer is programed to call attention to the problem so that it can be resolved efficiently.

A Time and Money Saver

Despite its very recent implementation, March 1, 1980, the Ohio State Highway Patrol's new system of computerized automotive cost reporting is already reflecting great savings in time and money.

Since the division had an existing computer system and a staff of programers, there were no additional costs in this area. The programers designed a program to fit the needs outlined by the planning committee.

Since field personnel were already accustomed to using computer terminals, the training was minimal. Also, no new equipment was needed to put the system into operation.

The amount of paperwork and the number of people needed to maintain the previous automotive cost recording system were greatly reduced—a savings in time and money. Also the new system allows uniformed personnel much more time for enforcement duty.

Of course the main advantage to computerized cost recording is the amount and type of information which is instantly available to management personnel. These timely, accurate facts aid in making rapid, knowledgeable decisions in today's constantly changing automotive market.

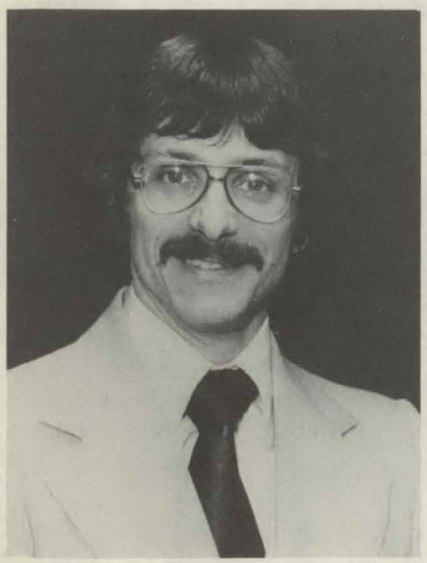
Simply stated, the computerized direct entry system provides more information in less time in a more usable form. While we cannot control the rising price of gasoline and other automotive costs, we can monitor costs and make appropriate cuts where necessary—all within the framework of maintaining service to Ohio's motoring public. **FBI**

AGE VS. FAT

Effect on Physical Performance of Police Officers

By PAUL O. DAVIS, Ph. D.
and ALBERT R. STARCK, M.A.
Institute of Human Performance
Fairfax, Va.

Law enforcement administrators have traditionally and typically advocated that police officers should have a youthful physical profile. The prevailing attitude is that older individuals are not able to perform the required physical duties of the job. There appears universal acceptance of the requirement that recruits possess a high level of physical fitness. Maximum hiring ages have been implemented, apparently with the feeling that youth is a prerequisite for excellence in health and fitness. However, there are a number of older individuals who have maintained their physical abilities and possess equal, and in some cases superior, physical profiles to much younger persons. It is believed that individuals who exceed maximum hiring ages should be allowed to demonstrate their level of fitness rather than being judged unfit based on an arbitrary age cutoff.



Dr. Davis

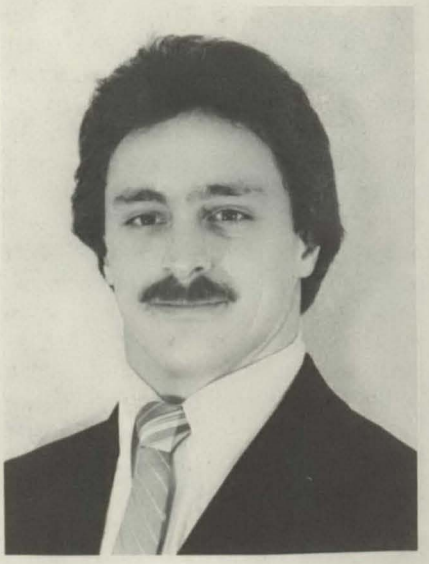
To establish age as a bonafide occupational qualification and use age cutoffs to exclude older applicants, the following criteria must be met:

1) It must be demonstrated that virtually all individuals who exceed the cutoff age are incapable of performing the physical job requirements;

2) Tests do not exist to distinguish effectively between individuals who can and cannot perform the job; or

3) The cost of developing such tests are prohibitively expensive.

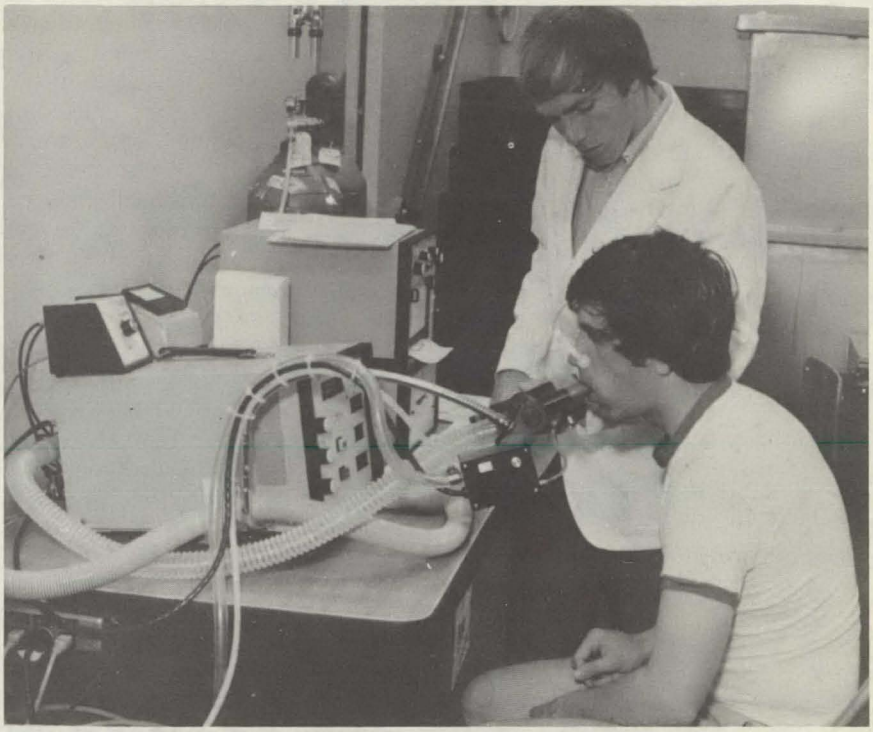
In light of our research findings, none of these conditions exists. Inexpensive tests are available which are quite effective in establishing an individual's ability to perform various physical tasks. The question that is more difficult to answer is whether the aging process automatically results in declining physical fitness.



Mr. Starck

In an effort to answer this question, we evaluated the current fitness levels of 671 male and female police officers in the Washington, D.C., metropolitan area. Each officer underwent a laboratory evaluation designed to determine such fitness attributes as aerobic capacity, muscular strength and endurance, flexibility, and percentage of body fat. Simple tests such as pushups, standing broad jump, and a measure of flexibility (figure 1) were employed, along with more elaborate tests requiring laboratory equipment. Aerobic capacity, or one's ability to endure rigorous activity, was measured on a treadmill. The longer one remained on the treadmill, the greater his aerobic capacity. This test was also used to detect heart and blood pressure abnormalities. Body composition (percent body fat) was determined by measuring each subject's buoyancy when totally submerged in a tank of water. The more tendency he had to float, the higher the percentage of fat. An added feature of this test was that each subject received a recommended optimal body weight. Muscular strength was determined by measuring both grip strength and shoulder strength with force measuring devices. These measures have proved to be quite reliable in predicting overall body strength.

Table 1 lists the average test values for the police officers studied. The 19.8-percent body fat figure is the typical average value at which we previously arrived when studying other public safety workers. It is approximately the same value as normal sedentary Americans of similar ages. However, the normal sedentary person is not expected to perform dangerous law enforcement tasks that place their lives and the lives of others in jeopardy. Police officers should possess an average percentage of body fat closer to 16 percent.



Pulmonary function apparatus measures residual volume and forced expiratory volume in one second.

Handgrip (dynamometer) measures grip strength.

Table 1
Descriptive and Normative Data

Variable	Mean
Age (years)	33.3
Weight (lbs)	185.5
Fat weight (lbs)	37.6
Percent fat (%)	19.8
Height (in.)	70.8
Pushups	29.3
Situps	40.6
Hip Flexibility (inches)	12.54
Long Jump (inches)	80.75
Total strength score (kg)	224.2
Treadmill time (min.)	10.6

Table 2

Correlation Coefficients: Age and Percent Fat vs. Selected Test Items

Variable	Age	Fat
Pushups	−.360	−.499
Situps	−.460	−.487
Hip flexibility	−.137	−.200
Strength	.008	−.087
Jump	−.404	−.461
Treadmill	−.430	−.526

The mean result of the hip flexibility test of 12.54 inches indicates that the average officer was able to reach 1/2 inch beyond the toes. A score of 12.0 would indicate the ability to touch the toes, and each inch greater than 12 means reaching an additional inch beyond the toes. Our results show that about one-half of the officers could not touch their toes. Poor flexibility in this area of the body has been linked to a high incidence of low back problems. Disability and injury claims of any municipality will show that back injuries among police officers rank extremely high in terms of total medical payments. All other test result averages may be considered typical for police officers in general.

"The requirement for possessing and maintaining good health and fitness should not only be levied on recruits but on every officer involved in police work."

The data were next analyzed to see if any relationships could be found between age and any of the test results. We found that similar relationships existed between age and certain tests (variables) and also between percent fat and the same variables. These relationships, listed in table 2, are expressed as correlation coefficients. A relationship between two variables can be expressed mathematically as a value from −1.0 to +1.0. A value of 0.0 means that there is no relationship between the variables. Values progressing from zero to +1.0 indicate increasingly stronger relationships between two variables. One can better predict that as one variable increases, the other variable *increases* more or less equally. Values from zero and progressing to −1.0 indicate increasingly stronger relationships, so that as one variable increases, the other *decreases* more or less equally. For example, the relationship between rainfall and grass height would lie somewhere between zero and +1.0—the more rain, the higher the grass. The relationship between cloudiness and sunshine would lie between zero and −1.0—as clouds increase, sunshine decreases.

Table 2 indicates two sets of relationships. First, as age increases, performance decreases on all tests except strength. This is indicated by the negative numbers. Second, as percent fat increases, performance decreases. Notice that the numbers in both columns are very similar, which shows that there may be a strong relationship between the effects that both age and fat have on performance. In fact, it may be possible to show that what may be considered an aging effect may actually be an effect due to increased body fat.

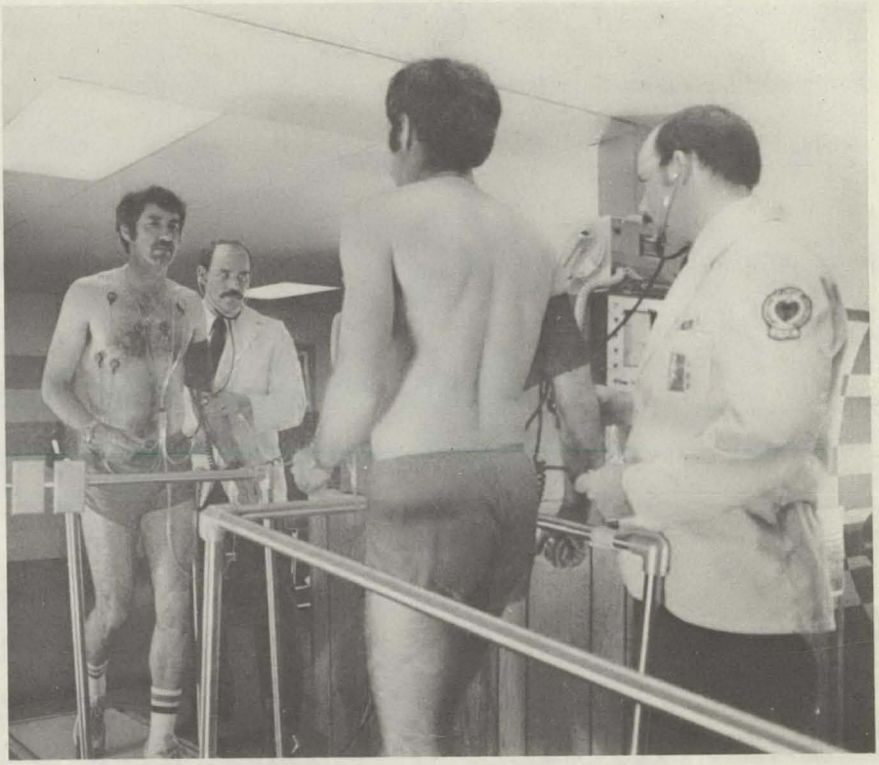
In table 3, we have listed a number of test items and have divided the police officer population into six age groups. Notice that as age increases among the groups, the performance and body weight/fat data become poorer, certainly not an unexpected finding. The gradual increase in weight may be explained by increased amounts of body fat. The lean weight (total weight minus fat weight) remains relatively constant across the age group. It is the fat weight component that increases, which is the reason for the increasingly higher percent fat figures. Insurance height/weight charts allow an individual to carry more body fat with increased age, but from a physiological viewpoint, it is unnecessary and creates an unhealthy situation.

In adults, the waist girth is sensitive to changes in body fat. Table 3 shows a waist girth increase of nearly 5

inches over the six age groups. This is attributable to gains in fat weight. Our laboratory findings have clearly shown the inadvisability of using height/weight charts for determining appropriate body weight. A more sensible approach would be the application of available body weight and waist girth charts.

The decrease in performance of the other fitness items listed in table 3 corresponds with the increased amounts of body fat as the groups advance in age. This was mathematically demonstrated in table 2 with the negative correlation coefficients, i.e., as age and fat increase, performance decreases.

To answer the initial question of whether aging automatically results in decreased performance, and to investigate the degree of interaction between age and body fat on declining performance, we used a statistical technique called analysis of covariance. This technique allowed us to look at the effect one variable had on another without the confounding effect of a third variable. For instance, it is known that muscular endurance will have an impact on one's ability to perform activities such as situps. It is also known that excessive body fat has a harmful



An officer undergoes the treadmill test.

Body composition is determined by measuring an officer's buoyancy when he is totally submerged in a tank of water.

Sit and reach test for measuring hip flexibility.

Table 3

Unadjusted Means for Selected Test Items

Variables	<24	25 to 29	30 to 34	35 to 39	40 to 45	>45
Weight (lbs)	171.38	181.22	186.40	187.43	191.69	191.92
Lean weight (lbs)	146.55	147.92	148.38	147.68	147.35	145.34
Fat weight (lbs)	24.77	33.25	37.97	39.70	44.26	46.58
Waist girth (in.)	33.01	34.56	35.87	36.38	37.51	37.91
Percent fat	14.19	17.95	20.04	20.72	22.727	23.94
Pushups	36.25	34.96	29.89	25.8	21.87	19.97
Situps	49.13	47.61	42.26	35.81	29.86	24.27
Hip flex (in.)	13.42	12.77	12.70	12.62	11.64	10.72
Long jump (in.)	89.58	83.16	82.38	77.96	74.74	72.03
Strength (kgs)	215.779	223.21	225.96	224.295	223.219	217.69
Time on treadmill	11.96	11.26	10.78	9.926	9.643	8.95

Table 4

Adjusted Means for Selected Test Items

Variable	<24	25 to 29	30 to 44	35 to 39	40 to 45	>45
Weight (lbs)	171.38	172.7	173.2	172.5	172.4	169.9
Waist girth (in.)	33.01	33.04	33.50	33.71	34.12	34.00
Pushups	36.25	38.62	35.58	32.20	30.17	29.40
Situps	49.13	50.43	48.20	42.49	38.53	34.17
Treadmill time (min.)	11.96	11.67	11.46	11.54	10.63	10.1

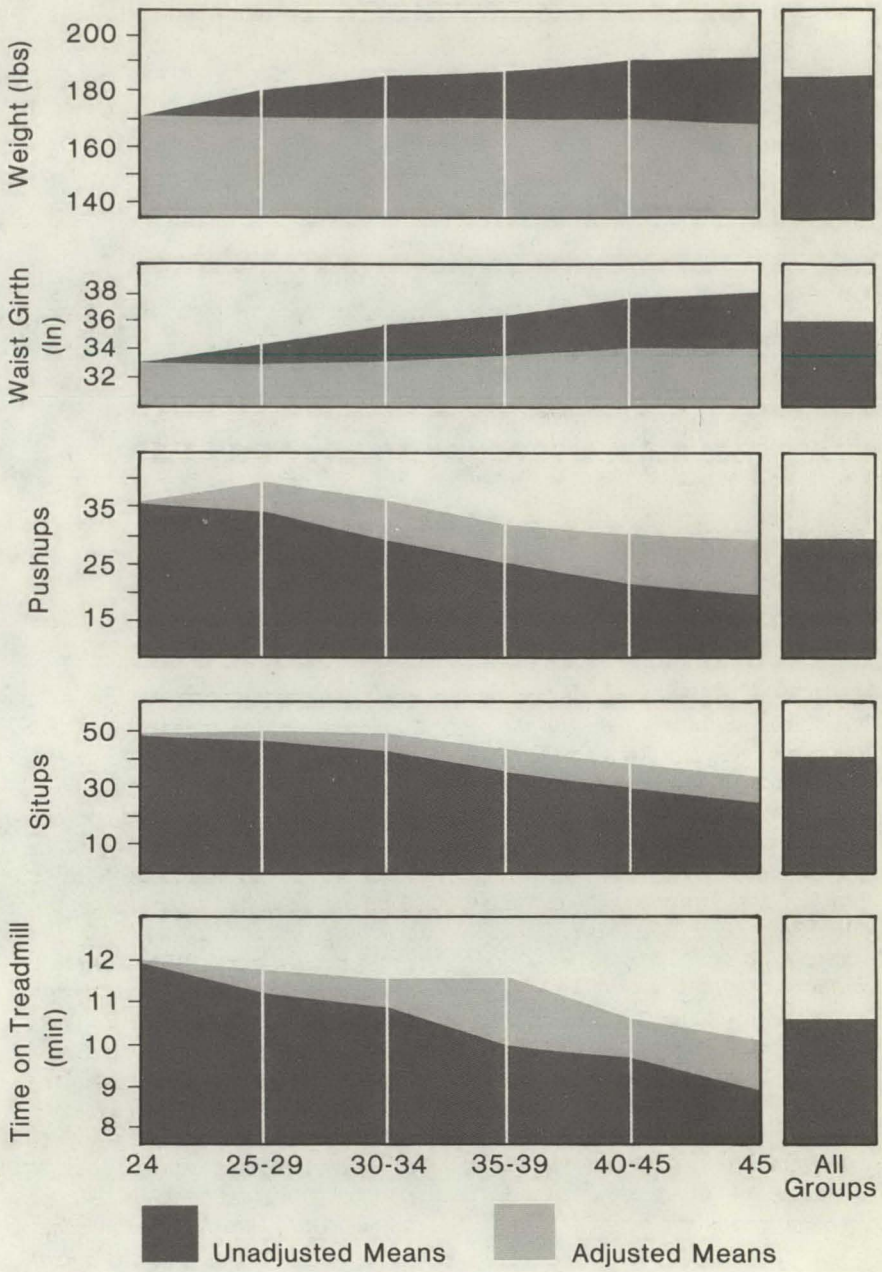
effect on the performance of situps and that older individuals usually perform poorly on this test. Our review of these statistical correlations indicates that body fat may be acting simultaneously with aging in reducing performance of situps, as well as other physical performance tests. Using analysis of covariance allowed us to consider what the age group scores would be if we could assume all groups had the same body fat (no increases with age). Table 4 contains the age group means for several important test items previously listed in table 3. These averages, called "adjusted means," have been statistically adjusted based on all age groups maintaining a constant 14.19-percent body fat equal to the youngest age group. Notice that for weight and waist girth, the scores for all age groups remained virtually identical. The performance of pushups, situps, and treadmill time show much less decline than on table 3. Not all of the decrease in performance is accounted for by body fat—some is still attributed to other aging effects. The largest measure of loss, however, is due to excessive amounts of body fat.

Figure 1 is a graph of the numbers from tables 3 and 4. The dark areas are the "unadjusted" or actual results, while the light areas represent the "adjusted" mean results. The figure graphically illustrates the improvement in test performance that may be attained by maintaining a lower percentage of body fat. Older individuals who retain youthful levels of body fat, usually less than 16 percent, can generally be expected to perform physically demanding tasks at levels equivalent to much younger persons. This is especially true of tasks requiring movement of the body itself—pushups, situps, jumping, climbing, and running. Strength tests involving little or no body movement usually show no relation to amounts of body fat. Table 2 shows virtually no relationship between strength and age (.008) or percent fat (.087).

Age cutoff standards, when used as a job selection criterion, may be discriminatory and unreliable. In fact, many of the physically fit, older officers we tested demonstrated much better health and fitness profiles than the out-of-shape younger officers. The only judicious method of determining who is physically qualified for police work is to test physically applicants and incumbents. The requirement for possessing and maintaining good health and fitness should not only be levied on recruits but on every officer involved in police work. Those officers who possess high aerobic capacity, low body fat, and good muscular fitness have reduced heart disease and low back injury risk factors. All law enforcement personnel, regardless of age, should be physically fit. The benefits accrue immediately, not just in on-the-job performance but in other aspects of life as well. **FBI**

Figure 1

Age Group Comparison of Adjusted and Unadjusted Mean Scores



Offender Profiles
A MULTIDISCIPLINARY APPROACH

EDITOR'S NOTE: In recent months, the FBI Law Enforcement Bulletin has featured several articles on the application of psychological profiles as an investigative technique in selected criminal cases. The use of psychological criminal analysis is the product of a pilot project initiated by the FBI in 1978. This initial project, aimed at formulating criminal offender profiles through investigative interviews with incarcerated felons, led to the development of an ongoing systematic study—The Criminal Personality Interview Program. This program is designed to identify the salient characteristics, motivations, attitudes, and behaviors of offenders involved in specific types of crime.

Two members of the FBI Academy's Behavioral Science Unit, Special Agents Robert K. Ressler and John E. Douglas, and two internationally recognized authorities in the field of sexual assault, Dr. A. Nicholas Groth and Dr. Ann Wolbert Burgess, comprise the research team for this project. Dr. Groth is Director of the Sex Offender Program for the Connecticut Department of Correction and is a clinical psychologist who has worked extensively with convicted sexual offenders. Dr. Burgess is Professor and Director of Nursing Research at Boston University School of Nursing and is a clinical specialist in psychiatric mental health nursing who has worked extensively with victims of sexual assault. This article is a joint effort of members of this research team.

The psychology of criminal behavior, its patterns, dynamics, and characteristics, is an inadequately addressed area of research. It is difficult to enlist the cooperation of an offender prior to trial, since open disclosure could serve to incriminate him. Following conviction, the offender's participation in a psychological evaluation is geared toward the desired outcome of his disposition hearing or pending appeals. After his incarceration, the offender generally becomes inaccessible to behavioral scientists. For the most part, attempts to research criminal behavior have been confined to individual case reporting, which is subject to an inability to differentiate the relevant from the irrelevant, and to a large-scale statistical analysis of offense data retrieved from police records, in which individual differences are treated as error. Therefore, it was believed that a systematic study of incarcerated offenders whose appeals had been exhausted, combined with a review of all relevant documents and pertinent case records, direct observations, and firsthand investigative-clinical interviews with the subject, might yield important insights into the psychological nature of criminal behavior.

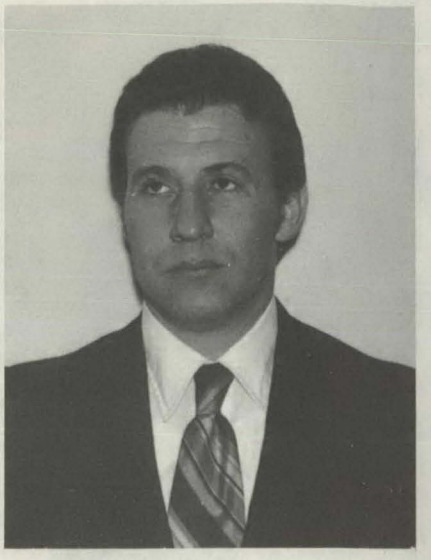
The question remained as to whether incarcerated offenders would cooperate in such research. In order to determine the feasibility of the intended study, a pilot project was undertaken. Crimes in which the FBI either has primary jurisdiction or has traditionally assisted local agencies by providing technical assistance and special expertise, such as hostage/terrorism, skyjacking, extortion/kidnaping, assassination, and mass/multiple murder, were targeted for study. Guidelines were formulated in conjunction with the Legal Instruction Unit of the FBI Academy.

Eight convicted offenders were then approached and asked if they would be willing to be interviewed about their crimes. They were long-term incarcerated felons lodged in various State and Federal penitentiaries and were selected for the gravity of their violent crimes. The results were very encouraging. Based on this response, plans were developed for an

During the 1979 Fiesta Parade in San Antonio, Tex., a sniper, who was a former mental patient, killed 2 persons and injured 51 others, including 13 children and 6 policemen. Photos depict shooting scene and arsenal used by the sniper. Insight into the psychological behavior of persons involved in such crimes is the overall goal of this research program.

Dr. Burgess

Dr. Groth



Special Agent Ressler

extended, ongoing systematic study of convicted offenders in order to better understand the patterns and dynamics of criminal behavior. Sexual homicide was selected as the initial area of primary focus and concentration because it is a lethal type of crime that attracts a great deal of public attention.

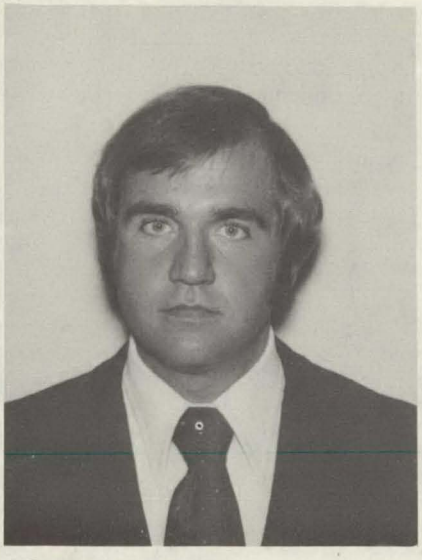
Background of FBI Profiling

For the past few years, efforts at developing psychological profiles of suspects for individual cases of sexual assault/homicide have been undertaken by members of the Behavioral Science Unit.[1] These cases were referred to the unit by local police departments. From the available evidence and information, unit members developed a psychological composite of the suspect. The approach is one of brainstorming, intuition, and educated guesswork. The product was the result of years of accumulated investigative experience in the field and familiarity with a large number of cases. No formal data bank, however, has been developed against which new cases can systematically be compared. Also, there is little or no followup once an offender has been successfully apprehended and convicted. Consequently, there is very little subsequent input of information which would serve to sharpen and refine the existing body of knowledge.

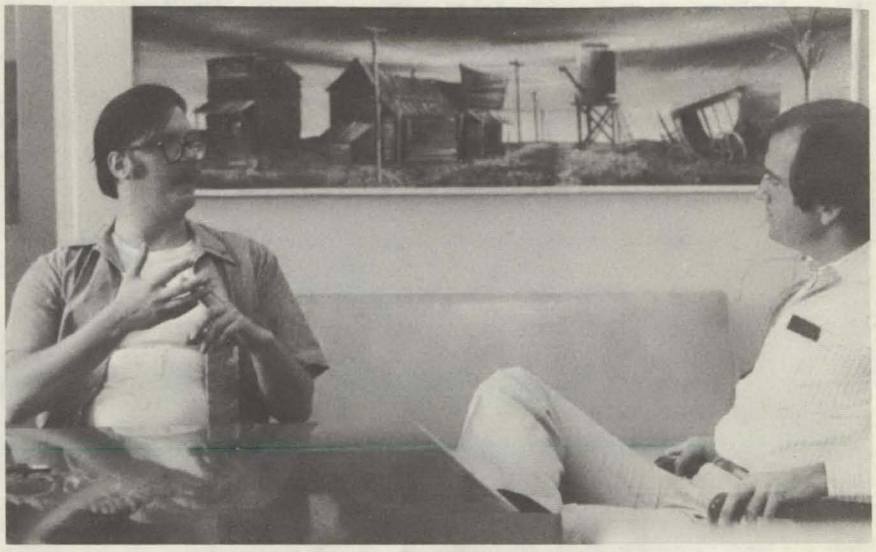
Given the opportunity to interview identified offenders and realizing the need to develop a protocol to insure systematic retrieval of pertinent data, the Training Division engaged the services of Dr. A. Nicholas Groth and Dr. Ann Wolbert Burgess, two experts in the field of sexual assault who had been conducting specialized police schools on rape and child molestation for law enforcement agents at the FBI Academy. This professional affiliation provided a multidisciplinary approach to the study of the sex murderer, combining contributions from both law enforcement and the behavioral sciences.

From a review of the pertinent literature and from the direct, firsthand field experience and prior work of the researchers, this team proceeded to develop a data schedule for investigative inquiry and offender assessment. This instrument provided not only guidelines for interviewing subjects but also a system of recording and coding relevant data to permit computer analysis and retrieval. This protocol (which continues to undergo revision and refinement) is divided into five sections: (1) Physical characteristics of the offender, (2) background development, (3) offense data, (4) victim data, and (5) crime scene data. It encompasses the offender's physical description, medical/psychiatric history, early home life and upbringing, schooling, military service, occupation/vocational history, sexual development and marital history, recreational interests, criminal history, the characteristics of his offense, modus operandi, victim selection, and the scene of his crime.

Once the assessment schedule had been designed, it was administered to three groups of sexual offenders—sex murderers, rapists and child molesters, and sex offenders confined to a mental health facility. During the first year (1979) of the study, interviews with 26 men who were convicted of a



Special Agent Douglas



Edmund E. Kemper, a mass murderer, is interviewed by SA Douglas.

sex-related homicide and were incarcerated in various institutions across the country were completed. The second group—rapists and child molesters incarcerated in a maximum security prison—consisted of approximately 125 adult male offenders who were administered the interview schedule. These subjects were equally divided between those who had sexually assaulted adults and those who had sexually assaulted children. Sex offenders committed to a security treatment (mental health) facility following conviction but prior to disposition comprised the third group. Approximately 100 men were interviewed, again equally divided between rapists and child molesters.

Computer programs were then written to process the data. It is anticipated that as this body of data accumulates, it will provide information about a number of issues pertaining to the sexual offender.

Interestingly, institution officials have been supportive of the research investigation efforts, and the offenders themselves have been very receptive to our solicitation for their help and participation in this study. Although a few have denied or minimized their culpability, the majority have provided information consistent with the known facts of the case.

What prompts convicted offenders to cooperate with law enforcement agents? A variety of reasons exist. For those troubled by what they have done, cooperation may be an effort to gain some perspective and understanding of their behavior or an effort to compensate and make some type of restitution. Others, especially if they feel forgotten or ignored, may respond to the fact that someone is paying attention and showing some interest in them. A selected number of multiple murderers appear to be fascinated with law enforcement, as evidenced by their attempts to become identified with the profession, i.e., posing as law enforcement officers, holding positions such as security guards or auxiliary police, etc. These offenders welcome an opportunity to again associate themselves with investigative efforts. Some may expect that cooperation will result in favors or benefits; others may feel

Selected inmates of the Oregon State Penitentiary participated in the research program.

they have nothing to lose, since all their appeals have been exhausted and no realistic hope for parole or pardon exists. Finally, others may participate in the study because it provides an opportunity to dwell on and recapture the fantasies, memories, and accompanying feelings of the original offense. Whatever their reasons, noble or selfish, healthy or pathological, each in his own way contributes something toward understanding the variety and complexity of this category of crime.

Statistical Procedure

The reliability and the validity of the data retrieved from the study of these offenders will ultimately be tested by the accuracy with which predoctrines (offender profiles) derived from this data pool are fulfilled. It is from these data that various types of offender profiles are beginning to emerge. Although no two offenders are exactly alike, and there is a wide range of individual differences found among offenders who commit similar offenses, they also share some similarities or common traits. It will be both these important differences and the important similarities that serve to differentiate and identify different kinds or specific types of offenders within the same offense category.

Goals and Purposes of Program

This criminal personality research program is designed to contribute to advances in the study of sexual homicide—a subject about which little dependable information is currently available—by establishing a national data bank from which reliable information can be retrieved. From the data derived from this research, offender profiles will be developed based on identifiable behaviors, traits, and characteristics. The profiles, in turn, will aid local law enforcement agencies in the investigation of the crime and the identification and apprehension of offenders. In addition, such profiles and related information will serve to improve interrogation techniques and interviewing skills and to identify those techniques which will be most productive with each type of offender.

Knowledge gleaned from this research will have important implications for crime prevention by identifying important biopsychosocial factors of an offender. It will assist by attempting to provide answers to such questions as:

1) What leads a person to become a sexual offender and what are the early warning signals?

2) What serves to encourage or to inhibit the commission of his offense?

3) What types of response or coping strategies by an intended victim are successful with what type of sexual offender in avoiding victimization?

4) What are the implications for his dangerousness, prognosis, disposition, and mode of treatment?

Current emphasis is on the rape-murderer, since the Training Division receives annually close to 100 unsolved, sex-related homicides for review and analysis. This research program is envisioned as ultimately expanding to encompass a broader variety of felony crimes to include hostagetaking and techniques to improve hostage negotiation. A further benefit will be the improvement of techniques of interviewing, interrogation, and informant targeting in criminal and espionage matters. The present study, which addresses sexual assault, is unique in that it represents the combined approaches of law enforcement/criminal justice and behavioral science/mental health professionals, as well as active participation and direct contribution from convicted felons, to combat this major type of serious crime. **FBI**

". . . an extended, ongoing systematic study of convicted offenders [was initiated] in order to better understand the patterns and dynamics of criminal behavior"

Footnote

[1] Richard L. Ault, Jr. and James T. Reese. "A Psychological Assessment of Crime: Profiling." *FBI Law Enforcement Bulletin,* vol. 49, No. 3, March 1980, pp. 22-25.

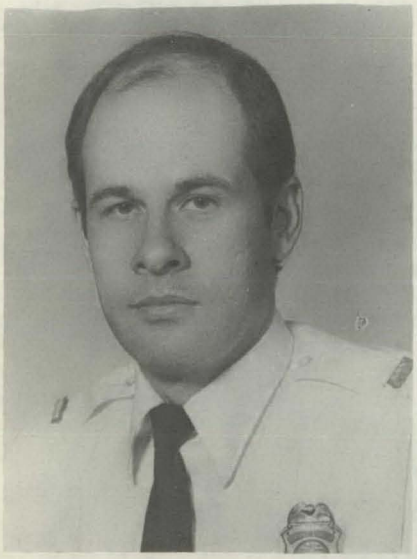
EXICUTE
A System for Police Training

By LT. RON BERMAN
U.S. Capitol Police
Washington, D.C.

An ideal police training system can only exist in an ideal police organization. The quality of training will be enhanced or hampered by the quality of the organization. Consequently, a police organization must be well-defined in terms of structure, job descriptions, and mission (reason for its existence), or its training program will suffer.

EXICUTE is a system designed to identify continually the training needs of the police department and develop a curriculum responding to these needs. It shows the flow from *ex*ternal input to *i*dentification of needs to *cu*rriculum development to actual *t*raining and finally *e*valuation. The importance of this system lies in improving the quality and relevance of the myriad of training programs which have evolved in the last 10 years.

If a police department's training division is viewed as being part of the training system, then other groups and individuals exerting influence from outside the system can be called external input. This input can come from five major sources, the first and foremost being the other sections of the department itself. Departmental input can be either formal or informal. Formal input can be a directive from the chief that 10 additional hours will be added to report writing instruction or the establishment of a school for evidence technicians at the request of the identification section. Informal input is received continually by the training division through conversations between its staff and other members of the department, regardless of rank or section of assignment. Citizens and citizen groups provide a second form of input. Their opinions may be directed to the chief, the academy, or the media, and usually result in more human relations training. The third major source of input comes from the governmental entity that supervises the police department, such as a city council or mayor. The chief's chief wields considerable influence over all facets of the department when he cares to use it. Fortunately, this weight is not often felt in the training division. Articles or editorials by the media, another source of input, may reveal real or imagined weaknesses in a department that can be corrected through training. One area of great concern to the media is the proper use of deadly force. And last, input is provided by other government agencies. This input may be in the nature of written guidelines for interacting with a particular agency or as a result of informal contacts.



Lieutenant Berman

James M. Powell
Chief of Police

The second stage in the EXICUTE system is the continuous identification of training needs. This step is based on two types of activities—task analysis and identification of needs by the training division's staff. Task analysis in a police department depends on a clear organizational structure, good job descriptions, and a statement of the department's mission. With these three elements, it is possible to identify those tasks that are critical for proper job performance through task analysis. While the task analysis could be performed by the training division, a consultant or the research and planning section of the department is usually called upon for the assignment.

The training staff identifies training needs by sifting through or collating all external input, as well as through their own observations based on random or systematic reviews of activities within the department. For instance, an increase in the number of on-duty injuries and a decrease in the percentage of arrests leading to convictions may indicate training needs that must be filled. In addition, recent developments in the criminal justice system, such as court decisions, may lead to new areas of training.

Both task analysis and staff identification of training needs must be continuous. Yet, because of the time and cost involved, task analysis cannot be performed every 6 months, only when it becomes out of date. However, the training staff will be able to identify new training requirements continually, depending on the number of noninstructional hours in their schedules.

After training needs are identified, curriculum development begins. Since not all training needs can be addressed at the same time because of time and staff limitations, the most important ones to be addressed must be selected, based on the priorities of the organization. Each area must then be converted into a rough block of instruction, which is accomplished by grouping training requirements logically under a single subject heading.

Once selected, the subjects must be incorporated into the two major training curricula of the division—recruit and inservice. While recruit training is a single program, inservice is composed of many different facets. Inservice training can include executive development, supervisory and management training, specialized inhouse training, specialized outside schools, rollcall training, and continuation training. It is also true that different types of inservice training have varying degrees of importance to the organization. Space, staff, and budget limitations prevent many departments from doing as much inservice training as they would like. Thus, some courses must be placed in programs that are functioning, even if they would fit more logically in programs that are presently nonexistent. For example, review of the laws of search and seizure may be placed in a supervisor's management class, because there is no other inservice class for supervisors during the year.

The next stages of curriculum development follow a standard format:

—Objectives written for each block of instruction,
—Criteria developed for each instructional objective,
—Methods and materials selected,
—Lesson plans written based on instructional objectives, and
—Instructional aides and resources obtained.

This curriculum development process should be followed for each new training area. Furthermore, each of these steps should be reviewed periodically to ensure that changes have not occurred which warrant a change in any or all the categories for a particular subject.

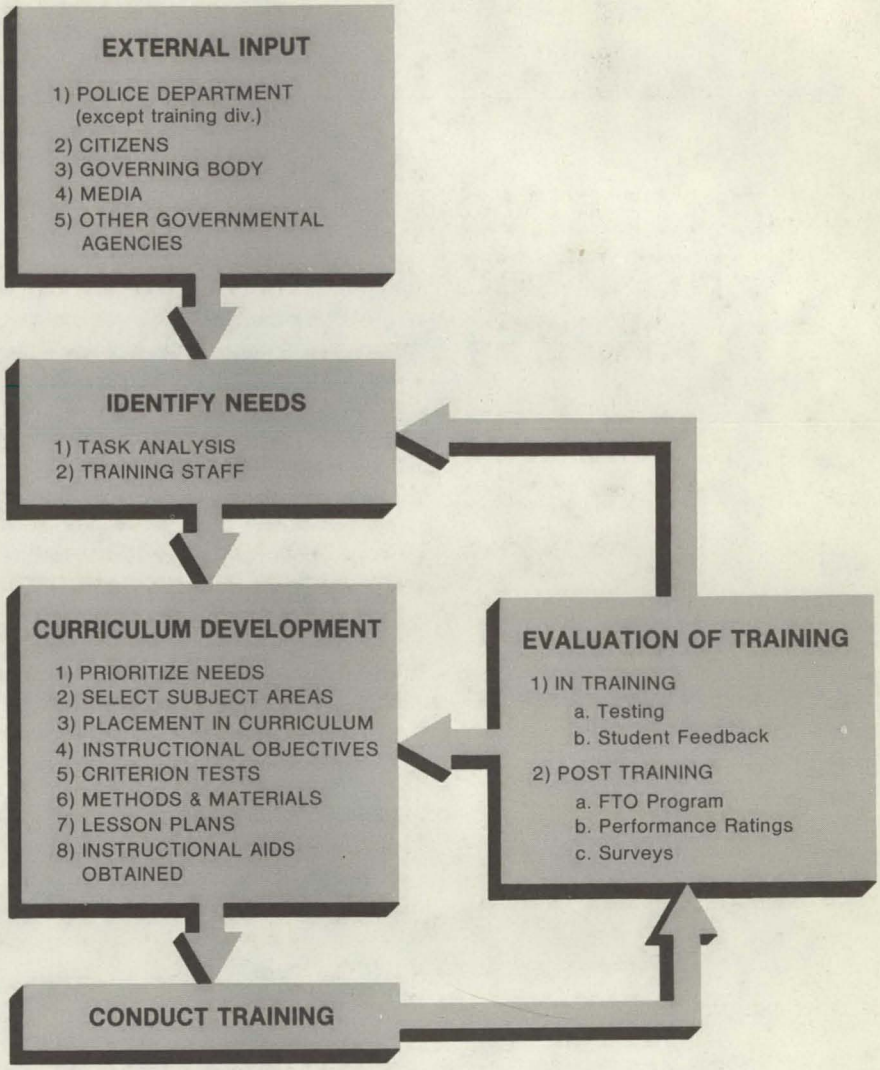
Conducting the training is the next stage in the system. The great care taken to select the courses and develop lesson plans will all be for nought if the material is not properly presented to the students. This requires, first, that there are facilities conducive to the learning process. Second, the staff must be competent and dedicated to the concept of quality instruction and a quality training program. And last, there has to be an emphasis on the importance of the individual student. The training staff must be willing and able to respond to the unique learning needs of each student.

Once the training is conducted, the final stage in the system, evaluation, is begun. Evaluation provides a check on the quality of training, the validity of instructional objectives, and the original determination of needs. Thus, it will afford input to the training division at the needs identification and curriculum development stages. The evaluation process takes place while the students are in training and after their training is completed.

Evaluations are conducted through testing and student feedback. Testing, based on criteria previously developed, offers feedback on whether the training process is addressing instructional objectives. Student feedback, formalized in critiques usually administered at the conclusion of training, is useful in providing information on the quality of instruction. Student feedback in inservice training will also provide information on the appropriateness of the training needs being addressed.

The evaluation process continues after the students complete training. As rookies, they will be involved as trainees in a field training officer's program; as experienced field training officers, they will also be the trainers. Their success in either role will provide data which will be fed back to the training division. This data will be useful when looking at training needs, curriculum development, and the training process. In addition, performance ratings prepared on all personnel will indicate areas where more training is needed or may identify new training needs. Personnel in the department should also be surveyed in order to ascertain where they feel more or better training is needed.

EXICUTE: A SYSTEM FOR POLICE TRAINING



The EXICUTE system of training can be applied to any medium-sized police department. Although the system forms a loop, it is open to external input. However, for the system to be most effective, it must have the commitment of a qualified training staff and the total support of the department, from the chief administrator on down through the ranks. **FBI**

ENTERING PREMISES TO ARREST
An Analysis of the Warrant Requirement
(Conclusion)

By DANIEL L. SCHOFIELD and JOSEPH R. DAVIS

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

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

The first part of this article provided an historical perspective of the law concerning police authority to enter premises to arrest and a look at the recent Supreme Court decision in *Payton* v. *New York* [47] and its impact on law enforcement. The Court ruled in *Payton* that absent exigent circumstances, an arrest warrant is constitutionally required to enter the suspect's dwelling to make an arrest.[48] Moreover, the police must have probable cause to believe the suspect is in his residence at the time of entry.[49]

However, the *Payton* decision did not answer two questions of fundamental importance to law enforcement officers. First, what kind of warrant, if any, is constitutionally required to enter the premises of a third party to arrest a suspect? Second, what constitutes the existence of exigent circumstances justifying a warrantless entry? An analysis of some lower court opinions dealing with those questions is necessary.

Entering the Premises of a Third Party

While the decision in *Payton* dealt only with the authority of police to enter a dwelling in which the suspect resides, logic would suggest that at a minimum, the same constitutional requirements would apply where the police wish to enter the premises of a third party. *Payton* makes it clear that a search warrant is not constitutionally required to enter the suspect's dwelling.[50] However, some courts and legal commentators have argued that absent exigent circumstances, the fourth amendment requires a search warrant to enter the premises of a third party to arrest a suspect.[51] A brief look at the substance of those arguments seems merited.

By way of review, the general rule is that the warrant clause in the fourth amendment requires the police to obtain a search warrant prior to entering a private dwelling, unless circumstances make the warrant process impracticable—thus creating a recognized exception to the warrant requirement. In essence, the Supreme Court in *Payton* approved of an exception to this warrant requirement by deciding that an arrest warrant carries with it implicit authority to enter the suspect's dwelling to make an arrest.[52] However, this implicit authority emanating from the issuance of an arrest warrant may not justify entering the premises of a third party, because the arrest warrant merely indicates a judicial determination that there are sufficient grounds to arrest a particular person and does not normally involve a prior judicial determination that there is probable cause for the police to enter the premises of a third party.

The primary purpose of requiring a search warrant is to secure the right of privacy against arbitrary police entries by taking the decision to enter and search from the police and placing it with a neutral and detached magistrate. The Supreme Court in *Payton* concluded that the privacy interests in the suspect's residence are adequately protected by requiring the police to obtain an arrest warrant.[53] However, arrest warrants, unlike search warrants, do not ordinarily involve any prior

judicial finding of the need for police to enter a particular location or the probability that the person to be arrested is located therein, and therefore, may not provide adequate protection against arbitrary invasions of the privacy interests in premises other than where the suspect resides.

Courts directly addressing the question of whether a search warrant is constitutionally required to enter the premises of a third party have reached different conclusions. Several cases illustrate the contrasting views on this issue.

Cases Holding a Search Warrant Is Not Required

Typical of those cases which hold that an arrest warrant affords adequate protection is *United States* v. *Gaultney.*[54] In that case, the U.S. Court of Appeals for the Fifth Circuit concluded that a search warrant is not required to enter premises belonging to a third party where the police have obtained a valid arrest warrant and have probable cause to believe the individual named in the warrant is located on the premises to be entered.[55]

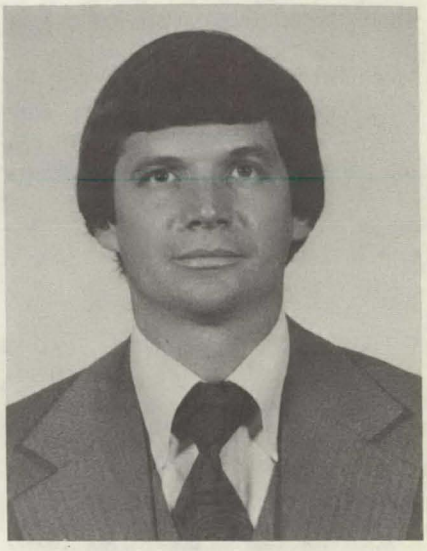
In an earlier case, *United States* v. *McKinney,*[56] the U.S. Court of Appeals for the Sixth Circuit held that the issuance of an arrest warrant is itself an exceptional circumstance which, combined with the mobility of the person and probable cause to believe that person is located on the premises to be entered, justifies entry without a search warrant.[57]

Recently, the Supreme Court of Oregon in the case of *State* v. *Jordan*[58] addressed the issue of whether a police officer may enter a private dwelling to execute an arrest warrant without obtaining a search warrant. While acknowledging that courts and legal commentators are divided over the issue, the court ruled that a search warrant is not constitutionally required.[59] A majority of the court in *Jordan* was persuaded that a search warrant requirement would unduly hamper the police in the performance of their duties and likely result in increased escape attempts.[60] The court wrote:

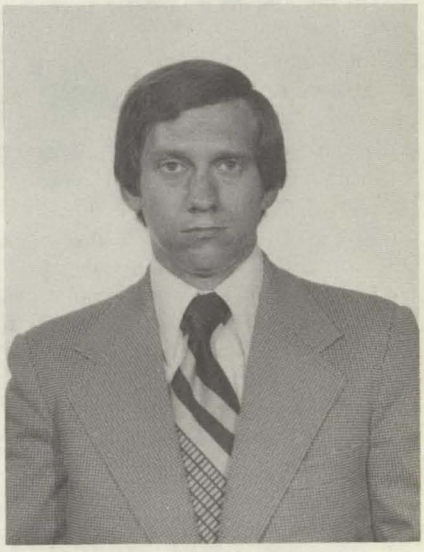
> "The constitutional requirement of reasonableness does not mandate that we handicap police apprehension efforts by requiring officers to wait at the threshold while the suspect hides or flees or by requiring officers to return for a warrant to search each time the suspect flees to hide. . . . We believe that constitutional rights will be protected as long as any arrest on private premises is supported by the judicial authorization of an arrest warrant and the police officer's probable cause to believe that the arrestee is within the premises."[61]

Cases Holding a Search Warrant Is Required

In *United States* v. *Williams,*[62] the U.S. Court of Appeals for the Third Circuit ruled that in the absence of exigent circumstances, a search warrant is required prior to entry into the premises of a third party to make an arrest.[63] In that case, the police had established probable cause to arrest Williams and probable cause to believe he could be located at the residence of an acquaintance. Police initiated a surveillance of that residence, apparently



Special Agent Schofield



Special Agent Davis

"... lower courts are divided over the issue of whether a search warrant is constitutionally required to enter the premises of a third party to make an arrest."

intending to arrest Williams as he exited the building. After a period of several hours, the police approached the house and observed a black male open the front door and then quickly duck back inside. The police then entered the house, arrested Williams, and seized evidence from his person. The police had neither an arrest nor a search warrant.

While acknowledging that the facts presented a close case, the court concluded that exigent circumstances justified the warrantless entry, because the police had reason to believe armed flight was imminent.[64] However, language in the opinion indicates the court would have required a search warrant in the absence of those exigent circumstances.[65]

In another case, *United States* v. *Prescott,*[66] the U.S. Court of Appeals for the Ninth Circuit concluded that in the absence of exigent circumstances, an entry into the premises of a third party to make an arrest is in violation of the fourth amendment, if a warrant describing the place to be searched and the persons or things to be seized is not obtained.[67] Noting that the physical entry of the home is the chief evil against which the wording of the fourth amendment is directed, and that the sanctity of private dwellings has traditionally been afforded the most stringent fourth amendment protection,[68] the court wrote:

> "The sanctity of the home is no less threatened when the object of police entry is the seizure of a person, rather than a thing. A magistrate's disinterested determination that governmental instrusion is warranted is no less desirable when the policeman's quarry is a suspect, rather than a piece of evidence."[69]

A Review

Most people would agree that an arrest itself constitutes a serious intrusion into an individual's privacy interests. In *United States* v. *Watson,*[70] the Supreme Court ruled that the intrusiveness of a public arrest is not enough to mandate the obtaining of a warrant. However, the incremental intrusiveness that results from an arrest being made in a home or area where one has a reasonable expectation of privacy raises additional concerns of constitutional significance. In *Payton*, the Court ruled that an arrest warrant is required to enter the suspect's dwelling, absent exigent circumstances.

The preceding discussion demonstrates that the lower courts are divided over the issue of whether a search warrant is constitutionally required to enter the premises of a third party to make an arrest. In view of the fact the U.S. Supreme Court has not provided a final answer to this important constitutional question, it is imperative that law enforcement officers carefully review the law in their respective jurisdictions.

While the courts are split on the issue of what type of warrant is constitutionally required to enter the premises of a third party, there is general agreement that under special circumstances, a warrantless entry is justified. Therefore, it is also important to examine cases dealing with the existence of special or "exigent circumstances."

What Constitutes Exigent Circumstances

The Court in *Payton* did not directly acknowledge that the presence of "exigent circumstances" would have excused the failure of the New York officers to obtain arrest warrants for Payton and Riddick. Rather, the Court noted the existence of such special circumstances was not an issue, as the New York courts had not relied on any such justification to support their holdings.[71] However, such a notion appears implicit in the *Payton* opinion. The majority in *Payton* was careful to restrict the holding to "routine" felony arrests,[72] and in restating the holding elsewhere in the opinion, it is conditioned by the phrase "absent exigent circumstances. . . ."[73]

The dissenters in *Payton* also clearly perceived the holding of the majority as allowing an exception to the warrant requirement for exigent circumstances. In fact, one of the criticisms of the majority holding leveled by Justice White in his dissent was that "under today's decision whenever the police have made a warrantless home arrest there will be the possibility of endless litigation with respect to the existence of exigent circumstances, whether it was practicable to get a warrant, whether the subject was about to flee, and the like."[74]

An exception to the arrest warrant requirement of *Payton* based on circumstances calling for immediate action would be entirely consistent with the well-established body of fourth amendment law relating to entry and search of private premises for physical

evidence.[75] More significantly, the Supreme Court has in prior cases validated warrantless entries into private premises to make arrests when the officers were in "hot pursuit" of a suspect.[76] In *Warden* v. *Hayden,*[77] for example, an armed robbery had just taken place and police officers were told that the suspect had been seen entering a house less than 5 minutes earlier. The officers entered the house without a warrant to search for and arrest the robber. The Supreme Court upheld the entry and search as "reasonable" under the fourth amendment, stating:

> "The Fourth Amendment does not require officers to delay in the course of an investigation if to do so would gravely endanger their lives or the lives of others. Speed here was essential, and only a thorough search of the house for persons and weapons could have insured Hayden was the only man present and that the police had control of all weapons which could have been used against them to effect an escape." [78]

Therefore, it can be predicted with some degree of certainty that whatever the resolution of the question discussed previously (what type of warrant is needed for third party premises), any warrant requirement imposed will recognize an exception for the sort of emergency situations often referred to by courts as "urgent need" or "necessitous" or "exigent" circumstances. Furthermore, there is no reason to believe that "hot pursuit" is the only situation which will justify the exception; rather, it is simply an obvious example of a circumstance making the need for immediate action necessary.

As noted earlier in Part I of this article, prior to *Payton* several Federal and State courts had subscribed to the principle adopted by the Supreme Court in *Payton* that a warrant was necessary to enter a dwelling to make a routine arrest. Often, however, these courts found that the facts of a particular case justified an exception to this general warrant requirement. These decisions offer valuable insight into the factors courts are likely to consider when called upon to determine if the facts support the need for immediate entry without delaying to obtain a warrant.

The *Dorman* Analysis

The opinion of the U.S. court of appeals in *Dorman* v. *United States*[79] is one of the most comprehensive attempts to catalog the factors which bear upon the existence of exigent circumstances. In *Dorman* there was an armed robbery of a clothing store shortly after 6 p.m. on a Friday evening. The robbers bound the employees and customers, and at gunpoint, forced them to lie on the floor of a backroom during the robbery. Harold Dorman, one of the robbers, left some identifying papers in the store which enabled a detective working the case to locate a photograph of him from police department files. At approximately 8:30 p.m., two of the witnesses made a positive identification of Dorman from the photograph. The detective then called a Federal prosecutor to obtain permission to proceed with the arrest and began preparation of an affidavit to accompany the application for an arrest warrant. The prosecutor called the detective back and advised him that no magistrate was available, but that since a felony was involved, an arrest could be made without a warrant. At about 10:20 p.m., the police arrived at Dorman's residence. After being advised by his mother that he wasn't home, but hearing a noise from within, they brushed past the mother and began a search for Dorman. He was not located, but in the course of the search for him, a man's suit similar to one believed to have been taken by Dorman in the robbery was observed in a closet. The suit was later admitted in evidence, over the objection of the defense.

After first recognizing that generally an arrest warrant was required to enter a home to search for a suspect to be arrested, the court then considered whether the facts of the case justified an exception to this requirement. It is this portion of the opinion which is of interest to us at this point and which bears close examination. The court listed the factors bearing on the issue as follows:

> "First, that a grave offense is involved, particularly one that is a crime of violence. Contrariwise the restrictive requirement for a warrant is more likely to be retained, and the need for proceeding without a warrant found lacking, when the offense is what has been sometimes referred to as one of the 'complacent' crimes, like gambling.

"Second, and obviously interrelated, that the suspect is reasonably believed to be armed. Delay in arrest of an armed felon may well increase danger to the community meanwhile, or to the officers at time of arrest. This consideration bears materially on the justification for a warrantless entry.

"Third, that there exists not merely the minimum of probable cause, that is requisite even when a warrant has been issued, but beyond that a clear showing of probable cause, including 'reasonably trustworthy information,' to believe that the suspect committed the crime involved.

"Fourth, strong reason to believe that the suspect is in the premises being entered.

"Fifth, a likelihood that the suspect will escape if not swiftly apprehended.

"Sixth, the circumstance that the entry, though not consented, is made peaceably. Forcible entry may in some instances be justified. But the fact that entry was not forcible aids in showing reasonableness of police attitude and conduct. The police, by identifying their mission, give the person an opportunity to surrender himself without a struggle and thus to avoid the invasion of privacy involved in entry into the home.

"Another factor to be taken into account, though it works in more than one direction, relates to time of entry—whether it is made at night. On the one hand, as we shall later develop, the late hour may underscore the delay (and perhaps impracticability) of obtaining a warrant, and hence serve to justify proceeding without one. On the other hand, the fact that an entry is made at night raises particular concern over its reasonableness, and may elevate the degree of probable cause required, both as implicating the suspect, and as showing that he is in the place entered." (Citations omitted.) [80]

Although not included in the above list of factors in *Dorman,* the court noted that an analysis of the reasonableness of the officers' conduct would not be complete without considering how long it would have taken for the police to obtain a warrant.

Applying the above factors to the situation presented in *Dorman,* the court found:

1) The crime was one of violence;

2) There was a reasonable belief he was armed;

3) There was a positive identification of Dorman (evidently considered "reasonably trustworthy information" that he had committed the crime);

4) There was no special knowledge that he was home, "but concepts of probable cause and reasonableness prima facie justify looking for a man at home after 10 p.m."; [81]

5) There was some possibility that delay might have allowed an escape—considering the fact that Dorman may have realized that he had left behind papers bearing his name and address; and

6) The entry, though not consented to, was made peacefully and after announcement of purpose. Regarding the time of entry, the court noted that the 4-hour delay was not of the officers' own making, as they were steadily and systematically engaged in the identification and pursuit of the suspects. With reference to the time it would have taken the officers to obtain a warrant, the court noted that due to happenstance, neither the judge regularly scheduled for night duty nor the part-time Federal magistrate was available at 8:30 p.m. when the officers needed the warrant. This unusual circumstance extended the time period ordinarily necessary to obtain a warrant considerably, and in the view of the court, justified proceeding without a warrant.

The *Dorman* court found that the facts and circumstances related above constituted the kind of urgent need or exigent circumstances that justified the entry without a warrant.

The *Dorman* formulation of the exigent circumstances issue has received wide acceptance by both Federal and State courts; often the list of factors has been adopted practically verbatim. [82] It is clearly the leading case on this point of law.

Notwithstanding the broad acceptance of the *Dorman* approach, it has occasionally been criticized by courts and legal commentators. Two of these criticisms are worthy of brief consideration, as they make important points regarding the application of the *Dorman* analysis. The first focuses upon the fourth factor in the *Dorman* list—strong reason to believe the suspect is in the premises being entered. At least one Federal appellate court has interpreted this factor as equivalent to "probable cause" to believe the suspect is within the premises to be searched and noted that at least with regard to entry into premises of a third party, this is an *essential precondition* to entry—not simply one factor to be considered among several others.[83] This court was undoubtedly correct in holding that an entry to arrest, with or without a warrant, may only be made when there is reason to believe (probable cause) that the suspect is within the premises. The *Payton* opinion says this directly with regard to entry into the suspect's own premises on the authority of an arrest warrant.[84] Surely at least as stringent a standard must be applied for entry into premises other than those of the suspect. However, this criticism may be based on a more restrictive reading of the term "strong reason to believe" than the *Dorman* court intended. Perhaps the strong "reason to believe" language was intended to require something more than a bare minimum of probable cause for this factor to be considered as a *positive* element in justifying a warrantless entry.[85]

A second criticism of the *Dorman* approach is more fundamental. Some legal commentators have suggested that it is not workable as an everyday guide for police officers, "requiring as it does the making of on-the-spot decisions by a complicated weighing and balancing of a multitude of imprecise factors."[86] It is clearly true that there is little certainty in the outcome of the analysis in a case presenting several but not all of the listed elements. However, most courts seem willing to continue to use the *Dorman* factors at least as guidelines—recognizing that they do not constitute a litmus test or a mathematical formula for determining the existence of exigent circumstances.[87]

With the foregoing in mind, it may be helpful to briefly examine several decisions which have directly confronted the exigent circumstances issue in the context of entry into private premises to arrest. These cases will be divided into two categories—those where exigent circumstances were found to exist and those where they were not.

Exigent Circumstances Present

In *United States* v. *Campbell,*[88] three armed men robbed a bank at 10:30 a.m. One suspect was arrested nearby almost immediately; at about 2 p.m. he confessed and identified the other two robbers. After verifying the addresses of the two suspects and interviewing witnesses to the robbery, an FBI Agent called an assistant U.S. attorney at approximately 4:15 p.m. and obtained authorization for warrantless arrests of the suspects. After a brief delay to organize the raids, the two suspects were arrested at approximately 6 p.m. at their respective apartments. The court found that the arrests were justified by the need for immediate action, noting particularly that the two remaining suspects may well have known or surmised that their confederate had been arrested, and hence, might attempt to flee. Also the court commented favorably on the fact that the Agent had consulted with the prosecutor before arresting, and that the delay was due, in part, to efforts to verify the addresses of the suspects.

An armed bank robbery was committed shortly before noon in *United States* v. *Shye,*[89] and the getaway car was found within a couple of hours. The car was parked within 50 yards of the suspect's apartment. After unsuccessful attempts for about 1 hour to ascertain if anyone was in the apartment (by use of a ruse, attempt to get a key from the landlord), the door suddenly opened and officers observed one of the suspects in the premises. An immediate warrantless entry and arrest was made. The court was critical of the "conscious avoidance" of the warrant procedure during the 1-hour delay, but found that the opening and closing of the door was an intervening and unexpected development giving rise to the need for an immediate entry, thus validating the arrest.

United States v. *Bradley*[90] arose from a warrantless entry and arrest in a narcotics investigation. Undercover agents met the suspects at an apartment at approximately 9:20 p.m. and a deal was agreed upon. The agents returned to the apartment at 11:05 p.m.

"While the courts are split on . . . what type of warrant is . . . required . . . there is general agreement that under special circumstances a warrantless entry is justified."

to complete the transaction. Shortly thereafter, at approximately 11:35 p.m., other agents entered and the arrests were made. The court found that the 11:05 p.m. meeting was not planned until 10:35 p.m. and the identity of some of the suspects and location of the drugs was not known until the 11:05 p.m. meeting. Delay at that point to obtain warrants would have likely permitted the escape of the suspects and destruction of the evidence. Exigent circumstances were found.

Vance v. *North Carolina*[91] offers an interesting twist, as it deals with a situation where the police had obtained an arrest warrant which was later held to be invalid. Two armed men robbed a general store; later the same day Vance was tentatively identified as one of the robbers. The following morning an arrest warrant was issued and in the early afternoon Vance was arrested at his residence. The warrant was later declared invalid, as it was not issued by a neutral and detached party. The court applied the *Dorman* formulation and found a warrantless entry would have been justified by the circumstances, thereby upholding the arrest. The court noted that the fact that a warrant was actually obtained weakened the exigent circumstances argument, as it indicated there was, in fact, time to obtain a warrant. Nevertheless, the court said it would be inappropriate to invalidate an otherwise lawful arrest because the officers were more cautious than required.

No Exigent Circumstances Present

United States v. *Reed*[92] presents a situation where few of the *Dorman* factors were present. Undercover officers had made several purchases of narcotics from the suspects over a 3-month period. Over 2½ months after the last contact, agents went to the suspects' apartment without warrants and arrested them. The court found the warrantless arrests improper, noting there was no recent prior contact and no suggestion of a change in the status of the investigation which made immediate action necessary.

In contrast to *Reed,* a much closer case was presented in *United States* v. *Houle.*[93] There, Bureau of Indian Affairs police received a complaint at approximately 1:50 a.m. from Houle's wife, indicating her husband had threatened to shoot her and was on his way to her father's house where she was staying. The police went to the father's home and removed the wife and her children to the police station at about 2:40 a.m. While at the house, the officers heard two gunshots coming from the direction of the suspect's nearby home. Meanwhile, Houle called the police department warning them to stay away from his house until morning and that he would shoot any officer who came into his yard. The officers decided to delay any action until morning. At 6:30 a.m., they went to the house, without a warrant, to arrest him. Houle was asleep and had a rifle lying on a nearby chair. The officers were able to reach in through a broken window and retrieve the weapon without waking him. They then kicked open the door, entered, and arrested him. The court held that no exigent circumstances were present to excuse the failure to obtain a warrant. The opinion focused on the 4-hour delay between the initial complaint and the arrest and the failure of the officers to attempt to obtain a search or arrest warrant during that time. The court considered the delay as indicating the officers did not believe Houle would attempt to escape or destroy evidence.

In *Commonwealth* v. *Forde,*[94] the court refused to excuse the obtaining of warrants, because the exigency could have been anticipated by the officers. After an extended narcotics investigation, officers arrested four men shortly after they had left an apartment known to be the location for illegal narcotics transactions. The arrest occurred at 8:30 p.m. At approximately 11:30 p.m., an officer overheard one of the arrestees telling his two companions who were about to be admitted to bail that they had "better get right down to the place and tell them what has happened because 'I can't get bailed'." Based upon this, one of the officers attempted to contact a magistrate to obtain warrants, but was unsuccessful in reaching one. At approximately 11:45 p.m., the officers proceeded to the apartment, knocked on the door, and arrested all the occupants. The court held the warrantless

entry and arrests illegal. The court acknowledged that the overheard conversation gave the police strong reason to believe the occupants of the apartment would be alerted and hence escape or destroy any evidence. However, the court noted that 3 hours had elapsed between the time of the first arrest and the overheard conversation, during which time the police could have foreseen the serious risk that one of those arrested would be released and warn others. As no explanation was offered by the State for the failure to attempt to obtain a warrant during this time, the court held this was fatal to any claim of exigency.

Summary

Unfortunately, an analysis of cases dealing with the question of exigent circumstances yields few general principles and demonstrates the difficulty of predicting how a court will interpret a particular factual situation.[95]

Accordingly, until the courts provide clearer guidance on this issue, it seems prudent to limit warrantless entries to arrest to those rapidly unfolding situations where delay would pose a substantial risk of escape, loss of evidence, or increased danger of injury.

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Footnotes

[47] 63 L.Ed. 2d 639 (1980).
[48] *Id.* at 660–61.
[49] *Id.*
[50] *Id.*
[51] See, *e.g., Wallace* v. *King,* docket no. 78–1399 (4th Cir. 7/1/80); *United States* v. *Williams,* 612 F. 2d 735 (3d Cir. 1979), *cert denied,* 100 S. Ct. 1328 (1980); *United States* v. *Prescott,* 581 F. 2d 1343 (9th Cir. 1978); *State* v. *Jones,* 274 N.W. 2d 273 (Iowa 1979); Rotenberg and Tanzer, Searching for the Person to be Seized, 35 Ohio St. L.J. 56 (1974); Note, The Neglected Fourth Amendment Problem in Arrest Entries, 23 Stan. L. Rev. 995 (1971).
[52] 63 L.Ed. 2d at 661.
[53] *Id.* at 660.
[54] 606 F. 2d 540 (5th Cir. 1979).
[55] *Id.* at 544–545. Other courts reaching a similar result include: *United States* v. *Harper,* 550 F. 2d 610 (10th Cir. 1977), *cert. denied,* 434 U.S. 837 (1977); *United States* v. *Brown,* 467 F. 2d 419 (D.C. Cir. 1972); *State* v. *Platten,* 594 P.2d 201 (Kan. 1979).
[56] 379 F. 2d 259 (6th Cir. 1967).
[57] *Id.* at 262–63.
[58] 605 P.2d 646 (Oregon 1980).
[59] *Id.* at 650.
[60] *Id.* at 651.
[61] *Id.*
[62] 612 F. 2d 735 (3d Cir. 1979).
[63] *Id.* at 738.
[64] *Id.* at 739.
[65] The court wrote: "We believe that the case in support of the conclusion that exigent circumstances existed which justified the warrantless entry of the private residence for the purpose of effectuating the arrest therein is thin, but, nevertheless, sufficient to satisfy the fleeing-suspect criteria. For, while subsequent events indicated that the police officers had sufficient time and opportunity to obtain a *search* warrant. . . ." *Id.* (Emphasis added).
[66] 581 F. 2d 1343 (9th Cir. 1978).
[67] *Id.* at 1350.
[68] *Id.* at 1349.
[69] *Id.*
[70] *United States* v. *Watson,* 423 U.S. 411 (1976).
[71] *Payton, supra* note 47, at 648–49.
[72] *Id.* at 644.
[73] *Id.* at 653.
[74] *Id.* at 661. (Justice White, joined by Chief Justice Burger and Justice Rehnquist, dissenting.)
[75] *Ker* v. *California,* 374 U.S. 23 (1963). (Warrantless and unannounced entry and search justified by the need to prevent imminent destruction of evidence); *Michigan* v. *Tyler,* 436 U.S. 499 (1978) (Entry into premises to fight a fire and re-entry to search for the cause of the fire for a reasonable time was justified by continuing emergency).
[76] *Warden* v. *Hayden,* 387 U.S. 294 (1967); *United States* v. *Santana,* 427 U.S. 38 (1976).
[77] *Warden* v. *Hayden, supra* note 76.
[78] *Id.* at 298–99.
[79] 435 F. 2d 385 (D.C. Cir. 1970).
[80] *Id.* at 392–93.
[81] *Id.* at 393.
[82] *United States* v. *Reed,* 572 F. 2d 412 (2d Cir. 1978), *cert. denied,* 439 U.S. 913; *United States* v. *Campbell,* 581 F. 2d 22 (2d Cir. 1978); *United States* v. *Williams, supra* note 51, (Applied the *Dorman* analysis to determine if search warrant should have been obtained prior to entry into third party premises to execute an arrest warrant); *Vance* v. *North Carolina,* 432 F. 2d 984 (4th Cir. 1970); *United States* v. *Bradley,* 455 F. 2d 1181 (1st Cir. 1972); *United States* v. *Shye,* 492 F. 2d 886 (6th Cir. 1974); *Commonwealth* v. *Forde,* 329 N.E. 2d 717 (Mass. 1975); *United States* v. *Lindsay,* 506 F. 2d 166 (D.C. Cir. 1974); *State* v. *Page,* 277 N.W. 2d 112 (N.D. 1979).
[83] *Fisher* v. *Voltz,* 496 F. 2d 333 (3d Cir. 1974).
[84] *Payton, supra* note 47, at 660–61 and 669 n. 13.
[85] *Dorman* v. *United States, supra* note 79, at 393.
[86] W. La Fave, Search and Seizure—A Treatise on the Fourth Amendment, Vol. 2, Section 6.1 at 390; Note, 1978 U. Ill. L.F. 655, 678.
[87] *E.g., State* v. *Page, supra* note 82, at 118.
[88] *United States* v. *Campbell, supra* note 82.
[89] *United States* v. *Shye, supra* note 82; see also *United States* v. *Lindsay, supra* note 82, for a similar situation.
[90] *United States* v. *Bradley, supra* note 82.
[91] *Vance* v. *North Carolina, supra* note 82.
[92] *United States* v. *Reed, supra* note 82.
[93] 603 F. 2d 1297 (8th Cir. 1979).
[94] *Commonwealth* v. *Forde, supra* note 82.
[95] For example, in both *Houle, supra* note 93, and *Forde, supra* note 82, the courts thought it was of controlling significance that the officers made no attempt to obtain warrants in the few hours immediately preceding the entries. The court in *Shye, supra* note 82, also found that there was a "conscious attempt to avoid" the warrant procedure. Nevertheless, that court allowed an exigency that arose after the delay to excuse the failure to obtain a warrant.

Likewise, similar facts may be interpreted differently by two courts. Note the contrast between how the courts in the *Campbell, supra* note 82, and *Houle, supra* note 93, cases viewed the delay of a few hours prior to the arrests. The *Campbell* court regarded the delay as reasonable, commenting that it reflected a commendable concern by the officers to insure the address to be entered was correct. On the other hand, in *Houle* the court viewed the delay as indicative of the fact the police were not concerned that the suspect might escape—although it could just as logically been characterized as an attempt to avoid a violent nighttime confrontation.

WANTED BY THE FBI

Photographs taken 1972.

David Elliott Houstle

David Elliott Houstle, also known as Walter Fein, Heinrich Gunther, Kevin J. Hayworth, David Henderson, Dave Hostel, David Hostel, Ralph J. Kueppers, Mike Malone, Peter Mitchell, George R. Morrison, Bret Peterson, Robert A. Rockford, Brian K. Singleton, Raymond Steen, and others.

Wanted for:

Interstate transportation of obscene matter; Interstate transportation in aid of racketeering—Pornography; Conspiracy.

The Crime

Houstle is being sought by the FBI in connection with the production, processing, and distribution of child pornography films.

A Federal warrant was issued for his arrest on May 3, 1978, at Baltimore, Md.

Criminal Record

Houstle has been convicted of grand larceny.

Description

Age .....40, born March 5, 1940, Baltimore, Md.
Height .....6'.
Weight .....180 pounds.
Build .....Medium.
Hair .....Red (balding).
Eyes .....Hazel.
Complexion .....Fair.
Race .....White.
Nationality .....American.
Occupations .....Photographer, mail order business.
Remarks .....Wears red mustache; reportedly a homosexual; may have suicidal tendencies.
Social Security No. Used 165-32-5447
FBI No. .....37 239 E.

Classification Data:

NCIC Classification:
PITT101716PO64091316
Fingerprint Classification:
10 I 5 T IO 16
O 17 R OII

Caution

Houstle has been known to carry a weapon in the past and 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 ring fingerprint.

Change of Address

Not an order form

FBI LAW ENFORCEMENT BULLETIN

Complete this form and return to:

Director
Federal Bureau of
Investigation
Washington, D.C. 20535

Name

Title

Address

City State Zip

Shoes Contain Contraband

In the Pierce County jail in Tacoma, Wash., U.S. Marshals discovered the following items in the inner compartments of a prisoner's rubber soled shoes: Two razor blades, five double-edged razor heads, one fingernail clipper file and liner, one handcuff key fabricated from a double-edged razor, and six small metal tubes containing a black paint-like substance.

Alert law enforcement officers undoubtedly thwarted another escape attempt when they discovered this hidden material in the possession of a prisoner who had a record of escapes.

U.S. Department of Justice
Federal Bureau of Investigation

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Questionable Pattern

In the Identification Division of the FBI, this questionable pattern is given the preferred classification of a tented arch referenced to a loop of one ridge count.